



**Deutsches Institut
für Menschenrechte**

National CRPD Monitoring Mechanism

Pre-List of Issues on Germany

submitted by the National CRPD Monitoring Mechanism of Germany to the CRPD Committee on the Rights of Persons with Disabilities on the occasion of the preparation of a list of issues by the committee

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Art. 4 General obligations

Action plans

In 2015 the UN Committee on the Rights of Persons with Disabilities (CRPD Committee) recommended vis-à-vis the State Party in its Concluding Observations (ConObs) drawing up “overarching human rights-based action plans” (see ConObs 2015, para. 8(a)). Positive progress has been made since 2015 on this point: The German Government has updated its National Action Plan (NAP 2.0) and has even included suggestions from the contents of the State Party review; furthermore action plans have been in force in all 16 Federal Länder since 2017 and will be evaluated, developed or reissued in the foreseeable future. Nevertheless, from the perspective of the National Monitoring Mechanism for the UN Convention on the Rights of Persons with Disabilities of the German Institute for Human Rights (Monitoring Mechanism) the implementation instrument of action plans will be a key and strategic aspect in the implementation of the UN Convention on the Rights of Persons with Disabilities (UN CRPD) for 2018 and for the coming years; this is to be further supported by a 2018 list of issues and in dialogue with the State Party.

1. How many action plans for the implementation of the UN CRPD have been put into force or updated within the territory of the State Party since 2015? In which state jurisdictions do these plans fall?
2. What means has the State Party used to ensure that these action plans incorporate measures to promote, protect, and fulfil rights as well as targets and indicators to monitor the implementation of the Convention (ConObs 2015, para. 8(b))?

Art. 5 Equality and non-discrimination

Ensuring non-discrimination, enshrinement of reasonable accommodation in legislation

In the ConObs 2015 the CRPD Committee expressed its concern that current legislation did not contain a definition of reasonable accommodation and that the denial of such accommodation was not considered a form of discrimination (para. 13). The Committee recommended taking steps to ensure that reasonable accommodation provisions were enshrined in law as an immediately enforceable right in all areas of law and policy (para. 14(b)). The prohibition of discrimination at the sub-constitutional level for public agencies is enshrined primarily in the Equality Laws at a federal level (Equal Opportunities for Disabled People Act (Behindertengleichstellungsgesetz (BGG)) and at the Länder level, while the obligations of private actors can be found in the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz (AGG)).

While the Federal Equal Opportunities for Disabled People Act and the equality laws of some Länder have defined reasonable accommodation and its denial as discriminatory, this is not (yet) the case in the equality laws of all Länder. The General Equal Treatment Act also does not contain a definition of reasonable accommodation, nor does it clarify that the denial of reasonable accommodation represents discrimination.

In this regard the Monitoring Mechanism emphasises that in 2018 the concept of reasonable accommodation is still not sufficiently enshrined in the German Equality Law or in other specialised laws. Strong encouragement from international bodies, for example the CRPD Committee, would therefore be most desirable.

An amendment to the General Equal Treatment Act is also necessary, as a study of the Federal Anti-Discrimination Agency documented in 2016. Protection against discrimination by private persons has only been implemented in certain cases. It is limited to mass market business, private-law insurance and living space of more than 50 rented apartments.

3. Please describe legislative measures taken since 2015 to ensure equality and non-discrimination of persons with disabilities, specifically with regard to disability equality law at the federal and Länder level and the General Act on Equal Treatment (*Allgemeines Gleichbehandlungsgesetz*), and further measures planned for the period up to 2020.
4. Please describe legislative measures taken by Germany since 2015 to protect against discrimination by private parties, both at the federal and Länder level, and any legislative measures planned for the period up to 2020.
5. Please state what steps have been taken since 2015 to ensure that reasonable accommodation as an immediately enforceable right in all areas of law and policy is enshrined in legal provisions and to ensure that the denial of reasonable accommodation is recognized and punishable as a form of discrimination (ConObs 2015, para. 14(b)). In this context, please describe whether and to what extent private companies are required to provide reasonable accommodation or can be required to do so under law applicable at the federal and Länder level and to what extent the statutory provisions establishing these options are applied in practice.

In the ConObs 2015, para. 14(a) recommends the development of protection against discrimination for persons with disabilities, including intersectional discrimination, as a comprehensive, cross-cutting right.

6. Please provide information on measures taken or planned to counteract intersectional discrimination (ConObs 2015, para. 14(a)).

In 2008 the EU Commission presented the draft of the 5th Equal Treatment Framework Directive, which was intended to comprehensively extend protection related to various features of discrimination, including disability, to non-public entities. However, the enactment of this Directive is being prevented to a large extent by Germany, even though German anti-discrimination laws still contain significant deficits with regard to the Convention, above all in relation to transactions under private law.

7. Please explain the position of the State Party with respect to the adoption of the European Union's 5th Equality Directive.

Art. 9 Accessibility

Accessibility in the public and private sector, including in public transport

At federal level, the Federal Equal Opportunities for Disabled People Act, which is key to the implementation of Art. 9 UN CRPD, was amended in July 2016.

However, the Federal Equal Opportunities for Disabled People Act essentially only obligates federal authorities, and applies to Land authorities only when they implement federal law. Private providers offering services to the general public are not affected; no appreciable actions to implement Art. 9 UN CRPD have been noted with regard to these providers since 2015.

Nevertheless, it must be said that the reform of the Federal Equal Opportunities for Disabled People Act has brought about some significant improvements. For example, as mentioned above, the denial of reasonable accommodation was defined for the first time as discriminatory; furthermore, the obligations to remove barriers in existing buildings were extended and the right to communication aids and explanations of official communications in easy to read language was improved, albeit with in part long transitional periods up to 2021.

The Monitoring Mechanism sees this procedure as an opportunity to encourage the State Party to create a more comprehensive inventory with regard to accessibility, and at the same time increase the pressure to close the gaps in legal and practical terms.

8. Please provide information on regulatory measures – including mandatory standards or requirements, monitoring mechanisms and effective penalties for infringement – introduced by the State Party since 2015 that are aimed at securing the accessibility of facilities and services in all sectors and areas of life, including the private sector (ConObs 2015, para. 22(a)).

Regarding the accessibility of local public transport, since 2013 the Federal Passenger Transportation Act (Personenbeförderungsgesetz (PBefG)) stipulates that accessibility must be achieved by 1 January 2022, although the relevant authorities can name exceptions in justified cases. Reports indicate that this option to make exceptions is often being used extensively and without fixed time limits. Furthermore, not all local public transport plans issued on the basis of this Act adequately address the question of up-to-date accessibility standards. The relevant authorities often argue that full accessibility of all stops in rural areas is “neither possible nor sensible”; the reasons given are related cost-benefit considerations and a lack of financial support by the Federal Government.

9. Please inform the committee about progress made towards realising complete accessibility in public transport under the personal transportation law (*Personenbeförderungsgesetz*) and about the projections from Länder, or from authorities appointed by Länder, relating to meeting the 1 January 2022 target date (ConObs 2015, para. 4).

