

# Combined second and third periodic reports and fourth periodic reports

## Germany

(22<sup>nd</sup> session)

287. The Committee considered the combined second and third periodic reports and fourth periodic report of Germany (CEDAW/C/DEU/2-3 and 4) at its 464th and 465th meetings, on 1 February 2000 (see CEDAW/C/SR.464 and 465).

### Introduction by the State party

288. The representative of Germany noted that the change in Government in September 1998 had led to new priorities in the country's equal rights policy. Ten years had passed since the reunification of Germany and since the presentation of its initial report, thus providing an occasion to assess developments of equal rights and equal opportunities in unified Germany. The transition from the economic and social system of the former German Democratic Republic to a system based on parliamentary democracy, federalism and the social market economy had entailed painful adjustments for the people living in the East. Women had often been severely affected by the negative effects of that process. Labour market and social policy measures had helped to soften the effects of the radical changes for women in the new *Länder* (states). Having enjoyed full employment prior to unification, women's unemployment rate in the new *Länder*, while declining, was still 20.7 per cent. New public and non-governmental institutions had also emerged, contributing to the improvement of women's overall social situation.

289. The representative underlined that on 10 December 1999, Germany had signed the Optional Protocol to the Convention. The ratification process would be initiated in 2000, together with acceptance of the amendment to article 20, paragraph 1, of the Convention. In the light of the recent decision of the European Court of Justice on Germany's prohibition that women bear arms, Germany would assess its reservation to article 7, subparagraph (b) of the Convention.

290. In her presentation, the representative focused on two key priorities of the current Government's equal rights policy, namely the women and work programme and the action plan to combat violence against women. The women and work programme aimed at ensuring better use of women's skills in all sectors of society, to provide new impetus for equal opportunity at work and to promote equal participation in the workforce and society. While women were better educated than ever before and represented 42 per cent of all gainfully employed or self-employed persons, they continued to suffer inequalities in the distribution of family work and in the allocation of training places and jobs. Their wages remained below those of men, they held 90 per cent of all part-time jobs, were concentrated in few occupational groups and ranked lower in the business hierarchy.

291. Consequently, the women and work programme would address various areas to assist in implementing the Convention. A draft bill would be prepared to increase the number of women in the federal administration and in policy advisory bodies. The under-representation of women in management positions in German business and industry would be addressed through the elaboration of effective equal opportunity regulations for the private sector since voluntary action alone was not enough. A group of experts had been established to make recommendations that would gain wide acceptance and take into account the great diversity of companies. In order to address the still considerable differences in women's and men's wages, the Ministry for Family Affairs, Senior Citizens, Women and Youth would submit a report on equal pay and the economic situation of women to the German Bundestag. The report would examine the primary causes of wage discrimination, which, due to the clear legal situation, was no longer the result of direct wage discrimination against women. Measures to create opportunities for women in the expanding information technology sector would be undertaken, as would measures to encourage women's entrepreneurship. In cooperation with the *Länder*, efforts to improve equal opportunities for women in teaching and research would continue and a target of 20 per cent women holding professorships in institutions of higher education by the year 2005 had been set. Measures were planned to reconcile family and career through greater work flexibility for women and men, flexibility of child-raising leave, improvement of childcare institutions and the promotion of a new male image to help men fit into the role of equal sharers in family work and child-raising.

292. Turning to the action plan to combat violence against women, the representative pointed out that past measures, while leading to improvements in certain areas, had not brought about a real and sustained reduction in violence against women in German society. The current plan had been drawn up as a comprehensive overall concept, involving all authorities and non-governmental organizations dealing with violence against women. Since the plan applied to areas within the jurisdiction of the *Länder* and municipalities, a working group would be set up to foster cooperation between the federal Government and the *Länder*, with the inclusion of non-governmental organizations. The plan focused on a number of areas, including prevention, with attention to the particular situation of disabled women and girls, older women and foreign women and girls; legislation, with particular attention to improving the protection of women victims of domestic violence under civil law, combating sexual harassment in the workplace and fighting trafficking in women; cooperation among institutions and projects, with working groups being set up on trafficking in women and on domestic violence; nationwide networking of assistance services; work with offenders, in particular through rehabilitation programmes for perpetrators; awareness-building among experts and the public at large; and international cooperation.

