



The Right to Equality

The status of CEDAW's implementation in Germany

Statement by CEDAW Alliance Germany on the 40th anniversary of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the 25th anniversary of the Beijing Declaration and Platform for Action

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Note on Writing Style

CEDAW-Allianz Deutschland uses asterisks (*) for gender-specific terms in order to overcome gender stereotypes and incorporate diverse gender identities. When this text references external sources, we do not use the asterisk, as those sources currently only consider the categories “women” and “men” and do not reflect the legal reality regarding civil status. Since 22 December 2018, people who identify as neither male nor female have been able to leave the gender field blank in personal documents, or explicitly select the option “other”.

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LIST OF ABBREVIATIONS

BJA	Federal Criminal Police Office
BMFSFJ	Federal Ministry for Family Affairs, Senior Citizens, Women and Youth
BMI	Federal Ministry of the Interior, Building and Community
BMZ	Federal Ministry for Economic Cooperation and Development
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRPD	Convention on the Rights of Persons with Disabilities
EU	European Union
GAP II	Gender Action Plan II
GDR	German Democratic Republic
GGO	Joint Rules of Procedure of the Federal Ministries
GM	Gender mainstreaming
GPA	Agreement on Government Procurement
ILO	International Labour Organization
LGBTIQ	Lesbian, gay, bisexual, trans, intersex, queer
MIPAA	Madrid International Plan of Action on Ageing (United Nations)
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
SDG	Sustainable Development Goals
STEM	Science, technology, engineering, mathematics
StGB	German Criminal Code
UN	United Nations

UNCED	United Nations Conference on Environment and Development
UNFCCC	United Nations Framework Convention on Climate Change
WHO	World Health Organization
WSI	Institute of Economic and Social Research
WTO	World Trade Organization

INTRODUCTION

The Convention on the Elimination of All Forms of Discrimination Against Women was adopted by the United Nations General Assembly on 18 December 1979 and instituted on 3 September 1981. CEDAW is considered the most important international legal mechanism supporting the human rights of girls* and women*. It prohibits any form of discrimination on the basis of sex or sexual identity in all areas of life. All signatories – including the Federal Republic of Germany – are called upon to take action to achieve genuine equality between the sexes. They are required to present the CEDAW Committee with periodic country reports about what has been done to comply with and implement the provisions of CEDAW.

On the occasion of the 40th anniversary of CEDAW and the 25th anniversary of the Beijing Declaration and Platform for Action, *CEDAW-Allianz Deutschland* presents the German Federal Government with a statement on the current status of women's rights in Germany. This statement was compiled by *CEDAW-Allianz Deutschland* as part of the regular procedure for reviewing the implementation of CEDAW. It uses selected examples to describe what has been done to eliminate all forms of discrimination on the basis of gender in Germany from a civil-society perspective.

1 GENERAL TOPICS

1.1 Shaping a gender-equitable digital transformation

The digital transformation is well underway in all areas of life. It is already having a significant impact on our society's economic, political, social and cultural frameworks. It is therefore of particular importance that this transformation, which will bring about change to the whole of society, does not replicate or exacerbate existing structural gender-specific discrimination.¹

Gender-sensitive education is a prerequisite and a tool for shaping the digital transformation in a fair and equitable way. However, it is becoming obvious that a divide between the sexes exists in this area, to the disadvantage of girls and women.² The digital transformation is also having a major impact on the world of work. At the labour market level it has an immediate effect on employment prospects and circumstances, and at the company level it influences actual working conditions. Also, for years now political will has increasingly been formed via digital communication: campaigns and civil-society initiatives online must be equally accessible and equally safe for all genders. Cyber violence against girls* and women* represents a major obstacle to equal participation in digital communication.

We welcome the fact that the federal government's "Digitalisierung gestalten" implementation strategy recognizes digitalization as a cross-cutting issue of relevance for all policy areas.³ However, it seems that the federal government only sees a need for a gender-policy approach within a few specific areas such as protecting girls and women from cyber violence, and the STEM action plan. For example, the federal government's "Strategie Künstliche Intelligenz"⁴ and the digital strategy of the Federal Ministry of Education and Research "Digitale Zukunft: Lernen. Forschen. Wissen"⁵ include no gender-specific approaches. The European Parliament released its report on "gender equality and empowering women in the digital age"⁶ on 28 April 2016, and yet many of the investments intended to set the future course of research, economy and infrastructure that are earmarked in the German government's draft budget for 2020 include no measures for achieving gender equality.

CEDAW-Allianz Deutschland asks the CEDAW Committee to add to its list of general recommendations another that makes explicit reference to the digital transformation and its potential for discrimination on the basis of gender.

1.2 Countering antidemocratic movements

CEDAW text: Paragraph 10 of the chapeau; Articles 1, 2d, 2e, 7

CEDAW Committee concluding observations of 2017: para. 25e

Right-wing populism and extremism are gaining ground in Germany. These groups do not support gender equality; instead, they emphasize the “natural” differences between men and women. Antidemocratic, anti-pluralist and antifeminist stances are no longer confined to the fringes of society. Right-wing populists and extremists denigrate efforts to eliminate existing discriminations on the basis of gender, issuing hostile calls to fight against what they refer to as “gender ideology”. Almost all of Germany’s parliaments now have members who represent right-wing populist parties. These politicians propagate misogynistic attitudes in their interpellations and motions, calling, for example, for cuts to measures that promote, advise and support girls and women.

Despite the shortcomings that the CEDAW Committee listed in its concluding observations of 2017, the federal and state governments are still failing to pursue a coherent equality and antidiscrimination policy. While we welcome the “Live Democracy!”⁷ federal programme to prevent racism and promote democracy, this in itself will not be enough to halt the increasing hostility towards women’s rights expressed by people with fundamentalist and right-wing populist and extremist views. The inadequate response of the federal and state governments is putting girls* and women* at risk, especially those who suffer from intersectional discrimination due to their ethnicity, religious beliefs, sexual orientation, sexual identity, and/or physical appearance. This significantly hinders them in exercising their right to equal economic, cultural, social and political participation.

