



# Submission to the UN Committee on Economic, Social and Cultural Rights (CESCR) for the List of Issues on the occasion of the examination of the 6<sup>th</sup> German State Report

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## Introduction

The German Institute for Human Rights is the independent National Human Rights Institution in Germany. It is accredited according to the Paris Principles of the United Nations (A-status). The Institute's activities include the provision of advice on policy issues, human rights education, information and documentation, applied research on human rights issues and cooperation with international organizations. It is supported by the German Bundestag. The Institute was mandated to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child and established Monitoring Bodies for these purposes.

With this submission, the German Institute for Human Rights proposes topics for enquiries the Committee for the implementation of the International Covenant on Economic, Social and Cultural Rights in Germany may direct to the State Party. The submission is limited to selected subject areas in which the German Institute for Human Rights has worked and has developed expertise in the last few years.

# 1 Ratification of the Optional Protocol (OP) to the UN Covenant on Economic, Social and Cultural Rights, recommendation of the Committee No 36<sup>1</sup>

The signing and ratification of the OP to the UN Covenant on Economic, Social and Cultural Rights was delayed again due to a renewed review of necessary adaptations of national laws in this regard.

## The Institute recommends that the Committee asks the State Party:

- In which areas does the State Party see specific review requirements or adaptation needs?
- Does the State Party intend to conclude the review of the ratification of the Optional Protocol by the tenth anniversary of its adoption (10.12.2008)?

## 2 Sustainable Development Goals (SDGs)

### 2.1 National Sustainability Strategy

In order to implement the SDGs, Germany reviewed its National Sustainability Strategy in a participatory process and adopted the strategy in January 2017. Germany is a committed player in the field of climate objectives and sustainability.

However, according to its own assessment, Germany will miss the goals it has itself set in the sustainability strategy in several areas relevant to the Covenant, for example with regards to the reduction of emissions of air pollutants (a reduction of 45% by 2030 compared to 2005) and greenhouse gas emissions in general (reduction of 55% by 2030 compared to 1990).<sup>2</sup> In the opinion of environmental organisations, the implementation measures are not ambitious enough to achieve the goals, as the strategy promises too few structural changes (e.g. in the area of decarbonisation, cancellation of the relocation goal in favour of a higher market share for climate-friendly rail freight services).<sup>3</sup>

In the case of other goals, developments are going in the wrong direction, for example with regard to the reduction of nitrate contamination of groundwater, which is particularly common in regions with intensive agriculture and corresponding fertiliser use.<sup>4</sup> In 2016, the EU Commission launched infringement proceedings against Germany in relation to this.<sup>5</sup> The current draft of the amendment to the German Law on Fertilisers [Düngerecht] is, in the estimation of environmental organisations, inadequate to mitigate nitrate pollution because it does not, for example, take all nutrient sources into account when calculating nitrate pollution and contains hardly any incentives to improve nutrient efficiency.<sup>6</sup>

The sustainability strategy only mentions in passing the data disaggregation needed for implementing the "leave no one behind" principle. It contains no information on how disaggregated data will be used systematically to measure progress in Germany.

Almost at the same time as the adoption of the new edition of the Sustainability Strategy, the Federal Government presented the National Action Plan on Business and Human Rights. In the Sustainability Strategy, the subject of business and human rights is examined in the context of Goals 8 and 12. In the area of "global supply chains" and the goal of facilitating decent work on a global level, the number of members of the Textilbündnis [German Partnership for Sustainable Textiles] will serve as an indicator. It is unclear on which conceptual framework this quantitative indicator is based and which qualitative information will be used to supplement its interpretation.

**The Institute recommends that the Committee asks the State Party:**

- In what areas will the State Party set itself more ambitious goals in the next review of the National Sustainability Strategy?
- What practical measures will the State Party take to meet the objectives set out in the areas relevant to the Covenant, for example in emissions reduction and the nitrate contamination of groundwater?
- How does the State Party ensure that through a sufficient disaggregation of data progress in the implementation of the National Sustainability Strategy for vulnerable groups can be shown?
- How does the State Party measure progress towards achieving the goal of "facilitating decent work at a global level" in the area of global supply chains? Is the State Party planning to supplement the quantitative indicator of "number of members of the Textilbündnis" with qualitative elements? What other indicators does the State Party plan to use to cover other global supply chains as well?

