

# Contribution to European Commission's Rule of Law report

2025



UNITED NATIONS  
**HUMAN RIGHTS**  
Regional Office Europe

## RULE OF LAW & HUMAN RIGHTS

The 'rule of law' is a concept at the heart of the United Nations' mission. It refers to a principle of governance which is consistent with international human rights standards ([S/2004/616](#)). There is no rule of law within societies if human rights are not protected and human rights cannot be protected in societies without a strong rule of law. This interlinkage is reiterated by the UN Secretary-General in his [New Vision for the Rule of Law](#): *"Human rights and the rule of law are mutually reinforcing – the advancement of the rule of law is essential for the protection of all human rights, and human rights are central to the rule of law."*

The Office of the UN High Commissioner for Human Rights (OHCHR), also known as UN Human Rights Office, is mandated by the UN General Assembly to promote and protect the enjoyment and full realization, by all people, of all human rights. As part of its mandate, OHCHR works to mainstream human rights to strengthen the rule of law ([Management Plan 2024 - 2027](#)).

Established in 2009, OHCHR Regional Office for Europe (ROE) aims to advance the protection and promotion of human rights in the European Union and its member States. ROE works to mainstream international human rights standards to strengthen the rule of law in the EU by engaging in and contributing to the European Commission's Rule of Law Report. ROE furthermore promotes the UN human rights mechanisms and processes by giving their work visibility at the regional level.

## OHCHR ROE'S CONTRIBUTION

The contribution by OHCHR Regional Office for Europe (ROE) is grounded in the Universal Declaration of Human Rights and nine international human rights treaties:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child (CAT)
- Convention on the Rights of Persons with Disabilities (CERD)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)
- International Convention for the Protection of All Persons from Enforced Disappearance (CPED)

The current submission consists of a compilation of findings and recommendations contained in reports of UN international human rights mechanisms including human rights treaty bodies, special procedures and the Universal Periodic Review of the UN Human Rights Council. It also includes statements and reports by the UN High Commissioner for Human Rights and his Office.

# UN HUMAN RIGHTS MECHANISM

Each of the nine international human rights treaties creates a **human rights treaty body or committee of independent experts** to monitor the implementation of the provisions of the treaty. With the support from OHCHR, the treaty bodies:

- consider reports submitted by State parties detailing how they are implementing the treaty;
- adopt general comments interpreting the treaty provisions, and organize discussions on themes related to the treaties; and
- consider complaints (communications) from individuals alleging that their rights have been violated by a State party, provided that the State has accepted the complaints procedure.

The **UN Human Rights Council (HRC)** is a subsidiary body of the UN General Assembly and the main intergovernmental body within the UN responsible for human rights. It meets at the UN Office at Geneva in three regular sessions each year, and may convene special sessions to respond to urgent human rights situations. The HRC benefits from substantive, technical, and secretariat support from OHCHR.

The **special procedures of the UN Human Rights Council** are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. As of November 2024, there are 46 thematic and 14 country mandates. With the support of OHCHR, special procedures undertake country visits, act on individual cases of alleged violations and concerns of a broader nature by sending communications (letters of allegation) to States and other entities; contribute to the development of international human rights standards; and engage in advocacy.

The **Universal Periodic Review (UPR) of the UN Human Rights Council** is a State-led mechanism that conducts a peer review of the human rights situation of each UN Member State once every 4.5 years. It is carried out by the UPR Working Group of the Human Rights Council. In each review, the State under review reports on the actions it has taken to improve its human rights situation and overcome challenges to the enjoyment of human rights. It also receives recommendations from UN Member States for improvement. In addition to the national reports of States under review, the UPR is informed by compilations of stakeholder information and UN system reports.