Some actors who champion the rights of these groups are already experiencing physical violence. The authorities are also aware of “enemy lists” drawn up within right-wing circles.⁸ Activists are usually not informed about whether they feature on such lists, and with what personal information, as the BMI and BKA do not consider them to pose a risk. This creates a decrease in internal security: Shrinking space is now a reality in Germany for girls* and women* human rights defender and other activists. Women’s* right to participate, as laid down in CEDAW, is not being upheld here and the situation is hampering scope for action within civil society – this despite the fact that the federal government is obliged to guarantee domestic peace and security.

2 STEREOTYPES, EDUCATION, PARTICIPATION

2.1 Stereotyped gender roles

CEDAW text: Article 5

CEDAW general recommendations: paras. 3, 25 and 27

CEDAW Committee concluding observations of 2017: paras. 21 and 22

Gender roles in society

Discriminatory stereotypes with regard to the societal roles and tasks of girls* and women* are hindering progress towards gender equality. Germany continues to pursue a policy of false incentives – such as “Ehegattensplitting” (splitting the difference in spousal income for tax purposes), regulations on marginal employment, and taxation of single parents – meaning that inequalities are constantly replicated and further solidified.

Gender clichés and sexism are not only rife in advertising, but in political campaigns also.⁹ Germany does not provide sufficient protection from gender-discriminatory and racist advertisements. The German Advertising Standards Council cannot provide adequate protection as it is not permitted to ban advertising and does not have sufficient sanctioning and enforcement powers.

The new media also contribute considerably to the perpetuation of traditional gender stereotypes. These media are playing an increasingly significant role in publicity campaigns, election campaigns and civil-society initiatives. Individuals can only help shape politics and society if they are visible and if they feel addressed. Girls* and women* must be encouraged to participate more strongly in online discourse so that they and their concerns become more visible, and gender equality can be achieved. However, recent studies show that girls and women are underrepresented in the new media and often depicted in a stereotypical way.¹⁰

2.2 Education

CEDAW text: Article 10

CEDAW general recommendations: para. 3

Key actors in our education system repeatedly emphasize the significance of digital skills for everyone – children, teenagers, and adults of all ages. However, while there is recognition that girls* and women* have not yet equally benefited from these processes, that fact receives little attention in the strategy papers of the federal¹¹ and state¹² governments. The reasons why so few women* work in STEM professions can mainly be found in the education system, i.e. in the ingrained gender-stereotyped education and upbringing provided by parents, teachers, other educators, and careers advisors, who attribute different specific skills and abilities to girls* and boys*. Girls' interest in STEM subjects is promoted less in German schools and households than in many other European countries.¹³ The inadequate response of the federal and state governments and the lack of political measures and goals to promote gender equality within digitalization strategies have a negative impact on the educational success, the professional training and development, and the social participation of girls* and women*. This is also causing a widening of the digital gender gap.¹⁴

2.3 Participation in decision-making bodies

CEDAW text: Articles 2, 3, 7c

CEDAW general recommendations: paras. 23 and 27

CEDAW Committee concluding observations of 2017: paras. 17a, 17b, 31 and 32

Decision-making in politics

Seventy years after equality before the law was enshrined in Article 3 of the German Basic Law, women* remain at a structural disadvantage in political decision-making bodies.¹⁵ The various political parties have different internal rules for increasing the number of women in their ranks, and so the percentage of women in the parties varies from 11% to 58%. Following the federal elections in 2017, the percentage of women members of parliament dropped to 30.7%, the same level as in 1998. The situation in the state parliaments is similar, with percentages ranging between 26.6% and 40.6%. Women are represented even less at municipal level, with an average share of 27%.¹⁶ Women with an immigrant background are underrepresented to an even greater degree. At federal, state and municipal level, the number of immigrant members of parliament does not remotely correspond to the actual share of immigrants in the population. Thus, German parliaments do not reflect the diversity of our society. In addition, the various concepts

and regulations do not grant any participation and codetermination rights for people who select the gender “other” or leave the field blank.

Decision-making in healthcare

While women* make up around two thirds of healthcare workers – that is, employees of hospitals, doctors’ surgeries, health insurance companies, institutions and associations – they are consistently underrepresented in decision-making and executive positions and bodies in the healthcare sector. In many organizations, women* do not make up even 10 % of management staff. Although 60 % to 70 % of medical students are women, only 10 % of women doctors occupy the top positions.¹⁷

Decision-making in the voluntary sector

Germany has around 580,000 registered associations, and they play a hugely important role in the country’s social, political, economic and cultural life.¹⁸ Studies show that too few women occupy leading positions in the voluntary sector.¹⁹ Unequal hierarchies prevail in the choice of delegates and in the filling of roles such as secretary, treasurer, board member, deputy and chairperson. The discrepancy grows wider as one moves from the local and regional level to the state and federal level. It is difficult to establish a gender-equitable association culture when there is a lack of role models and of templates for aspects such as statutes, selection procedures, arbitration, financial regulations and procedural rules, and of guidelines for governing civil-society organizations. We welcome the current work on setting up the “Deutsche Stiftung für Engagement und Ehrenamt” (German Foundation for Voluntary Work and Civic Engagement),²⁰ although it is not yet clear to what degree promoting gender equality and diversity will truly be incorporated as a cross-cutting objective.

3 INSTITUTIONAL MECHANISMS

3.1 Gender mainstreaming

CEDAW Committee concluding observations of 2017: paras. 17a, 17b, 18a and 18b

Institutional mechanisms can be tools for implementing equality policy. They must be made binding. Gender mainstreaming is a far-reaching strategy as it calls on all ministries to formulate and achieve equality objectives at all levels – federal, state and municipal. The more successfully that is implemented, the more effectively women's* rights will be enforced, and the more equitable gender relations will be. Germany is not lacking in resolutions and agreements, but the political will to implement them is not present everywhere.

