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Human Rights Committee**Concluding observations on the seventh periodic report of Germany***

1. The Human Rights Committee considered the seventh periodic report of Germany (CCPR/C/DEU/7) at its 3801th and 3802th meetings (see CCPR/C/SR.3801, and CCPR/C/SR.3802), held on 11 and 12 October 2021 in a hybrid format, due to Covid-19 pandemic restrictions. At its 3828th meeting, held on 1 November 2021, the Committee adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the seventh periodic report of Germany and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/DEU/7) to the list of issues prior to reporting (CCPR/C/DEU/QPR/7), which were supplemented by the oral responses provided by the delegation, and for the information subsequently provided to it in writing.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative measures:

(a) The Act to Strengthen Non-financial Reporting by Companies in their Management and Group Management Reports in 2017 and the Act on Corporate Due Diligence in Supply Chains in 2021;

(b) The ratification of the Istanbul Convention and the strengthening of the national legal framework on violence against women, including the adoption of the Act on Improving Protection against Stalking in 2017 and the Protection against Violence and Stalking Act in 2021;

(c) The revision to section 219a of the Criminal Code prohibiting advertising of information on abortion through the promulgation of the Act to Improve Access to Information on Abortion 2019;

(d) The Climate Change Law in 2019;

(e) The Act to Strengthen the Right of Persons Held in Police Custody in 2018, the Act to Strengthen the Procedural Rights of Accused Persons in Criminal Proceedings and

* Adopted by the Committee at its 133rd session (11 October – 5 November 2021).

to Amend the Law on Courts with Lay Judges in 2017, as well as the Act to Reform the Law governing Mandatory Legal Representation in 2019;

(f) The Act to Amend the Federal Elections Act and Other Legislation in 2019, which removes restrictions on the voting rights of persons with disabilities and persons with diminished criminal responsibility.

C. Principal matters of concern and recommendations

Reservations

4. The Committee is concerned that the State party maintains a number of reservations, including to article 15, paragraph 1 of the Covenant and article 5, paragraph 2 (a) of its First Optional Protocol. It welcomes the State party's indication during the interactive dialogue that further consideration will be given to the withdrawal of its reservations but is still concerned about the lack of clarity about when such changes may take place and whether all reservations will be withdrawn (art. 2).

5. Recalling its previous recommendations (CCPR/C/DEU/CO/6, para. 5), the State party should give further consideration to taking concrete steps to withdraw its reservations, including those to article 15, paragraph 1 of the Covenant, and to article 5, paragraph 2 (a) of its First Optional Protocol.

Business and human rights

6. The Committee is concerned about continued allegations of human rights abuses by corporations under German jurisdiction operating abroad and reports of victims of alleged violations having reported difficulties in accessing legal remedies (art. 2).

7. Bearing in mind the Committee's previous recommendation (CCPR/C/DEU/CO/6, para. 16) the State party should:

(a) Enhance the effectiveness of existing mechanisms to ensure that all corporations under its jurisdiction respect human rights standards when operating abroad;

(b) Consider establishing an independent mechanism with powers to investigate human rights abuses committed abroad; and

(c) Take further steps to remove any barriers to legal, including judicial, remedies for those who have been victims of activities of such corporations operating abroad.

Non-discrimination

8. The Committee is concerned that the General Equal Treatment Act 2006:

(a) Does not explicitly protect individuals against discrimination on the grounds of language and nationality;

(b) Does not effectively address discrimination on multiple grounds;

(c) Provides for a six month deadline for the submission of complaints of discrimination;

(d) Does not provide a basis upon which group claims on grounds of discrimination can be brought before the courts;

(e) Endows the Federal Anti-Discrimination Agency with limited powers of investigation and does not afford it the competence to bring cases before the court, thereby potentially limiting victims' access to remedies;

(f) Has, according to some reports, led to discrimination in the housing market (arts. 2 & 3).

