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**SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF
THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1***

Germany

The present report is a summary of 10 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

1. Drawing attention to the enormous and continuously growing importance that European Union (EU) legislation has on virtually all political areas of the member States, the German Institute for Human Rights (GIHR) requested the responsibility of Germany as a EU member States for the human rights impacts of common EU policies to also become a matter of consideration in the Universal Periodic Review.²

A. Scope of international obligations

2. *Forum Menschenrechte* (JS2)³ and Amnesty International (AI), both welcomed Germany's initiation of the process for ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, and called on the Government to ratify it without any reservations and to ensure that the crime of enforced disappearance is codified as a criminal offence in national law, as required by article 4 of the Convention.⁴ AI, JS2 and the German Nationwide Activist Coordination Group Combating Trafficking in Women and Violence Against Women in the Process of Migration (KOK) all urged Germany to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁵

3. AI and JS2 called on Germany to formally acknowledge the full applicability of the International Covenant on Civil and Political Rights (ICCPR) to persons subject to its jurisdiction in situations where its troops or police forces operate abroad.⁶ Child Rights (JS1)⁷ and JS2 recommended that Germany withdraw the reservation to the Convention on the Rights of the Child (CRC),⁸ even if the *Bundesländer* do not agree, as it has the legal power to do so.⁹

B. Constitutional and legislative framework

4. GIHR indicated that German legislation and jurisdiction only rarely refer to international human rights norms¹⁰.

5. JS1 recommended establishing a binding legal regulation issued by the Parliament, that the CRC and its Optional Protocols have priority over asylum and aliens laws.¹¹

6. JS2 indicated that the national criminal code did not acknowledge racist motivation.¹² COE recommended a penal law provision which would explicitly refer to racist motivation as an aggravating factor when determining sentences.¹³

7. KOK and GIHR reported that in August 2007 the Government concluded on broad modifications in the German Aliens Act, to include measures for the protection of victims of trafficking.¹⁴ KOK noted that the modifications fell short of the demands voiced by NGOs, particularly when it comes to residence law policies,¹⁵ while GIHR noted that a series of new restrictions of rights of migrants and asylum seekers were introduced at the same time.¹⁶ GIHR also reported that the amendments introduce a new permanent residence permit for some categories of persons having legally lived for more than 6 or 8 years in Germany (6 years for families, 8 years for singles),¹⁷ but found some of the regulations related to this new permit, as raising serious questions of practicability, and having potentially discriminatory effects against parts of the immigration population, possibly even being incompatible with children's rights.¹⁸

C. Institutional and human rights infrastructure

8. GIHR reported that the national human rights infrastructure in Germany comprises a highly differentiated and effective court system, active civil society organisations and the GIHR (a National Human Rights Institution with A-status), in addition to a number of institutions with an intermediary protection function including the Federal Anti-Discrimination Office (ADS), established in 2007.¹⁹ JS2 questioned the effectiveness of the latter institution, indicating that it remains unclear how the ADS will strengthen the cooperation with anti-discrimination organisations at State level.²⁰ COE recommended that Germany ensure that the ADS is provided with the resources and independence necessary for the effective fulfilment of its mandate and that its functions are widely known among the general public.²¹

9. COE recommended that Germany promote the independence of extrajudicial complaints bodies, when possible, and ensure that complaints are handled on the basis of clear procedures, providing the general public with easily accessible information on the available extrajudicial complaints bodies at federal and *Länder* levels.²² COE also recommended that Germany consider the establishment of parliamentary human rights committees at *Länder* level; strengthen the mandate of the GIHR with regard to structural and factual monitoring and in respect to its consultative role in the process of drafting legislation with human rights relevance; and establish independent police monitoring and complaints mechanisms outside police and ministry structures to collect comprehensive data regarding allegations of ill-treatment or misconduct by the police in a centralised way.²³

10. JS2 noted that a main part of the governmental institutions exclusively focused on human rights outside Germany.²⁴ JS2 recommended the establishment of an independent body on internal affairs, such as a human rights council or an ombudsman for human rights to assist with the implementation of recommendations of human rights treaty bodies, asking that this body be available for all citizens to address and deal with human rights on national as well as on State level.²⁵

D. Policy measures

11. COE recommended that Germany develop the national action plan on human rights by involving all stakeholders and setting out clear policy aims and strategies on how to reach them.²⁶ JS2 recommended the elaboration of a national action plan to combat poverty that should involve poverty affected people and the organisations working with poverty and social security.²⁷ In relation to the East-West-integration, JS2 stated that a revised policy of equalising social standards is also needed.²⁸

12. COE recommended consulting, in a systematic and regular manner, civil society organisations working in the field of human rights on legislation and policies which impact human rights.²⁹ It also recommended intensifying and enhancing the integration of human rights teaching methods in pre- and in-service training of school teachers and strengthening the institutionalisation of human rights education for other professions.³⁰ AI and JS2 requested that Germany adjust the training provided for members of its security forces deployed internationally, in order to acknowledge the full applicability of the ICCPR to persons subject to its jurisdiction where its troops or police operate abroad.³¹

