Please find hereafter a contribution with amendments to the Praesidium's proposals on political and civil rights, social rights and rights of citizens, submitted by the European Women's Lobby (EWL).  

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1 This text exists in English and French languages.
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Following its former contributions (CONTRIB 27 and 120), the EWL welcomes the work done by the Convention so far and the inclusion of a paragraph stating the promotion of equality between women and men.

However, the EWL agrees generally with the critics and amendments made by the Association of Women of Southern Europe (CONTRIB 42 and 105) on the draft Charter presented by the Convention, and would like to recall that the discrimination on the basis of sex should not be included in a general non-discrimination clause. Such a provision is indeed no improvement to eradicate direct and indirect discrimination against women and to establish substantive equality between women and men.

Therefore, the EWL calls for the inclusion in the Charter of a provision of direct effect stating the unconditional and fundamental principle of equality between women and men, prohibiting any discrimination on the grounds of sex in all areas, and providing for positive measures until substantive and effective equality is achieved. Such a provision should stand among the first articles of the Charter within the chapter on civil and political rights and together with the provision proclaiming the fundamental principle of equality and prohibiting any discrimination.

The EWL thus wishes to make the following amendments to the Praesidium’s proposals.

**POLITICAL AND CIVIL RIGHTS (CONVENT 13)**

**Article 1. General principle of equality between women and men in all areas**

1. The Union shall promote respect for the unconditional and fundamental principle of equality between women and men in all areas of its jurisdiction.

2. Substantive equality between women and men must be established and direct or indirect discrimination on the grounds of sex must be prohibited. Moreover, a gender dimension should be adopted while combating all forms of discrimination in order to eradicate multiple discrimination that many women face.

3. Positive measures should be implemented to improve women’s situation until substantive and effective equality between women and men is achieved.
COMMENTS: Following the proclamation of the fundamental principle of equality before the law, and the general prohibition of any kind of discrimination (the list of grounds should not include the mention of “sex”), a disposition should be exclusively dedicated to the statement of an unconditional and fundamental principle of equality between women and men in all areas of the Union’s jurisdiction and not enshrined in the setting of pay and working conditions. This principle should then be applied in the economic and social field.

The general principle of equality between women and men is recognized as a fundamental right of the human person by the ECJ. The Charter shall thus transpose the Court’s case law and recalls the observation made by EU and International organs that a general non-discrimination clause does not suffice to establish substantive equality between women and men. It will moreover constitute a regression in the equality between women and men, since discrimination on the grounds of sex is of a particular, structural nature and affects mainly women who constitute half of the population and are not a minority. They are likely to suffer from different forms of discrimination, on grounds of race, ethnicity, disability, sexual orientation, age, religion, and belief sum up to the basic discrimination on grounds of sex. Allowing a separate provision for discrimination on the basis of sex would enable a better prevention of multiple discrimination and protect women’s right to enjoy effectively all fundamental rights and freedoms and to be full citizens, in all areas.

In spite of existing international, European and national measures promoting the equality between women and men, effective equality has not been achieved yet. Therefore positive measures are required as temporary means until mentalities are changed and prejudice eliminated, in order that substantive and effective equality is reached in all areas of the Union’s jurisdiction. Article 4§1 of the Convention on the elimination of all forms of discrimination against women (CEDAW) and article 141§1 of the EU treaty refers to the necessary adoption of positive actions by the Member States, and the Declaration No 28 in annex of the Amsterdam Treaty states that such measures “should, in the first instance, aim at improving the situation of women”. The Charter should thus provide for positive measures to reach the goal of full equality.

**Article 3. Right to the respect of integrity**

The full right to the respect of physical and mental protection and integrity implies the absolute prohibition of:

- Eugenic practices
- Cloning of human beings
- Traffic and trade of the human body or any part thereof, regardless whether the person concerned has consented or not.

**COMMENT:** The protection and respect of integrity should not be limited to the area of medicine and biology but should have a more general scope in order to also include the prohibition of trafficking of persons in all its forms, in particular in women and children for the purpose of forced labour or sexual exploitation. This disposition refers to the importance of treaties and international Conventions ratified by most EU States, such as the “Convention for the suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others” (1949), which condemns prostitution, and trafficking in all its forms as a violation of the basic principles of human rights.
It is indispensable to specify that the consent of the person concerned is irrelevant, since it is obvious and confirmed by common experience that it is impossible to know whether this consent has been freely given. It has been clearly proved that most women engaging in prostitution do not act with their free consent, and should be furthermore recognised that “free choice” is a relative factor situated at the intersection of economic, social, cultural and political options of women in a given society. As stated in the motion adopted by the EWL in 1988, unequal power relations between women and men severely restrict freedom of choice.

**Article 4. Prohibition of torture and inhuman treatment**

No one shall be subjected to torture or to inhuman and degrading treatment. This refers to any kind of physical or moral violence, including any kind of gender related violence such as among others female genital mutilations, rape, violence in the home, forced marriage, honour killing, also when executed within the family.

**COMMENT**: A provision condemning all forms of violence should include an absolute prohibition of torture and inhuman treatment, and should explicitly state that gender related violence or persecution is a form of torture. It is well known that sexual mutilations, whose first victims are women and girl child, still take place in the European territory, as well as any other kind of gender related violence. The list should not be exhaustive but should still include an enumeration of the most common forms of violence that experience women in the first place.

