

# Human Rights and Gender Equality during Public Emergencies

How Women Are Impacted By Restrictions  
To Fundamental Freedoms And Human Rights:  
Observations From The Covid-19 Pandemic



**This guidance is part of ODIHR's ongoing efforts to respond to human rights challenges caused by the COVID-19 pandemic throughout the OSCE.**

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# CONTENTS

GLOSSARY OF ACRONYMS .....	4
<b>1. INTRODUCTION .....</b>	<b>5</b>
<b>2. HUMAN RIGHTS PROTECTION DURING TIMES OF EMERGENCY .....</b>	<b>8</b>
2.1. DEROGATION FROM HUMAN RIGHTS OBLIGATIONS. ....	8
2.2. SAFEGUARDS TO HUMAN RIGHTS DURING EMERGENCIES .....	11
2.3. INDIVISIBILITY AND INTERDEPENDENCE OF HUMAN RIGHTS .....	12
2.4. GENDER EQUALITY DURING EMERGENCIES .....	14
<b>3. WOMEN, INEQUALITY AND VULNERABILITY .....</b>	<b>17</b>
<b>4. THE GENDER EQUALITY LANDSCAPE BEFORE THE COVID-19 PANDEMIC .....</b>	<b>18</b>
<b>5. STATE RESPONSES TO THE COVID-19 PANDEMIC IN THE OSCE REGION .....</b>	<b>23</b>
5.1. GENDER MAINSTREAMING IN EMERGENCY PLANNING .....	25
5.2. INFORMING THE POPULATION ABOUT EMERGENCY MEASURES .....	27
5.3. BORDER CLOSURES, BANS AND RESTRICTIONS ON TRAVEL .....	30
5.4. STAY-AT-HOME ORDERS, CURFEWS AND QUARANTINES .....	34
5.5. PROHIBITION OF OR RESTRICTIONS ON PUBLIC GATHERINGS. ....	39
5.6. DISRUPTIONS TO “NON-ESSENTIAL” SERVICES .....	42
5.7. MEASURES IN PLACES OF DEPRIVATION OF LIBERTY .....	63
5.8. THE USE OF DIGITAL TECHNOLOGIES: CASE TRACING AND TRACKING .....	68
<b>6. CONCLUSION .....</b>	<b>71</b>
<b>7. ADDITIONAL READING .....</b>	<b>72</b>

## GLOSSARY OF ACRONYMS

CEDAW	UN Convention for the Elimination of All Forms of Discrimination against Women
CESCR	UN Committee on Economic, Social and Cultural Rights
CSO	Civil Society Organization
FRA	EU Agency for Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
LBTI	Lesbian, bisexual and transgender and intersex
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the UN High Commissioner for Human Rights
UNDP	UN Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	UN Population Fund
UNHRC	UN Human Rights Committee
UNSCR 1325	UN Security Council Resolution 1325 on Women, Peace and Security
WPS	Women, peace and security

# 1. INTRODUCTION

Public emergencies, whether environmental or caused by humans, take varied forms, including pandemics, natural disasters, armed conflicts, civil unrest, terrorist attacks, bio-security risks, financial crises and industrial accidents, and pose serious threats to large numbers of people. What crisis situations have in common is the need for a swift response from states to ensure maximum human security and safety. Government responses to emergencies often involve direct restrictions on human rights and fundamental freedoms. For instance, people may be compelled to leave their residences during evacuations or, conversely, curfews may be enacted forbidding movement outside the home. Experience of previous emergencies has shown that there is a risk of human rights protection lapsing or being overlooked during crises.

In crisis situations, pre-existing patterns of discrimination, marginalization and vulnerability are exacerbated. Women and men, girls and boys experience the effects of the crisis itself, and of the extraordinary measures taken to counter it, in very different ways. For instance, the Ebola virus outbreak in West Africa from 2013 to 2015, and the quarantine and suspension of public services that were used to contain it, provided important lessons about the disparate impact on women and girls, especially their increased risk for gender-based violence.<sup>1</sup> Natural disasters, such as the devastating tsunamis, hurricanes and earthquakes of the past decade, have shown that women are at much higher risk of death from the immediate event, and also that their economic vulnerability increases in the aftermath.<sup>2</sup> Distribution of relief aid often fails to consider gender differences, denying women access to key resources. The impacts of armed conflict on women are complex. Conflict increases insecurity and, thus, women and children represent the majority of displaced and refugee populations fleeing conflict zones. Armed conflict ruptures family and community ties and creates large numbers of households headed by females, who must then cope with additional responsibilities under difficult and dangerous circumstances.<sup>3</sup>

A global health crisis emerged in late 2019, when the first case of a novel coronavirus disease (generally known as COVID-19) was detected in China. The impact of the virus has been devastating.<sup>4</sup> The spread of the virus was such that within days of the World Health Organization

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1 See, e.g.: Onyango, M. and Regan, A., "Sexual and Gender-Based Violence During COVID-19: Lessons from Ebola", 11 May 2020, <<https://www.downtoearth.org.in/blog/africa/sexual-and-gender-based-violence-during-covid-19-lessons-from-ebola-71038>>.

2 See, e.g.: Chew, L and Ramdas, K, Caught in the Storm: The Impact of Natural Disasters on Women, The Global Fund for Women, December 2005, <<https://www.globalfundforwomen.org/impact-natural-disasters/>>.

3 Lindsey, C., *Women Facing War: ICRC Study on the Impact of Armed Conflict on Women*, (Geneva: International Committee of the Red Cross, 2001), <[https://www.icrc.org/en/doc/assets/files/other/icrc\\_002\\_0798\\_women\\_facing\\_war.pdf](https://www.icrc.org/en/doc/assets/files/other/icrc_002_0798_women_facing_war.pdf)>.

4 At the time of writing, 900, 000 people had died, and the number of confirmed cases has reached almost 27 million worldwide. WHO, "Coronavirus disease (COVID-19) Weekly Epidemiological Update", 7 September 2020, <<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports>>.

declaring a public health emergency of international concern,<sup>5</sup> cases were identified in Europe and North America. In efforts to control the pandemic and protect public health, every OSCE participating State introduced extraordinary measures. The unprecedented emergency measures have been far-reaching, in as much as they have disrupted almost every aspect of daily life and have spared no countries. Despite the COVID-19 pandemic being a public health crisis, the measures taken to address it have created “an economic and social crisis and a protection and human rights crisis” in parallel.<sup>6</sup>

Through the lens of the COVID-19 pandemic, this publication reviews the most-common measures that OSCE participating States have taken during the health crisis and identifies how restrictions to human rights have impacted women and girls in particular. Emergency measures have been employed in exigent circumstances, and decision-making has often not included consideration of the unintended consequences of the measures themselves. The rights of women and girls may be violated by emergency measures that have a discriminatory impact.

This publication, which draws on desk research and interviews with experts,<sup>7</sup> is structured around the most common emergency actions that OSCE participating States have taken to control the coronavirus outbreak. Each section is dedicated to a particular response and is followed by an explanation of the core human rights that are implicated, an analysis of the particular impacts on the human rights of women, and recommended areas for action. Note that, because human rights are interdependent, there is overlap across sections of the report, and the list of relevant human rights is also not exhaustive. The publication is intended to guide policymakers and practitioners on how emergency measures can interact with and compound existing inequalities, so that violations of women’s rights can be anticipated and, thus, prevented. The analysis and recommendations provided are based on the emergency measures enacted to counter the COVID-19 pandemic, so they can serve as guidance for developing recovery plans. They are equally relevant to planning for future emergencies.

The response to the COVID-19 health crisis has evolved through several stages to adapt to the changing situation, and the consequences of emergency measures on women have become visible the longer they are in place. New responses to the pandemic and initiatives to mitigate the negative impacts and address recovery have been introduced across the region. At the time of writing, gender statistics, as well as sex-disaggregated data, that would give a fuller picture of the gendered impacts of the pandemic were limited. A number of participating States have not consistently reported sex-disaggregated data on cases and deaths due to COVID-19 (or have reported only partial data).<sup>8</sup> Furthermore, a lack of baseline data from

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5 WHO, “WHO Director-General’s Statement on IHR Emergency Committee on Novel Coronavirus (2019-nCoV)”, 30 January 2020, <[https://www.who.int/dg/speeches/detail/who-director-general-s-statement-on-ih-er-emergency-committee-on-novel-coronavirus-\(2019-ncov\)](https://www.who.int/dg/speeches/detail/who-director-general-s-statement-on-ih-er-emergency-committee-on-novel-coronavirus-(2019-ncov))>.

6 Guterres, A., UN Secretary General, “COVID-19 and Human Rights, We Are All in This Together”, UN, 23 April 2020, <<https://www.un.org/en/un-coronavirus-communications-team/we-are-all-together-human-rights-and-covid-19-response-and>>.

7 The interviewees are from the Russian Federation, Tajikistan, Ukraine, the United Kingdom and the United States.

8 Global Health 50/50 has collected information about the availability of sex-disaggregated data for 166 countries/territories and notes that definitions of cases and deaths recorded due to COVID-19 may vary. See: <<https://globalhealth5050.org/the-sex-gender-and-covid-19-project/>>.

before the coronavirus outbreak (such as on the prevalence of domestic violence), as well as limited sex-disaggregated data collection during the pandemic (unemployment figures disaggregated by sex and sector of the labour market, for example) also obscure the gendered impacts of emergency measures. Only a limited number of gender assessments have been conducted in the OSCE region.<sup>9</sup> Because it is not possible to ascertain all relevant details about the consequences of emergency measures in each participating State, specific country examples were chosen that illustrate the most common negative impacts on women for the OSCE region as a whole.

This publication complements more extensive monitoring conducted by ODIHR of the impact on democratic institutions and human rights of the emergency measures implemented across the OSCE region.<sup>10</sup>

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9 These were carried out by UN Women between April and May 2020 in several countries of the Western Balkans, Central Asia and the Commonwealth of Independent States.

10 ODIHR, "OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic", 17 July 2020, <<https://www.osce.org/odihr/human-rights-states-of-emergency-covid19>>.

## 2. HUMAN RIGHTS PROTECTION DURING TIMES OF EMERGENCY

During emergencies, states may temporarily suspend or alter some government functions, take on special powers and place limits on human rights in order to address specific threats.<sup>11</sup> Even without formally declaring a state of emergency, national governments can adopt “exceptional measures” to protect the public that restrict human rights, under certain conditions that will be further explained below. For most countries, the declaration of a state of emergency is an extraordinarily rare occurrence.

The extraordinary measures that a country imposes depend on a number of factors, including the domestic legal framework that defines the scope of emergency powers, the organizational structure and available resources for dealing with the emergency, the particular circumstances that give rise to the emergency, and whether and in what manner the state has responded to prior crises. State authorities have a margin of discretion in determining whether a public emergency exists, the nature of the response and, specifically, whether the measures also warrant derogations from human rights obligations. Emergency actions, however, must comply with international law.

### 2.1. DEROGATION FROM HUMAN RIGHTS OBLIGATIONS

International human rights law and international humanitarian law define the acceptable use of extraordinary powers during publicly declared states of emergency or of equivalent status. States are permitted to temporarily derogate from some of their obligations to secure rights and freedoms, but they may not totally abandon their substantive human rights obligations or their procedural obligations (i.e., the duty to provide sufficient remedies for human rights violations). Certain fundamental rights are non-derogable even in times of emergency. These rights are outlined in international human rights treaties (the International Covenant on Civil and Political Rights [ICCPR] and the European Convention on Human Rights [ECHR])<sup>12</sup>. The UN Human Rights Committee has noted that the non-derogable provisions of the ICCPR are not an exhaustive list, as the Covenant makes clear that measures taken during public emergencies must be consistent with other obligations under international law, including international humanitarian law.<sup>13</sup>

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11 Geneva Centre for the Democratic Control of Armed Forces (DCAF), States of Emergency Backgrounder, October 2005, <[https://www.files.ethz.ch/isn/14131/backgrounder\\_02\\_states\\_emergency.pdf](https://www.files.ethz.ch/isn/14131/backgrounder_02_states_emergency.pdf)>.

12 Of the OSCE participating States, all but one is a party to the ICCPR (Holy See). Forty-seven OSCE participating States are also members of the Council of Europe and party to the ECHR.

13 UN Human Rights Committee (UNHRC), “General Comment No. 29 on States of Emergency (Article 4)”, 31 August 2001, CCPR/C/21/Rev.1/Add.11, <<https://www.refworld.org/docid/453883fd1f.html>>.

## Summary of non-derogable rights and obligations

ICCPR, Article 4(2)	ECHR, Article 15(2)
The right to life (Article 6)	The right to life, with exceptions for deaths that result from lawful acts of war (Article 2)
The right to freedom from torture and inhuman or degrading treatment or punishment (Article 7)	The right to freedom from torture and inhuman or degrading treatment or punishment (Article 3)
The right to freedom from slavery and servitude (Article 8)	The right to freedom from slavery and servitude (Article 4(1))
The right not to be imprisoned on the ground of inability to fulfil a contract (Article 11)	
The right not to be subjected to retroactive legislation ( <i>ex post facto</i> laws) (Article 15)	The right not to be punished without law (Article 7)
The right to recognition as a person before the law (Article 16)	
The right to freedom of thought, conscience and religion (Article 18)	

In addition, the UN Human Rights Committee has provided “illustrative examples” of provisions and principles not listed in Article 4 of the ICCPR that, nevertheless, cannot be subject to lawful derogation. These include, *inter alia*:<sup>14</sup>

- All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person;
- The protection of the rights of persons belonging to minorities; and
- The right to an effective remedy which is inherent in the exercise of other non-derogable rights,<sup>15</sup> and the fundamental principles of a fair trial<sup>16</sup>

The International Covenant on Economic, Social and Cultural Rights (ICESCR) does not contain a derogation clause and, thus, states’ obligations related to economic, social and cultural rights are in effect during emergency situations.<sup>17</sup> The UN Committee on Economic, Social and Cultural Rights (CESCR) has emphasized that core obligations on the right to health,<sup>18</sup>

<sup>14</sup> *Ibid.*, para 13.

<sup>15</sup> The right to an effective remedy is described in Article 2 of the ICCPR and Article 13 of the ECHR. See: *Ibid.*, paras. 14-15.

<sup>16</sup> *Ibid.*, para. 16; and General Comment No. 32 (2007), UNHRC, “General Comment No. 32, Article 14, Right to Equality Before Courts and Tribunals and to Fair Trial”, para. 6, <<https://www.refworld.org/docid/478b2b2f2.html>>.

<sup>17</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR) neither prohibits nor permits derogations. See: UN General Assembly, ICESCR, 16 December 1966, <<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>>. All OSCE participating States except Andorra and the Holy See are parties to the Covenant.

<sup>18</sup> *Ibid.*, Art. 12. See: UN Committee on Economic, Social and Cultural Rights (CESCR), “General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)”, 11 August 2000, paras. 43 and 47, <<https://www.refworld.org/docid/4538838d0.html>>.

the right to work<sup>19</sup> and the right to education<sup>20</sup> cannot be derogated from during emergencies or conflict. Within these general principles, specific rights related to ensuring health that are non-derogable include the right to access, without discrimination and especially for vulnerable or marginalized groups, essential primary health care; to access reproductive and maternal health care; to essential drugs, goods and services; to minimum essential food; to basic shelter, housing, water and sanitation; and the right not to be evicted from one's house. Core (non-derogable) obligations related to the right to work include ensuring nondiscrimination and equal protection of employment, as well as the right of access to employment, especially for disadvantaged and marginalized individuals and groups. Such obligations related to education concern providing the most basic forms of education, which also includes the right of access to public educational institutions and programmes on a non-discriminatory basis.

It is worth noting that the rights set forth in the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) are not subject to derogation in states of emergency,<sup>21</sup> as will be discussed in more detail below. The UN Convention on the Rights of Persons with Disabilities does not include any provision on derogation and, in fact, imposes heightened obligations to ensure the protection and safety of persons with disabilities “in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters” (along with guaranteeing women with disabilities the enjoyment of the human rights contained in the Convention).<sup>22</sup>

Whether emergency measures adopted by a particular state warrant derogation from commitments under either the ICCPR or the ECHR depends on several considerations. Both treaties allow for the restriction of some rights, when necessary for national security, public order or public health. Therefore, emergency measures that do not overstep these bounds would not strictly require derogation. Lower-level emergencies may require states to regulate people's behaviour without negating human rights obligations. Indeed, the UN Human Rights Committee has emphasized that “[n]ot every disturbance or catastrophe qualifies as a public emergency which threatens the life of the nation” and may thus trigger derogation under the ICCPR<sup>23</sup> or the ECHR. For OSCE participating States, the Moscow Document of 1991 advises states to “refrain from making derogations,” even if permitted under international law.<sup>24</sup>

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19 *Ibid.*, Art. 6. See: CESCR, “General Comment No. 18: The Right to Work (Art. 6 of the Covenant)”, 24 November 2005, para. 31, <<https://www.refworld.org/docid/4415453b4.html>>.

20 *Ibid.*, Arts. 13 and 14. See: CESCR, “General Comment No. 13: The Right to Education (Art. 13 of the Covenant)”, 8 December 1999, para. 57, <<https://www.refworld.org/docid/4538838c22.html>>.

21 UN General Assembly, “Convention on the Elimination of All Forms of Discrimination Against Women” (CEDAW), 18 December 1979, <<https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>>; CEDAW Committee, “General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations”, 1 November 2013, CEDAW/C/GC/30 (para. 73c), <<https://www.refworld.org/docid/5268d2064.html>>. All OSCE participating States are parties to the convention with the exception of the United States and the Holy See.

22 UN General Assembly, “Convention on the Rights of Persons with Disabilities” (CRPD), Articles 6 and 11, <<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>>.

23 UNHRC, “General Comment No. 29 on States of Emergency (Article 4)”, *op. cit.*, note 12, para. 3.

24 OSCE, “Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE” (Moscow Document), 3 October 1991, para 28.7, <<https://www.osce.org/odihr/elections/14310>>.

## 2.2. SAFEGUARDS TO HUMAN RIGHTS DURING EMERGENCIES

Whether invoking states of emergency or otherwise using emergency powers without a formal declaration of a state of emergency, states must meet certain requirements under international law. This principle applies both to states that submit notification of derogations from human rights obligations and to those that restrict human rights without derogations.

For OSCE participating States, the Copenhagen Document of 1990<sup>25</sup> and the Moscow Document<sup>26</sup> describe the requirements for declaring states of emergency and proscribe the limits of and procedure for derogations from human rights obligations. Safeguards are also set forth in the ICCPR, the ECHR and the Siracusa Principles.<sup>27</sup>

States must respect the following principles when exercising emergency powers (with or without having declared a state of emergency):<sup>28</sup>

- *Necessity*: Emergency measures must be limited in scope; restrictions must be motivated by a legitimate goal and not used for any other purpose/s;
- *Proportionality*: The least intrusive measures should be used;
- *Temporality*: Emergency measures must be time-bound and include safeguards (e.g., sunset clauses, oversight and review);
- *Legality*: The rule of law prevails during states of emergency; emergency measures must comply with national and international law;
- *Transparency*: A state of emergency must be declared publicly;<sup>29</sup> governments should ensure that information about emergency legislation and measures are accessible to the public. Where appropriate, public authorities should encourage informed participation in “public matters of general interest”<sup>30</sup>; and

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25 OSCE, “Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE” (Copenhagen Document), 29 June 1990, <<https://www.osce.org/odihr/elections/14304>>.

26 OSCE, Moscow Document, *op. cit.*, note 23.

27 American Association for the International Commission of Jurists, “Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights”, April 1985, <<https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf>>.

28 The principles – which are non-binding – are based on guidance provided by the UN Office of the High Commissioner for Human Rights (OHCHR) on derogation from the ICCPR, “Emergency Measures and COVID-19: Guidance”, 27 April 2020, <[https://www.ohchr.org/Documents/Events/EmergencyMeasures\\_COVID19.pdf](https://www.ohchr.org/Documents/Events/EmergencyMeasures_COVID19.pdf)>; guidance from the Council of Europe on derogation from the European Convention on Human Rights (ECHR) reflects substantially similar principles, “Respecting Democracy, Rule of Law and Human Rights in the Framework of the COVID-19 Sanitary Crisis”, 7 April 2020, <<https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>>.

29 Among OSCE participating States, there is an additional obligation to inform the Organization (ODIHR) about a state of emergency; ODIHR then conveys the information to the other participating States. See: OSCE, Moscow Document, *op. cit.*, note 23, para. 28.10.

30 In reference to derogations from the ECHR, Council of Europe, “Respecting Democracy, Rule of Law and Human Rights in the Framework of the COVID-19 Sanitary Crisis”, 7 April 2020, <<https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>>.

- *Non-discrimination*: Emergency measures shall not discriminate. Because emergency responses may have discriminatory consequences, states may be required to take positive measures to ensure substantive equality.<sup>31</sup>

The principle of non-discrimination is especially important when assessing the impacts of emergency measures on the rights of women and girls. The international instruments and guidance that address states of emergency and derogation are gender blind; they do not foresee differential impacts of states of emergency on women and men, boys and girls, nor do they describe any heightened requirements concerning the potential violation of the rights of women or girls due to emergency measures. The UN Human Rights Committee has made clear, however, that the conditions for derogation from the ICCPR must not involve discrimination “solely on the ground of race, colour, sex, language, religion or social origin,” consistent with other provisions of the Covenant, namely Article 26.<sup>32</sup>

Article 26 refers to emergency measures, or derogations, that are directly discriminatory. It has been observed in previous crises that emergency measures have disparately impacted women and impeded their abilities to exercise their fundamental rights, even though the emergency measures themselves did not make specific distinctions for women. Some types of emergency measures were proscribed in a sweeping manner, without consideration for the particular status of women. The European Court of Human Rights has addressed an analogous issue, and ruled that when states fail to take into account the specific needs of persons belonging to disadvantaged groups, this may result in discrimination. Thus, the Council of Europe has suggested that the exceptional measures taken to address the spread of the coronavirus or “failure to provide adequate support, or more generally a decline in tolerance in societies under strain, may pose a threat to persons belonging to minorities and marginalised communities and to the fundamental principles of non-discrimination, diversity and inclusion.”<sup>33</sup>

### **2.3. INDIVISIBILITY AND INTERDEPENDENCE OF HUMAN RIGHTS**

The response to the COVID-19 public health crisis has underscored the importance of the principles of indivisibility, interdependence and interrelatedness of human rights. The coronavirus has posed an immediate threat to the rights to life and to health. The emergency measures adopted have aimed to control the spread of the pandemic and protect human life, while an inevitable consequence of the measures has been to curtail civil and political rights, as well as economic, social and cultural rights. The emergency measures themselves have also intersected and had multiplier effects. For instance, measures to limit freedom of movement

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31 In reference to derogations from the ECHR, Council of Europe, “Respecting Democracy, Rule of Law and Human Rights in the Framework of the COVID-19 Sanitary Crisis”, 7 April 2020, <<https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>>.