9. **Bearing in mind the Committee's previous recommendations (CCPR/C/DEU/CO/6, paras. 6, 7 & 17), The State party should consider amendments to the General Equal Treatment Act in order to:**

- (a) **Provide explicit protection against discrimination on the grounds of language and nationality and address discrimination on multiple grounds;**
- (b) **Ensure that access to justice for victims of discrimination is not impeded by the six month time limit for the submission of complaints;**
- (c) **Allow for groups to bring claims on grounds of discrimination before the courts;**
- (d) **Strengthen the powers of the Federal Anti-Discrimination Agency to facilitate improved access to justice for victims of discrimination; and**
- (e) **Ensure that the application of the law does not lead to discrimination within the housing market.**

Hate speech and hate crime

10. The Committee welcomes the information provided by the State party about high-level political commitment to addressing hate crime and hate speech, including the formation of the Cabinet Committee to combat Right-Wing Extremism and Racism and the Federal Government Strategy to Prevent Extremism and Promote Democracy. Nevertheless, it remains concerned by continuing reports of hate speech, including verbal attacks, online hatred, and hate speech in the context of political discourse, as well as by reports of multiple forms of hate crime against people of African descent, LGBTI persons, Sinti and Roma, Muslims, persons of Jewish faith, refugees and migrants, including violent attacks and the desecration of religious sites. It is also concerned by the State party's indication that it is not considering legal amendments to remove the requirement to disturb public peace from the definition of incitement to hatred (arts. 2, 19, 20 and 26).

11. **Recalling the previous recommendation of the Committee (CCPR/C/DEU/CO/6, para. 18), the State party should:**

- (a) **Improve data collection on online and offline hate speech and take effective measures to prevent and punish these phenomena;**
- (b) **Consider legal amendments to remove from the definition of incitement to hatred the requirement to disturb public peace;**
- (c) **Strengthen awareness-raising efforts aimed at promoting respect for human rights and tolerance for diversity, revisiting and eradicating stereotypical prejudices;**
- (d) **Encourage further reporting of hate crimes, and ensure that all hate crimes are thoroughly investigated, perpetrators prosecuted and punished, and victims provided with effective remedies; and**
- (e) **Reinforce cooperation among relevant stakeholders, including civil society, and provide adequate training to central and local authorities, law enforcement officials, judges and prosecutors on addressing hate speech and hate crimes, and to media workers on promoting acceptance of diversity.**

Non-discrimination in law enforcement

12. The Committee is concerned about reports of police officers conducting law enforcement activities without a basis for reasonable suspicion, in the course of enforcing section 22 (1) of the Federal Police Act for immigration control purposes, resulting in racial profiling (arts 2, 3 & 12).

13. **The State party should continue its comprehensive review of the policy and legal frameworks governing police conduct, including an assessment of the application of a reasonable suspicion standard in the enforcement of section 22 (1) of the Federal Police Act, to ensure their conformity with human rights principles, including the prohibition**

of discrimination. The State party should also continue and step up training to law enforcement officials in order to sensitize them to the need to conduct themselves in a way that does not lead, even unintentionally, to acts of racial profiling, as well as monitor the efficacy of such activities through the setting up of a mechanism to collect data on the use of stop and search powers by law enforcement officials. It should also ensure that information about reporting procedures and remedies for discrimination in the context of law enforcement activities is accessible to all victims.

Counter-terrorism

14. The Committee is concerned that the legal framework governing counter-terrorism grants law enforcement officials wide reaching powers, particularly following legal revision to federal and Länder statutes in 2017 and 2018. It is concerned by:

(a) The availability of administrative control measures against individuals considered to be “potential attackers”, including electronic tag monitoring, bans on communication and social contacts and telecommunications surveillance;

(b) The extension of time limits for police custody;

(c) The expansion of the use of post-sentence preventive detention to “extremist criminals” and an increase in the duration of the time period for which those considered to be “potential attackers” can be held in administrative detention without charge;

(d) The lowering of the threshold for the detention of individuals representing a significant “security threat” pending their deportation according to Section 62 of the Residence Act;

(e) The lack of detailed information about the procedural safeguards in place to ensure respect for the principles of legality and proportionality (arts. 2, 9, 12 and 14).

