



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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The Secretariat of the United Nations (Office of the High Commissioner for Human Rights) presents its compliments to the Permanent Representative of Germany to the United Nations Office at Geneva and has the honour to refer to the Secretary-General's note of 19 September 2013, related to the initial report of Germany under the Convention on the Rights of Persons with Disabilities

The consideration of this report was initially scheduled for September 2014, during the upcoming 12th session of the Committee. During its 11th session, the Committee decided to postpone the consideration of the initial report of Germany for April 2015. This adjournment originated from the fact that the Committee needs to adjust the processing of its backlog to successive changes in the duration of its meeting time in 2014 and 2015. The specific dates of the consideration of this report will be communicated to you in due course.

In accordance with rule 41 of the Committee's Rules of Procedure, representatives of the reporting States may be present at the meetings of the Committee when their reports are examined. They will be invited to make statements on the reports submitted by their States and reply to questions which may be put to them by the members of the Committee. The Secretary-General would be grateful if he could be informed of the names and titles of the representatives that His Excellency's Government may wish to designate for the above purpose prior to the eleventh session. The Committee would like to encourage the inclusion of persons with disabilities in the delegation.

In preparation of the consideration of the report of Germany, the Committee has adopted a list of issues (CRPD/C/DEU/Q/1 – advanced unedited version), aimed at supplementing the report with additional information to enable the Committee to assess the state of implementation of the rights provided for in the Convention. The Committee would be grateful to receive written replies to the list of issues by no later than 25 July 2014, in hard copy and in an accessible electronic form (in WORD 97-2003). It would facilitate the work of the Committee if the replies could also be submitted in Braille transcription, should there be any possibility to do so.

For further information, please contact Mr. Jorge Araya, Secretary of the Committee on the Rights of Persons with Disabilities at jaraya@ohchr.org or at 022 917 91 06 or the Committee's assistant Mr. Robert Ouko at rouko@ohchr.org or at 022 91 79 703.

The Secretariat of the United Nations (Office of the High Commissioner for Human Rights) avails itself of this opportunity to renew to the Permanent Representative of Germany to the United Nations Office at Geneva the assurances of its highest consideration.

22 April 2014



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

List of issues in relation to the initial report of Germany*

A. Purpose and general obligations (arts. 1-4)

A. General Obligations (art 4)

1. Please provide information for each of the 16 Länder on their understanding and implementation of their legal obligations of the United Nations Convention on the Rights of Persons with Disabilities and on their action plans for implementation, including how the human rights of the most marginalised groups are addressed, for example people in institutions.
2. Please state to what extent organisations of persons with disabilities have participated in the development and monitoring of national European Social Fund programmes and to what extent will the persons with disabilities benefit from these programs.
3. Please explain what measures have been taken to ensure that both existing and new legislation complies with the United Nations Convention on the Rights of Persons with Disabilities. How have the Federal and Länder Governments harmonized their existing and draft legislation with the obligations under the Convention?

B. Specific rights

Equality and non-discrimination (art. 5)

4. Please provide a timescale of when the legal right to reasonable accommodation will be put into place by both Federal and Länder Governments, including policies that indicate the denial of reasonable accommodation as discrimination as raised in the Universal Periodic Review (A/HRC/WG.6/16/DEU/1, 2013).

Accessibility (art.9)

5. What plans does the State party have to extend legal requirements to enable barrier-free access to private entities providing goods and services to the public, as raised in the Universal Periodic Review (A/HRC/WG.6/16/DEU/1, 2013)?

* Adopted by the pre-sessional working group at its first session (14-17 April 2014)

Equal recognition before the law (art. 12)

6. Please provide an update on any changes made to the existing guardianship system, including details of measures taken to provide supported decision-making where substituted decision-making currently takes place.

7. Please clarify how the term 'reservation of consent - *Einwilligungsvorbehalt*' (where the individual retains legal capacity to act on his/her own behalf, only when he/she subjects to the consent of the guardian) complies with Article 12.