**2.2 Poverty reduction, SDG 1, recommendation of the Committee No 24**

The Federal Government addresses poverty reduction with the German Sustainability Strategy, first published in 2002 and regularly updated. With regard to data collection and the measurement of poverty, the Sustainability Strategy lags far behind of what has already been implemented nationally since 2001 with the Poverty and Wealth Report. The report clearly contains more differentiated indicators. It includes 11 indicators of relative poverty (poverty risk, early school leavers, in-work poverty, long-term unemployed, material deprivation, needs-based minimum benefit, lack of vocational training, over-indebtedness, financial assistance to prevent the need of social benefits (such as housing allowances or child allowances), effects of social transfers, homelessness),<sup>7</sup> while the National Sustainability Strategy contains only two indicators on material deprivation.<sup>8</sup>

According to case-law of the Federal Constitutional Court, guaranteeing a decent minimum subsistence income and ensuring a financial livelihood entails a "minimum level of participation in social, cultural and political life".<sup>9</sup> The legal basis for this is the guarantee of human dignity (Article 1(1) GG [German Federal Constitution] in connection with the Social State Principle (Article 20(1) GG). There are limitations to the measurement of social and political participation, because no indicator was introduced to deal with these issues. The measurement of the cultural participation dimension, for example, is neither taken into account by the updated German Sustainability Strategy nor the Poverty and Wealth Report.

**The Institute recommends that the Committee asks the State Party:**

- What approach is the State Party planning to take in the future to ensure the collection of reliable and adequately disaggregated data that will also allow for assertions on the development of poverty of vulnerable groups? What further steps will the State Party take to identify vulnerable and marginalised groups in Germany?
- What indicators will the State Party use to ensure that the capabilities for economic, social and cultural rights of people affected by poverty are accounted for in both, the Poverty and Wealth Report and the National Sustainability Strategy?

- What tools for the implementation of poverty-reducing strategies exist and how will the State Party include these in its National Sustainability Strategy?

### 3 Right to education and non-discrimination, Articles 13 and 2 of the Covenant, recommendations of the Committee No 12, 29, 31 and 34

Protection against discrimination is not fully guaranteed within the German education system. This is particularly the case with regard to the effect mechanisms of substantive discrimination. Despite progress, Germany has not succeeded in breaking the link between socio economic origin and educational success in the long term.<sup>10</sup> Children and young people with a migrant background, who are significantly more often affected by socio-economic risks, are accordingly at greater risk in relation to school success.<sup>11</sup> Students without German citizenship are at considerably greater risk of achieving poor education qualifications or of leaving school without any qualifications.<sup>12</sup> Most students in Germany with special educational needs are still taught in special schools outside the regular school system,<sup>13</sup> which they often leave without attaining (at least) a secondary school certificate [Hauptschulabschluss].<sup>14</sup>

Concerning educational content, human rights education is not sufficiently taken into account in the general school system in Germany. Only three of the 16 Federal States' education acts in Germany mention human rights as part of general educational goals<sup>15</sup> and human rights are mostly only mentioned implicitly in school curricula.<sup>16</sup> Non-discrimination is also inadequately dealt with as an educational topic in German schools.<sup>17</sup> At the same time, school books and materials used include stereotypes and derogatory representations in relation to gender, origin or religion, for example.<sup>18</sup> With regards to the topic of migration, many school books fail to convey diversity as an everyday normality and are much more likely to reveal positions that are even discriminatory.<sup>19</sup>

No systematic embedding of explicit human rights education in relevant training and university courses (e.g. police, care, teachers, lawyers, social work) in accordance with the UN Declaration on Human Rights Education and Training (2011) can be identified in the field of vocational training or in higher education.

#### **The Institute recommends that the Committee asks the State Party:**

- What steps is the State Party planning to take to provide transparent, participatory and human rights-oriented monitoring - with data decrypted according to discrimination dimensions - for the education system in order to be able to take effective measures for the elimination of discrimination?
- What legislative steps is the State Party planning to take to explicitly and comprehensively embed human rights education into the school laws and curricula of all Federal States and for all age groups?
- What specific data can the State Party present in respect to the systematic embedding of human rights education into relevant training and university courses, as well as into professional development (e.g. police, care, teachers, lawyers, social work), and what actions will be taken on this basis?
- How does the State Party ensure that discrimination and its elimination is comprehensively addressed in educational institutions? For example: How are discrimination, protection against

discrimination and its link to human rights handled in curricula? How are teaching and learning materials checked for stereotypes, derogatory pictures and terms? How is ensured that the elimination of discrimination is part of development and evaluation processes in educational institutions?

## 4 Discrimination against older persons, Article 2 of the Covenant

The German General Equal Treatment Act (AGG) protects against discrimination on the grounds of age in the area of labour law and civil law. However, the AGG recognises justification on the grounds of actuarial calculation for insurance and financial services.<sup>20</sup> In practice, this results in considerably elevated insurance premiums for older persons without any individual assessment of the situation.<sup>21</sup> The same applies in the area of credit allocation, where it is significantly more difficult for older people to access credit for the purchase of residential property,<sup>22</sup> especially since the implementation of the EU Credit Directive.

In terms of access to non-profit associations and volunteer work, older people are subject to higher membership fees and are no longer able to do certain types of volunteering due to imposed age limits.<sup>23</sup>

Unequal treatment in public law is not covered by the AGG. It is only covered by German Basic Law. However, the prohibition of discrimination as set out in Article 3(3) of the Basic Law does not refer to the characteristic of age. This means that unequal treatment on the grounds of age in public law is assessed on the general principle of equality laid down in Article 3(1) of the Basic Law and is subject to lower justification barriers.

