

Joint NGO Submission
– UPR on the FEDERAL REPUBLIC OF GERMANY –
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The German CRPD-Alliance (BRK-ALLIANZ) associates to the issues we focus while presenting an own submission. The Lesbian and Gay Federation in Germany (LSVD) and TERRE DES FEMMES will provide submissions by themselves as well.

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FORUM MENSCHENRECHTE – a coalition of 50 German human rights NGOs, founded 1994 in the aftermath of the Vienna Conference – submits the joint report to the Office of the High Commissioner for Human Rights on the situation of human rights in the FEDERAL REPUBLIC of GERMANY to be considered for the UPR in April/May 2018.

The following submission by FORUM MENSCHENRECHTE does not claim to address all critical human rights situations in a comprehensive manner. Some member organizations mentioned above may complement further information and details.

Studies quoted in the text are enlisted with full title and venue of publishing at the references. Volume Section A, B, C = 5,628 words; without footnotes.

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A International obligations and cooperation with international human rights mechanisms and bodies

(1) State action on international human rights norms and agreements as well as its statutory obligations require the ratification of core international and regional human rights treaties and the recognition of monitoring procedures. Germany has ratified most of those core standards, however, a number of agreements are still to be ratified and reservations be revoked.

A.1 Standards to be ratified

(2) With reference to the recommendations delivered during the UPR session 2013 we state:

(a) A [agreed upon] – 124.11-13, 124.18-21¹; the Optional Protocol on ICESCR has not been ratified;

(b) R [not agreed or noted respectively] - 124.1-10, R 124.15-17, R 124.185;² the Convention on Migrant Workers was not even considered to be ratified;

(c) A–124.12-13;³ Protocol 12 of the European Convention on Human Rights: not ratified.

(3) Beyond previous recommendations, we request action on further international human rights treaties:

(a) revised European Social Charter, signed by Germany in 2007: not ratified;

(b) complaint procedure on the revised European Social Charter: not ratified;⁴

(c) ILO Convention 131 on minimum wages: not ratified;

(d) ILO Convention 169 on indigenous and tribal peoples: not ratified;

(e) Protocol (2014) on ILO Convention 29 on enforced labour: not ratified.

A.2 Withdrawing Reservations

(4) With reference to A/R - 124.14,⁵ we request to withdraw the reservations against:

(a) admitting the competence of the CCPR (first Optional Protocol) on issues of equality;

(b) Art. 59 of the Istanbul Convention referring to women with refugee or migration background affected by domestic violence.

A.3 International Cooperation

(5) With reference to A-124.63⁶ (2013) we state that the Special Rapporteur on human trafficking has been visiting Germany for several public events while there is yet no official invitation by the government.⁷

(6) With reference to A-124.62:⁸

(a) We welcome the government's National Action Plan (NAP) on UN **Resolution 1325** for the period of 2017-2020. However, we note that NAP 1325 does not meet the criteria of effectiveness.⁹ Concrete indicators to measure its implementation must be defined, policy coherence ensured. Germany's policy on defence and security (including arms trade)¹⁰ as well as the government's asylum policy are not in accordance with the principles of Resolution 1325.

(b) the Foreign Office denies to comply with the pledge to deliver a **voluntary UPR mid-term review**.¹¹

- (c) **cross-border tax abuses and evasion** have not been comprehensively addressed but are ongoing.¹² We call on the government to comply with its responsibility for extraterritorial impacts of such tax and fiscal policies and to ensure that these policies do not impinge upon the ability of third governments to mobilize resources for fulfilling its human rights obligations.

B National human rights framework

B.1 Adaptation of Legislation

(7) According to CESCR recommendation No. 7,¹³ the provisions of human rights treaties should be applied by German courts. According to the “juris”-data collection, **ICESCR is hardly taken into account by the German judiciary**, with exception of court proceedings on the legality of study fees in the years 2006 to 2010.

(8) With reference to CESCR recommendation No. 38,¹⁴ we state the **concluding observations are disseminated but far from being widely spread** covering all levels of society.

(9) Referring to A-124.32,¹⁵ we note that the **recommendations by the Committee on the Rights of the Child (CRC) are yet to be implemented**.¹⁶

(10) **Concept and language of the German legislation is not always in conformity with international standards**. Referring to A-124.37,¹⁷ we draw attention to the “*Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*.”¹⁸ The term “Child pornography” needs clarification because of its complex legal and practical scope.¹⁹

(11) With reference to A-124.38²⁰ and the **refugees arriving to Germany in 2015 and early 2016**, legislation has been adapted with **adverse effects on children**:²¹

- (a) the suspension of parental immigration in the context of subsidiary protection²² is not in conformity with the obligation to give priority to the child’s best interest;
- (b) the participation of young people – i.e. **unaccompanied minors** – is not adequately taken into account when they are deployed to States (Länder) and not adequately consulted on relatives or other persons of their trust who potentially could host them. Such approach is not anchored, adequate structures and accompaniment are missing;
- (c) **medical methodology in order to assess age** is still used although this methodology does not accurately define age and contradicts ethical standards;²³
- (d) only **acute diseases and painful conditions** are treated in the first 15 months after arrival. Access to psychotherapies or care for chronic diseases and disabilities are not covered. Unaccompanied minors under custody of the Youth Office²⁴ may face problems to be checked on infectious diseases and protective vaccinations, jeopardizing the minors as well as the employees.
- (e) although **minimum standards on accommodation for refugees**, with the view to protect children, adolescents and women, are established by the Ministry BMFSFJ²⁵ and UNICEF, families with children are still accommodated in common lodgings;
- (f) **minor refugees are detained** simply due to the pending asylum status.

C Implementation of human rights

C.1. Cross cutting issues

C.1.1 Non-discrimination

(12) ICERD²⁶ Art. 4(a) obliges State parties to **criminalize the dissemination of racist expression**. Racist positions are widely articulated in the public space in Germany via speeches, interviews, demonstrations, publications, electoral posters, Internet. Such articulation is not limited to right-wing extremists. Stereotypes and prejudices directed against Jews, Sinti and Roma, Muslims, refugees and migrants are present at every social milieus.²⁷

(13) There is still the assumption, that **racist utterances against the dignity of people** are expressed predominantly in the affirmative terminology of former National Socialism (NS). This prevalent and narrow understanding of racism has already been criticized by several pertinent international and European institutions.²⁸

C.1.2 Right to Development

(14) The current **development policy** by the German government distracts the Official Development Assistance (ODA). The “Marshallplan with Africa” by the Ministry for Economic Cooperation and Development seeks to involve private sector as “key stakeholder” or “partner” to promote private investments into infrastructure projects. While cooperation with the private sector is not automatically negative, it is problematic when public funds or public functions are linked with the private sector and no adequate safeguards for the protection of human rights or accountability mechanisms are in place. **We therefore demand** that ODA recourses are only used for public development projects. If development projects are carried out in cooperation with the private sector, those safeguards should be in place.