In recent years, States have established **National Mechanisms for Implementation, Reporting and Follow-up (NMIRF)**, some of whom with the technical assistance of UN Office of the High Commissioner for Human Rights (OHCHR). This mechanism, which is often based within the ministry of foreign affairs, has a mandate which includes following-up on all treaty body obligations, UPR recommendations, as well as recommendations from other international and regional human rights mechanisms, and generally works closely with government ministries, national human rights institutions and civil society organizations. (See: [National Mechanisms for Reporting and Follow-up: A Study of State engagement with International Human Rights Mechanisms](#); [A Practical Guide to Effective State Engagement with International Human Rights Mechanisms](#))

The **Office of the UN High Commissioner for Human Rights (OHCHR)** also known as **UN Human Rights Office** is the main human rights entity of the UN to protect and promote all human rights for everyone everywhere. The High Commissioner for Human Rights leads OHCHR. He is the principal human rights official of the United Nations.

# INSIDE THE CONTRIBUTION

# GERMANY

- Period of contribution: January - December 2024
- Contents of contribution:
  - The UPR of Germany was held at its 44th session (6 - 17 November 2023) and the outcome report was adopted ([A/HRC/55/10](#)) at the 55th session of the UN Human Rights Council (26 February - 5 April 2024). See [matrix of recommendations](#).
  - The Special Rapporteur in the field of cultural rights visited Germany from 28 November to 9 December 2022. The Special Rapporteur shared a [preliminary statement](#) and presented the report ([A/HRC/55/44/Add.1](#)) at the 55th session of the UN Human Rights Council (26 February - 5 April 2024).
  - The Special Rapporteur on the promotion and protection of human rights while countering terrorism visited Germany and North Macedonia from 3 to 12 July 2023. The Special Rapporteur shared a [preliminary statement](#) and presented the report ([A/HRC/55/48/Add.2](#)) at the 55th session of the UN Human Rights Council (26 February - 5 April 2024).
  - The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression addressed threats to freedom of expression in Germany arising from the conflict in Gaza in her thematic report to the 79th session of the UN General Assembly ([A/79/319](#)).
- Forthcoming relevant information (after Jan 2025):
  - The Special Rapporteur on the right to development's visit to Germany is scheduled from 5 to 16 May 2025.
  - The Special Rapporteur on the sale and sexual exploitation of children visited Germany from 14 to 25 October 2024. At the end of the visit, the Special Rapporteur shared a [preliminary statement](#). She will present a comprehensive report of her findings and recommendations to the UN Human Rights Council in March 2026.
- Resources:
  - [Rule of Law in Europe | OHCHR](#)
  - OHCHR Country page on [Germany](#)
  - Universal Periodic Review - [Germany](#)
  - [Universal Human Rights Index \(UHRI\)](#) allows you to explore over 230.000 observations and recommendations made by the international human rights protection system (treaty bodies, special procedures and the Universal Periodic Review)

## Pillar I: JUSTICE SYSTEM

There is no true respect for the rule of law without a judicial power guaranteeing compliance therewith. Judges guarantee compliance with laws and with it the reality of democratic coexistence. The duty to promote equality among all persons, especially to ensure that everyone has the right to access justice on an equal basis with others, rests with the judiciary. Guaranteeing access to justice is indispensable to democratic governance and the rule of law, as well as to combating inequality and exclusion.

Respecting the rule of law through fostering the separation of powers and the independence of justice ensures protection of human rights. The judiciary is the ultimate guarantors of human rights. However, at the same time, judges, prosecutors and lawyers are subject to attacks and violations of their rights, including threats, intimidation, external interference in conducting their professional activities, arbitrary detention, prosecution, and killings. These attacks threaten the impartiality and independence of the judiciary and the legal profession and in turn, deter their role as guarantors of human rights and the rule of law.

