

Germany

CEDAW, A/59/38 part I (2004)

365. The Committee considered the fifth periodic report of Germany (CEDAW/C/DEU/5) at its 640th and 641st meetings, on 21 and 22 January 2004 (see CEDAW/C/SR.640 and 641).

Introduction by the State party

366. In introducing the report, the representative of Germany noted that the fifth periodic report gave an overview of the equality policy pursued by the Government since 1998, and drew attention to the ongoing dialogue with non-governmental organizations. The Convention now enjoyed unprecedented priority in the German Parliament, which in 2003 had discussed a report under the Convention for the first time.

367. Turning to recent developments, the representative drew attention to the Government's Plan of Action to combat violence against women at all levels, which constituted the first comprehensive approach to the issue and was aimed at achieving structural change. The Plan's effective implementation required close cooperation between the Federal Government and the Länder, and among Federal ministries. The Federal Act to Protect against Violence aimed at providing quick protection for victims of violence, including court protection against offenders. A survey had highlighted the need for other types of support and advice for victims also. While the responsibility for establishing such a support infrastructure rested with the Federal Länder and municipalities, the right to a life free of violence was a political priority for the Federal Government. The Federal Ministry for Women had commissioned an evaluation of the Employee Protection Act of 1994 in regard to prevention of sexual harassment at work, which had clarified some of the obstacles to its effective implementation. The findings would be taken into account in the forthcoming reform of the Act in the wake of the transposition of the European Union's anti-discrimination directives.

368. With regard to the question of trafficking in women, a national working group had been established which acted as a steering body for the implementation of the Plan of Action, and good progress had been made in institutionalizing cooperation between various levels of government and other service providers. The Migration Act, which implemented a European Council directive providing, inter alia, short-term residence permits for victims of trafficking, consolidated the residence status of victims of trafficking in human beings. The Act, together with the strengthening of support measures, provided significant protection for victims.

369. Since 1999, gender mainstreaming was the guiding principle of the Federal Government's political action. The strategy was implemented through measures and pilot projects in almost all the departments of the Federal administration. A Gender Competence Centre had recently been inaugurated at Humboldt University in Berlin to support the implementation of gender mainstreaming in all areas of society. Germany had successfully advocated for the establishment of a dual strategy for an equality policy within the European Union, consisting of gender mainstreaming and of a traditional policy for the advancement of women. Germany's development cooperation was an illustration of a successful use of that dual track strategy and, in 2002, €37.4 million had been committed for gender mainstreaming and for women-specific projects in support of women's rights.

370. The reform policy of the Federal Government, contained in its Agenda 2010, introduced far-reaching reforms in areas such as economics, labour, finances and education. The interests of women and families had been brought to bear especially in regard to labour market reforms, and the impact of the reforms on women would be carefully followed. The representative also mentioned several past key measures, such as the Equal Opportunities Act for the Public Service, the introduction of parental leave, the legal claim to part-time employment, the reform of the Works Constitution Act, and the Job-Aktiv Act aimed at promoting women's enrolment in employment promotion activities. The representative stressed her special concern about the labour market prospects for women in eastern Germany.

371. To achieve equal opportunities in employment, the conflicts of interest between family life and work still had to be resolved. The Government cooperated with relevant stakeholders to convince enterprises of the economic benefits of measures enabling workers to reconcile family life and work. The evaluation of activities implemented under the agreement of 2001 between the Federal Government and the Central Associations of German Business to promote equal opportunities for women and men would be presented shortly. The Government also promoted the self-employment of women as a priority within its strategy in support of medium-sized companies. The representative pointed out that the employment rate of women had reached 58.8 per cent in 2002 and the target of 60 per cent would be reached before 2010.

372. While Germany was ranked among the top 30 per cent of European countries in granting financial benefits to families, it was last in line with regard to provision of childcare and education facilities. Until 2010, a series of measures were planned to create needs-based facilities for children of all ages. While schools, day care and nurseries

were the responsibility of the Länder and municipalities, the Federal Government had earmarked €4 billion for the establishment of all-day schools.

373. In conclusion, the representative noted that she had only highlighted some major aspects in regard to the implementation of the Convention and looked forward to the dialogue with the Committee on those and other issues.

Concluding comments of the Committee

Introduction

374. The Committee commends the State party for the timely submission of its fifth periodic report, which complies with the Committee's guidelines for the preparation of periodic reports. It also commends the State party on the written replies to the issues and questions of the pre-session working group and its oral presentation, which focused on recent developments in the country and further clarified the status of implementation of the Convention.

