



## Response to paragraph 36 of the Concluding Observations of the Committee on the Rights of Persons with Disabilities

### A. General Remarks

In accordance with Article 20 (1) of the Basic Law, the Federal Republic of Germany is a federal state. The Federal Government and the *Länder* governments consequently perform their constitutionally defined duties autonomously on their respective level as a fundamental rule. As a result the Federal Government generally has no right to intervene in matters of the *Länder* governments.

For this reason the following statements present the activities of the Federal Government and the *Länder* governments separately from one another except in those cases where the respective activity is a joint activity between the federal and *Länder* levels or the activity is presented for both the federal and *Land* levels due to a shared thematic context.

**The protection of women and girls with disabilities against violence is an integral part of all strategies** to further develop assistance systems and of all measures to improve the right to protection against violence for women and girls who are victims of violence. This is a challenge that all government levels address and take into account within the scope of their respective responsibilities and their available budgetary resources. For this reason, Germany does not have a separate national violence protection strategy, in other words a strategy that focuses exclusively on the target group of women and girls with disabilities, which incidentally would not be consistent with the aim of giving preference to inclusive solutions. Within the scope of its competence, the Federal Government provides for the protection of women and girls with disabilities in various contexts with numerous federal-level measures which generate different kinds of impetus in a variety of places. These involve, on the one hand, targeted measures to prevent violence, particularly in facilities, by for example raising the awareness of the responsible persons on the ground and, on the other hand, providing women and girls with disabilities who are victims of violence guidance and assistance by establishing suitable counselling, assistance and support services. As provided for in the Basic Law, the Länder are primarily responsible for providing a diversified network of support services and activities, and fulfil their responsibilities accordingly (**see part C for further details**). For example, the Conference of Equality and Women's Affairs Ministers (GFMK) which brings together all relevant ministers in the individual *Länder* and is also attended by

the competent federal ministries has dealt a number of times with the continued development of structures to support and advise abused women and their children and has set up a Working Group on Women's Shelters and Victim Support Centres. The issue of women with disabilities and their access to assistance and counselling services in the event of violence comprises one of the focuses of the working group's work. Its aim is to develop proposals for the continued development of the assistance system. In addition, the 22nd GFMK held on 14/15 June 2012 adopted a resolution to work, also against the backdrop of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), to markedly improve the protection of women with disabilities or impairments, to enable their access to support facilities and services and to develop effective measures to resolutely and consistently halt violence.

## **B. Individual activities at federal level**

### ***1. Regarding the first part of the Concluding Observation 36***

*"The Committee recommends that the State party (1) provide a comprehensive and effective **strategy** with adequate funding to ensure that **women and girls with disabilities are effectively protected against violence** in all public and private settings.*

#### **1. "Violence against Women support hotline"**

The "**Violence against Women support hotline**" was set up in 2013 as a central, nationwide, low-threshold, readily accessible, anonymous and free of charge service for (initial) counselling and referral to support services and facilities in the area (gatekeeper function). This hotline was designed to be barrier-free so that abused women with impairments can also access advice and assistance. Advisory services - in several languages and confidential - are available 24 hours a day by telephone and through a website; they are also offered with the help of a sign language interpreter 15 hours a day. The website is also barrier-free and the professionals working on the hotline have received additional training in order to be able to respond adequately to the special needs of women with a disability or impairment. Family members, friends and skilled personnel can also contact the hotline at 08000 116 016 or log onto the website [www.hilfetelefon.de](http://www.hilfetelefon.de) with their questions. Findings to date show that women with all types of disabilities and impairments make on-going use of the hotline. All in all, the hotline reported some 155,000 contacts and 72,000 consultations by phone, internet or e-mail during the three years it has been in operation. The Federal Government Commissioner for Matters Relating to Disabled Persons supports the work done by the hotline by drawing attention to this service especially in facilities for persons with disabilities and thus

raising awareness of the hotline. The Commissioner's website also publicizes the services offered by the hotline and contains a direct link to the hotline's website.

