German Institute for Human Rights

Executive Summary

Developments of the Human Rights Situation in Germany

July 2022 – June 2023

Report to the German Federal Parliament in accordance with section 2 (5) of the Act on the Legal Status and Mandate of the German Institute for Human Rights

About the report

Each year, the German Institute for Human Rights submits a report on the developments in the human rights situation in Germany to the German Bundestag, in accordance with section 2 (5) of the Act on the Legal Status and Mandate of the German Institute for Human Rights (DIMRG: Gesetz über die Rechtsstellung und Aufgaben des Deutschen Instituts für Menschenrechte, of 16 July 2015). The report is presented on the occasion of International Human Rights Day on 10 December. The Act on the Legal Status and Mandate of the German Institute for Human Rights provides that the German Bundestag should respond to the report. The 2022/2023 report, the eighth such report to be issued, covers the period from 1 July 2022 to 30 June 2023.

By requesting an annual report on developments in the human rights situation in Germany, the Federal Parliament and the Federal Council have emphasised that respecting and realising the human rights of all persons in Germany is an ongoing responsibility for all public authorities, as new challenges continually arise. This is why the Basic Law (Grundgesetz), Germany's constitution, demands that the impacts of legislation on human rights be reviewed regularly and that adjustments be made when needed, through legislation or by changing administrative practices. Moreover, political and societal changes, international or domestic developments, and scientific and technological progress can give rise to new challenges to human rights. Recognising such challenges and developing human rights-based solutions to them is crucial. This report is intended to contribute to both: the assessment of the human rights impact of laws and the identification of new human rights challenges, and the identification of areas where new human rights risks demand a political response.

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The Institute

The German Institute for Human Rights is the independent National Human Rights Institution of Germany (§ 1 GIHR law). It is accredited according to the Paris Principles of the United Nations (A-status). The Institute's activities include the provision of advice on policy issues, human rights education, information and documentation, applied research on human rights issues and cooperation with international organizations. It is supported by the German Bundestag. The Institute is mandated to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child and established Monitoring Bodies for these purposes. It is also 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.

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Introduction

This is the eighth of the yearly reports on developments in the human rights situation in Germany that the German Institute for Human Rights (the Institute) submits to the Federal Parliament. This year's report takes an in-depth look at the issue of racial discrimination in the context of data processing for law enforcement purposes, examining the extent to which risks of discrimination arise in connection with the collection and use of personal data by the police.

In accordance with the EU directive on data processing for law enforcement purposes, "sensitive data", such as data revealing the colour of a person's skin or their presumed "ethnic origin", can be processed only under strictly defined conditions. This directive is not yet sufficiently well implemented in Germany, however. The Federation and the Länder (federal states) have a collective duty to adapt legislation and adopt binding rules regarding protective measures to ensure adequate protection from racial discrimination.

This report also addresses five other issues that were of great human rights relevance in the period under report (1 Juli 2022 – 30 Juni 2023). We describe developments relating to these issues, assess the major political and legislative measures in these areas and formulate recommendations for government action.

To inform this report, the Institute evaluated publicly available statistics, documents, and studies, including material from the German Federal Parliament as well as media reports. The Institute also collected data from interior ministries of the Länder by way of a questionnaire and conducted interviews with experts from the police, data protection authorities and civil society organisations. We would like to thank all of those who provided us with information for this report.

Like the preceding period, this reporting period was shaped by the impacts of Russia's war of aggression against Ukraine and by the grave consequences of continuing climate change. Increasingly severe housing shortages in conurbations and the effects of high inflation exacerbated the situation. This caused feelings of insecurity, a sense of having been left behind, and fears about the future in many people. Thus, the call for policymakers to take human rights as the standard by which all their actions are guided continues to be of the utmost relevance. The legitimacy of the State stems, to no small extent, from the fact that it upholds the social human rights of all human beings, including in particular by ensuring the fulfilment of basic needs.

