



**Deutsches Institut
für Menschenrechte**

German Institute for Human Rights

Written Contribution

to the 115th session of the Committee on the Elimination of Racial Discrimination (CERD) in the context of the follow-up procedure of the CERD concluding observations (COBs) on Germany

January 2025

Contents

1	Preliminary observations	3
2	Reform of the General Act on Equal Treatment (art. 2 para. 1)	3
3	Discrimination against non-citizens (art. 5, 7)	5

1 Preliminary observations

The German Institute for Human Rights (*Deutsches Institut für Menschenrechte*) (the Institute) is the independent human rights institution in Germany. The Institute is accredited according to the Paris Principles of the United Nations (A-status). The Institute's tasks include public policy research, education, information and documentation on human rights, application-oriented research on issues related to human rights and cooperation with international organisations. It also monitors the application of the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child and has established Monitoring Bodies for these purposes. The Institute is mandated as National Rapporteur Mechanism under the Council of Europe Conventions on Violence against Women and Domestic Violence (Istanbul Convention) and on Trafficking in Human Beings. The Institute is also Germany's focal point in reporting within the research network FRANET of the European Union Agency for Fundamental Rights, FRA.

With this submission the German Institute for Human Rights provides a written contribution in the context of the follow-up procedure of CERD concluding observations (COBs) on Germany by the Committee on the Elimination of Racial Discrimination during its 115th Session. As requested, the Institute provides information on the implementation of the follow-up recommendations contained in paragraphs 14 (a), (b) and (c) (related to the General Equal Treatment Act) and paragraphs 38 (b) and (c) (on discrimination against non-citizens).

2 Reform of the General Act on Equal Treatment (art. 2 para. 1)

cf. paragraph 14 (a), (b), (c)

Background

In its concluding observations CERD recommended Germany to

- Expedite the amendment of the General Equal Treatment Act, ensuring its full compliance with the Convention, as well as other human rights instruments;
- Expand the scope of application of the Act to encompass all areas of life and, in particular, discrimination by public authorities;
- Consult with civil society organizations in the amendment process, as well as other relevant bodies, such as the German Institute for Human Rights and the Federal Anti-Discrimination Agency, to take into account the proposals already made by various actors, as well as the recommendations made by the Committee and other treaty bodies;

Germany responded to those recommendations in its Follow-up Report. It emphasised that there had been no progress on the reform of the General Equal Treatment Act and stated that, in view of the expected early Bundestag elections, it was unlikely that the reform would be addressed in the current legislative period. The Follow-up Report stated that the position paper by the Independent Federal Anti-Discrimination Commissioner (2023) and the CERD recommendation would be taken into account in the reform process. The Follow-up report also explained that there is a legal obligation to involve the Independent Federal Anti-Discrimination Commissioner in any project at an early stage if her tasks would be affected.

Assessment by the German Institute for Human Rights

The coalition agreement of 2021 clearly stated the intention of the German government to evaluate the General Equal Treatment Act (AGG), close gaps in protection, improve legal protection and extend the scope of application.¹ However, no respective legislation has been finalised, despite several chances to do so.

The latest of such opportunities had been in October 2024. By then, the Federal Ministry for Families, Senior Citizens, Women and Youth presented a draft bill aimed at implementing two EU directives:² Council Directive (EU) 2024/1499 and Council Directive (EU) 2024/1500 of the European Parliament and of the Council lay down minimum requirements to provide people in all Member States with a common minimum level of protection against discrimination to achieve better application and enforcement of EU equality law in all Member States.³ The Directives cover key aspects of equality bodies, including their mandate, independence, resources, tasks and powers of equality bodies in order to prevent discrimination and raise awareness, and to deal with cases of discrimination and support victims.⁴ The German implementing legislation could have addressed and closed the gaps in the General Equal Treatment Act identified by civil society actors and CERD. Civil society actors who commented on the bill during the consultation process were disappointed and called on the federal government not to postpone the upcoming reform of the General Equal Treatment Act.⁵ As the Follow-up Report by the German government states, the task to reform the General Equal Treatment Act will now fall to the new federal government in the next legislative period.