(15) In relation to A-124.53-54²⁹, Germany has met **ODA goal of 0.7% of GSP** in 2017 but due to adding the financial support for refugees living in Germany.

C.1.3 Business and human rights

(16) According to the *UN Guiding Principles on Business and Human Rights*, **German companies should be held accountable** when they violate human rights through their external activities. In December 2016, a NAP was adopted to address issues such as standards on human rights due diligence throughout the supply chain as well as human rights criteria for export credits and investments. The law will be re-considered if until 2020 less than half of the German based corporations with more than 500 employees are failing to introduce human rights standards into their business. From 2018 onwards, this conditionality is supposed to be monitored on a regular basis. However, the NAP does not foresee any binding mechanism and has fallen short too, as it does not clarify that particularly companies benefitting from public guarantees should establish human rights due diligence procedures in place.

(17) **We expect** that the aspirations are met and an effective monitoring is established. **We further demand** that a law will be prepared **providing binding obligations** on German

companies to care on their operations abroad and report on the measures taken in view of human rights protection. Those provisions should further **guarantee the victims an appropriate redress**.

(18) Germany's **justice system** does not adequately deal with human rights violations resulting from **activities of German companies abroad**. Group- or Class-Actions are not foreseen under the German civil procedure law. Affected communities are required to single out certain claimants instead of filing the claim as a group. Furthermore, victims of human rights violations normally cannot prove which decision of transnational corporations actually led to the violation. They lack provisions that would ease their burden of proof. They need access to information about internal corporate processes such as pre-trial or trial disclosure. Courts and public prosecutor's offices are not adequately trained and equipped to deal with such cases.

(19) **We demand** that Germany adapts its civil procedure law in order to introduce Group- or Class-Actions, ease the proofs, establish task forces in courts, and provide effective redress for victims of human rights violations related to German companies operating abroad.

(20) The government supports German **business investment** with guarantees between 2.5 and 6 billion Euro and export credit guarantees between 25 and 30 Million Euro annually. Despite the government's assertion that it is taking human rights impacts into account, projects are granted that entail severe human rights violations.³⁰

(21) **German public banks**, such as KfW-Entwicklungsbank and DEG,³¹ are involved into development financing³² casting doubts whether these involvements stick to the obligations under ICESCR. We note, among others, an inadequate human rights impact analyses, lack of direct engagement with project-affected people as well as lack of transparency and enforcement mechanisms. Human rights situations in a country have not been taken into account either.

(22) **We demand** that the government (a) **admits transparency** on its export and investment credit guarantees enabling civil society and affected people to assess the state party's evaluations; (b) **ensures** that **affected people are heard** during the impact assessment and monitoring; (c) **ensures** that companies benefitting from export and investment guarantees will have **human rights due diligence** procedures in place.

(23) Negotiations on a **UN Treaty on Business and Human Rights** seek to provide rules for companies and possibilities for complaints. Germany has opposed this process, although the EU Parliament has recommended the EU member States to actively and constructively engage with. **We demand** the government to abandon its blockade and participate in future meetings of the working group.

C.1.4 Counter-terrorism

(24) In line with A-124.198-200,³³ we draw attention to the use of **armed drones** carrying out air strikes in countries like Afghanistan but operated through US military forces based in Germany. The US' global program for warfare often uses drones in conflicts where civilian population and combatants cannot be safely distinguished. This is breaching humanitarian international law and human rights law. The data for the military operations stem, among

others, from US facilities in Germany, such as the Air Base Ramstein and the US Army based in Stuttgart. Ramstein Air Base is of central importance for the data transfer with satellites and drones, since this transfer allows real-time communication between the US and the target regions.

(25) **We demand** from the hosting German government to:

- (a) end complicity in violating the right to life by countries using German territory for real-time data transfer to and from drones that serve as weapons` platform in unlawful killing operations;
- (b) end complicity in violating the right to life by sharing data that contributes to target analysis decisions for unlawful killing operations in third States by armed drones.

C.1.5 Climate Change

(26) In his 2016 report, the Special Rapporteur on human rights and the environment stated that "*climate change threatens the full enjoyment of a wide range of rights*".³⁴ The failure to prevent human rights harm caused by climate change and the failure in mobilizing maximum available resources, constitute a breach of these obligations.³⁵ Germany is one of the main global emitters of greenhouse gases (GHGs) and responsible for about 2.5% of global emissions.³⁶ The national energy sector is responsible for about 50% of German GHG emissions.³⁷ Germany has obligations to mitigate the causes of climate change in a manner that contributes to limit earth warming to 1.5° C and to prevent the most severe human rights impacts. The government's current mitigation policy and its long-term targets do not sufficiently correspond to these obligations. According to figures provided by the government, the level of German GHG emissions has stagnated since 2009. The German Federal Environmental Agency expects 2016 emissions to be 27.6% below the reference level of 1990.³⁸

(27) Germany's obligations under international human rights law require cooperation. This includes a **fair share of climate finance**. A central tenet of equity in the international climate change regime is to provide financial and technical support for the implementation of mitigation and adaptation policies in developing countries.³⁹ All State parties to the UNFCCC agreed that the financial support should amount to 100 billion USD annually by 2020.⁴⁰ The German government agreed that its share of this obligation is estimated to be 10%.⁴¹ In 2014, the German Chancellor announced that Germany would double its annual public climate finance contribution from 2 billion to 4 billion USD. Although such announcement is commended, this contribution still falls short against what is required.

C.2. Civil and Political Rights

C.2.1 human trafficking

(28) Referring to A-124.138,⁴² the "National Situation Report on Human Trafficking" (2015)⁴³ finds the majority of trafficked persons younger than 21 years. The state has a particular obligation to protect these individuals, in particular, **underage trafficked persons** but there is no legal regulation, nor support structure, nor funded counselling available which adequately addresses core features such as the child's best interest and child protection. Support structures have to include, too, the group of 18 to 21 year-olds, who continue to be vulnerable. A number of minors will be affected by new forms of human trafficking such as

exploitation through begging or forced criminal activities.⁴⁴ None of the required counselling and support structures are in place.