The Passenger Transportation Act also regulates the accessibility of long-distance coaches: by 2020 all long-distance coaches must have at least two spaces for wheelchairs. Comparable obligations are also missing for the taxi trade, which also

operates under private law; very few taxis are fully accessible for wheelchair users – in 2017 only 0.2% of taxis in the state of Berlin were wheelchair-accessible.

10. What legal requirements, incentives and monitoring and sanction mechanisms, including any legal entitlements on the part of users with disabilities, exist within the territory of the State Party with respect to realising the accessibility of taxi services in both urban and rural areas?

For supraregional rail traffic, in 2014 Deutsche Bahn adopted its “Third Accessibility Programme” (to run from 2016 to 2020); the German Council for Disabled Persons (Deutscher Behindertenrat) and the Federal Government Commissioner for Matters relating to Disabled Persons were involved in its compilation. Representatives of people with disabilities criticise the fact that small stations with less than 1,000 passengers per day have been particularly ignored, and are also unhappy with the limited service times of the mobility services that help people to get on and off trains. As is the case in local public transport, the situation of passengers in rural areas is a major problem with regard to accessibility. In this respect the Federal Ministry of Transport and Digital Infrastructure (BMVI) has launched a subsidy programme of 80 million euros, running from 2015 to 2020, to convert 132 small stations with less than 1,000 passengers per day so that they are accessible to disabled passengers.

11. Please describe the current state as well as progress made with respect to accessibility of local and long-distance rail transport for persons with disabilities. In this context, please also report on the situation with respect to passengers with disabilities at railroad stations that serve fewer than 1000 passengers per day and on travel times outside of the service periods of existing mobility services, e.g. of Deutsche Bahn AG.

Art. 11 Situations of risk and humanitarian emergencies

Disability mainstreaming in humanitarian relief and the national emergency call system

In its Concluding Observations 2015, paras. 23-24, the CRPD Committee expressed its concern about the absence of a specific strategy for the inclusion of persons with disabilities in disaster risk reduction and humanitarian relief and recommended that Germany adopt a human rights-based strategy for disaster risk reduction and humanitarian relief, which should be inclusive and accessible to persons with disabilities. To date, no such strategy – which falls under the remit of the Federal Foreign Office – exists.

In September 2015 the Federal Government announced that “the development of a special human rights-based strategy to include persons with disabilities in its national and international disaster risk reduction and humanitarian relief [...] [is] not planned”. In June 2016 the Federal Cabinet adopted the second edition of the National Action Plan on the UN CRPD (NAP 2.0), whereby the Federal Government committed to the “Charter on Inclusion of Persons with Disabilities in Humanitarian Action” at the World Humanitarian Summit on 23 May 2016. Whether the subsequent updating of the strategy on humanitarian aid abroad by the German Foreign Office will satisfy the UN CRPD and the Concluding Observations, cannot be judged at present.

12. Please explain whether and to what extent the State Party has adopted a strategy for disaster risk reduction and humanitarian relief in conformity with the UN CRPD which is inclusive and accessible to persons with disabilities and which implements the provisions of the Charter on Inclusion of Persons with Disabilities in Humanitarian Action (ConObs 2015, para. 24).
13. Please clarify how the State Party ensures the participation of persons with disabilities and of organisations of persons with disabilities (DPOs) in the planning, implementation and evaluation of German humanitarian relief projects.

In NAP 2.0 the Federal Government emphasises that it will be following a “twin-track approach” to humanitarian aid. The German Foreign Office is currently developing a marker for project funding which is to encompass the aspects of gender, age and disability and facilitate a twin-track approach. Whether this will actually be the case can only be determined when the process has been completed.

14. Please provide information about how policies governing the funding of projects in foreign countries ensure (a) the direct targeting of persons with disabilities (b) that projects benefit persons with disabilities in the mainstream (twin-track approach).

In its Concluding Observations 2015, paras. 23-24, the CRPD Committee expressed its concern about access to the national emergency call system, especially for deaf persons, and recommended that Germany establish uniform emergency control centres across the State Party, including modern communication protocols for deaf persons.

On a positive note, major steps have been taken towards establishing a free, round-the-clock emergency call system for those with impaired hearing or speech. On the initiative of the Federal Minister for Economic Affairs and Energy the telephone interpretation service will in future be available at all times. However, this change in the legal situation still has to be implemented by the Federal Network Agency. Furthermore, pricing models will have to be adapted so that persons with impaired hearing or speech can telephone free of charge. With the extensions to the previous emergency call system, necessary amendments to the Telecommunications Act (Telekommunikationsgesetz (TKG)) and Emergency Calls Ordinance will have to be made urgently.

15. Please explain the extent to which an emergency call and disaster warning system incorporating modern protocols for deaf persons and persons with hearing impairments has been established across the entire territory of the State Party (ConObs 2015, para. 24).

Art. 12 Equal recognition before the law

Legal instrument of guardianship and supported decision-making

The CRPD Committee’s basic criticism in its Concluding Observations of 2015 vis-à-vis Germany was that it should eliminate all forms of substituted decision-making and replace it with a system of supported decision-making (see ConObs 2015, para. 26(a)); this referred primarily to the right to a legal instrument of guardianship (Art.

1896 et seqq. German Civil Code (Bürgerliches Gesetzbuch (BGB)) and the practice of providing guardianship. This criticism at such a fundamental level has not yet been acted on by the State Party and finds little support among state authorities and large sections of civil society; however, after the review date the State Party has initiated two processes related to the legal guardianship of adults: Firstly it examined the prerequisites for reducing the number of guardianships and, secondly, it examined how the requirements for professional legal guardianship can be raised, also in view of legal self-determination. The newly elected Federal Government of 2018 has undertaken to reform current laws on legal guardianship during the legislative period which had already started (2017-2021) on the basis of the studies published in 2017. The few offers of advanced training for guardianship professions in relation to the UN CRPD will have no broad or comprehensive effect, much less change the system.

In the opinion of the Monitoring Mechanism is it essential that the CRPD Committee provide the impetus aimed at establishing equal self-determination of persons with disabilities in legal matters and to drive this forward; to this end it must communicate properly its point of view on the basis of a differentiated understanding of German law and related practice.

16. How many persons within the territory of the State Party are subject to legal guardianship (*rechtliche Betreuung*) pursuant to the German Civil Code (*Bürgerliches Gesetzbuch BGB*) and how those numbers have changed since 2016 (please disaggregate by form of impairment, gender and the Länder level)?
17. Has the State Party eliminated all forms of substituted decision-making and established a system of supported decision-making in line with General Comment no. 1 (2014) (ConObs 2015, para. 26(a))? If not, why not?
18. To what extent has the State Party provided training on the UN CRPD to the various target groups (public services, judiciary, particularly judges in guardianship courts, social work, health and social professions) and in this context actually reached the members of said groups across the country (ConObs 2015, para. 26(a))?

