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## Germany

### Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights

#### I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the outcome of the previous review.<sup>1</sup> It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

#### II. Scope of international obligations and cooperation with human rights mechanisms

2. In 2022, the Committee on the Rights of the Child recommended that Germany consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.<sup>2</sup>

3. In 2021, the Human Rights Committee welcomed the statement by Germany that it would consider withdrawing its reservations to article 15 (1) of the International Covenant on Civil and Political Rights and article 5 (2) (a) of the first Optional Protocol thereto and recommended that Germany consider taking concrete steps in that regard.<sup>3</sup>

4. In 2022, the Committee on the Rights of the Child recommended that Germany establish a standing government structure to engage with human rights mechanisms, and to coordinate and track follow-up to their recommendations.<sup>4</sup>

5. Germany made annual financial contributions to the Office of the United Nations High Commissioner for Human Rights (OHCHR).<sup>5</sup>

#### III. National human rights framework

##### 1. Constitutional and legislative framework

6. The Committee on the Rights of the Child recommended that Germany strengthen efforts to incorporate children's rights explicitly into the Basic Law.<sup>6</sup>

7. In 2023, the Committee on the Elimination of Discrimination against Women recommended that Germany harmonize its legislation regulating arms exports control with



article 7 (4) of the Arms Trade Treaty and the Council of the European Union Common Position 2008/944/CFSP.<sup>7</sup>

8. In 2023, the Committee on Enforced Disappearances recommended that Germany ensure the inclusion of enforced disappearance as an autonomous offence in its criminal legislation; adopt a definition of enforced disappearance that was fully in accordance with articles 2 and 5 of the International Convention for the Protection of All Persons from Enforced Disappearance; amend domestic legislation to reflect criminal liability in compliance with article 6 (1) of the Convention; and incorporate into its domestic legislation provisions that expressly prohibited refoulement where there was a risk of the person concerned being subjected to enforced disappearance.<sup>8</sup>

9. In 2019, the Committee against Torture stated that Germany should consider including torture as a specific offence in the general criminal law and should ensure that it was not subject to any statute of limitations; and ensure in law that victims obtained effective redress.<sup>9</sup>

10. The Committee on the Elimination of Discrimination against Women noted the new self-determination law proposed to replace the Transsexual Law (1980), removing the obligation for persons to undergo sex-affirming surgeries or hormone therapy or psychological counselling in order to legally change their name and sex. It recommended that, in the event that the proposed self-determination law was adopted, the evaluation process identified in article 13 thereof be ongoing and expanded to assess its impact on the rights of all stakeholders, including women and girls.<sup>10</sup>

11. In 2021, the Economic Commission for Europe recommended that Germany remove the requirement in the Environmental Appeals Act that, to have access to review procedures under article 9 (2) of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, non-governmental organizations promoting environmental protection must have open membership with full voting rights for members.<sup>11</sup>

## **2. Institutional infrastructure and policy measures**

12. The Committee on the Rights of the Child recommended that Germany develop and adopt a comprehensive policy on children and, on the basis of that policy, develop a strategy for its application at the Land level that was supported by sufficient resources.<sup>12</sup>

13. The same Committee recommended that Germany incorporate a child right-based approach into the budgeting process and implement a tracking system for the allocation, use and monitoring of resources for children.<sup>13</sup>

14. The Committee on the Elimination of Discrimination against Women recommended that Germany explicitly integrate mandatory gender-responsive budgeting into all areas of the federal budget.<sup>14</sup>

15. The Committee on the Rights of the Child urged Germany to ensure the meaningful participation of children in the design and implementation of policies and programmes aimed at achieving all 17 Sustainable Development Goals in so far as they concerned children.<sup>15</sup> The Committee on the Elimination of Discrimination against Women called for the realization of substantive gender equality throughout the process of implementation of the 2030 Agenda for Sustainable Development.<sup>16</sup>

16. The Committee on the Rights of the Child encouraged Germany to adopt a child rights-based approach in respect of its trade agreements and development aid policy and programmes.<sup>17</sup> The Committee on the Elimination of Discrimination against Women recommended that Germany ensure gender impact assessments before the negotiation of international trade and investment agreements.<sup>18</sup>

17. The Human Rights Committee stated that Germany should take all the steps necessary to ensure that the use of armed drones supported by infrastructure within its territory complied fully with its obligations under article 6 of the International Covenant on Civil and Political Rights, including measures to restrict their use outside of recognized conflict zones that might lead to the arbitrary deprivation of life.<sup>19</sup>

## **IV. Promotion and protection of human rights**

### **A. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **1. Equality and non-discrimination**

18. Expressing concern about the General Equal Treatment Act of 2006, the Human Rights Committee stated that Germany should consider amendments to the Act in order to provide explicit protection against discrimination on the grounds of language and nationality, to allow groups to bring claims on grounds of discrimination before the courts, to strengthen the powers of the Federal Anti-Discrimination Agency and to ensure that the application of the law did not lead to discrimination in the housing market.<sup>20</sup>

19. The Committee on the Elimination of Discrimination against Women recommended that Germany continue its efforts to adopt temporary special measures aimed at achieving substantive equality of women and men, and set time-bound goals and quotas in all areas where women were underrepresented or disadvantaged.<sup>21</sup>