(29) In relation to A-124.141, A-124.147⁴⁵ we note that the fight against human trafficking in Germany still focuses on the aspect of criminal prosecution. The **rights of trafficked persons therefore often remain secondary. Third-country nationals** still receive only a temporary residence permit if they cooperate with the law enforcement authorities. Although the permit can be extended, the trafficked person is instrumentalised for the purpose of the judiciary. It is difficult to make anybody involved when the residence status remains insecure. A **human rights-based approach**, which focuses on strengthening the position and the rights of trafficked persons, is **yet to be implemented**. Furthermore, we expect the German government to establish a national coordinator's office and introduce a national rapporteur likewise other European countries.

C.2.2 Administration of justice, rule of law

(30) In reference to A-124.110-11, 124.126, 124.129 and A-124.144⁴⁶ we note that **racial profiling** is still in practice. The trend in hostile rhetoric by political leaders and media to stigmatize certain ethnic groups, migrants and refugees as prone to criminality or terrorism, has strengthened prejudices among the security forces too. Racial profiling turned into a normal instrument in the frame of counter-terrorism and anti-drug measures. **We call** on the government to effectively stop making fear about minorities and migrants, such as CEDAW recommended in 2017.⁴⁷ **We urge** to provide anti-racism training for police, judiciary, prison staff, immigration and asylum officers as well as to eliminate institutional racism. We urge the collection of disaggregated data on minorities.

(31) The problem with **excessive use of force by police** already starts with inappropriate investigations. According to figures provided by the Federal Agency on Statistics,⁴⁸ the investigations into alleged 'injury in office' are usually unsuccessful. Because (a) in more than 95% of the cases, the investigation is closed down without result;⁴⁹ (b) in less than 3%, the perpetrators are charged; (c) in more than 50%, the prosecutors stop the investigation due to reasons of appropriateness (in accordance with §153, 153.a StPO).⁵⁰ Or the procedure is halted because of "insignificance", which apparently contradicts the qualification of "injury in office" (§340 Criminal Code / StGB).⁵¹ These findings are sustained by observers such as the European Council Committee on Torture,⁵² European Council High Commissioner for Human Rights,⁵³ European Court on Human Rights in 2000.⁵⁴ **We call** on the government to establish (a) an external investigation unit with independent experts who are not part of any command line within the alleged police unit, (b) a transparent and public audit procedure.⁵⁵

(32) In relation to an **adequate medical treatment of prisoners**, we draw attention to situations such as in Bavarian prisons. At the end of 2015, only 45 of at least 769 heroin-dependent detainees have received a substitution treatment; 0.4% out of approx. 11,000 inmates in total. Eastern States show a low rate too. Instead in the State of Berlin, about 4% of all prisoners received substitutions in 2015, in Baden-Wuerttemberg and North-Rhine-Westphalia around 10%, in Bremen about 20%. The Bavarian Ministry of Justice argues that its primary goal is making the inmate abstinent. According to the European Court on Human Rights in 2016,⁵⁶ the decision on whether a heroin replacement treatment is appropriate, is a mere medical decision. Every inmate is entitled to the same medical treatment as people outside the prison.⁵⁷ The treatment with substitutes is standard in Germany since 1993. **We**

call, in particular, on the prison authorities in Bavaria and eastern States to guarantee appropriate medical aid for drug / heroin-dependent detainees according to the highest standards.

C.3. Economic, Social and Cultural Rights

C.3.1 Right to adequate standard of living

(33) The **calculation of the existential minimum** was re-structured in the *Basic Needs Calculation Act*⁵⁸ in 2011.⁵⁹ The beneficiaries are unemployed persons between 15 and 64 and those who are not able to earn an income. The German Constitutional Court in 2010 declared that the used method of calculation was not in line with constitutional rights on a dignified minimum existence.⁶⁰ CESCR sustained in 2011, that the method of calculation “does not ensure an adequate standard of living”.⁶¹ Welfare organizations, unions, or self-organized associations of unemployed⁶² are saying that the current calculation method does not guarantee a minimum standard of living in Germany either as it disregards individual needs.

(34) According to Art. 2(1) ICESCR, the State Party shall take steps “(...) to the maximum of its available resources” in order to fully implement ESC-rights. The **increase of food banks** (such as “Tafeln”) to more than 900 in all parts of Germany shows that food insecurity returned. About 15 years ago, these food banks were present in bigger cities, nowadays, they can be found in towns and villages too. The Tafeln claim that they provide 1.5 million people with food and drinks: among them 25% are children and youth, 53% people with migration background and 23% elderly people. The food supply organisations fulfil in part the state responsibility on food security. The right to food is not fully implemented,⁶³ and has rather turned from a State obligation into a question of voluntary relief.

(35) CESCR recommendation No. 19⁶⁴ urged Germany to ensure that its unemployment schemes take into account the individual’s right to freely accept employment of his or her choosing. The German Social Book II provides **sanctions against unemployed persons** which can reduce the amount of benefits from 30% down to 100% of the basic benefits.⁶⁵ The experts of CESCR questioned those sanctions with regard to possible violations of articles 6, 7, 9 and 11 of ICESCR. Furthermore, the use of sanctions differs: In some municipalities, sanctions affect up to 7% of all beneficiaries, in others the number is below 1%. This indicates an arbitrary use of the sanction system.

(36) CESCR recommendation No. 24⁶⁶ notes with concern that 13% of the population in Germany live below the **poverty** line. 1.3 million persons, who are economically active, require additional income support.⁶⁷ The risk of running into poverty is attributed to 25% for 18-25 years old, 40% for single parents, 58% for unemployed.

C.4. Specific persons or groups

C.4.1 Women

(37) With reference to A-124.137,⁶⁸ we note that the government has made some efforts to make the **support system** more accessible for people affected by violence. Nevertheless, the **government’s report on women shelters and counselling centres** (2012) says that 350

women shelters yearly admit 18,000 women with their children while thousands have to be rejected.⁶⁹ Since then the problem has multiplied because of the scarce housing situation in cities. The situation is especially inconvenient for women with disabilities because many women shelters are not barrier-free. Furthermore, financial constraints⁷⁰ do not admit women shelters to attend groups of people, such as students, trainees, migrants,⁷¹ or women in specific situations.⁷² These persons are allowed to stay at a women's shelter only if they cover their costs by themselves.