293. The representative drew attention to several areas where progress had been made or where there was an acute need for action. A first comprehensive study had been commissioned to assess the health situation of German women. Rural women benefited from a number of projects to support structural change in rural regions. The sixth report on families had, for the first time, examined the situation of foreign families in Germany, and a representative study would be commissioned soon to assess the living situation and social integration of foreign women and girls. That report was expected to serve as a basis for further measures in this area. The entry into force of the new law on nationality on 1 January 2000 also benefited foreign women and their children.

294. In conclusion, the representative noted that the many initiatives undertaken by the current federal Government needed to be translated into practice in the coming years. They would further the achievement of real equality for women and men and serve to implement the Convention more effectively than in the past.

### **Concluding comments of the Committee**

#### **Introduction**

295. The Committee expresses its appreciation to the Government of Germany for submitting a detailed combined second and third periodic report, as well as a fourth periodic report containing data disaggregated by sex, and following the Committee's guidelines for the preparation of periodic reports. It commends the Government for the comprehensive written replies to the Committee's questions and its oral presentation, which provided additional information on recent developments in the State party. It appreciates the open manner in which the State party shared with the Committee its analysis of the situation of women and identified areas for further progress.

296. The Committee commends the Government of Germany for having sent a large delegation with a broad range of expertise, which was headed by the Parliamentary State Secretary at the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. Their participation enhanced the quality of the constructive dialogue between the State party and the Committee. The Committee notes that the reports also refer to steps taken by the Government to implement the Beijing Platform for Action.

#### **Positive aspects**

297. The Committee commends the Government on its commitment to achieving equal rights and equal opportunities for women, reflected in the progress made in the implementation of the Convention since the consideration of the initial report in 1990. The Committee welcomes the steps taken by the Government following the reunification of Germany to support the many adjustments required from the people, especially the women, of the former German Democratic Republic in the transition to an economic and social system based on parliamentary democracy, federalism and the social market economy.

298. The Committee welcomes the amendment of article 3 of the Basic Law, which adds the commitment of the State to the promotion of women's *de facto* equality with men and the removal of existing disadvantages to the constitutional guarantee of equal rights of women and men.

299. The Committee commends the Government on its wide-ranging legislative and policy initiatives and the programmes and projects aimed at giving effect to the constitutional guarantee of equal rights of women and men. In particular, it welcomes the adoption of the second Equal Rights Act of 1994, the amendment of the Penal Law, making marital rape and sexual coercion a punishable offence, and the action plan to combat

violence against women. It commends the Government on its women and work programme aimed at ensuring women's equal participation in all sectors of society. It welcomes the Government's extensive use of temporary special measures, in accordance with article 4, paragraph 1, of the Convention, for the realization of de facto equality for women.

300. The Committee commends the Government on the recent advances made in the participation of women in the political sphere, particularly with respect to the representation of women in the Parliament.

301. The Committee commends the State party on the extensive network of institutional mechanisms at federal, state and local levels that support and promote the implementation of the country's equal rights policies. It appreciates the fact that resources for the Federal Ministry aimed at realizing equal opportunities for women have increased continuously between 1986 and 1997.

302. The Committee congratulates the State party for having signed the Optional Protocol to the Convention, on 10 December 1999, and welcomes its stated intention to initiate in 2000 the process of ratifying the Optional Protocol and the amendment of article 20, paragraph 1, of the Convention concerning the time of meetings of the Committee.

303. The Committee notes that the Government, in assessing the implication of a decision of the European Court of Justice concerning the role of women in the German armed forces, will evaluate its reservation to article 7, subparagraph b, of the Convention.

#### **Factors and difficulties affecting the implementation of the Convention**

304. The Committee notes that there are no significant factors or difficulties that prevent the effective implementation of the Convention in Germany.

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

305. The Committee, while noting the wealth of information concerning legislation, policy and specific measures designed to ensure compliance with the Convention, is nonetheless concerned at the general absence of assessment and evaluation of these initiatives.

306. The Committee urges the State party to place greater emphasis, in its next periodic report, on the assessment and evaluation of all measures taken to eliminate discrimination against women in all areas of their lives, and to set time-frames within which it intends to achieve its goals.