In last year's report, the Institute called for necessary financial support of local governments for the reception of all persons seeking protection, including those fleeing the war in Ukraine: this issue was still being discussed as late as November 2023. We observe with alarm that the debate over the distribution of costs for the reception of people fleeing war or persecution has become a debate about deterring asylum seekers. One in which the key findings of migration researchers are being ignored: the level of social benefits is not a factor in the decision of persons seeking protection to choose Germany as their destination country. The presence of family, the rule of law and democracy are what matters to them. More and more often, we hear proposals that disregard Germany's human and fundamental rights obligations. In the face of efforts to reduce social benefits paid to asylum seekers for still longer or even to withhold them completely as a sanction, the response should be that of the Federal Constitutional Court: human dignity may not be relativised by migration policy considerations.

The global consequences of climate change and the looming climate tipping point were major issues for both policymakers and the public in the year under report. Moreover, the Climate Protection Act was weakened through the introduction of a multi-year accounting aggregated across all sectors. Climate activists ramped up their protest actions. Disproportionate reactions on the part of the state, such as the blanket prohibitions of demonstrations, and the rancorous public debate have been extremely alarming from the viewpoint of human rights.

The purpose of this report is to help ensure that Germany protects and promotes human rights, both domestically and in its external policy. It is our hope that the information and recommendations in the report will be taken up by the Federation and the Länder.

1 Risks of Racial Discrimination Arising from Data Processing by Law Enforcement

Even just a name can cause the police to treat someone differently than they would another member of the public. For instance, certain surnames are read in the context of the fight against organised crime in some Länder as indicating a family or ethnic affiliation with the "clans". This means that people who bear these names are at a significantly greater risk of becoming the subject of further police action.

The **non-discrimination principle prohibits police and other authorities from discriminating against persons based on the colour of their skin or other physical characteristics or on actual or perceived descent or religion**. In constitutional law, the prohibition of discrimination is enshrined in Article 3, Section 3, Sentence 1 of the Basic Law (*Grundgesetz*); in European law it arises from Article 21 of the Charter of Fundamental Rights of the European Union. Moreover, Germany is also bound by international law to uphold the non-discrimination principle, having ratified, inter alia, the International Convention on the Elimination of All Forms of Racial Discrimination and the European Convention on Human Rights.

The prohibition of racial discrimination **applies to all state policies and practices, including data processing for law enforcement purposes**. Due to the particular risks associated with the processing of certain kinds of data (relating, for instance, to skin colour, presumed "ethnic origin" or language), such data are considered "**sensitive data**". Sensitive data **must be afforded specific protection and can only be processed in very exceptional circumstances**.

The German Institute for Human Rights investigated the extent to which there are risks of racial discrimination that arise in connection with data processing by police authorities in Germany. To inform this study, the Institute interviewed experts from the police, the field of data protection and civil society organisations. By way of questionnaires, it also collected information from the interior ministries of the Länder in order to ascertain in which ways and to what extent sensitive personal data are processed for law enforcement purposes and to find out more about internal processing regulations and safeguards. **The study's results are highly problematic from the perspective of fundamental and human rights: there is very little difference in the level of protection afforded to sensitive data processed by the police as opposed to non-sensitive data.**

One of the data categories in INPOL, the information system of the German police forces, "*Volkszugehörigkeit*" (ethnicity) can serve as an example. INPOL's catalogue encompasses more than 100 values for this data category – from "*Abchase*" (Abkhaz) to "*Weißrusse*" (Belarusian). Over the past 20 years, criticism, particularly that voiced by representatives of the Sinti and Roma, has increased the awareness of the sensitive nature of this data category. Nonetheless, the "ethnicity" category is still used in data processing by police to record an attribution of ethnic identity, which means that it continues to **present a risk of discrimination**.

Similarly problematic is the data category "phenotype" (in the sense of "outward appearance"), used in the context of identification. The INPOL catalogue lists 19 "phenotypes", among them "African", "European", "West European" and "South-east European". Thus, the data collection **system reproduces stereotypes**: those who do not match the police's image of a "West European" will not be recorded as such, even if they are, in fact, citizens of a state in West Europe.