## **2. National pilot project "Beraten und Stärken" (Advise and Empower)**

The Federal Government funds the **national pilot project "Beraten und Stärken" (BeSt - Advise & Empower)** with the aim of protecting girls and boys with disabilities against sexual violence in institutions. This pilot project was launched by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), the Federal Government Commissioner for Matters Relating to Disabled Persons and the Independent Commissioner for Questions related to Child Sexual Abuse (UBSKM) in late June 2015. The project is being conducted in cooperation with the Deutsche Gesellschaft für Prävention und Intervention bei Kindesmisshandlung und -vernachlässigung e.V. (DGfPI - German Society for Prevention and Intervention in Cases of Child Abuse and Neglect), the Zentrum für Diagnostik und Förderung (ZeDIF - Centre for Diagnostics and Development) of the Human Sciences Faculty of the University of Cologne, and specialized counselling services.

In this connection the DGfPI along with ten collaborating competence centres against sexual violence is implementing until the end of 2018 three key measures on a pilot basis in 80 to 100 facilities throughout Germany in which girls and boys with disabilities live and are cared for:

- Implementation/Optimization of child protection plans based on the guidelines "Sexual Abuse of Children in Relationships of Power and Dependency in Public and Private Institutions and Within the Family" which the Round Table issued in 2011;
- Awareness-raising and training for the management personnel and employees of these facilities regarding the subject of sexual violence;
- Conducting and implementing prevention activities for girls and boys living in these facilities.

Girls and boys with disabilities and their interests are incorporated into the project. Therefore the most important national special-interest and self-advocacy organizations were first of all invited to an exchange of information and experience between specialists at the start of the project in June 2015.

These organizations are to receive regular progress reports about the project and their expertise is to be incorporated into the further planning and evaluation of the project. The (semi-)stationary facilities participating in the project will also discuss participation options for girls and boys with disabilities who reside there. The children and juveniles living in these facilities also take part in prevention and empowerment programmes designed to protect

against (sexual) violence and /or are involved in the development of, for example, complaint processing procedures. Joint parents' evenings are also planned.

### **3. Funding and projects implemented by interest groups and networking agencies**

**The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) has supported the political representation of the interests of women with disabilities in Weibernetz e.V. for several years now for the purpose of adjusting measures to protect women with disabilities against violence and increasing and further developing equal opportunities for women with disabilities.** Weibernetz e.V. continues to be the only central national organization of women with disabilities for women with disabilities. This self-advocacy organization for women with disabilities has extensive expertise, practical know-how and knowledge of possible multi-dimensional discrimination or cross-disability dimensions. Funding is provided for this self-advocacy organization in keeping with Article 4 (3) of the UNCRPD, under which Germany is obligated to actively include the parties concerned in the development and implementation of the required measures.

**The BMFSFJ continues to fund the Association of Women's Shelters (Frauenhauskoordination e.V., since 1997) and the Federal Association of Women's Counselling Centers and Rape Crisis Centres (bff, since 2005).** These networking agencies additionally use this funding to implement measures for the target group of women with disabilities in order to improve this target group's access to the women's assistance system. Both networking agencies have conducted numerous campaigns in recent years to reduce barriers and increase accessibility to the counselling centres and women's shelters for women with disabilities. These activities include the **manual "Guidelines for the First Contact with Abused Women with Disabilities"** which the bff, Frauenhauskoordination and Weibernetz e.V. developed together. The national Association of women's shelters, the women's counselling centres and the women's emergency hotlines / rape crisis centres additionally offer **information in Easy Language and in German Sign Language on their websites.** Various other materials have also been developed for use when counselling abused women with disabilities.

The Federal Association of Women's Counselling Services and Rape Crisis Centres (bff) has been conducting the project "Suse - Safe and Self-determined. Empowering Women and Girls with Disabilities" since 2014. The aim of this project is to make it easier for women and girls with disabilities to obtain help. The activities being undertaken to achieve this include strengthening and developing regional networks at various locations. Nationwide points of contact and assistance services, such as counselling centres, therapists for abused women and girls with disabilities, and attorneys, can be found on the online platform Suse Helps.

