Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

**Recommendation 1362 (1998)**[1]

# Discrimination between women and men in the choice of a surname and the passing on of parents' surnames to children

Parliamentary Assembly

1. The Assembly recalls Recommendation 1271 (1995), which condemns the maintenance by certain states of discrimination between men and women in the choice of a surname and the passing on of parents' surnames to children.

2. In its reply to this recommendation, the Committee of Ministers accepts that each country has its own legal system in this area, depending on "local customs and traditions", but stresses that these legal systems should not include any discriminatory provisions. In conclusion, however, the Committee of Ministers merely states that: "the maintenance of provisions discriminating between women and men with regard to the choice of a family name is not compatible with the principle of equality upheld by the Council of Europe. It is with this in mind that Parliamentary Assembly Recommendation 1271 (1995) has been transmitted to the governments of the Council of Europe member states."

3. The Assembly is therefore pleased to note the position clearly stated by the Committee of Ministers. It nevertheless takes the view that action must be taken on the basis of this position: it is not enough for the Committee of Ministers merely to transmit the recommendation to Council of Europe member states.

4. Notwithstanding the time which has passed, especially since the adoption, on 27 September 1978, of the resolution of the Committee of Ministers of the Council of Europe on equality of spouses in civil law, and of the United Nations Convention on the Elimination of All Forms of Discrimination against Women on 18 December 1979, some states have not even begun to move towards change in this area.

5. The Assembly therefore recommends that the Committee of Ministers ask each member state to advise it of the period within which it undertakes to comply with the principles of non-discrimination referred to above.

6. As in Recommendation 1271 (1995), the Assembly also recommends that the Committee of Ministers of the Council of Europe identify those member states which retain sexist discrimination and ask them to take appropriate measures:

6.1. to implement strict equality between mother and father in the passing on of a surname to their children;

6.2. to ensure strict equality in the event of marriage with regard to the choice of a common surname for both marriage partners;

6.3. to eliminate all discrimination between children born in and out of wedlock within the legal system with regard to the conferring of a surname

1. See Doc. 7885, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Err. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 18 March 1998.