Art. 13 Access to justice

Accessibility of authorities and courts

As recommended by the CRPD Committee in its ConObs 2015 in para. 28(a), the communicative accessibility of courts was legal improved with the Federal Government assuming the costs for a sign language interpreter for the whole of a particular court procedure. However, appropriate arrangements have not been made for persons with other disabilities, in particular persons with intellectual or psychosocial disabilities, even though the Committee referred particularly to persons in especially vulnerable situations in ConObs 2015, para. 28(b). The rules on administrative procedures also only cover the situation of persons with physical disabilities.

19. Please describe measures taken since 2015 to provide persons with disabilities with improved physical and communicative access to public

authorities and courts and describe any further measures that are planned to achieve this aim (ConObs 2015, para. 28(a)).

20. Please outline the legislative reforms ensuring procedural accommodations for persons with disabilities which have been introduced since 2015; in this context please specifically address and differentiate among persons with intellectual or psychosocial disabilities, deaf-blind persons and children with disabilities (ConObs 2015, para. 28(b)).

In 2017 and 2018 training on the application of the UN CRPD is being offered to social courts. No such offer has been made available to other courts or the police, although persons with disabilities often come into contact with these bodies. In ConObs 2015 para. 28(c) the CRPD Committee recommended ensuring effective training of personnel in the justice, police and prison systems on the application of human rights standards to promote and protect the rights of persons with disabilities.

21. Please describe the extent to which effective training on the application of human rights standards has been provided to personnel in the justice, police and prison system and the extent to which the long-term provision of said training has been secured – for instance in the sense of its establishment as a fixed element in the continuing training programmes of the Länder, and by regular verification of its effectiveness (ConObs 2015, para. 28(c)).

Administrative and social welfare authorities are the starting point for access to possibilities for social participation. Since (not only) persons with disabilities shy away from the courts, there is a danger that administrative acts counter to the Convention will remain unmonitored.

22. Please provide information on the extent to which training on the content and binding force of the UN CRPD has been provided to the personnel of authorities, particularly labour and social authorities and school, building and transport authorities since 2009?

Art. 14 Liberty and security of person

Involuntary placement

Particularly in view of the high number of involuntary placements, in 2015 the CRPD Committee recommended the prohibition of involuntary placement of persons with disabilities in institutions and the promotion of alternative measures. Furthermore, it advised carrying out an independent inquiry on the basis of a human rights-based review of psychiatric services for persons with disabilities, and the collection of relevant data. It further recommended a structural review of the placement of persons with disabilities in the criminal justice system and the improved collection of data on them (ConObs 2015, paras. 29-32).

In 2015 the Federal Ministry of Health commissioned two research projects on “Restraint in Psychiatry”, parts of which looked at alternatives to restraint and the avoidance of restraint, but the results are not yet available. However, these research projects do not have the nature of an inquiry.

Despite some amendments made to the relevant laws, the legal foundations for involuntary placement in psychiatric institutions remain unchanged. The number of involuntary placements has remained at approximately the same level since 2015; the shortcomings in the statistical recording of placements still persist.

23. Please provide information on measures taken to establish and improve coherent data on involuntary placement at the federal and Länder levels.
24. Please inform the committee about legislative measures taken to eliminate the practice of the involuntary detention of persons with disabilities in psychiatric hospitals on the basis of actual or perceived impairment or an actual or perceived danger to themselves or others (ConObs 2015, para. 30(a)). Please provide a systemic overview of laws at regional and federal level justifying forced placement.
25. Please inform the committee about what measures have been taken at the federal and Länder levels to counter the high rates of involuntary placements. In particular, please describe the extent to which alternative measures have been promoted (ConObs 2015, para. 30(a)).
26. Has an independent, human rights-based review of psychiatric services for persons with disabilities, their privacy and the collection of relevant data been initiated at the federal level (ConObs 2015, para. 30(b))?
27. Please provide information on the measures taken to ensure the provision of reasonable accommodation to persons with disabilities who have been deprived of their liberty (ConObs 2015, para. 32(c)).

Art. 16 Freedom from exploitation, violence and abuse

Protection against violence in residential institutions for persons with disabilities

In 2015 around 211,000 adults with disabilities in Germany were living in institutional accommodation; of these, 66% had an intellectual and 25% a psychosocial disability; approximately 85,000 were women. A study from 2014 showed that they are demonstrably affected by a higher risk of violence.

In view of the special urgency of the matter, the CRPD Committee recommended the State Party provide a comprehensive and effective strategy to protect against violence, and also designate one or several independent bodies in accordance with Article 16 (3) of the UN CRPD (ConObs 2015, paras. 35-36). The UN Committee on the Elimination of Discrimination against Women (CEDAW) also acted on the latter recommendation to Germany in 2017.

The report of the State Party to the CRPD Committee in the follow-up procedure of April 2016 stated: Many measures are already in place at the federal and Land level on protection against violence. However, these are mostly in the form of projects with a limited duration (compilation of guidelines, awareness and information campaigns, etc.). A critical view is taken of the fact that there are no binding legal provisions at

federal or Land level to protect persons with disabilities against violence and abuse in institutional accommodation. Furthermore, to date no agency has officially been mandated as an independent mechanism in accordance with Art. 16 (3) UN CRPD and equipped on the basis of human rights criteria. In their report to the CRPD Committee, federal and Land authorities in fact describe a broad range of disparate bodies as supervisory authorities on the protection against violence for persons with disabilities; however, these bodies are not sufficiently qualified for this task. This also applies to the supervisory authorities of the Länder which examine whether the legal requirements stipulated in the “Laws on Sheltered Care Homes” of the individual Länder are complied with in institutional accommodation for persons with disabilities.

The new Federal Government wishes to focus further on the subject of violence against persons with disabilities in the coming legislative period up to 2021. It is planning to promote violence protection concepts in institutions, amongst other activities, and hold regular discussions with the Länder in order to develop a common strategy for protection against violence. It remains to be seen to what extent these plans will in fact be implemented in the coming years.

28. Please report on legal regulations under federal and Länder law protecting persons with disabilities from violence and abuse in residential institutions for persons with disabilities.
29. Please report on whether and to what extent the responsible Länder supervisory authorities take protection against violence into account when reviewing compliance with requirements of the law governing residential institutions (e.g. through modules in auditing guidelines, maintenance of statistics on cases of violence or abuse).
30. Please provide information about steps taken to provide a comprehensive and effective strategy to ensure that women and girls with disabilities are effectively protected against violence. In this context, please report on measures to establish one or more independent monitoring authorities with a human-rights mandate in line with article 16(3) of the UN CRPD, including a timeline for the process of putting said authority or authorities in place and a description of how the participation of persons with disabilities in the process will be ensured.

Art. 17 Protecting the integrity of the person

Coercive medical measures

With regard to Art. 17 UN CRPD the CRPD Committee recommended the prohibition of compulsory and involuntary treatment and advised investigating violations of human rights in psychiatric care and in geriatric care in all Länder (ConObs 2015, paras. 37-38).