32 UNHRC, “General Comment No. 29 on States of Emergency (Article 4)”, *op. cit.*, note 12, para 8.

33 Council of Europe, Steering Committee on Anti-Discrimination, “The Anti-Discrimination, Diversity and Inclusion Dimensions of the Response to COVID-19”, 8 April 2020, <<https://rm.coe.int/cdadi-introductory-note-en-08042020-final-version/16809e201d>>, p. 2.

(travel bans/lockdowns/quarantines) have affected the right to work or the right to education for those who have no access to alternative employment or schooling from home.

Human rights are interdependent, meaning that the ability to exercise one right often depends on the fulfilment of other human rights. Likewise, when one human right is denied, it will negatively impact on other rights. Consider, for example, the situation of a woman who is subjected to domestic violence by her partner during a lockdown or quarantine period. Her right to be free from such violence (the right to security of person and the right to life) depends not only on her ability to leave a violent situation (freedom of movement) but also on her exercising a host of other rights, such as:



## 2.4. GENDER EQUALITY DURING EMERGENCIES

The fact that crises impact women and girls both differently and more intensely has been well documented. However, discussions of how to protect their rights during emergencies is often “compartmentalized” – viewed through the lens of general commitments to non-discrimination, addressed within the Women, Peace and Security (WPS) agenda,<sup>34</sup> as related to armed conflict, or considered part of gender-sensitive disaster risk reduction policies, plans and programmes referring to natural disasters. In fact, all three approaches overlap and are mutually reinforcing.

CEDAW sets forth states’ obligations to promote substantive equality between women and men. The obligations of CEDAW apply during crisis situations and public emergencies in the same way as they do under any other circumstances.<sup>35</sup> In fact, emergencies require states to address intersecting forms of discrimination and take measures that are themselves gender-responsive.<sup>36</sup> The CEDAW Committee has reiterated this obligation in the context of the COVID-19 pandemic; states must ensure that emergency measures do not directly or indirectly discriminate against women or girls.<sup>37</sup>

States must also enable women to fully and meaningfully participate in political processes concerned with preparing for, responding to and recovering from crises, whether brought about by conflict, natural disasters or other events.

### **CEDAW Committee General Recommendations:**

- In all crisis situations, whether non-international or international armed conflict, public emergencies, foreign occupation or other situations of concern, such as political strife, women’s rights are guaranteed by an international law regime that consists of complementary protections under [CEDAW] and international humanitarian, refugee and criminal law.<sup>38</sup>
- The Convention promotes and protects women’s human rights, and this should be understood to apply at all stages of climate change and disaster prevention, mitigation, response, recovery and adaptation.<sup>39</sup>

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34 For the basis for the agenda, see: “UN Security Council Resolution 1325 on Women, Peace and Security” (UNSC 1325), 31 October 2000, <<http://unscr.com/en/resolutions/doc/1325>>.

35 CEDAW Committee, “General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations”, *op. cit.*, note 20, para. 73c.

36 *Ibid.*; and CEDAW Committee, “General Recommendation No. 37 on the Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change”, 7 February 2018, CEDAW/C/GC/37, <<https://reliefweb.int/report/world/general-recommendation-no-37-gender-related-dimensions-disaster-risk-reduction-context>>.

37 CEDAW Committee, “Guidance Note on CEDAW and COVID-19”, 22 April 2020, <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/STA/9156&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/STA/9156&Lang=en)>.

38 CEDAW Committee, “General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations”, *op. cit.*, note 20, para. 19.

39 CEDAW Committee, “General Recommendation No. 37 on the Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change”, 7 February 2018, <[https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/CEDAW\\_C\\_GC\\_37\\_8642\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_37_8642_E.pdf)>. Note that the CEDAW Committee makes clear that the recommendation applies to a range of risks and disasters, as defined in: UN Office for Disaster Risk Reduction, “Sendai

The equal rights of women and men and the protection of human rights are central in OSCE human dimension commitments,<sup>40</sup> as is compliance with CEDAW for States Parties.<sup>41</sup>

UN Security Council Resolution 1325 on Women, Peace and Security (UNSCR 1325) grew out of situations of armed conflict, but its wider impact has been to change the way that we view and respond to threats to human security and global crises.<sup>42</sup> The WPS agenda is based on the principle that incorporating a gender perspective and attention to women's rights will enhance security for all. The core pillars of the WPS agenda – representation and participation of women in all levels of decision-making; attention to the specific needs of women and girls and protection of their rights; and gender analysis of the causes, consequences of and responses to crises – are relevant to all emergency situations. In implementing the WPS agenda at the national level, states should take account of the “changing global context of peace and security, in particular relating to rising violent extremism, which can be conducive to terrorism, to the increased numbers of refugees and internally displaced persons, to the impacts of climate change and to the global nature of health pandemics.”<sup>43</sup>

OSCE participating States have also committed themselves to ensuring gender equality in the context of security and crisis management,<sup>44</sup> and to protecting women and girls from gender-based violence during and after armed conflict and other emergencies.<sup>45</sup>

The understanding of “risk” in the context of disaster risk reduction and management has been expanded to reflect present-day realities, and refers to “risk of small-scale and large-scale, frequent and infrequent, sudden and slow-onset disasters caused by natural or man-made hazards, as well as related environmental, technological and biological hazards and risks.”<sup>46</sup> The disaster risk reduction framework is guided by such principles as protecting basic human

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Framework for Disaster Risk Reduction”, March 18 2015, para. 13, <[https://www.preventionweb.net/files/43291\\_sendaiframeworkfordrren.pdf](https://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf)>.

40 OSCE Ministerial Council Decisions, for example, Decision No. 14/05, “Women in Conflict Prevention, Crisis Management and Post-conflict Rehabilitation”, Ljubljana, 6 December 2005, <<https://www.osce.org/files/f/documents/f/b/17450.pdf>>; Decision No. 15/05, “Preventing and Combating Violence against Women”, 6 December 2005, <<https://www.osce.org/files/f/documents/c/8/17451.pdf>>; Decision No. 7/14, “Preventing and Combating Violence against Women”, Basel, 4-5 December 2014, <<https://www.osce.org/files/f/documents/8/e/130721.pdf>>; Decision No. 4/18, “Preventing and Combating Violence against Women”, Milan, 7 December 2018, <<https://www.osce.org/files/f/documents/e/e/406019.pdf>>; Decision No. 10/11, “Promoting Equal Opportunity for Women in the Economic Sphere”, Vilnius, 7 December 2011, <<https://www.osce.org/files/f/documents/2/8/86085.pdf>>; and Decision No. 7/09, “Women’s Participation in Political and Public Life”, Athens, 2 December 2009, <<https://www.osce.org/files/f/documents/2/a/40710.pdf>> contain these core commitments.

41 OSCE, Ministerial Council Decision No. 14/04, “OSCE Action Plan for the Promotion of Gender Equality”, Sofia, 7 December 2004, <<https://www.osce.org/files/f/documents/7/d/23295.pdf>>.

42 UN General Assembly, “UNSCR 1325 on Women, Peace and Security”, *op. cit.*, note 31.

43 UN Security Council Resolution 2242, “Women, Peace and Security”, S/RES/2242, 13 October 2015, <<https://www.un.org/sc/ctc/news/document/sres2242-2015-women-and-peace-and-security-adopted-on-13-october-2015/>>.

44 OSCE, Ministerial Council Decision No. 14/05, “Women in Conflict Prevention, Crisis Management and Post-conflict Rehabilitation”, *op. cit.*, note 37.

45 OSCE, Ministerial Council Decision No. 15/05, “Preventing and Combating Violence against Women”, *op. cit.*, note 37.

46 UN Office for Disaster Risk Reduction, “Sendai Framework for Disaster Risk Reduction”, *op. cit.*, note 36, para. 15.

rights and empowering women to “lead and promote gender equitable and universally accessible response, recovery, rehabilitation and reconstruction approaches.”<sup>47</sup> The OSCE, likewise, recognizes the gender-specific aspects of environmental threats, and participating States have undertaken commitments to consider the vulnerabilities of women to natural disasters, as well as to engage women, equally with men, in disaster risk-reduction processes.<sup>48</sup>

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47 *Ibid.*, para. 32

48 OSCE, Ministerial Council Decision No. 6/14, “Enhancing Disaster Risk Reduction”, Basel, 4-5 December 2014, <<https://www.osce.org/files/f/documents/8/6/130406.pdf>>.

### 3. WOMEN, INEQUALITY AND VULNERABILITY

Women are not inherently vulnerable to human rights violations or to the impacts of crises. In fact, the CEDAW Committee cautions against this oversimplification and the categorization of women and girls as “passive ‘vulnerable groups’ in need of protection from the impacts of disasters”, as this is a negative gender stereotype “that fails to recognize the important contributions of women in the areas of disaster risk reduction, post-disaster management and climate change mitigation and adaptation strategies.”<sup>49</sup>

Understanding which people or groups of people are in vulnerable situations and, therefore, at risk during emergencies requires analysis of a number of complex and interrelated physical, social, economic, cultural, political and environmental factors, and of the resources and assets that are available to women and men, girls and boys in the context of a specific crisis. For women and girls, underlying discriminatory gender norms, practices and societal structures create inequalities and lead to marginalization. These factors then position women and girls in more vulnerable situations before, during and after emergencies. This is not to say that *all* women are more vulnerable than men, nor that men and boys do not also experience specific vulnerabilities in times of crisis. Rather, such factors as women’s lower economic status, their role in unpaid household and care work, their limited political influence and the risks they face of gender-based violence are examples of aspects of vulnerability that are characteristic for women on the whole, but not necessarily for all women.

Likewise, as pre-existing structural inequalities mean that many women *become* vulnerable during particular emergencies, some groups of women experience more profound disadvantage and marginalization before a crisis, that then places them at even greater risk for harm and human rights violations during and after emergencies. The intersection of gender with other characteristics, such as socio-economic class, national or ethnic origin, disability, sexual orientation, age or health status, mean that some women, or groups of women, are in situations of greater vulnerability and, thus, face the greatest risks of harm.

What appears to have been missing during the coronavirus pandemic, as has been the case in previous emergencies, is gender-sensitive and multi-dimensional vulnerability analysis. This type of analysis would have shed light on the potential gender-specific risks associated with COVID-19 and with the measures that were adopted to address the crisis, specifically the impact of those measures on human rights and fundamental freedoms.

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49 CEDAW Committee, “General Recommendation No. 37 on the Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change”, *op. cit.* note 36, para 7.

## 4. THE GENDER EQUALITY LANDSCAPE BEFORE THE COVID-19 PANDEMIC

Despite the diversity across the OSCE region, it is possible to highlight significant gender gaps that existed before the coronavirus outbreak that are characteristic for all participating States. These particular factors correlate with situations of particular vulnerability for women and have led to the disproportionately negative impacts of the measures taken during the COVID-19 pandemic that are discussed in more detail in this report. The categories below are an overview of factors related to women's empowerment in leadership, in the community (the labour market, in particular) and in the family.

### Limited political influence

Women represent 29 per cent of members of national parliaments in Europe and Central Asia,<sup>50</sup> with wide variation. Among OSCE participating States, the range is as low as 12 per cent (Hungary, Liechtenstein) and as high as 46 per cent (Finland, Sweden).<sup>51</sup> In Europe, Central Asia and North America, women make up more than 30 per cent of government ministers in only 14 countries, and are more than 50 per cent in only five countries.<sup>52</sup>

Because women are underrepresented in political leadership, their views and priorities are often overlooked in decision-making, resulting in gender blind policy-making.

### Economic and financial inequality

Labour market segregation is characteristic for the OSCE region. Women are the majority of workers in the health, education and social sectors, but they are underrepresented in top management positions in every sector.<sup>53</sup>

Women depend heavily on employment that can be considered “insecure” or at-risk (e.g., self-employment or home-based work, part-time, seasonal and informal working arrangements). In Europe and Central Asia, for

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50 World Bank, “Proportion of Seats Held by Women in National Parliaments (%)”, <<https://data.worldbank.org/indicator/SG.GEN.PARL.ZS?view=chart>>.

51 Data for May 2020, Inter-Parliamentary Union, “Monthly Ranking of Women in National Parliaments”, <<https://data.ipu.org/women-ranking?month=5&year=2020>>.

52 The proportion of women government ministers is lowest in the countries of South Caucasus, Central Asia and Western CIS, and the highest in the Nordic countries. See: United Nations Economic Social Council, Economic Commission for Europe, Beijing+25 Regional Review Meeting, “Women’s Leadership in Decision-Making in the ECE Region”, 29 and 30 October 2019, para 12, <[https://www.unece.org/fileadmin/DAM/RCM\\_Website/ECE\\_AC.28\\_2019\\_12-e.pdf](https://www.unece.org/fileadmin/DAM/RCM_Website/ECE_AC.28_2019_12-e.pdf)>.

53 For example, the WHO estimates that women make up 53 per cent of physicians and 84 per cent of nurses in the European region. In contrast, they make up only 30 per cent of ministers of health. See: WHO, Gender Equity in the Health Workforce: Analysis of 104 countries”, March 2019 <https://apps.who.int/iris/bitstream/handle/10665/311314/WHO-HIS-HWF-Gender-WP1-2019.1-eng.pdf?ua=1>; and WHO/Europe, “Call for More Women in Public Health Leadership Roles”, 7 March 2018, <<https://www.euro.who.int/en/health-topics/health-determinants/gender/news/news/2018/3/call-for-more-women-in-public-health-leadership-roles>>.

example, a quarter of working women are in informal employment.<sup>54</sup> These arrangements leave women without a safety net if they cannot work during public emergencies.

These factors contribute to the pronounced gender wage gap<sup>55</sup> and the pension gap,<sup>56</sup> both of which leave women more vulnerable to economic shocks and recessions that follow crises.

### The unequal division of unpaid care and domestic work

Women perform the majority of unpaid domestic and care work. Global data indicate that, on average, women spend 15 per cent of their time per day on unpaid household work, while men spend six per cent of their day on the same. Women spend around three per cent of their day on unpaid care work, as compared to one per cent among men.<sup>57</sup> In the Eurasian region, women spend, on average, 2.5 times more time on these activities than men.<sup>58</sup> Gender gaps are greatest when adherence to traditional gender roles is strongest, but these patterns persist even in countries “that express strong and progressive attitudes towards gender equality.”<sup>59</sup> For example, in the European Union (EU), women represent 58 per cent of all informal carers of children.<sup>60</sup> They also make up almost 85 per cent of all one-parent families in the EU.<sup>61</sup>

Women’s responsibilities mean that they are more likely to be in flexible, but less secure and lower paid employment, or to be out of the labour market. They have more demands on their time and rely on public services, such as nurseries and schools.

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54 International Labour Organization (ILO), *Women and Men in the Informal Economy: A Statistical Picture. Third Edition* (Geneva: ILO 2018), p. 40, <[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_626831.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_626831.pdf)>.

55 For the Europe and Central Asian region, it is estimated that the gross income per capita for men is almost twice that for women (\$20 674 USD, compared to \$10 588 USD). See: United Nations Development Programme (UNDP), *Human Development Report 2019*, (New York: UNDP 2019), p. 315 <<http://hdr.undp.org/sites/default/files/hdr2019.pdf>>.

56 In the European OECD countries, pension payments to women over age 65 are, on average, 25 per cent less than payments to men; the gap is over 40 per cent in some European countries. See: OECD, “Women at the Core of the Fight against COVID-19 Crisis, Version 1st”, April, 2020, p. 10, <<https://www.oecd.org/coronavirus/policy-responses/women-at-the-core-of-the-fight-against-covid-19-crisis-553a8269/>>.

57 Data for 2001-2018. See: UN Department of Economic and Social Affairs, “The Sustainable Development Goals Report 2020: SDG 5 Gender Equality”, <<https://unstats.un.org/sdgs/report/2020/goal-05/>>.

58 OECD, Social Institutions and Gender Index (SIGI), “SIGI 2019 Regional Report for Eurasia, 15 May 2019, <<http://www.oecd.org/social/sigi-2019-regional-report-for-eurasia-f6dfa21d-en.htm>>.

59 OECD, “Women at the Core of the Fight against COVID-19 Crisis, Version 1st”, *op. cit.*, note 51, p. 4.

60 European Institute for Gender Equality (EIGE), “Work-Life Balance (2019) / Informal Caring for Children and Childcare Services”, <<https://eige.europa.eu/gender-equality-index/thematic-focus/work-life-balance/caring-for-children>>.

61 EIGE, “Poverty, Gender and Lone Parents in the EU”, 19 September 2016, <<https://eige.europa.eu/publications/poverty-gender-and-lone-parents-eu>>.

## Gender-based violence

Gender-based violence is a reality for many women and girls. Estimates suggest that around a quarter of all women in Europe and Central Asia have been subjected to some form of violence by an intimate partner during their lifetimes.<sup>62</sup> These figures suggest that a significant proportion of women will require a complex network of social services and legal protections, such as emergency protection orders, at some point in their lives.

## Limited access to technologies and the gender digital divide

Women access information and communication technologies less than men, and use them for different purposes, due to multiple factors that include limited economic resources, lower education levels, gender norms and assumptions about women's role in the labour market. Even in the EU, with high Internet coverage, women are less likely to use the Internet for banking, or for selling or buying goods.<sup>63</sup> This gender gap has become significantly more important in today's digital world, and is especially crucial in emergency situations, when other means of communication and information-sharing may be limited.

Assessments conducted by human rights groups and civil society organizations (CSOs) point to specific groups of women in the OSCE region that have been in particularly vulnerable situations during the COVID-19 pandemic and in relation to the emergency measures taken to address it.<sup>64</sup> The categories below are neither exhaustive nor exclusive. They also present factors that often overlap in reality (as is the case, for instance, of single elderly women living in conflict zones) and are context-specific. Emergency situations pose differing threats to different groups and, therefore, understanding whether specific groups of women may or may not be particularly vulnerable depends on assessing the full circumstances.

- **Elderly women.** Women in the OSCE region live an average of seven years longer than men. In some countries, women, on average, outlive men by a decade.<sup>65</sup> Elderly women are, therefore, more likely to be living in isolation or in care homes or, if they have limited

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62 The WHO estimates the lifetime prevalence of intimate partner violence for the European region as 25 per cent of women. See: WHO, *Global and Regional Estimates of Violence against Women: prevalence and health Effects of Intimate Partner Violence and Non-Partner Sexual Violence* (Geneva: WHO 2013), <[https://apps.who.int/iris/bitstream/handle/10665/85239/9789241564625\\_eng.pdf?sequence=1](https://apps.who.int/iris/bitstream/handle/10665/85239/9789241564625_eng.pdf?sequence=1)>. Other estimates range from 22-23 per cent. See: European Union Agency for Fundamental Rights (FRA), *Violence against Women: An EU-wide Survey. Results at a Glance* (Vienna: FRA 2014), <[https://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-oct14\\_en.pdf](https://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-oct14_en.pdf)>; and OSCE, OSCE-Led Survey on Violence against Women: Main Report (Vienna: OSCE 2019), <[https://www.osce.org/files/f/documents/9/2/413237\\_0.pdf](https://www.osce.org/files/f/documents/9/2/413237_0.pdf)>; to 28 per cent when Central Asia is included, UNDP, *Human Development Report 2019, op. cit.*, note 52.

63 EIGE, *Gender and Digital Agenda*, (Vilnius: EIGE 2016), <<https://eige.europa.eu/publications/gender-and-digital-agenda>>.

64 E.g., "UN Women, Voices of Women's Organisations on COVID-19, April 2020 Sub-regional Consultations", April 2020, <<https://reliefweb.int/sites/reliefweb.int/files/resources/voices%20of%20womens%20organizations%20on%20covid19final.pdf>>; FRA, "Coronavirus Pandemic in the EU – Fundamental Rights Implications, Bulletin #1", 7 April 2020, <<https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1>>; Women Enabled International, "COVID-19 at the Intersection of Gender and Disability: Findings of a Global Human Rights Survey, March to April 2020", 20 May 2020, <<https://womenenabled.org/blog/covid-19-survey-findings/>>.

65 For Europe and Central Asia, the female life expectancy at birth is 77.5 years; the male life expectancy is 70.8 years. See UNDP, *Human Development Report 2019, op. cit.*, note 52, p. 315.

mobility, they will be dependent on family members or caretakers for their daily needs. They generally have lower levels of digital literacy than younger women.

- **Ethnic minority and indigenous women.** Women from minority groups in the OSCE region are often in especially vulnerable situations, given pre-existing inequalities that limit their access to basic services (e.g., education, health services, water and sanitation facilities associated with substandard housing, and information, if there are educational and/or language barriers) and political influence. The barriers that they face arise from discrimination and marginalization.
- **Women migrants, refugees and asylum seekers** are in vulnerable situations based on their legal status (especially if they are undocumented), language barriers, limited access to information and social services, and dependence on informal work. They are at risk of being detained if quarantines are in place, and detention has its own set of risks for women, as noted below.
- **Women with disabilities (as well as women with specific health needs).** Some groups of women face difficulties accessing information (if it is not communicated appropriately) and basic services (health, education, social services, etc.) in non-emergency circumstances. They may face additional challenges in accessing specialized treatment and therapies in the context of lockdowns and the suspension of “non-essential” services. Women with disabilities, women who are living with HIV and women with substance addictions often face stigmatization and discrimination.
- **Women in rural areas** are often isolated from information, as well as from labour markets and social services, especially if public transport is suspended as part of emergency measures. They tend to depend on agricultural work that cannot be carried out under isolation/quarantine conditions as a sole source of income.
- **Women living in areas with pre-existing humanitarian emergencies.** Conflict, like other emergency situations, increases the burden on women of carrying out day-to-day activities to support their families in conditions in which basic infrastructure may be inadequate or disrupted. Access to information and basic social services is often limited. In addition, in such environments, women and girls face specific risks of violence, and they are also more likely to be displaced along with children.
- **Women deprived of their liberty.** Women who have been deprived of liberty (such as women in prison, juvenile detention centres and reception or transit centres for migrants, refugees or asylum-seekers) are at risk of illness, due to overcrowding and limited access to proper hygiene, as well as of becoming isolated from important resources under lockdown conditions. Furthermore, oversight of the protection of their basic rights may be compromised in emergency or crisis situations.

- **Lesbian, bisexual and transgender and intersex (LBTI) women** face challenges accessing healthcare systems, due to stigmatization and discrimination. In lockdown conditions, they may be exposed to hostility or violence in the home, and also face the risk of attacks and hate speech.<sup>66</sup>
- For women who are living with HIV/AIDS, are experiencing homelessness or are living in poverty, there have been particular risks of contracting COVID-19.