For more info:

- [Basic Principles on the Independence of the Judiciary](#)
- [Human rights in the administration of justice: a manual on human rights for judges, prosecutors and lawyers](#)
- [International principles and guidelines on access to justice for persons with disabilities](#)
- [General Recommendation No. 33 on women's access to justice \(CEDAW/C/GC/33\)](#)
- [Special Rapporteur on the independence of judges and lawyers](#)

### **Quality of justice - Training of justice professionals**

- During the Fourth Universal Period Review ([A/HRC/55/10](#)), Germany supported recommendations on training judges and law enforcement personnel:
  - Improve hate crime reporting mechanisms and intensify efforts to prevent, investigate and punish them through training for police, prosecutors and judges
  - Provide human rights training to law enforcement personnel
- The Special Rapporteur on the right to culture noted that more discussion needs to be conducted among different public bodies on the international human rights standards relating to cultural matters. The Special Rapporteur encouraged Germany to consider creating specific training on cultural rights and to strengthen the ability of judges, prosecutors and lawyers to directly apply or invoke the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the optional protocols thereto, in national courts. ([A/HRC/55/44/Add.1, para. 34](#))

## Pillar II: ANTI-CORRUPTION

Corruption has a destructive effect on State institutions and it undermines the functioning and legitimacy of institutions and processes, the rule of law and ultimately the State itself. In particular, corruption effects on the capacity of States to respect, protect and fulfil human rights particularly of those persons and groups in situation of vulnerability and marginalization.

Corruption pose a major challenge to many societies as they divert public revenues and cripple public budgets that should provide healthcare, housing, education, and other essential services, they undermine States' ability to meet their minimum core obligations and their pre-existing legal obligations to maximize all available resources to respect, protect and fulfil human rights.

For more info:

- [Corruption and human rights | OHCHR](#)
- [OHCHR Key messages on the negative impact of corruption in the enjoyment of human rights](#)

### ***Repression – legal framework for sanctions for corruption and bribery***

- During the Fourth Universal Period Review ([A/HRC/55/10](#)), Germany supported a recommendation on corruption:
  - Continue efforts to reinforce the fight against corruption with the instruments of criminal law, particularly with regard to the steps taken in 2021 to upgrade the offences of taking and giving of bribes to elected officials

## Pillar III: MEDIA FREEDOM

Free, independent, plural and diverse media are a core component of the right to freedom of expression, a cornerstone of democratic societies and plays an essential role in strengthening the rule of law. Journalists and the media are crucial to ensure transparency and accountability for public and governmental authorities.

For more info:

- [OHCHR and the safety of journalists and the issue of impunity](#)
- [Special Rapporteur on freedom of opinion and expression](#)
- [General comment No.34 on Article 19: Freedoms of opinion and expression \(CCPR/C/GC/34\)](#)

### ***Framework for journalists' protection, transparency and access to documents***

- During the Fourth Universal Period Review ([A/HRC/55/10](#)), Germany supported a recommendation relating to accountability for crimes committed against journalists:
  - Investigate and prosecute those responsible for attacks against journalists and collect disaggregated data on such acts to design policies that address them most effectively

### **Others – diversity in the media**

- During her visit to Germany, the Special Rapporteur on the right to culture met with a collective of journalists and media professionals dedicated to increasing diversity in the media. Their experience was that the added value of multicultural perspectives on the national and international news was not recognized. Access to the profession for persons with diverse backgrounds was made difficult by stereotypes that limit access to unpaid internships. Once hired, they were confronted with the persistent expectation that they should only cover topics linked with their own background, and were rarely involved in the writing teams creating content for television and radio productions, in particular in public-owned media. These are specific areas where the authorities could actively foster more diversity, which would in turn contribute to normalizing diversity, reducing stereotypes, promoting better mutual understanding and strengthening democracy. ([A/HRC/55/44/Add.1, para. 50](#)).

## **Pillar IV: CHECKS AND BALANCES**

Civic space is the environment that enables civil society to play a role in the political, economic and social life of our societies. In particular, civic space allows individuals and groups to contribute to policy-making that affects their lives, including by: (1) accessing information; (2) engaging in dialogue; (3) expressing dissent or disagreement, and (4) joining together to express their views. An open and pluralistic civic space that guarantees freedom of expression and opinion as well as freedom of assembly and association, is a prerequisite for making development and peace sustainable.

