



# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

### Concluding observations on the combined second and third periodic reports of Germany\*

#### I. Introduction

1. The Committee considered the combined second and third periodic reports of Germany at its 674<sup>th</sup> and 675<sup>th</sup> meetings, held on 29 and 30 August 2023. It adopted the present concluding observations at its 684<sup>th</sup> and 685<sup>th</sup> meetings, held on 5 and 6 September 2023.
2. The Committee welcomes the combined second and third periodic reports of Germany, which were prepared in accordance with the Committee's reporting guidelines, and thanks the State party for its written replies to the list of issues prior to reporting.
3. The Committee expresses its appreciation for the constructive dialogue held with the State party's high-level delegation, which covered a wide array of issues and included representatives of relevant government ministries and provided further clarifications to the questions posed orally by the Committee. The Committee also appreciates the active participation of the German Institute for Human Rights, in its capacity as the national human rights institution and independent monitoring mechanism, pursuant to article 33(2) of the Convention.

#### II. Positive aspects

4. The Committee welcomes the measures taken by the State party to implement the Convention since the previous concluding observations in 2015. It welcomes in particular the legislative and policy measures taken to promote the rights of persons with disabilities, including:
  - (a) The Federal Accessibility Initiative of 2022;
  - (b) The enactment of the Barrier-Free Accessibility Strengthening Act (BFSG) of 2021;
  - (c) The enactment of the Act on the Reform of Child and Adult Guardianship Law of 2021;
  - (d) The enactment of the Act to Strengthen Children and Youth (KJSG) of 2021;
  - (e) The Coalition Agreement of 2021;
  - (f) The enactment of the Law on the Protection of Children with Variations in Sex Development of 2021;
  - (g) The enactment of the Family Members Relief Act of 2020;

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\* Adopted by the Committee at its twenty-ninth session (14 August-8 September 2023).

(h) The amendment of the Federal Elections Act and Other Legislation, in 2019, removing restrictions on the voting rights of persons with disabilities;

(i) The enactment of the Act to Strengthen the Participation and Self-Determination of Persons with Disabilities (Federal Participation Act – BTHG) of 2016.

### **III. Principal areas of concern and recommendations**

#### **A. General principles and obligations (arts. 1–4)**

5. The Committee is concerned about the use of a medical model of disability in many areas of the law, at the Federal and Länder levels.

6. **Recalling its concluding observations of 2015 (CRPD/C/DEU/CO/1), para. 8(a), the Committee recommends the State party harmonize the definition of disability in laws and policies, at Federal and Länder levels, with the general principles and provisions of the Convention, particularly with respect to non-discrimination and the human rights model of disability.**

7. The Committee is concerned about:

(a) The lack of recognition, across all government portfolio areas, that disability is a responsibility of all government entities, and the lack of mainstreaming of disability-inclusive measures in all areas of state, society and law;

(b) The lack of a systematic review of existing laws, policies and regulations to ascertain the legislative action required to conform with the obligations under the Convention;

(c) The lack of a general right of associations to take legal action to enforce the rights under the Convention, the rare use of such rights in the areas where the required statutory bases exist, and – in most of these statutory bases – the confinement of remedies available to declaratory judgments;

(d) The lack of systematic and institutionalized engagement with organizations of persons with disabilities, including organizations of children with disabilities, in all matters affecting them, and of processes for close consultation with and the active involvement of organizations of persons with disabilities;

(e) Insufficient resources of organizations of persons with disabilities to actively participate in the development and the implementation of laws, policies, programs and regulations to implement the Convention, and undue administrative hurdles to access funding;

(f) The highly uneven efforts to implement the Convention across the Länder, and an insufficient human rights perspective in the action plans of many Länder.

8. **The Committee recommends that the State party:**

(a) **Develop strategies to strengthen commitment across all government portfolio areas to ensure that disability is recognized as a cross-cutting issue in all areas of state and society, and to effectively mainstream disability-related measures in all areas of the law;**

(b) **Systematically review the conformity of existing laws, policies and administrative practices with the obligations of the State party under the Convention and establish human rights-based action plans with a clear concept of disability, containing adequate measures to promote, protect and fulfil the rights under the Convention, and with targets and indicators to monitor the implementation of the Convention, as recommended in its concluding observations of 2015 (CRPD/C/DEU/CO/1), para. 8(b);**

(c) **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;

(d) **Develop and implement institutionalized procedures for close consultation with and active involvement of organizations of persons with disabilities, including organizations of children with disabilities, in all matters affecting them, set the standards governing these procedures, guaranteeing, among others, sufficient time for their responses and providing all relevant documents in accessible formats, in line with general comment No. 7 (2018), para. 54, and as recommended in the concluding observations of 2015 (CRPD/C/DEU/CO/1), para. 10;**

(e) **Recalling the general comment No. 7 (2018), paras. 60 and 61, strengthen the capacity of organizations of persons with disabilities, including children with disabilities and persons with intellectual and/or psychosocial disabilities, to actively participate in all measures designed to implement the Convention and to effectively employ their statutory rights to take legal action, and allocate sufficient funds. Ensure that funding is not solely project-based and may be accessed without undue administrative hurdles;**

(f) **Bearing in mind its obligations under article 4(5) of the Convention, improve coordination among the Länder in their efforts to implement the Convention, and ensure that their action plans to implement the rights of persons with disabilities are in accordance with their obligations under the Convention.**

9. Taking into consideration that the State party ratified the Optional Protocol to the Convention, the Committee is concerned about the highly textual method employed by the State party's courts in their determination of the justiciability of the provisions of the Convention.

