



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

Pre-session working group

Forty-third session

19 January-6 February 2009

### List of issues and questions with regard to the consideration of the periodic reports\*

#### Germany

The pre-session working group examined the sixth periodic report of Germany (CEDAW/C/DEU/6).

#### General

1. Please provide further information on the process of preparation of the sixth periodic report of Germany. This information should include whether non-governmental organizations, particularly women's organizations, were involved in the preparation of the report and the nature and extent of their involvement and if the report was adopted by the Government and presented to Parliament.

#### Visibility of the Convention and the Optional Protocol

2. Since Germany ratified the Optional Protocol to the Convention on 15 January 2002, please provide information on measures undertaken to make the Convention and the Optional Protocol widely known and accessible, especially for law professionals and the judiciary. Please provide information on whether Convention rights have been invoked or referred to before national courts, including the Constitutional Court.

3. On page 10, the report states that the "concept of gender-mainstreaming has attracted resistance in some quarters, which prevented the sustainable establishment of the goal of gender equality in some contexts". Please describe how this resistance has been expressed, and in which quarters? How, when, and in which context in particular did the State party realize that this would prevent achieving the goal of gender equality? In the same paragraph it is noted that a new orientation with regard

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\* The page numbering in this list of issues and questions refer to the English version of the report.

to the concept of gender mainstreaming has been geared towards presenting equality policy as the result of a preventive process. Please describe this new policy and explain why it is now more attractive and a real strategy for success.

4. On pages 12 to 14, the report describes the General Equal Treatment Act that came into force on 18 August 2006. Article 1 of the Act provides a new definition of the concept of direct and indirect discrimination, as well as of harassment and sexual harassment. Please indicate whether: (a) All fields are covered, that is, political, economic, social, civil, cultural or any other field in line with article 1 of the CEDAW Convention? (b) The legal definition of discrimination includes discrimination against women and (sexual) harassment in the private or domestic sphere? (c) The Act sets a time-limit for raising a claim? (d) Relevant legal and administrative provisions have been screened to establish whether they comply with the new Act?

5. Page 13 of the report describes measures undertaken to make it easier for victims to assert their rights, notably a shift in the burden of proof. What has been the effective impact of these measures? Has there been an increase in the number of complaints of discrimination, based on sex or gender, since the Act entered into force in August 2006?

#### **National machinery for the advancement of women**

6. The adoption of the General Equal Treatment Act led to the setting up of the Anti-Discrimination Office within the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. Since the ADS does not have an explicit mandate to receive and proceed with complaints, please explain how victims of discrimination coming to the ADS are assured of obtaining remedies or accessing avenues of redress. On page 14, the report states that the staffing of the ADS and recruitment of the advisory board members will be completed during the course of 2007. Has staff been recruited and have the members of the advisory board been appointed? What measures have been taken to ensure the independence, effectiveness and transparency of the ADS, and the independence of the head of the Office in particular?

7. The report states that the quota rules found in Article 8 of the Federal Equality Act (which stipulates that women are to be given preference in areas in which they are underrepresented, under provision of equal qualification) is rarely applied in actual practice. Why are temporary special measures rarely applied in actual practice, despite the acknowledged fact that there is a need to increase the number of women with leadership responsibilities in the public administration? Considering the reluctance of the administration to make use of temporary special measures, have other measures been envisaged to achieve such equality?

#### **Reconciliation of work and family life**

8. On page 48, the report states that women represent the majority of the part-time employees, accounting for 83.9 per cent. The Committee, in its previous concluding observations, expressed concern about the increase in the number of women in part-time work (A/59/38, para. 388).<sup>1</sup> Has there been a change in the ratio

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<sup>1</sup> See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 38*, para. 388.

of women to men working part-time since the previous concluding observations? Are incentives planned to encourage men to make use of part-time employment?

9. In view of the low proportion of fathers taking parental leave — only 5 per cent — further measures have been adopted, as referred to on pages 81 and 82 of the report. Please provide information on the effectiveness and impact of such measures.

### **Migrant women**

10. At an Integration Summit in July 2007, the Federal Chancellor presented a National Integration Plan (page 68 of the report). Has this plan been adopted and is it currently being implemented? Please elaborate on the provisions of the plan relevant to women and girls with migrant backgrounds.