15. The State party should ensure that the power conferred to law enforcement officials by counter-terrorism legislation at the federal and Länder level is in full compliance with the Covenant, including with the principles of legality and proportionality. It should also ensure that persons suspected of/or charged with terrorist acts or related crimes are provided, in law and practice, with appropriate procedural safeguards, in accordance with the Covenant, particularly articles 9 and 14.

Violence against women

16. The Committee commends the State party on measures adopted to address violence against women, including domestic violence, such as legal reforms and significant financial investment in increasing the number of shelters. It nevertheless remains concerned about reports of:

(a) Under-reporting of incidences of violence against women;

(b) Low rates of prosecution and conviction for such crimes;

(c) Continued shortages in the provision of shelters, despite the Federal investment programme and issues with access for some women, including migrants, refugees and asylum seekers and some victims of trafficking;

(d) Increased incidences of domestic violence during the COVID-19 pandemic (arts. 2, 3, 6, 7 and 26).

17. Recalling the Committee’s previous recommendation (CCPR/C/DEU/CO/6, para. 9) the State party should:

(a) **Address the under-reporting of violence against women, including by ensuring that all women have access to information about their rights and available remedies;**

(b) **Intensify efforts to prosecute and secure convictions for violence against women and girls, including by continuing and stepping up training of relevant public officials, including judges, lawyers, prosecutors and law enforcement officers;**

(c) **Continue and step up efforts to increase the availability of shelters and ensure that all women, including migrants, refugees and asylum seekers, victims of trafficking and individuals with insecure residence status can access such facilities without fear of sanctions; and**

(d) **Take targeted measures to protect women from domestic violence, particularly during emergency periods, as has been the case during the COVID-19 pandemic.**

Voluntary termination of pregnancy and sexual and reproductive rights

18. The Committee commends the State party for amendments to section 219a of the Criminal Code to allow for the publication of information about voluntary termination of pregnancy. It however remains concerned by provisions that subject women to a mandatory waiting period prior to termination of pregnancy and maintain abortion as an offence within section 218a of the Criminal Code. The Committee is also concerned that despite the efforts of the State party, harassment of women seeking counselling about voluntary termination of pregnancy continues, and that some barriers to equal access to sexual and reproductive health services persist, including affordable contraceptive methods (arts. 2, 3, 6 and 17).

19. **The State party should ensure the full and effective implementation of amendments to section 219a of the Criminal Code to facilitate women's access to information about voluntary termination of pregnancy, strengthen the provision of sexual and reproductive health services, including equal and affordable access to contraceptive methods, and step up measures to protect women seeking counselling from harassment. Moreover, the State party should consider repealing provisions that could create barriers to women seeking safe abortions, such as those prescribing mandatory waiting periods.**

Intersex persons

20. The Committee is concerned about reports that intersex children have sometimes been subjected to invasive, medically unnecessary and irreversible medical procedures aimed at assigning them with a sex. It is also concerned that such actions are often based on a stereotyped vision of gender roles, involve humiliating and painful procedures and are carried out before the affected persons are of an age to give their free and informed consent. It is further concerned that victims of such practices face significant barriers to accessing remedies, despite lasting physical and psychological harm, including due to statutes of limitations impeding child victims seeking redress when they are adults, difficulties accessing health records and compensation not being available. The Committee commends the State party for introducing the Law on the Protection of Children with Variants of Sex Development in 2021. It nevertheless remains concerned by reports that this legislation does not specifically restrict all problematic practices", establish criminal liability or effectively address all barriers to access to remedies for victims (arts. 2, 3, 7, 17, 24 and 26).