20. The same Committee recommended that Germany strengthen the mandate of the German Advertising Standards Council to address gender stereotypes and impose adequate sanctions in cases of sex-discriminatory advertisements; and adopt effective safeguards to ensure that artificial intelligence systems and algorithms did not perpetuate or condone gender stereotypes, discrimination or gender-based violence against women.<sup>22</sup>

21. The same Committee recommended that Germany take measures to combat racism against migrants and Roma populations, including through training programmes for the police and collaboration with the media on awareness-raising campaigns.<sup>23</sup>

22. The Committee on the Rights of the Child expressed concern about the disproportionate effect of de facto discrimination on children in disadvantaged situations, including in terms of access to education and health. It recommended that Germany strengthen policies and awareness-raising measures aimed at addressing the root causes of such discrimination.<sup>24</sup>

23. The Human Rights Committee expressed concern about reports of police officers conducting law enforcement activities for immigration control purposes without reasonable suspicion, which had resulted in racial profiling. It stated that Germany should continue its comprehensive review of the policy and legal frameworks governing police conduct, including an assessment of the application of a reasonable suspicion standard in the enforcement of section 22 (1) of the Federal Police Act, to ensure their conformity with human rights principles; and step up training to law enforcement officials in order to raise their awareness of the need to conduct themselves in a way that did not lead to acts of racial profiling.<sup>25</sup>

#### **2. Right to life, liberty and security of person, and freedom from torture**

24. The Committee on Enforced Disappearances recommended that Germany provide the National Agency for the Prevention of Torture with sufficient resources to enable it to carry out its functions effectively and independently.<sup>26</sup>

25. The same Committee stated that women who were subjected to enforced disappearance were particularly vulnerable to gender-based violence, and women who were relatives of disappeared persons were particularly likely to be subjected to violence, persecution and reprisal as a result of their efforts to locate their loved ones. Children who were victims of enforced disappearance, either because they themselves had been subjected to disappearance or because they suffered the consequences of the disappearance of their relatives, were especially vulnerable to numerous human rights violations.<sup>27</sup>

26. The Human Rights Committee expressed concern about reports of the excessive use of force by law enforcement officials; that Federal police officers, as well as some law enforcement officials at the Land level, were not required to wear identity badges, which hampered the investigation of allegations of excessive use of force; and that a significant

number of complaints of ill-treatment by law enforcement officials did not reach the courts. It stated that the use of force by law enforcement officials should be brought into line with the International Covenant on Civil and Political Rights, the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and that Germany should take all the steps necessary to ensure the effective investigation of allegations of excessive use of force and the prosecution and punishment of those responsible.<sup>28</sup>

27. The same Committee expressed concern that the use of mechanical restraints by police officers continued in law and in practice in some Länder, and stated that Germany should intensify its efforts to avoid the use of mechanical restraints on persons held in police custody.<sup>29</sup>

28. The same Committee expressed concern about reports of hate speech, including verbal attacks, online hatred and hate speech in the context of political discourse, as well as about reports of a range of hate crimes, including violent attacks and the desecration of religious sites, committed against people of African descent, lesbian, gay, bisexual, transgender and intersex persons, Sinti and Roma persons, Muslims, persons of Jewish faith, refugees and migrants. It stated that Germany should strengthen awareness-raising efforts aimed at promoting respect for human rights and tolerance for diversity and eradicating stereotypical prejudices.<sup>30</sup>

29. The same Committee expressed concern about the use of solitary confinement and disciplinary detention. It stated that Germany bring all legislation and practice on solitary confinement and disciplinary detention in line with the International Covenant on Civil and Political Rights and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).<sup>31</sup> The Committee against Torture stated that Germany should strictly regulate the use of physical restraints in prisons and detention centres.<sup>32</sup>

30. The same Committee stated that Germany should ensure that post-conviction preventive detention was used as a measure of last resort only, and that detention conditions were distinct from those of convicted prisoners and aimed at therapeutic treatment, rehabilitation and reintegration into society.<sup>33</sup>

### **3. Human rights and counter-terrorism**

31. The same Committee expressed concern that the legal framework governing counter-terrorism granted law enforcement officials wide-reaching powers. It stated that Germany should ensure that the power conferred to law enforcement officials by counter-terrorism legislation at the federal and Land levels was in full compliance with the International Covenant on Civil and Political Rights, and with the principles of legality and proportionality.<sup>34</sup>

### **4. Administration of justice, including impunity, and the rule of law**

32. The same Committee expressed concern that the independence of the prosecution services from the executive branch of the Government, as a corollary to judicial independence, was not ensured in law or in practice. It stated that Germany should consider introducing legal reforms to ensure the independence of prosecutors, thereby reinforcing judicial independence.<sup>35</sup>

33. The Committee on the Rights of the Child expressed concern that children's views were not always taken into account in courts and administrative proceedings. It recommended that Germany ensure that all children, including children under 14 years of age, were able to express their opinions and be heard in all decisions affecting them, including in courts and administrative and civil proceedings, and establish legal standards for ensuring that such proceedings were child-friendly.<sup>36</sup>