11. As mentioned on page 9 of the report, migrant women often face a double disadvantage in the labour market: as women and because of their ethnic backgrounds. What are the specific measures in place targeting this double discrimination? Please provide data on the number of working migrant women living in Germany in comparison with German women, German men and migrant men.

12. In his country visit's report (A/HRC/4/29/Add.3), the Special Rapporteur on the Right to Education notes in paragraph 74 that the demographic make-up of the country is undergoing radical change and it is possible that, in some 20 or 30 years, more than one third of all schoolchildren will be of immigrant origin. Given this reality, the Special Rapporteur stresses the need for a decisive and creative response, since, if the inequality which currently prevails in the educational system is to persist, unemployment levels will rise, increasing the burden of State assistance for the unemployed with the resulting consequences. The creation of educational opportunities for all members of the population is therefore a fundamental political and economic need in Germany. What specific measures addressing women and girls of disadvantaged minorities have been taken or are planned in order to overcome the difficulties they experience in the field of education?

### **Employment**

13. In its previous concluding observations, the Committee expressed concern that some aspects of the Federal Government's reform policy might have a particular negative impact on women (A/59/38,<sup>2</sup> para. 392). On page 43 of the report, reference is made to the evaluation of the Fourth Law for Modern Services, which replaced the old system of unemployment and social assistance, and introduced basic support for job seekers. Have the initial results of this evaluation been made available? If so, what has been the impact of this law on women?

14. According to page 48 of the report, the adoption in 2007 of the Earning Statistics Act "will provide a clearly improved database for research on the development and the causes of pay inequality and thereby create new possibilities for counterstrategies that can appropriately target the causes". Has an assessment been made on the basis of this database and have the results, if any, been incorporated in a policy strategy?

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<sup>2</sup> Ibid., para. 392.

15. In response to the Committee's previous concluding observations (A/59/38,<sup>3</sup> para. 396), the report states on page 86 that the Foreign Office has adopted a number of measures to enhance the rights of domestic workers in diplomatic households. Please indicate whether the minimum wage all embassies must pay to domestic workers is equal to the minimum wage paid in Germany generally for domestic work. Are the minimum standards in terms of labour laws and social regulations equivalent to general German standards?

#### **Participation of women in public life and decision-making**

16. In its previous concluding observations (A/59/38,<sup>4</sup> para. 396), the Committee noted with appreciation the rate of women's participation in political life, but it also expressed concern that women are underrepresented in the higher echelons of several other sectors of public life, particularly in the civil service, the diplomatic service, science, research and academia. On pages 87 to 89, the report describes a range of measures undertaken in these sectors, namely under the Federal Equality Act, to address underrepresentation of women in leadership positions. In this respect, has an evaluation been made of the progress achieved in the Public and Federal Administration and in Science and Research Institutions? Please elaborate on the fact that the proportion of women among the junior professors is currently 30 per cent (p. 88), whereas in 2004 the ratio between men and women receiving university degrees was almost equal, and 39 per cent of the doctorates were awarded to women (p. 36). What kind of temporary special measures have been adopted to promote women's participation in the Foreign Service? Could you please provide information on the participation of women in the judiciary?

#### **Violence against women**

17. According to the study on women's experience with violence (mentioned on page 20), women in Germany have a median to high level of experience with violence, compared to international data. Moreover, migrant women in Germany experience physical and sexual violence at a higher rate than non-migrant German women, and refugee women experience violence with an even higher frequency (p. 78). Has the State party conducted a study on the reasons for this higher rate and frequency of violence against migrant and refugee women? If so, what measures, if any, have been undertaken in this respect?

18. What concrete steps will the Government take together with its State and municipal counterparts to provide sustainable, adequate and timely funding for comprehensive, accessible protection for women and girls affected by violence, as well as their children, and in particular free access to women's shelters, counselling, and legal and social support?

19. Please provide data on the occurrence of female genital mutilation among girls who reside in Germany. Are all German residents who arrange for, or perform, female genital mutilation, regardless of where it is performed, penalized? Please provide information on follow-up measures undertaken to implement the recommendations of the Committee on the Rights of the Child in respect of female genital mutilation (CRC/C/15/Add.226, para. 46).

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<sup>3</sup> Ibid., para. 396.

<sup>4</sup> Ibid., para. 396.

20. On page 25, the report refers to the draft law intended to implement the EU Council Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography, which increases the age under which children are to be protected. Did this law come into force in 2007, as envisaged?