Thus far, progress in achieving gender mainstreaming has been slow in Germany. There is no legal basis for the application of GM methods, and there is a lack of structures for their implementation and for training the relevant actors. Consequently, no incentives for implementing GM are being created, no accountability obligation exists, and no evaluations are assured. In addition, there is no national plan of action for achieving gender equality that defines precise goals, indicators, measures, deadlines, monitoring strategies, sanctions and participation procedures.

Gender equality impact analyses of political programmes, action plans and projects are not the rule and their influence is not examined. There is no information about how many public sector workers employed at the federal, state and municipal levels regularly and systematically participate in measures to enhance their skills in the area of gender equality, or about what is being done to increase their number where necessary. It is unclear when the Bundesstiftung Gleichstellung²¹ agreed in the Coalition Agreement will start its work; whether it will be tasked with transferring knowledge, providing gender-differentiated data, giving political advice, developing equality indicators, and supporting and networking gender-equality actors; and what resources will be made available for these tasks.²²

3.2 Gender budgeting

CEDAW Committee concluding observations of 2017: paras. 17c and 18c

Gender budgeting is not implemented at federal level, and is only applied partially at state and municipal level.²³ Gender-equality impact analyses have been mandatory since 2001, but possible discriminatory effects of the use of public funds from tax revenue and other

public spending are not yet being assessed.²⁴ However, the federal government's Coalition Agreement states that it will develop an inter-ministerial equality strategy and implement a corresponding action plan – measures that urgently require the use of gender budgeting as a key instrument for achieving targets. When allocating resources, the impact on *de facto* equality in the life paths, careers and life situations of girls*, women*, boys* and men* must be assessed as an integral part of the budget cycle. An assessment of the effect of tax law and taxation on equality between men* and women* must also be a part of budget analyses, so that any converse effects can be remedied.

Sustainable and inclusive growth that guarantees gender justice must be secured over the long term, and gender equality must be fixed as a central criterion for economic justice, for example in trade and banking policy and in all financial regulatory mechanisms. Funding for innovation in research and development must be applied in a gender-equitable way, incorporating gender budgeting instruments. In the Agreement on Government Procurement (GPA) within the framework of the WTO,²⁵ the federal government has committed to ensuring open, transparent and non-discriminatory conditions of competition in government procurement. Federal public procurement law is not amended must therefore be amended accordingly.

3.3 Equality Commissioners

CEDAW text: Articles 3, 14

The Women's Commissioners and Equality Commissioners in the federal, state and municipal governments are important actors in institutional equality policy.²⁶ Federal and state laws must be targeted at achieving equality across all life paths and in all areas of life. However, the legal frameworks and powers of the various Women's Commissioners and Equality Commissioners differ greatly, resulting in large disparities in what institutional equality policy can achieve in the municipalities and districts. The disparity is particularly great between urban and rural areas. Harmonizing the equality laws across the various German states is therefore a matter of urgency. The harmonized law must include important standards such as an obligation for state and municipal governments to formulate framework plans for equality policy, the hiring and training of full-time Equality Commissioners, the provision of sufficient personnel and financial resources, and clearly defined sanctions.

Moreover, no comparable structure exists that would allow municipal, state, federal and administrative Equality Commissioners to implement a consistent equality policy in their work. Assessments are needed into how consistent state equality laws are being implemented, particularly in the appointment of municipal and administrative Equality Commissioners and equipping them to perform their tasks.

The federal government's "Gleichwertige Lebensverhältnisse" (Equivalent Living Conditions) commission has not addressed the unequal institutional conditions for equality policy and the related (infra)structural differences in support systems.

3.4 Equal protection of human rights within the federal system

CEDAW text: Articles 1, 2

CEDAW general recommendations: paras. 11 and 12

CEDAW Committee concluding observations of 2017: paras. 11 and 12

The CEDAW Committee has expressly demanded that girls* and women* in all German states should have an equal and guaranteed entitlement to exercise the rights laid down in CEDAW. To date, the federal government has taken no action to comply with this demand and guarantee a federally coherent implementation of CEDAW and other human rights conventions. Yet the federal government could use its right to implement coercive measures, as laid down in Articles 37 and 72 of the Basic Law, to establish "equivalent living conditions", or use Article 91 a-d to define the implementation of girls' and women's rights as a joint task, take responsibility for it, and cooperate with the state governments within a federalism commission. It is imperative to consult with and involve women's rights organizations, civil society, and experts.

3.5 CEDAW National Action Plan

CEDAW Committee concluding observations of 2017: paras. 8 and 12

The German federal government has not yet made use of any institutional mechanisms to systematically implement the CEDAW Convention, the Committee's concluding observations of 2017, or CEDAW's general recommendations in the federal system in a way that is inclusive and accessible for all. To date, no National Action Plan with participatory processes for civil society exists.