EU directive 2016/680 ("Law Enforcement Directive") establishes the legal framework for the collection and processing of personal data for law enforcement purposes. Under the Law Enforcement Directive, sensitive data can only be processed "where strictly necessary, [and] subject to appropriate

safeguards for the rights and freedoms of the data subject". At the federal level, this wording from the Law Enforcement Directive was taken up into the Federal Act on Data Protection in 2017. The Länder have also amended their data protection and/or police laws to **implement the directive**. In the view of the German Institute for Human Rights, these steps are not sufficient: **to ensure the effective protection of data subjects, further specification is needed with respect to the factual circumstances under which the processing of sensitive data is permitted, and binding standards for the protection of such data must be established**.

Our study showed the following: **substantial amounts of data** which can be read as revealing an individual's presumed "racial or ethnic background" are collected by German police forces, although there are **regional differences in the scale** of this activity. Police authorities record **data ascribing "phenotypes" or "ethnicities"** to persons who have been charged with or are suspected of offenses and to other "*Anlasspersonen*" (persons whose data are subject to processing by reason of factual indications that they intend to commit a criminal offense in the near future), and this **information is processed in a standardised manner** in numerous police databases. Moreover, police authorities also regularly record and save people's given names and surnames, nationality or place of birth, including those of injured parties and witnesses. Under some circumstances, such data are read as "proxy data" for an ascribed "racial or ethnic origin". When this is the case, these data, too, must be considered sensitive data and afforded specific protection. It also emerged from the study that, generally speaking, the **degree of transparency** with regard to data processing for law enforcement purposes is **quite low on grounds of state secrecy and internal rules** are often **not publicly accessible**.

There is no indication at this time of an effort by policymakers to set stricter rules for the collection and processing of sensitive data for law enforcement purposes. In fact, **with the overhaul of the police information architecture within the project "P20"**, the **risks of discrimination are growing** rather than shrinking. This joint federal and Länder project is aimed at consolidating the data from the numerous police databases into one common " data house" and increasing the use of "intelligent" algorithmic tools to analyse the data collected.

The German Institute for Human Rights recommends:

- that the Federal Parliament and the Länder legislatures introduce precise and binding provisions into the Federal Data Protection Act (*Bundesdatenschutzgesetz*) and the Länder laws governing the processing of data for law enforcement purposes with a view to full implementation of the Law Enforcement Directive. These should clearly set out when the collection, storage and further processing of sensitive data is permitted and what protective measures are required. It is essential that these provisions ensure that people are protected against racial discrimination and prevent the reproduction of stereotypes about "racial or ethnic origin" in this context.

- that police authorities and the interior ministries increase transparency with respect to the scope of the processing of sensitive data for police purposes and the concepts and practices that are associated with it. They should open themselves to critical discussion and question their own routines. This form of self-reflection demands the participation of data-protection experts, researchers and civil society, and particularly of persons who experience racism. The discussions should be based on an understanding of "race" as a social construct.

- that the interior ministries and research ministries make funding available for research into risks of racial discrimination in the processing of data for law enforcement purposes and provide the requisite level of access.

2 Ensuring Protection Against Gender-based Violence

Gender-based violence is a human rights violation that is widespread throughout the world. **In Germany, one in three women is a victim of physical**

and/or sexual violence at least once in her life. There are not enough shelters to keep victims safe, and access to advising and assistance is not guaranteed, particularly in the case of women with disabilities, migrant women, asylum seekers and homeless women.

The Council of Europe Istanbul Convention has been in force in Germany since February of 2018. This Convention encompasses **obligations to prevent and protect against violence, to effectively prosecute offenses and to adopt comprehensive** and coordinated approaches to the implementation of appropriate measures.