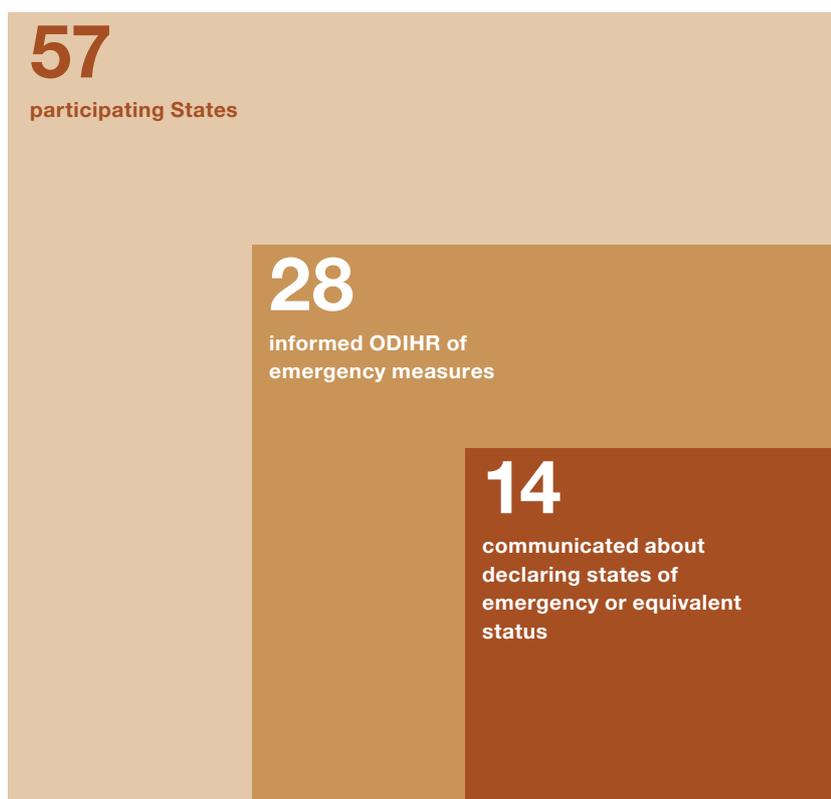
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66 OHCHR, "COVID-19 and the Human Rights of LGBTI People", 17 April 2020, <<https://www.ohchr.org/Documents/Issues/LGBT/LGBTIpeople.pdf>>.

## 5. STATE RESPONSES TO THE COVID-19 PANDEMIC IN THE OSCE REGION

All OSCE participating States have taken extraordinary measures to save lives and lessen the impact of the COVID-19 pandemic. In accordance with the Moscow Document, participating States are to inform the OSCE when declaring a state of emergency. By June 2020, half of the participating States had communicated to the OSCE about “emergency measures adopted,” meaning about states of emergency and any potential derogations.<sup>67</sup>

### Communications to ODIHR on responses to the COVID-19 pandemic in the OSCE region (June 2020)

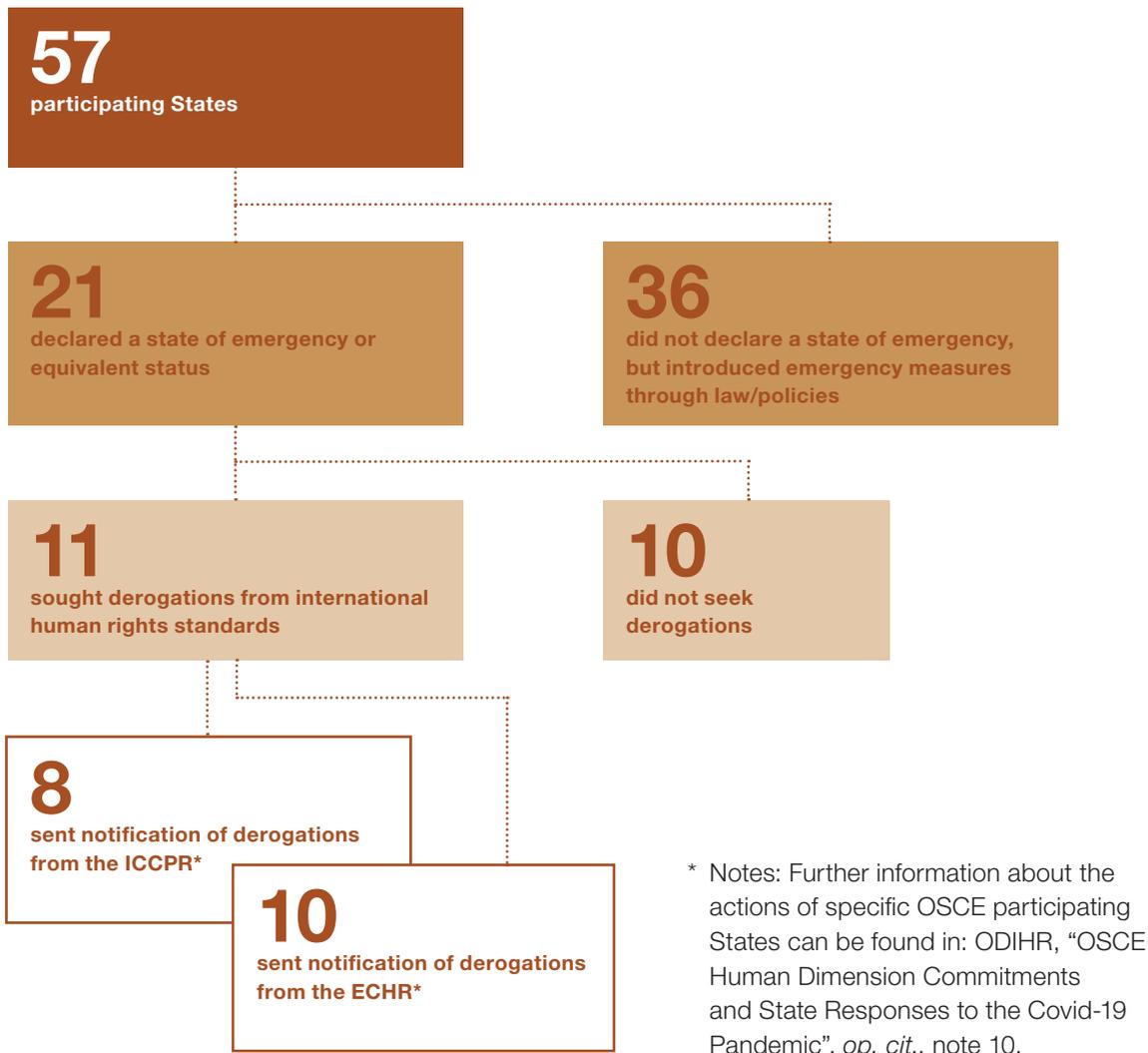


According to monitoring conducted by ODIHR, more than a third of OSCE participating States (officially declared states of public emergency; the remainder relied on national emergency powers and/or enacted specific laws to introduce emergency measures.<sup>68</sup> Of the participating States that declared states of emergency or the equivalent status,<sup>69</sup> half declared derogations from international human rights standards contained in the ICCPR or the ECHR.

67 ODIHR, “OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic”, *op. cit.*, note 10, p. 25.

68 *Ibid.*, pp. 20, 26-27.

69 Due to differences in national legislation, there is no single definition of what constitutes a “state of emergency” or of the procedure for declaring a state of emergency. As used in other ODIHR publications, the phrase “a status equivalent to a state of emergency” used here refers to the special and temporary emergency measures used to address the coronavirus pandemic by a number of OSCE participating States.



The most common exceptional measures OSCE participating States enacted to address the COVID-19 pandemic are explored later in this section, along with an analysis of the human rights infringed by the measures and an assessment of the particular impacts on women.

## 5.1. GENDER MAINSTREAMING IN EMERGENCY PLANNING

An important feature of many stand-alone national laws on equal rights and opportunities for women and men, or on equality more broadly, is the requirement of gender mainstreaming in government processes. Specifically, draft legal acts should be submitted to gender analysis or equality reviews to ensure compliance with the principle of equality. The OSCE Action Plan for the Promotion of Gender Equality endorses the use of gender mainstreaming throughout the Organization's own activities and policies, as well as those of participating States.<sup>70</sup> Gender mainstreaming is also a recommended element of conflict prevention, and of conflict management and rehabilitation processes.<sup>71</sup>

The existence of a gender mainstreaming requirement suggests that emergency measures (many of which have been enacted by decree or specific laws) should have been assessed for any potential negative impacts on gender equality. It is not clear, however, whether national emergency powers permit gender mainstreaming processes to be bypassed in crisis situations.

It was also not possible to determine whether any OSCE participating States have submitted draft laws enacting emergency measures to gender expertise but, given the exigencies of the COVID-19 pandemic, it appears that this has not happened at the time participating States were introducing such measures. It is likely that this process was overlooked by participating States. It is possible, however, that national inquiries will be conducted after the fact and once the immediate crisis has eased.<sup>72</sup> Additionally, neither the gendered impacts of the pandemic nor of the measures to contain it have been incorporated widely into the response at the inter-governmental level, despite the existence of similar gender mainstreaming obligations.<sup>73</sup>

Women have been largely absent from coronavirus response teams. A rapid assessment (conducted in 30 countries worldwide) found that, on average, women represent only 24 per cent of members of such response teams; of the OSCE participating States that were included in the study, these figures ranged from 52 per cent in Canada to nine per cent in the United States.<sup>74</sup> Although information is not publicly available for all participating States, several emergency task forces to address COVID-19 were initially formed without any women or with minimal representation.<sup>75</sup> This is despite the fact that the majority of OSCE participating States

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70 OSCE, "OSCE Action Plan for the Promotion of Gender Equality", *op. cit.*, note 38, para. 10(a).

71 OSCE, Ministerial Council Decision No. 14/05, "Women in Conflict Prevention, Crisis Management and Post-conflict Rehabilitation", *op. cit.*, note 37, para. 9.

72 In the United Kingdom, for instance, the parliamentary Women and Equalities Committee has launched an inquiry on the unequal impact of the coronavirus (including a sub-inquiry on gendered economic impact).

73 It has been noted that "The gendered impacts of the pandemic and measures to contain it have not been reflected in the [European] Commission's coronavirus responses. Despite its self-obligation to gender mainstreaming, the EP has not brought the missing gender perspective to the debate in its own positions." See: Gaweda, B., "The Politics of the Missing Gender Perspective: Responding to the Coronavirus Pandemic through Parliamentary Politics", Tampere University Website, 17 April 2020, <<https://research.uta.fi/eugendem/the-politics-of-the-missing-gender-perspective-responding-to-the-coronavirus-pandemic-through-parliamentary-politics/>>.

74 CARE International, "The Absence of Women in COVID-19 Response", 10 June 2020, pp. 13-14; 32-38, <<https://care-climatechange.org/the-absence-of-women-in-covid-19-response/>>.

75 In the United Kingdom, all key government decision-makers on coronavirus are men; only 14 of 50 members of the Scientific Advisory Group for Emergencies (SAGE) are women, see: The Fawcett Society, "Exiting Lockdown: The

(more than 60 per cent) have national action plans to implement UNSCR 1325.<sup>76</sup> Several of the national action plans include provisions for gender-sensitive early warning systems, which can facilitate rapid and effective responses to crises, and some have explicit provisions for “gendered responses to natural or man-made disasters” (these are Bosnia and Herzegovina, Kyrgyzstan and Serbia).<sup>77</sup>

Furthermore, women’s organizations from 17 countries/territories in the OSCE region reported that “none of the countries in the sub-region called for inputs from civil society in drawing up their national pandemic plans.”<sup>78</sup>

The overall result has been a largely gender-blind response and sets of emergency measures that have overlooked women’s experiences, needs and priorities. To the extent that women in particularly vulnerable situations are often invisible to policymakers, they have remained outside of discussions of how to respond to the pandemic.

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Impact on Women” May, 2020, <<https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=a561c661-04be-42f6-8461-dd90978f3dd2>>; Italy’s 20-member governmental advisory committee was convened without any women, D’Emilio, F., “Women Demand Voice in Italy Virus Response Dominated by Men”, Associated Press, 7 May 2020, <<https://www.ctvnews.ca/world/women-demand-voice-in-italy-virus-response-dominated-by-men-1.4928601>>; In Uzbekistan, the Republican Commission that is responsible for preparing measures to prevent the spread of the coronavirus was formed with only one women among its 25 members. There are now two members – both government ministers, see (Распоряжение Президента Республики Узбекистан об образовании специальной республиканской комиссии по подготовке программы мер по предупреждению завоза и распространения нового типа коронавируса в республике узбекистан [Order of the President of the Republic of Uzbekistan on the Formation of the Special Republican Commission for the Preparation of the Program of Measures to Prevent the Import and Spread of a new type of Coronavirus in the Republic of Uzbekistan], <<https://lex.uz/docs/4720408>>; In Kyrgyzstan, men make up 80 per cent of those in the commandant’s office and republican headquarters of the coronavirus response, see: UN Women, “Gender Assessment in Kyrgyzstan Reveals Concerning Results about the Impact of COVID-19 on Women”, 19 June 2020, <<https://eca.unwomen.org/en/news/stories/2020/6/press-release-gender-assessment-in-kyrgyzstan-reveals-concerning-results>>.

76 OSCE, *Implementing the Women, Peace and Security Agenda in the OSCE Region*, (Vienna: OSCE 2020), p. 3, <<https://www.osce.org/files/f/documents/3/4/444577.pdf>>.

77 *Ibid.*, pp. 23, 58.

78 The countries are in Europe and Central Asia. Kosovo is also included. See: UN Women, *Voices of Women’s Organisations on COVID-19, April 2020 Sub-regional Consultations*, *op. cit.* note 61, p. 3. [OSCE disclaimer: “Any reference to Kosovo, whether to the territory, its institutions, or population, is to be understood in full compliance with United Nations Security Council Resolution 1244”].

## Recommended actions to protect women's rights

Advanced planning for crisis situations should include assessments of potential gender impacts and gender-related vulnerabilities. Planning should draw together national action plans and commitments related to WPS and disaster risk reduction and management. Women's CSOs should also be engaged in planning processes.

Gender mainstreaming should be an essential process when enacting emergency measures. In addition, rapid gender assessments, with a focus on women in situations of vulnerability, should be conducted as soon as possible when emergency measures are put in place.

Crisis task forces, emergency response teams and inter-agency committees should have equal representation of women and men, as a measure to increase gender-responsive decision-making.

In Canada, more than half of the members of the national COVID-19 response team are women. Among surveyed countries, Canada was the only one that announced funding and policy commitments on gender-based violence prevention and response services, sexual and reproductive health care, childcare support and funding that specifically recognizes the economic effect of the pandemic on women (such as targeted support for women entrepreneurs) in the national COVID-19 response.<sup>79</sup>

Extraordinary measures should not increase pre-existing gender disparities, and must also include targeted actions to address vulnerabilities (based on gender analysis).

## 5.2. INFORMING THE POPULATION ABOUT EMERGENCY MEASURES

The UN Office of the High Commissioner for Human Rights (OHCHR) explains that, when taking emergency measures, governments are responsible for “[informing] the affected population of the exact substantive, territorial and temporal scope of the application of the state of emergency and its related measures.” Information should be communicated in “an accessible manner so the public at large is aware of the new legal rules and can conduct themselves accordingly.”<sup>80</sup>

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79 CARE International, “The Absence of Women in COVID-19 Response”, *op. cit.*, note 72, pp. 14-15.

80 OHCHR, “Emergency Measures and COVID-19: Guidance”, *op. cit.*, note 27.

States are advised to ensure the “free flow of information” during emergencies, as this “protects life and health and enables and promotes critical social, economic, political and other policy discussions and decision-making.”<sup>81</sup>

### Freedom of opinion and expression

Freedom of expression includes the right to seek and receive information and to express opinions and ideas of all kinds and through various media.<sup>82</sup> In emergencies, the right to access information held by public authorities, the right to access the Internet and the protection of independent media are of special concern. Restrictions on the right to receive information can impinge on the enjoyment of other human rights, such as the right to health and the right to security of person (in the context of gender-based violence, for example).

#### Examples of impacts on women:

- During health crises, states must convey information about public health risks (concerning pandemics, this includes information on symptoms, risk of contamination, prevention measures, what to do if a person is ill, etc.) using varied media to ensure that such information is accessible to all people. In some contexts, women have low levels of education and literacy (including digital literacy). This is the case, for example, for Roma and Sinti women in Europe, who are more likely than Roma and Sinti men to have never attended school and to be unable to read.<sup>83</sup> In these circumstances, information that is not broadcast in minority languages or is only distributed in written form (printed materials or online)<sup>84</sup> results in some women being denied the right to critical information.
- Informing the population about emergency measures entails making information available about the scope of limitations on essential services. If adequate information is not conveyed to women who faced challenges in accessing such services before the crisis or emergency arose, their ability to exercise their other rights, such as the right to healthcare, will be impeded. In the context of the COVID-19 pandemic, women with disabilities have reported that, because they had not received information about how healthcare services would be distributed or rationed, they assumed they would not be given priority for services or treatments related to their pre-existing health issues.<sup>85</sup>

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81 UNHRC, “Disease Pandemics and the Freedom of Opinion and Expression, Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression”, 23 April 2020, para. 6, <<https://un-docs.org/A/HRC/44/49>>.

82 This right can only be restricted in limited circumstances, such as for the protection of national security, public order or public health. See: ICCPR, Art. 19, <<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>>.

83 See: FRA, “Analysis of FRA Roma Survey Results by Gender”, 18 September 2013, <<https://fra.europa.eu/en/publication/2013/analysis-fra-roma-survey-results-gender>>.

84 In some countries, information in Romani language was limited, although there are also examples of the use of community health workers and a website with videos in Romani to convey information. See: FRA, “Coronavirus COVID-19 Outbreak in the EU – Fundamental Rights Implications – Bulgaria” and “Coronavirus COVID-19 Outbreak in the EU - Fundamental Rights Implications – Slovakia”, 7 April 2020, <<https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies>>.

85 These findings refer to respondents in the United States. See: Women Enabled International, “COVID-19 at the Intersection of Gender and Disability: Findings of a Global Human Rights Survey, March to April 2020”, *op. cit.*, note 61, p. 9.

- When quarantines, curfews or lockdowns are included in emergency measures, the failure to provide clear and timely information about how these measures will be regulated impacts not only the right to receive information but also other rights, such as freedom of movement. In the context of the COVID-19 pandemic, there have been many examples in the OSCE region of states implementing lockdowns without initially providing explicit information to the public about protection for survivors of domestic violence, as evidenced by the fact that these states later took measures to provide such information.<sup>86</sup> Specifically, women were not informed about the fact that they would be permitted to leave their homes to escape domestic violence, without being subjected to penalties for violating quarantine. When such information is not provided, women will remain with abusive partners, which can lead to further infringements of their basic rights (e.g., the right to be free from violence; the right to physical and psychological integrity). Information about services that survivors of domestic violence can access while social distancing must take into consideration the potential lack of access to mainstream media for specific groups of women. For instance, if women with hearing disabilities (when there are no sign language interpreters for government briefings<sup>87</sup>), ethnic minority women and homeless and refugee women<sup>88</sup> are not able to access information, their ability to exercise their right to social services will be limited.
- Emergency measures that restrict the dissemination of certain information and/or limit sources of information about a pandemic, emergency or other crisis to specific authorized agencies and outlets limit the freedom of expression. In the case of the COVID-19 pandemic, such measures have limited the freedom of expression of frontline health workers, a large majority of whom are women, to voice criticism of government responses to the pandemic and to expose weaknesses in healthcare systems (such as shortages of protective equipment).<sup>89</sup> Freedom of expression should also be considered in conjunction with the right to take part in civic activism (the right to attend public gatherings is discussed below) and with the fact that CSOs representing women's interests were largely excluded from the planning of national emergency responses.

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86 See, e.g.: UN Women Ukraine, "Rapid Gender Assessment of the Situation and Needs of Women in the Context of Covid-19 in Ukraine", May 2020, p. 36, <[https://www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/2020/06/rapid%20gender%20assessment\\_eng-min.pdf?la=en&vs=3646](https://www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/2020/06/rapid%20gender%20assessment_eng-min.pdf?la=en&vs=3646)>.

87 Women Enabled International, "COVID-19 at the Intersection of Gender and Disability: Findings of a Global Human Rights Survey, March to April 2020", *op. cit.*, note 61, p. 17.

88 Schindler, F., "Das eigene Zuhause ist für viele Frauen kein sicherer Ort" ["Your Own Home Is Not a Safe Place for Many Women"], Welt website, 22 March, 2020, <<https://www.welt.de/politik/deutschland/article206709651/Ausgangssperre-wegen-Corona-Fuer-Frauen-eine-bedrohliche-Situation.html>>.

89 See, e.g.: Letsas, G and Mantouvalou, V., "COVID-19 and Free Speech: 'Gagging' NHS Staff Is Not Proportionate and Lawful", London School of Economics website, 17 April 2020, <<https://blogs.lse.ac.uk/politicsandpolicy/covid-19-and-free-speech/>>; and Luxmore, M., "Russian Doctor Who Criticized Government's COVID-19 Response Detained", RFERL website, 3 April 2020, <<https://www.rferl.org/a/head-of-russian-doctors-union-arrested-on-trip-to-equip-provincial-hospitals-battling-virus/30527912.html>>.

### Recommended actions to protect women's rights

During emergencies, all critical information should be provided in multiple formats, to ensure that it reaches women in various situations of vulnerability (i.e., women who are not literate; speak a minority language; have sight, hearing or intellectual disabilities; cannot access digital media, etc.).

Informational materials that describe the scope of emergency measures (what is permissible), and cover issues that are of particular concern for women (i.e., services for survivors of gender-based violence, available childcare programmes, government support for single parents, etc.) should be made available prior to or simultaneously with the enactment of emergency measures.

The right of CSOs and members of the public to express opinions about emergency measures, including about potentially discriminatory impacts of such measures on women, must be guaranteed.

## 5.3. BORDER CLOSURES, BANS AND RESTRICTIONS ON TRAVEL

Border closures and travel restrictions are used to limit the spread of contagious diseases, as has been the case with COVID-19, and may also be put in place to contain other threats, such as armed conflict or terrorism.

Beginning in March 2020, the majority of participating States sealed their international borders, with the remainder instituting partial border closures. Airports were closed to commercial flights, and non-essential travel was suspended. Exceptions were in place for the transport of essential goods and humanitarian assistance. Land border crossings were largely limited to transit of essential goods, and passenger trains were cancelled. A number of countries banned entry to foreigners, cancelled visa-free travel agreements, suspended the issuance of e-visas or limited entry to the country to returning nationals or foreigners with residency permits. At least two states, Kazakhstan and Uzbekistan, barred citizens from leaving the country.