21. In response to the Committee's request to provide data and information on violence against women (A/59/38,<sup>5</sup> para. 386), the report states at page 77 that data and information on the type and extent of violence against women are available. However, it seems that there is no differentiation as to whether cases prosecuted under the Protection Against Violence Act resulted from complaints lodged against a woman or a man and the age and ethnic background of the victims are also not separately registered. What measures are planned to gather disaggregated data on the sex, age and ethnicity of victims and perpetrators and the relationship between them? Please provide information on the number of women murdered by their husbands, partners or ex-partners in the past few years. Has the Government ensured that relevant professional groups on domestic violence receive comprehensive training?

22. The report notes on page 22 that a study on the extent and scope of violence against disabled women and girls will be commissioned in 2007. Are the results of this study already available? If so, what are the most relevant findings and the measures envisaged to implement them?

23. Please describe the possibilities for asylum-seeking women, women holding toleration permits, and women holding temporary residence permits after having been granted subsidiary protection, to seek protection in women's shelters when suffering from domestic violence. Please also describe the standard of accommodation, especially regarding physical security, in reception centres and community and federal state refugee hostels for female asylum-seekers and holders of toleration permits or temporary residence permits after they have been granted subsidiary protection.

24. Please provide information on the situation of women who have had their gender identity reassigned upon medical decision.

### **Forced marriages**

25. On page 71 of the report, reference is made to the 37th Amendment to the Penal Code, dated 11 February 2005, which expressly defines forced marriage as being a very serious case of coercion, subject to prosecution (punishable by imprisonment from six months to five years). The report further notes that the Federal Government is examining whether additional amendments are needed to prevent forced marriage and to protect the victims. What is the outcome of this examination? Has the draft law classifying forced marriage as a separate criminal offence been adopted (page 86)?

26. In view of the lack of reliable qualitative and quantitative analyses on forced marriages, the Government has commissioned a number of studies; a hearing on the subject took place in the Bundestag; and bodies are examining measures to be taken to prevent forced marriages and to provide support for the victims (page 72 of the

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<sup>5</sup> Ibid., para. 386.

report). What are the concrete outcomes of these initiatives? Have any policy measures been adopted as a result?

#### **Exploitation of prostitution and trafficking in women and girls**

27. The report acknowledges that the Prostitution Act has only succeeded to a very limited extent in realizing its intended goals (pages 30 to 32 and 89 to 91). The report mentions a number of measures that were to be examined, notably to improve the protection of adolescents against sexual abuse, to help women in prostitution who wish to extricate themselves from prostitution, and to control more efficiently commercial activities in connection with sexual services. Have these measures been undertaken or planned for achieving the goals set in the Prostitution Act?

28. According to the January 2005 Amendment to the Immigration Act, a residence permit is to be granted if there are grounds to assume that there is a considerable and concrete threat to the body, life and freedom of a victim or witness in his or her native country (page 29 of the report). What is the statistical data available on the number of such residence permits granted since the Amendment to the Immigration Act?

#### **Stereotypes and Education**

29. In its previous concluding observations (A/59/38,<sup>6</sup> para. 384), the Committee expressed concern that women are sometimes depicted by the media and in advertising as sex objects, and depicted in traditional roles. On page 76, the report notes that Germany's democratic constitution prohibits the federal government from requiring the media to transmit a positive image of women. It further noted that in 2005, 216 complaints related to sexist advertising were registered. What are federal and Länder possibilities for more targeted action against sex stereotyping in the media and in society at large, including through awareness-raising campaigns and wide-spread public discussion? What influence can the Government exercise in State-subsidized media, namely to prevent sexist advertising? What are the number of complaints registered for 2006 and 2007, and the sanctions levied against the media?

#### **Economic consequences of divorce**

30. Please provide information on the type of property that is distributed on dissolution of relationships, and indicate, in particular, whether the law recognizes intangible property (per example pension funds; insurance) as part of the property to be distributed on dissolution. Please also indicate whether the law provides for the distribution of future earning capacity and human capital, or considers enhanced earning capacity or human capital in any manner upon the distribution of property on dissolution (for example through a lump-sum award reflecting the other spouse's estimated share in this type of asset, or by allowing for an award of compensatory spousal payment).

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<sup>6</sup> Ibid., para. 384.