One development should be highlighted, namely, that the Federal Constitutional Court had already addressed the question of compulsory and involuntary treatment in 2011 and 2013 and twice more since 2015. Notwithstanding the opinion of the CRPD Committee – and partly in explicit conflict with its position – the Court considered it to be permissible in exceptional cases and under very strict conditions. Furthermore, it

considers it to be the constitutional obligation of the legislative to create a legal foundation for compulsory and involuntary treatment.

Two rulings of the Federal Constitutional Court on immobilisation in psychiatric institutions are expected in the first or second quarter of 2018, where the Court will decide whether these actions, as forcible confinement, are subject to a separate judicial review under constitutional law.

The results of two research projects of the Federal Ministry for Health are expected in mid-2019 (see above comments on Art. 14 UN CPRD). They will be looking at the question of alternatives to involuntary medication and confinement.

31. Please provide data on the extent and form of coercive measures in psychiatric institutions (ConObs 2015, para. 37(a)).
32. Please provide information about how the State Party ensures that all psychiatric treatment and services are always delivered on the basis of free and informed consent of the individual concerned (ConObs, para. 38(b)). In this context, please inform the committee about measures taken to prevent the use of force and involuntary treatment in psychiatric institutions, including measures restricting liberty through chemical, mechanical or physical restraints.

Art. 19 Living independently and being included in the community

Freedom of choice, de-institutionalisation, access to housing

There have been numerous activities undertaken by the State Party in recent years to implement the obligations deriving from Art. 19 UN CPRD; however, they do not go far enough.

With the Federal Participation Act to strengthen the participation and self-determination of persons with disabilities (Bundesteilhabegesetz, BTHG), adopted on 23.12.2016, the whole system of integration assistance was reformed comprehensively. The effects of the right to live independently will only be seen over the coming years because the law will come into force progressively, up to 2022. Even though this means the person's wish to live a certain way and the special nature of individual cases have to be given greater consideration, and the clause on additional costs was repealed, nevertheless the law does not sufficiently reflect an individual's opportunity to choose. This was also addressed in ConObs 2015, para. 42(a).

Systematic deinstitutionalisation has also made little progress. More people are receiving outpatient integration support for living in the community; however, to date the authorities have not succeeded in lowering the number of care beneficiaries in institutional accommodation. Funds are primarily used in the inpatient sector. In 2015 48% of care beneficiaries in Germany were living in the community; this percentage varied markedly between supralocal welfare organisations. Persons with intellectual disabilities in particular do not have the same opportunities as other persons with disabilities to receive needs-based support, also outside institutions.

Furthermore, the question of access to accommodation is rapidly becoming a problem, especially in densely populated urban areas: there are no data available, but a lack of accessible accommodation must be assumed. The subsidies provided for conversion works are not sufficient: for example, in 2017 the funds in the KfW programme “Age-Appropriate Conversion” were used up by the summer. The provisions of the building regulations of the Länder are often not appropriate to implementing the UN CPRD. Furthermore, in a period of rising rents, the question of affordability is a growing problem. The number of rent-controlled flats has dropped in recent years because little new housing is being built and controlled price schemes are coming to an end in many Länder, while demand has risen, especially in densely populated urban areas.

In the opinion of the Monitoring Mechanism it would be very welcome if the CRPD Committee could emphasise the importance of the implementation of Art. 19 UN CPRD in the State Party in view of the observations made.

33. How has the situation with respect to the numbers of persons with disabilities living in and outside of institutions changed since 2015? Please differentiate with respect to age, gender, primary form of impairment and type of benefit. How has the situation with respect to the numbers of persons receiving personal budgets (*Persönliches Budget*) or personal assistance changed?
34. In the light of the State Party's statement on the draft of General Comment No. 5 of the CRPD committee, please explain the State Party's position on the right to live independently and be included in the community and explain the extent to which the State Party is fulfilling the obligations on State Parties set out by the committee in General Comment No. 5.
35. Please provide information on the extent to which the State Party has achieved improvements with respect to the right of persons with disabilities to choose where and with whom they live and has eliminated legislative or other restrictions on the freedom of choice (ConObs 2015, para. 42(a)).
36. To what extent has the State Party, particularly the Länder and social assistance authorities on the local or regional level, agreed with the service providers on deinstitutionalisation strategies, including specific requirements as to times, resources and places, and taken other measures to promote deinstitutionalisation and improved access to community services and facilities for the general population (ConObs 2015, para. 42(b))?
37. Please provide information on how the situation with respect to access to barrier-free and affordable housing within the territory of the State Party has changed since 2015 and about relevant action taken at the federal and Länder level, including the amendment of Länder building codes to reflect the UN CPRD, measures to fund the construction of social housing and the consideration of accessibility criteria in decisions on the award of funding.

Art. 20 Personal mobility

Ensuring personal mobility

The question of barrier-free transport links, i.e. the ability to travel from departure point to destination without encountering barriers, and the role of reasonable accommodation to enable this have not been a regular part of transport and mobility planning to date; the Länder include this in individual cases when amending laws, such as is the case in Berlin. Around 15 cities and local authorities offer assistance services for local public transport; these are available to all persons with disabilities without highly restricted access; however, their capacities and service times are generally not developed enough to satisfy needs since they often go hand-in-hand with publicly funded job creation schemes. Since 2018 the Federal Participation Act explicitly includes mobility services as part of the catalogue of public services to ensure participation in the community.

38. To what extent does the State Party, at the federal and Länder level, make provisions, through legislative requirements and transport and mobility planning measures, for ensuring barrier-free travel chains and the provision of reasonable accommodation when these are interrupted?

Since 2015 problems have emerged, in particular the possibility of taking certain aids, primarily mobility scooters, as a result of the conditions of carriage formulated by the transport companies. A decree adopted and issued in March 2017 by the transport departments of all Länder and the Federal Ministry of Transport and Digital Infrastructure contains such extensive criteria for transporting mobility scooters in local buses that this is de facto tantamount to excluding many mobility scooter users. Furthermore, there are discrepancies across Germany because of the different approaches of transport companies. International involvement could help to resolve the problem.

39. How does the State Party ensure that the legal requirements and conditions that apply at transport companies and transport services for the transport of assistive devices (mobility scooters, wheelchairs with specific securement systems (*Kraftknoten*)) do not result, either directly or indirectly, in exclusion from transport?

Art. 23 Respect for home and the family

Supported parenthood

With the introduction of supported parenthood as a service to promote being included in the community and new regulations on taking partners' income and assets into account as well (see Art. 28 UN CRPD), the Federal Participation Act, adopted on 23.12.2016, brought about improved regulations for parents with disabilities. The main new regulations on inclusion support will come into force on 1.1.2020; hence it is important that questions on supported parenthood are also included in the implementing measures. The inclusive development of child and youth welfare services scheduled for the 18th legislative period in the coalition agreement will have to be addressed again in the 19th legislative period because so far no regulations have been issued which consider the specific needs of children of parents with disabilities.