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

13. JS1 noted that an NGO Coalition comprised of 100 organisations was set up in 1996 under the auspices of the German Child Welfare Organisation, which since then has been monitoring the implementation of Germany's obligations under the CRC.³² JS2 reported that recommendations by CEDAW on consulting with independent women's organisations in preparing the National Report are still unmet.³³

B. Implementation of international human rights obligations

1. Equality and non discrimination

14. JS2 indicated that the equality policy of the German Government has yielded only partial results, as it seemed to be reduced to family policy.³⁴ Both JS2 and GIHR considered that the equality strategy of gender mainstreaming, included in reports to the CEDAW, has been abandoned.³⁵ GIHR reported that the department for gender mainstreaming within the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth has been closed down, and the intra-governmental working group on gender mainstreaming does not exist anymore; all these changes having been implemented without any substantial consultation with civil society.³⁶

15. JS2 and GIHR reported that the Government has introduced a General Equal Treatment (GET) Act in 2006 which prohibits discrimination on the grounds of "race" and ethnic origin, gender, religion and belief, disability, age and sexual orientation.³⁷ However, GIHR expressed concern about the possible negative impact of an exception clause concerning the access to rental housing, with the possibility that the unclear wording become a pretext for racist discrimination.³⁸ Moreover, GIHR considered that limiting legal claims against incidents of discrimination to a period of two months will likely have negative consequences for the effectiveness of legal remedies.³⁹ COE recommended that Germany remove or clarify the exceptions to the principle of equal treatment regarding access to rental housing from the GET Act and consider extending the time limit for claims based on the Act.⁴⁰

16. JS2 considered that the ADS should work comprehensively on both federal and State levels,⁴¹ and that gender-differentiated research and gender-sensitive evaluation of studies be encouraged and access to better data facilitated, on matters such as gender equality, levels of full and part time employment, income levels by sector and gender, racist discrimination, ethnic origin, age, religion and beliefs, disabilities, and sexual orientation.⁴² COE recommended that Germany screen relevant legal and administrative provisions at federal and *Länder* levels to establish whether they comply with the GET Act.⁴³

17. GIHR and JS2 indicated that Germany had failed to present a national action plan against racism (NAP) in accordance with the commitments made at the 2001 Durban World Conference.⁴⁴ GIHR and JS2 shared criticisms to a first draft NAP presented in autumn 2007, inter alia, for focussing primarily on right wing extremism and neglecting structural forms of racist discrimination within mainstream society.⁴⁵ GIHR indicated that the draft NAP failed to deal sufficiently with the specific forms of discrimination directed against specific groups and provide any new measures.⁴⁶

18. JS2 noted with concern a dramatic increase in racist violence against minorities and a poor strategy of the Government to counter this.⁴⁷ COE recommended that Germany develop policy responses to right-wing extremist and xenophobic attitudes targeted to address all parts of

society as well as promote civil society activities against anti-democratic tendencies.⁴⁸ It also recommended continued financing of victim support organisations, mobile advisory teams and other grass-root initiatives which identify and respond to xenophobic and racist tendencies in local communities; consideration be given to the establishment of a centralised database on qualitative and quantitative data provided by victims or witnesses of racist or xenophobic incidents that have been reported to counselling institutions.⁴⁹

19. JS2 and AI indicated having received credible complaints by non-German citizens that they were treated in a discriminatory and humiliating way by German federal police officers at the border between Germany and Poland.⁵⁰

20. JS2 stated that despite the introduction of the Act to Revise the Registered Partnership Act (*Gesetz zur Überarbeitung des Lebenspartnerschaftsrechts*) in 2004, same-sex partnerships still face discrimination in many essential respects compared to heterosexual partnerships.⁵¹ GIHR and Campaign Transsexuality and Human Rights (JS3)⁵² expressed concern about still widespread stereotypes and discriminatory attitudes towards lesbian, gay, bisexual and transgender (LGBT) people in all parts of the German society.⁵³ JS2 reported violent attacks and desecration or damage of memorials as the memorial for lesbian and gay victims of the Nazi regime in Berlin's district Tiergarten in August 2008.⁵⁴

2. Right to life, liberty and security of the person

21. AI and JS2 both indicated having received credible reports that individuals have been subjected to ill-treatment by law-enforcement officials.⁵⁵ According to AI and JS2, 70 of 82 criminal investigations against police officers were terminated,⁵⁶ AI considering that in some cases this was premature.⁵⁷ Furthermore, AI is concerned that some victims of excessive use of force and ill-treatment by law-enforcement officers are not willing to file a complaint because they are afraid to go to the police.⁵⁸ AI and JS2 noted that to date, there is no nationwide statistical data available on alleged cases of ill-treatment by law enforcement officials,⁵⁹ and that cases where complaints against police for ill-treatment are countered with charges by the police against the person who alleged ill-treatment, still exist.⁶⁰