### **The Institute recommends that the Committee asks the State Party:**

- What actions is the State Party planning to take in order to reinforce protection against the discrimination of older persons, particularly in relation to insurance and financial services, volunteer work as well as in public law?

## 5 Unemployment of people with disabilities, Article 6 of the Covenant, recommendation of the Committee No 17

People with disabilities are still being more excluded from the labour market than people without disabilities. In spite of minor improvements in employment numbers and employment rate, more than half of all people with disabilities of working age are not integrated into the labour market.<sup>24</sup> The employment rate of people with disabilities is only 49 percent. Employers with a minimum of 20 employees have long been legally obligated to allocate five percent of their jobs to people with a disability - i.e. people who have a disability level of at least 50. In practice, this so-called mandatory employment quota has not yet been achieved.<sup>25</sup> In addition, people with severe disabilities, who are unemployed, are also out of work for much longer periods of time compared to those unemployed without disabilities - on average 52 weeks instead of 38 weeks.<sup>26</sup>

Furthermore, around 300,000 people are employed in so-called sheltered workshops for people with disabilities as they are classified as "unfit for work". This sheltered workshop activity is not recognised as an employment relationship and is excluded from the statutory minimum wage; it is remunerated on average with less than EUR 200 per month. The number of sheltered workshop employees, up by 20

percent since 2007, continues to increase more sharply than the number of people of working age with disabilities.<sup>27</sup> The transition rate from sheltered workshop activities to the general labour market is very low.<sup>28</sup>

People with disabilities are also under-represented in dual vocational training which is common in Germany, particularly in small and medium-sized enterprises.<sup>29</sup> Special training for people with disabilities often leads to special qualifications, which employers fail to recognise as there is no comparability. Only a fraction of all business premises and workplaces in Germany are barrier-free as there is no obligation that they have to be.<sup>30</sup>

The UN-CRPD [Committee on the Rights of Persons with Disabilities], in its 2015 Concluding Observations, expressed concern about the general segregation in the German labour market, the lack of access to work, wrong financial incentives, as well as the lack of transferability between sheltered workshops for people with disabilities and the general labour market. It therefore called for an effective regulatory framework for an inclusive labour market.<sup>31</sup>

In the course of a fundamental reform of the right to social participation, the regulations on the promotion of participation in working life were revised in 2016.<sup>32</sup> Whether these innovations will work in practice remains to be seen.

**The Institute recommends that the Committee asks the State Party:**

- What measures is the State Party taking to further reduce unemployment for people with disabilities and to make the labour market more inclusive, in particular with regard to inclusive vocational training and workplace accessibility?
- How does the State Party ensure that the legal framework - in particular, amendments carried out pursuant to the Federal Participation Act - continues to be reviewed for its effectiveness and to be adjusted where necessary?

## 6 Economic, social and cultural rights of refugees

### 6.1 Benefits in kind provided in accordance with the Asylum Seekers' Benefit Act, Articles 12 and 15 of the Covenant, recommendation of the Committee No 13

Following a judgement of the Federal Constitutional Court<sup>33</sup> on the unconstitutionality of the former level of benefits according to the Asylum Seekers' Benefit Act, the Act was reformed in 2015. The level of benefits was approximated to the level of general social security benefits.

In October 2015, however, together with the German Asylum Procedures Acceleration Act, a regulation was introduced, which replaces the "personal needs payment", previously paid as a cash sum with "benefits in kind" primarily in initial reception facilities. A very different implementation practice has been reported in the Federal States (Länder).<sup>34</sup>

**The Institute recommends that the Committee asks the State Party:**

- Which Federal States make use of the regulation for which benefits and issue benefits for personal needs ("pocket money") in form of benefits in kind?

- How does the State Party ensure that, in cases, where benefits in kind are provided, individual needs in the area of personal needs are met by appropriate and acceptable benefits?

## 6.2 Health care provided in accordance with the Asylum Seekers' Benefits Act, Article 12 of the Covenant, recommendation of the Committee No 13

While refugees receive care in accordance with the Asylum Seekers' Benefits Act, they only have access to limited health services compared to regular health care services. With the reform of the Asylum Seekers' Benefits Act, the time period for the exclusion from regular health care services was reduced from 48 to 15 months. Within this time frame, however, problems continue to persist. In particular, many diseases are not properly treated, as emergency care is only guaranteed in conditions of pain. Additional services are only provided for on the basis of discretionary decisions, which are taken very differently from region to region.<sup>35</sup>

