List of Issues

Submission on the Right to Health/Access to affordable Healthcare

in response to the 6th Periodic Report of the Federal German Government on the implementation of the International Covenant on Economic, Social and Cultural Rights

Prepared for the Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights

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Submitted by the following organisations and individual researchers/doctors

- Ärzte der Welt e.V. (Médecins du Monde/Doctors of the World Germany)
- Aktionsbündnis gegen AIDS (Action against AIDS Germany)
- Ambulante Hilfe e.V.
- Berliner Aids Hilfe e.V.
- Berliner Stadtmission – Ambulant Clinic Berlin
- Dr. Kayvan Bozorgmehr, Heidelberg University
- Thomas Buhk, MD, Infectious Disease Specialist, Infektionsmedizinisches Centrum Hamburg
- Bundesweite Arbeitsgemeinschaft Psychosozialer Zentren für Flüchtlinge und Folteropfer – BafF e.V. (German Association of Psychosocial Centres for Refugees and Victims of Torture)
- Der Paritätische Gesamtverband
- Deutsche AIDS-Hilfe e.V.
- Diakonie Deutschland – Evangelischer Bundesverband, Evangelisches Werk für Diakonie und Entwicklung e.V.
- Evangelische Auslandsberatung e.V., Hamburg
- Familienplanungszentrum Berlin – BALANCE e.V. (Family Planning Centre Berlin)
- hoffnungsorte hamburg/Verein Stadtmission Hamburg
- IBIS – Interkulturelle Arbeitsstelle für Forschung, Dokumentation, Bildung und Beratung e.V. (Intercultural Centre for research, documentation, education and counselling)
- Kampagne von Medibüros/Medinetzen - Gesundheit für Geflüchtete (Health for Refugees)
- Dr. Michael Knipper, Culture, Migration and Global Health, Institute of the History of Medicine, Justus Liebig University Giessen
- Medibüro Berlin – Netzwerk für das Recht auf Gesundheitsversorgung aller Migrant*innen (Network for the Right of All Migrants to Medical Care)
- Medical Mission Institute
- MediNetz Bielefeld
- MediNetz Bonn e.V., Medizinische Beratungs- und Vermittlungsstelle für Flüchtlinge
- MediNetz Bremen
- Medinetz Essen e.V., Medizinische Flüchtlingshilfe
- Medinetz Freiburg e.V.
- Medinetz Göttingen – solidarity with migrants e.V.!
- Medinetz Hannover e.V.
- MediNetz Magdeburg e.V.
- Medinetz Mainz e.V.
- MediNetz Rhein-Neckar e.V.
- Medinetz Rostock
- Medinetz Ulm e.V.
- MediNetz Würzburg e.V.
- Medizin Hilft e.V.
- Medizinische Flüchtlingshilfe Nürnberg , Verein Grenzenlos e.V.
- Medizinische Hilfe Solingen
- Ökumenische Fördergemeinschaft Ludwigshafen GmbH
- Praxis ohne Grenzen Remscheid e.V.
- Praxis ohne Grenzen – Region Bad Segeberg e.V.
- Prof. Dr. Oliver Razum, Dean, Head of Department of Epidemiology & International Public Health, School of Public Health, Bielefeld University
- S.I.G.N.A.L. e.V., Intervention in der Gesundheitsversorgung bei häuslicher und sexualisierter Gewalt (Intervention in health care against domestic and sexual violence)
- STAY! Medinetz/STAY! Düsseldorfer Flüchtlingsinitiative e.V.
- Ver.di – United Services Union, Division: Health, Social Services, Welfare and Churches
- Verein Armut und Gesundheit in Deutschland e.V.
- Verein demokratischer Ärztinnen und Ärzte (Association of Democratic Doctors)
- Verein demokratischer Pharmazeutinnen und Pharmazeuten (Association of Democratic Pharmacists)

- Bundesvertretung der Medizinstudierenden in Deutschland e.V. (German Medical Students‘ Association) for the part on asylum seekers and undocumented migrants.

General remark:

Germany has a highly developed healthcare system. The vast majority of the population is covered by statutory or private health insurance; some groups are covered through the social service department. In the 6th Periodic Report to the committee on Economic, Social and Cultural rights, German Government states: “People in Germany can rely on a high-quality system of medical care.” Several groups of people in Germany are, however, by law or in practice excluded from coverage mechanisms and, thus, do not have access to affordable healthcare due to high out-of-pocket payments in case of lack of insurance coverage:

EU citizens

In December 2015, 4.1 million citizens from other EU countries resided in Germany. Citizens from other EU countries without formal employment in Germany do not have access to healthcare if they cannot prove their insurance in their country of origin. A recent law (from 22.12.2016, enacted since 1.1.2017) has worsened the situation (retrogression), as it excludes certain groups of EU citizens (from new EU member states, less than five years in the country, unemployed, without financial means or acquiring their residence permit through their children) from social services, including (even emergency) healthcare coverage, even if they are legally residing in Germany. Only if they show willingness to leave the country are they provided with “transitional money” – a sum below the subsistence level – for a maximum of four weeks.

Questions:

Please provide information on the implementation and impact of the recent law excluding some groups of EU citizens from access to social services, including healthcare, if they are not willing to return to their country of origin.

Please also indicate which steps are taken by the state party to ensure access to affordable healthcare for citizens from other EU countries residing in Germany.

Asylum seekers

For the first 15 months of their stay in Germany, the entitlement of asylum seekers to healthcare is by law restricted to acute illnesses and pain (Act on Benefits for Asylum Applicants, ABAA §4(1)) and can only by (often complicated and lengthy) individual case decisions be extended to other essential healthcare services - without an explicit catalogue defining what these services include (§6 ABAA). While the state party considers this level “appropriate” in its 6th Periodic Report (p. 10), these entitlements are considerably lower than the catalogue of minimum services of the statutory health insurance which is in the law defined as sufficient, adequate and according to the scientific state of the art. A recent study (Bozorgmehr, Razum 2015) has shown that the cost of restricting access to healthcare for asylum seekers is ultimately higher than granting regular access to care.

Furthermore, the lack of a clear catalogue combined with the decentralized responsibility for individual case decisions allows for substantial subjective interpretation of the ABAA by local authorities who are not medically trained. This becomes even more problematic since the recent reform of the asylum law defined that asylum seekers from certain countries with a “low probability

of acceptance" may be excluded from social welfare services, including healthcare, even after 15 months of their stay in Germany. There is neither data on the number, nor any statistics on the decisions of case applications.

Questions:

Please explain why access to healthcare for asylum seekers is restricted to a level below that of the statutory health insurance, which is defined in the law as "sufficient, adequate and according to the scientific state of the art".

Please provide data on the case decisions taken by local authorities on healthcare for asylum seekers, disaggregated by country of origin and length of stay.

Please also indicate measures taken to ensure that case decisions at decentralized levels do not violate the right to health.

Undocumented migrants:

Undocumented migrants by law have the same (restricted) access to healthcare as asylum seekers. However, they cannot make use of this entitlement in practice (except in emergencies), because applying for the coverage of the costs for non-emergency care involves sharing personal information with state officials. These are obliged to report to the police or migration authorities if someone cannot provide a valid residence permit (§87 residence act).

Questions:

Please explain why social service departments are not exempt from the obligation to report to the police or migration authorities if someone cannot provide a valid residence permit.

Please also provide information on nation-wide measures taken by the state party to ensure access to affordable and adequate healthcare without risk of reporting for undocumented migrants.