22. The League for Children's Rights (LCR) indicated that the legal construction of an authority called *Jugendamt* has not served to guarantee children's rights and protect them from physical and psychological damage.⁶¹ According to LRC, the *Jugendamt* is not subject to any efficient supervision,⁶² and frequently oversteps its competences without being sanctioned.⁶³ LCR also reported deficits in the system of child's attorney, psychiatric and psychological experts, and legal tutors.⁶⁴ LCR recommended that the legal position of the *Jugendamt* and its agents be profoundly modified,⁶⁵ and concrete remedial actions be elaborated in detail by a group of independent experts, with the execution of remedial actions reported to the European Commissioner for Human Rights at least once a year until full approval is obtained.⁶⁶

23. JS2 reported that meaningful data on the extent of domestic and sexual violence such as homicide, forced marriage, and violence in institutions (as psychiatric institutes), is not available.⁶⁷ JS2 urged that Germany seek better protection and relief for the victims of domestic and sexual violence under the civil and criminal law.⁶⁸ JS2 believes that adequate training for relevant professionals (law enforcement, judiciary, medical and care personnel) should be ensured, paying special attention to cultural issues, disabilities, and victims of trafficking.⁶⁹ It also believes that better provisions are needed (e.g. in Immigration and Residence Law) to protect and counsel victims of forced marriages and victims of human trafficking.⁷⁰ COE recommended that Germany develop policy strategies to offer more effective protection to

women and girls with disabilities against sexual violence and ensure that victim support and counselling services for women victims of violence adequately cater for women and girls with disabilities.⁷¹

24. GIHR was concerned that the proposals presented by the Government for the future National Preventive Mechanism do not meet the criteria set out in the OP-CAT (in terms of staff, diversity and resources).⁷² COE recommended that Germany reconsider plans to implement the OP-CAT so that an effective preventive mechanism is established to regularly examine the treatment of persons deprived of their liberty in places of detention.⁷³

25. KOK welcomed the amendment of the criminal law in 2005, which included trafficking for the purpose of labour exploitation, thus completing the legal definition of trafficking in human beings.⁷⁴ While noting some improvements during the past years in Germany in the fight against human trafficking, KOK however considered that, in terms of adopting comprehensive mechanisms to protect and care for the victims of human trafficking, numerous flaws and shortcomings still exist.⁷⁵ KOK reported that the implementation of a human rights based approach in the fight against trafficking which puts the rights and protection of the victims in the centre is still missing.⁷⁶

3. Administration of justice and the rule of law

26. COE recommended that Germany ensure that the devolution of legislative powers in regard to prison administration does not lead to a lowering of prison standards and that the social reintegration of prisoners remains the principal aim of imprisonment.⁷⁷ COE also recommended promoting the accommodation of juvenile offenders in open prison facilities and continue providing adequate funding for alternative sanction measures including victim-offender mediation; providing for the possibility of appeal by juvenile offenders or other type of independent review against the scope of educational measures set out by a court decision; to apply secured custody in an extremely considered manner and provide people kept under secured custody with adequate medical treatment or other care that addresses their specific situation.⁷⁸

4. Right to privacy, marriage and family life

27. GIHR noted that new surveillance competencies for State authorities on the Federal and the *Länder* levels include the retention of telecommunication data, the possibility of online searches and the video surveillance in private homes.⁷⁹ GIHR reported that the Federal Constitutional Court declared parts of the new legislation unconstitutional due to un-proportional infringements on the right to privacy and related human rights norms.⁸⁰ GIHR also reported that massive abuses of personal data by private companies have recently triggered a debate about enhanced State responsibility to protect the right of privacy against abuses on the side of private agencies.⁸¹

28. JS2 indicated that measures taken by Germany against forced marriages have not been sufficient, with fundamental changes to immigration law needed to ensure secure living conditions, such as residence permits being made independent of marital status, and women and girls with German residency who are forced to marry abroad having a right to return.⁸²

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

29. Human Rights Watch (HRW) and GIHR indicated that a number of *Länder* (8 out of the total of 16) issued legislation forbidding teachers in public schools to wear ostentatious religious

symbols in schools.⁸³ They noted that most of these *Länder* laws provide exceptions for symbols from the Christian tradition.⁸⁴ GIHR expressed concern that legislation privileging symbols of a specific religion is discriminatory and constitutes a violation of the freedom of religion,⁸⁵ while HRW expressed concern that these laws and their implementation discriminate against Muslims, in particular Muslim women, excluding them from teaching and other public sector employment on the basis of their faith.⁸⁶ HRW reported that Muslim women have been denied positions as training teachers (and civil servants), threatened with disciplinary action if they continue to wear the headscarf, and in one case, a teacher was dismissed from her position because of the law.⁸⁷