### Freedom of movement

Freedom of movement includes the right to move freely within one's country and the right to leave any country. No one shall be arbitrarily denied the right to enter their own country. This right shall not be restricted, with exceptions for specific circumstances that include, but are not limited to, the protection of national security and public health.<sup>90</sup> The right to freedom

<sup>90</sup> The right to freedom of movement can be restricted only when provided by law and "when necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others." See: ICCPR, *op. cit.*, note 80, Art. 12(3).

of movement is central to the realization of other human rights, such as the right to work. For people already impacted by pre-existing humanitarian emergencies (such as internally displaced persons, refugees or migrants), imposing restrictions on the freedom of movement denies them access to their livelihoods, social protection, safety and, for some, to asylum procedures.<sup>91</sup>

#### Examples of impacts on women:

- The closure of international borders directly impacts the right to work for women who rely on open border travel and visa-free regimes for their livelihoods. Before the COVID-19 outbreak, many women from Central and Eastern Europe and from South Eastern Europe travelled to work in EU. For example, 80 per cent of the elder care workforce in Austria (65 000 people) are women who travel from Romania or Slovakia for several weeks at a time.<sup>92</sup> An estimated 45 000 Moldovan women migrants work in the domestic care sector in Italy, often living with host families.<sup>93</sup> Much of this work is low-paid and informal, without social protections. During the pandemic, many women have lost work, accommodation and the right to remain in the host country (when visa-free time limits expired). Likewise, border closures disrupt supply chains for women who engage in small-scale trade and among women smallholder farmers.<sup>94</sup> Because women entrepreneurs generally run small enterprises, they are less able to absorb these economic shocks.
- Border closures not only constrain economic opportunities for labour migrants, but also expose them to additional risks of human rights violations when they cannot return to their home countries. Labour migration rates are especially high from Central Asia, with a tendency toward an increasing proportion of women among migrants.<sup>95</sup> When borders were closed in 2020, women migrants, and especially those with children, became stranded in destination and transit countries, and were then put at risk of poverty, food insecurity and exposure to the coronavirus when in unsafe living conditions.<sup>96</sup> Border closures have also resulted in labour shortages, especially in the agricultural sector. Women's rights groups, who have documented cases of exploitation of women labour migrants working on European farms before the coronavirus pandemic, have raised concerns that emergency

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91 See: UN Secretary-General, "Policy Brief: COVID-19 and People on the Move", June 2020, <<https://unsdg.un.org/sites/default/files/2020-06/SG-Policy-Brief-on-People-on-the-Move.pdf>>.

92 Euractiv, "Virus Frontier Closures Hamper Cross-Border Workers", 20 March 2020, <<https://www.euractiv.com/section/economy-jobs/news/virus-frontier-closures-hamper-cross-border-workers/>>.

93 The Government of the Republic of Moldova, "Republic of Moldova Voluntary National Review, Progress Report, 2020", 27 March 2020, p. 67, <[https://sustainabledevelopment.un.org/content/documents/26346VNR\\_2020\\_Moldova\\_Report\\_English.pdf](https://sustainabledevelopment.un.org/content/documents/26346VNR_2020_Moldova_Report_English.pdf)>.

94 World Bank, "Gender Dimensions of the COVID-19 Pandemic, Policy Note", 16 April 2020, <<https://openknowledge.worldbank.org/bitstream/handle/10986/33622/Gender-Dimensions-of-the-COVID-19-Pandemic.pdf>>.

95 See e.g.: UN Women, «Отчет по результатам исследования Влияние COVID-19 на положение женщин и мужчин в Кыргызской Республике Оперативный гендерный анализ по состоянию на 15 мая 2020 года, [Research Report, Impact of COVID-19 on the Situation of Women and Men in the Kyrgyz Republic, Rapid Gender Assessment as of May 15, 2020]», May 2020, p. 16, <[https://kyrgyzstan.un.org/sites/default/files/2020-06/RUS\\_Gender%20Rapid%20Assessment%20of%20COVID-19%20impact\\_May%202020\\_final.pdf](https://kyrgyzstan.un.org/sites/default/files/2020-06/RUS_Gender%20Rapid%20Assessment%20of%20COVID-19%20impact_May%202020_final.pdf)>.

96 UN News, "Millions of Migrants across Russia, Central Asia, 'Teetering on the Brink', as UN Launches Urgent Appeal", 15 May 2020, <<https://news.un.org/en/story/2020/05/1064182>>.

measures have further heightened the situation of vulnerability. They warn that women migrants face pressures in the form of deteriorating working conditions (lack of physical distancing or protective equipment, increased workloads and overtime work) and also the potential for “an increase in impunity in cases of violence, particularly sexual violence, due to greater difficulties in accessing healthcare and the justice system.”<sup>97</sup>

- The closure of borders and the disruption of work lead to a decline in both international and domestic remittances, which, in turn, impacts the economic security of women-headed households. Pre-existing patterns of male labour migration in the OSCE region have created the phenomenon of “women left behind” – wives of migrants who become *de facto* heads of their households and rely on remittance income.<sup>98</sup> As a result of border closures and restrictions on movement during the COVID-19 pandemic, women have been hard hit, as remittances are one of their main sources of income. More than half of women respondents to a rapid gender assessment conducted in Albania, Georgia, Kyrgyzstan and Turkey reported that remittances had decreased in April-May 2020.<sup>99</sup> In Kyrgyzstan, where remittance income fell by 30 per cent,<sup>100</sup> 88 per cent of women (as compared to 47 per cent of men) reported a loss of remittance income.
- In conflict-affected areas, restrictions on the freedom of movement disrupt women’s daily lives and put them at risk of harassment in militarized settings. Emergency measures further compound these restrictions. For example, elderly women (who travel to collect state pensions) and single mothers with children already faced difficulties (e.g. denial of passage and security risks at checkpoints) when crossing the contact line in Eastern Ukraine.<sup>101</sup> As a response to the COVID-19 pandemic, all movement across the contact line was suspended, with little advance warning. As a result, many people in settlements along the contact line have become further isolated, leaving them unable to access social benefits, medical services, food or hygiene supplies. Additionally incidents of domestic violence are said to have increased.<sup>102</sup>
- For refugee, internally displaced and stateless women, limitations on movement and border closures heighten pre-existing vulnerabilities. During the coronavirus crisis, border closures have stranded migrants in overcrowded camps, settlements and reception centres, many

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97 Women’s Link Worldwide, “Women’s Link Worldwide Urges the UN to Investigate Human Rights Violations against Migrant Women Performing Seasonal Farm Work in Spain’s Strawberry Industry”, 3 June 2020, <<https://www.women-slinkworldwide.org/en/news-and-publications/press-room/women-s-link-worldwide-asks-the-un-to-investigate-urgently-the-human-rights-violations-that-strawberries-women-seasonal-workers-suffer-in-spain>>.

98 This situation is characteristic for rural areas of Armenia and Tajikistan, for example.

99 See: UN Women, “The Impact of Covid-19 on Women’s and Men’s Lives and Livelihoods in Europe and Central Asia: Preliminary Results from a Rapid Gender Assessment”, 2020, p. 18., <<https://eca.unwomen.org/en/digital-library/publications/2020/07/the-impact-of-covid19-on-womens-and-mens-lives-and-livelihoods>>.

100 See: UN Women, «Отчет по результатам исследования Влияние COVID-19 на положение женщин и мужчин в Кыргызской Республике», *op. cit.*, note 93, p. 46.

101 OSCE Special Monitoring Mission to Ukraine (SMM), “Checkpoints along the Contact Line: Reasons Why Civilians Cross and the Challenges They Face, 2019, 28 November 2019, <<https://www.osce.org/special-monitoring-mission-to-ukraine/440504>>.

102 Hyde, L., COVID-19 Turns the Clock Back on the War in Ukraine, as Needs Grow, The New Humanitarian website, 20 April 2020, <<https://www.thenewhumanitarian.org/feature/2020/04/20/coronavirus-ukraine-war>>.

of which lack adequate health services, clean water and sanitation. In some OSCE participating States, asylum procedures have also been suspended. In others, asylum seekers and refugees have been moved to temporary camp settlements or closed facilities under measures to prevent the spread of the coronavirus.<sup>103</sup> The vulnerabilities of women among asylum seekers and refugees arises from the fact that they are often accompanied by their children. Overcrowding in camps and the lack of security also pose particular risks to women and girls of sexual and gender-based violence.<sup>104</sup> In addition, border closures and travel restrictions may lead women asylum-seekers, as well as migrants, to use alternative and more dangerous routes. This, in turn, leaves them vulnerable to human trafficking in transit and destination countries.<sup>105</sup>

### **Recommended actions to protect women's rights**

When closing international borders, analyse the impacts of long-term closure on women cross-border workers and consider schemes for income/job protection that are recognized in both the country of origin and of destination. For instance, bilateral agreements should incorporate protection for all migrant workers during emergency situations, and should explicitly address the particularly vulnerable situation of women migrants.

When enacting social protection schemes during emergencies, address the risk of poverty for female-headed households that depend on remittance income.

During emergencies, increase gender-sensitive inspection and oversight of sectors that employ large numbers of women migrant workers, and ensure the capacity of inspectors to recognize and respond to signs of gender-based exploitation and abuse.

Devise safe passage schemes that enable women in conflict-affected territories, women who are internally displaced or women seeking asylum to travel across borders for essential services, to reunify with family members or to reach safe destinations.

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103 Reidy, E., "The COVID-19 Excuse? How Migration Policies Are Hardening Around the Globe", The New Humanitarian website, 17 April 2020, <<https://www.thenewhumanitarian.org/analysis/2020/04/17/coronavirus-global-migration-policies-exploited>>.

104 See: Care International, "Stranded and Forgotten: Bosnia's Migrants and Refugees Left to Themselves", 12 April 2020, <<https://www.care-international.org/news/press-releases/stranded-and-forgotten-bosnias-migrants-and-refugees-left-to-themselves>>; and Women in Exile, "#Social Distancing Is a Privilege: Bernburg Lager in Sachsen-Anhalt Covid-19, Sexual Harassment and Violence in the Lagers", 28 May 2020, <<https://www.women-in-exile.net/en/soziale-distanz-ist-ein-privileg-berenburg-lager-in-sachsen-anhalt-covid-19-sexuelle-belaestigung-und-gewalt-in-den-lagern/>>.

105 See: OSCE and UN Women, "Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic", 30 July 2020, <<https://www.osce.org/odihr/human-trafficking-COVID-19-report>>.

## 5.4. STAY-AT-HOME ORDERS, CURFEWS AND QUARANTINES

In response to other crisis situations, states have issued emergency measures that require people to stay at home or to obtain permission to be outside during certain hours, for instance, justified as means to maintain public order or to protect people from imminent environmental disasters.

During the COVID-19 pandemic, participating States have enacted various measures to ensure physical and social distancing that have required individuals to isolate themselves. Measures have ranged in intensity, from enforced quarantine of travellers after crossing the border or people who were diagnosed with the COVID-19 virus (additionally people who came into contact with those under treatment for COVID-19), to curfews that allow people to leave their homes only during specific times and with permission, to stay-at-home orders that permit people to leave for a limited time and for essential activities, but still allow some freedom of movement. Such measures have been enforced by the police, subject to administrative fines or arrest, or by the military. In most OSCE participating States, public transport was also limited or suspended at the time such measures were instituted.

Some participating States issued more restrictive measures for elderly people (for instance, total curfews were imposed on people aged 65 or over during the most restrictive lockdown periods;<sup>106</sup> in the United Kingdom, the government identified “clinically extremely vulnerable” persons and advised them to take more drastic social isolation measures and to “shield”, meaning to isolate themselves as much as possible<sup>107</sup>)

**The UN High Commissioner for Human Rights has condemned “unacceptable and unlawful” responses to people who have broken lockdowns and curfews, including when law enforcement has used excessive force and detention.<sup>108</sup>**

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106 Such measures have been recommended in the majority of OSCE participating States, and specifically enacted in Azerbaijan, Bosnia and Herzegovina, Serbia, Turkey and Uzbekistan, as well as in Hungary for people over age 70. See: International Center for Not-for-Profit Law (ICNL), “COVID-19 Civil Freedom Tracker, <<https://www.icnl.org/covid19tracker/>>.

107 The classification of “clinically extremely vulnerable people” is primarily based on medical factors. See: Public Health England, “Guidance on Shielding and Protecting People Who Are Clinically Extremely Vulnerable from COVID-19”, 14 July 2020, <<https://www.gov.uk/government/publications/guidance-on-shielding-and-protecting-extremely-vulnerable-persons-from-covid-19/guidance-on-shielding-and-protecting-extremely-vulnerable-persons-from-covid-19#staying-at-home-and-shielding>>.

108 OHCHR, “COVID-19: Exceptional Measures Should Not Be Cover for Human Rights Abuses and Violations – Bachelet”, 27 April 2020, <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25828&LangID=E>>.

## Freedom of movement

Freedom of movement includes the right to move freely within one's country and the right to leave any country. No one shall be arbitrarily denied the right to enter their own country. This right shall not be restricted with exceptions for specific circumstances that include, but are not limited to, the protection of national security and public health.<sup>109</sup> The right to freedom of movement is central to the realization of other human rights, such as the right to work and the right to education.

### Examples of impacts on women:

- Orders to isolate, combined with the closure or reduction of public transport, create specific and additional burdens on women when their movement is limited. Outside of emergency situations, women may have complex care obligations, encompassing child care, care for elderly relatives and care for family members who are ill or who have disabilities, as well as domestic responsibilities that require movement outside the home (shopping, trips to pharmacies, visits to clinics and schools, etc.). In Europe, working women are 50 per cent more likely than working men to also be regularly caring for ill, disabled or elderly adult relatives.<sup>110</sup> Some women who live in areas with strict lockdown measures, are reportedly limiting their permitted time outside of the home in order to “save” it in case it is needed for a family emergency (such as visiting an elderly relative).<sup>111</sup> Preliminary research has suggested that women have continued to devote more time than men to care-giving activities during lockdown, a situation that has contributed to women experiencing higher levels of stress and anxiety.<sup>112</sup>
- Restrictions on movement, in the form of orders to isolate inside the home, present immediate dangers to women who are living in situations of violence perpetrated by partners or other family members. Across the OSCE region, two phenomena were observed after the imposition of lockdown. In some states, stay-at-home orders were accompanied by a sharp increase in survivors reporting domestic violence, as measured by calls to helplines and a rise in demand for emergency shelter.<sup>113</sup> In contrast, CSOs in several countries<sup>114</sup> reported an initial *decrease* in direct contacts from survivors of domestic violence, followed by an increase in contacts from their family members or from perpetrators of violence. In Greece, for example, calls to the General Secretariat for Family Policy and Gender Equality

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109 The right to freedom of movement can be restricted only when provided by law and “when necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others.” ICCPR, *op. cit.*, note 70, Art. 12(3).

110 OECD, “Women at the Core of the Fight against COVID-19 Crisis, Version 1st”, *op. cit.*, note 53, pp. 4-5.

111 Interview with expert in the Russian Federation, conducted 23 May 2020.

112 Fawcett Society, “Women Are Bearing the Emotional Brunt of the Coronavirus Crisis”, 20 May 2020, <<https://www.fawcettsociety.org.uk/news/women-are-bearing-the-emotional-brunt-of-the-coronavirus-crisis>>; and UN Women, “The Impact of Covid-19 on Women’s and Men’s Lives and Livelihoods in Europe and Central Asia: Preliminary Results from a Rapid Gender Assessment”, *op. cit.*, note 97, p. 37.

113 UN Women, “COVID-19 and Ending Violence Against Women and Girls”, 2020, <<https://www.unwomen.org/en/digital-library/publications/2020/04/issue-brief-covid-19-and-ending-violence-against-women-and-girls>>.

114 This trend has been observed in Italy, France, the United Kingdom and the United States, for example. See: OSCE, “Domestic Violence and the COVID-19 Crisis, Trends, Measures Taken, Recommendations and Potential Areas of Assistance”, 22 May 2020, <<https://www.osce.org/files/f/documents/b/c/457018.pdf>>.

domestic violence hotline quadrupled from March to April 2020. Of the calls reporting domestic violence, three of every ten were made by third persons (e.g., parents, children, siblings, neighbours, friends). Nine of every ten people who called the hotline were doing so for the first time.<sup>115</sup> In other countries, such as Spain, the use of alternative and more private forms of contact (e.g., email or WhatsApp) by survivors of domestic violence has increased exponentially.<sup>116</sup> In the OSCE region, the rate of increase in reports of domestic violence has ranged from around 25 per cent to 30 per cent (Cyprus, France, Moldova, the United Kingdom)<sup>117</sup> to 62 per cent (Kyrgyzstan),<sup>118</sup> 74 per cent (the Russian Federation),<sup>119</sup> to as high as 400 per cent (Canada),<sup>120</sup> depending on specifics of the country and available reporting mechanisms. The large majority of survivors of domestic violence are women and girls, as seen in national crime statistics from before the pandemic. While the figures are alarming, they are also likely an underestimate of the true scale of the problem. The fact that, in a number of countries, direct contact of domestic violence helplines by survivors decreased, compared to the patterns of calls from before the pandemic, suggests a high degree of control over survivors, an increase in first-time incidents and the fact that information about still-available services had not been effectively communicated to domestic violence survivors.

- Lockdowns have confined survivors with perpetrators, but other consequences of social distancing, such as limitations on face-to-face services, isolation from family and friends and the stresses associated with overcrowded living, job loss and illness, have exacerbated the situation. The emergency measures have directly impinged on women's rights to be free from violence (and thus the rights to physical and psychological integrity, to respect for private and family life and to be free from discrimination). In the most serious cases, lockdown measures have increased the risk for violations of women's right to life. For instance, in Turkey, 21 women were murdered during a three-week period of lockdown in March of 2020.<sup>121</sup> In April, the Victims' Commissioner for England and Wales reported that the number of women killed by men was the highest it had been in 11 years, with 16 domestic homicides in the first three weeks of lockdown.<sup>122</sup>

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115 European Network of Legal Experts in Gender Equality and Non-Discrimination, "Significant Increase of Domestic Violence against Women During the Lockdown Due to the COVID-19 Pandemic", 14 May 2020, <<https://www.equalitylaw.eu/downloads/5135-greece-significant-increase-of-domestic-violence-during-the-lockdown-105-kb>>.

116 Higgins, N., "Coronavirus: When Home Gets Violent Under Lockdown in Europe, BBC News website, 13 April 2020, <<https://www.bbc.co.uk/news/world-europe-52216966>>.

117 Ibid; WAVE, "WAVE Newsletter March-April 2020", <[https://www.wave-network.org/wp-content/uploads/WAVE\\_Newsletter\\_Mar-Apr\\_2020.pdf](https://www.wave-network.org/wp-content/uploads/WAVE_Newsletter_Mar-Apr_2020.pdf)>; Grierson, J., UK Domestic Abuse Hotlines Report Surge in Calls During Lockdown", The Guardian website, 9 April 2020, <<https://www.theguardian.com/society/2020/apr/09/uk-domestic-abuse-helplines-report-surge-in-calls-during-lockdown>>.

118 Central Asian Bureau for Analytical Reporting, "Власти Кыргызстана отмечают рост домашнего насилия во время карантина [Kyrgyz Authorities Note Increased Domestic Violence During Quarantine]", 30 April 2020, <<https://cabar.asia/ru/vlasti-kyrgyzstana-otmechayut-rost-domashnego-nasiliya-vo-vremya-karantina/>>.

119 See: Center for Assistance to Women Victims of Domestic Violence "ANNA", <<http://www.anna-center.ru/index.php/ru/25-2017-07-18-13-53-01/170-kolichestvo-obrashchenij-na-vserossijskij-telefon-doveriya-dlya-zhenshchin-uvlichilos-na-74>> (in Russian).

120 Armstrong, S., "Staying at Home Is Dangerous for Many Women, The Star website, 22 April 2020, <<https://www.thestar.com/opinion/contributors/2020/04/22/staying-at-home-is-dangerous-for-many-women.html>>.

121 Soylu, R., "Coronavirus: Fourteen Women Murdered in Turkish Homes Since Lockdown, Middle East Eye website, 2 April 2020, <<https://www.middleeasteye.net/news/coronavirus-women-murder-turkey-increase-domestic>>.

122 Women's Resource Centre, "The Impact of the COVID-19 Crisis on the UK's Women's Sector, Survey Responses and Findings", June 2020, <<https://www.wrc.org.uk/Handlers/Download>>.

- Emergency lockdown measures can deepen pre-existing restrictions on women’s freedom, especially on that of young women. In conservative societies and cultures, gender norms and expectations limit women’s personal freedoms and access to public spaces during non-emergency situations. Young women and adolescent girls, in particular, face restrictions on their mobility, for instance, not being permitted to travel outside the home if they are not accompanied by a male relative or only for limited purposes (e.g., shopping, education or work).<sup>123</sup> Emergency stay-at-home measures have coincided with the closure of safe spaces for women and girls (e.g., schools) and led to closer oversight by male heads of households. It has been reported that women have been criticized for leaving home (even when restrictions have been eased) and encouraged to focus on domestic responsibilities, justified by orders to socially isolate.<sup>124</sup> Similar patterns of families imposing more restrictions on adolescent girls’ movement at the same time as increasing their domestic workloads have been observed during and after previous crises.<sup>125</sup> The imposition of lockdown measures increases restrictions on the mobility of young women, and there is a risk that such patterns may become entrenched in families even after emergency measures are eased.
- When the police or military are in charge of enforcing physical and social distancing, and curfews in particular, the increased presence of security personnel heightens the vulnerability of women and girls. During armed conflict and in previous emergency situations, security forces have perpetrated gender-based violence (this was the case during the Ebola outbreak, during which it was reported that some security personnel raped and sexually assaulted women in areas under quarantine<sup>126</sup>) or sexually exploited women in return for providing access to goods or services (this may happen at checkpoints or during quarantine conditions). Among the OSCE participating States, the military enforced a strict 40-hour curfew in Albania. Bosnia and Herzegovina, Romania and Serbia enacted night curfews. North Macedonia reinstated a curfew in early June 2020 in response to new infections.
- Strict self-isolation and “shielding” requirements that severely limit the movement of people over the age of 65 have had a discriminatory impact on women, who make up a larger portion of the elderly population and are more likely not to have other people who can assist them. The Organisation for Economic Co-operation and Development (OECD) estimates

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[ashx?IDMF=a1f51f03-fb60-4dab-b352-c2cb54bd0552>](#).

123 In Tajikistan, for instance, women in extended families rarely make independent decisions about visiting family members, and quite often the husband alone will decide. See: Asian Development Bank (ADB), *Tajikistan Country Gender Assessment*, (Manilla, ADB 2016), p. 38 (citing Tajikistan Demographic and Health Survey 2012), <<https://www.adb.org/sites/default/files/institutional-document/185615/tajikistan-cga.pdf>>.

124 Interview with expert in Tajikistan, conducted 21 May 2020.

125 See e.g.: Department for International Development (DFID), “Violence against Women and Girls in Humanitarian Emergencies – CHASE Briefing Paper”, October 2013, p. 6, <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/271932/VAWG-humanitarian-emergencies.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/271932/VAWG-humanitarian-emergencies.pdf)>.

126 Silbert, C., “How to Enforce COVID-19 Emergency Measures Without Putting Women at Risk”, The Diplomat website, 30 April 2020, <<https://thediplomat.com/2020/04/how-to-enforce-covid-19-emergency-measures-without-putting-women-at-risk/>>.

that among people aged 80 and over, women are twice as likely to live alone.<sup>127</sup> Such strict bans on movement for elderly women can impinge on their right to health (associated with lack of exercise and increased social isolation).<sup>128</sup> In Serbia, strict curfews based on age were found to have been especially harmful to women farmers, most of whom are over age 65, because they have not been able to plant crops or to sell their produce at green markets,<sup>129</sup> thus depriving them of their livelihoods.