(38) With reference to A-124.71-75, A-124.156⁷³, we draw attention to CEDAW's Concluding Observations in 2017 which dwell on the measures adopted by the German government to advance the participation of **women in political and public life**. Still, there are a number of structural barriers and discriminatory stereotypes making women disproportionately absent from decision-making positions in both elected and appointed positions in public office and within political parties, the judiciary and academia.⁷⁴

C.4.2 LGBTIQ*

(39) With reference to A-124.121⁷⁵, we state that the government does not sufficiently follow **strategies to reach equal rights, diversity and respect**. Most recently, the government submitted a NAP against racism with an extension on hostility against LGBTIQ*. The extension does not suggest any specific measures and ultimately remains tentative.

(40) In relation to A-124.122,⁷⁶ the latest official statistics are saying, that in 2016 the number of reported **offenses on the ground of sexual orientation** rose from 171 in 2015 to 205 in 2016. Many offenses are either not reported or are incorrectly classified by the police as "other hate-motivated grounds". This is not adequate to homophobic- and transphobic-motivated crime. The motives of homophobia and transphobia are not listed in Section 46 (2) of the Criminal Code (StGB). **We urgently require** to explicitly refer LGBTIQ*-hostile motives to this section.

(41) Similarly, Section 130 of StGB on **incitement to hatred against certain groups** highlights national, racial or religious groups or groups defined by their ethnic origins as potential targets while LGBTIQ* persons are not considered, nor people with disabilities.

(42) **Legal discrimination still continues** although the Same-Sex Marriage Bill has been adopted on 30 June 2017. There are still legal and political shortfalls and human rights violations against inter* and trans* people; e.g. Intersex Genital Mutilations and disregard of self-determined gender.

C.4.3 Children

(43) We commend the **Monitoring Center on the UN Convention on the Rights of the Child** (UNCRC) established at the German Institute for Human Rights. However, a complaint mechanism is still missing.⁷⁷

(44) The Federal Constitutional Court has recognized **children as bearers of fundamental rights**. However, children are not explicitly referred to as legal subjects in the Basic Law (*Grundgesetz*). They remain object of parental responsibility. **We demand** that children's rights be explicitly included into the *Grundgesetz*.⁷⁸

(45) In relation to A-124.38, A-124.170,⁷⁹ we note the **ongoing discriminatory distinction in the treatment of children in a refugee situation**. In addition to para. (11), children are falsely kept for up to six months in shelters on which they arrived first or when they stem from so-called safe countries of origin.⁸⁰

(46) Furthermore, not all girls and boys with refugee background have **equal access to educational facilities**. Not every State in Germany enrolls minor refugees immediately after assignment, and some States still prohibit occupational training for adolescents. The provisions by Berlin, Bremen, Hamburg, Saarland, Saxony and Schleswig-Holstein can guide the revisions to be made in other States.

(47) Attempts by the authorities to deport will lead to **traumatization**. This does not only violate the child's well-being but experiences are saying that children have to be treated psychiatrically afterwards.

(48) With reference to A-124.24,⁸¹ we note that Germany ratified the *Lanzarote Convention*⁸² but the implementation yet **lacks of appropriate measure** on prevention, protection and prosecution: such as victim protection programs, interdisciplinary cooperation for effective victim protection, expansion of prevention programs for potential offenders, extraterritorial prosecution of acts of sexual abuse and the sexual exploitation of children committed abroad.

(49) With reference to A-124.142,⁸³ we note that using the **Internet** the number of cases on **pedophilia** (more adequately "**sexual violence against children**"⁸⁴) definitively increased. Via Internet, minors can be easily contacted and moved to receive and send child pornography material. The unknown figure of sexual abuse via Internet is expected to be high.

(50) Related to the Syrian conflict, reports are saying that **minor refugees** experienced **sexual violence or prostituted** themselves during their escape and/or after their arrival in Germany. They feel responsible to pay the debts with the smugglers or to support the remaining family members. The extent of this new phenomenon should be investigated in order to initiate **appropriate preventive and protective measures**.

(51) With reference to A-124.132,⁸⁵ we note that there are around 19,000 **young people** under the age of 21 **living on the streets**, 6,500 are younger than 18.⁸⁶ In order to improve their situation, it is necessary to:

- (a) work proactively with families and children experiencing violence and poverty to improve the family situation;
- (b) provide food, clothing, education and psychological care;
- (c) co-ordinate with private and public authorities in order to complement the offers for street children, and to establish on-site long-term care facilities;
- (d) offer further support for those who have exceeded the age limit for adults.

(52) With reference to A-124.49,⁸⁷ we note that there are no special audits **for the juvenile offices** (Jugendamt), and a **comprehensive quality development and quality assurance** is still lacking. Such provisions have been repeatedly addressed by UN treaty bodies.⁸⁸

(53) With reference to A-124.170,⁸⁹ we note that a recent study by UNICEF shows that **not all refugees in Germany have access to proper education facilities**.⁹⁰ Only in some parts of the Federal States, children are entitled to visit school yet before they are deployed to other

States. Many children are, thus, housed for a long time which may limit or even rule out a school visit. This is in particular true for situations such as initial reception facilities, families in emergency shelters and special accommodation facilities. While in-house education may be established, it does not meet the appropriate standards:

C.4.4 Persons with disabilities

(54) In Germany, people who are in need of entire attendance by thirds, or those who have committed a crime in a state of consciousness inability and, thus, are accommodated in forensics, are **excluded from active and passive suffrage** in elections to the European Parliament, the German national level and most of the Federal States. The courts also handle such cases differently. Therefore, the place of residence will deliberately decide whether the right to vote can be exercised. Since the right to vote is an elementary civil right, the exclusions from the electoral rights have to be removed unconditionally.

(55) With reference to A-124.173,⁹¹ we note that the **unemployment rate of people with disabilities** remains relatively constant and more than twice as high as unemployment in general. People with disabilities are clearly disadvantaged in the general labor market. The improvements foreseen for the year 2017 onwards are still scarce. Rather to the contrary, the number of people working in so-called workshops for people with disabilities is increasing; in 2017 around 310,000 people, and remain segregated.

(56) With reference to A-124.174-175,⁹² we note that the amendment to the Equal Opportunity Act for people with disabilities (BGG)⁹³ in 2016 missed the opportunity to introduce **guidelines for private services**. People with disabilities are therefore still suffering from lacking access to a wide range of public life, whereas the UN CPD calls upon effective legislative measures on that subject.

