



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### List of issues in relation to the sixth periodic report of Germany\*

#### I. General information

1. Please indicate any steps taken to strengthen the monitoring and protection functions of the German Institute for Human Rights as well as its independence, including through reviewing the composition of its board of trustees. Please also clarify whether the Institute has access to all official documents and places, as well as the power to compel testimony from any authority in carrying out its mandate. Please further indicate the efforts made by the State party to increase the financial and human resources of the Institute and provide information on the annual budget, including sources of funding, and the number of staff members of the Institute during the reporting period.
2. Please provide detailed information on the measures taken to implement the action plan on business and human rights adopted in 2016, in particular, those that ensure that business actors domiciled within the territory of the State party exercise their human rights due diligence throughout their operations in Germany or abroad. Please also clarify how effectively the German court system has been in providing remedies to the victims of human rights abuses involving German companies operating abroad and provide examples in that regard.
3. Please indicate how many investment projects granted investment guarantees have gone through an in-depth review in relation to their impact on the human rights situation in the investment country (see the report of the State party (E/C.12/DEU/6), para. 188) and provide information thereon, including the countries of investment and the human rights of concern, and the result of the reviews. Please also provide information on the human rights complaints brought to the State party relating to projects and the actions taken in response to complaints.
4. In the context of the threat posed by climate change to the worldwide enjoyment of economic, social and cultural rights, please provide information on the national emission reduction targets adopted by Germany under the Paris Agreement on Climate Change, its proposed contributions to the Green Climate Fund and the progress achieved towards compliance with those international obligations.

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\* Adopted by the pre-sessional working group at its sixty-first session (9-13 October 2017).



## **II. Issues relating to general provisions of the Covenant (arts. 1-5)**

### **Maximum available resources (art. 2 (1))**

5. Please provide information on the evolution over the past 10 years of:
  - (a) The levels of inequality, defined as the ratio between total income accruing to the richest decile of the population and total income of the 40 per cent poorest in the population;
  - (b) The proportion of public revenues that is financed through taxes;
  - (c) The rates of taxes levied on corporate profits, on personal incomes and value added tax (VAT) (exclusive of VAT on luxury items, tobacco/alcohol or sugary drinks/snacks and gasoline), respectively and the percentage of total revenues accounted for by the personal income taxes collected from the richest decile of the population;
  - (d) Public expenses as a percentage of gross domestic product and, within total public expenses, the proportion of the public budget that is dedicated to social priorities (education, food, health, water and sanitation and housing);
  - (e) Inflation-adjusted absolute levels of spending on those social priorities.

### **Non-discrimination (art. 2 (2))**

6. Please provide information on the measures taken to strengthen the Federal Anti-Discrimination Agency, including its mandate and financial and human resources. Please indicate whether the Agency has the power to receive and investigate complaints relating to discrimination and to provide legal assistance to victims of discrimination, and whether it is consulted in a systematic manner on all legislation and policies relating to persons concerned under the General Act on equal treatment.
7. Please clarify whether national anti-discrimination legislation is effective in preventing churches from discriminating against adherents of other faiths in the matter of employment in non-ecclesiastical appointments in church-run institutions such as schools, hospitals and nursing homes. Please also clarify whether the legislation prohibits churches from dismissing non-ecclesiastical employees who contract same-sex marriages.
8. Please provide statistical data on the number of surgeries performed on intersex infants and children. Please indicate the measures taken to address the challenges, physical and mental, faced by intersex infants and children. Please indicate the impact of the decision to allow a third gender option on birth certificates in 2013 on the situation of intersex infants and children. Please also provide information on the measures taken to combat and prevent discrimination and violence based on sexual orientation and gender identity and indicate whether the State party has the intention to make explicit reference to homophobia in its hate crime legislation.

### **Equal rights of men and women (art. 3)**

9. Please provide information on the implementation of the Act on the equal participation of women and men in executive positions in the private sector and public service (2015) and the amendments to the Act on appointments to federal bodies, and include updated statistical data on the representation of women in decision-making positions in both the public and private sectors. Please also clarify how effective the Federal Act on gender equality (2015) has been in redistributing care responsibilities within the family.

### **III. Issues relating to the specific provisions of the Covenant (arts. 6-15)**

#### **Right to work (art. 6)**

10. Please indicate the measures taken: (a) to ensure that all employers with an average of at least 20 employees a year employ at least five per cent of persons with severe disabilities among their workforce, as required by law, particularly in the private sector; (b) to make the labour market more inclusive for persons with disabilities, in particular with regard to inclusive vocational training and workplace accessibility; and (c) to improve the working conditions of workers with disabilities in sheltered workshops and to increase the transition rate from sheltered workshop activities to the general labour market. Please also provide statistical data, disaggregated by sex, type of disability and sector, as applicable, on the number of persons with severe disabilities employed under the 5 per cent quota and the percentage of persons with disabilities who have found employment.

11. Please clarify how the labour and social protection for temporary (or leased) workers has been strengthened through the adoption of the amendments to the law on temporary work of 2017 and, in particular, how the principle of equal pay for work of equal value is applied and fully implemented to temporary workers under those amendments. Please provide information on the consequences of the amendments on migrant workers, particularly those from non-European Union or non-European Economic Area countries. Please also provide information on the measures taken or envisaged to monitor and strengthen the enforcement of this new law. Please also provide statistical data, disaggregated by sex, on the number of temporary workers in the State party and the average duration of their employment.