375. The Committee commends the State party for sending a high-level delegation, headed by the Parliamentary State Secretary to the Federal Minister for Family Affairs, Senior Citizens, Women and Youth. The Committee appreciates the constructive dialogue held between the delegation and the members of the Committee.

376. The Committee commends the State party for the withdrawal of the reservation to article 7 (b) of the Convention, which the State party had made upon ratification.

377. The Committee also commends the State party for objecting to reservations entered by other States parties that it considers incompatible with the object and purpose of the Convention.

Positive aspects

378. The Committee notes with appreciation the extensive network of institutions and mechanisms for gender equality at all levels of government, and the wide range of policies and programmes covering many areas of the Convention. It also notes with appreciation the integrated approach to gender mainstreaming and the recent inauguration of the Gender Competence Centre to support the introduction and implementation of gender mainstreaming at various levels, including business, politics and administration.

379. The Committee notes with appreciation that the State party has ratified the Optional Protocol to the Convention and has accepted the amendment to article 20, paragraph 1, of the Convention, relating to the Committee's meeting time.

380. The Committee commends the State party for adopting a substantial number of laws and amendments with a view to improving the legal position of women, including the Act Amending the Aliens Act, providing for an independent right of residence for foreign spouses in the event of separation after two years of cohabitation in Germany or earlier under the hardship clause; the Federal Act on Implementing the Concept of Equal Opportunities between Women and Men, which allows preference to be given to women under certain conditions in areas where women are underrepresented; the Act to Protect against Violence, which provides for court orders against offenders, including violent partners, and the Job-Aktiv Act, which expands specific labour market policy measures for women.

381. The Committee is pleased to note the active role played by non-governmental organizations working on gender equality and their cooperation with the State party, including through regular consultations, membership in supradepartmental working parties, contribution to the legislative process and membership in the German delegation to the Commission on the Status of Women since the twenty-third special session of the General Assembly.

382. The Committee welcomes the State party's policy of integrating a gender dimension into its development cooperation programmes and promoting women's human rights in that framework.

383. The Committee notes with appreciation that the fifth periodic report of the State party had been discussed in Parliament (the Bundestag).

Principal areas of concern and recommendations

384. The Committee is concerned about the continuation of pervasive stereotypical and conservative views of the role and responsibilities of women and men. It is also concerned that women are sometimes depicted by the media and in advertising as sex objects and in traditional roles.

385. The Committee recommends that policies be strengthened and programmes implemented, including awareness-raising and educational campaigns directed at women and men, and specifically at media and advertising agencies, to help ensure the elimination of stereotypes associated with traditional roles in the family and the workplace, and in society at large. It also recommends that the media be encouraged to project a positive image of women and that concerted efforts be made to change men's and society's perception of women as sex objects.

386. While acknowledging that a comprehensive plan of action has been implemented and noting that the results of a survey on violence against women are expected to become available later in 2004, the Committee regrets the limited data and information available with regard to the scope of violence against women, including domestic violence, the nature of the violence and the age and ethnicity of victims.

387. The Committee urges the State party to provide in its next periodic report data and information on the nature and scope of violence against women, including within the family and any new forms of violence against women; including migrant women. The Committee also encourages the State party to continue its efforts to implement policies, plans and programmes aimed at combating violence against women.

388. While noting the agreement to promote the equal opportunities of women and men in private industry, the Committee expresses concern at the high level of long-term unemployment of women, the increase in the number of women in part-time work and in low-paid and low-skilled jobs, the continuing wage discrimination women face and the discrepancy between their qualifications and occupational status. The Committee is also concerned that, notwithstanding the adoption of new regulations in the Child-raising Benefits Act, men seem to continue to resist taking parental leave.

389. The Committee calls upon the State party to intensify its efforts to increase women's de facto equal opportunities in the labour market, including their access to full-time employment, inter alia, through the use of temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation 25, and to promote equal pay for work of equal value. The Committee recommends that the State party continue to monitor the impact of regulations on part-time work and on parental leave and increase incentives, as necessary, so as to counteract the possible adverse consequences of part-time work for women, especially in regard to their pension and retirement benefits, and to encourage fathers to make greater use of parental leave.

390. The Committee is concerned that the Convention has not received the same degree of visibility and importance as regional legal instruments, particularly European Union directives, and is therefore not cited regularly as the legal basis for measures, including legislation, for the elimination of discrimination against women and the advancement of women in the State party.