The Federal Government Commissioner for Matters Relating to Disabled Persons holds or attends meetings to support this project at political level.

The bff has also been conducting the **project “Access for Everyone”** since 2010 with the aim of making it easier for women and girls with disabilities to access specialized counselling services.

The **Daphne research project “Access to Specialized Victim Support Services for Women with Disabilities Who Have Experienced Violence”** was supported by the European Commission in connection with the Daphne III Programme and concluded in January 2015. This project examined the quality of and the possibilities for accessing various support institutions in terms of their accessibility for women with disabilities who have been or are subject to violence. The Federal Government Commissioner for Matters Relating to Disabled Persons provided support for the project and regularly shares information relating to the project with the University of Gießen.

#### **4. Implementation of measures against child sexual abuse**

The Independent Commissioner for Questions related to Child Sexual Abuse (UBSKM) supports the **implementation of the recommendations issued by the Round Table on Child Sexual Abuse** with regard to prevention and intervention to protect all children and juveniles against sexual violence. The implementation of tailored protection concepts, as called for by the Round Table for all facilities in which adults work with children and juveniles, is initiated and expressly promoted through corresponding agreements with umbrella organizations in civil society (e.g. churches, charitable organizations, the German Olympic Sports Confederation) with nationwide monitoring of the state of prevention in collaboration with the German Youth Institute and the campaign “No Room for Abuse” for example at school administrators and teachers.

### ***II. Regarding the second and third parts of the Concluding Observation No. 36***

***(2) It also recommends that the State party immediately establishes or designates an independent body or bodies in accordance with Article 16 (3) of the Convention and***

***(3) ensure that complaints linked to incidents in institutions are handled independently.***

#### **1. National Agency for the Prevention of Torture**

The **National Agency for the Prevention of Torture** is to be cited with regard to the recommendation to establish or designate an independent body / independent bodies pursuant to Article 16 (3) of the Convention. The National Agency is Germany’s national preventive mechanism under Article 3 of the Optional Protocol to the UN Convention against Torture

and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). It consists of a Federal Office and a *Länder* Commission. The National Agency has the task of preventing torture and other cruel, inhuman or degrading treatment or punishment at places of detention. For this purpose it primarily conducts inspections at places of detention and submits recommendations to the competent authorities. Under Article 4 of the Convention, a place of detention is any place where persons are or may be deprived of their liberty or their liberty is or may be restricted, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence.

This establishes the National Agency's competence for public and private facilities when residents are not permitted to leave it at will by virtue of a decision issued by a judicial, administrative or other authority or their freedom is otherwise restricted at the instigation of an authority. The National Agency has had little experience to date with the specific issue of violence against women and girls with disabilities. However in nearly all the different types of facilities inspected, it is informed of a growing number of persons with mental disorders and in some cases mentally ill persons. As a result, greater attention is being directed to this subject from the point of view of preserving human dignity. The National Agency is meanwhile also in a better position to do so due to an increase in the number of its members from the psychology, child and adolescent psychology and psychiatry fields.

## **2. Women's affairs representatives in residential institutions and sheltered workshops for persons with disabilities**

Women's affairs representatives in residential institutions and sheltered workshops for persons with disabilities can be tasked to function as an independent body / independent bodies in accordance with Article 16 (3) of the UN-CRPD or to ensure that complaints linked to incidents in institutions are handled by an independent body.

From October 2008 until May 2011 the BMFSFJ funded the project "Women's Affairs Representatives in Residential Institutions and Workshops for disabled Persons" which was conducted by the previously mentioned Weibernetz e.V., a political advocacy group for women with disabilities. At the political level this project was supported by the Federal Government Commissioner for Matters Relating to Disabled Persons supported this project at political level. In the course of this pilot project Weibernetz e.V. tested the initiation of women with learning disabilities as women's affairs representatives in workshops and residential facilities. The outcome of the project showed that women with learning disabilities are quite capable of training and working as women's affairs representatives. Women's affairs representatives constitute a new and effective instrument for equal rights as well as for prevention and intervention with regard to violence against women with disabilities. Against this backdrop, the