(57) With reference to A-124.176,⁹⁴ we note that **women shelters with barrier-free access** are still the exception than the rule. This is discriminatory since the violence against people with disabilities is often associated with the perpetrator who plays an important role for domestic assistance or care in a facility.

(58) With reference to A-124.177,⁹⁵ we note that **segregated facilities** for people with disabilities are **compromising their rights**. Basic experiences outside, in the "normal" world, are withheld. The possibility to leave a facility is restricted by law, as the right to freely choose the place of assistance can be denied on cost reasons.

(59) With reference to A-124.178,⁹⁶ we note that the concept of **inclusion is threatened** when children and adolescents are moved to segregating institutions, such as special schools and special training places. There is no overall program for activating social inclusion of children and adolescents.

C.4.5 Migrants, refugees, asylum seekers

(60) With reference to A-124.28, A-124.196,⁹⁷ we note that the current government⁹⁸ aims to **outsource the protection of refugees** to states outside the European Union (EU). The agreement between EU and Turkey (March 2016) is undermining the individual right to seek asylum and is in breach with human rights. Even worse, this agreement seems to be

exemplary for similar agreements with North African states such as Egypt, Niger, Mali, and Libya. This is unacceptable because there, the protection of refugees cannot be guaranteed according to EU-standards. We call upon Germany and the EU to provide access to Europe without making refugees sacrificing their lives. In 2016, more than 5,000 people died in the Mediterranean Sea. Since the year 2000, over 35,000 people have lost their lives along the EU's external borders. The EU scrambles its boundaries, blocks refugees seeking safe escape routes, forcing them on life-threatening routes. Instead of rescuing shipwrecked refugees, the EU concentrates on the military control. The German government is one of the key operators of this policy.

(61) The current picture on Afghanistan painted by the Foreign Office does not reflect the real situation. The entire country is shaken by war, there is no area which can be identified as safe. At least subsidiary protection should be considered for Afghan refugees in most of the cases.⁹⁹ On the contrary, despite the deterioration of the security they face a drastic reduction of the recognition rate from 77.6% in 2015 to current 46.4%.¹⁰⁰ In such conditions, **deportation of Afghan nationals is running against international protection standards for refugees.**¹⁰¹ We are further concerned that the treatment on Afghanistan people will be extended to other countries in similar crises.

(62) The architecture of **asylum procedures within the EU** is ruled by Dublin III Regulation which is inadequate compared to the needs of refugees particularly in terms of protection. Dublin III is designed to prevent refugees from entering the EU and denying them the possibility of carrying out the asylum procedure.¹⁰² According to the Dublin-IV proposal,¹⁰³ this regulation is meant to deny even the physical minimum in case when refugees may migrate to a European State other than the State of arrival.

(63) The **applications for asylum** to the first instance¹⁰⁴ have revealed a number of **deficiencies at the relevant Federal Office for Migration and Refugees (BAMF).**¹⁰⁵ Those who evaluate the testimonies and those who finally take the decision are inadequately qualified. Therefore, they depend on text modules prepared by the BAMF. The structure of separating hearing and decision-making leads to the loss of relevant information. Furthermore, the majority of interpreters is not professionally trained which causes severe distortions of the interview and undermines the credibility of asylum seekers. Their testimonies cannot be adequately assessed what jeopardizes their protection status under the Geneva Refugee Convention. In consequence, the number of asylum seekers from Syria, Afghanistan, Iraq, or Eritrea is increasing whose applications have been denied. Next consequence: More than 300,000 complaints are currently pending before the administrative courts.

(64) **We call upon**, to re-establish asylum procedures which are fair and carefully conducted. Reasons for the escape need to be accurately clarified and individual circumstances considered. We further demand that the hearing and the decision making will be carried out by the same person at BAMF, and that they are adequately trained on various subjects.

(65) A main barrier to integration is German language. Asylum seekers from only five countries have access to courses on **integration measures and language skills** by the BAMF.¹⁰⁶ The authorities justify such distinction by the assumption that more than 50% of the asylum seekers out of these countries are expected to be recognized. The same applies to measures promoting the working skills for refugees. **We do not share this approach and demand** to extend the possibility of an early acquisition of German language towards more

countries in crisis. **We further demand** to ensure the access to adequate health and psychosocial care, to revoke the restrictions on family re-unification, to provide opportunities for social participation including those whose applications for asylum have been rejected but cannot be deported based on humanitarian and other reasons.

(66) Principally, **unaccompanied minor refugees** are fully attended by the provisions of the Social Security Code (SGB). The recent debate on reforming SGB VIII, however, revealed attempts to subordinate the care for minor refugees under a special regime and to reduce the scope of their claims. The draft¹⁰⁷ contained a clause on cost control. This would mean that benefits for unaccompanied minor refugees would depend on the financial situation of a State. A rights-based guarantee would depend on the availability of cash.

(67) **Vulnerable persons and groups** need special protection; such as minors, refugees with disabilities, women, LGBTIQ*, victims of torture, exploitation, sexual violence and trafficking. In addition to previous conclusions¹⁰⁸ we demand to provide them **effective protection against abuse and violence**.¹⁰⁹ We further demand that discrimination, threat or violence based on gender, disability and child-specific aspects are recognized when seeking asylum and shelter. The aspect of vulnerability requires additional measures such as qualified interpreters when visiting administration units and physicians, including adequate translation in sign language.

(68) The German Basic Law on **dignity and the principle of social security**¹¹⁰ require that people receive a minimum for sustaining life. Asylum seekers are subject to a special regime¹¹¹ while proceeding their application. They are confronted with curtailed benefits which are presumably unconstitutional. **We demand** to abolish the entire Asylbewerberleistungsgesetz.

¹ A-124.11-13, 124.18-21 *Ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*

² R-124.1-10, R-124.15-17, R-124.185; *Ratify / adhere to the International Convention on the Protection of the Rights of All Migrant Workers and members of their families*

³ A-124.12-13, *Ratify Protocol 12 of the European Convention on Human Rights*

⁴ <http://www.coe.int/en/web/turin-european-social-charter/implementing-the-european-social-charter#Factsheets>

⁵ A/R -124.14 *Withdraw all reservations to human rights instruments to which Germany is a party*

⁶ A/R-124.63 *Invite the Special Rapporteur on the human rights of migrants, the Special Rapporteur on torture, the Special Rapporteur on human trafficking, and the Special Rapporteur on the sale of children, child prostitution and child pornography*

⁷ See <http://www.ohchr.org/EN/issues/Trafficking/Pages/visits.aspx>, last call September 2017

⁸ A-124.62. *Continue to work in the field of human rights worldwide*

⁹ As defined by OSCE; <http://www.osce.org/secretariat/125727?download=true>

¹⁰ See e.g. http://wilpf.org/wp-content/uploads/2017/02/CEDAW-Shadow-Report-on-Germany_20170130.pdf

¹¹ despite being co-sponsor of the joint statement of 47 States to the HRC 25th Session (March 21) read out by Morocco in 2015, envisaging a voluntary UPR mid-term review.