21. **The State party should take all necessary steps to ensure that all acts relating to the assignment of a sex to intersex children performed without their free and informed consent, are specifically prohibited, except in cases where such interventions are absolutely necessary for medical reasons and the best interests of the child have been duly taken into account. This should include the consideration of amendments to the Law on the Protection of Children with Variants of Sex Development 2021 within the five-year period allocated for its review, if necessary. The State party should also ensure that all victims can access remedies, including through revision of the application of statutes of limitation for violations in childhood, taking steps to ensure that all victims can access their health records and considering the establishment of a dedicated compensation fund.**

Targeted killings using unmanned aerial vehicles (drones)

22. The Committee regrets the insufficient information about results of steps taken by the State party to ensure that military support, including the use of the Ramstein airbase and real-time data transfers on German territory, do not contribute to the use of unmanned aerial

vehicles (drones) outside of recognized conflict zones, leading to civilian casualties. (arts. 2 and 6).

23. The State party should take all necessary steps to ensure that the use of armed drones supported by infrastructure within its territory complies fully with its obligations under article 6 of the Covenant, including, in particular, measures to restrict their use outside of recognized conflict zones which may lead to arbitrary deprivation of life.

Climate change and environmental degradation

24. The Committee commends the State party on its efforts to address climate change and environmental degradation, including the adoption of the Climate Change Law in 2019 and of the Climate Action Plan 2050. It also welcomes the information that was provided by the State party during its interactive dialogue with the Committee about efforts to promote a human rights based approach to climate change and implement relevant projects internationally. The Committee also takes note of the Federal Constitutional Court's significant findings in the ruling of March 2021, in the cases 1 BvR 2656/18, 1 BvR 78/20, 1 BvR 96/20, and 1 BvR 288/20. Nevertheless, the Committee noted a lack of specific information about measures taken to develop mechanisms and systems to ensure the sustainable use of natural resources and to adopt a precautionary approach to protect persons, including the most vulnerable, from the negative impacts of climate change and natural disasters, such as the heavy floods that the State party faced within its territory in 2021 (art. 6).

25. The State party should continue and intensify efforts to strengthen the legal framework on climate change, including taking all necessary steps to implement the findings of the Federal Constitutional Court's ruling of March 2021 in the cases 1 BvR 2656/18, 1 BvR 78/20, 1 BvR 96/20, and 1 BvR 288/20. It should also ensure that it is taking adequate steps to develop mechanisms to ensure the sustainable use of natural resources and to adopt a precautionary approach to protect persons, including the most vulnerable, from the negative impacts of climate change and natural disasters. The Committee draws in this regard the State party's attention to paragraph 62 of general comment No. 36 (2018) on the right to life.

Excessive use of force

26. The Committee is concerned by reports of the excessive use of force by law enforcement officials in the State party, including in the context of policing assemblies, such as the G50 summit in Hamburg in 2017. It is also concerned that Federal police officers, as well as some law enforcement officials at the Länder level, are not required to wear identity badges, which hampers the investigation of allegations of excessive use of force. It is also concerned that a significant number of complaints of ill-treatment by law enforcement officials do not reach the courts (arts. 6, 7 and 21).

27. The use of force by law enforcement officials, including during peaceful assemblies, should be brought into line with the Covenant, the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The State party should also take all steps, including consideration of mandatory identification badges for all law enforcement officials, to ensure effective investigation, prosecution and punishment of allegations of excessive use of force.

The use of mechanical restraints in police custody

28. The Committee welcomes that the Act to Strengthen the Rights of Persons Held in Custody, which was enacted in 2018, has put in place stricter requirements for the use of mechanical restraints in police custody. It notes, however, that the State party did not elaborate on the exact material scope of stricter requirements or their impact. It is furthermore concerned that the use of mechanical restraints by police continues in law and practice in some Länder (arts. 7, 9 and 10).