4 EMPLOYMENT

4.1 Equality between women* and men* at work

CEDAW text: Article 11

CEDAW general recommendations: paras. 13, 17, 26, 29 and 36

CEDAW Committee concluding observations of 2017: paras. 31, 32, 33, 34, 35 and 36

Although equality between men and women at work is a declared goal of the federal government, this has not yet been achieved. The labour market is horizontally and vertically segregated. Women predominantly work in sectors with low pay and few opportunities for development. The Gender pay gap and migration pay gap remain wide.²⁷ Current labour and social regulations are particularly disadvantageous for single parents and for women whose work is the only source of income for themselves, their children, and/or their partner. The at-risk-of-poverty rate for single parents (90 % of whom are women) and their children is 41.5 %, the highest among all families in Germany.²⁸

In Germany, far fewer women than men occupy leadership positions. This is particularly the case for women who work part time, but also for women in full-time employment.²⁹ The public sector also has much room for improvement regarding equal representation of women in leadership positions. For example, in 2018 the share of women in leadership positions in the federal administration was just 34 %. Twenty-two of the 24 supreme federal authorities have fewer women than men in leadership roles, with no improvement on the previous year.³⁰

Women are far more likely than men to be marginally employed; they make up 62 % of those in low-wage “mini-jobs”. Many women, particularly mothers, often choose to take on a mini-job because of structural constraints such as a shortage of childcare or a lack of family-centred policies in companies. The existence of “Ehegattensplitting” (splitting the difference in spousal income for tax purposes) and of additional non-contributory healthcare insurance coverage for spouses can also influence their decision. Mini-jobs often correspond to a high risk of poverty³¹ particularly for women with disabilities. Almost half of all women with disabilities aged between 18 and 64 live in poverty or are at risk of doing so.³² For decades now, women with immigrant or refugee backgrounds have been forced into precarious, low-skilled jobs. They continue to be denied equal access to economic participation.³³

In today’s world, almost all occupations are affected by digitalisation. The division of labour when it comes to gainful employment versus care and domestic work, and the different distribution of men and women across sectors, professions and occupations mean that the digital transformation affects male and female workers differently.³⁴

4.2 Fairer redistribution of gainful employment and care work

CEDAW text: Article 11

CEDAW general recommendations: paras. 13, 17, 25, 26, 29 and 36

CEDAW Committee concluding observations of 2017: paras. 22a, 39, 42

In Germany, the average time spent in gainful employment per week differs greatly between men and women: this gender time gap is currently 8.4 hours. Only one in ten men with a job that is subject to social security contributions works part time, while almost one in every two women works in such a part-time job.³⁵ On average, women perform around 87 minutes more care and domestic work each day than men. That corresponds to a gender care gap of around 53 %. Whether or not fathers choose to exercise their right to parental leave and parental allowance depends heavily on the sympathies of their employer and the degree of working time flexibility at the company. Having children is shown to be particularly decisive in the division of tasks between couples. The employment rate of mothers with an immigrant background is significantly lower than that of mothers without an immigrant background.³⁶

From the available statistics, one can extrapolate that 13 % of employed persons aged 50 to 59 and 18 % aged over 60 are currently responsible for caring for infirm relatives. 57 % of women living in households with an infirm relative perform the care work – a significantly higher share than among men. The more time-consuming tasks, in particular, are usually performed by women. Women tend to reduce their hours in gainful employment in order to care for relatives, while those few men who do perform care work tend to withdraw fully from the labour market.³⁷

The infrastructure for care recipients and their carers is inadequate, with an insufficient number of easy-access support services. The respite services made available by the law on caregiver leave (*Pflegezeit- und Familienpflegezeitgesetz*) are barely used: in 2017, 82,000 people made use of the option to take a leave of absence – that is just 4.3 % of all family caregivers working in gainful employment.³⁸

4.3 Wage justice and greater appreciation for social occupations

CEDAW text: Article 11

CEDAW general recommendations: paras. 13, 17, 26, 27, 29 and 36

CEDAW Committee concluding observations of 2017: paras. 33, 34 and 36

In almost all economic sectors in Germany, women working in full-time employment earn less on average than their male colleagues. The extent to which this is the case depends greatly on the sector.³⁹

Analysis of the wage transparency law (*Entgelttransparenzgesetz*) has shown that its goal of ensuring equal pay for men and women for equal or equivalent work has not been achieved. Only 2% of employees surveyed said that they had exercised their right to information, and 14% of companies reported receiving requests for information. Fewer than half of the companies asked to do so actually reviewed their pay structures. In initial random sampling, only 22.8% of companies surveyed had fulfilled their duty of compiling a status report. To this day, there is no equality law governing the private sector.⁴⁰

Of the 2.6 million full-time employees in the non-profit sector, which comprises some 615,000 organizations and institutes, more than 75% are women. But despite its great relevance for equality policy, the non-profit sector is insufficiently covered by equality laws and measures.⁴¹

Female-dominated occupations - in which more than 70% of the workers are women - are particularly prevalent in the personal services sector. Most jobs subject to social security contributions in healthcare, cleaning, and social and cultural services are held by women.⁴² Women with immigrant or refugee backgrounds are more often forced to take on care work or cleaning jobs despite having a higher level of education,⁴³ because the qualifications they gained in their home country are not recognized in Germany.⁴⁴ The work performed in these occupations continues to be undervalued and underpaid. Greater occupational demands and burdens are generally only rewarded with higher pay in those jobs that are primarily performed by men; men gain greater pay increases than women when taking on increased occupational demands and burdens.⁴⁵

The structural disadvantages in working life for women continue after retirement. Their independent old-age pensions are around 50% lower than those of men. The gender pension gap relates to all three pillars of old-age security in Germany (statutory pensions or civil service pensions, company pensions, and private pensions), and reflects the lower amounts women have generally paid into the state pension fund, and the less frequent access they have to company and private pensions. Where women do have access to those pensions, on average they have paid in less so get less out.⁴⁶ A "migration pension gap" has yet to be calculated.