10. **The Committee recommends that the State party, in particular its courts, determine the justiciability of the provisions of the Convention, including rights subject to progressive realization based on article 4 para. 2 of the Convention, closely aligned with the Committee's jurisprudence under the Optional Protocol.**

## **B. Specific rights (arts. 5–30)**

### **Equality and non-discrimination (art. 5)**

11. The Committee is concerned that:

(a) Legal protection against discrimination and of the specific rights under the Convention does not, with few exceptions, encompass private providers of goods and services;

(b) The State party's laws do not define the denial of reasonable accommodation as a form of discrimination throughout the legal system, but are confined to some specific areas, and that the understanding of the requirements to implement reasonable accommodations could be improved;

(c) The State party's laws, including the laws of the Länder, do not generally and explicitly address multiple and intersectional forms of discrimination;

(d) The relief of burden of proof in the General Law on Equality (AGG) does not unequivocally encompass the parties' obligations to prove the existence of a disadvantage.

12. **Recalling its general comment No. 6 (2018) on equality and non-discrimination, the Committee recommends that the State party:**

(a) **Fulfil its pledges in the Coalition Agreement and extend the legal protection against discrimination and of the specific rights under the Convention to all private entities who provide goods and services to the public, and establish effective remedies to enforce the respective obligations;**

(b) **Amend its laws, at the Federal and Länder levels, so as to include an explicit recognition of the denial of reasonable accommodation as a form of**

**discrimination in all areas of the law, and to include a legal definition of reasonable accommodation consistent with the meaning provided in article 2 of the Convention;**

**(c) Adopt legal and other measures necessary to provide for explicit protection from multiple and intersectional forms of discrimination, including discrimination based on the intersection between disability and other status, such as age, sex, gender, race, indigeneity, lesbian, gay, bisexual, transgender and intersex status, ethnicity, migration status, and national origin;**

**(d) Amend its laws on the relief of burden of proof, in particular para. 22 of the General Law on Equality (AGG), to explicitly include the parties' obligations to prove the existence of a disadvantage as a part of that relief.**

#### **Women with disabilities (art. 6)**

13. The Committee is concerned about:

(a) The lack of a comprehensive intersectional approach to ensure that issues pertaining to women and girls with disabilities, including migrant women and girls with disabilities, are mainstreamed in both gender and disability legislation and policies;

(b) The lack of sufficient long-term funding of representative organizations of women and girls with disabilities to advance and promote their human rights.

14. **The Committee recalls its general comment No. 3 (2016) on women and girls with disabilities and recommends that the State party, at the Federal and Länder levels:**

**(a) Strengthen measures and policy mechanisms to ensure that the issues pertaining to women and girls with disabilities, including migrant women and girls with disabilities, are comprehensively addressed within gender and disability legislation and policies;**

**(b) Develop measures, including sufficient long-term financial resourcing, to support organizations of women and girls with disabilities to advance their human rights.**

#### **Children with disabilities (art. 7)**

15. The Committee is concerned about:

(a) The lack of training of entities and their employees applying the new Act to Strengthen Children and Youth (KJSG) on the requirements of children with disabilities;

(b) The high cost of assistance services or inpatient treatment of children with disabilities for their parents;

(c) The lack of disaggregated data on refugee children with disabilities and children with disabilities in refugee-like situations, widely varying conditions in reception facilities often not tailored to the requirements of children with disabilities, and seemingly varying access to education, health care and cultural and leisure activities.

16. **The Committee, recalling the joint statement of the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities on the rights of children with disabilities, issued in 2022, recommends that the State party:**

**(a) Establish training programs for entities and their employees applying the new Act to Strengthen Children and Youth (KJSG) on the requirements of children with disabilities, including children with intellectual and/or psychosocial disabilities;**

**(b) Cover the disability-related costs of assistance services or inpatient treatment of children with disabilities;**

**(c) Strengthen the collection of comprehensive disaggregated data on refugee children with disabilities and children with disabilities in refugee-like situations, ensure that all reception facilities holding children with disabilities meet their requirements, and guarantee access to education, health care and cultural and leisure activities to all refugee children with disabilities and children with disabilities in refugee-like situations.**

**Awareness-raising (art. 8)**

17. The Committee is concerned about:

(a) The lack of a comprehensive national strategy for awareness-raising activities and campaigns to foster respect for the rights and dignity of persons with disabilities and to advance sustained and systemic attitudinal change;

(b) The inaccuracies in the official German translation of the Convention conducive to substantive misinterpretations.