In 2013 there were slightly more than 900,000 parents in Germany aged between 18 and 64 with disabilities or chronic illnesses living with underage children in one household. It is not known how many persons with disabilities have children but do not live with them. A study sponsored by the Federal Ministry for Labour and Social Affairs between 2014 and 2017 on the implementation of Art. 23 UN CRPD was not able to determine the percentage of children with disabled parents living in external care since the relevant agencies did not have sufficient data. However, the study showed that the option for self-determined parenthood in Germany is currently determined to a large extent by the place of residence, the youth and social welfare office responsible and the attitude of individuals, while, at least in some youth welfare offices, placing the children of disabled parents in external care remains the preferred method. Furthermore, shortcomings were identified in the practice of granting approval, the existence of suitable means of support, particularly in rural areas, education and training for the relevant professional groups and access to information.

40. How many children have been separated from their parents on the basis of a disability of one or both of their parents since 2015? If no data of this kind is available, please report on the extent to which the State Party has taken measures to improve the data pool.
41. To what extent has the State Party enshrined in law the prohibition against separating children from their parents on the basis of a disability of one or both of their parents? What other measures has the State Party taken since 2015 to prevent the separation of parents with disabilities from their children – for instance, due to a lack of appropriate support services, lack of resource-oriented guidelines for assessment and assistance planning or the absence of long-term child and youth welfare support (ConObs 2015, para. 44(a))?
42. To what extent has the State Party, particularly at the Länder and local level, made progress towards improving the provision of community support and safeguard mechanisms to ensure that parents with disabilities can bring up their children and exercise their parental rights (ConObs 2015, para. 44(b))?
43. What steps has the State Party taken at the federal, Länder and local level to address and eliminate barriers associated with low-threshold support and general programmes for families (early intervention, family education, preventative and follow-up care offerings, etc.)?

Right to reproductive freedom

Despite the clear recommendation of the CRPD Committee (see ConObs 2015, para. 38(a)) for a legal prohibition, German legislation continues to allow the sterilisation of adults without them having given their personal, informed and free consent (“Einwilligung” in German) (see Art. 1905 German Civil Code).

According to the latest statistics (end of 2017) only a few people are affected and the number of court decisions approving sterilisation has been declining for years (2009: 68; 2015: 26 and 2016: 23).

Nevertheless, the State Party must be given the impetus to take a closer look at the issues of the reproductive rights of persons with disabilities and, at the same time, the involuntary sterilisation performed abroad or other violations of the rights of persons

with disabilities, such as administering depot injections without consent, in accordance with human rights.

44. Has the State Party repealed section 1905 of the German Civil Code (*Bürgerliches Gesetzbuch*) and legally prohibited sterilization without the full and informed consent of the individual concerned, as the committee recommended in its Concluding Observations (2015) (ConObs 2015, para. 38(a))? If not, why not?
45. How many persons with disabilities have been sterilised without their full and informed consent since 2015, and how has this situation changed over the period since 2009?

Art. 24 Education

Inclusive education

In its ConObs 2015 the CRPD Committee expressed its concern that the State Party has an education system where the majority of students with disabilities attend segregated special needs schools (para. 45). It recommended immediately developing a strategy, action plan, timeline and targets to provide access to a high-quality, inclusive education system across all Länder (para. 46(a)) while scaling down segregated schools (para. 46(b)).

All Länder have taken steps towards creating an inclusive education system; however, they have approached the transformation of their education system into an inclusive one with varying degrees of consistency. Not all Länder have amended their education legislation since 2015 to comply with the requirements of the UN CRPD: only a few guarantee the legal right of students to attend a general school with joint classes; in some there is still a clause restricting resources for educating children with special pedagogical needs in a general school; and some have failed to prioritise inclusive education. At the same time efforts are being made to maintain the segregated special needs schools. Even in cases where education legislation stipulates inclusion as the norm, there is frequently a conflicting political attitude or practice on the ground and parents are urged to choose a special needs school for their child. A trend can be seen whereby inclusive education is being called into question or viewed as disposable.

It is a fact that the Länder are making varying efforts to finance inclusive education. Some Länder provide varying levels of funding for non-personnel costs incurred by school boards when implementing inclusive education. Other Länder, in contrast, do not provide any additional resources to compensate for the non-personnel costs which school boards incur for inclusive education.

46. Please provide (updated) information on all federal states as to whether and to what extent the State Party has, since 2015, successfully developed structures for inclusive instruction and scaled down segregated and special needs schools with an excluding effect. Differentiate among Bundesländer (ConObs 2015, para. 46(a), (c) and (d); recommendations in General Comment No. 4).

47. Please provide information about modifications made since 2015 in the legal framework for the development of an inclusive school system, including the creation of a legal entitlement to inclusive education and the entitlement to reasonable accommodation in individual cases, that are intended to ensure inclusive education (differentiating among the Länder). Please provide information on specific measures to shift budgetary allocations and, in particular, on measures shifting resources towards the development of inclusive education by systematically ensuring support for children with special needs at general schools and on specific measures to ensure the availability of resources appropriate for an inclusive educational environment.

Only a few Länder stand out with a decreasing rate of exclusion and a concomitant clear rise in the inclusion rate. In a further group of Länder, the inclusion rates have risen only moderately with a concomitant decreasing exclusion rate, while in a third group the exclusion rate has risen, in conjunction with a below-average inclusion rate in a national comparison. The hesitant or halted closure of special needs schools means it can be expected that exclusion and inclusion rates will stagnate or even show a negative trend.

48. Please describe the changes since 2009 in the "exclusion rates" (persons with disabilities outside of the general school system excluding special classes (*Sonderklassen*) and external classes (*Außenklassen*) and similar settings), in percentage and numerical terms, disaggregated by impairment, gender, grade level and Land).
49. Please provide information about changes since 2009 in the "inclusion rates" (percentage of children with disabilities in the regular school system), in percentage and numerical terms, disaggregated by impairment, gender, grade level and Land.

As recommended by the CRPD Committee in ConObs 2015, para. 46(d), all Länder offer education and training for teachers in the area of inclusive education. The Standing Conference of the Ministers of Education and Cultural Affairs has also adopted standards for teacher training. However, at times courses on inclusive education are not mandatory for teacher training and only some students of certain types of teaching degrees have to attend such courses. To date there has been no investigation into how far these courses are made use of with regard to the non-mandatory content of training and advanced training in inclusive education.

50. Please provide information about measures taken since 2015 relating to initial and continuing teacher training that are aimed at giving teachers the ability to teach (at a high-level of quality) children with disabilities within the general education system and to help shape the transformation of the education system into an inclusive system through the use of appropriate educational methods; please specifically indicate how many teachers said training has reached and how many new teachers have left higher education institutions with sufficient training to qualify them to teach in an inclusive environment.

Art. 25 Health

Accessibility of health services

The positive innovations of the amended Equal Opportunities for Disabled People Act (Behindertengleichstellungsgesetz (BGG)) adopted in July 2016 do not apply to privately owned hospitals and doctors' surgeries (see also the comments on Art. 9 UN CRPD). This means that the general problem of a lack of doctors in rural areas for persons with disabilities will be exacerbated.