Particularly problematic is the dental health of children according to the Asylum Seekers' Benefits Act. It seems that in many parts of Germany preventive services are unavailable, leading to a situation where in extreme cases diseased teeth will have to be extracted later on.<sup>36</sup> For the comparison group of children, who are covered by regular health care, preventive dental health care is a priority and is covered by health insurance.<sup>37</sup> Difficulties also exist with regard to the treatment of psychological disorders, such as trauma, due to a lack of sufficient funds and adequate care structures.<sup>38</sup>

The introduction of the electronic health card for refugees does not extend the scope of services, but reduces the administrative burden and allows refugees to seek medical assistance immediately. The card is only used in a few Federal States, however.<sup>39</sup>

### The Institute recommends that the Committee asks the State Party:

- In light of restricted service provision, how does the State Party guarantee in the case of beneficiaries under the Asylum Seekers' Benefits Act the right of all to the highest attainable standard of physical and mental health?
- Why does the State Party maintain a separate health care system for persons under the Asylum Seekers' Benefits Act, when studies show that it would be more cost-effective to care for refugees under the general system?
- How does the State Party assess the practical consequences of the introduction of the electronic health card for refugees in relation to the right to health? Is the State Party planning to introduce the card uniformly on a federal basis?

## 6.3 Right to education, Article 13 of the Covenant

For most children in initial reception facilities for refugees and asylum seekers, there is no possibility, either legally or practically, to attend school. Due to lengthy stays in initial reception facilities (in some instances several months) these children are denied access to education guaranteed under human rights law for extended periods of time. From a legal perspective, this is primarily due to the fact that in Germany statutory compulsory school attendance in most Federal States does not apply to children in initial reception facilities. Varying regulations governing compulsory education and access to schooling result in extreme differences in access to schooling across the Federal States.<sup>40</sup> For how long children are deprived of their right to education eventually depends on a random decision of how refugees are distributed across the country. The justifications for regulations also vary. In some Federal States organisational reasons are cited, whereas in other States these are not considered a problem.<sup>41</sup> The Federal States of Bavaria and Mecklenburg- West Pomerania, for example, have justified their decisions



as follows: "This prescribed period is warranted to obtain clarity about the initial place of residence in order to avoid change of school." "In Mecklenburg - West Pomerania, compulsory school attendance of a refugee child begins as soon as the child is assigned to a municipality. This is due to the fact that personnel and resources required for the training can be made available more flexibly in the municipality."

In practice, school attendance can often not be guaranteed or is guaranteed with delay, as there is an insufficient number of school places available within the vicinity of initial reception facilities. In addition, the transfer of information from the initial reception facility to the school authorities responsible for school registration is often delayed.<sup>42</sup>

**The Institute recommends that the Committee asks the State Party:**

- What offers are made to guarantee the right to education for refugee children in initial reception facilities nationwide?
- What is the minimum number of hours per day refugee children in initial reception facilities receive schooling, disaggregated by grade level?

#### **6.4 Regulations on family reunification, Article 10 of the Covenant**

Since March 2016, the right to family reunification for people having fled to Germany and who are recognised as so-called subsidiary beneficiaries of protection under the asylum procedure framework, has been suspended for two years. This means that people who have fled Syria, where they face a risk of torture, the death penalty or serious danger to life and limb as a result of an armed conflict, are currently unable to apply for family reunification. In practice, the regulation results in families being separated for more than two years, especially since subsequent visa procedures at German diplomatic missions abroad often last several months or even a year.<sup>43</sup>

Beyond the statutory suspension of family reunification for people recognised as subsidiary beneficiaries of protection, significant restrictions for family reunification can be observed in practice for unaccompanied minors, who are recognised as refugees under the Geneva Convention. Simultaneous reunification with their parents in Germany is increasingly being denied to their minor siblings. It may happen, for example, that the parents of a 16-year-old Syrian refugee are issued a visa but the younger siblings are not.<sup>44</sup>

**The Institute recommends that the Committee asks the State Party:**

- When will the suspension of family reunification end for people recognised as subsidiary beneficiaries of protection?
- How does the State Party define the concept of family in Article 10 of the Covenant?
- What measures is the State Party taking in order to protect siblings who are denied entry into Germany to unify with their siblings?

#### **6.5 Protection of children and young people forced into child marriage, Article 10 of the Covenant**

The Act on the Prevention of Child Marriages was adopted in June 2017. The Act was adopted in particular with a view to minors forced into marriage who have fled to Germany. It declares marriages involving minors under 16-years of age that are valid abroad to be retroactively invalid by act of law



(rules on nullity). No hearing or review of individual cases based on the child's best interests is foreseen for this group. On the contrary, marriages of persons aged 16 -18 years, can by law be annulled in court proceedings, where the individual case is assessed. Accordingly, the rules on nullity for marriages involving children aged under 16 years puts persons under the age of 16 years legally in a worse position than young people, who are older and whose marriages are annulled.

