February 2021

Distinguished members of the UN Committee on the Rights of the Child, members of the staff of the Secretariat and Child Rights Connect, honoured colleagues,

It is an honour for us, the National CRC Monitoring Mechanism team at the German Institute for Human Rights, to have the privilege of speaking to you at today's meeting of the pre-sessional working group. The National CRC Monitoring Mechanism is an integral part of the German Institute for Human Rights, Germany's A-status accredited National Human Rights Institution. The members of the Monitoring Mechanism team who are here today include Claudia Kittel, head of the Monitoring Mechanism, Judith Feige, Senior Policy Adviser and Sophie Funke, Policy Adviser. We at the National CRC Monitoring Mechanism began monitoring the implementation of the UN Convention on the Rights of the Child in Germany in November of 2015, when the monitoring mechanism was set up. Thus, this is the first State party reporting cycle in which the perspective of an independent monitoring mechanism on a report by the German Government can be added to those provided by civil society organisations.

Germany has taken numerous steps to forward the implementation of the UN Convention on the Rights of the Child in several areas. Nonetheless, we see considerable room for improvement: much remains to be done before the rights of the child can be fully guaranteed. Germany is made up of 16 federal states, the Länder. Each of the Länder is structured as an individual state entity, with its own executive, legislative and judiciary organs. This complexity presents challenges for effective implementation, by which we mean for the fulfilment of Germany's obligations and duties to respect, protect and fulfil children's rights. This makes state structures that facilitate and ensure the implementation of children's rights in Germany all the more essential – and their continuing absence all the more regrettable. As Germany's National CRC Monitoring Mechanism, we wish to draw attention to continuing absence of state structures that are essential to enabling and ensuring the implementation of children's rights in Germany. In our view, the following eight areas warrant particular attention. The order in which these areas are mentioned is not one of priority but rather derives from the order of the thematic clusters as they appear in the Committee's reporting guidelines.
(A) General measures and implementation (arts. 4, 42 and 44, para. 6)

Legal status of the Convention and comprehensive policy and strategy

In mid-January 2021, the Federal Government put forth a draft bill aimed at incorporating children's rights into the Basic Law, Germany's constitution. In principle, we welcome the intention to incorporate children's rights in the Basic Law, but we are concerned that the wording of the bill, in its current form, falls significantly short of the standards in the UNCRC.

We recommend the Committee to ask the Federal Government to explain which steps are taken to enshrine the full scope of the UNCRC in the German Basic Law in a way that does not fall behind European and International Law.

Coordination

Germany still lacks an effective body with adequate authority to coordinate the implementation of the Convention across the various federal ministries and between the federal and Länder levels. We should also point out that, at present, only two Länder have bodies of this kind (Hesse and Saxony-Anhalt). The absence of such coordination bodies was painfully evident during the efforts to stem the coronavirus pandemic: initially, children's rights played no role in that context.

We recommend that the Committee ask the Federal Government when it intends to create a permanent national coordination body at the federal level and how it plans to forward the establishment of corresponding structures at the Länder level.

Data collection

Germany still does not have a comprehensive system in place for the collection of data across all of the areas covered by the Convention. This means that governments at both the Länder and federal level continue to lack key information necessary to obtain a comprehensive picture of the status of Convention implementation. Likewise, data and information that would greatly facilitate independent monitoring of implementation by the National CRC Monitoring Mechanism and monitoring by civil society is simply unavailable.

We recommend that the Committee ask the Federal Government when a comprehensive system for the collection of children's rights-based data will be developed and implemented at the federal and Länder levels and when progress in the development of children's rights indicators can be expected.

Independent monitoring

In your Concluding Observations on the State report of Germany in 2014, you, esteemed members of the UN Committee on the Rights of the Child, recommended that the German Federal Government establish an independent body to monitor Convention implementation and that this body be furnished with a mandate that includes the possibility of receiving, investigating and effectively addressing complaints of children's rights violations in a child-sensitive manner. The National CRC Monitoring Mechanism was set up within the German Institute of Human Rights in 2015. It is funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) as a fixed-term project whose current funding term expires at the end of 2022.
We recommend that the Committee ask the Federal Government when it plans to put the work of the independent monitoring mechanism on a permanent basis and increase the funding allocated to the German Institute of Human Rights by the German Bundestag to support monitoring of the UN Convention on the Rights of the Child.

The National CRC Monitoring Mechanism was not provided with a mandate to receive and handle complaints of children's rights violations. However, like the Federal Government, we believe that the establishment of a complaint mechanism at the national level is not currently of high priority. Rather, establishing such a structure in the direct environment of children and young people - which is to say, at the local level - should take precedence.

We recommend that the Committee ask the Federal Government when it intends to move forward, first, with the much-needed creation and expansion of child-sensitive complaint mechanisms for children in their immediate environment and then with their establishment at the Länder and federal levels.

Awareness-raising

We recommend that the Committee reiterate its previous recommendations to the federal and Länder governments, calling on them to raise awareness of the Convention among the public in Germany and to actively set about awareness raising and continuing training activities concerning the Convention for all groups that work with children. Children and their parents should be actively involved in these activities.

(B) General principles (arts. 2, 3, 6 and 12)

We would further like to request that you, esteemed members of the UN Committee on the Rights of the Child, subject the realisation of article 12, paragraph 3 of the Convention in Germany to close and careful scrutiny within the framework of the constructive dialogue with the Federal Government. We frequently encounter the misconception that children's right to be heard and have their views be considered is restricted to formal proceedings or other specific settings rather than the basis for a general right of children to participate in decision-making processes and in their society.

We recommend that the Committee again emphasise in its dialogue with the Federal Government the fact that Germany has an obligation to implement all of the rights of the child. This is particularly pertinent in view of the current draft bill aimed at incorporating children's rights into the Basic Law.
(F) Family environment and alternative care (arts. 5, 9–11, 18, paras. 1 and 2, 20, 21, 25 and 27, para. 4)

**Alternative care**

During the period under report, the federal legislation known as the Child and Youth Services Act (Kinder- und Jugendhilfegesetz, also known as Book VIII of the Social Code/ Sozialgesetzbuch, Achtes Buch) was the subject of several very welcome amendments that strengthened the position of children as right holders. At the National CRC Monitoring Mechanism, we have noted with considerable concern, however, the increase in the number of child and youth services institutions that engage in the deprivation of liberty.

We recommend that the Committee ask the Federal Government to explain why the accommodation of children in closed institutions and the use of measures that deprive children of their liberty is not prohibited in Germany and suggest that the Committee do so in language emphasizing the gravity of this issue.

We would like to stop here, having drawn attention to some of the issues highlighted in our parallel report. We hope that we have been able to provide to you, distinguished members of the UN Committee on the Rights of the Child, with helpful suggestions and information.

Thank you for your attention.

Judith Feige, Sophie Funke and Claudia Kittel

**Contact:**

German Institute for Human Rights  I  National CRC Monitoring Mechanism  
Zimmerstr. 26/27  I  10969 Berlin, Germany  
Phone: +49 30 259 359-241  
un-krk@institut-fuer-menschenrechte.de