For more info:

- [OHCHR and protecting and expanding civic space](#)
- [Special Rapporteur on human rights defenders](#)
- [The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#)

### **The enabling framework for civil society – general**

- The Special Rapporteur on counter terrorism credited the broad and rich ecosystem of civil society organizations with displaying availability, expertise and historical traction on the processes of engaging with vulnerable individuals who are in the process of re-establishing their lives in this post-conflict, post-detention and post-violent-extremist-organization context. She was impressed with the clinical knowledge, research base, cultural sensitivity and practical knowhow of the organizations she encountered. ([A/HRC/55/48/Add.2, para. 25](#))
- During the Fourth Universal Period Review ([A/HRC/55/10](#)), Germany supported a recommendation on civil society:
  - Cooperate actively with civil society in follow-up to the universal periodic review

### **The enabling framework for civil society – financial support**

- The Special Rapporteur on the right to culture was informed that the federal “Live Democracy!” programme was expanded in 2017 to include a new area on living together in a society of immigration. Under the programme, support was granted to civil society initiatives that connect newly arrived persons with longer-



established migrants, who help them navigate the bureaucracy involved in gaining access to basic social services. Such initiatives empower migrants who have been living in the country for a longer period by validating their knowledge and putting them in a position where they can influence the policies that have an impact on their lives. While some civil society stakeholders focused their work on the right of all to fully and freely take part in cultural life, their experience was that their demands for this right were not heard by the authorities. Most of the funding schemes available support short-term, project-based formats that are not appropriate for building the long-lasting dynamics needed to implement this right.

([A/HRC/55/44/Add.1, para. 71](#)).

- The Special Rapporteur on counter terrorism highlighted the lack of consistent and long-term funding for the NGO sector working on disengagement and its inability to hold on to experienced clinical staff due to the unpredictability of funding. She strongly recommended, given the evident value of the sector and its important engagement, that the Government and donors develop long-term strategies to ensure capacity for long-term, sustained work and the retention of expert staff. ([A/HRC/55/48/Add.2, para. 26](#)).

### **Spyware**

- During the Fourth Universal Period Review ([A/HRC/55/10](#)), Germany noted a recommendation on use of spyware:
  - Refrain from using Pegasus spyware and other similar programs without due safeguards of human rights, accountability and transparency

### **Smear campaigns**

- The Special Rapporteur on freedom of expression referred to platforms which have allowed advertisements dehumanizing Palestinians, including from State actors, even when they appear to violate the terms of service of platforms. YouTube reportedly accepted \$7.1 million in advertisements sponsored by the Government of Israel, primarily targeted at audiences in Germany and other countries. Some of them could constitute incitement to violence, labelling Palestinians as “barbaric terrorists” and featuring graphic, bloody material. Meta reportedly approved ads from the Government of Israel that called for a “holocaust for the Palestinians” and wiping out “Gazan women and children and the elderly”. ([A/79/319, para. 64](#)).

## **SPECIAL THEME - Law enforcement**

In his [New Vision for the Rule of Law](#), the UN Secretary-General stated that we need to move urgently and collectively towards more transparent, inclusive and responsive justice systems. Individuals and groups facing systemic prejudice, bias and stereotypes must be afforded fair treatment in criminal and civil justice systems. As part of the criminal justice system, law enforcement enforces laws and maintains order. In doing so, law enforcement officials have the authority to use force to maintain public order, and to ensure human rights and the rule of law. However, this force can be misused. To prevent the abusive use of force and violation of human rights in law enforcement, States should follow a legislative framework, combined with guidance and training. (webpage) International human rights law is the international legal framework regulating the use of force by law enforcement, and is designed to prevent arbitrary, excessive or discriminatory uses of force, and to ensure accountability in cases of abuse. (webpage) Effective means to combat police misconduct through judicial complaints is an essential requirement for restoring the public's trust in state authority, including the judiciary and safeguarding rule of law and human rights.