Proposed recommendations of the German Institute for Human Rights are therefore still:

- Present a reform of the AGG that meets the human rights requirements for Germany, takes into account the advice of the international committees and solves the legal and practical problems in the application of the Act.
- Continue to expand the counselling structure throughout Germany and ensure that sufficient financial resources for this task are included in the budget so that the structures are sustainably available to those affected by discrimination.

¹ “Daring to make more progress. Alliance for freedom, justice and sustainability. Coalition agreement 2021- 2025 between the Social Democratic Party of Germany (SPD), the alliance 90/The Greens and the Free Democrats (FDP), https://www.spd.de/fileadmin/Dokumente/Koalitionsvertrag/Koalitionsvertrag_2021-2025.pdf, p. 96 (accessed on 27-01-25).

² <https://www.bmfsfj.de/resource/blob/246468/f923ae66aae4b57d5a63875a68ab9576/entwurf-eines-gesetzes-zur-umsetzung-der-richtlinien-ueber-standards-fuer-gleichbehandlungsstellen-data.pdf> (accessed on 27-01-25).

³ <https://www.consilium.europa.eu/en/press/press-releases/2024/05/07/strengthening-the-role-of-equality-bodies-across-the-eu-council-adopts-two-directives/> (accessed on 27-01-25).

⁴ <https://knowledge.dlapiper.com/dlapiperknowledge/globalemploymentlatestdevelopments/2024/new-binding-standards-for-equality-bodies> (accessed on 27-01-25).

⁵ See for example the statement of the Deutscher Frauenrat: <https://www.frauenrat.de/stellungnahme-zum-referentinnenentwurf-eines-gesetzes-zur-umsetzung-der-richtlinien-ueber-standards-fuer-gleichbehandlungsstellen/>; or LSVD: <https://www.lsvd.de/de/ct/12990-Stellungnahme-des-LSVD-Verband-Queere-Vielfalt-zum-Entwurf-eines-Gesetzes-zur-Umsetzung-der-Richtlinien-ueber-Standards-fuer-Gleichbehandlungsstellen> (all accessed on 27-01-25).

3 Discrimination against non-citizens (art. 5, 7)

cf. paragraph 38 b) and c)

Background

In its concluding observations CERD recommended Germany to

- Take all the necessary measures to ensure that migrants and asylum-seekers, including LGBTQI+ persons, have adequate access to social protections, enabling them to enjoy an adequate standard of living, including access to health-care services, and repeal the obligation of those services responsible for the reimbursement for health-related treatments to report undocumented migrants;
- Take adequate measures to ensure respect for the right of asylum-seekers to freedom of movement by revoking the legislation compelling asylum-seekers to live in determined reception centres and to stay within specific geographical areas.

Germany addressed those recommendations in its follow-up report. It acknowledged that section 87 para. 2 (1) no. 1 of the Residence Act (Aufenthaltsgesetz) is still in effect. According to this law, public entities that cover the cost of treatment for persons without a residence title are required to report those people to the competent migration authorities. The aim of this provision is to enable migration authorities to deport people without a residence title. In Germany's follow-up report it negated any derogatory effect of this law to the access to healthcare. Instead, it claimed that in order to determine their obligation to cover the cost of treatment, public entities need to be informed about the person's residence status. According to the follow-up report "changing the reporting obligation while maintaining the exchange of data for the purpose of ascertaining residence status would be pointless".

With respect to the legislation compelling asylum-seekers to live in a designated location and to stay within a specific geographical area (sections 47, 56 – 59b Asylum Act, Asylgesetz), Germany conceded to not have any plans to repeal this framework. The legislation aims to facilitate the contact with asylum seekers and to speed up asylum proceedings. It is supposed to address concerns of "security, public order, social policy and labour market policy while also pursuing the goal of evenly distributing the cost burden associated with the reception and accommodation of asylum seekers". It points out exceptions that are already in effect. For example, asylum seekers required to live in a reception centre do not need a permit to leave their designated geographical area in order to attend appointments with authorities and courts where their personal appearance is required. They are also able to obtain a permit to leave their designated geographical area, if they present "compelling reasons" to do so. Germany lists "attending appointments with an authorised representative, with the UNHCR and with organisations involved in looking after refugees" as an example.