34. The same Committee recommended that Germany continue to actively promote, in all Länder, the application of non-judicial measures, such as diversion, mediation and counselling, and, wherever possible, the use of non-custodial measures for children, such as probation or community service, including through training for judges, prosecutors, police officers and other professionals on children's rights.<sup>37</sup>

35. The Human Rights Committee stated that Germany should ensure that all hate crimes were thoroughly investigated, that perpetrators were prosecuted and punished and that victims were provided with effective remedies; and provide adequate training to central and local authorities, law enforcement officials, judges and prosecutors on addressing hate speech and hate crimes and to media workers on promoting acceptance of diversity.<sup>38</sup>

36. Recalling its previous recommendation, the same Committee stated that Germany should intensify efforts to prosecute alleged perpetrators of violence against women and girls, including by continuing and stepping up training of relevant public officials, including judges, lawyers, prosecutors and law enforcement officials.<sup>39</sup>

37. The Committee on Enforced Disappearances recommended that Germany investigate and prosecute those accused of serious violations of human rights and offences committed abroad, ensuring the proper identification, investigation and punishment of enforced disappearance.<sup>40</sup>

38. The Committee against Torture stated that Germany should ensure the exercise of universal jurisdiction over persons responsible for acts of torture.<sup>41</sup>

## **5. Fundamental freedoms and the right to participate in public and political life**

39. The Human Rights Committee expressed concern that broad powers had been introduced in 2017 by the Network Enforcement Act to remove online content deemed illegal or abusive, and that responsibility for the removal of such content was assigned to social media companies and not subject to judicial oversight, which could have a chilling effect on freedom of expression online.<sup>42</sup>

40. The same Committee noted with concern that the Criminal Code criminalized defamation and that Germany was considering higher penalties for defamation in certain contexts. It expressed concern about the chilling effect that such provisions might have on free speech, and stated that Germany should consider decriminalizing defamation.<sup>43</sup>

41. Noting that the statutes of the different Länder banned the wearing of headscarves by teachers and/or civil servants, the same Committee stated that those laws might infringe the freedom to express one's religion or belief, had a disproportionate impact on members of specific religions and on women, and could foster feelings of exclusion and marginalization.<sup>44</sup>

42. The Committee on the Elimination of Discrimination against Women recommended that Germany ensure that Muslim women in the public sector, including the judiciary, were not penalized for wearing headscarves, including by amending the Federal Civil Service Act.<sup>45</sup>

43. The Committee on the Rights of the Child expressed concern about reported cases in courts and public debates about the possibility of bans on the wearing of religious face coverings in schools, and recommended that Germany assess the potential impacts of such a proposed ban on the rights of the child.<sup>46</sup>

44. The Committee on the Elimination of Discrimination against Women, reiterating its previous recommendations, recommended that Germany strengthen its efforts to increase the number of women in elected decision-making bodies at the federal and state levels and in appointed positions at those and the municipal levels.<sup>47</sup>

45. While noting the 2017 law against online hate speech, the same Committee expressed concern that women leaders continued to be subjected to pervasive online violence. It recommended that Germany strengthen implementation of section 58 (b) of the Code of Criminal Procedure and implement the proposed European law on artificial intelligence, upon its adoption.<sup>48</sup>

## **6. Right to privacy**

46. The Human Rights Committee expressed concern about the wide-reaching powers of surveillance, and about the reported continued lack of full independent judicial oversight. It stated that Germany should ensure that all types of surveillance activities and interferences with privacy were in full conformity with the International Covenant on Civil and Political Rights; that such activities complied with the principles of legality, proportionality and

necessity and were subject to judicial authorization; and that all surveillance was subject to effective independent oversight mechanisms.<sup>49</sup>

47. The Committee on the Rights of the Child recommended that Germany allocate sufficient resources to the Federal Agency for Child and Youth Protection in the Media and ensure that it developed regulations and policies to protect the rights, privacy and safety of children in the digital environment; strengthen the implementation of laws that protected children in the digital environment; and enhance the digital literacy and skills of children, parents and teachers, including by incorporating digital literacy into school curricula.<sup>50</sup>

## **7. Right to marriage and family life**

48. The same Committee recommended that Germany strengthen its relevant legislation in order to encourage and promote the role of both parents in the upbringing of children, particularly in cases of divorce or separation.<sup>51</sup>

49. The same Committee expressed concern about the increasing number of children living in alternative care, in particular in closed institutions, and the placement of children in alternative care without proper assessment of their best interests; the lack of uniform standards and quality criteria and inadequate child protection in the foster-care system; regional disparities in the quality of and access to services provided by local child and youth welfare offices; and insufficient support for children leaving alternative care.<sup>52</sup>

50. The same Committee recommended that Germany ensure the visitation rights of children of incarcerated parents, and evaluate existing policies thereon with a view to developing federal standards for ensuring that such children could maintain personal relations with their parents.<sup>53</sup>

## **8. Prohibition of all forms of slavery, including trafficking in persons**

51. Referring to the relevant supported recommendations from the previous review, the International Organization for Migration (IOM) noted that Germany had embarked on the development of a national referral mechanism and a national action plan to combat trafficking in persons. However, the lack of adequate shelters for victims of trafficking could impede the provision of adequate support and protection. The identification of victims of trafficking, particularly refugees and asylum-seekers, could be hindered by the lack of guidelines for the identification and referral of victims of trafficking.<sup>54</sup>