6. Right to work and to just and favourable conditions of work

30. JS2 indicated that women in Germany continue to face considerable disadvantages in relation to employment; earning an average of 22 per cent less than men.⁸⁸ Recent reforms of policies on labour market, social security, health, welfare, and taxation might increase the level of structural discrimination against women considerably increasing their risk of impoverishment, as women hold nearly 70 per cent of jobs in the low-wage sector which do not provide for a proper livelihood, with migrant women disproportionately affected.⁸⁹ COE recommended that Germany specify rules of procedure for applying the principle of equal pay for equal work of equal value between different employment sectors, and consider the introduction of collective claims or class actions allowing groups of plaintiffs to challenge sector-related wage gaps between women and men.⁹⁰

7. Right to social security and to an adequate standard of living

31. GIHR reported that a significant number of elderly persons in care situations suffer from a lack of food, drink and appropriate care, particularly persons in nursing homes.⁹¹ COE called on Germany to ensure that care in dignity is provided to older people irrespective of their social status and provide clear guidelines on the provision of care in dignity.⁹²

32. JS2 stated that the low level payment issue plays a specific role within the integration of East and West Germany.⁹³ The rate of unemployment in East Germany at 12.7 per cent in June 2008 is twice that of West Germany (6,2 per cent) and pensions also show significant variations (87,87 per cent East to 100 per cent West).⁹⁴ Within ten years, the difference would have been reduced by only 2.1 per cent, implying that inequalities in social and cultural issues persist.⁹⁵

33. JS2 reported estimations that approximately 13 per cent of the German population (including foreign nationals) suffer from poverty,⁹⁶ indicating that in its latest report, the Government identifies about 1.3 million people economically active who need additional subsidies from the Government, because their wage does not sustain them, while independent sources suggest this figure is closer to 5 million.⁹⁷ According to JS2, 3 million children are at risk of falling below the existence minimum, implying less access to education, vocational training (15 per cent remain without any training), health service (and thus lower life expectancy), social stigmatisation and exclusion, and lower chances of making their voice heard.⁹⁸

34. COE recommended that Germany develop comprehensive policy measures to tackle child poverty and to improve educational opportunities for children living under poverty; adopt policy measures in response to the emerging phenomenon of working poor; and consider the introduction of minimum wages.⁹⁹ GIHR and JS2 noted that the Federal Government's 2008 "Poverty and Wealth Report" raises a number of problems related to poverty that have an obvious human rights dimension, but the report itself hardly ever refers to human rights.¹⁰⁰

8. Right to education and to participate in the cultural life of the community

35. GIHR was concerned that some categories of children suffer from structural discrimination in the German school system.¹⁰¹ GIHR reported that many of these children drop out of the education system too early, without a real chance of finding a work place or an apprenticeship.¹⁰²

36. AI and JS2 indicated that the competency for regulating all matters of education lies with the 16 *Länder*, with legal uncertainty as to whether children without residence permits have the right to primary education in some *Länders*.¹⁰³ Moreover, headmasters of schools are required to report the identity of a child without a residence-permit to the aliens' authority; which frequently leads to the start of the deportation procedure.¹⁰⁴ COE recommended that Germany ensure that irregular migrants can effectively access their right to education.¹⁰⁵

37. GIHR reported that institutions of early childhood education and care are not sufficiently available throughout the country, particularly in the Western and Southern regions.¹⁰⁶ Quality of early childhood education is often very poor and does not support the children's learning, particularly in terms of language.¹⁰⁷ The *Länder* likewise fail to invest enough human and financial resources into primary schools to address this issue.¹⁰⁸

9. Minorities and indigenous peoples

38. COE recommended that Germany apply criteria for the personal scope of national minorities in a pragmatic and reasonable fashion in order not to create unnecessary inequalities especially as regards Roma/Sinti with or without German citizenship; improve data collection on the socio-economic situation of national minorities with due respect for the protection of privacy and in co-operation with the minority communities concerned; take special measures, including comprehensive strategies at both federal and *Länder* levels, to improve the situation of Roma and Sinti to overcome the disadvantages brought about persistent discrimination while ensuring an equal level of protection throughout the German territory; and strengthen the involvement of the Sorbian minority in decision-making regarding the preservation of a viable Sorbian school network in the *Länder* of Saxony and Brandenburg.¹⁰⁹