307. The Committee is concerned that, although a series of measures has been adopted, the implementation of the Convention for women living in the new *Länder* continues to lag behind that with regard to those living in the old *Länder*. It is concerned that women in the new *Länder* used to enjoy full employment but now account for 20.7 per cent of the unemployed. That is a disproportionately high percentage compared to that of unemployed men in the new *Länder* as well as to the overall unemployment rate of women in Germany.

308. The Committee urges the Government to continue its targeted efforts to improve the situation of women in the new *Länder* in the area of work and employment, as well as their overall social well-being.

309. The Committee is concerned that the programmes, laws and policies introduced by the Government have failed to ensure that the Constitutional obligation to promote the implementation of de facto equality for women is understood as a societal responsibility and achieved in practice.

310. The Committee urges the Government to take measures to ensure that public officials, including law enforcement officials, contribute to the realization of this principle in the entire territory of the country. It urges the Government to ensure that tertiary and continuing legal education of lawyers and the judiciary adequately covers the evolving understanding of equality and non-discrimination and international norms and standards in that regard. It also urges the Government to ensure the availability of effective domestic remedies and their accessibility to women, especially in the light of the pending entry into force of the Optional Protocol to the Convention. It also encourages the Government to refer directly to the Convention in its legislative, policy and programmatic initiatives, since the Convention is legally binding and such use would increase awareness of the international commitments entered into by the State party.

311. The Committee expresses its concern at the continuing disadvantages women face in many aspects of work and the economy. In particular, the Committee is concerned at the persistence of the wage gap between women and men, notwithstanding women's high educational achievements, with women earning on average 77 per cent of men's earnings. It is concerned that, in 1997, although women accounted for 42.1 per cent of the gainfully employed population, they comprised 88 per cent of the persons working in part-time employment and 55.9 per cent of the unemployed. The Committee is concerned that those differences

are indicative of the persistence of indirect discrimination against women in the labour market. It is also concerned that part-time work tends to be in low-skilled employment, offering fewer opportunities for professional advancement.

312. The Committee calls on the Government to ensure that the definition of discrimination contained in article 1 of the Convention, in particular the Convention's prohibition of indirect discrimination, is fully integrated into its legislation, especially its labour legislation. In this regard, it welcomes the Government's intention to prepare a report on equal pay which will examine the primary causes of wage discrimination. The Committee calls on the State party to examine existing formulae for the determination of equal work and work of equal value, with a view to developing guidelines or directives to assist the partners in collective wage bargaining in determining comparable wage structures in sectors dominated by women. The Committee urges the Government to monitor closely the impact of its new programme on women and work so as to ensure that it achieves its stated aims of advancing equal opportunities of women and men in the working world and in the family and does not perpetuate gender stereotypes.

313. The Committee expresses its concern at the persistence of stereotypical and traditional attitudes about the roles and responsibilities of women and men in private and in public life. The Committee notes that that persistence is reflected in women's predominance in part-time work, their main responsibility for family and caring work, occupational segregation, men's extremely low participation in parental leave, at 1.5 per cent of those taking parental leave in 1997, and the taxation of married couples. The Committee is concerned that measures aimed at the reconciliation of family and work entrench stereotypical expectations for women and men. In that regard, the Committee is concerned at the unmet need for kindergarten places for the 0-3 age group, that the proportion of all-day kindergartens was only 34.8 per cent in 1994 and that childcare centres were available for only 5.1 per cent of school-age children, especially since all-day schools are the exception in Germany.

314. The Committee urges the Government to study the impact of measures aimed at reconciliation of work and family responsibilities so as to create a firm basis for policies and programmes that will accelerate change and eradicate stereotypical attitudes. The Committee urges the State party to develop more programmes and policies targeted at men to accelerate the changing of attitudes and behaviour. It calls on the State party to consider the introduction of non-transferable parental leave for fathers to increase the number of men that share responsibility for childcare and child-rearing. It urges the Government to improve the availability of care places for school-age children to facilitate women's re-entry into the labour market. It also recommends that the State party assess the current legal provisions on the taxation of married couples ("splitting") and its impact on the perpetuation of stereotypical expectations for married women.

315. The Committee is concerned at the limited efforts and measures in place to extend women's equal rights and equal opportunities into the private sector.