52. The Committee on the Elimination of Discrimination against Women recommended that Germany establish an independent monitoring mechanism aimed at monitoring a comprehensive and effective anti-trafficking policy and develop national guidelines for the early identification and referral to appropriate services of victims.<sup>55</sup>

53. The Committee on the Rights of the Child recommended that Germany amend the Residence Act to ensure that all alleged child victims of trafficking were issued residence permits, regardless of their cooperation in criminal investigations, and that their best interests were taken as a primary consideration in decisions regarding their place of stay.<sup>56</sup>

## **9. Right to work and to just and favourable conditions of work**

54. The Committee on the Elimination of Discrimination against Women recommended that Germany strengthen its efforts to decrease the gender pay gap, and enforce the Pay Transparency Law.<sup>57</sup>

55. The Committee on Economic, Social and Cultural Rights recommended that Germany ensure that all workers were paid at least the national minimum wage and that the minimum wage was set at a level sufficient to provide workers and their families with an adequate standard of living; prevent occupational accidents and diseases, in particular by strengthening labour inspection; and ensure that domestic workers enjoyed the same conditions as other workers.<sup>58</sup>

56. The Human Rights Committee was concerned about the blanket ban on public sector workers striking, based upon the assessment that all such workers, including schoolteachers, were essential. It recommended that Germany revise the scope of the category of essential

services with a view to ensuring that all those civil servants whose services could not reasonably be deemed as essential were entitled to their right to strike.<sup>59</sup>

57. The Committee on the Elimination of Discrimination against Women recommended that Germany amend the Prostitution Protection Law to ensure adequate protection for women in prostitution; and adequately fund and harmonize across all Länder the support services and exit programmes for women and girls who wished to leave prostitution.<sup>60</sup>

## **10. Right to social security**

58. The same Committee recommended that Germany strengthen the statutory pension as a means of ensuring a decent standard of living for retired women and amend legislation to prevent a statutory, company or partially State-funded pension from being deducted from basic social security benefits for jobseekers.<sup>61</sup>

59. The same Committee recommended that Germany strengthen assistance to single mothers by ensuring that child maintenance orders reflected their children's specific circumstances and needs.<sup>62</sup>

60. Referring to the relevant supported recommendation from the previous review, IOM stated that Germany should address the challenges arising from shortages in funding and in staffing within the youth welfare system, in order to avoid a lack of quality in the protection and care unaccompanied and separated migrant children.<sup>63</sup>

## **11. Right to an adequate standard of living**

61. Noting, with concern, the large number of children still living in poverty or at risk of poverty, the Committee on the Rights of the Child recommended that Germany develop a strategy to address the root causes of poverty and ensure that all children had an adequate standard of living.<sup>64</sup>

62. Recalling its previous recommendation, the Committee on the Elimination of Discrimination against Women recommended that Germany adopt a national poverty-reduction strategy with a focus on the most disadvantaged groups of women, integrating a human rights- and gender-based approach and ensuring that the representation of women was equal to that of men in the development and implementation of the strategy.<sup>65</sup>

## **12. Right to health**

63. The same Committee recommended that Germany ensure that women had access to safe abortion in compliance with the guidelines on abortion care of the World Health Organization.<sup>66</sup>

64. The Human Rights Committee stated that Germany should ensure the full and effective implementation of the amendments to section 219a of the Criminal Code to facilitate women's access to information about voluntary termination of pregnancy; strengthen the provision of sexual and reproductive health services; and consider repealing provisions that could create barriers to women seeking safe abortions.<sup>67</sup>

65. The Committee on the Elimination of Discrimination against Women recommended that Germany ensure that affordable modern contraceptives were accessible to all women and girls of reproductive age, if necessary free of charge.<sup>68</sup>

66. The Committee on the Rights of the Child expressed concern about reports of a shortage of qualified medical professionals specialized in paediatric care, and recommended that Germany ensure the availability of quality paediatric primary health care to all children.<sup>69</sup>

67. The same Committee expressed concern about the high levels of somatic disorders, eating disorders and other self-harming behaviours among children. It recommended that Germany strengthen efforts to improve children's mental well-being; and ensure the early and independent assessment of any initial diagnosis of mental health problems, attention deficit hyperactivity disorder and other behavioural issues, and provide such children, their parents and teachers with appropriate non-medical, scientifically based psychiatric counselling and specialist support.<sup>70</sup>

68. The same Committee expressed concern about asylum-seeking and migrant children and children without regular residence status only having access to limited health services. It recommended that Germany consider expanding the health services available to those children, with a view to ensuring that they had access to comprehensive health services.<sup>71</sup>

69. The same Committee expressed concern about the large number of children who were exposed to second-hand smoke, and recommended that Germany conduct awareness-raising activities for parents, including pregnant mothers, on the harmful effects of second-hand smoke on children's health.<sup>72</sup>

70. The same Committee recommended that Germany continue to strengthen measures to provide adolescents with information on preventing substance abuse and to ensure the early identification and adequate referral of adolescents requiring treatment for substance abuse.<sup>73</sup>