Problematic consequences arising from a general retroactive invalidity of marriages affecting children under 16 years of age, are particularly prevalent in cases of so-called "limping marriages". This means that if the affected parties return to their home country or migrate to other countries, their marriages, which may raise human rights concerns, become valid again as no formal annulment proceeding has taken place. The same applies when minor refugees migrate with their spouse to a different EU country. Without a court judgement, which is only necessary in the case of an annulment, no legal instrument recognised by the new host country exists.

**The Institute recommends that the Committee asks the State Party:**

- How is the globally disadvantaged position of children under 16 years of age as a result of the legal consequences of the Act on the Prevention of Child Marriages compatible with the right to protection and assistance for children, young people and the family?
- Which specific measures are planned to ensure the protection of children and young people after their marriage is annulled or declared invalid?

## **7 Right to health for intersex people, Article 12 of the Covenant, recommendation of the Committee No 26**

Intersex infants and children in Germany are still subject to medically unnecessary and deferrable operations and therapies with the aim of making their physical appearance and function consistent with binary gender stereotypes. These interventions are generally irreversible and can cause severe long-term physical and psychological suffering.

In spite of enhanced social and political discussions and the gradual review of medical treatment guidelines since 2005, no decline in interventions has yet been identified. According to a study from December 2016, the relative frequency of interventions remained basically unchanged in the period between 2004 and 2014.<sup>45</sup>

The UN Committee for the Elimination of All Forms of Discrimination Against Women, within the context of the state report review in March 2017, recommended that Germany establishes clear legal regulations prohibiting unnecessary medical interventions on intersex children.

**The Institute recommends that the Committee asks the State Party:**

- What legal steps has the State Party taken or will it take to prohibit deferrable gender-modifying medical interventions on intersex children?

## 8 Situation in care homes – shortage of skilled workers, Article 12 of the Covenant, recommendation of the Committee No 27

In the latest legislative period, many measures were taken to reform the legal frameworks for the provision of care (Acts to Strengthen Long term care 1 to 3). Persons in need of care are increasingly recognised as legal entities and many measures were introduced to support their independence.

In addition, a reform of the care professions was introduced with the aim to give care professions equivalence, initially by providing general training, as nursing care in particular had to be upgraded to counteract an impending care staff shortage. Only practice will show to what extent these measures will positively impact on everyday care and will enhance the quality of care. Nevertheless, all these reforms need to be linked to a structural change in everyday care. This is important in order to ensure that, on the one hand, the human rights of those receiving care are anchored in quality and monitoring criteria and, on the other, that the human rights of caretakers, both professional ones as well as relatives working as caretakers, are better protected.

### The Institute recommends that the Committee asks the State Party:

- What specific measures are planned to anchor human rights standards and principles as the benchmark for measuring the quality of care?
- How are human rights integrated into vocational training in the field of care?
- What measures are planned to ensure that both those requiring care and those working as care takers experience a low threshold when complaining about maladministration in care facilities, without running the risk of being disadvantaged by doing so?

<sup>1</sup> Reference: Recommendations of the Committee to Germany in the last state review procedure, Concluding Observations of the Committee on Economic, Social and Cultural Rights, E/C.12/DEU/CO/5, 12.07.2017. (last accessed: August 14<sup>th</sup> 2017).

<sup>2</sup> Federal Government, German Sustainability Strategy (DNS), New edition 2016, p. 79-80, 185-186. [https://www.bundesregierung.de/Content/DE/\\_Anlagen/Nachhaltigkeit-wiederhergestellt/2017-01-11-nachhaltigkeitsstrategie.pdf;jsessionid=AC5C7F9E6421DC290D61B695243FE405.s16t1?\\_\\_blob=publicationFile&v=20](https://www.bundesregierung.de/Content/DE/_Anlagen/Nachhaltigkeit-wiederhergestellt/2017-01-11-nachhaltigkeitsstrategie.pdf;jsessionid=AC5C7F9E6421DC290D61B695243FE405.s16t1?__blob=publicationFile&v=20). (last accessed: August 14<sup>th</sup> 2017).

<sup>3</sup> Environment and Development Forum (July 2016), comment on the draft of the German Sustainability Strategy, [https://www.bundesregierung.de/Content/DE/StatistischeSeiten/Breg/Nachhaltigkeit/Nachhaltigkeitsdialog-stellungnahmen/2016-07-23-Forum-Umwelt-und-Entwicklung.pdf?\\_\\_blob=publicationFile&v=1](https://www.bundesregierung.de/Content/DE/StatistischeSeiten/Breg/Nachhaltigkeit/Nachhaltigkeitsdialog-stellungnahmen/2016-07-23-Forum-Umwelt-und-Entwicklung.pdf?__blob=publicationFile&v=1); Germanwatch (July 2016), statement of Germanwatch and Stiftung Zukunftsfähigkeit [German Foundation for Sustainability] on the draft of the new edition 2016 of the German Sustainability Strategy [https://www.bundesregierung.de/Content/DE/StatistischeSeiten/Breg/Nachhaltigkeit/Nachhaltigkeitsdialog-stellungnahmen/2016-07-13-germanwatch.pdf?\\_\\_blob=publicationFile&v=1](https://www.bundesregierung.de/Content/DE/StatistischeSeiten/Breg/Nachhaltigkeit/Nachhaltigkeitsdialog-stellungnahmen/2016-07-13-germanwatch.pdf?__blob=publicationFile&v=1). (last accessed: August 14<sup>th</sup> 2017).

