

**Executive Summary and Questions for the Pre-Session Working Group
Shadow Report by the "Alliance of German Women's Organizations"
on the Sixth Periodic Report by the German Government
on the Convention on the Elimination of All Forms of Discrimination against Women
(CEDAW)**

I. Introduction

During the latest report period, the German government's equality policy has yielded only partial results. Crucial demands listed in the Concluding Comments by the CEDAW Committee on the Fifth Periodic Report remain unmet. In major areas of life, the situation of women has even worsened. It is very clear that the government is not pursuing a targeted equality policy, and that its efforts are reduced almost exclusively to family policy. In generating the National Report, no consultation was sought with independent women's organizations – against the recommendations in the Concluding Comments (no. 40). The government has also done little to promote public awareness of CEDAW. The National Report unfortunately restricts itself virtually exclusively to measures taken at the federal level. The state level, which is responsible for actual administrative implementation of the relevant legislation, is given only incomplete coverage within a list (Appendix, p.53 of German version).

As described in its Sixth Periodic Report (section A I: "Equality Policy as a Strategy for Success"), the German government has abandoned the equality strategy of gender mainstreaming. A new equality strategy to replace this principle or activities to put gender budgeting into practice are not evident.

With the General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz – AGG*) now in effect, an Anti-Discrimination Office (*Antidiskriminierungsstelle – ADS*) has been established on the federal level. Both the independence and the effectiveness of this Office, however, are very questionable. For one thing, the German public is virtually unaware of its existence. It is also unclear how this Anti-Discrimination Office will strengthen cooperation with anti-discrimination organizations in the individual German states.

Questions for the German government

1. Are there plans to grant the ADS additional investigative and conflict resolution functions as well as the power to provide information to private citizens? Which measures will the government take to accomplish this, and to increase the impact of the ADS in the individual German states?
2. Which steps will the government take to implement gender budgeting "without delay"¹ on the national level, and in so doing, how will it address the results of the feasibility study and the experiences of the State of Berlin? Will the Federal Finance Ministry take the lead of the process, and how can the government ensure that this work will continue uninterrupted over several legislative periods, also including participation by NGOs?
3. When will the government return to implement gender mainstreaming and a proactive equality policy in all of its ministries and entities, and when will it establish an operational structure that is visible on the outside and that functions internally to coordinate this overarching process which should include a participatory working structure for representatives of Parliament and civil society (NGOs) as well as experts?

¹ CEDAW, Article 2

II. The labor market – Equality on the job

Women in Germany continue to face considerable disadvantages on the labor market – nothing has changed here. Recent reforms to policies governing the labor market, social security, health and welfare, and taxation have increased the level of structural discrimination against women, and have considerably raised their risk of impoverishment. Moreover, the state is sending the wrong signals: Examples include its policy of tax declarations for married couples that split their difference in income (*Ehegattensplitting*), its so-called "mini-jobs" that pay around 400 euros a month, its "1-euro jobs" that pay one euro an hour plus transfer payments ("basic support for job seekers" in Book II of the Social Code – *SGB II*), and its policy of free health insurance for spouses who have no jobs or are only minimally employed. Migrant women are disproportionately affected all the more by these developments. While the percentage of women in the labor force has in fact risen over recent years, this is based almost exclusively on an increase in women holding part-time jobs. By contrast, women's percentage of the overall volume of employment has decreased in recent years. The fact that women hold nearly 70% of jobs in the low-wage sector is alarming. Income levels in this sector are not sufficient to secure a livelihood, although not enough data is currently available here. Overall, women in Germany earn an average of 22% less than men. Germany ranks fourth to last here in a comparative analysis of European countries.

The percentage of women in business management positions has remained unchanged and marginal. The German government has limited itself to voluntary agreements with private industry which are clearly ineffective, instead of enacting equality legislation for private industry and/or introducing the requisite incentives for public contracts.

Regarding active employment promotional measures (especially further training and special measures for those re-entering the job market), these have been applied to women at a rate far below the target figure. Women make up a disproportionate share of those who receive no state benefits, such as those who live with a partner earning enough for both. This "need-based" partnership construct means that many women are not even considered for active employment promotional measures. Furthermore, every individual who is able to work at least three hours a day is considered fit for employment – even as victims of violence, during pregnancy, or as single mothers – which means that they are expected to fend for themselves and receive transfer payments only after demonstrating the futility of searching for a job.

This structural discrimination against women is further reflected in taxation policy. Nothing has been done in response to the CEDAW Committee's call in the Concluding Comments of February 2000 for the state "to assess the current legal provisions on the taxation of married couples" (splitting the difference in spousal income) and the resulting "impact on the perpetuation of stereotypical expectations for married women."