### **13. Right to education**

71. Expressing concern about disparities in equal access to quality education and vocational training, the same Committee recommended that Germany ensure equal access for children from disadvantaged groups to comprehensive schools, higher education and vocational training; establish national standards to guarantee the right of all children with disabilities to inclusive education; address the shortage of teachers, including through creative incentives for the teaching profession, and address the roots causes of high levels of stress felt by students owing to academic pressure; and combat bullying in schools.<sup>74</sup>

72. The Committee on the Elimination of Discrimination against Women recommended that Germany continue efforts to dismantle discriminatory stereotypes and structural barriers that deterred girls from choosing non-traditional fields of study, such as science, technology, engineering and mathematics.<sup>75</sup>

73. The United Nations Educational, Scientific and Cultural Organization (UNESCO) noted that pre-primary education was not compulsory in Germany, and stated that steps should be taken to encourage all Länder to legally guarantee one year of compulsory and free pre-primary education.<sup>76</sup>

74. Noting that education was primarily the responsibility of the Länder, the Committee on the Rights of the Child expressed concern that the school laws of only three Länder contained explicit reference to children's rights and human rights. It recommended that Germany strengthen efforts to promote the development of a culture of human rights and peace in the education system and encourage all Länder to incorporate human rights education as an education target into their school laws.<sup>77</sup>

75. The Committee on the Elimination of Discrimination against Women recommended that Germany continue to promote and monitor women's career development in the higher education system to ensure equal access to research positions and decision-making positions in academia.<sup>78</sup>

### **14. Development, the environment, and business and human rights**

76. The same Committee encouraged Germany to take appropriate measures to accelerate its reduction of greenhouse emissions and utilization of fossil fuels; strengthen the link between gender equality and foreign and domestic climate change legislation and policies to meet the specific needs of women and girls disproportionately affected by climate change; increase climate change literacy; and increase the participation of women and girls in climate change and disaster risk reduction decision-making.<sup>79</sup>

77. The Human Rights Committee stated that Germany should continue and intensify efforts to strengthen the legal framework on climate change, including by taking all the steps necessary to implement the findings of the Federal Constitutional Court in its ruling of 24 March 2021. Germany should also take adequate steps to develop mechanisms to ensure the sustainable use of natural resources and to adopt a precautionary approach to protecting persons from the negative impacts of climate change and natural disasters.<sup>80</sup>

78. The same Committee expressed concern about continued allegations of human rights abuses by corporations under German jurisdiction operating abroad and about reports of



victims of alleged violations facing difficulties in accessing legal remedies. It stated that Germany should enhance the effectiveness of existing mechanisms to ensure that all corporations under its jurisdiction respected human rights standards when operating abroad; consider establishing an independent mechanism with the power to investigate human rights abuses committed abroad; and take additional steps to remove any barriers to legal remedies for those who had been victims of activities of such corporations operating abroad.<sup>81</sup>

79. Noting the adoption of the Act on Corporate Due Diligence in Supply Chains, the Committee on the Rights of the Child recommended that Germany ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from its territory; adopt the bill on strengthening integrity in business and establish monitoring mechanisms for the investigation and redress of violations of children's rights; and require companies to undertake assessments and full public disclosure of the environmental, health-related and children's rights impacts of their business activities.<sup>82</sup>

## **B. Rights of specific persons or groups**

### **1. Women**

80. Expressing concern about violence against women and referring to its previous recommendation, the Human Rights Committee stated that Germany should continue and step up efforts to increase the availability of shelters and ensure that all women, including migrants, refugees, asylum-seekers, victims of trafficking and those with an insecure residence status, could access such facilities without fear of sanction; and take targeted measures to protect women from domestic violence, particularly during emergencies such as the coronavirus disease (COVID-19) pandemic.<sup>83</sup>

81. Noting with concern the high femicide rates, the Committee on the Elimination of Discrimination against Women recommended that Germany continue and strengthen its efforts to combat all forms of gender-based violence against women and take steps to develop a comprehensive prevention strategy to address domestic violence.<sup>84</sup>

82. The same Committee recommended that Germany strengthen preventive and protective measures to eliminate female genital mutilation.<sup>85</sup>

83. The same Committee recommended that Germany promote the economic empowerment of rural women and ensure that they had access to landownership and financial credit.<sup>86</sup>

### **2. Children**

84. The Committee on the Rights of the Child expressed concern that the principle of the best interests of the child was not being applied in all proceedings affecting children. It recommended that Germany ensure that the principle of the best interests of the child was consistently applied in all policies, programmes and legislative, administrative and judicial proceedings affecting children, including in relation to trafficking and migration and asylum procedures. It also recommended that Germany strengthen the provision of training and guidance to all relevant professionals for assessing and determining the best interests of the child and for giving it due weight as a primary consideration.<sup>87</sup>

85. The same Committee expressed serious concern about the high prevalence of violence against children, including sexual exploitation and online violence. It urged Germany to develop a comprehensive national strategy for preventing, combating and monitoring all forms of violence against and among children; to ensure the effective investigation of and intervention in all cases of sexual exploitation and abuse of children; and to strengthen measures for ensuring that children who were victims or witnesses of violence had prompt access to child-friendly, multisectoral and comprehensive interventions, services and support.<sup>88</sup>