Care by a general practitioner for persons with disabilities is only ensured in urban areas with a sufficient number of accessible general practitioner surgeries. However, in numerous rural areas people with disabilities do not have access to general practitioner care close to their home, or they are unable to exercise their right to choose because there is only one accessible surgery in the vicinity. The few figures available date from 2016. Overall the amount of data available is unsatisfactory with regard to the accessibility of health care facilities, the accessibility of information on the health care options offered, and on barrier-free access to gender-specific health care services, including reproductive medicine.

51. Please describe measures taken – including the introduction of minimum standards and guidelines – to increase the accessibility of health, habilitation and rehabilitation services and institutions, particularly in rural areas (ConObs 2015, para. 48).

Art. 27 Work and employment

Inclusive labour market and phasing out sheltered workshops

Some figures on the situation in the labour market for persons with disabilities reveal a positive trend since 2015. The unemployment rate of persons with severe disabilities was 12.4% in 2017, compared to 13.9% in 2015; in absolute figures this means a decline from 181,110 to 170,508 persons within two years. Despite this progress, persons with disabilities in Germany continue to be excluded more from the labour market than those without disabilities. More than half of persons with disabilities of working age are not integrated in the labour market, while the figure is one quarter for other persons. The statutory mandatory employment quota of 5% for those with severe disabilities has not yet been met. The unemployment rate of 12.4% among persons with severe disabilities is still double the general unemployment rate (6.1%). Unemployed persons with severe disabilities also remain unemployed for much longer periods than other unemployed people (377 compared to 268 days), and the trend is actually increasing slightly.

It must be acknowledged that the Federal Government, Länder and local authorities are making substantial efforts and spending significant sums in order to better implement the right to work for persons with disabilities in Germany. The adoption of the Federal Participation Law in 2016 introduced some very promising new instruments, such as the “budget for work”; firms known as “inclusion companies” will also be strengthened. It remains to be seen what effects these efforts will have in practice.

52. How high are the numbers and percentages of economically active and unemployed persons with disabilities in Germany? How do these figures

compare to those for persons who do not have disabilities? How have these figures changed since 2015?

The situation of sheltered workshops for persons with disabilities is practically unchanged, despite the CRPD Committee demanding their successive closure in 2015 (ConObs 2015, para. 50(b)). The legal foundation remains unchanged by the Federal Participation Act; only additional so-called "other providers" were allowed. Attending a sheltered workshop for persons with disabilities is still not recognised as an employment relationship; instead it is seen as rehabilitation and on average is recompensed with less than 200 euros per month. The number of persons attending workshops has not declined since 2015, but has risen slightly.

53. How many sheltered workshops for persons with disabilities have been shut down since 2015? How many people work in such sheltered workshops, at "other service providers" (*andere Leistungsanbieter*) or in "day activity centres" (*Tagesförderstätten*) or comparable facilities, and how large are the associated subsidies at the federal level and in the individual Länder? How have these figures changed since 2015? In addition, please explain how the situation with respect to the percentage of such workers who make the transition to the general labour market has changed in Germany since 2015, where the principal reasons for this lie and what measures have been taken in this regard (ConObs 2015 para. 50(b)).

Legal provisions with regard to accessible workplaces (ConObs 2015, para. 50(a) and (d)) have remained unchanged since 2015; no data are known that document any significant improvements in practice.

54. Please describe how the situation with respect to the proportion of accessible workplaces on the premises of public and private employers in the general labour market has changed and what measures – including the introduction of minimum standards or guidelines, monitoring or sanction mechanisms – have been taken in this regard (ConObs 2015, para. 50(a) and (d)).

Inclusion in the field of vocational training is still in its infancy in Germany. The majority of young people with disabilities will continue to be trained in vocational training units or in the vocational field with sheltered workshops, and not in normal companies. A positive note is that among the vocational training units a trend to "interlocking training" in cooperation with companies in the general labour market can be seen. In the National Action Plan 2.0 of 2016, the Federal Government announced the objective of increasing the percentage of young people with disabilities in in-firm training or in training as close as possible to in-firm conditions.

55. In addition, please describe how the situation in Germany with respect to inclusive vocational training has changed and what measures have been taken in this regard.

Art. 28 Adequate standard of living and social protection

Poverty risk

The issue of “at-risk-of-poverty” or “poverty among persons with disabilities” is only touched on briefly in the ConObs 2015 (see paras. 51-52). In order to take a more in-depth and extensive look, the Monitoring Mechanism would like to state its express wish that the CRPD Committee use its options to address this issue of implementation.

The German Federal Government's 5th Report on Poverty and Wealth, adopted in 2017, is a highlight of ongoing developments since 2015; however, it by no means pays sufficient attention to the prospects of persons with disabilities. The legal amendments to the right to inclusion in the community have in fact brought about a genuine improvement; the regulations which came into force in 2017 (Federal Participation Act) stipulate a gradual rise in the level of personal tax exemption for persons with disabilities with regard to income and assets. However, a critical examination of the next two to three years, so carried out around 2020, is required to identify the extent to which appropriate living standards can be aligned for persons with and without disabilities.

The Monitoring Mechanism would more than welcome comments by the State Party on these sensitive questions for millions of people during the upcoming State Party review.

56. How many persons with disabilities are at risk of poverty within the territory of the State Party (according to the EU indicators) and how has this figure changed since 2015? Please differentiate with respect to age, type of impairment and gender.
57. What measures has the State Party taken since 2015 to lift persons with disabilities out of poverty and how successful have these measures been?
58. Please indicate, based on a scientifically substantiated calculation, whether and to what extent the standard of living of persons with disabilities who are at risk of poverty has changed or will change as a result of new legal provisions on how income and assets are calculated (ConObs 2015, para. 52).

Homelessness

Homelessness among persons with disabilities is a new topic, the extent of which to date has not been recognised or addressed sufficiently in political terms. In Germany there were around 335,000 homeless people in 2014; according to the initial results of studies up to three quarters had a psychosocial disability. To this can be added further forms of disability in an unspecified number of the homeless. The Federal Government's Participation Report (“Teilhaberbericht der Bundesregierung”) states: Comparable data on the number of homeless people with disabilities are lacking nationwide; they seldom find access to the social support system; there are too few places in shelters to accommodate rising numbers and accessibility is not ensured. In view of the obligation to protect the right to housing and to promote it comprehensively, the State Party should address this issue decisively and develop a

political strategy to remove discrimination against homeless persons with disabilities; in this connection it should also collect data on shortcomings in care and support and on barrier-free access to aid. This is especially important since it is to be expected that the problem of a lack of affordable and accessible accommodation will intensify further in the coming years in Germany.

59. Please inform the committee as to what information the State Party has on the number and situation in life of homeless persons with disabilities and what policy consequences are being drawn from this. In particular, please report on action initiated to improve the data pool, disaggregated by type of disability, gender, age and migration background, to address deficits in accommodation and to ensure barrier-free access to services within the scope of programmes to assist homeless persons.