Assessment by the German Institute for Human Rights

Right to social security (cf. paragraph 38 b)

Regarding measures to ensure adequate access to social protection and adequate standard of living, it must be noted that the poverty risk in Germany is disproportionately

high for individuals with a so-called migration background⁶ or people of colour.⁷ Reasons are complex and intertwined with structural racial discrimination. They include, for example, lack of recognition of qualifications from other countries, concentration of employment in low-wage sectors and precarious employment. Moreover, intersecting racial and class-based discrimination in the German education system, such as implicit biases in teachers, contributes to discriminatory educational outcomes, which in turn diminishes earning opportunities.⁸ However, recent research has also found that despite full-time employment and high levels of education, Black, Asian and Muslim residents continue to face disproportionately high levels of poverty compared to white residents due to racial discrimination in pay and promotions.⁹

Asylum seekers in Germany who cannot financially support themselves are entitled to benefits under the Asylum Seekers' Benefits Act. Several legal amendments have introduced regressions since the adoption of the CERD Concluding Observations 2023:

As of autumn 2024, asylum seekers in Germany whose asylum application is the responsibility of another EU member state under the EU's Dublin III Directive were excluded from receiving benefits under the Asylum Seekers Benefits Act (section 1 (4) sentence 1) and are thus left to live in destitution.

Another amendment to this law came into effect on May 16, 2024, stipulating that asylum seekers will receive their benefits via a debit card (Bezahlkarte). The debit card is an additional form of benefit, alongside in-kind benefits, cash and vouchers. The specific implementation of the payment card and the amount of money that can be withdrawn within a certain period lies within the exclusive competence of the federal states (Länder). Fourteen federal states have already agreed to standardize the implementation of the payment card, while Bavaria and Mecklenburg-Western Pomerania are pursuing their own implementations.¹⁰

The declared intent of the legislative is to prevent payments to human traffickers and money transfers to an asylum seekers' countries of origin. However, there is no evidence that this goal can be met with the Bezahlkarte. Instead, in practice, the introduction of the Bezahlkarte has had discriminatory impacts on asylum seekers, violating the right to equal and fair treatment in relation to economic, social, and cultural rights, without discrimination based on origin set out in Art. 5 of the CERD.

Primarily, the restrictions imposed by the Bezahlkarte, particularly the general maximum limit for cash withdrawals without considering individual needs, violate the right to economic, social and cultural rights, including the right to social security set out in Article 5 (e) (iv) of the CERD. In eleven federal states, a maximum cash withdrawal

⁶ The definition of a person with a migration background according to the Federal Statistical Office is as follows: A person has a migration background if he or she or at least one of their parents was not born with German citizenship. The definition includes non-Germans and immigrant and non-immigrant naturalised citizens and the descendants of these groups born as Germans (<https://www.destatis.de/DE/Themen/Gesellschaft-Umwelt/Bevoelkerung/Migration-Integration/Glossar/migrationshintergrund.html>) (accessed on 27-01-25).

⁷ Statistisches Bundesamt: <https://www.destatis.de/DE/Themen/Gesellschaft-Umwelt/Bevoelkerung/Migration-Integration/Tabellen/migrationshintergrund-armutsgefaehrung.html>; Sozialpolitik-aktuell: <https://www.sozialpolitik-aktuell.de/files/sozialpolitik-aktuell/Politikfelder/Einkommen-Armut/Datensammlung/PDF-Dateien/abbIII28.pdf> (all accessed on 27-01-25).

⁸ Salikutluk, Zerrin / Podkowik, Klara (2024): Grenzen der Gleichheit: Rassismus und Armutsgefährdung. Kurzbericht des Nationalen Diskriminierungs- und Rassismusmonitors. Berlin: Deutsches Zentrum für Integrations- und Migrationsforschung. https://www.dezim-institut.de/fileadmin/user_upload/Demo_FIS/publikation_pdf/FA-6057.pdf (accessed on 27-01-25), p. 10.