29. **The State party should continue and intensify efforts to avoid the use of mechanical restraints in police custody, including through considering further legal reform and improving coordination with and amongst the different Länder.**

Institutional care

30. The Committee is concerned by:

(a) The use of mechanical and chemical restraints amongst persons with psychosocial disabilities and older persons in residential care facilities;

(b) Allegations of abuse, including neglect, as well as physical, psychological and sexual abuses, amongst older persons in such care facilities;

(c) Different legal standards and practices on involuntary hospitalization and forced committal for those with psychosocial disabilities between the different Länder;

(d) The law providing for circumstances under which the forced sterilization of adults with disabilities remains permissible;

(e) Information suggesting insufficient specific complaints mechanisms to receive, investigate and facilitate the public prosecution and punishment of all forms of abuse within institutional care settings;

(f) Information provided by the State party, during the dialogue about the impact of COVID-19 on residential care facilities, including the disruption of regulatory oversight (arts. 7, 9 and 10).

31. **Recalling the previous recommendation of the Committee (CCPR/C/DEU/CO/6, para. 15), the State party should:**

(a) **Continue and step up efforts to monitor, prevent and eradicate the use of physical and chemical restraints in institutional care settings;**

(b) **Intensify efforts to monitor, prevent and eradicate all forms of abuse against older persons and those with psychosocial disabilities in residential care facilities;**

(c) **Consider further harmonization of the legal standards in different Länder on the involuntary hospitalization and forced committal of those with psychosocial disabilities, ensuring that all such standards and their judicial oversight uphold the principles of necessity and proportionality;**

(d) **Remove any exception to the ban on the forced sterilization of adults with disabilities within law and ensure such standards are effectively implemented;**

(e) **Consider widening the availability of specific complaints mechanisms to receive, investigate and facilitate the prosecution and punishment of all forms of abuse within institutional care settings; and**

(f) **Ensure targeted measures to protect older persons from COVID-19 and/or other major public health emergencies and restore full regulatory oversight as soon as possible.**

Solitary confinement and disciplinary detention

32. The Committee is concerned about the State party's use of solitary confinement and disciplinary detention. It notes that such measures are used as a measure of last resort and provided for in law. It is nevertheless concerned by information provided by the State party during the interactive dialogue, that solitary confinement can be used indefinitely and disciplinary detention for up to four weeks. It is further concerned that such practices are used amongst juveniles. In addition, whilst understanding that the competence for prison management is delegated according to the Federal system, the Committee notes with concern that legal limits to disciplinary detention range from 0 to 4 weeks between different Länder (arts. 7, 9, 10 and 24).

33. **The State party should bring all legislation and practice on solitary confinement and disciplinary detention into line with the Covenant and the international standards as reflected in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). It should do so by abolishing such practices amongst juveniles and reviewing the total length of solitary confinement and disciplinary detention, even when these practices are used as a measure of last resort. The State party should also step up coordination and legal harmonization with and amongst the different Länder and regularly evaluate the effects of solitary confinement and disciplinary detention in order to continue to reduce their use and develop alternative measures where necessary.**

Post-sentence preventive detention

34. The Committee notes the information provided by the State party about reform to the legal framework and improvements to detention conditions following relevant judgements of the European Court of Human Rights, as well as about preventive detention being subject to rigorous judicial oversight. The Committee is nevertheless concerned that the Act on the Federal Law Implementation of the Distance Requirement in the Law of Prevention Detention, which was enacted in 2013, allows for post-sentence preventive detention on a number of grounds, including for persons deemed to have a “mental disorder”, to have exhibited conduct that provides a concrete basis to assume a high risk of extremely violent or sexual offences and/or for “extremist criminals”. It is further concerned that it is unclear exactly how judicial oversight ensures that preventative detention is only used as a measure of last resort in all cases (arts. 9, 14 and 15).