### Recommended actions to protect women's rights

Before initiating lockdowns, contingency planning should be conducted to identify the potential need for increased protection and social services for women survivors of violence who are confined to the home with perpetrators.

In Uzbekistan, for example, the Commission for Ensuring Gender Equality of the Oliy Majlis, the national parliament, launched a dedicated hotline offering free psychological and legal consultations to survivors of domestic violence for a three-month period, to coincide with the imposition of quarantine measures.<sup>130</sup>

The capacity of law enforcement bodies and the judiciary to respond in cases of domestic violence (e.g., processes to issue and implement emergency protection orders) should be strengthened as soon as stay-at-home orders are put in place. Special protocols should be developed to facilitate this.

Additional and alternative support services for survivors of domestic violence should be planned for and implemented as soon as restrictions on movement are enacted. Consultations with service-providing organizations and women's CSOs should inform the development of support systems that will be accessible, safe and appropriately promoted to survivors of violence during periods of lockdown. An innovative solution by the French government was the creation of pop-up counselling centres in supermarkets, where women could seek advice when shopping.<sup>131</sup>

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127 OECD, "Women at the Core of the Fight against COVID-19 Crisis, Version 1st", *op. cit.*, note 53, p. 10.

128 Prechtl, M., COVID-19- The Impact on Older Women, Soroptimist International website, 2 June 2020, <<https://www.soroptimistinternational.org/covid-19-the-impact-on-older-women/>>.

129 UN Women, "In the words of Jelena Ruzic: 'Economic Losses Will Be Tremendous, and Women Farmers Do Not Even Dare To Calculate Them Now,'" 28 April 2020, <<https://eca.unwomen.org/en/news/stories/2020/4/in-the-words-of-jelena-ruzic>>.

130 Self-isolation became mandatory for much of the country on 6 April 2020; the hotline was established several days later. See: Information Service of the Senate of the Oliy Majlis of the Republic of Uzbekistan, "Налажена работа телефона доверия Гендерной комиссии [Initiation of a Telephone Hotline of the Gender Commission]", 11 April 2020, <<http://senat.uz/ru/lists/view/1312>>.

131 France 24, "France To Put Domestic Violence Victims in Hotels as Numbers Soar Under Coronavirus Lockdown", 30 March 2020, <<https://www.france24.com/en/20200330-france-to-put-domestic-violence-victims-in-hotels-as-numbers-soar-under-coronavirus-lockdown>>.

Lockdown measures should be flexible and provide exemptions to restrictions on movement for women who are experiencing violence, to allow them to leave the home to protect their safety, as well as that of children or other family members.

Emergency measures that restrict freedom of movement should be accompanied by clear public messages about when movement is permissible. This was done in Italy, where the media reported that women survivors of violence were permitted to go to the nearest support services and would not be sanctioned by the police.<sup>132</sup>

Strict shielding and self-isolation requirements should be based on evidence of risk factors, and not enacted solely based on age.

When lockdown measures are imposed, the impacts on adolescent girls and young women, in terms of excessive restriction of their movement, should be taken into consideration. Initiatives to mitigate the possibility of increased control by families, should accompany the easing of lockdown measures, such as ensuring girls return to school, providing safe spaces for young women to meet outside the home, empowering young women, and providing public service messaging about what types of movement are permitted and safe.

## **5.5. PROHIBITION OF OR RESTRICTIONS ON PUBLIC GATHERINGS**

Restricting public gatherings is a means of enforcing social distancing in response to a health crisis, and for controlling crowds during times of political or social unrest. Across the OSCE region, states have prohibited various political, social and cultural gatherings, some with limitations based on the number of attendees and others temporarily banning public events completely for a specific period of time. Different participating states have approached civic activism differently. On one hand, some countries (e.g., Kyrgyzstan, Latvia) have banned all public gatherings, including demonstrations, rallies and strikes, without exceptions for socially-distanced forms of peaceful assembly. In contrast, Denmark explicitly exempted meetings with an “opinion-sharing purpose”, such as demonstrations and political meetings, from the ban on gatherings of more than ten people.

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132 FRA, “Coronavirus Pandemic in the EU – Fundamental Rights Implications”, Bulletin #1”, *op. cit.*, note 82, p. 32.

### Freedom of peaceful assembly

The right to freedom of peaceful assembly includes the right to plan and organize a peaceful assembly in a lawful manner. This right shall not be restricted, with exceptions for specific circumstances that include, but are not limited to, the protection of national security and public health. States are obligated to protect the rights of all individuals to assemble peacefully and associate freely, online and offline, in various contexts, such as elections, and including persons expressing minority or dissenting views or beliefs, such as human rights defenders.

### Freedom of association

The right to freedom of association is intrinsically linked with the freedom of peaceful assembly.<sup>133</sup> The United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association has stressed that active citizenship is key in times of crisis and reminded states that emergencies should not be used as pretexts for infringing on these rights. In particular, he stressed that states had to enable CSOs to continue their work and provide social and humanitarian support during the COVID-19 pandemic.<sup>134</sup>

### Examples of impacts on women:

- Prohibitions on public gatherings and limiting the activities of CSOs during emergencies restrict women from exercising their rights to freedom of expression and peaceful assembly. Women are underrepresented in formal political office and, therefore, alternative channels through which they can advocate for their rights are vital. During the COVID-19 pandemic, public health concerns have been used to justify restricting women's demonstrations that were intended to publicly raise human rights issues. Several of the actions to limit women's rights to peaceful assembly and association were in response to International Women's Day events (held on 8 March 2020, before the WHO declared COVID-19 to be a pandemic). For instance, in Kyrgyzstan, women activists at a planned demonstration against gender-based violence were attacked by counter protestors and then detained by the police.<sup>135</sup> In Turkey, police blockaded and used tear gas against women marchers in central Istanbul.<sup>136</sup> In both cases, the police actions were justified as measures to control the pandemic. In Poland, police warned women demonstrating against a parliamentary proposal related to reproductive and sexual health rights that they would be held criminally liable for violating lockdown rules; many women protested from their cars or when queuing at shops.<sup>137</sup>

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133 The right may only be restricted when required to protect public security, public safety or public health. See: ICCPR, *op. cit.*, note 80, Art. 22; Note that Article 11 of the ECHR protects the "right to freedom of peaceful assembly and to freedom of association". See: Council of Europe, ECHR, 1 June 2010, [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf).

134 OHCHR, "States Responses to Covid 19 Threat Should Not Halt Freedoms of Assembly and Association" – UN Expert on the Rights to Freedoms of Peaceful Assembly and of Association, Mr. Clément Voule", 14 April 2020, <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E>>.

135 Deutsche Welle, "International Women's Day: Rights Activists Attacked and Detained", 8 March 2020, <<https://www.dw.com/en/international-womens-day-rights-activists-attacked-and-detained/a-52682833>>.

136 Haaretz, "Turkish Police Fire Tear Gas to Disperse International Women's Day March in Istanbul", 8 March 2020, <<https://www.haaretz.com/middle-east-news/turkey/turkish-police-block-international-women-s-day-march-in-istanbul-1.8640200>>.

137 Reuters, "Protesting Poles Engage in Drive for Abortion Rights", 14 April 2020, <<https://www.reuters.com/article/us-health-coronavirus-poland-abortion/protesting-poles-engage-in-drive-for-abortion-rights-idUSKCN21W1EP>>.

- The impact of restrictions on public gatherings is compounded in the context of the shrinking civic space for women’s CSOs and hostility expressed towards women’s rights activists, as has been seen to varying degrees in the OSCE region.<sup>138</sup> Concern has been raised that the COVID-19 pandemic has been used as a justification “to attack gender justice.”<sup>139</sup> For instance, in Spain, right-wing politicians publicly maintained that rallies held on March 8 and “feminism” were the cause of a large outbreak of coronavirus cases.<sup>140</sup> Women activists have also been prevented from holding demonstrations about the emergency measures themselves. Women activists calling for increased government assistance for families in Kazakhstan<sup>141</sup> have been detained by authorities, forcing them to stop their demonstrations.

### **Recommended actions to protect women’s rights<sup>142</sup>**

Emergency situations should not be used as pretexts to limit the right to hold public gatherings and peaceful actions and demonstrations by women’s rights activists.

States should co-operate with women’s CSOs during emergencies to ensure that policies are inclusive of women and to ensure the dissemination of information and provision of support to women in especially vulnerable situations.

The state should ensure the right to freely associate and peacefully assemble online, by establishing platforms and digital spaces for the discussion of policy issues that have a direct impact on women. States should also make use of consultations and focus groups to periodically review the impact of emergency measures on women, and especially women in vulnerable situations.

138 See, e.g.: UN Women, “Democratic Backsliding and the Backlash against Women’s Rights: Understanding the Current Challenges for Feminist Politics”, Discussion Paper, June 2020, <<https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/discussion-paper-democratic-backsliding-and-the-backlash-against-womens-rights-en.pdf?la=en&vs=3604>>.

139 Frett, L.M., “COVID-19 Poses an Existential Threat to Human Rights Activists Worldwide”, Open Democracy website, 29 April 2020, <<https://www.opendemocracy.net/en/5050/covid-19-poses-existential-threat-human-rights-activists-worldwide/>>.

140 Heinrich-Böll-Stiftung, “Can Feminists Be Blamed for Corona?”, 22 June 2020, <<https://www.gwi-boell.de/en/2020/06/02/can-feminists-be-blamed-for-Corona>>.

141 Radio Free Europe/Radio Liberty, “Kazakh Women Demanding Financial Support Forcibly Quarantined”, 10 June 2020, <<https://www.rferl.org/a/kazakh-women-demanding-financial-support-forcibly-quarantined/30663022.html>>.

142 The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has outlined ten principles for action that apply to protecting rights during the COVID-19 pandemic. These principles offer broader guidance and are also relevant to the rights of women. See: OHCHR, “‘States Responses to Covid 19 Threat Should Not Halt Freedoms of Assembly and Association’ – UN Expert on the Rights to Freedoms of Peaceful Assembly and of Association, Mr. Clément Voule”, *op. cit.*, note 134.

## 5.6. DISRUPTIONS TO “NON-ESSENTIAL” SERVICES

### SUSPENSION OF SOME JUDICIAL AND ADMINISTRATIVE PROCESSES

As part of the temporary suspension of public services, justice systems have been disrupted by the coronavirus. Measures taken by OSCE participating States have varied; many have postponed trials and other non-urgent court proceedings or have implemented remote justice where possible (e.g., telephone or video conferencing, the submission of digital applications). Some states have closed all courts, only allowing urgent cases to continue.<sup>143</sup> Generally, criminal case processing has been prioritized over civil cases.

States have taken differing approaches to the processing of asylum claims. A number of states have effectively suspended asylum hearings during the coronavirus outbreak. Others have allowed some third-party nationals with expired residency permits to remain in the country until the end of the pandemic, and a few have continued to process asylum applications or reintroduced resettlement for refugees.<sup>144</sup>

Administrative functions, such as citizenship processes and the registration of births, deaths, marriage, and divorce, have been suspended or restricted (to online registration of applications only) as “non-essential” public services in most participating States.

#### Access to justice

States must adhere to their obligations to provide effective remedies for human rights violations during states of emergency. The right to equality before the law and the equal protection of the law are core obligations that inform the right to access to justice for women. The right to access to justice requires unhindered access and empowerment to claim one’s rights, the availability and accessibility of justice systems, the adherence of justice systems to international standards, and the provision of remedies that provide meaningful redress for any rights violations. During the COVID-19 pandemic, the CEDAW Committee has called on states to uphold their due diligence obligation and to ensure that women and girls who are survivors of or at risk of gender-based violence can exercise their right to access to justice.

#### The due diligence obligation

The due diligence obligation requires states not only to take measures to prevent human rights abuses, but also to effectively prosecute and punish perpetrators. The obligation underpins CEDAW, and States Parties are responsible for preventing and investigating, prosecuting, punishing and providing reparation for acts of gender-based violence against women.

143 FRA, FRA, “Coronavirus Pandemic in the EU – Fundamental Rights Implications”, Bulletin #1”, *op. cit.*, note 82, p. 28.

144 Croatia, France, Greece, Hungary, Italy, North Macedonia and Poland extended residency permits. See: FRA, “COVID-19 Puts Asylum Seekers at a Higher Risk as Conditions in Camps Deteriorate and Asylum Procedures Are Suspended”, 27 May 2020, <<https://fra.europa.eu/en/news/2020/covid-19-puts-asylum-seekers-higher-risk-conditions-camps-deteriorate-and-asylum>>.

## Examples of impacts on women:

- The classification of specific legal matters as “non-urgent” and the closure of courts under emergency measures has a discriminatory impact on women seeking justice. Typically, women apply to the legal system considerably more often than men for issues concerning social welfare, family and children – 40 per cent and 75 per cent “more women report legal issues relating to domestic violence and child support, respectively”. Many of these functions have been suspended or disrupted – not only the judicial processes but also support services (such as legal aid and counselling) that women rely on to connect them to the justice system. In this way, emergency measures compromise women’s access to justice.
- Justice systems across the OSCE region have taken differing approaches to the classification of specific cases as “urgent” and, while there was not comprehensive information available at the time of writing, it appears that the majority of OSCE participating States are addressing cases that concern gender-based violence, divorce, child custody, division of property and alimony remotely. Systems for remote justice vary greatly by jurisdiction, even within a single country. For example, in the United States, the use of remote filing and hearings for civil protective orders in domestic violence cases is not uniform; some states have e-filing systems, but others require an applicant to file in person. Hearings have been conducted by telephone or through video teleconferencing in some states, while, in others, hearings have been suspended during the COVID-19 outbreak. General concerns about whether remote justice fulfils the due diligence obligation and standards of fairness in cases of domestic violence (which often overlap with child custody hearings) include the fact that certain groups of women are excluded from digital services (e.g., lower income women who do not have mobile phones and computers; women in rural areas where technologies are not supported, women who are unfamiliar with the required technology, or women who have disabilities); issues with confidentiality, privacy and safety (e.g., issues with abusive partners recording digital hearings or being able to intimidate survivors of domestic violence during videoconferences); and difficulties for judges when there is lack of face-to-face contact (e.g., difficulties viewing evidence of injuries, not being able to judge the reactions of witnesses and difficulties with interpreters).

### Right to seek asylum

The right to seek asylum is not contained in any single international treaty. However, the human rights of refugees include both the right to seek asylum and protection from non-refoulement. The right to seek asylum refers to the fundamental right to seek protection in another country from persecution that has occurred in one’s country of origin, according to fair and efficient procedures, and not to be returned or expelled pending a final determination of one’s status, while ensuring the protection of asylum-seekers’ other human rights. The OSCE participating States have reiterated the importance of protecting the human rights of refugees and other displaced persons, as well as a commitment to respect the right to asylum.

In the context of the COVID-19 pandemic, the Director of ODIHR called on participating States to guarantee respect for the right to asylum, in order to better integrate refugees into host countries.

### Examples of impacts on women:

- Emergency measures that include the suspension of the processing of asylum claims compromise the right to a legal determination of status, as well as interconnected human rights. Travel bans and the suspension of asylum hearings as part of emergency measures led to a 43 per cent decline in asylum applications in the EU in March 2020. As discussed elsewhere in this publication, other emergency measures connected with border closures have limited free movement and confined asylum seekers to reception centres and camps. The delayed processing of asylum cases impacts women, who are often accompanied by their children and are especially vulnerable if they must remain in overcrowded reception or transit centres during lockdown periods (heightening their risk for gender-based violence, sexual harassment and, potentially, trafficking in human beings), and those who have an undetermined legal status (which itself impacts their right to access other benefits and services, such as healthcare, employment and education).

#### Right to legal recognition

The right to legal recognition is central, as it expresses the core principle that each person is a bearer of human rights under the law. It is one of the non-derogable rights during emergencies.<sup>145</sup>

Legal identity is especially crucial during pandemics or other emergencies, as lack of documentation impacts the enjoyment of other human rights, such as the right to property, to reside in a country, to citizenship, to vote and to access national health care systems, humanitarian assistance and other social services. The UN Legal Identity Task Force has stated that civil registration should be considered an “essential service” that is mandated to continue during a pandemic. While some registration processes may be temporarily suspended, the “registration of births, deaths, foetal deaths and recording of causes of death, should continue as a priority.”<sup>146</sup>

### Examples of impacts on women:

- Limitations on or the suspension of civil registration processes during emergencies may disproportionately impact women. Women are more likely than men to have “gaps in legal identity”, which, in turn, restrict their rights to property, housing, marriage and the registration of children’s births, as well as the right to benefits and social services.<sup>147</sup> For instance, prior to the COVID-19 health crisis, unregistered marriages were prevalent in rural areas of Central Asia and, as a consequence, women faced difficulties protecting their rights.<sup>148</sup> It is a grim reality that men have died at a higher rate than women after contracting COVID-19. If civil registration processes are suspended under emergency measures,

145 ICCPR, *op. cit.*, note 80, Art. 16.

146 UN Legal Identity Agenda Task Force, “Maintaining Civil Registration and Vital Statistics During the COVID-19 Pandemic”, 9 April 2020, <<https://unstats.un.org/legal-identity-agenda/documents/COVID-19-Guidelines.pdf>>.

147 UN Women, IDLO, UNDP, UNODC, World Bank and The Pathfinders, “Justice for Women Amidst COVID-19”, *op. cit.*, note 150, p. 11.

148 OHCHR, “Rise in Unregistered Marriages in Kyrgyzstan Called ‘Worrying’”, 11 February 2015, <<https://www.ohchr.org/EN/NewsEvents/Pages/RiseinunregisteredmarriagesinKyrgyzstancalledworrying.aspx>>; Odinaeva, M.,

women are more at risk of being left without property if they cannot register a marriage before a partner dies.<sup>149</sup> Previous crisis situations have been accompanied by an increase in girls' early marriage, linked to school closures, economic insecurity and restrictions in movement (the impact of girls being out of school is addressed in a later section of this publication). Civil registration is important to ensuring that only legal marriages take place and are recognized.<sup>150</sup>

- Disruptions to birth registration during states of emergency can result in unregistered and “invisible” children being put at heightened risk of violence and human trafficking.<sup>151</sup> Birth registration rates are high in the OSCE region. However, even before the COVID-19 pandemic, children in some minority populations were already at risk of being unregistered. For instance, Roma and Sinti faced pre-existing bureaucratic and institutional barriers to accessing birth registration.<sup>152</sup> The suspension of birth registries or change to e-registration processes<sup>153</sup> under emergency measures may present extra burdens to families and could undo some of the progress made to improve birth registration of Roma and Sinti children, for example. Over the long term, if children are without legal status, they face difficulties accessing education and medical services, and this not only impacts their own development but burdens the women who care for them.

### **Recommended actions to protect women's rights**

Shutdowns and the suspension of judicial processes during emergencies should be accompanied by a gender analysis of the risks and obstacles that diverse groups of women will face in accessing justice.

The classification of specific legal procedures and civil processes as “non-urgent”/“non-essential” during states of emergency should be non-discriminatory.

During emergencies, states should continue to exercise due diligence and give priority to legal measures that protect survivors of violence, allowing them to remain at home while removing perpetrators from the home, to the extent possible.

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“Marriage Vows Not Always Enough in Tajikistan”, Information Warfare Research Project (IWRP) website, 3 February 2009, <<https://iwpr.net/global-voices/marriage-vows-not-always-enough-tajikistan>>.

149 In the United Kingdom, for example, the General Register Office issued guidance to suspend deathbed marriages/ civil partnerships during the coronavirus pandemic.

150 UN Legal Identity Agenda Task Force, “Maintaining Civil Registration and Vital Statistics During the COVID-19 Pandemic” *op. cit.*, note 160.

151 *Ibid.*

152 See, e.g.: European Roma Rights Centre (ERRC), “Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine”, October 2017, <<https://www.statelessness.eu/resources/roma-belong-statelessness-discrimination-and-marginalisation>>.

153 For example, in Georgia, birth registration can be carried out online, because e-governance systems were in place before the COVID-19 outbreak. In contrast, in the United Kingdom, many local councils paused birth registration, which resulted in backlogs and children being unregistered for weeks after their births.

At a minimum, when implementing emergency measures, states should grant temporary residency rights to women asylum seekers and migrants while asylum claims and citizenship processing have been suspended, to allow women and their children to access essential services.

The approach taken by Portugal, for example, has been to grant all migrants and asylum seekers full citizenship rights, on a temporary basis.<sup>154</sup>

States should dedicate resources for the rapid processing of births in the recovery period, along with paying attention to removing any barriers to this process that specific minority groups may encounter.

## SUSPENSION OF “NON-ESSENTIAL” AND “NON-URGENT” HEALTH SERVICES

During the coronavirus pandemic, emergency measures have impacted healthcare in two key ways: medical resources (including personnel, equipment, hospital beds, etc.) have been diverted to treat those who were being treated for COVID-19, while, simultaneously, “non-essential” or “non-urgent” health services have been suspended or limited. The effects of other emergency measures, such as border closures and restrictions on movement, have resulted in shortages or sharp price inflation on medicines.

Other crises may represent a less immediate threat to human health but would, nevertheless, still require the mobilization of medical personnel, equipment and other resources.

### Right to health

The right to the highest attainable standard of physical and mental health<sup>155</sup> includes the right to access health care and health-related education and information, the right to receive testing and treatment, the right to the protection of health (such as safe working conditions, which can include access to appropriate personal protective equipment, [PPE]) and the right to access hygiene facilities, clean water and sanitation. International law recognizes that women and men have distinct health issues, and also that some women are prevented from exercising their right to health care due to multiple forms of discrimination and marginalization. The right to health as defined by the ICESCR includes sexual and reproductive health, and also entails the obligation

154 Alberti, M. & Cotovio, V., “Portugal Gives Migrants and Asylum-Seekers Full Citizenship Rights during Coronavirus Outbreak”, CNN website, 31 March 2020, <<https://edition.cnn.com/2020/03/30/europe/portugal-migrants-citizenship-rights-coronavirus-intl/index.html>>.

155 ICESCR, *op. cit.*, note 16, Art. 12.

by the State to ensure equal access to health-care services.<sup>156</sup> The core obligations concerning the right to health are non-derogable.<sup>157</sup>

#### Examples of impacts on women:

- Women make up the majority of the health workforce, as physicians, nurses, auxiliary staff, community health workers, home health carers and midwives. When health personnel are mobilized to address a health crisis, or during other emergencies, women are key front-line responders. Women also tend, however, to occupy lower positions in employment hierarchies in the healthcare sector. When emergency responses fail to take this fact into consideration and do not include women from the sector in response teams, women do not effectively participate in decision-making, and their priorities are overlooked.<sup>158</sup> During the COVID-19 outbreak, a number of issues concerning the rights of women health workers have received increased attention, including those linked to low pay,<sup>159</sup> burnout<sup>160</sup> and problems accessing protective equipment, especially in light of shortages of PPE and the fact that it is usually designed for men and, thus, is often ill-fitting for women.<sup>161</sup> Preliminary data suggest that the COVID-19 infection rate among healthcare workers has been higher for women than for men.<sup>162</sup> The mobilization of women healthcare workers without adequately protecting their right to health (including the right to safe working conditions) also puts their right to decent and safe work at risk (if they fall ill and are quarantined) and, potentially, impinges upon their right to life.
- Under emergency measures that limit access to “non-essential” medical services, the care burden for ill family members generally falls on women. Even outside of times of emergency, women who are not formally employed in the health sector disproportionately

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156 CEDAW, *op. cit.*, note 20, Art. 12(2); ICESCR, *op. cit.*, note 16, Art. 10; and CESCR, “General Comment No. 14: The Right to the Highest Attainable Standard of Health [Art. 12]”, 11 August 2000, para. 44(a), <<https://www.refworld.org/pdfid/4538838d0.pdf>>.