4.4 Economic consequences of divorce and separation for women* divorced during the GDR

CEDAW text: Articles 11, 16

CEDAW general recommendations: paras. 27, 29, 34 and 25

CEDAW Committee concluding observations of 2017: paras. 49d and 50d

Germany interim report, March 2019

CEDAW/OP/Inquiry/2012/Germany/1

According to its Coalition Agreement, the federal government did not follow the CEDAW Committee's concluding observations of 2017. It will not introduce a state compensation scheme to supplement the pensions of women who got divorced in the German Democratic Republic. Instead, the government seeks to establish a hardship fund that would only benefit around half of those affected, whose pension places them on or beneath the poverty line. It explicitly does not address the pension entitlement that has been denied to these women* since the German Reunification 30 years ago, and the discrimination that this entails. Until today, half of these women* have not been compensated on the third of the pension they are entitled to. In its 2019 interim report to CEDAW, the federal government repeated its claim that these women* had not been denied their pension entitlement. In many sources, the federal government concedes that the women* were wronged, but it consistently contradicts this by refusing to redress the discrimination of these women* vis-à-vis their ex-husbands* that was practised by legislators at the time of Reunification. We are concerned the German Government is rejecting the CEDAW committee's urgent recommendations in their interim report and the attitude to not feel obligated to implement Concluding observations of Treaty Bodies.

5 VIOLENCE AGAINST GIRLS* AND WOMEN*

5.1 Implementation of the Istanbul Convention

CEDAW Committee concluding observations of 2017: paras. 25 and 26

The Ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (“Istanbul Convention”) is setting important political signals in the fight against violence against girls* and women*. However, its systematic implementation requires structures that are not yet in place, such as national coordinating offices and independent monitoring. Germany’s reservation with regard to paragraphs 1 and 2 of Article 59 must be withdrawn in order to protect all women* from violence regardless of their residence status. At the political level, there is no nationwide prevention strategy addressing violence against girls* and women*.

Practical experience in cases of domestic violence has shown that, particularly with regard to court orders in accordance with the protection against violence act (*Gewaltschutzgesetz*), decisions made on custody and visitation rights are often counterproductive.⁴⁷ Current legislation governing the rights of children in Germany do not pay adequate attention to this matter, and legal professionals and youth welfare workers are not adequately sensitized to it. In many cases, the risk potential resulting from visitation arrangements is not recognized. Consequently, visits are neither suspended nor monitored in cases where such action is necessary. The danger to which women* and their children are exposed is deemed an acceptable risk.

5.2 Help infrastructure for female* victims of violence

CEDAW general recommendations: para. 19

CEDAW Committee concluding observations of 2017: para. 25

The overall system for providing help to the victims of violence in Germany is full of lacks. Rape crises centres and counselling centres (for the victims of sexualized violence) are not found everywhere in the country, and existing centres do not have the required capacities. There is inadequate provision of outpatient psychosocial counselling centres for the girls and women concerned.⁴⁸ Long waiting times and a limited availability of counselling appointments have serious consequences for victims of violence. Staff shortages are leading to a decrease in publicity and prevention work. Publicity work, longer-term counselling, assistance during visits to authorities, and support for family members often cannot be provided, despite individuals’ ongoing need for these services.⁴⁹ Only one in

every four counselling centres is accessible/barrier-free. Hence, girls* and women* with disabilities are unable to access the majority of centres and cannot obtain the support they need.⁵⁰ Mobile psychosocial counselling for women and their children who have experienced violence is only available in a few regions.⁵¹

Women's shelters are not available nationwide for women* and their children who need this protection. Available spaces and the required personnel are lacking.⁵² There is also no nationwide plan for offering this type of protection: to address this, the federal government is needed in its role as coordinator, and the state and municipal governments are needed as the authorities responsible for structures at Länder level.

There is no uniform national legislation on the financing of women's shelters and counselling centres. In many places, the required funding for linguistic mediation in women's shelters and counselling centres is not assured.⁵³

There is also a shortage of adequate services targeting the perpetrators of domestic violence as part of prevention work including insufficient staff resources. Only few services are offered in languages other than German.⁵⁴

5.3 Access to women's shelters

CEDAW Committee concluding observations of 2017: paras. 25 and 26

Women's shelters are difficult to access for female* victims of violence and their children. Often, there are staff shortages and no spaces available for these women* and their children so urgently in need of protection.⁵⁵ Migrant and refugee women* face additional hurdles as not being eligible for benefits or the residence status. Women's shelters often have no suitable places available for women with disabilities, women with addiction problems, women with teenage children, and transgender women. Staff shortages mean that some women* cannot be admitted to refuges and therefore do not get the support they need.⁵⁶

5.4 Genital mutilation / "female circumcision"

CEDAW Committee concluding observations of 2017: paras. 23 and 24

The number of girls* and women* afflicted by female genital mutilation, also referred to as "female circumcision", is increasing. In 2017, more than 60,000 women affected by the practice were living in Germany.⁵⁷ Few specialist counselling services exist. Another type of genital mutilation are the operations carried out on children born intersex.⁵⁸

Within the asylum process, there is a lack of appropriate counselling services and sensitization of personnel working in the authorities, refugee accommodation centres, and the support system. This means that girls* and women* who are affected or at risk do not receive adequate protection and support.

5.5 Violence against refugee girls* and women*

CEDAW Committee concluding observations of 2017: para. 26

Refugee girls* and women* are at particular risk of falling victim to (sexualized) violence, exploitation and abuse. It is more difficult for them to obtain protection from violence due to language barriers and to a lack of financial resources and alternative housing options. A lack of access to education and economic resources, limited knowledge of German in some cases, legal barriers, and a lack of knowledge about what support is available make it harder to disengage from violent relationships.

The German government's minimum standards for the protection of refugees in accommodation centres⁵⁹ are recommendations only; many of them do not provide sufficient protection. There are no violence prevention concepts that specifically consider the safety of girls*, boys* and LGBTIQ. What is needed is a binding overarching national strategy based on latest research findings, and a coordinated and assessed implementation of that strategy with the participation of civil society.⁶⁰

Asylum processes are not gender-sensitive, age-appropriate or inclusive. Within the asylum process, there is a lack of appropriate counselling and sensitization of personnel working in the authorities. Approaches for preventing violence are not included in counselling for parents.