**Article 17: Right of asylum and expulsion**

1. Persons who are not nationals of the Union shall have a right of asylum in the European Union [in accordance with the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees] [under the conditions laid down in the Treaties].

2. Asylum should be granted to every women or men whose physical, psychological or genetic integrity is threatened, or suffering inhuman or degrading treatment. Gender persecution including sexual mutilations or other gender related violence such as among others rape, forced marriage, violence in the home, honour killing, should be given particular attention within the grounds for seeking asylum. This applies whether the authorities of the country of origin are the authors of the persecution, whether they tolerate them or are enable to oppose them, as well as when sexual violence is executed during war time.

3. The conditions for the implementation in practice of the rights conferred on migrants shall secure that women benefit therefrom under the same conditions as men. The special needs of women asylum seekers and refugees should be taken into account and be given increased consideration.
4. Collective expulsions of aliens shall be prohibited.

**COMMENTS:** The peculiar kind of gender related violence mostly suffered by women refugees and asylum seekers must be referred to clearly and considered as a violation of women’s fundamental human rights on the ground of which asylum can be granted. An explicit but non-exhaustive list of sexual persecutions must be included in the Charter. Treatments threatening or harming women’s physical or psychological integrity must be considered as a form of torture whether they are enforced by legal norms, committed by state agents or imposed by social or religious norms.

It must be ensured that women suffer no discrimination in the implementation in practice of the rights and protections conferred to migrants, such as the means of accommodation and detention, and access to legal and other services.

The special needs of women asylum seekers should be taken into consideration. The physical safety and privacy of women asylum seekers should be ensured in reception and detention centres, including separate accommodation from men. They should have access to specific services that respond to their special health needs, in particular gynaecological and obstetrical services. The detention of pregnant women in their final months and nursing mothers should be avoided.

**SOCIAL RIGHTS (CONVENT 18)**

**Article I. Substantial Equality between women and men**

1. Substantial equality between women and men must be ensured and any kind of inequalities must be eliminated with regard to work, employment and social protection. This mainly includes the equal right to freely chose or accept to work, the right to the same working conditions, the right to fair and equal pay for work of equal value, and the equal right to social security and assistance for themselves and their family.

2. Any direct or indirect discrimination on the ground of sex is prohibited in the fields quoted in paragraph 1.

3. Positive measures should be implemented to improve women’s situation until substantive and effective equality between women and men is achieved in this particular field of employment.

**COMMENTS:** See comments under general principle of equality.

**Article XII. Right to parental leave**

Women and men workers have the right to paid parental leave of at least 3 months following the birth or adoption of a child

**COMMENTS:** In order to increase women’s independence through their labour market participation and to achieve effective gender equality, family responsibilities and parental leave should be equally distributed between women and men. Therefore, the provision providing the right to parental leave must explicitly apply to men as well as women. A legal protection and a lengthier and paid parental leave should be provided for in order to achieve an equal sharing of child caring responsibilities between women and men.
Article XIII. Social protection

1. Everyone has the right to social protection, including an adequate level of social security benefits, in accordance with each Member State’s own procedures.

2. Equal access to individual social security rights must be provided for women and men.

3. Quality and affordable child cares should be made available to anyone in need of such services.

COMMENTS: Social protection should be regarded as a social investment for the European states that made a commitment to societal responsibility for all citizens. Nevertheless, a large number of women lack individual security and are dependant on their family and/or spouse. Therefore, structural discrimination must be counteracted and women’s access to individual social security rights must be ensured. This implies that a provision on social protection should be inserted in the Charter, providing for individualisation of the rights to social security and for accessibility to good care for children.

Article XIV. Right of access to health care

1. Everyone must be able to benefit from measures to safeguard their health and, in case of sickness, to have access to health care.

2. Within the right to appropriate health care, women’s specific needs must be taken into consideration and provided for.

COMMENTS: In order to ensure that the health needs of the entire population are included, specific care that responds to women's special health needs should be taken into account. Gynecological and obstetrical services should be kept accessible for every women, as well as all preventive and screening medical services.

RIGHTS OF CITIZENS (CONVENT 17)

Article A. Parity Democracy

1. Every citizen of the Union, without any discrimination, has the rights provided by the law of the Union and national law, of an equal access to candidacy for elections and the exercise of the corresponding functions.

2. A parity democracy, meaning an equal representation of women and men in all the organs and institutions of the Union, should be established as a fundamental principle for both the European integration and the institutions of the Union.
3. Positive measures should be taken in order to favour equal access of women and men in the governmental and EU bodies as well as in political parties.

COMMENTS: Democracy should stand for parity democracy. An explicit reference to the goal of parity democracy should be made within the Charter in order to tackle the problem of the under representation of women. The issue of women in decision-making involves all areas of society whereas many of the actions undertaken relate to political decision-making. Positive measures are necessary until equal participation or parity is achieved.
New .eu Domain

Changed Web and E-Mail Addresses

The introduction of the .eu domain also required the web and e-mail addresses of the European institutions to be adapted. Below please find a list of addresses found in the document at hand which have been changed after the document was created. The list shows the old and new address, a reference to the page where the address was found and the type of address: http: and https: for web addresses, mailto: for e-mail addresses etc.

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