¹² Such as profit-shifting, fraudulent underreporting of the value of taxable transactions, or the use of off-shore accounts to hide taxable income

¹³ Document E/C.12/DEU/CO/5, 2011, section C: *The Committee urges the State party to take all appropriate measures to ensure effective applicability of the provisions of the Covenant in national courts, including by raising awareness of this obligation and the provisions of the Covenant among judges, lawyers and other officials involved in law enforcement. In this regard, the Committee refers the State party to its general comments No. 3 (1990) and 9 (1998) respectively on the nature of States parties' obligations and on the domestic application of the Covenant.*

¹⁴ Document E/C.12/DEU/CO/5, 2011: *The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, to translate and publicize them as far as possible, and to inform the Committee on the steps taken to implement them in its next periodic report. It also encourages the State party to continue engaging national human rights institutions, non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.*

¹⁵ A-124.32. *Bring legislation in compliance with the Convention on the Rights of the Child*

¹⁶ UN Kinderrechtskonvention: http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/PDF-Dateien/Pakte_Konventionen/CRC/crc_state_report_germany_3_4_2010_cobs_2014_en.pdf;
Fakultativprotokoll zu Kinderhandel, Kinderprostitution und Kinderpornografie:
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRC%2fC%2fOPSC%2fDEU%2fCO%2f1&Lang=en

¹⁷ A-124.37. *Bring its domestic legislation in line with international standards on the sexual exploitation of children and establish a clear definition of child pornography*

¹⁸ Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, Interagency Working Group on Sexual Exploitation of Children, adopted in Luxembourg, 28 January 2016, <http://cf.cdn.unwto.org/sites/all/files/docpdf/terminologyguidelines.pdf>

¹⁹ The term is used to describe child sexual abuse material, but also to describe the offences of producing/preparing, consuming, sharing/spreading/disseminating, or possessing such material.

²⁰ A-124.38. *Harmonize the immigration legislation in accordance with the Convention on the Rights of the Child*

²¹ See further section C.4.3

²² from March 2016 to March 2018

²³ See the guidelines set by the Commission on Ethics of the German Medical Association.

²⁴ Jugendamt

²⁵ Bundesministerium für Familie, Senioren, Frauen und Jugend (Federal Ministry on Family, Aged People, Women and Youth).

²⁶ UN Convention on the Elimination of All Forms of Racial Discrimination

²⁷ Hendrik Cremer (2017): *Verbreitung rassistischen Gedankenguts - Die Meinungsfreiheit hat Grenzen*. In: *Grenzen im politischen Meinungskampf. Zum Verbot rassistisch-diskriminierender Wahlkampagnen*, Zentralrat Deutscher Sinti und Roma (Hrsg.), Schriftenreihe Band 11, Heidelberg 2017, S. 89-107; accessible via <http://zentralrat.sintiundroma.de/download/6366>.

²⁸ CERD 2008 (CERD/C/DEU/CO/18, para. 15) and 2015 (CERD/C/DEU/CO/19-22, paras. 9, 19); European Commission against Racism and Intolerance (ECRI) 2009 (Report on Germany, p. 8, paras. 79ff) and 2014; Special Rapporteur on Racism, Mission to Germany (A/HRC/14/43/Add.2, 2010, para. 77a); European Human Rights Commissioner, Report after visiting Germany April and May 2015.

²⁹ A-124.53. *Continue efforts to increase Official Development Assistance to developing countries, which now stands at 0.4 per-cent of GNI as compared to the agreed 0.7, to assist them to provide for the basic economic, social and cultural rights of their populations*; A-124.54. *Strengthen efforts to achieve a level of ODA up to 0.7% of GNI*.

³⁰ E.g. export credit guarantees for the Medupi and Kusile coal power plants in South Africa which infringe upon the rights to water and health, as well as the readiness of the government to guarantee a coal plant in Vietnam which infringes on the right to health, and the Hidrosogamoso dam in Columbia which destroyed the livelihoods of villagers, fishers, fish-sellers and other affected groups.

³¹ Deutsche Investitions- und Entwicklungsgesellschaft.

³² in sectors such as hydro-energy and large-scale industrial and agricultural investments

³³ A-124.198. *Ensure that the laws of the high level regulating the fight against terrorism are consistent with international standards of human rights protection*; A-124.199. *Ensure that its counter-terrorism efforts are in compliance with international human rights obligations*; A-124.200. *Adopt effective measures to protect human rights in executing counter-terrorism policy*.

³⁴, including the rights to life, health, water, food, housing, development and self-determination; A/HRC/31/52 - Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, February 2016.

³⁵ Human Rights Council, 'Analytical Study on the relationship between climate change and the human right to everyone to the enjoyment of the highest attainable standard of physical and mental health', A/HRC/32/23 (6 May 2016), paras. 32, 48; A/HRC/25/53.

³⁶ See http://unfccc.int/files/paris_agreement/application/pdf/10e.pdf

³⁷ www.umweltbundesamt.de/daten/energiebereitstellung-verbrauch/energiebedingte-emissionen#textpart-3

³⁸ www.umweltbundesamt.de/daten/klimawandel/treibhausgas-emissionen-in-deutschland#textpart-1

³⁹ UNFCCC, article 4.3 and 4.4.

⁴⁰ Cancun Agreements: Outcome of the Work of the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention, Decision 1/CP.16, FCCC/CP/2010/7/Add.1 (2010), para. 98.

⁴¹ http://m.bmub.bund.de/fileadmin/Daten_BMU/Download_PDF/Klimaschutz/bmub_cop_tops_20151130_bf.pdf

⁴² A-124.138. *Take appropriate measures to ensure equal protection for all victims of human trafficking for sexual exploitation under the age of eighteen years.*

⁴³ published by Germany's Federal Criminal Police (Bundeskriminalamt)

⁴⁴ See EU Directive 2011/36 (October 2016) which identifies those additional forms of human trafficking.