86. The same Committee recommended that Germany take measures to eliminate child marriage, including forced and religious marriages, and develop awareness-raising

campaigns targeted at religious communities that conducted child marriages on their harmful effect on the physical and mental health and well-being of girls.<sup>89</sup>

87. The same Committee urged Germany to reconsider its position regarding the minimum age of voluntary recruitment into the armed forces, and recommended that Germany raise the minimum age of voluntary recruitment into the armed forces to 18 years and prohibit all forms of advertising and marketing for military service targeted at children, in particular at schools.<sup>90</sup>

### **3. Older persons**

88. The Committee on Economic, Social and Cultural Rights recommended that Germany intensify its efforts to secure a sufficient number of qualified caregivers for older persons; and take immediate steps to improve the situation of older persons in nursing homes, allocate the necessary resources to training nursing care personnel and conduct more frequent and thorough inspections of nursing homes.<sup>91</sup>

### **4. Persons with disabilities**

89. The Human Rights Committee expressed concern about the law providing for circumstances under which the forced sterilization of adults with disabilities remained permissible. It stated that Germany should remove any exception in the law to the ban on the forced sterilization of adults with disabilities.<sup>92</sup>

90. The Committee on the Rights of the Child recommended that Germany establish federal legal regulations to ensure that all disability-support facilities and services had specific measures and mechanisms to protect girls and young women with disabilities from violence, including sexual abuse; and strengthen the support provided to children with disabilities for their social integration and individual development.<sup>93</sup>

### **5. Indigenous Peoples and minorities**

91. The Committee on the Elimination of Discrimination against Women recommended that Germany take effective measures to ensure that Roma and migrant women and girls, regardless of their country of origin, had full access to basic services and the labour market.<sup>94</sup>

92. In a communication dated 23 February 2023, a group of special procedure mandate holders expressed concern at the alleged failure of the Governments of Germany and Namibia, as parties to the negotiations leading to the issuance of a joint declaration, to ensure the right of Ovaherero and Nama peoples to meaningful participation, through self-elected representatives, in the discussions on the recognition and redress of the genocide committed against those communities in the former German South-West Africa colony between 1904 and 1908. The legal status of the Ovaherero and Nama peoples as Indigenous Peoples under international and national law was different and separate from that of the Government of Namibia, and no valid negotiations could be conducted and no just settlement could be reached without them.<sup>95</sup>

### **6. Lesbian, gay, bisexual, transgender and intersex persons**

93. The Human Rights Committee expressed concern about reports that intersex children had sometimes been subjected to unnecessary medical procedures. It stated that Germany should ensure that all acts relating to the assignment of a sex to intersex children performed without their free and informed consent were specifically prohibited, except in cases where such interventions were absolutely necessary for medical reasons and the best interests of the child had been duly taken into account.<sup>96</sup>

### **7. Migrants, refugees and asylum-seekers**

94. The same Committee commended Germany for the solidarity that it had shown in receiving refugees and for its approach to refugee protection. It stated that Germany should consider removing limits on family reunification and ensure the right to family reunification through the application of uniform criteria; and consider reviewing the definition of family for the purpose reunification.<sup>97</sup>

95. The Committee on the Rights of the Child recommended that Germany ensure that asylum-seeking children were interviewed in a child-friendly manner, that they received age-appropriate information and legal advice, that their best interests were given primary consideration and that their views were heard, taken into account and given due weight; invest the resources necessary to ensure that reception centres were child-friendly; prevent the separation of migrant children from their parents; prohibit the arrest and detention of asylum-seeking and migrant children on the basis of their or their parents' migration status; continue to ensure that all unaccompanied children were promptly identified and appointed a guardian with legal expertise in asylum; and ensure that children in initial reception centres had prompt access to education in the regular school system.<sup>98</sup>

96. Referring to the relevant supported recommendation from the previous review, IOM noted the publication of the Minimum Standards for the Protection of Children, Adolescents and Women in Refugee Accommodation Centres. It stated, however, that as the standards were not mandatory, the challenge remained to ensure their implementation in all reception and accommodation centres, which fell under the responsibility of the Länder.<sup>99</sup>

97. IOM stated that since February 2022, Germany had received more than a million Ukrainian nationals. Those displaced from Ukraine, including third-country nationals who held permanent residence permits in Ukraine, had been granted temporary protection and visa-free entry to Germany. However, the exclusion of persons who did not have permanent residency in Ukraine before the war from such temporary protection and visa-free entry had created hardship for a significant number of third-country nationals, many of whom were international students from Africa and the Middle East. In addition, some third-country nationals, especially those of African descent, had faced discrimination as they had not been perceived as Ukrainians, and the lack of clarity among local authorities about their protection had led to them experiencing difficulties in access to basic services such as accommodation and health care. Members of the Roma community had also experienced discrimination as they often lacked official documentation, which prevented them from proving that they had fled Ukraine.<sup>100</sup>