35. **Recalling the Committee’s previous recommendation (CCPR/C/DEU/CO/6, para. 14) the State party should take further measures to ensure that post-conviction preventive detention is used only as a measure of last resort. It should also continue and step up efforts to ensure that detention conditions are distinct from those of convicted prisoners and aimed at the therapeutic treatment, rehabilitation and reintegration of those subject to preventative detention into society (General Comment 35 on liberty and security of person, para. 21).**

COVID-19 response

36. The Committee notes the information provided by the State party that restrictions to relevant articles within the Covenant, such as 12, 21 and 22, provide a basis for the protection of public health following the onset of the COVID-19 pandemic and that the application of relevant measures at the Länder level were subject to federal judicial review. The Committee is nevertheless concerned by reports that significant curtailments of civil and political rights, which necessitated revision of the national legal framework, were made in the context of the State party’s pandemic response (arts. 4, 12, 21 and 22).

37. **The State party should ensure that its national legal framework on emergencies, including those relating to the protection of public health, is in line with all provisions of the Covenant. The State party should also ensure that any restrictions on freedom of movement, assembly and association are made in strict accordance with the conditions outlined in article 12 (3), 21 and 22 (2). Moreover, if the material scope of any curtailment of rights under the Covenant extends beyond the restrictions provided for in articles 12 (3), 21, 22 (2) and other relevant articles, the State party should avail itself of the right of derogation and immediately inform other States parties to the Covenant, through the intermediary of the United Nations Secretary-General.**

Treatment of aliens, including refugees, asylum seekers and migrants

38. The Committee commends the State party on the solidarity that it has shown in receiving refugees and for its continued whole-of-society approach to refugee protection. It is nevertheless concerned about the following:

(a) Limits on family reunification for beneficiaries of subsidiary protection based upon quotas, as well as administrative barriers faced by eligible applicants in securing such visas;

(b) Undue limitations to the definition of family for the purpose of reunification, including exclusion of the siblings of unaccompanied children;

(c) (c) Article 62a (1) of the German Residence Act not prohibiting the placement in prisons of individuals liable to be deported pending their deportation ;

(d) Reports of deportations without the provision of individualised assessment procedures, in potential violation of the principle of non-refoulement;

(e) Reports of poor conditions in “AnKER” centres, as well as such centres being in geographically remote areas, which limits access to essential amenities;

(f) Whilst migrants in irregular situations are legally entitled to receive the COVID-19 vaccine under section 1(1) of the German Coronavirus Vaccination Ordinance, in practice there remain obstacles to their effective access (arts. 2, 6, 7, 9, 13 and 26).

39. **The State party should:**

(a) **Give consideration to removing limits on family reunification based on quotas, and ensure the right to family reunification on the application of uniform criteria, as well as removing administrative hurdles to accessing visas for these purposes:**

(b) **Consider review of the definition of family for the purpose of reunification, particularly to include the siblings of unaccompanied minors;**

(c) **Amend article 62a (1) of the German Residence Act to prevent the placement in prisons of individuals seekers pending deportation;**

(d) **Ensure that the principle of non-refoulement is secured in law and strictly adhered to in practice;**

(e) **Address issues with the location of and conditions in AnKER centres and/or consider alternative reception arrangements; and**

(f) **Ensure that migrants in irregular situations have effective access to the COVID-19 vaccine.**

Independence of the judiciary and prosecution services

40. Whilst noting the information provided by the State party about its national legal system, the Committee is concerned that the independence of the prosecution services from the executive Government, as a corollary to judicial independence, is not ensured in law and practice (arts. 2 and 14).