⁴⁵ A-124.141. *Safeguard the rights of victims of human trafficking consistent with its human rights obligations;* A-124.147. *Continue its efforts in the field of human trafficking and most importantly facilitate access to justice for the victims.*

⁴⁶ A-124.110-11, 124.126, 124.129; *use of discriminatory ethnic profiling by inserting the necessary legal safeguards against the abuse and deliberate targeting of certain ethnic and religious groups;* A-124.144. *Avoid the practice of preventive detention or use such type of detention as a measure of last resort*

⁴⁷ CEDAW/C/DEU/CO/7-8, 2017, para 22.a-c.

⁴⁸ Bundesamt für Statistik

⁴⁹ In around 30% of the cases, the perpetrator cannot be identified; lack of witnesses due to the 'wall of silence' among colleagues; conflict of interests between prosecutor and (police) perpetrator; the police itself conducts the first investigations

⁵⁰ StPO: Strafprozessordnung (criminal procedure ruling); StGB: Strafgesetzbuch (Criminal Code)

⁵¹ T. Singelstein, *Körperverletzung im Amt durch Polizisten und die Erledigungspraxis der Staatsanwaltschaften*, NK 25. Jg., Heft 4/2013,

http://www.nk.nomos.de/fileadmin/nk/doc/Aufsatz_NK_14_01.pdf; T. Singelstein, *Polizisten vor Gericht.*

Strafverfahren wegen Körperverletzung im Amt, Bürgerrechte & Polizei/CILIP 95 (1/2010),

https://archiv.cilip.de/alt/ausgabe/95/singelstein_polizisten-gericht.htm; see further Daniel Drepper/Benedict

Wermter, *Polizisten nur selten vor Gericht. Gegen verdächtige Polizeibeamte ermitteln ihre Kollegen.* Even the

UN criticizes Germany, correctiv.org v. 20.8.2015, <https://correctiv.org/blog/2015/08/20/polizei-ohne-kontrolle/>.

⁵² Report of the EC Committee on Torture and Prevention of Torture after its visit in Germany on 25.11.-7.12.2015, CPT/Inf (2017) 13 (recommendation para. 19)

⁵³ Nils Muižnieks after his visit in Germany on 24.4./4.-8.5.2015, CommDH(2015)20, para. 71

⁵⁴ See ECHR on *Labita v. Italy*, No 26772/95 v. 6.4.2000.

⁵⁵ Anna Luczak, *Stellungnahme zur Öffentlichen Sachverständigenanhörung des Innenausschuss des 18. Deutschen Bundestags am 29.5.2017*, A-Drs. 18(4)898 C.

⁵⁶ European Court of Human Rights, *Wenner v. Germany*, no. 62303/13, § 59, ECHR 2016

⁵⁷ In accordance with Art. 3 of the European Convention on Human Rights on Torture and inhumane treatment

⁵⁸ *Regelbedarfs-Ermittlungsgesetz.*

⁵⁹ Book XII of the Social Code

⁶⁰ BVerfG, Order of the First Senate of 23 July 2014 - 1 BvL 10/12 - paras. (1-149),

http://www.bverfg.de/e/ls20140723_1bvl001012en.html

⁶¹ Document E/C.12/DEU/CO/5, 2011

⁶² Such as the Alliance for a dignified minimum existence (*Bündnis für ein menschenwürdiges Existenzminimum*).

⁶³ See General Comment No. 11 (1999) by the Committee on Economic, Social and Cultural Rights which claimed that "*the right to food contains much more than the obligation of the states to ensure the mere survival of its residents. It also means that everybody must have access to adequate food without having to choose between existing rights and that states are obliged to guarantee that no one is discriminated against because of her or his national origin, residential or economic status.*"

⁶⁴ Document E/C.12/DEU/CO/5, 2011

⁶⁵ The reasons are manifold: not taking an "acceptable" job offer, missing appointments or deadlines at the job center, refusing to participate in qualification programs. Young unemployed people have to face even stricter sanctions. If they do not fulfill the requirements of the authorities in two times, they may lose all their entitlements to unemployment benefits, even including the benefits for housing and heating. They might only get non-cash vouchers as a voluntary service from the job centers. This "educational measure" must be seen as a punitive element of the unemployment system in Germany.

⁶⁶ Document E/C.12/DEU/CO/5, 2011: *The Committee calls on the State party to adopt and implement a comprehensive anti-poverty programme taking account of the aspects of poverty as identified by the various qualified analyses undertaken by the State party. The Committee recommends that a review of the social security benefits levels be included in such strategies. Moreover, the Committee calls on the State party to integrate*

human rights into the implementation of the anti-poverty programme, thereby paying particular attention to the disadvantaged and marginalized groups. In this respect, the Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (2001).

⁶⁷ See figures in the report of the State Party A/HRC/WG.6/4/DEU/3, para. 33.

⁶⁸ A-124.137. *Increase the protection of women against violence particularly those of immigrant background, by, inter alia, strengthening their access to counselling and support services nationwide*

⁶⁹ Bericht der Bundesregierung zur Situation der Frauenhäuser, Fachberatungsstellen und anderer Unterstützungsangebote für gewaltbetroffene Frauen und deren Kinder, Bestandsaufnahme zur Situation der Frauenhäuser, Fachberatungsstellen und anderer Unterstützungsangebote für gewaltbetroffene Frauen und deren Kinder 2012, S. 52. (Engl.: Report of the federal government regarding the situation of women's refuges, information centres and supportive programs for women affected by violence and their children.

⁷⁰ Such as the obligation to cost replacement on a daily basis ("Tagessatzfinanzierung").

⁷¹ also migrants from other EU countries

⁷² Such as women with no save residence status, with residential restrictions or women with income or income on a mutual fortune

⁷³ A.124.71-75, *measures to further improve the situation of gender equality; eliminate stereotypical attitudes about the roles and responsibilities of women and men; intensify the promotion of gender equality and encourage the presence of women in high-level positions*

A-124.156. *Establish concrete goals to accelerate the achievement of substantive gender equality, including measures to increase women's representation in decision making positions and addressing the long-standing pay gap between women and men*

⁷⁴ CEDAW/C/DEU/CO/6 (2009), para. 32; CEDAW/C/DEU/CO/7 (2017), paras. 31, 32.