GREVIO, the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence, evaluated the Convention's implementation in Germany in 2022. GREVIO acknowledged, for example, the legal framework for combatting violence against women, the national telephone helpline, the collection of statistics on intimate partner violence by the Federal Criminal Police Office (*Bundeskriminalamt*) and the introduction of the criminal offense of cyberstalking. However, GREVIO also **urged Germany to make a number of improvements, inter alia, in criminal law**, in relation to the offenses of rape and sexual assault for instance. GREVIO also noted an urgent need for **improvements in the initial and continuing training of professionals who deal with victims or perpetrators** (such as health and social services professionals, judges and public prosecutors). The Federal Government must report back to GREVIO on measures adopted to implement the recommendations by the end of 2025.

The **National Rapporteur Mechanism on gender-based violence** of the German Institute for Human Rights took up its work in November 2022. By establishing the National Rapporteur Mechanism, the Federal Government **fulfilled** an **obligation that arises from the Istanbul Convention**. The National Rapporteur Mechanism monitors legislation and case law and collects data to serve as a basis for recommendations to policymakers. The Federal Government also intends to set up a national coordinating body whose principal responsibility will be that of developing an interdepartmental strategy.

Important progress was made during the reporting period with respect to case law relating to gender-based violence: for instance, in a decision on **access rights and custody**, the Cologne Higher Regional Court referred explicitly to Article 31 of the Istanbul Convention, under which **domestic violence** must be considered in such cases. This, according to the Court, applies even when the child or children concerned have not themselves been the direct victims of violence. Rather, the impacts of such violence on all family members are the decisive factor.

In the view of the German Institute for Human Rights, further action is still needed to ensure the full protection of victims of gender-based violence in Germany. It is true that the Istanbul Convention now applies without restriction for all migrants in Germany – following the expiry, on 1 February 2023, of the relevant reservations entered by the Federal Government. However, **additional action to implement the Convention in domestic law is needed to ensure effective protection for victims of domestic violence whose residence status is precarious** (temporary suspension of deportation [*Duldung*] or lack of legal status under residence law).

The German Institute for Human Rights recommends that the Federal Parliament:

- amend section 25 of the Residence Act (Aufenthaltsgesetz) to introduce two types of extendible residence permits for victims of domestic violence (due to the personal situation and for the purpose of cooperating in an investigation or criminal proceedings). The protection of victims whose entitlement to reside in Germany depends on that of their spouse should be strengthened.

- establish a statutory basis for the National Rapporteur Mechanism.

- during the current legislative period, set up a national coordinating body that will develop a long-term and comprehensive strategy to prevent and combat all forms of violence covered by the Istanbul Convention.

3 Freedom of Assembly in Jeopardy? Maintaining Space for Climate Activism

Many people actively engage on behalf of a transformed climate policy. Criticising the inaction on the part of the Federal Government's lack of action in this regard, they invoke, inter alia, the "climate decision" issued in March 2021, in which the Federal Constitutional Court confirmed that reducing the emission of greenhouse gases in accordance with the Paris Agreement's 1.5 °C target is a "constitutional climate goal".

The protests of the movement Letzte Generation (Last Generation) have become a major focus of public criticism. Letzte Generation protest actions have sparked a debate about preventive detention, the tightening of criminal sanctions and the legitimacy of civil unrest. One fundamental principle applies: **Germany has a human rights obligation to protect the freedom of peaceful assembly**. Yet, various **state measures** in Germany **are interfering, to a greater or lesser degree, with the right to freedom of peaceful assembly**. The criminal-law treatment of sit-down protests that block traffic is a case in point.

From the viewpoint of fundamental and human rights, sit-down protests are peaceful assemblies and thus fall under the protection of freedom of assembly. The UN Human Rights Committee concretised the right to freedom of peaceful assembly in 2020: The States Parties – Germany among them – must protect peaceful assemblies. "Peaceful" means free of widespread and serious violence. Disruption of vehicular or pedestrian movement does not amount to "violence" in this meaning, according to the Committee. The UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association pointed out in 2021 that a "certain level of disruption of ordinary life, including disruption of traffic, has to be tolerated". German courts have differed in their assessment of criminal liability in connection with sit-down protests – depending on how much weight they attach to climate activists' freedom of assembly and to their motives in the specific case.

