

## GERMANY REVIEW

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### I. Justice System

#### B. Quality of justice

*Accessibility of courts (e.g. court/legal fees, legal aid, language)*

In its 2023 concluding observations on Germany, the Committee on the Rights of Persons with Disabilities expressed concern about the use of a medical model of disability in many areas of the law, at the federal and Länder levels. The Committee recommended, among other things, that Germany systematically review the conformity of existing laws, policies and administrative practices with the obligations under the Convention on the Rights of Persons with Disabilities; review the statutory bases of the right of associations to take legal action to enforce the rights under the Convention, at the federal and Länder levels, enact a generally applicable right of associations to take legal action, provide effective remedies beyond merely declaratory judgments and remove undue burdens such as the risk of prohibitive litigation costs and excessive admissibility requirements. The Committee also recommended that Germany, in particular its courts, determine the justiciability of the provisions of the Convention, including rights subject to progressive realization based on article 4 (2) of the Convention, in close alignment with the Committee's jurisprudence under the Optional Protocol ([CRPD/C/DEU/CO/2-3](#) paras. 5, 10).

In its 2023 concluding observations on Germany, the Committee on the Rights of Persons with Disabilities expressed concern that Germany's laws do not define the denial of reasonable accommodation as a form of discrimination throughout the legal system and recommended that Germany amend its laws in line with article 2 of the Convention on the Rights of Persons with Disabilities. Moreover, the Committee expressed concern about barriers to access to justice for persons with disabilities and recommended Germany develop a national disability justice strategy with the aim to amend the procedural rules in criminal, civil, labour and administrative law to ensure that procedural and age-appropriate accommodations are provided to persons with disabilities in all proceedings on a no-cost basis; to ensure appropriate training for those working in the field of administration of justice, including members of the judiciary, police officers and prison personnel, on Convention standards and principles to ensure access to justice; and to ensure that judicial facilities and information and communications are accessible ([CRPD/C/DEU/CO/2-3](#) paras. 12, 27, 28).

Furthermore, in its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination remained concerned that a significant number of migrant workers, in particular those in irregular situation, are affected by precarious working conditions. The Committee was also concerned by reports that migrant workers, in particular female domestic and care workers, are especially exposed to abuses and labour exploitation (arts. 2 and 5). The Committee recommended that the State party: ensure that all migrants have access to justice

and effective remedies in cases of labour exploitation, without fear of arrest, detention or deportation ([CERD/C/DEU/CO/23-26](#), paras. 39, 40 (c)). Moreover, the Committee recommended that Germany adopt the necessary measures to ensure that victims of racial discrimination affected by human rights abuses that occur abroad and that directly or indirectly involve German companies have adequate access to effective remedies, including remedies providing for civil liability. The Committee encouraged Germany to advocate for a strong European Union regulation regarding access to justice for corporate human rights abuses ([CERD/C/DEU/CO/23-26](#), para. 44).

*Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)*

In its 2023 concluding observations, the Committee on Enforced Disappearances recommended that Germany improve the training provided to staff involved in asylum, return, surrender or extradition procedures on the concept of “enforced disappearance” and on the assessment of the related risks ([CED/C/DEU/OAI/1](#), para. 18 (c)).

Moreover, in its 2023 concluding observations, the Committee on the Elimination of Discrimination against Women reiterated its previous recommendations (see [CEDAW/C/DEU/CO/9](#), para. 32) 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 these and the municipal levels, including through awareness-raising activities to promote understanding that the full, equal, free and democratic participation of women in political and public life is a requirement for the full implementation of women’s human rights. The Committee recommended that Germany provide judicial training on the non-discriminatory nature of temporary special measures, such as statutory quotas, and amend any needed legislation so that courts no longer consider parity laws unconstitutional ([CEDAW/C/DEU/CO/9](#), para. 40).

Furthermore, in its 2023 concluding observations, recommended that Germany provide training to strengthen the investigative and appraisal capacities of law enforcement officials, prosecutors and the judiciary with regard to cases of hate speech and hate crimes and conduct awareness-raising campaigns on the importance of cultural diversity and inter-ethnic understanding among the general populace ([CERD/C/DEU/CO/23-26](#), para. 16 (b)). Additionally, the Committee urged Germany to adopt adequate measures to combat discrimination against ethnic Muslim communities, including awareness-raising campaigns among public authorities, civil servants, law enforcement officials and the public at large on the negative effects of discrimination against ethnic Muslim communities ([CERD/C/DEU/CO/23-26](#), para. 36 (a)).

### **C. Efficiency of the justice system**

### *Length of proceedings*

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination reiterated its previous concern regarding the General Equal Treatment Act and regretted the insufficient progress made on its amendment process, which continues to hinder access to effective remedies for victims of racial discrimination. In particular, the Committee noted with concern that barriers to obtaining compensation in cases of racial discrimination persist, as well as the lack of possibility for collective action, and that the time frame to submit complaints is limited to two months (art. 6). The Committee recommended that Germany ensure that amendments to the General Equal Treatment Act include provisions guaranteeing victims of racial discrimination adequate access to effective remedies, whether those acts of discrimination are committed by private individuals or by State officials, and the right to seek just and adequate reparation for any damage suffered. The Committee also recommended that Germany provide a sufficient time frame for the submission of complaints for acts of discrimination; allow for collective action; and make sure that rules concerning the shift of the burden of proof in civil law cases enables victims of discrimination to make their claims in an effective manner ([CERD/C/DEU/CO/23-26](#), paras. 41, 42).