<sup>4</sup> Ibid., p.109 -110 and Forum and Development, AG Wasser (2016): Commentary DNS Draft 2016. Joint commentary on the German Sustainability Strategy, p. 2. [http://www.forumue.de/wp-content/uploads/2016/07/Gemeinsame-Kommentierung-AG-Wasser\\_Forum-Umwelt-Entwicklung\\_DNS-Entwurf-2016.pdf](http://www.forumue.de/wp-content/uploads/2016/07/Gemeinsame-Kommentierung-AG-Wasser_Forum-Umwelt-Entwicklung_DNS-Entwurf-2016.pdf). (last accessed: August 14<sup>th</sup> 2017).

<sup>5</sup> European Commission - Press release (28.04.2016), Water: Commission refers Germany to the Court of Justice of the EU over water pollution caused by nitrates. [http://europa.eu/rapid/press-release\\_IP-16-1453\\_en.htm](http://europa.eu/rapid/press-release_IP-16-1453_en.htm). (last accessed: August 14<sup>th</sup> 2017)..

<sup>6</sup> Federal Government, Press release (10.06.2017), Increasing nitrate pollution of groundwater requires tightening of the German Law on Fertilisers. <https://www.bund.net/service/presse/pressemitteilungen/detail/news/steigende-nitratbelastung-des-grundwassers-erfordert-verschaerfung-des-duengerechts/>; Statement of environmental organisations BUND [Federal Government], DNR [German League for Nature, Animal Protection and Environment], Deutsche Umwelthilfe [Environmental Action Germany], Germanwatch, Greenpeace, Grüne Liga [Green League] and NABU [German Nature And Biodiversity Conservation Union] on "Draft Ordinance on handling nutrients in commercial operations and on the amendment of other provisions" (Draft Bill of 18.04.2017): [https://www.dnr.de/fileadmin/Positionen/17\\_05\\_05\\_Stellungnahme\\_Duengerecht.pdf](https://www.dnr.de/fileadmin/Positionen/17_05_05_Stellungnahme_Duengerecht.pdf).

<sup>7</sup> See list of indicators Poverty and Wealth Report <http://www.armuts-und-reichtumsbericht.de/DE/Indikatoren/Armut/armut.html>. (last accessed: August 14<sup>th</sup> 2017).

<sup>8</sup> Federal Government, German Sustainability Strategy (DNS), New edition 2016, (Endnote 2), p. 57.

<sup>9</sup> Federal Constitutional Court (2010): Judgement of the Court of 9 February 2010, Az. 1 BvL 1/09; 1 BvL 3/09; 1 BvL 4/09, Rdnr. 135; [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2010/02/ls20100209\\_1bvl000109.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2010/02/ls20100209_1bvl000109.html).

<sup>10</sup> cf. Authoring Group Educational Reporting (2016): Education in Germany 2016. An indicator-based report including an analysis of education and migration. 1st edition. Bielefeld: Bertelsmann, p. 14.

<sup>11</sup> cf. Authoring Group Educational Reporting (2016) (Endnote 10), p. 169.

<sup>12</sup> cf. Authoring Group Educational Reporting (2016) (Endnote 10), p. 175.