Refugees with disabilities

From 2015 to 2017 Germany accepted almost 1.5 million asylum seekers, including an unknown number of persons with disabilities. During the last State Party review the CRPD Committee paid special attention to refugees with disabilities (ConObs 2015, paras. 15, 16(a), 17(c), 18(b), 47-48). The structural problem areas have not improved since then, despite lower numbers of refugees arriving and they are still dramatic: The needs of refugees with disabilities are not recognised systematically as such in Germany and they do not receive systematic care; they are seldom housed in accessible accommodation and in the first fifteen months of their stay under the Asylum Seekers' Benefits Act they receive inadequate healthcare and aids. The Federal Government and the Länder should undertake targeted measures on "disability mainstreaming" in their refugee policy to implement the UN CRPD for refugees with disabilities. This must also be respected in the intention of the Federal Government to introduce centralised admission procedures for asylum seekers and accelerated procedures for granting the right of asylum.

60. Please report on legal measures taken by the federal and Länder governments to establish unified procedures for the identification of refugees with disabilities and for taking into account their special needs.
61. Please report the number of barrier-free refugee accommodations in the Länder and communes (reception centres and collective accommodation facilities). Please explain what standards for barrier-free status are observed and to what extent the Länder plan to introduce a minimum percentage of barrier-free places and accommodation facilities in their legislation on reception conditions (*Landesaufnahmegesetze*).
62. Please report on the delivery of services for refugees with disabilities by the local social assistance authorities. Explain to what extent rules or legal provisions at the federal or Länder level ensure the needs-based provision of health and rehabilitation services to these persons.

Art. 29 Participation in political and public life

Exclusions depriving persons of the right to vote, political engagement

The exclusion of persons with disabilities from their electoral rights addressed in the Federal Electoral Act (Bundeswahlgesetz (BWG)) Art. 13, 2 and 3 (ConObs 2015, paras. 53-54) observed during the last review continues to exist. The legal situation remains unchanged in 2015 in most Länder. The Länder of Schleswig-Holstein and north Rhine-Westphalia are positive exceptions, where the corresponding exclusion of persons with disabilities from their electoral rights was abolished in 2016, so that in both Länder people with a legal guardian in all matters can participate actively in regional elections.

The interdisciplinary scientific study mentioned in the responses of the Federal Government to the previous list of issues was completed and published in 2016. According to the study, around 81,000 people across Germany who have a civil-law guardian appointed for all matters (Art. 13, (2) Federal Electoral Law (Bundeswahlgesetz (BWG))) are affected by exclusion from their electoral rights as well as some 3,300 who committed a crime while in a state of a lack of criminal responsibility and because of the potential threat they pose have been placed in a psychiatric hospital (Art. 13, (3) Federal Electoral Law). The study confirmed that the findings of individual courts, which initiate exclusion from electoral rights, address other factual issues and do not contain sufficient informative value on the ability of the persons concerned to make a voting decision or on a possible “decision-making incapacity”. Nevertheless, exclusion from electoral rights continues to be adhered to, citing the argument that this is intended to exclude only those who are fully “incapable of making a decision” and justifies this with an increased risk of misuse.

63. Please indicate, with respect to the federal level and each of the Länder, whether all legislation and other regulations depriving persons with disabilities of the right to vote have been repealed and, if this is not the case, please explain why not. How many persons with disabilities are still affected by exclusions depriving them of the right to vote which continue to exist, if any (ConObs 2015, para. 54)?

With the removal of practical barriers, significant progress has been made since 2015. The number of accessible polling stations is increasing, as is the number of electoral information formats and programmes in accessible formats, including simple language. A positive example of this practice is the Land of Schleswig-Holstein, which sent all official voting documents to all voters in simple language by default for the first time during the last regional elections in May 2017.

64. What practical barriers preventing persons with disabilities from exercising the right to vote on an equal basis with others have been reduced since 2015 (ConObs 2015 para. 54)?

Persons with disabilities continue to be underrepresented in regional and national parliaments and among elected officials in Germany; in view of the lack of appropriate data it is scarcely possible to provide reliable figures on this matter.

65. How many persons with disabilities hold political offices or mandates in the federal and Länder governments or parliaments, and how have these numbers changed since 2009? How high is the percentage of persons with disabilities among political office holders and mandate holders compared to their percentage within the population at large?

In order to improve the possibilities above all for self-representation organisations and disabled persons' organisations to help influence public matters, in 2016 a participation fund was created at a national level with an annual sum of 1 million euros. It remains to be seen whether the relevant funding guidelines are practical, in particular for smaller self-representation organisations. The fund has not been fully utilised to date.

66. Please explain what measures have been taken to strengthen engagement by persons with disabilities in political and public life and to ensure their competent and effective participation in the conduct of public affairs.

Art. 30 Participation in cultural life, recreation, leisure and sport

Inclusion in mainstream sports

Although sports clubs and associations are intensifying their efforts to make sport more inclusive, persons with disabilities participate less in sporting activities than persons without disabilities. This is primarily due to the fact that there are too few inclusive sports offered and too few accessible sports facilities. However, the lack of data makes it difficult to determine precise numbers of accessible sports facilities. Other barriers that prevent persons with disabilities from doing sports together with persons without disabilities are the lack of instructors and trainers (with disabilities) who are trained specially for inclusive sport, lack of financial support and fear of contact among people with and without disabilities.

At the last conference of the Ministers for Sport in November 2017 it was decided to press forward with extending the accessibility of sports facilities. It remains to be seen whether this can help to significantly increase the number of accessible sports facilities.

67. Please provide information about measures undertaken by the State Party (federal, Länder and local level) since 2015 to encourage sports associations to make inclusive sports activities available and what support such associations receive in this context. Please report on the number of inclusive sports offerings and on existing opportunities for persons with disabilities to find out about inclusive sports offerings.
68. Please report on the number of state-held (federal, Länder and local level) inclusive sporting venues. What measures are planned for the redesign of non-accessible sporting venues and the design of new facilities to be barrier-free. What efforts have been made or are planned to encourage sports associations to redesign sports venues that they hold to make them barrier-free.
69. Please provide information on awareness raising measures aimed at reducing fears about contact between athletes with and without disabilities which have

been carried out or planned by the State Party (federal and Länder level), including any measures associated with sports federations.

70. Please provide information on studies, surveys or other measures planned to improve the data pool with respect to the participation of persons with disabilities in sporting activities, particularly regarding the situation with respect to barrier-free sporting venues and inclusive sports offerings.

Marrakesh Treaty

After the CJEU had clarified the dispute on competence between the European Union and the Member States in its opinion of 14 February 2017, the European Union implemented the Marrakesh Treaty in a Directive and a Regulation. The Directive leaves it to the Member States to stipulate compensation for copyright holders when their works are converted into an accessible format and then used. Germany must implement this Directive by 20.09.2018; a first draft of the Federal Ministry of Justice and Consumer Protection is expected in the first quarter of 2018. In September 2017 the Ministry listened to representatives from libraries for the blind, copyright representatives and self-representation organisations on implementation. Indications were that the government is planning to provide compensation. It is not expected at present that the Federal Government will also subsidise the conversion of works to accessible formats by providing additional public funds and hence contribute to a genuine change in the availability of works in accessible formats.