current **project “Women’s Affairs Representatives in Institutions - An Idea Worth Emulating”** - which is being funded by the BMFSFJ and several *Länder* - aims at steadily increasing the number of women’s affairs representatives and at raising public awareness; thus aiding in disseminating the training of women’s affairs representatives. For this reason, courses in training women as women’s affairs representatives in facilities will be conducted throughout Germany through September 2016. Together with their assistants(aides?), women’s affairs representatives in facilities are effectively helping in making violence against women with disabilities an issue. Consequently, the aim is at installing women’s affairs representatives in facilities in Germany on a permanent basis. These projects also led to the insight that long-term networking is important for enabling the sharing of experience and information between women’s affairs representatives. As a result, concepts are currently being developed together with partners from civil society that can be used to afford women’s affairs representatives further support. Based on the positive results from this project, the Federal Government will propose that the legislature embody **women’s affairs representatives in sheltered workshops for persons with disabilities** in law. Women’s affairs representatives are to serve as points of contact for disabled women employed in sheltered workshops and represent their interests vis-à-vis the sheltered workshop management.

### **3. Protection against violence in care settings**

Book XI of the German Social Code provides for various inspection instruments and sanctions in connection with long-term care facilities. As part of the **quality control inspections (routine inspections)** it is required to conduct by law, the Medizinischer Dienst der Krankenkassen (MDK - medical review board of the health insurance funds) inspects all licensed long-term care facilities once a year to determine compliance with the quality requirements laid down in Book XI of the Social Code and the agreements concluded on the basis thereof (Book XI, section 114, Social Code). The MDK’s experts conduct these inspections according to guidelines that apply nationwide. These experts are functionally autonomous in their work. The routine inspections include a visual check of persons in need of long-term care as well. These visual checks are conducted on a random basis. No advance notification is given for inspections of stationary long-term care facilities. **Ad hoc inspections** can also be conducted, **for example in response to a complaint**. The regional associations of long-term care insurance funds decide on the basis of the inspection report if and which **remedial measures** are necessary. When the services rendered by a long-term care facility do not meet the quality requirements or are not provided effectively, termination of contracts with the facility or a reduction of the care service fees can be considered in the respective case.

In addition to the inspections conducted by the MDK, the respective *Land* (or municipal) supervisory body for residential facilities also conducts regulatory inspections. When shortcomings that have been identified or are imminent have not been remedied, orders can be issued to the long-term care facility that are necessary to remedy an existing or avert an imminent impairment of resident welfare and to enforce the duties incumbent on the long-term care facility. Should it not be possible to ensure the care of further persons due to the identified shortcomings, there is the possibility to prohibit the admission of additional persons to the facility. When orders to remedy the shortcomings are not sufficient, it is possible to prohibit the provision of residential and long-care services.

In connection with the issue of “violence in care settings”, **psycho-social risk management methods** are particularly being discussed in Germany as potential **preventive measures** for avoiding excessive stress due to too much work and too many demands in care settings. The Federal Ministry of Health funded a **national “Non-violent Care” project** to show how to establish structures for preventing violence in order to protect elderly persons and persons who need long-term care and what steps need to be taken to ensure that complaints are handled by an independent body.

The existing range of advisory and information services offered by the Care Hotline was expanded on 1 January 2016 to include advisory services for persons in particularly stressful situations. The BMFSFJ Care Hotline was established in 2011. It provides information on statutory benefits and new regulations such as regarding the Act to Improve the Reconciliation Between Family, Caregiving and Work Responsibilities, or the benefits provided by long-term care insurance. It also serves as a guide to other services offered at national and *Land* level. Collaborative activities have been developed with the Telephone Crisis Counselling Service, Alzheimer helpline and the Federal Association of Crisis Hotlines. The Care Hotline team can be reached at the number 030 / 20179131 Mondays through Thursdays from 9 a.m. until 6 p.m. Calls remain confidential and anonymous.