18. **The Committee recommends that the State party:**

(a) **Adopt and fund a comprehensive national strategy to raise awareness throughout society, particularly among persons with disabilities, their parents and families, professional groups, the media and government officials at all levels, regarding the rights and dignity of persons with disabilities, in order to combat stereotypes, prejudice and harmful practices in all aspects of life and to advance sustained and systemic attitudinal change;**

(b) **Revise the official German translation of the Convention, in close consultation with and active involvement of organizations of persons with disabilities, in order to accurately reflect its meaning in all aspects.**

**Accessibility (art. 9)**

19. The Committee is concerned about:

(a) The narrow implementation of the European Accessibility Act, confined to the mandatory obligations, omitting important areas such as health services, educational goods and services, household appliances, the built environment, and the corresponding widespread inaccessibility of services rendered by public and private entities, including services listed in article 2 of the Act;

(b) The insufficient quantity of affordable accessible housing in the State party and often inadequate building standards set by the Länder;

(c) The widespread lack of accessibility of public transport;

(d) The lack of institutionalized mechanisms for the participation of organizations of persons with disabilities in the development of accessibility standards.

20. **Recalling general comment No. 2 (2014) on accessibility and referring to the pledges in the Coalition Agreement of 2021, the Committee recommends that the State party:**

(a) **Amend its legislation, at the Federal and Länder levels, to render all services by public and private entities provided to the public accessible, and intensify the implementation of existing provisions on accessibility;**

(b) **Expand and strengthen legal requirements of accessible housing for public and private use, for new and existing buildings, permitting the building of new inaccessible housing only in narrowly defined exceptional circumstances, setting legally binding time-bound goals to be achieved for buildings owned or used by public entities, and incorporate existing accessibility standards such as DIN 18040-3 into law.**

(c) **Enact and implement legal requirements guaranteeing the autonomous use of public transport by persons with disabilities, particularly with the following measures:**

(i) **Implement the forthcoming revised Regulation (EU) No. 1300/2014 (TSI-PRM) expeditiously and with a clear plan and timeframe, and, should the forthcoming revised regulation not guarantee autonomous access to stations and rail services, enact and implement national requirements to this end;**

(ii) **Enact and implement specific indicators, targets and monitoring mechanisms for the forthcoming revised Regulation (EU) 1315/2013 (TEN-T), ensuring autonomous accessibility of the respective new infrastructure;**

(iii) **Implement the existing requirements for accessibility of commuter rail services, bus, coach and trolley bus services, cable car services, and passenger navigation services expeditiously and with a clear plan; enact and implement requirements for the autonomous use of public transport in these areas;**

(iv) **Should the forthcoming revised Regulation (EC) No. 1107/2006 (PRM-Regulation) on air travel not cover the following guarantees, enact and implement provisions prohibiting the denial of boarding because of a disability and the requirement of an accompanying person, and guarantee full compensation for damaged or lost mobility equipment or assistance animals;**

(d) **Establish institutionalized mechanisms for close consultation with and active involvement of persons with disabilities through their organizations in the processes for the development of accessibility standards.**

#### **Right to life (art. 10)**

21. The Committee notes with appreciation that the State party enacted a federal law governing triage decisions in situations of insufficient medical capacities, and that these rules prohibit any direct and indirect discrimination based on disability. However, the Committee is concerned that the triage criterion of “actual or short-term probability of survival”, as laid down in the law, may discriminate persons with disabilities indirectly, despite the legal prohibition of such discrimination.

22. **The Committee recommends that the State party review the new federal law on triage decisions in situations of insufficient medical capacities and enact a triage criterion that effectively prevents any direct or indirect discrimination of persons with disabilities.**

#### **Situations of risk and humanitarian emergencies (art. 11)**

23. The Committee is concerned about the following:

(a) The lack of close consultation with and active involvement of persons with disabilities through their representative organisations in disaster risk reduction and humanitarian action, including the planning of COVID 19 pandemic mitigation responses that resulted in adverse impacts on persons with disabilities;

(b) The lack of an overarching disability inclusive, human rights-based strategy for disaster risk reduction and humanitarian action that is in line with the Sendai Framework for Disaster Risk Reduction 2015-2030 and the IASC Guidelines, Inclusion of Persons with Disabilities in Humanitarian Action, 2019.