⁹ Ibid., p. 11, 14-17.

¹⁰ Konferenz der Regierungschefinnen und Regierungschefs der Länder am 20. Juni 2024 in Berlin, Beschluss: https://hessen.de/sites/hessen.hessen.de/files/2024-06/mpk_20.06._top_1.5.1_b_bezahlkarte.pdf (accessed on 27-01-25).

limit of 50 euros per person per month has been set.¹¹ In Hamburg, minors are only allowed to withdraw 10 euros per month.¹² The federal states have failed to account for the fact that in rural areas, everyday items such as second-hand goods or purchases at local markets and small shops can only be paid for in cash. By limiting access to cash, the Bezahlkarte deprives those affected of the freedom to choose more affordable options that would otherwise be available with cash payments. For example, it impacts on their right to food when they can no longer access ethnic foods that are only available in shops where debit cards are not accepted.

Article 5 (e) (iv) of the CERD guarantees the right to equal treatment, including access to social benefits. With regards to the Bezahlkarte, there are no apparent justifications for such unequal treatment of asylum seekers compared to other social assistance recipients. The hoped-for simplification of work for the administration through the introduction of the Bezahlkarte does not constitute a legitimate purpose of unequal treatment, especially as the responsible authorities are obliged to check the individual needs of the payment card holder in each individual case, meaning that this results in a considerable amount of additional administrative work.

Housing (cf. paragraph 38 b)

Given that Germany refers in its Follow-Up-Report to a pilot project on homelessness, it must be noted that racial discrimination is a key concern in housing matters.

Two examples:

First, a representative survey by the Federal Anti-Discrimination Agency from 2020 found that there is a considerable amount of racial discrimination on the housing market: 15 percent of respondents who had been looking for accommodation within the last ten years, had experienced discrimination on the grounds of race, ethnicity or origin; 35 percent of persons with a so-called migrant background reported so.¹³ Discrimination in the housing market falls within the scope of the General Equal Treatment Act. However, there are fundamental legal loopholes and thus a violation of the Convention, and article 5 e iii in particular, which encompasses both direct and indirect discrimination.

Second, municipalities are legally obliged to provide emergency accommodation to people experiencing homelessness. Such obligation arises from a general clause in police and public order-laws of the federal states. Despite the legal obligation, such access is on a large scale denied for persons from south-east European countries, e.g. Bulgaria, Romania and Poland.¹⁴ In consequence, such persons live in very poor circumstances, either sleeping on the street or facing unacceptable housing conditions. In denying access to emergency shelters, German municipalities violate their duty under CERD to grant non-discriminatory access to housing (here: shelter) for non-citizens.

¹¹ Ibid.

¹² Amt für Migration, Hamburg: <https://www.hamburg.de/service/info/111095363/> (accessed on 27-01-25).

¹³ Federal-Anti-Discrimination Agency (n.d.): <https://www.antidiskriminierungsstelle.de/EN/about-discrimination/areas-of-life/daily-business/housing-market/housing-market-node.html>(accessed on 27-01-25).

¹⁴ Busch-Geertsema, V., Henke, J., Steffen, A., Reichenbach, M.-T., Ruhstrat, E.-U., Schöpke, S., Krugel, N. (2019). Entstehung, Verlauf und Struktur von Wohnungslosigkeit und Strategien zu ihrer Vermeidung und Behebung: Endbericht. (Forschungsbericht / Bundesministerium für Arbeit und Soziales, FB534). Bremen: Gesellschaft für innovative Sozialforschung und Sozialplanung e.V., <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-64339-4>, pp. 120; Engelmann, Claudia (2021): De jure temporary, de facto permanent: Shelters for People Experiencing Homelessness in Germany. In: European Journal of Homelessness Volume 15, No. 1 2021, FEANTSA: European Journal of Homelessness Volume 15, Issue 1 (all accessed on 27-01-25).