157 ICESCR, *op. cit.*, note 16, Art. 12; CESCR, *Ibid.*

158 During the SARS epidemic and the Ebola outbreak, women in healthcare facilities were either not provided with the same protective equipment as men physicians, or did not have the same influence over safety protocols as the men in leadership. See: World Bank, “Gender Dimensions of the COVID-19 Pandemic [policy note]”, 16 April 2020, <<https://openknowledge.worldbank.org/bitstream/handle/10986/33622/Gender-Dimensions-of-the-COVID-19-Pandemic.pdf>>.

159 The Danish Nurses Organization has raised the fact that nurses (96 per cent of whom are women) are paid less on average than construction engineers (85 per cent of whom are men), despite similar levels of educational, in light of the role that nurses have played during the coronavirus pandemic. See: European Network of Legal Experts in Gender Equality and Non-Discrimination, Flash Report – Denmark, “Impact of COVID-19 on Gender Equality, 20 July 2020”, “<https://www.equalitylaw.eu/downloads/5188-denmark-impact-of-covid-19-on-gender-equality-133-kb>”.

160 A study carried out by the United Kingdom’s National Health Service Confederation’s Health and Care Women Leaders Network found that, on average, women in healthcare had taken on an additional 11 hours of work per week since the pandemic began, and high numbers reported experiencing mental health problems and physical exhaustion. See: Banerjee, R., “Female NHS Staff at Risk of Burnout Due to Covid-19 Crisis, Survey Finds”, The New Statesman website, 25 August 2020, <<https://www.newstatesman.com/spotlight/coronavirus/2020/08/female-nhs-staff-risk-burnout-due-covid-19-crisis-survey-finds>>.

161 UN Women, “Op-Ed: Personal Protective Equipment Standards Must Respond to Women’s Needs To Ensure the Safety of All Front Line Workers During the COVID-19 Pandemic”, 3 June 2020, <<https://www.unwomen.org/en/news/stories/2020/6/op-ed-eca-alia-el-yassir-ppe-standards-must-respond-to-womens-needs>>.

162 *Ibid.*

shoulder the care burden. For example, in Europe employed women are 50 per cent more likely than employed men to be caring regularly for ill, disabled or elderly adult relatives.<sup>163</sup> In countries with fewer available social services, the burden on women increases. During previous pandemics, societal expectations about women's role in caring for the sick put them at risk of infection, and their care-giving responsibilities were associated with high levels of psychological trauma and stress.<sup>164</sup> When emergency measures fail to mitigate the disparate impact on women providing additional health care, they are discriminatory.

- The classification of certain medical services that are used primarily or exclusively by women as “non-essential” under emergency measures has a discriminatory impact on women. The classification of specific services as “non-essential” in order to divert health resources to address COVID-19 appears to have been gender blind across the OSCE region. Sexual and reproductive health services have been limited (in some cases consultations have been offered through telemedicine arrangements) or suspended. The impact has been restrictions on women's right to access gender-specific services (e.g., screenings, such as mammograms). In some states, emergency measures have been used to justify curtailing women's pre-existing rights to reproductive healthcare, with relevant health services classified as “non-urgent” or “deferrable”.<sup>165</sup> In fact, pandemics, as well as other crises, require *increased* protection of women's right to access sexual and reproductive health care. During emergencies, women's autonomy over sexual and reproductive health decisions may be constrained (especially in light of the heightened risk for gender-based violence), and disruptions to supply chains (e.g., for contraception, but also menstrual health items) can jeopardize their ability to receive relevant health services.<sup>166</sup>
- Lockdown measures and travel restrictions impede women's rights to access health services. For instance, around eight per cent of women in Europe and Central Asia reported that they had experienced difficulties accessing gynaecological and obstetric care services due to lockdowns for COVID-19.<sup>167</sup> Many women, however, faced pre-existing difficulties accessing health care, due to multiple and intersecting inequalities and discrimination, for instance, based on their gender, as well as national or ethnic origin, disability, age, sexual orientation or other factors. During emergencies, such obstacles are further compounded.

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163 OECD, “Women at the Core of the Fight against COVID-19 Crisis, Version 1st”, *op. cit.*, note 53, pp. 4-5.

164 United Nations Population Fund (UNFPA), “COVID-19: A Gender Lens, Protecting Sexual and Reproductive Health and Rights, and Promoting Gender Equality”, March 2020, p. 6, <[https://www.unfpa.org/sites/default/files/resource-pdf/COVID-19\\_A\\_Gender\\_Lens\\_Guidance\\_Note.pdf](https://www.unfpa.org/sites/default/files/resource-pdf/COVID-19_A_Gender_Lens_Guidance_Note.pdf)>.

165 See, e.g.: ODIHR's *OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic*, <<https://www.osce.org/odihr/human-rights-states-of-emergency-covid19>>, p.138; American Medical Association (AMA), “AMA Statement on Government Interference in Reproductive Health Care”, 30 March 2020, <<https://www.ama-assn.org/press-center/ama-statements/ama-statement-government-interference-reproductive-health-care>>; Amnesty International, “Northern Ireland: Urgent Appeal for Home Abortions During COVID-19 Crisis”, 7 April 2020, <<https://www.amnesty.org.uk/press-releases/northern-ireland-urgent-appeal-home-abortions-during-covid-19-crisis>>; and Human Rights Watch, “COVID-19: A Human Rights Checklist”, 14 April 2020, <<https://www.hrw.org/news/2020/04/14/covid-19-human-rights-checklist>>.

166 UNFPA, “COVID-19: A Gender Lens, Protecting Sexual and Reproductive Health and Rights”, *op. cit.*, note 178.

167 The data refer to a rapid gender assessment conducted in ten countries. UN Women, “The Impact of Covid-19 on Women's and Men's Lives and Livelihoods in Europe and Central Asia: Preliminary Results from a Rapid Gender Assessment”, *op. cit.*, note 97, p. 31.

The case of a pregnant Roma woman illustrates such intersecting vulnerabilities – she was in a high-risk group, since she had been unable to afford prenatal care, yet was reportedly denied urgent treatment when made to wait several hours for the results of a coronavirus test outside of a hospital, allegedly also due to racial discrimination.<sup>168</sup> In the United Kingdom, pregnant black, Asian and minority ethnic (BAME) women have been found to have considerably higher rates of COVID-19 infection than non-minority women, due to complex factors, some of which are unrelated to the pandemic and others that may be exacerbated by emergency measures (e.g., their overrepresentation among “essential” workers and tendency to live in crowded conditions).<sup>169</sup> Reductions in face-to-face appointments can mean that their specific risk factors are not adequately assessed, thus resulting in the denial of their equal right to access needed health services. Additionally, de-prioritization of “non-essential” health services have had serious consequences for women in certain groups who require regular access to medical services, treatment or therapeutic care, which can include, but are not limited to, women with disabilities,<sup>170</sup> women who are living with HIV/AIDS or with chronic illness,<sup>171</sup> women in prostitution<sup>172</sup> and women with substance addictions.<sup>173</sup>

### Recommended actions to protect women’s rights

During emergency preparation, ensure guarantees of the right to safe working conditions and decent work for female frontline healthcare workers. This should include salaries, promotions and time off commensurate with the vital work that they undertake, as well as a consistent supply of protective equipment that is specifically designed for female staff.

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168 Lee, J., “9 Month Pregnant Romani Woman Dies after Waiting Six Hours for COVID-19 Test Results to Get Emergency Care”, European Roma Rights Centre website, 6 April 2020, <<http://www.errc.org/news/9-month-pregnant-romani-woman-dies-after-waiting-six-hours-for-covid-19-test-results-to-get-emergency-care>>.

169 Royal College of Midwives, “Addressing Increased Risks During the COVID-19 Pandemic for BAME Women, Guidance from the Royal College of Midwives”, May 2020, <<https://www.rcm.org.uk/media/4063/rcm-addressing-increased-risks-during-the-covid-19-pandemic-for-bame-women-may-2020-1.pdf>>.

170 Women Enabled International, “COVID-19 at the Intersection of Gender and Disability: Findings of a Global Human Rights Survey, March to April 2020”, *op. cit.*, note 61.

171 Women with chronic illnesses and HIV in Ukraine reported that they cannot access their regular medical treatment, specialized goods or food and that certain medicines are not available in pharmacies in small towns. UN Women Ukraine, “Rapid Gender Assessment of the Situation and Needs of Women in the Context of Covid-19 in Ukraine”, *op. cit.*, note 84.

172 Call for Action, “COVID-19 Shines a Red Light on Sex Workers’ Lack of Protection – Our Demands Must Be Included”, <<http://redlightcovidEurope.org>>.

173 Studies indicate that women who are injecting drug users, for example, face multiple barriers to accessing treatment programmes, and the lack of female-specific services before the pandemic meant that their complex needs were often unmet. See: Reference Group to the United Nations on HIV and Injecting Drug Use, “Women Who Inject Drugs: A Review of Their Risks, Experiences and Needs”, 2010, <[https://www.unodc.org/documents/hiv-aids/Women\\_who\\_inject\\_drugs.pdf](https://www.unodc.org/documents/hiv-aids/Women_who_inject_drugs.pdf)>. The UNODC has called upon governments to ensure the continuity of care for people who use drugs and people with drug use disorders in the context of the COVID-19 pandemic. See: UNODC, “Suggestions about Treatment, Care and Rehabilitation of People with Drug Use Disorder in the Context of the COVID-19 Pandemic”, <<https://www.unodc.org/documents/drug-prevention-and-treatment/UN-Covid19-infographic-200328-5070.pdf>>.

The classification of specific health services as “non-essential” during states of emergency should be non-discriminatory.

Ensure that women can exercise their right to sexual and reproductive health services by classifying such treatment as “essential” or by restructuring how medical services can be accessed.

In emergency measures, include provisions and accommodations to ensure that women in situations of vulnerability have equal access to medical services in practice and that they receive continuity of healthcare before, during and after emergencies.

## CLOSURE OF “NON-ESSENTIAL” WORKPLACES

Across the OSCE region, emergency measures to ensure social distancing have resulted in large-scale disruptions to working life. In some OSCE participating States, workplace closures were recommended, and employers have been required to permit employees to work remotely or to take strict measures to ensure safety and health if they remained open. In other cases, workplaces have been required to close. The overall result has been much the same across the region. During the strictest periods of lockdown, only “essential” businesses (food shops, pharmacies) have remained open, and different sectors of the economy have been allowed to re-open in stages.

Globally, 94 per cent of the world’s workers live in countries in which emergency measures have included some form of workplace closure, and the estimated drop in aggregate working hours reached 13 percent across Europe and Central Asia (comparing 2019 to 2020).<sup>174</sup>

According to the International Labour Organization (ILO), virtually all of the countries in Europe and Central Asia have adopted social protection measures in response to the pandemic, most of which concern special allowances or grants for low-income or vulnerable people and the protection of workers (wage subsidies, furlough schemes, the introduction of part-time work, prohibitions of lay-offs, benefits for the self-employed, etc.).<sup>175</sup>

### Right to work

The right to work is essential for realizing other human rights. The right to work includes equal opportunities to employment and the rights to freely choose work, not to be deprived of work and to decent, safe, secure and paid work.<sup>176</sup> Core (non-derogable) obligations that are applicable even

174 UN, “Policy Brief: The World of Work and COVID-19”, June 2020, <[https://www.un.org/sites/un2.un.org/files/the\\_world\\_of\\_work\\_and\\_covid-19.pdf](https://www.un.org/sites/un2.un.org/files/the_world_of_work_and_covid-19.pdf)>.

175 See: ILO, “Social Protection Responses to COVID-19 Crisis around the World”, updated 22 September 2020 <<https://www.social-protection.org/gimi/ShowWiki.action?id=3417>>.

176 ICESCR, *op. cit.*, note 16, Arts. 6 and 7.

during emergencies include ensuring nondiscrimination and equal protection of employment, as well as the right of access to employment, especially for disadvantaged and marginalized individuals and groups.<sup>177</sup>

#### Examples of impacts on women:

- Because women and men occupy different positions in the labour market, emergency measures (and assessment of risk to health, if they continue to work during an emergency, as well as to livelihoods, if they cannot work) that target specific sectors will have differing impacts on equal opportunities to work. Women make up a large share of workers in some of the sectors that have been hardest hit by COVID-19, because they depend on face-to-face contact, yet are not considered “essential”, such as the travel industry, hospitality, food and beverage services, leisure and arts industries, retail and other services (hairdressing salons, real estate agencies, laundries, childcare facilities). Preliminary analysis suggests that lay-offs<sup>178</sup> and lost working hours<sup>179</sup> that can be attributed to the COVID-19 pandemic have impacted women in precisely these sectors. Discriminatory treatment of working women, including pregnant women, new mothers and older women, has also been reported. Employers have either required them to take sick leave or annual leave, or have pressured them to take voluntary redundancy.<sup>180</sup> Specific groups of women have faced greater job losses than men. For example, young women’s unemployment rates have increased dramatically since February 2020 in the United States and Canada, in part due to their representation in the above-mentioned sectors.<sup>181</sup> Similar trends have been seen elsewhere in the OSCE region.<sup>182</sup> In the United States, the unemployment rates for

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177 CESCR, “General Comment No. 18: The Right to Work (Art. 6 of the Covenant)”, *op. cit.* note 17, para. 31.

178 In Ireland, for instance, an estimated 140,000 people were made redundant in March 2020, representing restaurant workers, pub and bar staff and crèche and childcare workers. See: RTE News, “How Will I be Reimbursed If I Have Been Laid Off Over COVID-19”, 19 March 2020, <<https://www.rte.ie/news/coronavirus/2020/0316/1123480-coronavirus-ireland/>>. See also, UN, “Policy Brief: The World of Work and COVID-19”, *op. cit.*, 190, p. 2.

179 In Latvia, twice as many women as men were receiving the government’s “downtime allowance” (a subsidy for people who had previously earned less than 700 Euros per month and who had been forced into inactivity due to the anti-coronavirus measures), mainly in the hospitality and catering sector. European Network of Legal Experts in Gender Equality and Non-Discrimination, Flash report- Latvia, “Impact of COVID-19 on Gender Equality”, 6 July 2020, <<https://www.equalitylaw.eu/downloads/5176-latvia-impact-of-covid-19-measures-on-gender-equality-in-latvia-130-kb>>.

180 Oppenheim, M., “Pregnant Women and New Mothers Face Redundancy During Coronavirus Crisis, Warns Equality and Human Rights Commission”, The Independent website, 16 May 2020, <<https://www.independent.co.uk/news/uk/home-news/coronavirus-pregnant-women-mothers-redundancy-lockdown-a9516871.html>>; The Croatian Office of the Ombudsman has reported on cases of employers not accommodating women to work from home and pressuring them to take leave. See: Equinet, “How Can Equality Bodies Put Equality Between Men and Women at the Heart of the Response to COVID-19 Across Europe?”, <<https://equineteurope.org/2020/how-can-equality-bodies-put-equality-between-women-and-men-at-the-heart-of-the-response-to-covid-19-across-europe/>>; Similar incidents were also reported in Tajikistan; Interview with expert in Tajikistan, conducted 21 May 2020.

181 In Canada, unemployment increased by 20.4 percentage points for young women, as compared to 14.3 percentage points for young men; In the United States, the unemployment rate for young women increased from 7.5 per cent to 29.8 per cent, and for young men from 8.5 per cent to 24.0 per cent. See ILO, “ILO Monitor: COVID-19 and the World of Work. Fourth edition, Updated Estimates and Analysis, 27 May 2020, p. 11, <[https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS\\_745963/lang--en/index.htm](https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS_745963/lang--en/index.htm)>.

182 *Ibid.*: and The Guardian, “Coronavirus Lockdown to Hit Low-Paid, Young and Women Hardest, Warns IFS”, 6 April 2020, <<https://www.theguardian.com/business/2020/apr/06/coronavirus-lockdown-to-hit-low-paid-young-and-women-hardest-warns-ifs>>.

women from ethnic minority groups and women with disabilities (as of June 2020) were incrementally higher than for women overall, and considerably higher than for men overall.<sup>183</sup> Women's ability to exercise their right to work (to return to jobs or find new employment) also hinges on the lifting of other emergency measures, namely the reopening of childcare facilities and schools (a topic that is discussed in a separate section of this publication). It should be noted that the COVID-19 pandemic has been enormous in its scale and impact on almost all sectors of the economy. Other emergencies may entail less drastic closures of workplaces. Further, men make up the majority of workers in sectors, such as manufacturing and construction, in which social distancing and working from home are often not possible, although these are also sectors that have been prioritized for reopening and recovery measures in the COVID-19 health crisis.<sup>184</sup> In some OSCE participating States (that also have pronounced labour market segregation and relatively low female participation in the workforce),<sup>185</sup> overall unemployment rates have been slightly higher for men than women as a result of the coronavirus outbreak.

- When emergency measures do not consider diverse types of work, women can be left unprotected. In general, women are more likely to work in “vulnerable” jobs, such as low-skilled, part-time or in flexible arrangements (including seasonal agricultural work, home-based work or self-employment) that can be combined with childcare, but which are also generally characterized by low pay, job insecurity and lack of social protections (such as paid sick leave). Many women work in informal employment, especially migrant women and women in rural areas. Female entrepreneurs are more likely to work as sole traders, to operate in the informal sector and to be in traditional “female” sectors (such as those that are mentioned above). During the COVID-19 pandemic, for instance, 25 per cent of self-employed women surveyed in Europe and Central Asia had lost their jobs (compared to 20 per cent of self-employed men).<sup>186</sup> This situation raises issues about whether social protection and financial support schemes adopted to address the impact of emergency measures, and that do not recognize the diverse working arrangements of women or are based on time in formal employment, uninterrupted work history or average salary, have discriminatory impacts on women.

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183 National Women's Law Center, “June Brings 2.9 Million Women's Jobs Back, Many of Which Are at Risk of Being Lost Again”, Fact Sheet, July 2020, p. 2, <<https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2020/07/june-jobs-fs-1.pdf>>.

184 For instance, the Spanish government permitted non-essential workers in factories and construction to return to work in mid-April 2020. Jones, S., “Spain to Begin Return to Work Despite Fears of Resurgence”, The Guardian website, 11 April 2020, <<https://www.theguardian.com/world/2020/apr/11/spain-to-begin-return-to-work-despite-fears-of-resurgence>>.

185 For instance in Albania. See: UN Women Albania, “Press release: COVID-19 Is Taking a Higher Toll on Women – Shows UN Women Albania Rapid Assessment”, 10 July 2020, <<https://albania.unwomen.org/en/news-and-events/stories/2020/07/covid-19-is-taking-a-higher-toll-on-women-shows-un-women-albania-rapid-assessment>>; and Turkey. See: UN Women Turkey Office, “The Economic and Social Impact of COVID-19 on Women and Men, Rapid Gender Assessment of COVID-19 Implications in Turkey”, 2020, p. 20, <<https://eca.unwomen.org/en/digital-library/publications/2020/06/the-impact-of-covid19-on-women-and-men-rapid-gender-assessment-of-covid19-implications-in-turkey>>.

186 The data refer to ten European and Central Asian countries. UN Women, “The Impact of Covid-19 on Women's and Men's Lives and Livelihoods in Europe and Central Asia: Preliminary Results from a Rapid Gender Assessment”, *op. cit.*, note 97, p. 15.

- When “essential workers” are exempted from emergency measures, such as lockdowns and travel restrictions, women, who make up a large number of non-health related “essential workers” (e.g., supermarket cashiers, cleaners, pharmacists and teachers and childcare workers) may be deprived of their right to decent, safe and secure work. Many of these are low-paid and low-skilled jobs, and concerns have been raised about whether women have had access to adequate PPE and other health and safety measures (such as places and time to wash their hands) or the empowerment to make such demands. Potentially, the designation of such work as “critical” or “essential”, without appropriate safeguards, could put women’s rights to decent work and to health at risk.

### **Recommended actions to protect women’s rights**

Emergency measures should include risk assessments concerning the closure of “non-essential” workplaces, identifying potential differential impacts on women. Any negative impacts should then be mitigated through social protection schemes and benefits.

Protection from job and income loss, instituted during emergencies, should cover the full spectrum of “women’s work”, including part-time work, self-employment, seasonal and home-based work. Informal work performed by women should be recognized as a form of employment that is restricted when emergency measures are in place. Social protection should, therefore, be afforded to women who work in the informal sector.

The right to decent and safe working conditions should be protected for women who are in jobs considered “essential” during states of emergency. The right to work should also include respect for the right to refuse to work when such conditions are not met.

## **OBLIGATORY WORKING FROM HOME**

As part of emergency orders to limit movement, many jobs – those that were deemed “non-essential” – have been locked down during the COVID-19 pandemic. In general, while more women work in sectors that have been closed (such as those mentioned in the preceding section), men have been less able to transfer to working-from-home schemes, because they are overrepresented in fields that cannot ensure social distancing – such as manufacturing, construction and home repairs.

The pattern across the OSCE region is that women have been working from home more often than men. Of respondents to a survey conducted in Europe and Central Asia, almost half of women and a quarter of men were working from home during lockdown periods.<sup>187</sup>

187 The data refer to ten European and Central Asian countries. UN Women, “The Impact of Covid-19 on Women’s and Men’s Lives and Livelihoods in Europe and Central Asia: Preliminary Results from a Rapid Gender Assessment”, *op. cit.*, note 97, p. 16.

## Right to work

The right to work is essential for realizing other human rights. The right to work includes equal opportunities to employment and the rights to freely choose work, not to be deprived of work and to decent, safe, secure and paid work. Core (non-derogable) obligations that are applicable even during emergencies include ensuring nondiscrimination and equal protection of employment, as well as of the right of access to employment, especially for disadvantaged and marginalized individuals and groups.

### Examples of impacts on women:

- During the COVID-19 pandemic, extraordinary measures that have required working from home have coincided with other social distancing measures, such as the temporary closure of nurseries, schools and other services deemed “non-essential”. The impact has significantly constrained women’s right to work. Before the health crisis, women shouldered the greater share of domestic responsibilities, and during the pandemic they have been expected to, and have continued to, undertake domestic chores while also working from home and adding the new responsibility of schooling children. The immediate impact has been a loss in women’s productivity. In the United Kingdom for instance, in two-parent households, mothers worked during lockdown without interruption an average of 35 per cent of the paid-work hours of fathers (before the pandemic, mothers did 60 per cent of the number of uninterrupted work hours that the average father did). Furthermore, of parents who were in paid work before lockdown measures, “mothers [were] one-and-a-half times more likely than fathers to have either lost their job or quit since the lockdown began. They [were] also more likely to have been furloughed. In all, mothers who were in paid work in February [were] nine percentage points less likely to be currently working for pay (either remotely or on-site) than fathers.” This situation has been characteristic for the OSCE region. Absence from work and lost productivity are expected to have long-term effects on women’s careers; they are likely to be disadvantaged in terms of earnings and potential promotions – both of which are important aspects of the right to work.