Questions for the German government

4. Which measures is the government taking to acquire better data – especially on the percentage of women in part-time jobs, on income levels by sector, on the number of women who are employed but still cannot secure a livelihood, and on such persons (predominately women) who do not benefit from job promotional measures or transfer payments because their partners' incomes are taken into account (Book II of the Social Code – *SGB II*)?
5. Which measures is the government taking to guarantee workers (both male and female) a living wage for full-time employment, and to reduce the considerable gap between income levels for men and women?

6. What will the government do to reach its target figure for women's participation in active employment promotional measures in the future (further training, special measures for those re-entering the job market, migrant women, disabled women, women with few qualifications, and unemployed women), and to what extent will it use the instrument of gender budgeting to ensure equal participation by women here?
7. Which measures will the government take as part of its "basic support for job seekers" to provide need-oriented support to women in hardship situations, and what will it do to counter the anti-solidarity tendency that requires members of shared households ("*Bedarfsgemeinschaft*") to support each other financially based on nothing but the presumed willingness of each to live together on a permanent basis?
8. How will the government counter the discrimination against women resulting from raising the age of retirement to 67 and privileging those who have worked especially long (social security payments of 45+ years) and those who have held physically strenuous jobs?

III. Health and nursing care

A comprehensive gender-sensitive strategy along the lines of gender mainstreaming and gender budgeting has still not found its way into the health and nursing care policy of the German government. In particular, most research projects are not designed to take gender differences into account, and those already performed are not evaluated from a gender-sensitive perspective.

The vast majority of nursing care for ill and elderly family members is done by women, who in many cases limit or even give up their jobs in order to do so. The Care Development Act (*Pflegeentwicklungsgesetz*) of 2008 does not make sufficient social security provisions for these cases. Decision-making bodies in all areas of healthcare remain composed almost entirely of men. Very rarely do victims of trafficking in women receive adequate medical care in accordance with the Asylum Seekers' Benefit Act (*Asylbewerberleistungsgesetz*) because its strict legal requirements for assuming the treatment costs generally cannot be met.

Questions for the German government:

9. The government must ensure that the high ongoing need for gender-differentiated research is met (including gender-sensitive evaluation of studies already performed). The same applies to gender-sensitive health promotional measures, prevention, diagnostics, therapy, convalescence, and nursing care, as well as education and further training in the healthcare professions.
10. The call by women's organizations for membership parity in decision-making bodies for all areas of healthcare and health research remains crucial. An equally high priority must be placed on anchoring gender, age, and factors specific to certain life situations in Book V of the Social Code (*SGB V*, with respect to state-supported health insurance).
11. Disability-friendly access to medical assistance and treatment must become a legal right for all – also and especially for victims of trafficking in women.
12. The government must ensure the right of informed consent for every type of prenatal diagnostic measure, including the right to remain uninformed. If they so desire, women must have the option of receiving only treatment-relevant information about their future offspring.

IV. Role stereotypes

A traditional notion of gender roles continues to prevail in the Federal Republic of Germany, as also stated at the beginning of the Sixth Periodic Report. This notion continues to assign women the primary responsibility for care of the family, and men the task of financially supporting the family. Individual equality measures taken by the government are not based on

any discernible general strategy to counter these unaltered stereotypes. Widespread public discussion of these issues is not taking place. In particular, the media continue to focus on images of women that are not compatible with partnership-based and egalitarian roles. Sexist advertising continues to be a severe problem. The German Advertising Council (*Deutscher Werberat*), which is responsible for addressing complaints against such advertisements, is clearly an unsuitable body for combating the problem.

Questions for the German government:

13. How does the government envision taking more targeted action against role stereotypes in the Federal Republic of Germany? How will it launch widespread public discussion about non-discriminatory, egalitarian, and partnership-based role models?
14. In its report the government states that it can exert no influence on the media. But what influence can it bring to bear on state-subsidized media, and what is it doing to prevent sexist advertising in this sector?
15. How will the government improve its efforts to combat sexist advertising, and how will it include private industry in these efforts?

V. Family policy

Instituted in 2007, the policy of parental allowances (*Elterngeld*) represents the first positive step taken against role stereotypes of mothers and fathers in Germany. But current plans to subsidize parents who stay home to care for their pre-school children (*Betreuungsgeld*) sends an opposing and counterproductive signal.