Right to health care (cf. paragraph 38 b)

In the Institute's view, the obligation of public entities to report persons without a residence title to the migration authorities, severely restricts their access to healthcare.¹⁵ It is to be noted that this assessment does not include individuals with a toleration status ("Duldung"). While the toleration status does not equal a residence title and does not render the residence legal, it prevents deportation due to factual or legal circumstances (section 60a Residence Act). The reporting obligation therefore will not impose a threat of deportation on those individuals who have toleration status. In consequence, in the following, people "without a residence title" excludes individuals with toleration status.

The reporting obligation violates Germany's duty under CERD to grant non-discriminatory access to healthcare for non-citizens. While the Asylum Seekers' Benefits Act (Asylbewerberleistungsgesetz) currently grants individuals without a residence title access to healthcare on an equal footing with asylum seekers, this access, in fact, remains limited. For fear of being reported to the migration authorities and ultimately deported, people seek medical assistance far too late or refrain from it altogether.¹⁶ This leads to treatable diseases becoming chronic,¹⁷ severe and even life-threatening illnesses remaining untreated, infectious diseases potentially spreading, pregnant people not having access to prenatal care and even children not obtaining basic medical treatment.¹⁸ In particular, undocumented pregnant women see their rights to maternal and reproductive health infringed. Although Section 4 (2) of the Asylum Seekers' Benefits Act (Asylbewerberleistungsgesetz) covers healthcare related to pregnancy and childbirth, the reporting requirement in section 87 (2) of the Residence Act continues to prevent them from accessing such services at officially designated locations. As a result, these women are usually forced to pay privately for reproductive health services, or they must rely on the goodwill of health professionals, selected municipal or non-governmental initiatives to provide free and anonymous services. Beyond the reporting obligation, the Sozialämter (authorities responsible for the reimbursement of health-related treatments) require documentation for the needs assessment that undocumented migrants often cannot provide, such as copies of bank account statements or tenancy agreements. This creates an additional bureaucratic barrier. However, the reporting obligation is described as the central

¹⁵ For all what follows in this section, see also the following sources: Gesellschaft für Freiheitsrechte (2024): Beschwerde zur Europäischen Kommission. Verstoß der aufenthaltsrechtlichen Übermittlungspflicht in § 87 Abs. 2 S. 1 Nr. 1 AufenthG gegen Art. 5 Abs. 1 lit. b), Art. 6 Abs. 4 Datenschutzgrundverordnung und Art. 8 Abs. 1 sowie Art. 35 Europäische Grundrechtecharta, 2.1, <https://freiheitsrechte.org/uploads/documents/Soziale-Teilhabe/Ohne-Angst-zum-Arzt/Beschwerde-EU-Kommission.pdf>; Deutsches Institut für Menschenrechte (2008): Frauen, Männer und Kinder ohne Papiere in Deutschland – Ihr Recht auf Gesundheit, p. 16 f., https://www.institut-fuer-menschenrechte.de/fileadmin/_migrated/tx_commerce/studie_frauen_maenner_und_kinder_ohne_papiere_ihr_recht_auf_gesundheit.pdf; Wissenschaftliche Dienste des Bundestags (2012): Zugang zur Gesundheitsversorgung für Menschen mit irregulärem Aufenthalt, p. 7 f., <https://www.bundestag.de/resource/blob/407250/79e1dbd0696e1a35531c1618edf19edc/wd-6-035-12-pdf-data.pdf>; Bundesarbeitsgruppe Gesundheit/Illegalität (2017): Gesundheitsversorgung für Menschen ohne Papiere – Aktuelle Herausforderungen und Lösungsansätze, p. 4, https://forum-illegalitaet.de/wordpress_01/wp-content/uploads/2017/05/BAG-Gesundheit_Illegalitaet%3a4t-Arbeitspapier-2017-final.pdf (all accessed on 17-01-2025).

¹⁶ Gesellschaft für Freiheitsrechte (2024), 2.1; Deutsches Institut für Menschenrechte (2008), p. 16 f.; Wissenschaftliche Dienste des Bundestags (2012), p. 7 f.; Bundesarbeitsgruppe Gesundheit/Illegalität (2017), p. 4.