State measures, such as house searches, but also defamatory statements by politicians and the media can cast a chilling effect on the exercise of the right of freedom of peaceful assembly among the climate activists they target and in their immediate communities. For example, the initial suspicion of forming and supporting a criminal organisation was the basis for searches of the homes of Letzte Generation members that were approved by the Munich General Department of Public Prosecution. Another example is the vilification of protestors by politicians as "climate terrorists". Leading climate and environmental organisations have criticised this blanket criminalisation of climate activists.

The police have taken preventive measures in advance of planned climate protests to prevent the commission of criminal offences. These include the **preventive detention** of climate activists, which has been ordered for periods as long as 30 days in Bavaria, for example. In the view of the German Institute for Human Rights, the use of **preventive detention** against people who intend to exercise their right to freedom of assembly in a manner that is peaceful, albeit disruptive to the general public, constitutes a **violation of fundamental and human rights**.

The German Institute for Human Rights recommends:

- that the Länder interior ministries ensure that preventive detention is used only with the utmost restraint and in strict compliance with the principle of proportionality, for instance, by instructing their police authorities to this effect. The instrument of preventive detention must not be used merely to prevent individuals from participating in sit-down protests.

- that due consideration be given to the right to freedom of peaceful assembly in connection with any state measures against sit-down protests.

– that policymakers at the federal and Länder level seek to inject greater objectivity into the debate and shift its focus back to the climate movement's aims, which are consistent with the Paris Climate Agreement. Members of the public should be involved in the development and implementation of climate policy measures, for example, through citizen councils at the local, Länder and federal level.

4 Strengthening Political Participation of Children and Youth

Around 15 million children and youth live in Germany. Many of them would like to participate in political decision-making – and they have the right to do so. Yet, the opportunities for political participation by children and youth are limited: the legal basis for this participation in Germany is in urgent need of further elaboration. **Germany has an obligation to uphold the child and youth right of participation under the UN Convention on the Rights of the Child**, which has applied in this country since 1992.

November 2022 saw the start of the process leading to a National Action Plan for Child and Youth Participation, the aim of which is to increase direct participation and introduce new focal points. This is intended to serve as a constructive tool enabling the effective implementation of children's rights. The aim is to increase participation in policymaking at the local and Länder level, while also bringing children under the age of 12 more into the focus.

In September 2022, the **UN Committee on the Rights of the Child** reviewed the implementation of the UN Convention on the Rights of the Child in Germany. The Committee expressed **appreciation for** several of the steps taken to implement children's rights, including **the Federal Government's interdepartmental youth strategy and the lowering of the voting age in some Länder**.

The Committee recommends action to ensure that all children can express their opinions and be heard in all decisions affecting them, including in courts and administrative and civil proceedings, and to ensure that such proceedings are child-friendly. In addition, the Committee urged that measures be taken to promote empowered participation of children in family, community and school settings, as well as in policymaking at the federal, Länder and local level and to ensure that the views of children and youth are heard and given due weight.

The exercise of voting rights is one form of political participation. Researchers agree that children already have an interest in political and social topics and are already developing a political awareness. **The German Institute for Human Rights welcomes the intent expressed by the coalition parties of the Federal Government in their coalition agreement to amend the Basic Law to lower the minimum voting age to 16 for elections to the Federal Parliament**. The Federal Parliament already approved legislation lowering the voting age for European Parliament elections to 16 in November 2022. Experience at the Länder level has shown that setting a voting age of 16 is associated with sustained increase in voter turnout among young people – one not limited to first-time voters.

The German Institute for Human Rights recommends:

– that the Federal Government implement the aim set down in its coalition agreement and introduce legislation lowering the minimum voting age for Federal Parliament elections.

– that the Länder agree on a uniform minimum voting age for local and Länder elections and amend their constitutions and election laws accordingly, so that the same conditions apply for all children and youth in Germany.

– supportive measures, such as measures to mobilise young first-time voters, provide human and financial resources for civic education work, and increase the visibility of young voters and their opinions.