24. **Recalling the Sendai Framework for Disaster Risk Reduction 2015-2030 and the IASC Guidelines, Inclusion of Persons with Disabilities in Humanitarian Action, 2019, the Committee recommends that the State Party, in close consultation and active involvement with persons with disabilities through their representative organisations, develop:**

(a) **A national public health emergency plan that addresses the specific requirements of and responses for persons with disabilities and that operates across all levels of Federal, Länder and municipal governments;**

(b) **An overarching disability inclusive, human rights-based strategy for all situations of risk and humanitarian emergencies, including public health emergencies, climate change and disaster risk reduction.**

#### **Equal recognition before the law (art. 12)**

25. The Committee is concerned that:

(a) The Act on Reform of Child and Adult Guardianship Law 2021 does not eliminate all forms of substitute decision-making;

(b) There is no national comprehensive strategy for the implementation of supported decision-making mechanisms.

**26. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Eliminate all forms of substitute decision-making and replace it with a system of supported decision-making;**

**(b) Develop a national comprehensive strategy, in close consultation with and active involvement of persons with disabilities through their representative organisations across all levels of Federal, Länder and municipal governments for the implementation of supported decision-making mechanisms.**

#### **Access to justice (art. 13)**

27. The Committee is concerned about access to justice barriers for persons with disabilities, including:

(a) The lack of procedural and age-appropriate accommodations within the justice sector and the costs incurred by persons with disabilities in providing their own accommodations and support to facilitate effective participation in the legal proceedings;

(b) The lack of understanding by legal professionals about access to justice for persons with disabilities;

(c) The lack of accessible judicial facilities, information and communications.

**28. The Committee recommends that the State Party, in close consultation with and active involvement of organisations of persons with disabilities, develop a national disability justice strategy to:**

**(a) Amend the procedural rules in criminal, civil, labour and administrative law to ensure procedural and age-appropriate accommodations are provided to persons with disabilities in all proceedings on a no cost basis;**

**(b) Ensure appropriate training of those working in the field of administration of justice, including the judiciary, police and prison personnel on Convention standards and principles to ensure access to justice;**

**(c) Ensure that judicial facilities, information and communications are accessible.**

#### **Liberty and security of person (art. 14)**

29. The Committee is deeply concerned:

(a) About the forced institutionalisation and forced treatment of persons with disabilities on the basis of impairment in care and integration assistance facilities and other institutions, psychiatric institutions and forensic psychiatric care;

(b) That children and young people with disabilities can be deprived of their liberty on the basis of therapeutic necessity.

**30. Recalling its Guidelines on the right to liberty and security of persons with disabilities (2016) and its Guidelines on deinstitutionalization, including in emergencies (2022), the Committee recommends that the State party take all necessary legislative, administrative and judicial measures to:**

**(a) Prohibit involuntary detention, forced institutionalisation and forced treatment of persons with disabilities on the basis of impairment;**

**(b) 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.**

31. The Committee is concerned about 'unfit' to stand trial provisions that allow for the indefinite detention of persons with disabilities in forensic psychiatric care.

32. **The Committee recommends that the State party amend and/or repeal legislation that restricts the legal capacity of persons with disabilities, allowing for harsher measures against persons with disabilities than against defendants convicted of the same crimes, such as indefinite detention, and guarantee their access to justice on an equal basis with others throughout judicial proceedings.**

**Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)**

33. The Committee is concerned about:

(a) The use of physical and chemical restraints, seclusion, and other harmful practices, particularly in care and integration assistance facilities and other institutions, psychiatric institutions, and forensic psychiatric care;

(b) the lack of oversight and monitoring of care and integration assistance facilities and other institutions, psychiatric institutions, and forensic psychiatric care and the use of restraints, seclusion and other harmful practices;

(c) The lack of independent complaints and redress mechanisms to address harmful and forced practices perpetrated in care and integration assistance facilities and other institutions, psychiatric institutions, and forensic psychiatric care.

34. **The Committee recommends that the State party take all necessary legislative, administrative and judicial measures to:**

(a) **Prohibit the use of physical and chemical restraints, seclusion and other harmful practices in all institutional settings;**

(b) **Establish independent monitoring bodies across in all Länder jurisdictions to provide regular oversight of all institutional facilities and to collect and analyse data on the use of forced treatment and coercive practices, and adequately resource existing monitoring mechanisms, including the National Agency for the Prevention of Torture and the Institute for Human Rights in order to strengthen their mandates;**

(c) **Establish an independent complaints mechanism, accessible to all persons with disabilities in all settings, to receive complaints as well as investigate and sanction institutions and perpetrators of harmful and forced practices, and to support victims by providing legal advice, accessible information, counselling and redress, including compensation and rehabilitation.**

**Freedom from exploitation, violence and abuse (art. 16)**

35. The Committee is deeply concerned about:

(a) The high rates of all forms of violence against persons with disabilities, in particular women and girls with disabilities, and the lack of a comprehensive and effective violence prevention and response strategy to protect against violence in all public and private settings;

(b) The lack of purview of the Protection Against Violence Act to cover all forms of violence experienced by persons with disabilities in all institutional settings, in particular for women and girls with disabilities.