Girls* and women* are being deported to countries where they are at risk of experiencing gender-related persecution and violence. Migrant and refugee women* who experience domestic violence have no right of residence independently of their spouse until the marriage has lasted three years, because gender-related violence is not recognized as grounds for granting asylum.⁶¹

5.6 Violence against girls* and women* with disabilities

CEDAW Committee concluding observations of 2017: para. 26

In Germany, girls and women with disabilities experience (sexualized) violence two or three times as often as the average girl or woman.⁶² Girls* with intellectual disabilities and deaf girls* and women* are the “most severely neglected high-risk group”.⁶³ There is a lack of comprehensive protection measures. Only around 10 % of women’s shelters are accessible to women* with disabilities, and even then with limitations. A federal government investment programme is set to address this issue.

Because of their vulnerability, girls* and women* with disabilities are at particular risk of falling victim to violence. There is a lack of comprehensive, coordinated measures to protect girls* and women* from gender-related violence, and there is no independent complaints procedure for facilities for people with disabilities. There is also no comprehensive, effective, properly financed strategy for providing protection from violence; in particular from violence in public and private spheres.⁶⁴ Facilities are often closed systems where violence can remain undetected. Girls* and women* with intellectual disabilities are particularly limited in their scope to independently seek support from outside the facility. Most support services are not accessible/barrier-free. Child and youth services refer girls with disabilities who have experienced violence to conventional facilities for people with disabilities, which often are unable to ensure protection from violence.⁶⁵

5.7 Human trafficking

CEDAW text: Article 6

CEDAW Committee concluding observations of 2017: paras. 29 and 30

Human trafficking and exploitation of girls* and women* has many different forms, including sexual exploitation, forced labour, forced criminal activities and forced begging. All victims of human trafficking have the right to protection, support and compensation. However, those affected are often not or only barely able to exercise that right because of a lack of safety and personal prospects. Secure residence permits are still not offered to third-country nationals independently of them making a statement as part of criminal proceedings.

There is no provision of adequate, standardized financing to support victims in a way that meets their needs, for example for medical or psychological care. Comprehensive support services for victims of all forms of human trafficking and exploitation that include safe

accommodation and counselling centres still do not exist. Funding of existing specialized counselling centres is insecure and often not sufficient.

An overarching, coordinated political strategy, with a human-rights-based approach, is needed to fight all forms of human trafficking.

5.8 Cyber violence

CEDAW general recommendations: paras. 12 and 19

Through agreements like the Council of Europe Convention on preventing and combating violence against women and domestic violence (the "Istanbul Convention"), the German federal government is obliged to implement effective measures to eliminate psychological – and thus also digital – violence against girls* and women*. Cyber violence is a growing global phenomenon that disproportionately affects girls* and women*. Because cyber violence is not recognized, classed and accepted as such, the legal instruments of the German penal code are often not used to their full scope in the interest of victims.⁶⁶

6 HEALTH

6.1 Gender-sensitive and inclusive health research, health information and healthcare

CEDAW text: Article 12

CEDAW general recommendations: paras. 19, 53 and 54

CEDAW Committee concluding observations of 2017: paras. 8, 9, 37 and 38

Neither the federal nor the state governments have developed a consistent gender-sensitive, equality-oriented system for tackling sex and gender bias in healthcare. What is required is a consistently gender-sensitive approach to medical research and guideline development, and consistent reporting, specified according to gender, about the type and quality of care provided. These reports could come from health insurance data or legally binding quality assurance.

Healthcare services such as contraception, screenings, hormone treatments and pain management are particularly relevant for women*. Patient autonomy and the ability to make an informed decision form part of the law on patient rights,⁶⁷ but along the entire care pathway (prevention, screening, diagnosis, treatment, rehabilitation, care, and palliative medicine), the necessary structures and resources for this are lacking, as are appropriate training modules for healthcare professionals and a greater appreciation of narrative-based medicine. Low healthcare literacy is associated with riskier behaviour, poorer health, less self-management, higher hospital admissions, and higher costs.⁶⁸

Girls* and women* with disabilities are severely limited in their right to freely choose a doctor, and often are not given sufficient information about and access to screenings. National guidelines on minimum standards for disabled access are lacking, as are standardized information systems, additional remuneration for greater investments of time, compulsory training modules for all healthcare professionals that consider the needs of people with disabilities, specialist knowledge, appropriate examination and treatment methods, and the needs-based provision of treatments and aids.⁶⁹

6.2 Women-specific health problems

CEDAW text: Article 12

CEDAW general recommendations: para. 24

There are deficits in the treatment of health problems specific to women. For women*, surgery on their internal or external sex organs usually entails a confrontation with cultural norms about womanhood. All too often, healthy organs like uteruses and ovaries are removed.⁷⁰ Endometriosis frequently goes undetected for far too long, and is not a research focus despite the high number of sufferers. Breast cancer is the most common cause of death in women under 65 years of age in Germany. While Germany spends more money on providing information about and care for breast cancer than most other European countries, it also has an above-average morbidity and mortality rate. Thus far, there has been an inadequate amount of research into the connections between initial or recurrent breast cancer and modern working life, environmental toxins, and other environmental factors detrimental to health.

6.3 Reproductive health and self-determination

CEDAW text: Article 12

CEDAW general recommendations: para. 24

CEDAW Committee concluding observations of 2017: paras. 23d, 37b and 38b

Germany interim report 2019

The right to information and self-determined family planning for all girls* and women* must include access to an open choice of free contraception.⁷¹ Prenatal care must be designed according to the needs of individual expectant mothers.⁷² Discrimination against pregnant refugees as a result of the current system (whereby they must apply for a treatment voucher before every doctor's visit) must be removed; uniform periods of protection from deportation must be instated for the entire pregnancy, birth, and period thereafter; and the usually voluntary assistance and care offered to women* without documentation should be complemented by more state-financed assistance. At around 32% of births, the number of caesarean sections in Germany is too high.⁷³ Choice of birthing method is overly influenced by excessive emphasis on risks and misplaced economic incentives. Women* need improved care from midwives and via social-medical networks. It is also important to raise awareness of obstetric violence and pursue corrective action.