391. The Committee urges the State party to place greater emphasis on the Convention as a legally

binding human rights instrument in its efforts to achieve the goal of gender equality. It also urges the State party to take proactive measures to enhance awareness of the Convention, in particular among parliamentarians, the judiciary and the legal profession at both the Federal level and the level of the Länder.

392. The Committee expresses concern that some aspects of the Federal Government's reform policy, Agenda 2010, might have a particularly negative impact on women.

393. The Committee recommends that the State party study and carefully monitor the impact of its economic and social reforms on women at all stages of planning, implementation and evaluation so as to introduce changes where necessary to counteract possible negative effects.

394. The Committee is concerned about the situation of migrant and minority women, including Sinti and Roma women, who suffer from multiple forms of discrimination based on sex, ethnic or religious background and race, and at the vulnerability of some of these women to trafficking and sexual exploitation. The Committee regrets the lack of specific information provided in the reports with regard to their access to health, employment and education, as well as various forms of violence committed against them and, in particular, data and information about forced marriages. The Committee is also concerned about the situation of some foreign women domestic workers in the households of diplomats.

395. The Committee urges the State party to take effective measures to eliminate discrimination against migrant and minority women, both in society at large and within their communities, and to respect and promote their human rights, through effective and proactive measures, including awareness-raising programmes. The Committee recommends that the State party continue to undertake research on the situation of migrant and minority women and girls, and to provide the Committee with adequate data and information on their situation in the next periodic report, including in regard to trafficking and sexual exploitation, and on prevention and rehabilitation measures targeted at these groups. The Committee also recommends that the State party intensify efforts to protect the human rights of foreign women domestic workers in diplomatic households.

396. While appreciating that women's participation in political life has exceeded the critical threshold of 30 per cent, the Committee is concerned that women are underrepresented in the higher echelons of several other sectors of public life, particularly in the civil service, the diplomatic service, science and research and academia.

397. The Committee calls on the State party to take steps to facilitate increased access of women to high-level positions. It recommends the adoption of proactive measures to remove existing obstacles and, where necessary, to implement temporary special measures, as provided for in article 4, paragraph 1, of the Convention.

398. The Committee expresses concern that some references to “temporary special measures” in the report of the State party indicate a lack of a clear understanding of article 4, paragraph 1, of the Convention.

399. The Committee recommends that, in preparing its next report, the State party take account of the Committee’s general recommendation 25, on article 4, paragraph 1, of the Convention.

400. While acknowledging that the Act Regulating the Legal Situation of Prostitutes aimed at the improvement of the legal and social protection has come into force, the Committee remains concerned at the exploitation of prostitutes.

401. The Committee recommends that the State party monitor the Act and provide, in its next report, an assessment of its effects. The Committee recommends the implementation of programmes that offer a wide range of alternative means of earning a livelihood, thereby discouraging women from entering into prostitution, as well as rehabilitation programmes to help them. The Committee also recommends the implementation of educational and information programmes on the human rights issues involved in the exploitation of prostitution.

402. While noting that numerous studies and surveys were commissioned following the consideration of the combined second and third periodic report and the fourth periodic report, the Committee expresses concern that it has been provided with few results or outcomes in time for its consideration of the fifth periodic report.

403. The Committee requests the State party to provide, in its next report, information on the results obtained from such studies and surveys with regard to the impact of laws, policies, plans and programmes aimed at achieving gender equality.

404. The Committee recommends that the State party consult with women’s non-governmental organizations during the preparation of the next periodic report.

405. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next report, due in 2006, under article 18 of the Convention.

406. Taking account of the gender dimensions of declarations, programmes and platforms for action adopted by relevant United Nations conferences, summits and special sessions, such as the special session of the General Assembly to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development (the twenty-first special session), the special session of the General Assembly on children (the twenty-seventh special session), the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Second World Assembly on Ageing, the Committee requests the State party to include information on the implementation of aspects of those documents relating to relevant articles of the Convention in its next periodic report.

407. The Committee requests the wide dissemination in Germany of the present concluding comments in order to make the people of Germany, in particular government administrators and politicians, aware of the steps that have been taken to ensure de jure and de facto equality for women and the future steps required in that regard. It also requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention and its Optional Protocol, the Committee's general recommendations and the Beijing Declaration and Platform for Action, as well as the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".