36. **The Committee recommends that the State party, in close consultation with and active involvement of organisations of persons with disabilities, in particular organisations of women and girls with disabilities:**

(a) **Develop a comprehensive and effective violence prevention and response strategy in line with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), which responds to gender and age specific requirements, ensures that all shelters, refuges and counselling centres are accessible and widely available, and establishes independent monitoring bodies with complaints and redress mechanisms;**



**(b) Undertake legislative and policy reform to ensure protection against all forms of violence and abuse experienced by persons with disabilities in all institutional settings, in particular for women and girls with disabilities.**

#### **Protecting the integrity of the person (art. 17)**

37. The Committee is concerned about:

(a) The continued occurrence of forced and coerced sterilisation of women and girls with disabilities;

(b) The practice of forced and coerced contraception and associated harmful side-effects and forced and coerced abortions in institutional facilities.

**38. The Committee recommends that the State Party take all necessary legislative, administrative and judicial measures to:**

**(a) Prohibit sterilisation of women and girls with disabilities without their free and informed consent, including sterilisation based on substitute consent or court decisions;**

**(b) Prohibit all forms of contraception and abortion without the free and informed consent of the individual concerned, including coercive practices.**

39. The Committee is concerned that the Act on the Protection of Children with Variations in Sex Development of 2021 does not provide comprehensive protection for all intersex children from invasive or irreversible medical procedures that modify sex characteristics.

**40. The Committee recommends that the State Party closely consult and actively involve representative organisations of intersex persons to review and amend the Act on the Protection of Children with Variations in Sex Development 2021 to ensure comprehensive protection for intersex children from invasive or irreversible medical procedures that modify sex characteristics unless necessary to avoid serious, urgent, and irreparable harm.**

#### **Liberty of movement and nationality (art. 18)**

41. The Committee is concerned about:

(a) Access to essential supports, including disability specific supports for refugees and asylum seekers with disabilities being dependent on country of origin;

(b) The lack of uniform and adequate procedures across all Länder for the identification of refugees and asylum seekers with disabilities, resulting in inconsistent and inadequate implementation of human rights law and the EU Directive 2013/33/EU;

(c) The impact of the draft law to amend the Nationality Act, which would preclude persons with disabilities in receipt of benefits from obtaining citizenship.

**42. The Committee recommends that the State party take all legislative, administrative, and other measures to:**

**(a) Ensure access to essential supports, including disability specific supports, for all refugees and asylum seekers with disabilities is available without discrimination on the basis of country of origin;**

**(b) Implement uniform and adequate procedures across all Länder to ensure the identification of refugees and asylum seekers with disabilities and the provision of appropriate disability related supports as required by human rights law and the EU Directive 2013/33/EU;**

**(c) Ensure the draft law to amend the Nationality Act does not preclude persons with disabilities in receipt of benefits from obtaining citizenship.**

#### **Living independently and being included in the community (art. 19)**

43. The Committee is concerned about:

(a) The extensive segregation of persons with disabilities in institutional settings and the lack of measures to progress deinstitutionalisation;

(b) The range of barriers to enable persons with disabilities to exercise choice and preference regarding place of residence and support services, such as the additional cost proviso, the forcible pooling of inclusion benefits and services, the complexity of utilising personal budgets and benefit allowances based on shared accommodation rather than individual requirements.

44. **Recalling its general comment No. 5 (2017) on living independently and being included in the community, its Guidelines on deinstitutionalization, including in emergencies (2022) and the report of the Special Rapporteur on the Rights of Persons with Disabilities, ‘Transformation of services for persons with disabilities’ (2023), the Committee recommends that the State party, in close consultation with and active involvement of persons with disabilities:**

(a) **Develop a comprehensive deinstitutionalisation strategy to end, as a matter of priority, the institutionalisation of persons with disabilities, including in small residential homes, with measures to prevent trans-institutionalisation and to support the transition from institutions to life in the community, with specific timeframes, human, technical and financial resources, and clear responsibilities for implementation and monitoring;**

(b) **Develop measures to remove barriers for persons with disabilities to choose where and with whom they live, including by committing to increase the supply of affordable and accessible housing, by establishing personal assistance supports and services, by removing additional cost requirements and the forced pooling of inclusion benefits and services, reducing the complexity in utilising personal budgets and by basing benefit allowances on individual requirement rather than shared accommodation.**

#### **Personal mobility (art. 20)**

45. The Committee is concerned about the lack of comprehensive and consistent mechanisms across all Länder to ensure that persons with disabilities are provided with affordable, quality mobility aids, devices, assistive technologies and other forms of assistance based on individual requirements.