#### **Right to just and favourable conditions of work (art. 7)**

12. Please indicate whether the current minimum wage of the State party ensures a decent living for workers and their family members and provide information on the mechanisms used to index the minimum wage. Please provide information on the compliance rates for legislation on the minimum wage and on cases of non-compliance.

13. Please provide information on the measures taken to provide labour and social protections to domestic workers, including the large number of migrant caregivers. Please clarify how their conditions of work are monitored and regulated by labour inspectorates and other relevant authorities and whether they have access to mechanisms to make a complaint in relation to their working conditions. Please also provide information on any bilateral agreements that the State party has entered into with the countries of origin of such workers.

14. Please provide information on the measures taken to prevent occupational accidents and diseases and to strengthen labour inspections in the agricultural and construction sectors. Please also provide information on the measures taken to address the high incidence of exposure to asbestos and of asbestos-related diseases and prevent the further exposure of workers to asbestos.

15. Please provide information on the measures taken to ensure, in law and in practice, that prisoners are assigned to work in privately run workshops with their free, formal and informed consent. Please also provide information, including statistical data disaggregated by sex, on the number of prisoners working in entrepreneur workshops inside prison premises on the level of remuneration granted to those prisoners and on their conditions of employment.

#### **Trade union rights (art. 8)**

16. Please clarify why the recognition of the rights to collective bargaining and to strike action is not granted to those public servants who are not engaged in the administration of the State. Please provide updated information on the cases brought before the Constitutional Court by teachers with civil servant status on the strike ban under the civil service law (see E/C.12/DEU/6, para.129).

**Right to social security (art. 9)**

17. Please indicate the measures taken to implement the ruling of the Federal Constitutional Court of 23 July 2014 (1Bv110/12). Please clarify whether the State party has reviewed the methods and criteria applied to determine the level of benefits and monitor the adequacy criteria regularly and, if so, provide information on the result of the reviews and on the measures taken to act upon the results. Please further provide information on the steps taken or envisaged to increase the level of social security benefits to ensure a decent living to the beneficiaries and their families.

**Protection of the family and children (art. 10)**

18. Please clarify how the law of the State party stipulating a suspension of family reunification for two years until March 2018 complies with article 10 of the Covenant and whether the State party intends to renew the law. Please also indicate the measures taken by the State party to address the increased number of rejected applications for family reunification owing to the family's inability to secure the necessary subsistence and accommodation for the whole family. Please further indicate the efforts made by the State party to facilitate the family reunification of those persons in Greece waiting excessively long periods for their transfer to Germany.

**Right to an adequate standard of living (art. 11)**

19. Please provide information on the concrete measures taken to reduce poverty, particularly among part-time workers, workers in "mini jobs" and children. Please indicate the effect of the introduction of the general minimum wage and of the reform of housing benefits and the education package, as indicated in the report of the State party (E/C.12/DEU/6, para.161), on the decrease in the number of persons claiming means-tested benefits under the basic provision for jobseekers and social assistance, and provide relevant statistical data in that regard. Please indicate the take-up rates of child benefit and of the educational package, and whether measures are being considered to increase the take-up rates.

20. Please provide information on Germany's position regarding the assessment and monitoring of the impact of the European Union common agricultural policy on low-income food deficit countries prior to the upcoming negotiations concerning the reform of the agricultural policy.

21. Please provide information on the provision of social housing during the reporting period. Please indicate the number of people who are waiting to obtain social housing and the average waiting period. Please also indicate whether the State party intends to consolidate information on homelessness, including the scale and reasons for homelessness, and provide information on the outcome of the research projects mentioned in paragraph 194 of the report of the State party. Please also provide information on the efforts to tackle homelessness and to ensure that homeless persons can access social benefits, in law and in practice.

**Right to physical and mental health (art. 12)**

22. Please provide information on the specific efforts made by the State party to ensure that the citizens of European Union member States who do not benefit from the European Convention on Social and Medical Assistance, asylum seekers and migrants without regular status have access to adequate and affordable health-care services. In particular, please indicate the measures taken or envisaged to ensure that migrants without regular status have access to health-care services without having their status reported to the immigration authorities in accordance with section 87 (2) of the Act on the residence, economic activity and integration of foreigners.

23. Please provide information on Germany's position regarding the inclusion of data exclusivity provisions in European Union preferential trade agreements with developing countries and the impact of such provisions in delaying access to inexpensive generic medicines in poorer countries, with adverse impacts on the right to health.

**Right to education (arts. 13-14)**

24. Please provide detailed information on the granting of exemption from tuition fees and the loans provided for students, including eligibility for exemption and the conditions of such loans, and include statistical data on the number of students whose tuition fees are waived and the number of students who are have taken out loans for their studies, disaggregated by sex, nationality and family income.

**Cultural rights (art. 15)**

25. Please provide information on the concrete measures taken to promote, including through the media, the culture and language of national minorities living in Germany and, in particular, to promote the use of minority languages in contacts with local administrative authorities. Please also provide information on the efforts made by the State party to promote the diverse cultures that have been brought in by migrant communities.

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