Access to justice (art. 13)

8. Please provide updated information on procedural accommodations and accessibility improvements in law enforcement agencies and courts in order to improve access to justice for persons with disabilities.

9. Please clarify whether both Federal and Länder courts are subject to the legal obligations under the United Nations Convention on the Rights of Persons with Disabilities.

10. Please provide information on whether persons with disabilities living in specialized centres have access to complaint mechanisms, as mentioned in the Universal Periodic Review (A/HRC/WG.6/16/DEU/1, 2013).

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

11. Section 40 of the *Arzneimittelgesetz* allows persons with reduced legal capacity, for example, children with disabilities to be the subjects of scientific research without their free and informed consent. Please explain how this practice is in compliance with Article 15, paragraph 1, of the Convention.

Freedom from exploitation, violence and abuse (art. 16)

12. How many irreversible surgical procedures have been undertaken on intersexual children before an age at which they are able to provide informed consent? Does the State party plan to stop this practice?

13. Please provide up to date statistics on forced sterilizations of persons, i.e. without their free and informed consent.

Protecting the integrity of the person (art. 17)

14. Please provide information on the numbers of cases in which compulsory and involuntary treatment has been conducted since February 2013 and in how many cases the new legislation (Section 1906 of *Bürgerliches Gesetzbuch*) was invoked.

Living independently and being included in the community (art. 19)

15. Please provide updated information on de-institutionalisation in relation to housing (including accessible infrastructure) and psychiatric hospitals.

16. Please provide a breakdown of comparable costs for persons with disabilities to reside in a) an institutional facility, including cost of agency fees (*Mehrkostenvorbehalt*) and b) independent living in the community.

Respect for home and the family (art. 23)

17. Please indicate what support is given to parents to take care of children with disabilities, whether working or otherwise, to enable children to remain at home rather than reside in an institution.

Education (art. 24)

18. Please provide the rate of inclusion between 2008 and 2014 of children with disabilities by percentage and in numbers disaggregated by External and Integration Classes and for each Land (State).

19. What measures has the Federal Government taken to ensure that the Länder comply with the obligation of article 24 to develop an inclusive education system? As mentioned in the Universal Periodic Review (A/HRC/WG.6/16/DEU/1, 2013), please provide details of plans by the Länder, including budget allocation and evidence of understanding the legal obligations under the United Nations Convention on the Rights of Persons with Disabilities.

Work and employment (art. 27)

20. As the number of persons with disabilities permanently employed in the 700 segregated sheltered employment workshops continues to rise, what measures are being put in place to support persons with disabilities to participate in the open labour market, as mentioned in the Concluding Observations of the Committee on Economic, Social and Cultural Rights, (E/C.12/DEU/CO/5, 12 July 2011) and the Universal Periodic Review (A/HRC/WG.6/16/DEU/1,)

21. Please provide information on the number of workplaces that have implemented provisions relating to accessibility (*Arbeitsstättenverordnung*) and the numbers of employers who have provided reasonable accommodation according to the workplace regulations).

Participation in political and public life (art. 29)

22. Please provide information on persons with disabilities who are excluded from the right to vote and what changes are required so that all persons with disabilities have the ability to participate in elections.

C. Specific obligations**Data and statistics (art. 31)**

23. Please explain what measures are envisaged to develop a human rights-based indicator system in cooperation with persons with disabilities and their representative organisations as well as a comprehensive data collection system that includes children with disabilities as recommended by the Committee on the Rights of the Child (CRC/C/DEU/CO/3-4).

International cooperation (art. 32)

24. Please provide an update on steps taken to measure the degree of mainstreamed action towards persons with disabilities in the general programs and projects as well as the quality and impact of programs and projects which specifically target persons with disabilities including details of budget allocation.

National implementation and monitoring (art. 33)

25. What initiatives have been taken to ensure full coordination of the work of Disability Commissioners between the 16 Länder and with the Federal Government individually and collectively?