- <sup>13</sup> cf. Niendorf, Mareike/Reitz, Sandra (2016): The human right to education in the German school system. What is required to eliminate discrimination. Berlin: German Institute for Human Rights, p. 31.
- <sup>14</sup> cf. Authoring Group Educational Reporting (2014): Education in Germany 2014. An indicator-based report including an analysis of education for people with disabilities. Bielefeld: Bertelsmann, p.181.
- <sup>15</sup> cf. Niendorf/Reitz (2016) (Endnote 13), p. 47.
- <sup>16</sup> cf. Reitz, Sandra/Rudolf, Beate (2014): Human rights education for children and young people. Findings and recommendations for German education policy. Berlin: German Institute for Human Rights, p. 33.
- <sup>17</sup> cf. Niendorf/Reitz (2016) (Endnote 13), p. 49-62.
- <sup>18</sup> cf. Niendorf/Reitz (2016) (Endnote 13), p. 62-70.
- <sup>19</sup> cf. Niehaus, Inga et al. (2015): School book survey Migration and Integration. Ed. by the German Federal Commissioner for Migration, Refugees and Integration. Berlin, p. 41.
- <sup>20</sup> Discrimination in Germany: Third Joint Report of the Federal Anti-Discrimination Agency and of the Commissioners of the Federal Government and the German Bundestag concerned in their area of competence (2017), p. 361.  
[http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/BT\\_Bericht/Gemeinsamer\\_Bericht\\_dritter\\_2017.html?sessionid=E744CF07759E5AE0AC19A09B91069CDD.2\\_cid350?nn=6575434](http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/BT_Bericht/Gemeinsamer_Bericht_dritter_2017.html?sessionid=E744CF07759E5AE0AC19A09B91069CDD.2_cid350?nn=6575434). (last accessed: August 14<sup>th</sup> 2017).
- <sup>21</sup> Discrimination in Germany: (2017): (Endnote 20), p. 87-89; p. 98f.
- <sup>22</sup> Federal Anti-Discrimination Agency, With Advice of Cases from the Anti-Discrimination Agency, p.61.
- <sup>23</sup> Discrimination in Germany: (2017): (Endnote 20), p. 167.
- <sup>24</sup> Aktion Mensch (ed.) (2016): Inclusion barometer Work. An instrument for the measurement of progress in the inclusion of people with disabilities in the German labour market. 4th edition (2016) Bonn, p. 37.
- <sup>25</sup> Federal Ministry of Labor and Social Affairs (ed.) (2017): Participation Report of the Federal Government on the Living Conditions of Persons with Disabilities, p. 168-171, 211; [http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Pressemitteilungen/2017/zweiter-teilhabebericht.pdf?\\_\\_blob=publicationFile&v=7](http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Pressemitteilungen/2017/zweiter-teilhabebericht.pdf?__blob=publicationFile&v=7). (last accessed: August 14<sup>th</sup> 2017).
- <sup>26</sup> With regard to the data, see the German Federal Ministry of Labour and Social Affairs (ed.) (2017): Participation report of the Federal Ministry on the situations of people with impairments, p. 211-213; [http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Pressemitteilungen/2017/zweiter-teilhabebericht.pdf?\\_\\_blob=publicationFile&v=7](http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Pressemitteilungen/2017/zweiter-teilhabebericht.pdf?__blob=publicationFile&v=7). (last accessed: August 14<sup>th</sup> 2017)
- <sup>27</sup> cf. German Federal Ministry of Labour and Social Affairs (ed.) (2017): Participation report of the Federal Ministry on the situations of people with impairments, p. 192 ff; [http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Pressemitteilungen/2017/zweiter-teilhabebericht.pdf?\\_\\_blob=publicationFile&v=7](http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Pressemitteilungen/2017/zweiter-teilhabebericht.pdf?__blob=publicationFile&v=7).
- <sup>28</sup> 2008 (nationwide) and 2013 (regional) studies showed an average transition rate of 0.16% and 0.27%, respectively; see: ISB - Society for Integration, Social Research and Business Education (ed.) (2008): Development of access to workshops for disabled people. Berlin, p. 115. [www.bmas.de/SharedDocs/Downloads/DE/PDF-Publikationen/forschungsbericht-f383.pdf](http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Publikationen/forschungsbericht-f383.pdf); Bundesarbeitsgemeinschaft Werkstätten für behinderte Menschen e.V. - BAG WfbM (Hrsg.) (2013): Transitional promotion to sheltered workshops Results of an empirical survey in Bavaria, in: Werkstatt: Dialog, 2013, Heft 2, p. 13-15, Frankfurt am Main; Current reliable figures are missing, but it is generally assumed that this transition rate has not increased significantly to date. Doose, Stefan (2013): Professional integration in the long term? -Stand and perspectives of the professional integration of people with learning difficulties: <http://www.inklusion-online.net/index.php/inklusion-online/article/view/4/4>. (last accessed: August 14<sup>th</sup> 2017); Fischer, Bastian / Gericke, Thomas (2016): For the further development of sheltered workshops for persons with disabilities under conditions of inclusive [https://www.ueberaus.de/wvs/weiterentwicklung\\_von\\_wfbm.php](https://www.ueberaus.de/wvs/weiterentwicklung_von_wfbm.php)(last accessed: August 14<sup>th</sup> 2017). .