## 8. Stateless persons

98. The Committee on the Rights of the Child expressed concern that some children, in particular children whose parents were not able to present documentation proving their identity or nationality, received a certified register printout, instead of a birth certificate, which restricted their access to certain services. It recommended that Germany ensure that all children born in the country, irrespective of their parents' legal status or country of origin, promptly received birth certificates.<sup>101</sup>

### Notes

- 1 [A/HRC/39/9](#), [A/HRC/39/9/Add.1](#) and [A/HRC/39/2](#).
- 2 [CRC/C/DEU/CO/5-6](#), para. 46. See also [CEDAW/C/DEU/CO/9](#), para. 60.
- 3 [CCPR/C/DEU/CO/7](#), paras. 4 and 5.
- 4 [CRC/C/DEU/CO/5-6](#), para. 49.
- 5 For example, OHCHR, *United Nations Human Rights Report 2022*, pp. 110, 118, 120, 122, 434, 470, 474, 478, 489 and 492.
- 6 [CRC/C/DEU/CO/5-6](#), para. 6.
- 7 [CEDAW/C/DEU/CO/9](#), para. 34.
- 8 [CED/C/DEU/OAI/1](#), paras. 6, 8, 10 and 18 (a). See also [CAT/C/DEU/CO/6](#), para. 26.
- 9 [CAT/C/DEU/CO/6](#), paras. 10 and 51.
- 10 [CEDAW/C/DEU/CO/9](#), paras. 15 and 16.
- 11 Economic Commission for Europe submission for the universal periodic review of Germany, p. 1, referring to Economic Commission for Europe, document [ECE/MP.PP/C.1/2021/25](#), para. 121.
- 12 [CRC/C/DEU/CO/5-6](#), para. 7 (a).
- 13 *Ibid.*, para. 9.
- 14 [CEDAW/C/DEU/CO/9](#), para. 22 (a).
- 15 [CRC/C/DEU/CO/5-6](#), para. 5.
- 16 [CEDAW/C/DEU/CO/9](#), para. 58.
- 17 [CRC/C/DEU/CO/5-6](#), para. 13.

- 18 [CEDAW/C/DEU/CO/9](#), para. 20 (c).
- 19 [CCPR/C/DEU/CO/7](#), para. 23.
- 20 *Ibid.*, paras. 8 and 9 (a) and (c)–(e). See also [CEDAW/C/DEU/CO/9](#), para. 14.
- 21 [CEDAW/C/DEU/CO/9](#), para. 26.
- 22 *Ibid.*, para. 28.
- 23 *Ibid.*, para. 54.
- 24 [CRC/C/DEU/CO/5-6](#), para. 15.
- 25 [CCPR/C/DEU/CO/7](#), paras. 12 and 13.
- 26 [CED/C/DEU/OAI/1](#), para. 20. See also [CAT/C/DEU/CO/6](#), para. 14.
- 27 [CED/C/DEU/OAI/1](#), para. 28.
- 28 [CCPR/C/DEU/CO/7](#), paras. 26 and 27. See also [CAT/C/DEU/CO/6](#), paras. 38–40.
- 29 [CCPR/C/DEU/CO/7](#), paras. 28 and 29.
- 30 *Ibid.*, paras. 10 and 11 (c).
- 31 *Ibid.*, paras. 32 and 33. See also [CAT/C/DEU/CO/6](#), para. 33.
- 32 [CAT/C/DEU/CO/6](#), para. 35.
- 33 [CCPR/C/DEU/CO/7](#), para. 35.
- 34 *Ibid.*, paras. 14 and 15. See also [CAT/C/DEU/CO/6](#), paras. 41–45.
- 35 [CCPR/C/DEU/CO/7](#), paras. 40 and 41.
- 36 [CRC/C/DEU/CO/5-6](#), para. 17.
- 37 *Ibid.*, para. 42.
- 38 [CCPR/C/DEU/CO/7](#), para. 11 (d) and (e).
- 39 *Ibid.*, para. 17 (b), referring to [CCPR/C/DEU/CO/6](#), para. 9.
- 40 [CED/C/DEU/OAI/1](#), para. 14.
- 41 [CAT/C/DEU/CO/6](#), para. 22.
- 42 [CCPR/C/DEU/CO/7](#), para. 46. See also the submission by the United Nations Educational, Scientific and Cultural Organization (UNESCO) for the universal periodic review of Germany, paras. 18 and 32.
- 43 [CCPR/C/DEU/CO/7](#), paras. 48 and 49. See also UNESCO submission, paras. 13 and 31.
- 44 [CCPR/C/DEU/CO/7](#), para. 44.
- 45 [CEDAW/C/DEU/CO/9](#), para. 44 (a).
- 46 [CRC/C/DEU/CO/5-6](#), para. 20.
- 47 [CEDAW/C/DEU/CO/9](#), para. 40, referring to [CEDAW/C/DEU/CO/7-8](#), para. 32. See also [E/C.12/DEU/CO/6](#), para. 31.
- 48 [CEDAW/C/DEU/CO/9](#), paras. 17 and 18.
- 49 [CCPR/C/DEU/CO/7](#), paras. 42 and 43.
- 50 [CRC/C/DEU/CO/5-6](#), para. 21.
- 51 *Ibid.*, para. 25 (a).
- 52 *Ibid.*, para. 26.
- 53 *Ibid.*, para. 28.
- 54 IOM submission for the universal periodic review of Germany, paras. 2–8. For the relevant recommendations, see [A/HRC/39/9](#), para. 155.157 (Austria) and para. 155.158 (Bahrain). See also [A/HRC/39/9/Add.1](#).
- 55 [CEDAW/C/DEU/CO/9](#), para. 36 (b).
- 56 [CRC/C/DEU/CO/5-6](#), para. 41 (a).
- 57 [CEDAW/C/DEU/CO/9](#), para. 44 (b). See also [E/C.12/DEU/CO/6](#), paras. 38 and 39.
- 58 [E/C.12/DEU/CO/6](#), paras. 37, 41 and 43.
- 59 [CCPR/C/DEU/CO/7](#), paras. 50 and 51. See also [E/C.12/DEU/CO/6](#), paras. 44 and 45.
- 60 [CEDAW/C/DEU/CO/9](#), para. 38.
- 61 *Ibid.*, para. 44 (f).
- 62 *Ibid.*, para. 56 (c).
- 63 IOM submission, para. 10. For the relevant recommendation, see [A/HRC/39/9](#), para. 155.199 (Republic of Moldova). See also [A/HRC/39/9/Add.1](#).
- 64 [CRC/C/DEU/CO/5-6](#), para. 34.
- 65 [CEDAW/C/DEU/CO/9](#), para. 48, referring to [CEDAW/C/DEU/CO/7-8](#), para. 40.
- 66 [CEDAW/C/DEU/CO/9](#), para. 46 (d).
- 67 [CCPR/C/DEU/CO/7](#), para. 19.
- 68 [CEDAW/C/DEU/CO/9](#), para. 46 (b).
- 69 [CRC/C/DEU/CO/5-6](#), paras. 30 (a) and 31(a).
- 70 *Ibid.*, para. 32.
- 71 *Ibid.*, paras. 30 (b) and 31 (b).
- 72 *Ibid.*, paras. 30 (c) and 31 (c).
- 73 *Ibid.*, para. 31 (d).
- 74 *Ibid.*, paras. 35 (a) and 36 (a)–(d).