¹⁷ Doctors of the World Germany: Contribution to the Development of the List of Themes for the Review of the Combined 23rd to 26th State Reports of the Federal Republic of Germany at the 111th Session of the UN Committee on the Elimination of Racial Discrimination (CERD), p. 8, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FNGO%2FDEU%2F52834&Lang=en (accessed on 27-01-25).

¹⁸ Gesellschaft für Freiheitsrechte (2024), 2.1; Deutsches Institut für Menschenrechte (2008), pp. 16 f.

obstacle to access to healthcare.¹⁹ With its disproportionate effect on irregular migrants in practice, it constitutes a form of factual racial discrimination in access to the right to health under Article 5 (e) (iv) of the CERD.

The reporting obligation also affects the right to health of children of undocumented migrants or parents with an uncertain identity. Such parents may choose not to register the birth of their children for fear of deportation. This is due to the fact that civil registry offices are also obliged to forward their information to the migration authorities under Section 87 (2) of the Residence Act. Even if parents do decide to register, they often face considerable delays in obtaining a birth certificate.²⁰ In some cases, they may not receive a birth certificate at all, but only a certified copy of the register. In practice, barriers to access health services have been reported with the certified copy. A delayed issuance, for instance, prevents parents from accessing periodic medical check-ups for children from a certain age onwards. For insurance companies to reimburse these medical costs, they require a proof of the date of the birth.²¹ These check-ups are designed to detect, prevent and correct health conditions that might otherwise go unnoticed. If children are prevented from attending these medical check-ups because their parents cannot present a birth certificate for the reimbursement of costs, this could have a lasting impact on their children's health, educational and income opportunities, as health is a determinant for the realisation of several other socio-economic rights. As such, the reporting requirements set out in Section 87 (2) of the Residence Act and the resulting lack of birth certificates exacerbate the intersectional discrimination faced by these children and perpetuate racial discrimination in access to health and other social rights across generations. While it may be necessary for public entities to obtain information on people's residence status to assess their responsibility to cover the cost of treatment, there is no compelling argument for them to be obligated to report people to migration authorities. Given the severe implications this reporting obligation has on the right to healthcare for the affected groups, changing the reporting obligation is all but "pointless", as the Follow-up Report by Germany states.

A complaint before the European Commission, filed by the German non-governmental organisation "Gesellschaft für Freiheitsrechte" along with multiple other organisations against this provision is pending.²²

Beyond institutional exclusions of migrants in the German health system, the National Monitoring of Discrimination and Racism showed in its 2023 report that experience of racism and exclusion are commonly present in practical health care: Racial prejudices are experienced by patients and medical professionals of colour notwithstanding their

¹⁹ Deutsches Institut für Menschenrechte (2008), p. 18.

²⁰ See Bundesarbeitsgemeinschaft Gesundheit / Illegalität, working paper (2023): Health care for undocumented women during pregnancy and childbirth, (https://www.diakonie.de/diakonie_de/user_upload/diakonie.de/PDFs/Publikationen/BAG_Arbeitspapier_Schwangerschaft_Geburt_FINAL.pdf) (accessed on 27-01-25), pp. 17.

²¹ Deutsches Institut für Menschenrechte, position: Keine Papiere – keine Geburtsurkunde? (2018) (https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/POSITION/Position_18_Keine_Papiere_keine_Geburtsurkunde.pdf), (accessed on 27-01-25), pp. 1.