41. **The State party should consider legal reform to ensure the independence of prosecutors from the executive Government in both law and practice, therefore reinforcing judicial independence.**

Right to privacy

42. The Committee is concerned about the wide reaching powers of surveillance, including online surveillance and the hacking of encrypted communications data during criminal investigations. It is particularly concerned that the Act for Foreign-Foreign Signals Intelligence Gathering of the Federal Intelligence Gathering 2016 provided for extensive and indiscriminate bulk and targeted surveillance of extraterritorial communications. Whilst welcoming legal reforms, including the Reform of Act of Federal Intelligence services, enacted in 2021, in line with the judgment of the Constitutional Court of May of the same year, the Committee is concerned that the compliance of surveillance regulations with EU *acquis* remains unclear. It is also concerned by information that suggests that independent judicial oversight is not yet fully operational (art. 17).

43. **The State party should ensure that all types of surveillance activities and interference with privacy are in full conformity with the Covenant, in particular article 17. Such activities should comply with the principles of legality, proportionality and necessity and be subject to judicial authorization. The State party should also ensure**

that surveillance is subject to effective independent oversight mechanisms, namely judicial, and ensure access to effective remedies in cases of abuse.

Freedom of conscience and religion

44. The Committee notes that legal statutes of different Länder ban the wearing of headscarves by teachers and/or civil servants. The Committee notes information that such bans must be based on the potential for the wearing of headscarves to lead to a concrete disturbance of the peace or a breach of the state's neutrality, in accordance with the findings of the Constitutional Court. It is however of the view that these laws may infringe the freedom to express one's religion or belief and have a disproportionate impact on members of specific religions and on women. The Committee is further concerned that these laws could foster feelings of exclusion and marginalization (arts. 2, 18 and 26).

45. The State party should consider revisiting the relevant Länder statutes in the light of its obligations under the Covenant, in particular article 18 on freedom of conscience and religion and the principle of equality set out in article 26.

Freedom of expression

46. Whilst appreciating the commitment of the State party to addressing online hate speech and abuse, the Committee is concerned by the broad powers introduced by the Network Enforcement Act in 2017 to remove content deemed illegal or abusive. It also notes with concern that responsibility for the removal of such content is assigned to social media companies and not subject to judicial oversight, thereby limiting access to redress in cases where the nature of content is disputed. The Committee is concerned that these provisions and their application could have a chilling effect on online expression (art.19).

47. The State party should ensure that any restrictions to online expression outlined in the Network Enforcement Act, strictly comply with the requirements of article 19 (3) of the Covenant. It should also consider revising the Act to provide for judicial oversight and access to redress in cases where the nature of online material is disputed.

48. The Committee notes with concern that the Criminal Code criminalizes defamation and that the State party is not planning to amend such provisions but moreover is considering higher penalties for defamation in certain contexts. It is concerned about the chilling effect that such provisions may have on free speech (art. 19).

49. The State party should consider decriminalizing defamation and, in any case, resorting to criminal law only in the most serious cases, bearing in mind that imprisonment is never an appropriate penalty for defamation, as set out in general comment No. 34 (2011) on the freedoms of opinion and expression.

Freedom of association

50. The Committee is concerned about the blanket ban on public sector workers striking within the State party, based upon the assessment that all such workers, including school teachers, are essential (art. 22).

51. The Committee reiterates the recommendation of the Committee on Economic, Social and Cultural Rights (E/C.12/DEU/CO/6, para.45) that the State party should take measures to revise the scope of the category of essential services with a view to ensuring that all those civil servants whose services cannot reasonably be deemed as essential are entitled to their right to strike in accordance with article 22 of the Covenant.

D. Dissemination and follow-up

52. The State party should widely disseminate the Covenant, its seventh periodic report and the present concluding observations with a view to raising the awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country,

and the general public. The State party should ensure that the report and the present concluding observations are translated into the official languages of the State party.

53. In accordance with rule 75, paragraph 1, of the Committee's rules of procedure, the State party is requested to provide, by 5 November 2024, information on the implementation of the recommendations made by the Committee in paragraphs 21 (intersex persons), 31 (institutional care) and 43 (right to privacy) above.

54. In line with the Committee's predictable review cycle, the State party will receive in 2027 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies to the list of issues, which will constitute its eighth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in 2029 in Geneva.