– the provision of human and financial resources to support participation structures, such as child and youth parliaments or commissioners for child and youth rights, enabling children and youth can organise themselves and make their views be heard.

5 Improving Legal Protections Against Discrimination for Persons with Disabilities

A decision from the tax authority that is not written in *Leichte Sprache* (Easy German), the absence of a sign language interpreter at an event or spatial barriers encountered when visiting a doctor's office or shop: people with disabilities very frequently experience discrimination in Germany.

While the prohibition of discrimination on the grounds of disability is enshrined in constitutional law (Article 3, Paragraph 3, Sentence 2 Basic Law) and in the UN Convention on the Rights of Persons with Disabilities (Article 5 UN CRPD), there is nonetheless a **substantial need for reform of German law** in this regard. **Effective measures are urgently needed to enable persons with disabilities to take part in the life of society on an equal basis with others**. These must encompass "reasonable accommodation" (Article 2 UN CRPD), meaning (specific) modification or adjustment where necessary in a particular case, for instance, provision of a Braille computer at the workplace.

The **provisions of the Act on Equal Opportunities of Persons with Disabilities** (*Behindertengleichstellungsgesetz*), including those relating to accessibility and reasonable accommodation, do **not fully apply with respect to private-sector entities**. For instance, while it is no longer possible to refuse entry to a restaurant or hairdressing salon to persons with disabilities who are accompanied by an assistance dog, there are no binding requirements that apply to barrier-free travel, visits to doctor's offices, shops or sports facilities. In addition, the introduction of effective sanctions penalising discrimination is necessary.

The **General Act on Equal Treatment** (*Allgemeines Gleichbehandlungsgesetz*) **does not protect persons with disabilities in the context of all contracts under civil law** (rental agreements, for instance, are not covered). In addition, this Act should be amended to provide an entitlement to accessibility and reasonable accommodation in working life and in connection with day-to-day business. Such a provision would enable persons not granted reasonable accommodation to pursue claims for damages and compensation.

Lengthy litigation proceedings place burdens on claimants' time, emotions and finances that very few of those affected by discrimination are in a position to bear. The establishment of an **effective right for associations to take legal action** in the General Act on Equal Treatment is a necessary step to reduce these barriers. Such a right **would enable associations to claim for legal infringements – of the prohibition of discrimination, for example – irrespective of whether the association was itself affected by them**. It is true that the Act on Equal Opportunities of Persons with Disabilities accords a right of this kind to associations, however, this right is rarely used, in part because its scope is limited to the filing of actions for declaratory judgments and does not cover actions for performance (to compel the defendant to do, refrain from doing or tolerate something) or actions to compel performance of an administrative act. The risk of litigation costs is another factor discouraging small associations from exercising this right.

In their 2021 coalition agreement, the parties forming the governing coalition announced the intention to revise these laws. Thus far, little has been done in this respect beyond examining relevant recommendations: the gaps in legal protection have not been closed.

The German Institute for Human Rights recommends that the Federal Parliament:

- incorporate effective, proportional and dissuasive sanctions for violations of the prohibition of discrimination into the Act on Equal Opportunities of Persons with Disabilities.

- introduce a right for associations to take legal action in the General Act on Equal Treatment and strengthen the existing right of this kind in the Act on Equal Opportunities of Persons with Disabilities.

- introduce legal provisions on accessibility – including an obligation to provide reasonable accommodation – that are binding for private-sector entities too.

6 Accessible Housing a Must for Independent Living

Germany does not even come close to having enough housing for persons with disabilities, older persons and persons with care needs. For those affected, this amounts to a restriction of their fundamental and human rights. People with physical limitations are unable take a job in another municipality if they cannot find appropriate and affordable housing there, for instance. Or they may have to move to institutional forms of housing when stairs, insufficiently large bathrooms or narrow door- or passageways make it impossible for them, the relatives who care for them or other carers to continue to live in their own home.