The Federal Republic of Germany does not have a comprehensive and high-quality childcare system, especially not for children under the age of 3, nor the corresponding after-school programs for schoolchildren. This shortage exacerbates the situation for that parent (usually the mother) who is eligible for financial support, because recent legislation has placed greater pressure on that parent to work. In Germany, the parent who is required to pay child support (usually the father) often has considerable scope for manipulation with respect to the amount itself as well as to asset distribution following separation and/or divorce. Currently there is no legal recourse for one married partner to obtain precise information about the assets of the other.

Regarding forced marriages, the measures that the government has taken against them are not sufficient and/or not entirely suitable. Fundamental changes to immigration law are needed to ensure secure living conditions, such as making residence permits independent of marital status, and introducing a right to return for women and girls with German residency who are forced to marry abroad.

In addition, despite the Act to Revise the Registered Partnership Act (*Gesetz zur Überarbeitung des Lebenspartnerschaftsrechts*) of 2004, same-sex partnerships still lack parity with heterosexual partnerships in many essential respects. The resulting burdens fall to a large extent on the children of these partners.

Questions for the German government:

16. Which measures will the government take to ensure sufficient and high-quality childcare/after-school supervision for all children up to the age of 12? What incentives will it incorporate into child support legislation to encourage fathers to assume childcare responsibilities, and how will it ensure that child support obligations are met?
17. How will the government ensure that a higher priority is placed on children's welfare than on current custody and visitation rights in the event of separation and divorce, and

especially in cases of conflict and domestic violence? How will it incorporate this into the planned changes to procedural law in this context? What steps will it take to ensure the quality of registered partnerships and rainbow families (LGBT)?

18. What will the government do to provide protection against forced marriages, and counseling for those affected? What changes to immigration law are planned to ease the situation by ensuring residence rights?

VI. Violence against women

Since the last Periodic Report, the government has launched welcome measures and plans that raise hopes of prompt and comprehensive implementation. There continues to be a lack of meaningful data on the extent of domestic and sexual violence, however, especially on homicide, forced marriage, and violence in institutions (facilities for the disabled, psychiatric institutes, etc) and in care contexts.

Experience with the Violence Protection Act (*Gewaltschutzgesetz*) has shown that the requirements for legal proceedings are too strict and too complicated. Furthermore, the Violence Protection Act has not been sufficiently effective against repeat and violent offenders. Victim protection measures taken in connection with criminal proceedings against domestic violence continue to be inadequate because the relevant professional sectors (especially law enforcement and judiciary) do not receive sufficient further training.

Appropriate measures to treat the victims of trafficking in women still have not been taken. Residence permits for individuals from non-EU countries depend on a willingness to cooperate with law enforcement. Needs for food, lodging, and medical care remain unmet. With great concern we see that measures to reduce migration have been legitimized via the pretense of seeking to protect victims of forced marriages – who are generally women. Prominent among these measures is the requirement of language skills for family members wishing to join migrants.

It is especially alarming that urgently needed existing facilities such as women's shelters, out-patient clinics, and specialized counseling centers do not receive sustained funding, and are all too often threatened with cuts and closure. Germany has no clear legislative foundation on which to fund protection programs for victims of gender-related violence which can provide sufficient, reliable, long-term, disability-sensitive aid.

The UN zero tolerance policy on Sexual Exploitation and Abuse (SEA) and UN Security Council Resolution 1325 are not being implemented on a sustainable basis. Among other things, sensitivity training and a specific action plan for S/Res/1325 are lacking.

Questions for the German government:

19. How will the government ensure comprehensive further training about domestic violence for relevant professional groups (especially law enforcement and the judiciary, but also medical and care personnel), on stalking and its consequences, on the victims of sexualized violence, on disabled girls and women, and on the victims of trafficking in women?
20. What measures will the government take so that all women affected by domestic violence (including migrants and women threatened by repeat and highly dangerous offenders as well as by the fathers of their children) will receive protection under civil law and relief under criminal law?

21. How will the government ensure need-oriented services and support for victims of trafficking in women that do not focus on criminal considerations but rather guarantee a minimum standard of human rights?
22. What concrete steps will the government take together with its state and municipal counterparts to provide sustainable and non-bureaucratic funding for comprehensive, accessible protection for women and girls affected by violence, as well as their children, and in particular free access to women's shelters, counseling, and support?
23. How will the government ensure that the UN zero tolerance policy (SEA) is put into practice, and that German soldiers are educated about human rights-related, gender-specific, and intercultural standards as part of their preparation for foreign deployment? How will the government put UN S/Res/1325 into practice on a sustainable basis?

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