### *Other*

**Liberty and security of person** - In its 2023 Concluding Observations on Germany, the Committee on the Rights of Persons with Disabilities expressed deep concern about forced institutionalization and forced treatment of persons with disabilities and recommended that Germany prohibit these practices and strengthen all judicial and administrative protections to prevent the deprivation of liberty of children and young persons with disabilities on an equal basis with others. The Committee also recommended Germany amend and/or repeal legislation that restricts the legal capacity of persons with disabilities ([CRPD/C/DEU/CO/2-3](#) paras. 12, 27, 28, 33, 34).

**Applicability of the Convention on the Elimination of All Forms of Racial Discrimination** – In its 2023 Concluding Observations, the Committee on the Elimination of Racial Discrimination took note of the direct applicability of the Convention on the Elimination of All Forms of Racial Discrimination in the legal order of Germany. However, the Committee regretted the lack of information on the number of cases and on concrete case law in which the provisions of the Convention have been invoked before domestic courts or applied by them (art. 2). The Committee recommended that Germany redouble its efforts to raise awareness and knowledge of the provisions of the Convention and its justiciability among judges, lawyers and public officials, enabling them to apply the Convention in relevant cases, and to extend those efforts to the members of parliament (Bundestag), the authorities in the 16 constituent federal states (Länder) and the general public ([CERD/C/DEU/CO/23-26](#), paras. 7, 8).

## **IV. Other institutional issues related to checks and balances**

### **B. Independent authorities**

*Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions*

In its 2023 concluding observations, the Committee on the Elimination of Discrimination against Women noted with concern the lack of measures to strengthen the mandate of the German Institute for Human Rights in order to ensure the transparent, coherent and consistent implementation of the Convention on the Elimination of All Forms of Discrimination Against Women. The Committee encouraged Germany to strengthen the mandate of the German Institute for Human Rights, granting it the authority to support and monitor the transparent, coherent and consistent implementation of the Convention throughout its territory ([CEDAW/C/DEU/CO/9](#), paras. 23, 24).

#### **D. The enabling framework for civil society**

*Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)*

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination recommended that Germany continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of its next periodic report and in follow-up to the present concluding observations ([CERD/C/DEU/CO/23-26](#), para. 54).

#### **E. Initiatives to foster a rule of law culture**

*Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives etc.)*

In its 2023 concluding observations, the Committee on the Elimination of Discrimination against Women welcomed training activities for judges, public prosecutors and members of the legal profession on gender-based violence and recommended that Germany further strengthen its efforts to combat all forms of gender-based violence against women, including femicide, and take steps to develop a comprehensive prevention strategy to address domestic violence, including through awareness-raising campaigns and; regulate the dissemination of artistic content that promotes gender-based violence against women, develop educational programmes in schools and conduct awareness-raising campaigns, with a special focus on youth, on the negative impact of misogynistic audiovisual content available on the Internet, including songs and music videos. ([CEDAW/C/DEU/CO/9](#), paras. 31, 32 (a), (g)).

Moreover, in its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination expressed concern about the numerous cases of racial discrimination and racist acts against athletes belonging to ethnic minorities, in particular football players and about the lack of effective measures to combat such acts. The Committee recommended that Germany adopt adequate measures to prevent and combat all manifestations of racism in sports and ensure that all cases of racist violence and abuse in sports are investigated and that those responsible are sanctioned. The Committee also recommended that Germany develop robust and meaningful awareness-raising programmes to tackle racial stereotyping and discrimination in sports, with the participation of the concerned communities ([CERD/C/DEU/CO/23-26](#), paras. 25, 26). Concerns were also expressed at the increase in antisemitic sentiment, hate crimes and hate speech, in particular after the outbreak of the

armed conflict in Gaza, despite the measures adopted to counter them (art. 2). The Committee recommended that Germany increase its vigilance, reinforce measures to combat antisemitism and continue raising awareness about antisemitism in order to promote tolerance among the various ethnic groups in its population ([CERD/C/DEU/CO/23-26](#), paras. 33, 34). Finally, the Committee recommended that Germany: Increase its efforts to raise public awareness of the importance of ethnic and cultural diversity and the fight against racial discrimination; Take measures to ensure that human rights education programmes, including programmes concerning the fight against racial discrimination and racism, respect for diversity and the promotion of equal treatment, are included in school curricula at all levels; Include in school curricula the history of Germany with regard to colonialism and slavery and their lasting consequences and ensure that all teachers are trained on these curricula ([CERD/C/DEU/CO/23-26](#), para. 50).