- <sup>29</sup> Cologne Institute for Economic Research (ed.) (2016): People with disabilities in dual vocational training: Potential to reinforce inclusion. Study 1/2016. Köln, p.4.
- <sup>30</sup> UN, Committee on the Rights of Persons with Disabilities (2015): Concluding Observations on the initial report of Germany, UN Doc. CRPD/C/DEU/CO/1 of 17 May 2015, No 49 f.
- <sup>31</sup> Act to strengthen the Participation and Self-Determination of Persons with Disabilities (German Federal Act on Participation – BTHG) of 23 December 2016, Federal Law Gazette I 2016, p. 3234 (No 66 of 29.12.2016); [http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Meldungen/2016/bundesteilhabegesetz.pdf?\\_\\_blob=publicationFile&v=7](http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Meldungen/2016/bundesteilhabegesetz.pdf?__blob=publicationFile&v=7). (last accessed: August 14<sup>th</sup> 2017).
- <sup>32</sup> Federal Constitutional Court, Decision of 18.07.2012, 1BvL 10/10, 1 BvL 2/11.
- <sup>33</sup> German Institute for Human Rights (2016): Development of the human rights situation in Germany January 2015 - June 2016. Report to the German Parliament in accordance with § 2 Paragraph 5 DIMRG. Berlin, p.17.
- <sup>34</sup> Berlin Refugee Council (2014): In Berlin, for example, urgent operations, vital post-operative therapies and essential aids for disabled people are denied for many months on the basis of official medical test procedures. Human rights are being violated, bureaucracy and health costs increased. For legal bases and case examples, see details p. 39 ff of the Statement of the Berlin Refugee Council of October 2014 for the AS Committee of the German Bundestag: [www.fluechtlingsinfo-berlin.de/fr/asyblbg/Classen\\_AsyblLG\\_2014\\_AS-Ausschuss.pdf](http://www.fluechtlingsinfo-berlin.de/fr/asyblbg/Classen_AsyblLG_2014_AS-Ausschuss.pdf). (last accessed: August 14th 2017)
- <sup>35</sup> Ruth Auschra (2014): Refugee children at the dentist. Only for pain is treated in: The Free Dentist, p. 42-43.
- <sup>36</sup> The Fifth German Mouth Health Study, see Summery report, p. 8 and 9, Dental Health in Children has improved further through preventive measures. [https://www.bzaek.de/fileadmin/PDFs/dms/Zusammenfassung\\_DMS\\_V.pdf](https://www.bzaek.de/fileadmin/PDFs/dms/Zusammenfassung_DMS_V.pdf)
- <sup>37</sup> Bundesweite Arbeitsgemeinschaft der Psychosozialen Zentren für Flüchtlinge und Folteropfer – BAfF e.V (2016): Supply report, to the psychosocial care of refugees and torture victims in Germany, 3. updated edition, p. 33-37 [http://www.baff-zentren.org/wp-content/uploads/2017/02/Versorgungsbericht\\_3-Auflage\\_BAfF.pdf](http://www.baff-zentren.org/wp-content/uploads/2017/02/Versorgungsbericht_3-Auflage_BAfF.pdf). (last accessed: August 14th 2017).
- <sup>38</sup> The electronic health card has been introduced in Bremen, Hamburg, Berlin, Brandenburg, Rhineland Palatinate and in some municipalities in North Rhine-Westphalia, Schleswig Holstein and Thuringia. For details, see also Bertelsmann Foundation (2016): [https://www.bertelsmann-stiftung.de/fileadmin/files/BSI/Publikationen/GrauePublikationen/Studie\\_VV\\_Gesundheitskarte\\_Fluechtlinge\\_2016.pdf](https://www.bertelsmann-stiftung.de/fileadmin/files/BSI/Publikationen/GrauePublikationen/Studie_VV_Gesundheitskarte_Fluechtlinge_2016.pdf). (last accessed: August 14<sup>th</sup> 2017) .
- <sup>39</sup> cf. Massumi, Mona et al. (2015): New immigrant children and young people in the German school system, 2015, p. 39 and Klaus, Tobias/Millies, Marc (2017): Research into the educational situation of refugees in Germany, 2017, p. 12.
- <sup>40</sup> Results of a written request from the monitoring body of the UN Convention on the Rights of the Child to the relevant ministries in all 16 Federal States, 15 Federal States have replied (not Brandenburg). The query was first implemented in early 2016 and updated in early 2017, [www.landkarte-kinderrechte.de](http://www.landkarte-kinderrechte.de). (last accessed: August 14<sup>th</sup> 2017) .
- <sup>41</sup> Results of a written request from the monitoring body of the UN Convention on the Rights of the Child (footnote 21)
- <sup>42</sup> See, for example, the response of the Federal Government to the Small Questionnaire of the parliamentarians Ulla Jelpke, Frank Tempel, Kersten Steinke, Jörn Wunderlich und der Fraktion DIE LINKE, Increased granting of subsidiary protection to Syrian refugees and restriction of family immigration, 10.3.2017, Bundestag-Drucksache 18/11473, p. 21 f.
- <sup>43</sup> UNHCR Germany, Asylum magazine 4/2017, p. 132, p. 134 ff.

- <sup>45</sup> Krämer, Anike/ Sabisch, Katja / Woweries, Jörg (2016): Variants of sexual development, in: Zeitschrift Kinder- und Jugendarzt Nr. 5/16, p. 2248 ff.; Klöppel, Ulrike (2016): On the up-to-date cosmetic surgery of "unambiguous" genitalia in childhood, Berlin: Center for transdisciplinary gender studies at the Humboldt-Universität zu Berlin.