### **C. Activities at Länder level**

Germany’s *Länder* have provided comments on the measures they use to implement the recommendations of the UN Committee on the Rights of Persons with Disabilities in the individual *Länder* on the basis of various sets of questions. Their comments regarding **content** are based on questions regarding strategies for violence protection in public and private settings, suitable measures, statutory provisions, requirements for special training measures, for initial and further training, and the recruitment of suitable personnel, plus the inclusion of persons with disabilities. With respect to **structure**, the *Länder* answered questions regarding existing



independent points of contact that deal with this issue, institutions and offices that function along the lines of a complaint management system, and considerations and plans for ways to have complaints handled by independent bodies. The **attached appendix** contains further details.

**In summary**, the following statements can be made regarding the *Länder*: First of all, the **subject of violence prevention is high on the agenda** in the *Länder* and is firmly established in corresponding **Land action plans, protection concepts and strategies for violence protection and prevention**. It is therefore also a key element of the political mandate in the *Länder*. This is also coupled with a large number of measures in various areas of life (preschool area, school, one's own home, facilities for persons with disabilities, etc.) and specific requirements for the initial, advanced and continuing training of personnel and the attendant funding by the *Länder*. In this connection, the individual *Länder* often have special areas of focus.

In addition to comprehensive strategies to establish fundamental goals for combatting and preventing violence, the *Länder* have a wealth of measures developed in response to specific local situations. A number of *Länder* do not consider it expedient to develop an overall national plan because it would not take local and regional particularities sufficiently into account. Reflecting the different areas of focus in the individual *Länder*, there are **many different Länder standards** that serve to protect women and girls with disabilities. These range from laws governing the education system to laws on forms of residential accommodations and participation all the way to norms regulating assistance and protective measures for persons with mental illness or disabilities.

Violence protection strategies and corresponding measures are financed through the *Land* budgets. It should be noted that in the *Länder* **persons with disabilities and their organizations are incorporated into and take part in the development and monitoring of concepts and plans and in the implementation of measures**.

With regard to the recommendation made by the UN Committee on the Rights of Persons with Disabilities concerning the establishment of an independent body in accordance with article 16 (3) of the UNCPRD it should be noted that the *Länder* have **numerous administrative and regulatory bodies that are responsible for ensuring compliance with violence protection strategies and measures**. Examples range from supervisory bodies for care and nursing care services to school authorities to points of contact in the forensic psychiatry system and the *Land* Commissioners for the Concerns of Persons with Disabilities. These examples clearly illustrate the broad spectrum of bodies that are already in place for specific

needs. In addition to this, there are also superordinate bodies (such as the *Land* Coordination Office for Combatting Violence Against Women).

In summary it can be said that the *Länder* have a large number of concepts, plans, strategies and measures that serve to protect women and girls with disabilities. The priorities of the individual concepts and plans can be explained by or implied from *Land*-specific and federal conditions and requirements.

#### **D. Outlook**

Germany's federal structure offers the basis for a number of measures, concepts and plans to implement Recommendation 36 of the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities. However, discussing and coordinating plans and strategies on a nationwide and cross-*Land* basis is also effective for ensuring equal living conditions for persons with disabilities in Germany.

Consequently regular talks between the federal and *Land* governments that take the aforementioned resolution of the 22nd Conference of Equality and Women's Affairs Ministers (GFMK) into account should be conducted as part of the further examination of Recommendation 36 of the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities. It is planned to include **a corresponding measure in the Federal Government's revised National Action Plan to Implement the UN-CRPD (NAP 2.0)**. The Federation-*Länder* talks aim to conduct an in-depth inventory of existing measures to protect persons with disabilities in general and to protect women and girls with disabilities in particular, and to **identify areas where further action is possibly needed** in order to implement Recommendation 36 on the basis of this report. In addition a working group that deals with possible legislative action or administrative measures to prevent violence in order to protect persons with disabilities was established during the Conference of Labour and Social Affairs Ministers of the *Länder*. The Federal Government supports this initiative.

The aforementioned efforts being undertaken by the Federal Government and *Länder* could subsequently be addressed in the next State Report that Germany has to prepare in 2018/2019.