46. **The Committee recommends that the State party establish comprehensive and consistent mechanisms across all Länder to facilitate the provision of affordable, quality mobility aids, devices, assistive technologies and other forms of assistance based on the individual requirements of persons with disabilities.**

#### **Freedom of expression and opinion, and access to information (art. 21)**

47. The Committee is concerned about the lack of a national standard for, and effective monitoring of, the accessibility of information, leading to a lack of effective access to information in particular in the private broadcasting and websites and the limited accessibility of information during the COVID 19 pandemic, in particular for deaf and hard of hearing and persons with intellectual disability.

48. **The Committee recommends that the State party, in close consultation with and active involvement of persons with disabilities and their representative organizations, take all necessary measures, including the adoption of inclusive media regulations and the development and implementation of a national standard of accessibility, and mechanisms of monitoring and sanctioning, based on international and European standards, to ensure that the information intended for the general public is available in accessible formats and via the assistive technology for all persons with disabilities, in a timely manner and without additional costs, in particular during emergency crisis.**

#### **Respect for privacy (art. 22)**

49. The Committee is concerned about the lack of comprehensive measures ensuring data protection and the right to privacy concerning personal, medical and rehabilitation

information of persons with disabilities in institutions and sheltered workshops, and the absence of confidentiality protocols concerning data protection of disability certificate holders vis-à-vis data exchange amongst institutions and service providers.

**50. The Committee recommends that the State party adopt all necessary measures, including the revision of data protection laws, to ensure the data protection and the right to privacy in hospitals, institutions and sheltered workshops, and set up data protection protocols and secured systems to guarantee the privacy of personal, health and rehabilitation information of persons with disabilities, on an equal basis with others.**

#### **Respect for the home and family (art. 23)**

51. The Committee is concerned about certain provisions of the Civil Code BGB, which may lead to violations of the rights of persons with disabilities, in particular persons with psychosocial and persons with intellectual disabilities, to home and family life, namely:

(a) Section 1304 of the Civil Code BGB, which prohibits a person who is “incapable of contracting” to enter into marriage;

(b) Section 1673 of the Civil Code BGB, which determines the suspension of the parental custody of persons who are “incapable of contracting”;

(c) Section 1748 of the Civil Code BGB, which foresees substituted consent for adoption in cases of parents’ “serious psychological illness or a particularly serious mental or psychological handicap”;

(d) Section 1905 of the Civil Code BGB, which foresees the possibility of sterilization of a person under custodianship without free and informed consent.

**52. The Committee recommends that the State party revise the Civil Code BGB and abolish all provisions which may restrict persons with disabilities’ full enjoyment and exercise of the right to marriage, parenthood and reproductive rights and to promote the supported decision-making model in all matters related to home and family life.**

#### **Education (art. 24)**

53. The Committee is concerned about the lack of full implementation of inclusive education throughout the education system, the prevalence of special schools and classes, as well as the various barriers children with disabilities and their families encounter to enroll in and complete studies at mainstream schools, including:

(a) The lack of clear mechanism to promote inclusive education in the Länder and at the municipal level;

(b) The misconception and negative perception about inclusive education at some executive entities, which may take the parents’ request to enroll their children in mainstream school as indication on “incapability to take care of their child”;

(c) The lack of accessibility and accommodation in public schools and the lack of accessible transportation, in particular in rural areas;

(d) Insufficient training for teachers and non-teaching staff on the right to inclusive education as well as the development of specific skills and teaching methodologies and reported pressure on parents to enroll children with disabilities in special schools.

**54. Recalling its general comment No. 4 (2016) on inclusive education, the Committee recommends that the State party, in close consultation with and active involvement of students with disabilities, their families and representative organizations:**

(a) **Develop a comprehensive plan to accelerate the transition from special schooling to inclusive education at Länder and municipal levels, with specific timeframes, human, technical and financial resource allocation, and clear responsibilities for implementation and monitoring.**

(b) **Implement awareness raising and educational campaigns to promote inclusive education at the community level and among the relevant authorities;**

(c) **Ensure that children with disabilities can attend mainstream schools, including through enhancing accessibility and accommodation to all kinds of disabilities and providing appropriate arrangements for transportation, in particular in rural areas;**

(d) **Guarantee continuous training for teachers and non-teaching staff on inclusive education at all levels, including training in sign language and other accessible formats of information and communication, and develop a monitoring system to eliminate all forms of direct and indirect discrimination against children with disabilities and their families.**

55. The Committee is concerned about the lack of data on the access of refugee children with disabilities to education and to mainstream schools.

56. **The Committee recommends that the State party allocate sufficient resources for the regular collection of data, disaggregated by sex and type of disability, on the number and proportion of refugee children with disabilities who access education and are enrolled in mainstream and special schools as well as dropout rates.**

#### **Health (art. 25)**

57. The Committee is concerned about:

(a) The lack of accessibility and trained health practitioners on communication and on providing information in accessible methods and formats in the health care facilities, in particular for women with disabilities and in rural areas and the fact that persons with disabilities may have to travel long distances to obtain accessible medical services;

(b) The fact that persons with psychosocial disability, persons with intellectual disability and deaf and hard of hearing persons are less likely to receive quality health care due to the lack of training of, and discriminatory approach taken by, health professionals;

(c) The absence of legal provisions, in particular in the Civil Code BGB, concerning the delivery of medical information for persons with disabilities in accessible formats to ensure their free and informed consent is obtained prior to any medical intervention on an equal basis with others;

(d) The access to health services for asylum seekers, who may receive acute care but not “complementary” services such as physiotherapy, occupational therapy, and mental health treatment.