The German penal code criminalizes women* who have abortions, as well as gynaecologists who offer full access to information about abortion methods and options.⁷⁴ In opposition to the demands of the CEDAW Committee, Sections 218 and 219a of the penal code still make abortion a criminal offence and criminalizes gynaecologists who offer full access to information about abortion methods and options. The responses that the federal government provided in its 2019 CEDAW interim report are not satisfactory.

Regulations on the further training of physicians do not include performing abortions as a compulsory part of specialist training.⁷⁵ There are no standards and guidelines on the proper way to perform abortions.

Germany still has not introduced a reproductive medicine law appropriate for the modern age. Independent, evidence-based information is often not available, and safe methods of prenatal testing and reproductive medicine are not guaranteed.⁷⁶ Currently, the law does not grant the same access rights to all women* regardless of their sexual identity, partnership status, or financial situation. The reproductive rights of intersex people are ignored.

6.4 Violence against girls* and women*

CEDAW general recommendations: paras. 19 und 35

CEDAW Committee concluding observations of 2017: paras. 23d, 24d, 25 and 26

Sexualized physical and psychological violence leads to physical injury, pain, psychological problems, and impairments to reproductive health.⁷⁷ Health professionals are often unable to recognise the consequences of violence and cannot provide the necessary networking services.⁷⁸

Women* with complex post-traumatic stress caused by violence do not have adequate access for themselves or their children to outpatient psychotherapy services and to inpatient or day-clinic care. Long waiting times for therapy, a lack of access to inpatient services for women* with small children, and provision of only short-term therapy make it hard for these victims to work through their trauma. It is particularly crucial that psychotherapy from qualified psychotherapists be made available for women's refuges and women's advice centres.⁷⁹

Although violence at the hands of both professional and family caregivers is an everyday occurrence, very few studies address the issue in Germany. We urgently need more studies about violence if we are to expose psychological and physical abuse, nursing and psychosocial neglect, restrictions on freedom, abuse of psychiatric medicine, and sexual assault, and thus provide better protection. Because women* have a longer life expectancy, they are more likely to fall victim to such violence.

Each year, around 1,900 medical interventions to modify sex anatomy are carried out in Germany on children under ten years of age.⁸⁰ Intersex children must be protected from sex-assignment surgery and gonadectomy, as they amount to genital mutilation. Within the framework of services covered by statutory health insurance providers, healthcare for transsexual people is also discriminatory.⁸¹

6.5 Participation and quality of life for older women*

CEDAW general recommendations: para. 27

The effects of the gender care gap and the gender pension gap are particularly apparent in the health and quality of life of middle-aged, older and elderly women, and in their social, political, economic and cultural participation in decision-making and use of resources.⁸² Following the UN review process of the implementation of the Madrid International Plan of Action on Ageing (MIPAA), the German federal government finally spoke out in favour of creating an international legal instrument to protect older people.⁸³ Unfortunately, however, it has not followed that up with proactive, public, participative dialogue to shape such an instrument. Given the particularly difficult situation facing older women*, this delay is inexplicable. The government is not making use of enhanced public awareness of the need for more targeted policies and measures. It is also wasting opportunities to increase participation and self-efficacy for older women.⁸⁴

7 INTERNATIONAL RELATIONS

7.1 Beijing Platform for Action

CEDAW Committee concluding observations of 2017: para. 51

Germany has committed itself to implementing the Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women. However, it has not drawn up a national action plan – containing binding goals, indicators and resources – for implementing it. The federal government has made no satisfactory attempts to raise awareness of the Declaration and the Platform for Action. Institutions and civil-society organizations have not been mobilized.

7.2 Sustainable Development Goals (SDGs) and climate change

CEDAW text: Articles 2, 7

CEDAW general recommendations: paras. 28 and 37

CEDAW Committee concluding observations of 2017: paras. 16, 18c and 52

Climate change is not gender-neutral, yet German climate policy is largely “gender blind”. It does not consider the different degrees to which girls* and women* are affected in comparison to men*. Neither does it recognize the tremendous skill with which women* in the worst-affected countries are responding to the consequences of climate change – for instance, by altering cultivation methods or securing more resistant seeds – to ensure their families’ survival in the face of dramatic new environmental conditions such as drought and/or intense rainfall.⁸⁵ Political concepts and national strategy papers still often make only peripheral reference to the important role these women are playing in securing survival in a changing environment. This inaction is despite the fact that as far back as 1992 the Rio Declaration on Environment and Development and the Convention on Biological Diversity explicitly referred to the “vital role” that women* play in global sustainable development.

Within the context of CEDAW, Germany is committed to preventing foreseeable violations of the rights of girls* and women*, including by taking appropriate measures to mitigate climate change. Germany’s current climate objectives are neither ambitious nor gender-sensitive enough to achieve the goals of the Paris Agreement. Although it is a signatory to the UNFCCC and the Paris Agreement, Germany has not yet taken any steps towards integrating an effective gender perspective into its climate policy and action at

national, regional and local government level. The same is true of the activities recommended in the UNFCCC Gender Action Plan, adopted in 2017.