- <sup>75</sup> CEDAW/C/DEU/CO/9, para. 42 (a).
- <sup>76</sup> UNESCO submission, paras. 3 and 30.
- <sup>77</sup> CRC/C/DEU/CO/5-6, para. 37.
- <sup>78</sup> CEDAW/C/DEU/CO/9, para. 42 (b).
- <sup>79</sup> Ibid., para. 52. See also CRC/C/DEU/CO/5-6, para. 33 (a), and E/C.12/DEU/CO/6, para. 19.
- <sup>80</sup> CCPR/C/DEU/CO/7, para. 25. See also [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/03/rs20210324\\_1bvr265618en.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/03/rs20210324_1bvr265618en.html).
- <sup>81</sup> CCPR/C/DEU/CO/7, paras. 6 and 7. See also E/C.12/DEU/CO/6, para. 10; and communication DEU 2/2023, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28038>, and the reply from Germany, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=37576>.
- <sup>82</sup> CRC/C/DEU/CO/5-6, para. 14. See also CEDAW/C/DEU/CO/9, para. 20 (a).
- <sup>83</sup> CCPR/C/DEU/CO/7, paras. 16 and 17 (c) and (d), referring to CCPR/C/DEU/CO/6, para. 9.
- <sup>84</sup> CEDAW/C/DEU/CO/9, paras. 31 (a) and 32 (a).
- <sup>85</sup> Ibid., para. 30. See also CRC/C/DEU/CO/5-6, para. 24 (b).
- <sup>86</sup> CEDAW/C/DEU/CO/9, para. 50 (a).
- <sup>87</sup> CRC/C/DEU/CO/5-6, para. 16.
- <sup>88</sup> Ibid., paras. 22 and 23 (a)–(c).
- <sup>89</sup> Ibid., para. 24 (a).
- <sup>90</sup> Ibid., para. 45 (a).
- <sup>91</sup> E/C.12/DEU/CO/6, para. 49.
- <sup>92</sup> CCPR/C/DEU/CO/7, paras. 30 (d) and 31 (d).
- <sup>93</sup> CRC/C/DEU/CO/5-6, para. 29 (b) and (c).
- <sup>94</sup> CEDAW/C/DEU/CO/9, para. 54.
- <sup>95</sup> See communication DEU 1/2023, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27875>; and reply from Germany, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=37548>.
- <sup>96</sup> CCPR/C/DEU/CO/7, paras. 20 and 21. See also E/C.12/DEU/CO/6, para. 25.
- <sup>97</sup> CCPR/C/DEU/CO/7, paras. 38 and 39. See also E/C.12/DEU/CO/6, para. 29.
- <sup>98</sup> CRC/C/DEU/CO/5-6, para. 40 (a) and (c)–(g).
- <sup>99</sup> IOM submission, paras. 13 and 14. For the relevant recommendation, see A/HRC/39/9, para.155.247 (Luxembourg). See also A/HRC/39/9/Add.1.
- <sup>100</sup> IOM submission, paras. 15–17.
- <sup>101</sup> CRC/C/DEU/CO/5-6, para. 18.