In countries of Europe and Central Asia, both women and men experienced an increase in the time they spent on unpaid domestic and care work during lockdown/quarantine periods (April-May 2020), but women saw a greater increase.



Source: Data taken from UN Women, The Impact of Covid-19 on Women's and Men's Lives and Livelihoods in Europe and Central Asia: Preliminary Results from a Rapid Gender Assessment, 2020, p. 26. <https://eca.unwomen.org/en/digital-library/publications/2020/07/the-impact-of-covid19-on-womens-and-mens-lives-and-livelihoods>.

- Single mothers have been especially disadvantaged by emergency measures and have experienced income loss and high rates of unemployment during the pandemic.<sup>188</sup>
- Work-from-home requirements are incompatible with the employment arrangements of domestic workers, the large majority of whom are women (such as housecleaners and childminders). Most domestic workers are employed informally and, therefore, they do

188 In the United Kingdom, single parents were the most likely to report incomes losses of 20 per cent or more. See: Understanding Society, "COVID-19 Survey. Briefing Note, Wave 1: April 2020" <<https://www.iser.essex.ac.uk/files/news/2020/single-mother-income-loss-covid-19/covid-briefing-paper-economic-effects.pdf>>; and in the United States, early analysis suggests that employment rates for single mothers are down 22 per cent compared to 2019, Pew, "Single Mothers Hit Hard by Job Losses", 26 May 2020, <<https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/05/26/single-mothers-hit-hard-by-job-losses>>.

not qualify for social protection (e.g., paid sick leave and unemployment benefits). Many are migrant workers or immigrants. In the context of social distancing orders, women in domestic work have been put at risk of losing employment (potentially also jeopardizing their visa status) or of being forced to take unpaid leave, or may have had to return to work in potentially unsafe conditions and without proper protection if they have no other income support. Emergency relief measures put in place during the COVID-19 pandemic have largely excluded domestic workers.

### **Recommended actions to protect women's rights**

Social protection measures instituted during emergencies should factor in increases to women's contribution to unpaid domestic work in terms of lost productivity and lost income, and protect women from lay-offs, permit flexible and part-time work, and extend the duration of benefits (especially for single mothers).

When scaling back emergency measures, priority should be given to re-opening services (including childcare and educational) that facilitate women's ability to exercise the right to work.

In Denmark, emergency childcare services were established for children (from ages 0 to 9) of "essential" employees, and childcare services and primary schools were among the first to be reopened in April 2020, as a means to reduce pressure on those working from home.<sup>189</sup> At the same time, initiatives should also be supported to capitalize on men's greater engagement in unpaid household and care work during lockdowns.

Emergency measures should include social protection for women who work in the informal sector, especially domestic workers.

Spain extended unemployment benefits to registered domestic workers impacted by the coronavirus in March 2020;<sup>190</sup> other countries, such as France, already had a scheme in place that afforded domestic workers social security and paid leave.<sup>191</sup>

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189 European Network of Legal Experts in Gender Equality and Non-Discrimination, Flash Report – Denmark, *op. cit.*, note 173.

190 Davies, S., "Spain Starts Subsidy for Domestic Workers Hit by Coronavirus", Reuters website, 31 March 2020, <<https://www.reuters.com/article/us-health-coronavirus-domestic-workers/spain-starts-subsidy-for-domestic-workers-hit-by-coronavirus-idUSKBN21I2Q9>>.

191 Varia, N., "It Is Time for the World to Start Caring for the Caregivers", Human Rights Watch website, 1 May 2020, "<https://www.hrw.org/news/2020/05/01/it-time-world-start-caring-caregivers>".

## CLOSURE OF EDUCATIONAL INSTITUTIONS

Across the OSCE region, the temporary closure of educational facilities, ranging from childcare to universities, has been almost complete. In some states, nurseries and schools for the children of “essential” workers have remained open. Different approaches have been taken to ensuring continuity of learning for school-age children and young adults, ranging from educational programmes being broadcast on television to online distance learning. Access to interactive online learning is dependent on the technological capacities of specific countries (and in schools and households), and there are stark differences between rural and urban areas in terms of Internet access.

### Right to education

The right to education is a fundamental right; it encompasses the full development of the person<sup>192</sup> and lifelong learning. All children and young people have the right to an education, regardless of their sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.<sup>193</sup> States are obliged, even during emergencies, to ensure core “minimal educational standards” that encompass, *inter alia*, providing universal primary education and national strategies that concern the provision of secondary, higher and fundamental education.<sup>194</sup> In the context of the COVID-19 pandemic, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has suggested that the right to education be expanded to address “the importance of connectivity and access to knowledge and information.”<sup>195</sup>

### Examples of impacts on girls and young women:

- Past experience has shown that, during crises (such as the Ebola epidemic), school closures jeopardize girls’ right to education.<sup>196</sup> Among the OSCE participating States, certain groups of girls were already at higher risk of interruptions in learning and dropping out of school altogether before the coronavirus pandemic. In South Eastern Europe, Eastern Europe and Central Asia, boys are more likely to complete primary education, and girls are more likely to be out of secondary school than boys. Gender disparities in favour of boys’ education are also more pronounced among ethnic minority groups, such as the Roma and Sinti, and among children with disabilities, children in rural or isolated areas, children from low-income households and among refugee children.<sup>197</sup> There is a serious risk that

192 ICESCR, *op. cit.*, note 16, Art. 13.

193 UN General Assembly, “Convention on the Rights of the Child”, 20 November 1989, Arts. 28, 29, <<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>>.

194 CESCR, “General Comment No. 13: The Right to Education (Art. 13 of the Covenant)”, *op. cit.*, note 18, para. 57.

195 UNESCO, *Education in a Post-COVID World: Nine Ideas for Public Action*, (Paris, UNESCO 2020), p. 5, <<https://unesdoc.unesco.org/ark:/48223/pf0000373717/PDF/373717eng.pdf.multi>>.

196 UNESCO, “Addressing the Gender Dimensions of School Closures”, 2020, p. 2, <<https://unesdoc.unesco.org/ark:/48223/pf0000373379/>>.

197 Economic Commission for Europe, Beijing+25 Regional Review Meeting, “Eliminating All Forms of Discrimination against the Girl Child”, 2019, <<https://www.unece.org/beijing25.html>>.

girls' opportunities for learning will be limited as a result of temporary school closures.<sup>198</sup> This can occur for several interrelated reasons, including that households prioritize boys' education, that girls are required to take on additional domestic and care responsibilities, or that girls cannot access home-school materials when mobile phones or laptops with Internet capacity are shared within the family (between working adults and children). A further negative consequence is that girls will not return to school at all. Past epidemics have shown that, when schools are closed for long periods of time, girls are less likely to return after emergency measures have been lifted; girls are often removed from school during emergencies, even when schools remain open,<sup>199</sup> denying them the right to education and also limiting their right to decent employment in the future.

- When girls are out of school and subjected to lockdown conditions, their vulnerability to potential human rights violations is heightened. For instance, risks of early and forced marriage, adolescent pregnancy, gender-based violence and, possibly, female genital mutilation increase,<sup>200</sup> in part because there is less oversight and safeguarding of girls' well-being outside the household (from teachers, medical professionals, law enforcement agencies, peers, etc.). The practice of early (child) marriage in a number of OSCE participating States, as well as within specific groups, pre-dates the coronavirus outbreak.<sup>201</sup> Early marriage and early childbearing are common reasons that girls drop out of school. But the prolonged absence of girls from school due to emergency measures (related also to the suspension of civil registration processes, discussed in a preceding section of this publication) may well have hastened girls' early marriage, especially if families believe that girls will not return to school or due to financial pressures. Not only are girls at greater risk for sexual and gender-based violence perpetrated by family members during lockdown conditions, but online child sexual abuse and exploitation (such as sexual coercion and grooming) has increased dramatically during the COVID-19 pandemic, as a direct result of both more sex

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198 Center for Global Development, "Gendered Impacts of COVID-19 School Closures: Insights from Frontline Organizations", May 2020, <<https://www.cgdev.org/sites/default/files/gendered-impacts-covid-19-school-closures-insights-frontline-organizations.pdf>>.

199 OHCHR, "COVID-19 and Women's Human Rights: Guidance", 15 April 2020, <[https://www.ohchr.org/Documents/Issues/Women/COVID-19\\_and\\_Womens\\_Human\\_Rights.pdf](https://www.ohchr.org/Documents/Issues/Women/COVID-19_and_Womens_Human_Rights.pdf)>.

200 UNESCO, "Addressing the Gender Dimensions of School Closures", 2020, p. 2, <<https://unesdoc.unesco.org/ark:/48223/pf0000373379/>>; and UNFPA/UNICEF, "COVID-19 Disrupting SDG 5.3: Eliminating Female Genital Mutilation, Technical Note", April 2020, <[https://www.unfpa.org/sites/default/files/resource-pdf/COVID-19\\_Disrupting\\_SDG.3\\_Eliminating\\_Female\\_Genital\\_Mutilation.pdf](https://www.unfpa.org/sites/default/files/resource-pdf/COVID-19_Disrupting_SDG.3_Eliminating_Female_Genital_Mutilation.pdf)>.

201 Countries with the highest levels of child marriage (of girls), for which data is available, are Albania, Azerbaijan, Georgia, Kyrgyzstan, Moldova, Romania and Turkey. Child marriage rates are also high among the Roma and Sinti population, among refugees and in conflict-affected areas. See: Economic Commission for Europe, Beijing+25 Regional Review Meeting, "Eliminating All Forms of Discrimination against the Girl Child", *op. cit.*, note 218, para. 24. Child marriage has also been observed in Albania and Kazakhstan, as in minority communities in Bosnia and Herzegovina and Serbia. See: UN Women Regional Office for Europe and Central Asia, "Regional Assessment of Implementation of the Beijing Declaration and Platform for Action in Europe and Central Asia", 2019, p. 35, <<https://www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/2020/03/b25%20assessment%20report.pdf?la=en&vs=5437>>. Child marriages have also been documented in countries of the European Union. See: FRA, *Addressing Forced Marriage in the EU: Legal Provisions and Promising Practices*, (Vienna: FRA 2014) <[https://fra.europa.eu/sites/default/files/fra-2014-forced-marriage-eu\\_en.pdf](https://fra.europa.eu/sites/default/files/fra-2014-forced-marriage-eu_en.pdf)>.

offenders and more children using social media<sup>202</sup> (combined with parents being unable to offer as much supervision as usual and children feeling lonely and anxious).<sup>203</sup>

### **Recommended actions to protect girls' rights**

When emergency measures are being developed, include flexible school opening policies and practices to ensure that girls, and especially girls in marginalized situations, can exercise their right to education. Special measures, such as waiving or reducing school fees or providing grants, can be included in recovery programmes to encourage girls' re-enrolment and retention after emergencies.

Special measures should be taken to ensure that girls are provided with adequate technology to enable them to fully take part in education during lockdown situations.

For example, Croatia and Latvia provided computers and SIM cards with unlimited Internet access to students,<sup>204</sup> although it is not clear whether there was any particular focus on girls.

The risk to girls of gender-based violence and exploitation, early marriage, female genital mutilation and other potential human rights violations should be assessed in emergency planning as a potential consequence of crises measures. Protection of girls should be integrated into emergency measures and recovery plans. Ensure the accessibility of support services for girls and the continuity of programmes that conducted outreach with at-risk girls before the emergency (clubs, peer networks, etc.).

## **DISRUPTIONS TO SOCIAL CARE AND SUPPORT SERVICES**

Social distancing measures have had a direct impact on the provision of social services to adults and children, including by social workers and through centres and shelters for people in vulnerable groups (such as, but not limited to, people experiencing homelessness, people with addictions, survivors of domestic violence and persons with disabilities). Members of these groups are the very people who are in the most vulnerable situations during emergencies of any kind. In some cases, services have been disrupted or reorganized (e.g.,

202 Europol, "Exploiting Isolation: Offenders and Victims of Online Child Sexual Abuse During the COVID-19 Pandemic", 19 June 2020, <<https://www.europol.europa.eu/publications-documents/exploiting-isolation-offenders-and-victims-of-online-child-sexual-abuse-during-covid-19-pandemic>>.

203 National Society for the Prevention of Cruelty to Children, "Lonely Children Are Twice as Likely to Be Groomed Online", 23 April 2020, <<https://www.nspcc.org.uk/about-us/news-opinion/2020/coronavirus-children-groomed-online/>>.

204 FRA, FRA, "Coronavirus Pandemic in the EU – Fundamental Rights Implications", Bulletin #1", *op. cit.*, note 82, p. 18.

some social workers have been able to work remotely; people in need of shelter have been temporarily housed in hotels) and, in other cases, they have been temporarily suspended.

It is not within the scope of this paper to review in detail the provision of social services during the coronavirus outbreak across the OSCE region. For one thing, there is great diversity in how social care is organized among OSCE participating States. It is usually done through local authorities and municipalities, which makes it difficult to assess where there have been disruptions and gaps. Limitations on access to social care also overlaps with the classification of some health services as “non-essential” (as discussed in a previous section of this publication), because people in vulnerable situations tend to have complex needs.

During the COVID-19 pandemic, particular concern has been raised about women’s access to specific services that are outlined below, but these do not represent the full spectrum of social care services that should be available to women and men, as well as girls and boys, during emergencies.

### **Right to social protection**

The right to social protection is an obligation to provide for social welfare. The right to social protection encompasses the protection of and assistance to families, to mothers and to children. Social protection is also implicated in rights to just and favourable conditions of work (e.g., the right to social security) and to the highest attainable standards of physical and mental health (which takes into account not only the absence of illness, but also social well-being). States should also undertake measures to ensure “equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income” (i.e., the right to development).

### **Right to adequate standard of living**

The right to an adequate standard of living includes within it the right to adequate food, clothing and housing.<sup>205</sup> The right to social protection and to enjoy an adequate standard of living is explicitly recognized in respect to women living in rural areas<sup>206</sup> and persons with disabilities.<sup>207</sup>

### **Examples of impacts on women:**

- When social services are suspended or restricted at the same time that lockdown measures are imposed, the risk of domestic violence for women who are confined in the home with an abuser (as described earlier in this publication) increase significantly. The lack of, or lack of access to, specialized services for survivors of gender-based violence violates women’s right to social protection, in conjunction with their right to be free from violence. It also puts their right to access to justice in jeopardy. During the COVID-19 pandemic,

205 ICESCR, *op. cit.*, note 16, Art. 11.

206 CEDAW, *op. cit.*, note 20, Art. 14.

207 UN General Assembly, CRPD, *op. cit.*, note 21, Art. 28.

many participating States have taken action to address gaps in service provision, through increased funding for gender-based violence services subsequent to imposing emergency measures. Canada is an exception, in that funding and policy commitments for social services on gender-based violence were included in the national emergency response.<sup>208</sup> CSOs that address issues of concern to women are the primary providers of services for survivors of domestic violence and, although they have received varied support from national and local budgets, they have also been put under tremendous strain, not only to respond to the increased demand for their services, but also to reorganize their work to comply with social distancing rules. The following are the primary gaps that have been identified in support services in the OSCE region: Lockdown measures and reduction in mobility have made many temporary shelters inaccessible to women; CSOs have lacked protocols for how to admit women to centres while complying with isolation and quarantine standards; women's organizations have few permanent staff, and organizations have been challenged to retrain and redeploy volunteers to remote work; women's helplines have limited resources to provide the complex assistance that survivors require; new models of service delivery, especially concerning psychosocial and legal counselling, have had to be developed via online or telephone communication; many organizations lack reserve funds (and unrestricted funds) that are needed to adjust to crisis situations. All of these issues call into question the sustainability of CSOs in the context of high demands for their services.<sup>209</sup> When service-provision gaps are not met, women survivors of violence are unable to fully exercise their right to social welfare.

- People who are experiencing homelessness are an especially vulnerable group during crises such as pandemics, as their ability to comply with emergency measures that require self-isolation, social distancing and increased hygiene is “not a realistic prospect” unless they have access to a system of social care.<sup>210</sup> Thus, there is a heightened need during emergencies to ensure that the basic rights of people experiencing homelessness, including their rights to social protection, food, clothing and housing, are not overlooked when services are reduced. Outside of crisis situations, women are largely invisible among the homeless, although they represent around a quarter of people experiencing homelessness (based on estimates from European countries for which data is available<sup>211</sup>). This situation,

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208 CARE International, “The Absence of Women in COVID-19 Response”, *op. cit.*, note 72, p. 15. See also: Government of Canada, Canada’s COVID-19 Economic Response Plan”, <<https://www.canada.ca/en/department-finance/economic-response-plan.html>>.

209 UN Women, “Impact of the COVID-19 Pandemic on Specialist Services for Victims and Survivors of Violence in the Western Balkans and Turkey”, 2020, <[https://www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/2020/05/unw\\_covid-vaw\\_report\\_final.pdf?la=en&vs=5317](https://www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/2020/05/unw_covid-vaw_report_final.pdf?la=en&vs=5317)>; Women Against Violence Europe (WAVE), “Policy Statement on COVID-19 and Violence against Women and Girls”, 2020, <[http://wave-network.org/wp-content/uploads/WAVE\\_Covid19statement.pdf](http://wave-network.org/wp-content/uploads/WAVE_Covid19statement.pdf)>; Women’s Resource Centre, “The Impact of the COVID-19 Crisis on the UK’s Women’s Sector, Survey Responses and Findings”, *op. cit.*, note 120.

210 European Federation of National Organisations Working with the Homeless (FEANTSA), COVID-19: “‘Staying Home’ Not an Option for People Experiencing Homelessness”, 18 March 2020, <<https://www.feantsa.org/en/feantsa-position/2020/03/18/covid19-staying-home-not-an-option-for-people-experiencing-homelessness?bcParent=27>>.

211 See Women’s Homelessness in Europe Network, “Statistics”, <<http://womenshomelessness.org/resources/statistics/>>; and Jako doma, “Back from the Bottom: Focused on Women”, 2013, <[http://jakodoma.org/wp-content/uploads/2012/11/Back-from-the-Bottom\\_fin.pdf](http://jakodoma.org/wp-content/uploads/2012/11/Back-from-the-Bottom_fin.pdf)>. Data from the United States indicate that women represent 39 per cent of people experiencing homelessness. See: Georgetown Institute for Women, Peace and Security, “At

in part, reflects the fact that typical services are modelled on men's needs and, thus, they do not address the complex factors that lead women into situations of homelessness. For women, homelessness is highly correlated with lifetime experiences of social and economic disadvantage. Women's vulnerability to homelessness and housing insecurity is linked to domestic violence, child marriage, limited job opportunities and human trafficking. Women from minority groups (which can include migrant women and LGBTI women)<sup>212</sup> face even greater risks for homelessness. CSOs have raised concern over the fact that emergency planning has not taken into account the vulnerabilities of women experiencing homelessness during the COVID-19 pandemic.<sup>213</sup> The unavailability of services for women experiencing homelessness is a violation of their rights to social protection and an adequate standard of living,

### **Recommended actions to protect women's rights**

When setting priorities for the provision of social protection and services during and after emergencies, gender analysis should be used to identify groups of women who are in pre-existing situations of vulnerability, as well as those who are at risk of becoming vulnerable during a crisis.

When lockdown measures are imposed, emergency planning should include estimates of the increased need for services for domestic violence survivors and earmark dedicated support (e.g., in the form of funding; alternative temporary, funding; training and capacity-building for service providers; and the provision of equipment that would facilitate remote work, such as laptops and mobile phones).

When developing emergency response plans, the potential compound impacts of the measures themselves on women should be assessed (e.g., lockdown measures heighten women's risks for gender-based violence, workplace closures are associated with unemployment and economic insecurity, and reduction in services such as shelters and crisis centres, which leave women at risk of homelessness).

In post-crisis situations, financial and other support should be provided to CSOs to enable them to continue their work with women in vulnerable situations (and to address backlogs in care that arose during states of emergency).

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the Intersection of Vulnerabilities: The Plight of Women and Girls Experiencing Homelessness During the Global Coronavirus Pandemic", 17 April 2020, <<https://giwps.georgetown.edu/at-the-intersection-of-vulnerabilities-women-and-girls-experiencing-homelessness-during-the-global-coronavirus-pandemic/>>.

212 In the United Kingdom, the LGBT Foundation's helpline recorded an 88 per cent increase in calls about housing from March-April 2020, compared to previous months. LGBT Foundation, LGBT Foundation, "Hidden Figures.: The Impact of the COVID-19 Pandemic on LGBT Communities in the UK, 3rd Edition", *op. cit.*, note 186, p. 23.

213 FRA, "Coronavirus COVID-19 Outbreak in the EU – Fundamental Rights Implications – Czechia", 23 March 2020, <<https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies>>; and Women's National Housing and Homelessness Network, "The State of Women's Housing Need & Homelessness in Canada: Key Finding", 2020, <<http://womenshomelessness.ca/literature-review/>>.

## 5.7. MEASURES IN PLACES OF DEPRIVATION OF LIBERTY

In emergencies, the protection of public health extends to prisons and other places of deprivation of liberty, with a key priority during the coronavirus outbreak having been to control the spread of infection and minimize risks to both persons deprived of liberty and staff who work in such institutions. Persons deprived of their liberty “are likely to be more vulnerable to the coronavirus disease (COVID-19) outbreak than the general population because of the confined conditions in which they live together for prolonged periods of time.”<sup>214</sup>

Some of the key measures put in place during the COVID-19 health crisis have included: social distancing and protective measures inside facilities, such as preventative quarantines and limitations on group activities; the suspension of physical visits by persons from outside the place of detention (e.g., family members, lawyers, social service providers, monitors who are part of national preventive mechanisms); banning prisoners from day release; and the early release or transference to house arrest of some prisoners.

During the COVID-19 pandemic, states have been urged to review cases of deprivation of liberty and determine whether detention can be suspended, particularly for certain groups, including people 60 years of age and older, pregnant women and women who are breastfeeding, people with underlying health conditions and persons with disabilities.<sup>215</sup>

### Right to humane treatment

Anyone deprived of liberty has the right to humane treatment, with respect to their inherent dignity. Even though some of their freedoms may be lawfully restricted, people in closed environments retain their fundamental human rights, and the state has a heightened duty of care towards people who are vulnerable due to being deprived of their liberty. This rule applies in all circumstances and without distinctions of any kind.