For more info:

- [Law enforcement and human rights | OHCHR](#)
- [General recommendation No. 36 \(2020\) on preventing and combating racial profiling by law enforcement officials \(CERD/C/GC/36\)](#)

- During the Fourth Universal Period Review ([A/HRC/55/10](#)), Germany supported several recommendations on steps towards effective criminal justice system:
  - Strengthen the system of registration of judicial complaints against the excessive use of force by law enforcement officers, guaranteeing effective access for victims to complaint mechanisms, and toughen the penalties for offenders according to the seriousness of the crime committed
  - Promptly investigate in a transparent manner all cases of alleged police misconduct and appropriately sanction discriminatory behaviour
  - Take all necessary steps to ensure the effective investigation of allegations of excessive use of force by law enforcement officials and to cause prosecution and punishment of those responsible

## SPECIAL THEME - Freedom of assembly

Freedom of expression and the right to peaceful assembly are fundamental to society – particularly when there is sharp disagreement on major issues. Any restrictions to freedom of expression and right to peaceful assembly must be strictly guided by the principles of legality, necessity and proportionality. These standards must also be applied without discrimination. It must be clear that legitimate exercises of the freedom of expression cannot be conflated with incitement to violence and hatred. The exercise of these rights and freedoms is essential to the functioning of a democratic society and the equitable application of the rule of law.

For more info:

- [The right of peaceful assembly | OHCHR](#)
- [Special Rapporteur on freedom of peaceful assembly and of association](#)
- [General comment No. 37 \(2020\) on the right of peaceful assembly \(article 21\) \(CCPR/C/GC/37\)](#)

- The Special Rapporteur on freedom of expression noted threats to freedom of expression arising from the conflict in Gaza in Germany in her thematic report. In Germany, the response was among the toughest, imposing a blanket ban on all demonstrations in support of Palestinian people from 7 to 21 October 2023, and pre-emptively banning several such gatherings and explaining its action was to prevent “public celebration of the Hamas terrorist attacks”. There have been reports of arbitrary detention and excessive use of force by the police in relation to pro-Palestinian demonstrations in several countries, including Germany. ([A/79/319, para. 35](#)).
- During the Fourth Universal Period Review ([A/HRC/55/10](#)), Germany noted recommendations on the freedoms of opinion, expression, association and assembly in so far as they related to Palestinian solidarity movements:
  - Revoke the ban on pro-Palestinian demonstrations
  - Ensure that freedom of opinion and expression are fulfilled by avoiding discriminatory treatment by police officers against activists, in particular for the peaceful pro-Palestinian protesters
  - Take the necessary measures to reduce violence against demonstrators and guarantee the right to peaceful assembly without discrimination



- Revoke the ban on pro-Palestinian protests, as “demonstrating is a basic right” and revoke the school education authorities’ permission, given on 13 October, to ban students from wearing the Palestinian keffiyeh black and white scarf and displaying “free Palestine” stickers, which raises concerns about the right to free expression and possible discrimination
- During the Fourth Universal Period Review ([A/HRC/55/10](#)), Germany furthermore clarified that:
  - Germany’s legal framework provides for the right of peaceful demonstration. Possible limitations stem from the prohibition of incitement to violence. Police authorities have the task to help enforce these laws while protecting people who want to exercise their fundamental rights. Measures taken have to be proportionate. Any possible misconduct by law enforcement officials is subject to prosecution.
  - Germany strongly supports universal adherence to international human rights and international humanitarian law, including for Palestinians.
  - There is no general ban on pro-Palestinian demonstrations in Germany. Germany’s legal framework provides for the right of peaceful demonstration. Possible limitations stem from the prohibition of incitement to violence.
  - The rights of these groups, as well as the rights of all demonstrators, are guaranteed by the police within the framework of the law in Germany.
  - There is no discrimination against pro-Palestinian activists by the police or authorities in Germany.