58. **The Committee recommends that the State party:**

(a) **Take measures to guarantee the availability and accessibility of health services across the Länder, in particular for women with disabilities and in rural areas, without discrimination, by identifying and removing barriers and providing accessible medical equipment;**

(b) **Strengthen mechanisms for the regular training of health professionals about human rights, dignity, autonomy and the requirements of persons with disabilities;**

(c) **Enforce regulations on the legal protection of persons with disabilities against discrimination in health-care services and define standardized protocols concerning the delivery of medical information to persons with disabilities and their free and informed consent for medical interventions in accordance with the Convention and the Committee’s general comment No. 1 (2014);**

(d) **Ensure asylum seekers with disabilities have access to comprehensive health services upon their arrival on an equal basis with others.**

#### **Habilitation and rehabilitation (art. 26)**

59. The Committee is concerned about the lack of mechanisms in place to ensure persons with disabilities receive integral rehabilitation services from different providers across the Länder and the uncertain long-term impact of the Federal Participation Act (BTHG) in

creating efficient rehabilitation systems to reduce segregation, in particular in congregate living and sheltered workshops.

**60. The Committee recommends that the State party develop cross-cutting, accessible and flexible mechanisms through which persons with disabilities can easily select and receive the most relevant rehabilitation programs or services in accordance with their choice and preference, and conduct periodic thematic assessments of rehabilitation programs to ensure persons with disabilities' ample exercise of independent living and access to the labor market.**

#### **Work and employment (art. 27)**

61. The Committee is concerned about:

(a) The high incidence of unemployment amongst persons with disabilities, in particular persons with intensive support requirements, and the high number of persons with disabilities enrolled in sheltered workshops and low rate of transition to the open labor market;

(b) Insufficient legal measures to guarantee the accessibility of and reasonable accommodation in workplaces and to bring the private sector accountable for not observing the quotas of employment for persons with disabilities;

(c) The lack of accessible and inclusive vocational training premises as well as protocols to eliminate discrimination and segregation and to ensure persons with disabilities have equal opportunities to choose the vocational program freely, without any kind of coercion.

**62. With reference to the general comment No. 8 (2022) on work and employment and reiterating the recommendations of the Committee on Economic, Social and Cultural Rights (E/C.12/DEU/CO/6), the Committee recommends that the State party:**

(a) **Develop, in close consultation with and active involvement of organizations of persons with disabilities, an action plan to promote the transition of persons with disabilities in sheltered workshops to the open labor market across the Länder, with allocation of resources and specific timeframe;**

(b) **Enforce the implementation of the quotas of employment for persons with disabilities in both the public and private sectors, including through measures more effective than the current compensatory levy, and ensure the accessibility of and reasonable accommodation in workplaces;**

(c) **Restructure the vocational training system and take measures to ensure accessibility and inclusiveness, including through the establishment of a complaints mechanism to investigate the discriminatory practices on basis of disability in the field of vocational rehabilitation and work.**

#### **Adequate standard of living and social protection (art. 28)**

63. The Committee is concerned about:

(a) The higher risk of poverty among persons with disability, the lack of measures to address poverty among persons with disabilities and the absence of regular research reports examining the systemic causes of the intersection of poverty and disability that are able to inform governmental policies and plans adequately;

(b) Insufficiently individualized support, including financial support, to persons with disabilities over 25 years of age and living with their parents;

(c) That, by taking into account the assets and income of persons with disabilities and other members of the household, the integration assistance benefit system hinders savings on an equal basis with others and jeopardizes financial security for senior citizens.

**64. The Committee recommends that the State party:**

(a) **Take all necessary measures to address the increased risk of poverty among persons with disabilities and mainstream disability in all studies, research, policies and plans related to poverty reduction;**

**(b) Revise benefit assessment rules for persons with disabilities, in order to meet the individual support requirements of persons with disabilities;**

**(c) Revise the integration assistance benefits of persons with disabilities to allow for savings on an equal basis with others and guarantee their financial security at old age.**

**Participation in political and public life (art. 29)**

65. The Committee is concerned about:

(a) The lack of reasonable accommodation, in particular sign language interpretation, in political parties and unions, which hinders the participation of deaf and hard of hearing persons;

(b) The low participation of women with disabilities in political and public life and the lack of data identifying barriers for their participation;

(c) The lack of accessibility in polling stations, particularly in rural areas.