10. Migrants, refugees and asylum-seekers

39. JS2 reported that the Federal Office for Migration and Refugees (BAMF) regularly concludes by its own authority that there is no health related hindrance to return the refugee.¹¹⁰ JS2 also stated that the BAMF frequently treats the testimony of traumatised refugees as unreliable.¹¹¹ AI and JS2 reported that under Section 4 (2) of the Asylum Procedure Act, refugee status does not prevent the authorities from extraditing persons to their country of origin.¹¹² AI indicated that the number of refugees held in detention for the purpose of extradition has increased in the last two years.¹¹³ JS2 and AI also expressed concern about the implementation of Section 73 (I) of the Asylum Procedure Act which requires the BAMF to revoke refugee status, when the circumstances in connection with which a person has been recognized as a refugee have ceased to exist,¹¹⁴ given that, whether authorities in the countries of origin are able to provide effective protection upon return is not being taken into account by German authorities and courts.¹¹⁵ COE recommended that Germany apply the grounds for providing protection to refugees to cover persecution on the account of outward manifestations of religion as well as sexual orientation; and review practice of revoking refugee status to ensure that revocations only take place when the circumstances related to the original decision to grant refugee status have

undergone such a fundamental change as to clearly remove the basis for the fear of persecution in a sustainable manner.¹¹⁶

40. Regarding German law enforcement officials' participation in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) operations in the Mediterranean Sea, AI and JS2 noted the Federal Ministry of Interior's assertion that the principle of non-refoulement does not apply to persons claiming persecution if they are beyond the 12 mile zone,¹¹⁷ and urged Germany to review and revise its position and accept the extra-territorial application of human rights obligations, wherever it exercises its jurisdiction or effective control.¹¹⁸

41. The Islamic Human Rights Commission (IHRC) reported that in 2005 the Interior Minister for the State of Baden-Württemberg issued immigration officers with a questionnaire to help them screen requests for naturalisation designed with the specific aim of targeting applicants from the Organization of the Islamic Conference countries and "all other applicants appearing to be Muslims". By contrast, "Europeans, Americans or other nationalities" were to be exempt.¹¹⁹ COE recommended that Germany avoid the stigmatisation of migrants, asylum-seekers and ethnic or religious groups living in Germany in the context of political discourse; adopt legislation related to naturalisation, immigration, asylum or counter-terrorism; and address its role as a country of immigration by explicitly acknowledging the positive contribution of immigrants to German society.¹²⁰

42. AI, JS2 and GIHR noted that by law, all public institutions are required to report the identity of any irregular migrant to the Aliens Authority, usually leading to the start of the deportation procedure.¹²¹ AI requested that legislation aimed at controlling irregular migration does not effectively deny or prevent migrants from accessing other international human rights, including access to education, health care and an effective remedy or redress for human rights violations.¹²² JS2 and AI called for all relevant professionals and institutions dealing with undocumented migrants to be exempted from criminal prosecution, and that all public offices that provide social services be exempted from the duty to report the identity of an undocumented migrant.¹²³

43. JS2 indicated that medical treatment of undocumented migrants is currently offered by non-state institutions, such as churches or NGOs, situation which leads to major gaps particularly in relation to children, pregnancies and child birth.¹²⁴

44. JS2 reported that refugees and their children are forced to live in difficult conditions in refugee centres for years, particularly in deportation camps.¹²⁵ COE recommended inter alia that Germany consider alternative ways of accommodating asylum-seekers after their initial stay in the first reception centres, which respect the privacy of asylum seekers and enable them to retain a substantial degree of personal autonomy; review the proportionality of the restrictions placed on the freedom of movement of asylum seekers, especially in cases when they are applied over several years; provide health care for the essential treatment of illness for all asylum-seekers; prepare guidelines on minimum standards for accommodating asylum-seekers to ensure that all asylum-seekers are offered an adequate standard of living; restrict the use of pre-deportation detention to cases when it is thoroughly justified and when it is clear that the deportation can in fact take place in the immediate future so that the length of pre-deportation detention would not normally exceed a few weeks; and provide free legal counselling to rejected asylum seekers who are in pre-deportation detention so that they can access a remedy to contest the grounds of their detention.¹²⁶

45. GIHR reported that unaccompanied foreign minors and refugee children are routinely pushed into burdensome, not child-friendly asylum proceedings, which are generally unsuccessful.¹²⁷ Frequently, unaccompanied minors remain in the status of “toleration” (*Duldung*) and thus live in permanent fear of deportation.¹²⁸ Once these children have attained 16 years of age, they are frequently excluded from the Child Welfare Service and placed in adult accommodations for asylum-seekers.¹²⁹ The existing practice to determine the age of the children is also problematic and runs counter to the best interests of the child.¹³⁰ JS1 and JS2 stated that refugee children need a secure status for a long term stay and recommended inter alia that a special protection status be introduced for all unaccompanied children who cannot return but have also no chance for asylum, guaranteeing them the right to education, access to the youth welfare system and to legal guardianship.¹³¹

46. KOK and GIHR noted that according to the Residence Law, victims of trafficking are being granted a residence permit during criminal proceedings only if they decide to cooperate with law enforcement and abandon any contact with the incriminated persons; the granting of the residence permit lying within the discretion of the authorities.¹³² KOK, GIHR and JS2 reported that victims of trafficking, who are not European Union Nationals, are granted a period of four weeks (so called reflection period) in order for them to decide if they want to cooperate with law enforcement, otherwise they will usually have to leave the country.¹³³ KOK and JS2 also noted that there is no alternative option available for those victims who decide not to cooperate with law enforcement and cannot or do not want to return to their country of origin.¹³⁴