Under the UN Convention on the Rights of Persons with Disabilities, which is applicable law in Germany, **persons with disabilities have the right to decide for themselves where and with whom they live, just as everyone else does**. The severe shortage of accessible housing is a substantial obstacle to the enjoyment of this right. In 2018, there were 586,000 barrier-reduced housing units in Germany, but 2.98 million households that needed such housing. Prognoses show a supply **shortfall of over 2 million units** in the coming years as well. The UN Committee on the Rights of Persons with Disabilities criticised Germany in September 2023 regarding this shortage of affordable and accessible housing. The Committee recommended that Germany cease to permit the building of new housing that is not accessible, except under certain exceptional circumstances.

While the Länder have introduced provisions in their building codes requiring a certain proportion of the units in all newly built housing to be accessible, the proportion is too small to remedy the shortfall in supply. Moreover, **due to numerous exceptions allowed by the building codes, the number of accessible housing units that are actually built falls short of the legal minimum**. Meanwhile, existing accessible housing is often occupied by people who do not have accessibility needs. This is an issue – specifically, the need for measures to control the occupancy of existing accessible housing – that policymakers have so far failed to address.

The **German Institute for Human Rights welcomes the Federal Government's participation in the funding of social housing**, which is creating additional incentives to build accessible housing. The formation of the Affordable Housing Alliance (*Bündnis für bezahlbaren Wohnraum*) in 2022 at the initiative of the Federal Minister for Housing, Urban Development and Building was an important step. However, the package of measures adopted so far remains too vague in relation to accessibility.

Taken together, the action taken thus far is not sufficient to ensure an adequate amount of accessible housing and thus enable all members of society to exercise their right to live independently and participate in the life of society.

The German Institute for Human Rights recommends:

- that the Federal Government continue its participation in the funding of social housing beyond the end of the current electoral period and continue to require the Länder to report on the quantity of age-appropriate, barrier-free and wheel-chair accessible housing units, subject to the conditions as revised in 2023.

- that federal and Länder funding to support for housing construction in the context of social housing promotion be limited to accessible housing only.

- that the Länder elaborate narrowly defined criteria, based on the standards of international law, for exceptions to the accessible housing requirements in their building codes.

- that the Federal Ministry of Justice develop measures for managing the occupancy of the accessible housing stock.

7 Germany Within the System of Human Rights Protection

In the second paragraph of its first article, Germany's constitution, the Basic Law, acknowledges "... inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world". Thus, fundamental and human rights are guaranteed in the **Basic Law**. Moreover, Germany is bound up in the international system for the protection of human rights as a **member of the Council of Europe and of the United Nations**, as well as through its **ratification of numerous human rights treaties**. Among the latter are the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN Convention on the Rights of Persons with Disabilities (UN CRPD), and the UN Convention on the Rights of the Child (UN CRC), as well as the European Convention on Human Rights (ECHR).

On 20 July 2023, the **Optional Protocol of the International Covenant on Economic, Social and Cultural Rights** entered into force for Germany. Under this Protocol, individuals and civil society groups can submit complaints of violations of the Covenant rights to the Committee on Economic, Social and Cultural Rights and to demand a remedy and, if appropriate, compensation from Germany for human rights violations. With the ratification of the Optional Protocol, a gap in the protection of human rights in Germany has been filled.

The individual rights and state obligations arising from the human rights treaties are binding under international law and form part of the German legal system. Any person subject to German sovereignty can invoke these treaties before any body of the German state. Individual and inter-state complaints can be lodged with the **European Court of Human Rights** (ECHR).

In the period under report, July 2022 through June 2023, the European Court of Human Rights found a rights violation by Germany in two decisions: Basu v. Germany was the first case in which the Court addressed an allegation of racial profiling in connection with identity checks. The right of the press to receive information was the issue in Saure v. Germany; more specifically the case was about whether a journalist had a right to access to information held by the Brandenburg justice ministry.

The website of the German Institute for Human Rights has detailed information about all human rights instruments and state-party reporting procedures as well as about individual complaints.

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An executive summary of the report is also available in German:
www.institut-fuer-menschenrechte.de/menschenrechtsbericht2023

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