### Freedom from torture and ill-treatment

The absolute prohibition on torture, cruel, inhuman or degrading treatment or punishment is complementary to the right to humane treatment, as it is required to protect the dignity and physical and psychological integrity of people deprived of their liberty.<sup>216</sup> No limitations to the right not to be subjected to torture or ill-treatment are permitted under international law, even during situations of public emergency, and there are no extenuating circumstances or justifications for violating this right.<sup>217</sup>

214 WHO, “Preparedness, Prevention and Control Of COVID-19 in Prisons and Other Places of Detention, Interim Guidance”, 15 March 2020, <[https://www.euro.who.int/\\_\\_data/assets/pdf\\_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf](https://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf)>.

215 OHCHR, “COVID-19 Not an Excuse for Unlawful Deprivation of Liberty – UN Expert Group on Arbitrary Detention”, 8 May 2020, <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25876&LangID=E>>.

216 *Ibid.*, Art. 7.

217 UN Human Rights Committee, “General Comment No. 20 Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)”, 10 March 1992, <<https://www.refworld.org/docid/453883fb0.html>>.

## Examples of impacts on women:

- Women make up a small minority of persons who are in custody or prison (estimates range from two to nine per cent worldwide) and, thus, staff, management and facilities often fail to meet their needs, including health needs.<sup>218</sup> Women in prison have very complex health needs, as a high proportion have underlying health conditions, and many “enter prisons pregnant or having recently given birth, as drug users and/or with serious physical and mental effects of violence and related trauma.”<sup>219</sup> Emergency measures inside places of deprivation of liberty may restrict access to medicines and compromise basic sanitation<sup>220</sup> and hygiene for women,<sup>221</sup> putting them at risk for coronavirus or other illnesses. Special attention to the protection of the right to health should be afforded to women prisoners in all circumstances, and especially in overcrowded facilities and during emergencies.
- Strict lockdowns can acutely impact the physical and psychological health of persons deprived of liberty. It has been recognized that women prisoners are especially susceptible to “mental distress and depression” at particular times of their prison sentences, and prison staff are required to be sensitive to this risk and to provide appropriate support.<sup>222</sup> Additionally, outside of emergency situations, women prisoners may already experience social isolation due to the fact that most states have few facilities for women and, therefore, prisons are typically located a great distance from family, children and friends.<sup>223</sup> Emergency measures that require social distancing have effectively imposed physical isolation and the suspension of physical visits and activities. It has been reported, for instance, that childcare centres in women’s prisons have been closed, which has meant that women and children have been confined to their cells or wards.<sup>224</sup> Women prisoners who are ill have effectively been put in conditions of solitary confinement – a practice that has come under criticism as amounting to ill-treatment.<sup>225</sup> In other cases, women prisoners have been isolated to

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218 ODIHR, *Preventing and Addressing Sexual and Gender-Based Violence in Places of Deprivation of Liberty*, (Warsaw: ODIHR 2019), pp. 43-44, <<https://www.osce.org/odihr/427448>>.

219 Penal Reform International (PRI), “Coronavirus and Women in Detention: A Gender-Specific Approach Missing”, 4 June 2020, <<https://www.penalreform.org/blog/coronavirus-and-women-in-detention-a-gender-specific/>>.

220 There have been reports that in seven of the 12 female prisons in the United Kingdom, strict lockdown measures have coincided with a lack of sufficient access to soap, hot water and sanitary supplies. Huffington Post UK, “No Masks, No Showers, No Soap’: Prisoners Say Coronavirus Is ‘Spreading Unchecked’ in Women’s Jails”, 25 March 2020, <[https://www.huffingtonpost.co.uk/entry/coronavirus-womens-prisons\\_uk\\_5e7a4974c5b62f90bc5253a1](https://www.huffingtonpost.co.uk/entry/coronavirus-womens-prisons_uk_5e7a4974c5b62f90bc5253a1)>.

221 Reports have been made of female prisoners not having access to basic menstruation products during lockdowns. See: PRI, “Coronavirus and Women in Detention: A Gender-Specific Approach Missing”, *op. cit.*, note 241.

222 UNODC, “UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders [Bangkok Rules], with Their Commentary”, 2009, p. 30, <[https://www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf)>.

223 See e.g.: Penal Reform International, “Imprisoned Far from Home: The Impact of Social Isolation on Women Prisoners”, 9 October 2013, <<https://www.penalreform.org/blog/imprisoned-home-impact-social-isolation-women-prisoners/>>.

224 In Portugal, for example. See: European Prison Observatory, “COVID-19: What Is Happening in European Prisons”, 17 April 2020, p. 13, <[http://www.prisonobservatory.org/upload/17042020European\\_prisons\\_during\\_covid19%233.pdf](http://www.prisonobservatory.org/upload/17042020European_prisons_during_covid19%233.pdf)>.

225 The UN Standard Minimum Rules for the Treatment of Prisoners include a number of restrictions on the use of solitary confinement (defined as 22 hours or more per day of isolation). See: United Nations, “Standard Minimum Rules for the Treatment of Prisoners”, 13 May 1977, <[https://www.unodc.org/pdf/criminal\\_justice/UN\\_Standard\\_Minimum\\_Rules\\_for\\_the\\_Treatment\\_of\\_Prisoners.pdf](https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf)>; and the Bangkok Rules prohibit disciplinary segregation

single cells for 23 hours per day, where “face-to-face education has been largely suspended, libraries and gyms are closed and no formal exercise classes are being provided.”<sup>226</sup> Emergency measures that impose strict isolation, in conjunction with the suspension of physical visits, can cause significant deterioration in women’s psychological health,<sup>227</sup> a situation that can amount to inhuman treatment. In the United Kingdom, for instance, the prevalence of self-injury among female prisoners has increased during the lockdown period (even in non-emergency conditions, the rate was five times that of male prisoners).<sup>228</sup>

- Women in places of deprivation of liberty are more likely than men to have histories of suffering sexual abuse or other forms of gender-based violence before admission. This fact has important implications for women’s health, their support needs while deprived of liberty, and their heightened risk for exploitation or violence while in custodial settings. During lockdowns, important safeguard and oversight mechanisms, such as those performed by national preventive mechanisms and also regular visits by lawyers, CSOs and volunteers, do not function as they would outside of emergency settings. When monitoring of conditions for women deprived of their liberty is limited, the risk for sexual and gender-based violence is intensified. The potential knock-on effect of the emergency measures is violations of women’s rights to humane treatment, to not be subjected to cruel, inhuman or degrading treatment, and to be free from violence.
- During emergencies, there is a risk that the labour of women prisoners will be exploited, related to the lack of oversight mechanisms and high demand for certain goods that cannot be met through other means. Specifically, during the coronavirus pandemic, concern has been raised over women prisoners working long hours for low pay – or no pay at all – to sew protective equipment, face masks and uniforms for health workers.<sup>229</sup> Such practices may not only violate women’s rights to decent work, but could rise to the level of inhumane treatment and/or forced labour.

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for pregnant women, women with infants and breastfeeding mothers. See: UNODC, “UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders [Bangkok Rules], with Their Commentary”, *op. cit.*, note 244, Rule 22. In Canada, prisoners who are ill have been isolated in Structured Intervention Units (former segregation units). See: Canadian Association of Elizabeth Fry Societies, Alarming Infection Rates at Joliette Institution for Women, Press Release, 18 April 2020, <<https://www.facebook.com/CAEFSNATIONALOFFICE/posts/1445312498974888>>.

226 Howard League for Penal Reform, “Letter to the Lord Chief Justice of England and Wales on Judicial Decision-Making Concerning Women in the Criminal Courts in light of the Coronavirus Pandemic”, 10 June 2020, <<https://howard-league.org/wp-content/uploads/2020/06/Howard-League-Letter-to-the-Lord-Chief-Justice-10.06.2020.pdf>>.

227 The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules) stress the importance of fostering women prisoners’ contact with the outside world, including with their families and children. See: UNODC, “UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders [Bangkok Rules], with Their Commentary”, *op. cit.*, note 244.

228 Howard League for Penal Reform, “Letter to the Lord Chief Justice of England and Wales on Judicial Decision-Making Concerning Women in the Criminal Courts in light of the Coronavirus Pandemic”, *op. cit.*, note 248.

229 European Prison Observatory, “COVID-19: What Is Happening in European Prisons”, *op. cit.*, note 246, p. 13; and CNN, “Texas Turns to Prison Labor to Help Cover Face Mask Shortages”, 22 March, 2020, <<https://edition.cnn.com/2020/03/22/us/texas-coronavirus-mask-trnd/index.html>>.

- In several participating States, measures to release prisoners early have been introduced to reduce the risk of infection and spread of the coronavirus. These provisions are particularly relevant for women, because they are usually detained for non-violent crimes, and it is recommended that women prisoners be conditionally released when possible.<sup>230</sup> Sex-disaggregated prisoner-release data that could provide insights into whether women prisoners have benefited from or been excluded from such programmes were not available at the time of writing. Monitoring of the situation, however, suggests that, in many countries, governments have been slow to release any eligible prisoners, even in light of high infection rates.<sup>231</sup> Where data is available from countries that have been giving priority for early release to pregnant women and women in mother and baby units, the number of women prisoners actually released appears small (e.g., of 37 states in the United States, the majority had not released any pregnant prisoners, although there was variation by state;<sup>232</sup> in the United Kingdom, of a potential 70 eligible women prisoners, only 22 had been released several weeks after the government had announced emergency measures.<sup>233</sup>

### Recommended actions to protect women's rights

Emergency response plans should recognize the specific needs of women who are deprived of liberty, and should include measures to ensure that gender-specific health and hygiene needs are met.

Emergency measures on social distancing in places of deprivation of liberty should, as much as possible, mirror recommendations for the outside world (proper hygiene, maintaining appropriate distance, limiting contact) and should not entail complete segregation or isolation. Special attention should be paid to mitigating the impacts of increased social isolation on women prisoners.

Improve the necessary technology and equipment and increase the options for women prisoners to contact people in the outside world during lockdown situations. Facilitate unrestricted access to alternative means to contact family members and others for women prisoners.

230 The Bangkok Rules encourage prison authorities to make use of post-sentencing dispositions, such as early conditional release, for women, especially those with caring responsibilities or special support needs. See: UNODC, "UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders [Bangkok Rules], with Their Commentary", *op. cit.*, note 244, Rule 63.

231 Human Rights Watch, "Covid-19 Prisoner Releases Too Few, Too Slow", 27 May 2020, <<https://www.hrw.org/news/2020/05/27/covid-19-prisoner-releases-too-few-too-slow>>.

232 The Guardian, "Pregnant Inmates Languish in US Prisons despite Promises of Release", 22 May 2020, <<https://www.theguardian.com/us-news/2020/may/22/us-prisons-pregnant-inmates-coronavirus-pandemic-release#maincontent>>.

233 The Guardian, "Richard Garside: 'The UK Is Lagging Behind Europe on Coronavirus in Prisons'", 21 April 2020, <<https://www.theguardian.com/society/2020/apr/21/richard-garside-uk-lagging-behind-europe-coronavirus-prisons>>.

In Kazakhstan, for example, video calls are not limited for any prisoners.<sup>234</sup> In Portugal, beginning in March 2020, duration-limits on calls were increased and video calls were permitted,<sup>235</sup> but calls must be paid for and mobile phones are prohibited in cells – raising questions about whether female prisoners would benefit from these provisions.

Special measures should be taken during emergencies to ensure the protection of women deprived of their liberty from sexual and gender-based violence, such as by strengthening internal complaint mechanisms. In Kazakhstan, a domestic violence hotline, operated by the Union of Crisis Centres, has been made accessible to prisoners, so they can speak with lawyers and have legal consultations.<sup>236</sup> Continuity of oversight and monitoring mechanisms should be ensured, and risk assessments should include attention to gender-based violence.<sup>237</sup>

When emergency measures are imposed, in line with general good practices to minimize custodial sentences for women, and taking into consideration the nature of their offenses and the hardships that deprivation of liberty exposes them to, prioritize women prisoners considered at low risk of recidivism for early release, and suspend or defer short sentences. In Spain, the Ministry of the Interior accelerated the release of women in prison with their children (reducing the number of such women from 87 to 69 in four months), by using electronic monitoring bracelets; other prisoners with children were moved to reception floors managed by CSOs that assist in the reintegration of the prisoners.<sup>238</sup> In Turkey, female prisoners with children up to age six were released to serve their sentences at home.<sup>239</sup>

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234 See: PRI, “Coronavirus and Women in Detention: A Gender-Specific Approach Missing”, *op. cit.*, note 241.

235 European Prison Observatory, “COVID-19: What Is Happening in European Prisons”, *op. cit.*, note 246, p. 13.

236 ODIHR/Association for the Prevention of Torture (APT), *Monitoring Places of Detention through the COVID-19 Pandemic*, (Warsaw: ODIHR/APT 2020), p. 12, <<https://www.osce.org/files/f/documents/7/5/453543.pdf>>.

237 For more detailed guidance about measures to conduct monitoring during emergency situations, see: *Ibid.*

238 El País, “Los últimos 69 niños en las cárceles españolas, [The Last 69 Children in Spanish Prisons], 6 May 2020, <<https://elpais.com/espana/2020-05-06/los-ultimos-69-ninos-en-las-carceles-espanolas.html>>.

239 European Network of Legal Experts in Gender Equality and Non-Discrimination, Flash report – Turkey, 3 July 2020, <<https://www.equalitylaw.eu/downloads/5171-turkey-impacts-of-covid-19-measures-on-women-in-turkey-118-kb>>.

## 5.8. THE USE OF DIGITAL TECHNOLOGIES: CASE TRACING AND TRACKING

The use of data and technologies to gather information about people is a routine part of daily life in the digital age. These technologies are employed in emergencies for diverse reasons: to convey warnings and vital information, to mobilize response teams and to track threats.

In response to the COVID-19 pandemic, governments have turned to technology to manage the spread of the virus and to provide updates and information. Across the OSCE region, participating States have been using apps and digital surveillance primarily to collect health data (for example, case tracing and tracking through newly developed apps) and to monitor people's movement, in order to enforce lockdowns, quarantines or curfews (for example, by using location data from mobile phones, facial recognition and requiring QR codes to register travel outside the home).

### Right to privacy

The right to respect for private and family life refers to the right not to be subjected to arbitrary or unlawful interference with one's privacy and the right to the protection of the law if subjected to interference or attacks on privacy, whether committed by the state or an individual.

The right to privacy is not an absolute right, because there are legitimate reasons when public authorities may need information about individuals' private lives, but the right must also be safeguarded, requiring states to be clear about when interferences with privacy are permitted. The ECHR makes clear that public authorities shall not interfere in the right to respect for private and family life, except in limited circumstances, when: the interference is done lawfully, is necessary "in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

In emergencies, individual rights to privacy must be "rigorously protected", and states using surveillance technology to track the spread of the coronavirus (for example) must "abide by the strictest protections" that are consistent with international human rights standards.

### Right to data protection

The right to personal data protection, included in several regional human rights instruments,<sup>240</sup> provides that personal data should be collected and processed fairly and through procedures established by the law, for a specific purpose, and that data should be stored for

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240 For example, the Charter of Fundamental Rights of the European Union (2000/C 364/01), Article 8, specifies the right to protection of personal data. See: EU, "Charter of Fundamental Rights of the European Union", 26 October 2012, <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:12012P/TXT#:-:~:text=The%20European%20Parliament%2C%20the%20Council,Rights%20of%20the%20European%20Union.&text=It%20places%20the%20individual%20at,of%20freedom%2C%20security%20and%20justice>>.

no longer than is required for that purpose. Individuals have a right to access, to rectify or to erase their personal data.<sup>241</sup>

#### Examples of impacts on women:

- Contact tracing and tracking via apps may be inaccessible to specific groups of women, such as older women, women living in poverty or women in rural areas, who have less access to digital technologies. When mobile technologies are the primary methods of collecting data and sharing information but do not take the gender digital divide into consideration, women are less likely to benefit from case tracking. The result may be that women could be unaware of potential exposure, and may have to isolate for longer periods of time, even if they are not at risk, or that they will not be able to access crucial health-related or emergency information.
- Cyber violence pre-dates the COVID-19 pandemic, and women and girls are disproportionately the victims of technology-facilitated stalking, online sexism, harassment and non-consensual pornography (according to one estimate, one in ten women in Europe has experienced a form of cyber violence since the age of 15).<sup>242</sup> Online violence is often a manifestation of intimate partner violence (e.g., in cases of “revenge porn” or stalking). The emergency measures that have been taken to address the pandemic resulted in a large number of people working and studying in the digital sphere, which has exposed women and girls to a greater risk of cyber violence in varied forms.<sup>243</sup> During lockdowns, survivors of domestic violence are more reliant on technologies than ever before, and perpetrators have exploited these circumstances to coerce or control them (for instance, by recording remote court hearings<sup>244</sup> and using spyware/stalkerware to track potential victims and access their personal data).<sup>245</sup> Contact-tracing technologies could potentially be abused and present specific dangers to women of stalking and harassment if data are not properly safeguarded and the right to privacy maintained.

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241 For example, the OSCE Moscow Document, see: OSCE, Moscow Document, *op. cit.*, note 23; and the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, see: Council of Europe, “Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data”, 28 January 1981, <<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/108>>.

242 EIGE, “Cyber Violence against Women and Girls”, 23 June 2017, p. 1, <<https://eige.europa.eu/publications/cyber-violence-against-women-and-girls>>.

243 Reuters, “Risk of Online Sex Trolling Rises as Coronavirus Prompts Home Working”, 18 March 2020, <<https://www.reuters.com/article/us-women-rights-cyberflashing-trfn-idUSKBN2153HG>>.

244 Nuffield Family Justice Observatory, “Remote Hearings in the Family Justice System: A Rapid Consultation”, 2020, <[https://www.nuffieldfjo.org.uk/app/nuffield/files-module/local/documents/nfjo\\_remote\\_hearings\\_20200507-2-.pdf](https://www.nuffieldfjo.org.uk/app/nuffield/files-module/local/documents/nfjo_remote_hearings_20200507-2-.pdf)>.

245 Computer Weekly, “Use of Spyware Apps Linked to Domestic Abuse Soars in Lockdown”, 8 July 2020, <<https://www.computerweekly.com/news/252485842/Use-of-spyware-apps-linked-to-domestic-abuse-soars-in-lockdown>>.

- Before the COVID-19 outbreak, online abuse of female journalists and women human rights defenders, in the form of cyber violence, presented serious threats to the freedom of expression and of the media.<sup>246</sup> Online harassment of both male and female journalists has increased during the COVID-19 pandemic, with cases in a number of participating States of harassment and abuse following investigations by journalists and human rights defenders into government responses to the crisis.<sup>247</sup> States of emergency, when accompanied by increased surveillance and collection of personal data, require special attention to the risks that such data will be misused, impinging on women’s rights to privacy and data protection, as well as their freedom of opinion and expression.

### **Recommended actions to protect women’s rights**

Efforts should be made to ensure that women can benefit equally from technology that provides health information, taking into consideration groups of women who are more likely to be excluded due to the gender digital divide (which intersects with age, location in rural and remote areas, income and educational levels, etc.)

Protection for women and girls at risk of cyber violence, including data protection and safeguarding in virtual spaces and protection that extends to the “real world”, should be increased, through strengthening the law enforcement and legal responses to this form of gender-based violence. When emergency measures are put in place, increased priority should be given to building the capacity of the criminal justice system to recognize and respond to cyber violence against women and girls, as well as to improving industry safeguarding.

Women’s perspectives in the development of technologies used to address crisis situations should be included, in order to find solutions to gender gaps and to ensure contact tracing and tracking apps, as well as other digital technologies, maintain data protection, while also being “fit for purpose.”

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246 OSCE, “#SOFJO: Why Online Attacks on Female Journalists Are an Affront to Plurality, Media Freedom and Democracy”, 2 December 2018, <<https://www.osce.org/representative-on-freedom-of-media/405026>>.

247 Reporters Without Borders, “Platforms Urged to Prevent Harassment of Journalists Covering Covid-19”, 11 May 2020, <<https://rsf.org/en/news/platforms-urged-prevent-harassment-journalists-covering-covid-19>>.

## 6. CONCLUSION

The COVID-19 pandemic has laid bare gender differences and structural inequalities that often go unnoticed during “ordinary” times. It has also brought to the fore the multiple situations of vulnerability in which women find themselves that only become apparent when tested during a crisis. The pandemic itself, and the emergency responses to it, have magnified pre-existing disparities and created new ones.

The experiences of each of the OSCE participating States in dealing with the coronavirus pandemic and striving for the maximum protection of public health present a number of key lessons. When emergency measures are far-reaching and extensive, they interact with and compound each other in important ways. Thus, while this publication analyses each emergency measure in isolation, it should be kept in mind that some of the more serious violations of women’s human rights occurred because of multiple and intersecting restrictions being applied at the same time. The pandemic moved swiftly and required a rapid response. At the same time, serious restrictions, such as lockdown measures, have been implemented (as well as later lifted and, sometimes, reinstated) with little advance warning, which has compromised women’s abilities to make arrangements that would mitigate against the negative consequences of the measures. The absence of women – and of women’s perspectives – from emergency planning has been evident in virtually every country, despite the fact that more than two decades have passed since the landmark UN Security Council Resolution 1325 on Women, Peace and Security gave the world a blueprint for securing women’s meaningful participation in and contributions to crisis planning, response and recovery. Finally, the complex interactions of the emergency measures and the human rights and fundamental freedoms of women point to the need for comprehensive analysis of the multi-dimensional risks and vulnerabilities faced by women in general, as well as specific groups of women, when reacting to emergencies.

The findings of this publication about the impacts of emergency measures on the rights of women and girls, based on observations about the COVID-19 pandemic, should not be limited to the risks associated with health crises. Rather, the lessons learned should be applied by policymakers to planning and preparedness, responding to emergencies and developing post-emergency recovery plans, regardless of the situation. In general, ensuring women’s participation in and the diversity of response teams, increasing consultations and engagement with civil society, conducting gender analysis and impact assessments, collecting sex-disaggregated data and including a gender perspective in all exercises on emergency preparedness would help to ensure that women and girls are not doubly harmed by crises and the measures put in place to respond to them.

Lastly, the coronavirus pandemic has been a lesson for all about the fragility in progress that has been made toward gender equality. While COVID-19 is an entirely new global threat, the issues that women are facing, such as job insecurity, the burden of unpaid domestic and care work, and violence perpetrated by partners in the home, are in no way new or emerging. Rather, the pandemic has merely pointed out the long road that remains to achieving equality between women and men in practice.

## 7. ADDITIONAL READING

### GENERAL INFORMATION ON GENDER AND EMERGENCIES

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## **ACCESS TO JUSTICE**

- UN Women, IDLO, UNDP, UNODC, World Bank and The Pathfinders, “Justice for Women Amidst COVID-19”, May 2020, <[https://www.undp.org/content/dam/undp/library/km-qap/undp-gpn-bpps-cb-gender-justice\\_for\\_women\\_amidst\\_covid-19\\_En.pdf](https://www.undp.org/content/dam/undp/library/km-qap/undp-gpn-bpps-cb-gender-justice_for_women_amidst_covid-19_En.pdf)>.

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### **SELECTED RESOURCES IN RUSSIAN LANGUAGE**

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