47. KOK also noted that access to education and vocational training for victims of trafficking is rarely provided, with access to the labour market often impeded while the legal proceedings can take years.¹³⁵ KOK and JS2 noted that victims of trafficking who are not European Union Nationals receive benefits according to the German Law on Benefits for Asylum Seekers, and these cover the basic needs, but are below the margin of subsistence, and not sufficient for this target group.¹³⁶ In addition, safe housing in specialized shelters is not always provided and medical care is constricted to emergency treatment.¹³⁷ KOK called on Germany to take the appropriate measures to fight this phenomenon and protect the victims.¹³⁸

11. Human rights and counter-terrorism

48. AI expressed concern that counter-terrorism measures are giving rise to human rights violations and are undermining the framework of human rights protection both in Germany and internationally.¹³⁹ COE recommended that Germany ensure that evidence obtained under inhuman or degrading treatment or torture is not admissible in court proceedings; apply strict rules of proportionality with regard to preventive investigative measures in order to avoid profiling on the sole basis of religious belief or ethnic origin; carry out an independent evaluation of counter-terrorism legislation; specify the criteria on the basis of which a person can be included in the counter-terrorism database and provide clear guidelines on the use of the database including the authorities who may access the data.¹⁴⁰

49. AI and JS2 expressed concern about increasing requests by Germany for “diplomatic assurances” when seeking to return individuals the authorities suspect of involvement in terrorism-related activities to States where they face a real risk of serious human rights violations, including torture and other ill-treatment and unfair trial.¹⁴¹ AI stated that Germany has not made public its revised guidelines for interrogations of criminal suspects in other countries by German Government agents, making it impossible for any independent body or group to evaluate whether these guidelines are consistent with international human rights standards.¹⁴²

COE recommended that Germany develop specific guidelines for intelligence services regarding the questioning of detainees abroad.¹⁴³

50. AI reported that individuals were rendered through German airspace.¹⁴⁴ JS2 believed it is likely that individuals could still be unlawfully transferred to illegal detention through German airspace and with the use of German airports.¹⁴⁵ AI reported inter alia that in April 2006, the German Parliament established a committee of inquiry into any involvement by German authorities in the United States-led rendition programme, but (former) senior Government and intelligence officials appear to have withheld information during the hearings and curtailed the permission of important witnesses to give answers to “sensitive” questions.¹⁴⁶ JS2 and AI remained concerned over the failure of the German authorities to introduce preventive measures since reports about the rendition programme and its scale were received in 2005.¹⁴⁷ AI and JS2 reminded the authorities that a State may breach its obligations not to expose anyone to the risk of torture or other ill-treatment, arbitrary detention, or enforced disappearance, by knowingly allowing its territory to be used by another State to commit such violations, or failing to put in place effective measures to prevent them.¹⁴⁸ COE recommended that Germany fully investigate alleged cases of extraordinary renditions that were carried out on German territory or that involved German nationals or long-term residents, and adopt effective measures to prevent future unlawful renditions.¹⁴⁹

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

51. KOK and JS2 considered the so-called Cooperation Concept, describing in detail the specific assignments of the police on the one and the specialist counselling centres on the other hand, a best practice model. This Concept has been developed by NGOs together with their counterparts in the Government and the police.¹⁵⁰

52. JS2 noted that Germany, as an exporter of arms, has sold small and light weapons to States with a negative human rights situation and to areas of conflict.¹⁵¹ JS2 also noted that the Government rarely assesses the human rights impact of its support to German companies in their international activities, leading to export credits being granted for projects, especially infrastructure projects that have led to human rights violations.¹⁵²

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A.

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

N/A.

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council. Two asterisks denote a national human rights institution with “A” status).

Civil society

AI	Amnesty International*, London, UK
HRW	Human Rights Watch*, Geneva, Switzerland

IHRC	Islamic Human Rights Commission, London, UK
JS1	Child Rights (joint submission), Duisburg, Germany
JS2	Forum Menschenrechte (joint submission), Berlin, Germany
JS3	Campaign Transexuality and Human Rights, Germany
KOK	German Nationwide Activist Coordination Group Combating Trafficking in Women and Violence Against Women in the Process of Migration, Berlin, Germany
LCR	League for Children's Rights (Bündnis RECHTE für KINDER e.V.), Mainz, Germany

National human rights institution

GIHR German Institute for Human Rights**, Berlin, Germany

Regional intergovernmental organization

COE Council of Europe, Strasbourg, France, submission consisting of:

- Conclusions and recommendations from the report of the Commissioner's visits to Germany in 2007.
- Directorate of Monitoring (DGHL) and PACE contribution to UNHCHR Universal Periodic Review.
- The situation of Germany with respect to the application of the European Social Charter as of 1 July 2007.
- European Committee of Social Rights - Conclusions XVIII-1 (Germany) - Articles 1, 5, 6, 12, 13, 16 and 19 of the Charter.
- European Committee of Social Rights - Conclusions XVIII-2 (Germany) - Articles 1§4, 2, 3, 4, 9, 10 and 15 of the Charter.
- Report to the German Government on the visit to Germany carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 November to 2 December 2005.
- Response of the German Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Germany from 20 November to 2 December 2005.
- Explanations furnished by the Federal Republic of Germany in response to the request from the Secretary General of the Council of Europe, Mr. Terry Davis, pursuant to Article 52 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- Department for the Execution of ECHR judgments - List & table of pending cases against Germany until 30 June 2008.
- Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Germany Adopted by the Committee of Ministers on 7 February 2007.
- Advisory Committee On The Framework Convention For The Protection Of National Minorities - Second Opinion on Germany, Adopted on 1 March 2006.
- Table of Treaties signed.

² GIHR, p.1.

³ JS2: *Forum Menschenrechte* in cooperation with ATD Fourth World Germany, Aktion Courage, Bundesverband unbegleiteter minderjähriger Flüchtlinge (BUMF), Bundesweite AG der Psychosozialen Zentren für Flüchtlinge und Folteropfer (BAFF), Bundesweiter Koordinierungskreis gegen Frauenhandel und Gewalt an Frauen im Migrationsprozess (kok), Deutscher Frauenrat, Diakonisches Werk der Evangelischen Kirche in Deutschland (Stuttgart), Germanwatch, Gesellschaft zum Schutz von Bürgerrecht und Menschenwürde (GBM), Gustav-Heinemann-Initiative (GHI), Human Rights Watch Germany, International Physicians for the Prevention of Nuclear War (IPPNW) German Section / refugio Munich, Lesben und Schwulenverband in Deutschland (LSVD), Kindernothilfe, MISEREOR, Peace Brigades International (PBI) Germany, Physicians in Social Responsibility German Sektion, Pro Asyl, TERRE DES FEMMES, terre des hommes, Vereinte Evangelische Mission (VEM), Women's International League for Peace and Freedom German Section (WILPF). Amnesty International Germany associates itself with the submission, but is making its own submission.

⁴ JS2, p.2, 8, 9; see also AI, p.3.

⁵ KOK, p.4; see also JS2, p.10, and AI, p.8.

⁶ AI, p.3; see also JS2, p.2.

⁷ JS1: Aktion Courage, AFET – Federal Association of Child Rearing Support, Children's Charity of Germany, European Master in Children's Rights, Federal Association of Single Mothers and Fathers, Federal Association of Unaccompanied Minor Refugees, German Association for Children in Hospital, German Children's Aid, International Physicians for the Prevention of Nuclear War - IPPNW e.V., Kindernothilfe, Naturfreundejugend Deutschland, Physicians in Social Responsibility - German Section, Pressure Group for Maintenance and Family

Rights Inc., PRO ASYL, Terre des Hommes, Workinggroup Refugee Children within the Centres for Refugees and Torture Survivors in Germany/BAFF.

⁸ JS2, p.9; see also JS1, p.3.

⁹ JS2, p.3; see also JS1, p.2.

¹⁰ GIHR, p.1.

¹¹ JS1, p.3.

¹² JS2, p.3.

¹³ COE, p.6.

¹⁴ KOK, p.2; see also GIHR, p.3.

¹⁵ KOK, p.2.

¹⁶ GIHR, p.3,4.

¹⁷ GIHR, p.4.

¹⁸ GIHR, p.4.

¹⁹ GIHR, p.1.

²⁰ JS2, p.2.

²¹ COE, p.5.

²² COE, p.5.

²³ COE, p.5.

²⁴ JS2, p.2.

²⁵ JS2, p.8.

²⁶ COE, p.5

²⁷ JS2, p.10.

²⁸ JS2, p.10.

²⁹ COE, p.5.

³⁰ COE, p.5.

³¹ AI, p.3; also see JS2, p.8.

³² JS1, p.1.

³³ JS2, p.2.

³⁴ JS2, p.2.

³⁵ JS2, p.2; also see GIHR, p.3.

³⁶ GIHR, p.3.

³⁷ GIHR, p.3; see also JS2, p.2.

³⁸ GIHR, p.3.

³⁹ GIHR, p.3.

⁴⁰ COE, p.5.

⁴¹ JS2, p.9.

⁴² JS2, p.9.

⁴³ COE, p.5.

⁴⁴ GIHR, p.2; see also JS2, p.3.

⁴⁵ GIHR, p.2; see also JS2, p.3.

⁴⁶ GIHR, p.2.

⁴⁷ JS2, p.3.

⁴⁸ COE, p.6.

⁴⁹ COE, p.6.

⁵⁰ AI, p.5; see also JS2, p.5,6.

⁵¹ JS2, p.2,3.