66. **The Committee recommends that the State party:**

**(a) Take measures to ensure accessibility and reasonable accommodation, including sign language interpretation, for persons with disabilities in political parties and unions;**

**(b) Allocate the necessary resources to conduct research on barriers that prevent women with disabilities' participation and engagement in public life and promote capacity development programs, in close consultation with women with disabilities and their representative organizations;**

**(c) Ensure accessibility of voting material and polling stations, particularly in rural areas, across the Länder, and in the development of electronic voting systems.**

**Participation in cultural life, recreation, leisure and sport (art. 30)**

67. The Committee is concerned about:

(a) The lack of accessibility in public libraries, museums, and touristic areas and monuments;

(b) Barriers persons with disabilities encounter to benefit from the personal assistance services to exercise the right to sport and entertainment;

(c) The absence of policies and programs to promote the cultural and linguistic identity of deaf persons ;

(d) The lack of inclusivity and accessibility in some faculties of creative arts;

(e) The lack of measures to promote cultural diversity in the society, in particular with respect to the contribution of the refugees with disabilities to diversity.

68. **The Committee recommends that the State party:**

**(a) Strengthen mechanisms to ensure that sporting, recreational, cultural and tourism venues are accessible for persons with disabilities;**

**(b) Ensure persons with disabilities have access to personal assistance at no cost to practice sport and attend cultural and social activities;**

**(c) Promote the cultural and linguistic identity of deaf persons , with close participation of their representative organizations, in educational curriculum, media and social events;**

**(d) In close consultation with and active involvement of persons with disabilities and their representative organizations, promote inclusion and accessibility to all creative arts studies;**

**(e) Promote cultural diversity in society and the contribution of the refugees with disabilities to diversity.**

## C. Specific Obligations (arts. 31-33)

### Statistics and data collection (art. 31)

69. The Committee is concerned about:

- (a) The effectiveness of the microcensus method used in disability statistics and the extent to which this method reflects the number of refugees with disabilities in the country;
- (b) The medical model reflections on the disability statistics, in particular adopted criteria to classify and distinguish between severe, moderate and mild disability.

70. **The Committee recommends that the State party:**

- (a) Ensure public and thematic censuses are inclusive and disability sensitive by using appropriate data collection methods such as the Washington Group on Disabilities Statistics questions, and incorporate questions to obtain specific data about refugees with disabilities;**
- (b) Adopt human rights-based standards to identify and classify the different types of disability.**

### International cooperation (art. 32)

71. The Committee is concerned about:

- (a) The lack of inclusion of funded projects in the developing countries and limited budgets to fund disability-specific projects;
- (b) The lack of effective consultation with persons with disabilities and their representative organizations in identifying the national priorities and the themes which will be funded in their respective countries;
- (c) The lack of accurate indicators to ensure that international funds are used in line with the Convention, its purpose and general principles, and the SDGs.

72. **The Committee recommends that the State party:**

- (a) Ensure inclusion is a pre-condition to approve funded projects in international cooperation programs;**
- (b) Consult with persons with disabilities and their representative organizations to the national priorities and the themes to be supported and engage them in all phases of the funded projects;**
- (c) Develop indicators to ensure that the funded projects' goals and activities are in conformity with the Convention and the SDGs.**

### National implementation and monitoring (art. 33)

73. The Committee is concerned about:

- (a) The insufficient human, technical and financial resources of focal points to fulfil their responsibilities and the limited involvement of organizations of persons with disabilities in the implementation of the Convention;
- (b) The lack of mechanisms to monitor the implementation of the Convention at the Länder level.

74. **The Committee recommends that the State party:**

- (a) Build the capacity of and equip focal points with sufficient powers and increased human, technical and financial resources to fulfil their responsibilities under article 33 of the Convention, and ensure that persons with disabilities and their representative organizations are effectively involved in monitoring the implementation of the Convention;**

(b) Enact legislation establishing permanent independent monitoring mechanisms at the Länder level, in full compliance with the Paris Principles, and allocate human, technical and secure financial resources to support their mandates.

## **IV. Follow-up**

### **Dissemination of information**

75. The Committee emphasizes the importance of all the recommendations contained in the present concluding observations. With regard to urgent measures that must be taken, the Committee would like to draw the State party's attention to the recommendations contained in paragraphs 44, 54 and 62 above.

76. The Committee requests the State party to implement the recommendations contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Parliament, officials in relevant ministries, local authorities and members of relevant professional groups, such as education, medical and legal professionals, as well as to the media, using modern social communication strategies.

77. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.

78. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations, organizations of persons with disabilities and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, including Easy Read, and to make them available on the government website on human rights.

### **Next periodic report**

79. The State party has opted to report under the simplified reporting procedure regarding its periodic reports. The Committee will prepare list of issues prior to reporting and request the State party to submit its replies within one year upon receipt of the list of issues. The replies of the State party, expected by 24 March 2031, will constitute its combined fourth, fifth, and sixth periodic reports.

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