²² Gesellschaft für Freiheitsrechte (2024).

citizenship. They face harassment, are perceived as less competent and less credible. This leads to discrimination in access to medication and other health services.²³

Right to freedom of movement (cf. paragraph 38 c)

In the Institute's view, the obligation to live in a designated location and to stay within a specific geographical area violates the right to non-discriminatory freedom of movement for non-citizens. It disproportionately restricts movement to its intended purpose. Its aim is to facilitate contact with asylum seekers, speed up asylum proceedings and ensure an even distribution of cost among municipalities. However, there are various suggestions on how to achieve these goals by different (less rights-intrusive) ways.²⁴ In order to be in contact with asylum seekers and to speed up asylum proceedings, it might be necessary to be informed of the asylum seeker's residence, but there is no need for authorities to determine said residence and thus restricting people's right to choose their domicile. A fair distribution of cost among municipalities could also be reached by redistributing the cost burden between authorities.²⁵ International obligations and human rights should not depend on national competences and administrative circumstance.²⁶ Furthermore, none of the goals call for an obligation to stay within a designated geographical area at all times. The statutory exceptions that are granted are narrow and only limited to in-person proceedings before authorities or courts. Any other exception requires a permit at the discretion of the competent authority and can only be granted for "compelling reasons" (see § 57 section 1 Asylum Law).

At the same time, said obligations severely infringe on asylum seekers' right to freedom of movement, thus violating Germany's obligation under CERD to grant a non-discriminatory right to freedom of movement to non-citizens. The obligations to live in a designated location and to stay within a specific geographical area impede asylum seekers from connecting with members of their community or with friends and family, finding employment or language classes, seeking specialist health care or obtaining legal representation.²⁷ They have a "detrimental impact" on the health of asylum seekers and are a "crucial determinant" of ill health – thus causing further health concerns among asylum seekers.²⁸

Both the obligation of public entities to report people without a residence title to the migration authorities and the obligation of asylum seekers to live in a designated reception centre and to stay within a specific geographical area disproportionately infringe on individuals' right to non-discrimination and are in consequence in violation of articles 5 and 7 of the Convention.

²³ NADiRa (2023): https://www.dezim-institut.de/fileadmin/user_upload/Demo_FIS/publikation_pdf/FA-5824.pdf (accessed on 27-01-25), pp. 143.

²⁴ See f.ex. the pilot projekt of the University of Hildesheim and the University of Nürnberg Erlangen: https://www.ndr.de/nachrichten/niedersachsen/hannover_weser-leinegebiet/Verteilung-von-Gefluechteten-auf-Kommunen-Algorithmus-soll-helfen,gefuechtete496.html (accessed on 27-01-25).

²⁵ Deutsches Institut für Menschenrechte (2016): Wohnsitzauflagen für anerkannte Flüchtlinge? Eine menschenrechtliche Bewertung, p. 7, https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Stellungnahmen/DIMR_Stellungnahme_Menschenrechtliche_Bewertung_Wohnsitzauflagen_fuer_anerkannte_Fluechtlinge_09_03_2016.pdf (accessed on 27-01-25).

²⁶ Deutsches Institut für Menschenrechte (2016), p. 7.

²⁷ See Amnesty International (2023): Germany. Submission to the UN Committee on the elimination of racial discrimination. 111th session, 20 November 2023 – 8 December 2023, p. 20, <https://www.amnesty.de/sites/default/files/2023-11/Amnesty-Bericht-Rassismus-Ueberpruefung-UN-Ausschuss-November-2023.pdf> (accessed on 17-01-25); Deutsches Institut für Menschenrechte (2016), pp. 8 – 10.

²⁸ Doctors of the World Germany, p. 8.

Proposed recommendations:

- Protect against racial discrimination from third parties in the educational and health sector, such as teachers and health professionals, by introducing compulsory training and awareness-raising programmes which address racial bias and attitudes.
- Change section 87 of the Residence Act to remove the obligation of public entities to report people without residence title to the migration authorities to ensure that people without residence title can realize their right to health care.
- Immediate issuance of a birth certificate for children born in Germany as a gateway to health services and other human rights, regardless of the status of the parents, e.g. by making use of Section 9 (2) of the Personenstandsgesetz, which allows for an affidavit where identity clarification is required.
- Reform the Asylum Seekers' Benefits Act to repeal the Bezahlkarte.
- Repeal sections 47 and 56 – 59b of the Asylum Act to remove the obligation of asylum seekers to live in a designated reception centre and to stay within a specific geographical area.