⁵² JS3: *Aktion Transsexualität und Menschenrechte e.V. and Menschenrecht und Transsexualität*

⁵³ GIHR, p.3; see also JS3.

⁵⁴ GIHR, p.3.

⁵⁵ AI, p.5; see also JS2, p.5.

⁵⁶ AI, p.5; see also JS2, p.5.

⁵⁷ AI, p.5; see also JS2, p.5.

⁵⁸ AI, p.5.

⁵⁹ AI, p.5; see also JS2, p.10.

⁶⁰ AI, p.5; see also JS2, p.5,10.

⁶¹ LCR, p.2.

⁶² LCR, p.2,3.

⁶³ LCR, p.3,4.

⁶⁴ LCR, p.4.

- ⁶⁵ LCR, p.5.
⁶⁶ LCR, p.5.
⁶⁷ JS2, p.3.
⁶⁸ JS2, p.9.
⁶⁹ JS2, p.9.
⁷⁰ JS2, p.9.
⁷¹ COE, p.6.
⁷² GIHR, p.2.
⁷³ COE, p.9.
⁷⁴ KOK, p.2.
⁷⁵ KOK, p.2.
⁷⁶ KOK, p.2.
⁷⁷ COE, p.9.
⁷⁸ COE, p.9.
⁷⁹ GIHR, p.5.
⁸⁰ GIHR, p.5.
⁸¹ GIHR, p.5.
⁸² JS2, p.2.
⁸³ HRW, p.2; see also GIHR, p.4.
⁸⁴ HRW, p.2,3; see also GIHR, p.4.
⁸⁵ GIHR, p.5.
⁸⁶ HRW, p.2,3,4.
⁸⁷ HRW, p.3,4.
⁸⁸ JS2, p.2.
⁸⁹ JS2, p.2.
⁹⁰ COE, p.6.
⁹¹ GIHR, p.2.
⁹² COE, p.7.
⁹³ JS2, p.7,8.
⁹⁴ JS2, p.7,8.
⁹⁵ JS2, p.7,8.
⁹⁶ JS2, p.7.
⁹⁷ JS2, p.7.
⁹⁸ JS2, p.7.
⁹⁹ COE, p.7.
¹⁰⁰ GIHR, p.5.
¹⁰¹ GIHR, p.5.
¹⁰² GIHR, p.5.
¹⁰³ AI, p.8; see also JS2, p.5.
¹⁰⁴ AI, p.8; see also JS2, p.5.
¹⁰⁵ COE, p.8.
¹⁰⁶ GIHR, p.5.
¹⁰⁷ GIHR, p.5.
¹⁰⁸ GIHR, p.5.
¹⁰⁹ COE, p.6,7.
¹¹⁰ JS2, p.4.
¹¹¹ JS2, p.4.
¹¹² AI, p.6; see also JS2, pg.4,5.
¹¹³ AI, p.6.
¹¹⁴ AI, p.7; see also JS2, pg.4.
¹¹⁵ AI, p.7; see also JS2, pg.4.
¹¹⁶ COE, p.7,8.
¹¹⁷ AI p.6,7; see also JS2, pg.5,10.
¹¹⁸ AI p.6,7; see also JS2, pg.10.
¹¹⁹ IHRC, p.1.
¹²⁰ COE, p.6.
¹²¹ AI, p.7; see also JS2, p.5 and GIHR, p.4.
¹²² AI, p.8.
¹²³ JS2, p.10; see also AI, p.8.

- ¹²⁴ JS2, p.5.
¹²⁵ JS2, p.4.
¹²⁶ COE, p.7,8.
¹²⁷ GIHR, p.3.
¹²⁸ GIHR, p.3.
¹²⁹ GIHR, p.3.
¹³⁰ GIHR, p.3.
¹³¹ JS2, p.9; see also JS1, p.3,4.
¹³² KOK, p.2; see also GIHR, p.4.
¹³³ KOK, p.3; see also GIHR, p.4, and JS2, p.7.
¹³⁴ KOK, p.3; see also JS2, p.7.
¹³⁵ KOK, p.3.
¹³⁶ KOK, p.3; see also JS2, p.7.
¹³⁷ KOK, p.3; see also JS2, p.7.
¹³⁸ KOK, p.4.
¹³⁹ AI, p.3.
¹⁴⁰ COE, p.8,9.
¹⁴¹ AI, p.3,4; see also JS2, p.6.
¹⁴² AI, p.4,5.
¹⁴³ COE, p.8.
¹⁴⁴ AI, p.5.
¹⁴⁵ JS2, p.6.
¹⁴⁶ AI, p.5.
¹⁴⁷ AI, p.5 ; see also JS2, p.6.
¹⁴⁸ AI, p.5 ; see also JS2, p.6.
¹⁴⁹ JS2, p.8
¹⁵⁰ KOK, p.2 ; see also JS2, p.6.
¹⁵¹ JS2, p.8.
¹⁵² JS2, p.8.
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