The measures in Priority 10 (Climate Change, Disaster Risk Management) of the German government's Development Policy Action Plan on Gender Equality 2016-2020 do not fulfil Germany's extraterritorial obligation to fully implement CEDAW, including general recommendations Nos. 28 and 37. Through their measures, projects and partnerships with private actors, the Federal Foreign Office and the Federal Ministry for Economic Affairs and Energy are not satisfactorily contributing to this extraterritorial obligation (full implementation of CEDAW) in the face of climate change. The preamble and text of the 2030 Agenda for Sustainable Development make repeated reference to gender equality and state that it applies to all goals.⁸⁶

Germany's National Sustainable Development Strategy is not capable of fulfilling the 2030 Agenda's pledge that no one will be left behind. While the strategy makes explicit reference to measures for achieving gender equality between women* and men* on the labour market, it ignores gender-based discrimination and disadvantages in areas relating to climate and the environment. A study on achieving SDG 5 in Germany revealed the insufficient interministerial links relating to sustainability and gender justice.⁸⁷ The upcoming review process for the 2020 National Sustainable Development Strategy must ensure that sufficient gender-equality indicators are developed in order to resolve these gender-policy shortcomings. Gender-specific indicators and the gathering of relevant data are – especially internationally – a basic prerequisite for identifying the causes of inequality between the sexes with regard to mobility and energy supply, and for targeting those causes with political measures. The federal government is not fulfilling its international obligations to help achieve the SDGs in a gender-equitable way. German and European expertise must be incorporated into developing climate-policy measures as a base for gender-just climate policy and its processes.⁸⁸

7.3 Equal rights in development cooperation

CEDAW Committee concluding observations of 2017: paras. 17f and 18f

Promoting gender equality and increasing the social and political participation of women are central goals of the cross-sectoral concept on "Gender Equality in German Development Policy" developed by the Federal Ministry for Economic Cooperation and Development (BMZ).⁸⁹ However, in 2017 only 1% of bilateral funding had equality as a "principal objective" (marked "2", based on the OECD's Development Assistance Committee [DAC] gender equality policy markers), while 40% of the funding had gender equality as an important objective but not the principal reason ("significant objective", marked "1"). Over

half of official development assistance is still channelled into programmes that do not target gender equality (“not targeted”, marked “0”).

The concrete priorities and measures with which the BMZ aims to achieve the overarching goal are laid down in the Gender Action Plan II (GAP II). However, all the measures described in the plan relate to adult women*, whereas girls* and young women* are not mentioned. Their needs are not considered in the programmes and strategies.

7.4 Women’s rights in global economic policy

CEDAW text: Article 2

CEDAW general recommendations: paras. 15 and 16

CEDAW Committee concluding observations of 2017: para. 54

Trade and foreign economic policy continue to be conducted without the perspective of girls* and women* being consistently and bindingly incorporated into negotiations between political decision-makers. Political measures, including bilateral and multilateral financing, loans and investments, are not comprehensively reviewed to ensure they adequately consider and guarantee the perspectives, needs and interests of girls* and women*. Civil society information campaigns about, for example, production and supply chains in the clothing industry – along which the rights of girls* and women* should be reviewed and secured at every stage. It should be the task of policymakers to combat discrimination and guarantee rights.

The federal government allows that only a few small and medium-sized enterprises are “voluntarily” addressing these requirements. There is no visible policy that places any obligation on global companies; there are no incentives, and no sanctions. The National Action Plan for Business and Human Rights involves just a few civil-society organizations; women’s rights are barely considered. The federal government is not adequately involved in the process of shaping a UN treaty committing global companies to implement human rights and employee rights, especially for women*.

The ILO Convention on Violence and Harassment, targeting violence and harassment in the world of work, was adopted in June 2019.⁹⁰ The federal government must resolutely and without delay ratify the Convention and transpose it into national law without delay.

7.5 UNSCR 1325 on women, peace and security

CEDAW text: Articles 1, 2, 12

CEDAW general recommendations: paras. 28 and 37

CEDAW Committee concluding observations of 2017: paras. 15, 16d, 26d, 26g, 27, 28, 30, 51

In its role as a non-permanent member of the United Nations Security Council, the federal government has not championed the concept of a feminist foreign policy. Despite intense debate and deliberations, it has not followed the example of Sweden and Canada in this regard. However, under the German presidency, the UN Security Council did adopt resolution 2467, which criminalizes all forms of conflict-related sexual violence and violence against girls* and women*. While we welcome this development, it is unfortunate that the German government was not able to achieve a text granting survivors of conflict-related sexual violence access to reproductive health services.⁹¹

Germany's fulfilment of its extraterritorial obligations is insufficient, especially in Yemen, and in particular to Yemeni girls* and women*. They are not only the worst affected by the terrible famine in the country and the greatest humanitarian crisis of our times, but their extreme poverty also forces them into slavery. German weapons exports have a negative impact on the rights and safety of girls* and women* in the Middle East, as well as in other countries with a dubious approach to human rights. In particular, the sharp increase in the issuing of small arms permits – including in Germany – is causing an increase in everyday gender-specific violence and is undermining efforts to prevent conflict, one of the main pillars of resolution 1325. There is a lack of transparent, gender-sensitive criteria for weapon control and the issuing of weapon permits in Germany, as well as for arms exports to other countries.⁹²

7.6 The human right to peace

CEDAW text: Articles 1, 2, 5, 6, 12

CEDAW general recommendations: para. 28

The Declaration on the Right to Peace, adopted by the UN General Assembly in November 2016, declared that peace was "a vital requirement for the full enjoyment of all human rights by all" – and this therefore includes every girl* and every woman*. To date, the federal government has taken no steps towards strengthening the human right to peace, and no further measures are planned. Such measures might include establishing a review panel in Geneva in order to launch a dialogue process and achieve far-reaching effects. There is also still no optional protocol concerning a complaints mechanism.

7.7 European Union

CEDAW text: Article 2

Optional Protocol to CEDAW: Article 13

CEDAW Committee concluding observations of 2017: paras. 9 and 10

Although CEDAW constitutes the most important and most comprehensive international legal mechanism for implementing women's rights, the German federal government has not encouraged the EU to sign CEDAW, as it did the UN Convention on the Rights of Persons with Disabilities. EU law and EU policy targeted at achieving gender equality would gain additional value if CEDAW could be used as a major international legal framework.⁹³

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