71. Please provide information on measures taken to ensure the effective implementation of the Marrakesh Treaty. In particular, please inform the committee about measures taken to improve the availability of published works in the literary, artistic and scientific domain in accessible formats and the accessibility of public municipal and university libraries and their catalogues for disabled persons.

Art. 31 Statistics and data collection

Measures relating to data collection and reporting

In 2015 the CRPD Committee expressed its concern that Germany was not collecting data systematically on the implementation of the Convention and the removal of barriers (ConObs 2015, paras. 57-58). With regard to the obligations deriving from Art. 31 UN CRPD, progress and movement can certainly be seen in the State Party.

In 2016 the Federal Government published the second "Participation Report on the Life of Persons with Disabilities in Germany". This report is a very good source of information since it contains statistics and information on various aspects of the life of persons with disabilities. It should also be mentioned that the human rights-based frame of reference of the report was strengthened. However, data on many questions of implementation of the UN CRPD are still missing, especially on the extent of structural barriers for persons with disabilities (e.g. the number of compulsory measures in institutional settings, the number of accessible culture and leisure opportunities, the extension of para-community services and the precondition for self-determination when living in the community). It is intended that the next Participation Report will close the gaps in data.

It is commendable that the Federal Government has commissioned a research institute to carry out a representative study on the participation of persons with disabilities (“Disability Survey”). This survey will question persons with disabilities across Germany on the opportunities for participation. The results are expected by 2021.

At the Länder level scarcely any activities to implement Art. 31 UN CRPD have been noted to date. A report on the participation of persons with disabilities has been published in only a few of the Länder since the Convention came into force. Only individual Länder require the regional government to produce regular reports. So far the Länder have not complied with their obligation to collect data on the targeted planning of political measures to implement the Convention.

The Federal Government and the Länder should take measures to collect the missing data in order to put the UN CRPD into practice, including data to evaluate the implementation of the Concluding Observations of the CRPD Committee. These data should be published by the Länder in regular participation reports. It remains to be seen to what extent politicians will take on these tasks in the coming years.

72. Please provide information on measures taken by the Federal Government since 2015 to fulfil its obligations under article 31 of the Convention, and particularly on the extent to which the Federal Government systematically collects data on all areas addressed in the Convention and has developed human rights indicators with which to assess the implementation of the Convention and the elimination of barriers (ConObs, 2015, paras. 57-58). To what extent were persons with disabilities involved in this, in line with the participation requirement?
73. Please provide information on measures planned by the Federal Government aiming at closing gaps in the data pool with respect to the implementation of the rights of persons with disabilities and at expanding existing large-scale surveys (Mikrozensus, GEDA, SOEP) to incorporate disability-specific modules/supplementary questions.
74. Please provide information as to which Länder governments have published how many disability reports since the Convention's entry into force in 2009. Which Länder have legislation requiring regular reporting in place and to what extent are these reports oriented towards the implementation of the CRPD (human-rights based reporting)? If no such reports exist, please report on whether and when their statutory introduction is planned (e.g. in disability equality law at the Länder level).

Art. 32 International cooperation

Development cooperation

The Federal Ministry of Economic Cooperation and Development (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (BMZ)) has created a sectoral project on inclusion which provides advice on implementation of the inclusion of persons with disabilities in German development cooperation organisations. Furthermore, the BMZ is financing a specialist in the National CRPD Monitoring

Mechanism who is working on the implementation of the CRPD in development cooperation.

So far the BMZ has not developed an evaluation system which would enable it to determine how much of the funds used are fed into projects to promote the rights of persons with disabilities. That is why it is not possible to make any reliable statements on how much funding is being used to strengthen the rights of persons with disabilities. The figures published by the BMZ are very inexact since they are compiled manually and the same contract value is used as a basis. A corresponding recommendation was made in the ConObs of 2015. However, efforts are being made within the OECD to introduce a corresponding policy market; nevertheless, Germany could have already introduced an evaluation system, as could other countries as well.

75. Please provide information on how many and which German development cooperation projects have, since 2015, (a) directly targeted persons with disabilities and (b) benefited persons with disabilities in the mainstream (twin-track approach).
76. To what extent has the State Party created instruments since 2015 to systematically register, monitor and ensure accountability with respect to projects targeting persons with disabilities or general projects which benefit persons with disabilities in the mainstream (ConObs 2015, para. 60(b) and (c))?

Criteria can help to evaluate which preconditions must be satisfied for a project or programme to contribute to promoting the rights of persons with disabilities. So far there has been little progress made in developing criteria to evaluate development cooperation projects. The BMZ is working on a solution but no results have been presented to date. In 2017 the German Agency for International Cooperation (Gesellschaft für Internationale Zusammenarbeit (GIZ)) introduced a safeguards and gender management system which evaluates the effects of planned projects of the implementing organisation. However, the rights of persons with disabilities in particular should be included more in the evaluation. Furthermore, the BMZ should press forward with the development of criteria.

77. To what extent has the State Party developed criteria since 2015 by which to assess the extent to which German development cooperation projects promote the realisation of the rights of persons with disabilities (ConObs 2015, para. 60(c))?

The BMZ and implementing organisations have taken the first steps to align their work with the Sustainable Development Goals (SDGs). The important connection between the SDGs and implementation of the UN CRPD in particular should be pursued further and lead to practical measures and monitoring.

78. Please explain how the rights of persons with disabilities, as a mainstream topic in the implementation of the 2030 Agenda, are considered in development cooperation (ConObs 2015, para. 60(a)).

On the one hand, the BMZ has created some opportunities for self-representation organisations in Germany to participate with the “Round Table” and “Topics Team”

boards. The external evaluation of the action plan on the inclusion of persons with disabilities was supported by a reference group to which self-representation organisations were invited. On the other hand, there are no established mechanisms to include self-representation organisations in planning, implementing and evaluating projects carried out in partner countries.

79. Please state the degree to which and in what way persons with disabilities and organisations of persons with disabilities participate effectively in the planning, implementation and evaluation of German development cooperation projects.

Art. 33 National implementation and monitoring

Institutional arrangements

In 2015 the CRPD Committee called on the Länder of the State Party to strengthen the capacities of the independent National Monitoring Mechanism (see ConObs, para. 62(c)).

Since then, there has been one case of obtaining longer-term financing on a legal basis (North Rhine-Westphalia); the Monitoring Mechanism sees this as good practice. At the same time it has observed with regret that, apart from two Länder, in the thirteen others there is no serious discussion about strengthening monitoring capacities in the long term.

80. To what extent have the capacities of the National CRPD Monitoring Mechanism been strengthened to enable it to follow up effectively on implementation of the Convention at the federal, Länder and local level?
81. Please indicate the extent to which the individual Länder have contributed to the funding of the CRPD Monitoring Mechanism since 2015 and which Länder have entered what form of longer term funding.

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