## SPECIAL THEME - Counter terrorism

Terrorism aims at the very destruction of human rights, democracy and the rule of law. It attacks the values that lie at the heart of the Charter of the United Nations and other international instruments: respect for human rights; the rule of law; rules governing armed conflict and the protection of civilians; tolerance among peoples and nations; and the peaceful resolution of conflict. In addition to direct impact on human rights, terrorism can destabilize Governments, undermine civil society, jeopardize peace and security, and threaten social and economic development. In recent years, the measures adopted by States to counter terrorism have themselves often posed serious challenges to human rights and the rule of law. The independence of the judiciary has been undermined, in some places, while the use of exceptional courts to try civilians has had an impact on the effectiveness of regular court systems. Repressive measures have been used to stifle the voices of human rights defenders, journalists, minorities, indigenous groups and civil society.

States have an obligation to conduct any transfer of individuals suspected of terrorist activity in a manner which is transparent and consistent with human rights and the rule of law, including the right to respect for a person’s inherent dignity, the right of everyone to recognition before the law and the right to due process. The transfer of an individual which takes place outside the rule of law and without due process may lead to a number of human rights violations, notably infringements of the right to liberty and security of the person, the prohibition of torture and other cruel, inhuman or degrading treatment and punishment, the right to recognition everywhere as an individual before the law, the right to a fair trial, the right to private and family life, and the right to an effective remedy.

For more info:

- [Fact Sheet No. 32 Human Rights, Terrorism and Counter-terrorism](#)
- [Special Rapporteur on counter-terrorism and human rights](#)
- [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#)

- The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism completed a joint thematic visit to Germany and North Macedonia to comprehensively address the repatriation, return, reintegration and prosecution of persons returning from conflict zones in which designated terrorist groups are active, primarily the Syrian Arab Republic and Iraq:
  - Germany experienced significant departures of its nationals and persons having permanent or long-term residence (though not citizenship) in Germany to conflict zones in the Syrian Arab Republic and Iraq. Departures to other conflict zones, including Afghanistan, Somalia and, more recently, Ukraine, are also recognized. Departures and returns occurred at different points to and from the conflict zone, raising specific issues of fact and law regarding returnees' legal and social processing. ([A/HRC/55/48/Add.2](#), para. 15)
  - The Special Rapporteur recognizes the positive work of the Governments of Germany and North Macedonia in making substantial efforts to repatriate a significant number of their nationals from the conflict zone of the north-east of the Syrian Arab Republic. She affirms the life-changing consequences for both German and Macedonian children, as a result of the ruinous and dignity-denying realities of arbitrary and tortuous conditions in camps and prisons and the transformative possibilities that are facilitated by returning to the country of nationality. The return of children is an integral part of a State party's obligations under the Convention on the Rights of the Child. It affirms the potential of the children and armed conflict agenda through meaningful practice and practical implementation. The Special Rapporteur particularly commends the Government of North Macedonia for its positive practice of returning men from prison facilities in the north-east of the Syrian Arab Republic. She positively supports the efforts of both Governments to facilitate positive repatriation, based on a fundamental commitment to reintegrate individuals back into society and demonstrate faith in individuals' capacity to transform their lives and positively engage in society. She acknowledges the unique efforts of Germany to support the human rights of victims of terrorism, pursue justice for the most serious international crimes and fill the evidence lacunae for violations of human rights and humanitarian law that have followed the conflict in the north-east of the Syrian Arab Republic. ([A/HRC/55/48/Add.2](#), para. 62)
  - The Special Rapporteur affirms and commends the independence of the German judiciary. Trials in all cases involving terrorism and core crimes are substantial and meaningful, with full adjudication of evidence and contestation and engagement by defence counsel. Sentencing is generally considered and deliberate. ([A/HRC/55/48/Add.2](#), para. 36)
  - With respect to the role of civil society organizations, the Special Rapporteur acknowledges their role as a central and positive feature of the Government's approach to repatriation and reintegration, acknowledging the sophisticated and established role of civil society actors in deradicalization, distancing and disengagement from violent extremist groups. ([A/HRC/55/48/Add.2](#), para. 24)