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Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

South Africa: draft resolution

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

The Human Rights Council,

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

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

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

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

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

Noting that, in a communication dated 18 September 2018, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on the issue of discrimination against women in law and in practice expressed strong concern that the eligibility regulations for female classification published by the International Association of Athletics Federations that came into effect on 1 November 2018 were not compatible with international human rights norms and standards, including the rights of women with differences in sex



development, and the concerns they expressed at the absence of legitimate and justifiable evidence for the regulations to the extent that they may not be reasonable and objective, and that there was no clear relationship of proportionality between the aim of the regulations and the proposed measures and their impact,

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

Recognizing that many women and girls face multiple and intersecting forms of stigma and discrimination in sport, and are still subjected to discriminatory laws and practices based on their race and gender, and that States have obligations to ensure and promote a broader framework of substantive equality for women and girls,

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

2. *Recognizes* that sports regulations and practices that aim to discriminate against women and girls on the basis of race, gender or any other ground of discrimination and to exclude such women and girls from competing as such on the basis of their physical and biological traits reinforce harmful gender stereotypes, subject them to racist and sexist speech, stigma and discrimination, and give rise to gross infringements of the dignity, privacy, bodily integrity and bodily autonomy of those women and girls;

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

4. *Requests* the United Nations High Commissioner for Human Rights to prepare a report on policies, regulations and practices of sporting bodies that aim to exclude women and girls from competing as such on the basis of their physical and biological traits, including the intersection between race and gender, and to make recommendations for appropriate measures to prevent and eradicate such practices, and to present the report to the Human Rights Council at its forty-third session;

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