316. The Committee calls on the Government to increase its legislative and regulatory efforts to ensure that women are protected against all forms of discrimination in the private sector and to increase measures aimed at achieving de facto equality. It also encourages the Government to intensify its interaction with the private sector, including through incentives and other non-legislative measures, as well as with unions and with women's organizations to achieve that goal.

317. The Committee is concerned at the often precarious social and economic situation of foreign women living in Germany. It is also concerned at the incidences of xenophobic and racist attacks in the State party and notes the vulnerabilities that foreign women can face on the multiple grounds of sex, ethnicity and race.

318. Noting the Government's intention to commission a study on the living situation and social integration of foreign women and girls, the Committee requests the Government to undertake a comprehensive assessment of the situation of foreign women, including their access to education and training, work and work-related benefits, health care and social protection, and to provide such information in its next report. The Committee calls on the Government to improve the collection of data and statistics disaggregated by sex and race/ethnicity of victims of violence motivated by xenophobia and racism, to put in place adequate protection mechanisms and to ensure that foreign women victims of such attacks are made aware of their rights and have access to effective remedies. It also urges the Government to strengthen its efforts for the social integration of foreign women through educational and employment services, and through awareness-raising of the population. It also recommends that steps be taken to combat domestic violence and violence within the family and to increase foreign women's awareness about the availability of legal remedies and means of social protection.

319. The Committee, while welcoming the Government's action plan on violence against women, is concerned at the remaining gaps in protecting women against violence in the family and in society.

320. The Committee urges the Government to ensure the systematic implementation of the plan and to monitor its impact in the areas of emphasis identified in the plan. In particular, the Committee recommends legislation and measures to ensure that women victims of domestic violence have immediate means of redress and protection. It also calls on the Government to take measures aimed at creating zero tolerance for such violence, and to make it socially and morally unacceptable. The Committee further recommends that measures be taken to sensitize the judiciary to all forms of violence against women that constitute infringements of the human rights of women under the Convention, particularly taking into account the increased vulnerability of foreign women to such violence.

321. The Committee is concerned at the incidence of trafficking in women and girls.

322. The Committee urges the Government to recognize that trafficked women are victims of human rights violations in need of protection and, accordingly, to provide assistance to them. It also urges the Government to increase efforts of cross-border and international cooperation, especially with countries of origin and transit, to reduce the incidence of trafficking and to prosecute traffickers. It calls on the Government to ensure that trafficked women have the support that they need so that they can provide testimony against their traffickers. It also urges that training of border police and law enforcement officials provide them with the requisite skills to recognize and provide support to victims of trafficking. It also recommends that the Government review its procedures for issuance of visas to dependent spouses, taking into consideration that such spouses may be vulnerable to sexual exploitation.

323. The Committee is concerned at the continuing stereotypical portrayal of women, especially of foreign women, in the media.

324. The Committee urges the Government to support the important role of the media in changing stereotypical attitudes to women. It recommends that opportunities be created for the portrayal of positive, non-traditional images of women and to encourage and facilitate the use of self-regulatory mechanisms in the media to reduce discriminatory and stereotypical portrayals of women.

325. The Committee is concerned that, although they are legally obliged to pay taxes, prostitutes still do not enjoy the protection of labour and social law.

326. The Committee recommends that the Government improve the legislative situation affecting these women so as to render them less vulnerable to exploitation and increase their social protection.

327. Noting the Government's intention to amend the Aliens Act on the legal status of foreign spouses, the Committee is concerned at the situation of alien women seeking residence in the State party.

328. The Committee urges the Government to continue to improve the legislative and social protection of alien women, especially of women asylum seekers.

329. The Committee urges the Government to deposit its instrument of acceptance of the amendment to article 20, paragraph 1, of the Convention as soon as possible.

330. The Committee also urges the Government to ratify the Optional Protocol to the Convention.

331. The Committee requests that the Government respond in its next periodic report to the specific issues raised in these concluding comments.

332. The Committee also requests that the Government engage in a broad consultative process with women's non-governmental organizations, including those that represent foreign women, when preparing its next report.

333. The Committee requests the wide dissemination in Germany of the present concluding comments in order to make the people of Germany, particularly 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 that are required in that regard. It also requests the Government 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.