⁷⁵ A-124.121. *Continue efforts and to take initiatives against hate crimes based on sexual orientation or gender identity. Such advances can be achieved by implementing anti-discrimination laws and strengthening financial resources of investigation authorities and the autonomy of the Federal Agency against discrimination*

⁷⁶ A-124.122. *Continue the important efforts to combat hate crime based on sexual orientation*

⁷⁷ See CRC, Concluding Observations of 25.02.2014 CRC/C/DEU/CO/3-4, para. 18; see further Stellungnahme "Stärkung der Kinderrechte" anlässlich der Öffentlichen Anhörung des Bundestagsausschusses für Familie, Senioren, Frauen und Jugend am 25. Januar 2016, Monitoringstelle zur UN-Kinderrechtskonvention, <http://www.institut-fuer-menschenrechte.de/publikationen/show/stellungnahme-staerkung-der-kinderrechte-anlaesslich-der-oeffentlichen-anhoerung-des-bundestagsausschu/>

⁷⁷ Siehe Forderungskatalog des Forum Menschenrechte zur Wahl des Deutschen Bundestages September 2017, http://www.forum-menschenrechte.de/wp-content/uploads/2017/04/Forderungskatalog-FMR_2017_web.pdf

⁷⁸ In accordance with UN CRC, EU Charter of Fundamental Rights as well as constitutions of numerous states in which children's rights are already anchored. See further Forderungskatalog des Forum Menschenrechte zur Wahl des Deutschen Bundestages September 2017, http://www.forum-menschenrechte.de/wp-content/uploads/2017/04/Forderungskatalog-FMR_2017_web.pdf

⁷⁹ A-124.38. *Harmonize the immigration legislation in accordance with the Convention on the Rights of the Child; A-124.170. Continue to adopt the necessary measures for the school enrolment of migrants' children to be mandatory in all federal states in accordance with national legislation and local commitments*

⁸⁰ See <https://dejure.org/gesetze/AsylG/47.html>

⁸¹ A-124.24. *Ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*

⁸² The complete title: *European Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*, also known as "Lanzarote Convention"; signed in 2007 in Lanzarote by the State members of the European Council, in force since 2010 when five States had ratified. Since March 2016 in force in Germany

⁸³ A-124.142. *Take comprehensive measures to combat paedophilia and the rise in child prostitution*

⁸⁴ Dossier Sexuelle Gewalt im Netz, ECPAT 2016,

http://ecpat.de/fileadmin/user_upload/Materialien/Dossier_Sexuelle_Gewalt_im_Netz.pdf

⁸⁵ A-124.132. *Adopt all necessary measures to deal with the situation of street children*

⁸⁶ See German Youth Institute (Deutsches Jugendinstitut), *Straßenjugendliche in Deutschland – eine Erhebung zum Ausmaß des Phänomens*, Deutsches Jugendinstitut, 2016,

http://www.dji.de/fileadmin/user_upload/bibs2016/Bericht_Straßenjugendliche_2016.pdf; *Straßenkinder – Forderungen und Ziele*, Website von terre des hommes, 2017, <https://www.tdh.de/was-wir-tun/arbeitsfelder/strassenkinder/forderungen-und-ziele/>

⁸⁷ A-124.49. *Secure proper follow-up to the accepted recommendation from the first UPR cycle and introduce tools that will improve the effective judicial control over the administrative decisions of the Office of Youth called Jugendamt*

⁸⁸ 'Wer kontrolliert die Jugendämter und die freien Träger?', Prof. Dr. Reinhard Wiesner, *Das Jugendamt -*

Zeitschrift für Jugendhilfe und Familienrecht, Heft 7-8/2015, Seite 349-355, DIJuF

⁸⁹ A-124.170. *Continue to adopt the necessary measures for the school enrolment of migrants' children to be mandatory in all federal states in accordance with national legislation and local commitments*

⁹⁰ Kindheit im Wartezustand, UNICEF 2017, <http://www.b-umf.de/images/studie-kindheit-im-wartezustand.pdf> ; Landkarte Kinderrechte: Zugang zu Kitas und Schulen für geflüchtete Kinder, Deutsches Institut für Menschenrechte, <http://landkarte-kinderrechte.de/>

⁹¹ A-124.173. *Continue efforts to lower unemployment rate of persons with disabilities.*

⁹² A-124.174. *Further strengthen its compliance with the Convention on the Rights of Persons with Disabilities, by implementing the concept of reasonable accommodation recognized in Article 2, as well as paying a special attention to the needs of girls and women with disabilities; A-124.175. Extend legal requirements of barrier-free access for persons with disabilities to private entities that provide goods and services to the public*

⁹³ Behindertengleichstellungsgesetz, BGG

⁹⁴ A-124.176. *Ensure nationwide access to barrier-free protection and support facilities for women with disabilities affected by violence*

⁹⁵ A-124.177. *Provide effective protection and complaint mechanisms to persons with disabilities living in specialized centres*

⁹⁶ A-124.178. *Continue its programmes for improving the social inclusion of children and youth with disabilities*

⁹⁷ A-124.28. *Bring legislation and law enforcement practice on migrants and asylum-seekers in conformity with human rights international norms and standards; A-124.196. Take into consideration the full spectrum of international refugee and human rights law and standards when considering issues related to asylum seekers*

⁹⁸ in September 2017; on September 24 there were national elections which may end up in a new government coalition

⁹⁹ The UNHCR report of January 2017 speaks of a domestic armed conflict affecting the entire state.

¹⁰⁰ Current Asylum Statistics 2.Quarter 2017 <http://dip21.bundestag.de/dip21/btd/18/135/1813551.pdf>

¹⁰¹ Most pertinent is Article 78 of the Treaty on the Functioning of the European Union (TFEU); also Art. 5 and 15 Qualification-Directive 2011/95/EU.

¹⁰² We refer in particular to the terminology and concept of "safe countries of origin" or "safe third countries".

¹⁰³ Prepared by the EU-Commission in its overall revision of the Common European Asylum System (CEAS).

¹⁰⁴ currently about 120,000 applications are pending

¹⁰⁵ Bundesamt für Migration und Flüchtlinge

¹⁰⁶ Eritrea, Iraq, Iran, Syria and Somalia

¹⁰⁷ draft of mid-June 2017; Gesetz zur Stärkung von Kindern und Jugendlichen (Law on Strengthening of Children and Adolescents)

¹⁰⁸ See paras. 11, 45-47

¹⁰⁹ Including medical treatment for youngsters in accordance with the guidelines on paediatrics

¹¹⁰ Art. 1, 20, 28 of German Basic Law (Grundgesetz)

¹¹¹ The so called Asylbewerberleistungsgesetz (AsylbLG)