

Office of the United Nations
High Commissioner for Human Rights
Mr Ibrahim Wani
Palais de Nations
CH 1211 Geneva 10
Schweiz

18 September 2009

Subject: Human Rights Council resolution 10/7 – „Human Rights of Persons with Disabilities: National Frameworks for the Promotion and Protection of the Human Rights of Persons with Disabilities“

Dear Mr Wani, dear Ms Lavagnoli,

please find attached the answers to your request dating from 10 July 2009 related to the above mentioned Human Rights Council Resolution.

If you have any further queries or related questions, please contact us.

Yours sincerely,
German Institute for Human Rights



Dr. Valentin Aichele
Head of the national monitoring body (CRPD)

Subject: Human Rights Council resolution 10/7 – „Human Rights of Persons with Disabilities: National Frameworks for the Promotion and Protection of the Human Rights of Persons with Disabilities“

Question a): The existence, structure and mandate of focal points within Government appointed with responsibility for matters related to the implementation of the Convention (art. 33, para. 1):

After the ratification of the UN Convention on the Rights of Persons with Disability (“CRPD” or “Convention”), the Ministry for Labour and Social Affairs (“Bundesministerium für Arbeit und Soziales”) has declared to be the national Focal Point within the German Federal Government due to the general leading responsibility for the CRPD. The Focal Point is linked with the division in charge within the ministerial organisation for equality issues for persons with disabilities, however this Division is not at a high level within the ministerial hierarchy. Publicly, the mandate of the Focal Point has not been defined, yet. To my knowledge, there is no other ministry at the federal level that has taken the initiative to also designate a focal point within their realm of its competence. Positive developments are reported from the Länder level, however, until now in none of their governments has made an decision public.

It has been a public recommendation of the German Institute for Human Rights directed to the Federal and the Länder Governments to create Focal Points.

Question b): The existence, structure and mandate of coordination mechanisms within Government to facilitate action related to the implementation of the Convention (art. 33, para. 1):

It has been made public that the Federal Commissioner for the Affairs of Disabled Persons (“Bundesbehindertenbeauftragte”) has been designated to function as coordination mechanism. Deliberations continue related to the contents of the mandate, e.g. in relation to civil society cooperation and which role it could play in a national action plan process. Some of the options indeed seem to be related to resource issues.

Also in this regard, the German Institute for Human Rights has recommended to establish a national coordination mechanism, in particular in order to establish a permanent working structure for federal coordination and to create a framework for the collaboration of all sixteen local disability commissioners’ activities related to the CRPD.

Question c): The existence, structure and mandate of national frameworks tasked with promoting, protecting and monitoring implementation of the Convention, with particular reference to how the principles relating to the status and functioning of national human rights institutions for the promotion and protection of human rights are taken into account in such frameworks (art. 33 para. 2):

The German Parliament ("Deutscher Bundestag") and the Länder Chamber ("Bundesrat") had to vote on the ratification statute of the CRPD. Both then decided to designate the German Institute for Human Rights to be the independent national monitoring body of the CRPD according to art. 33, para. 2. Before their decision, the Focal Point consulted civil society organisations, in particular the representative organisations of the persons with disabilities on that issue. The German network of disability organisations ("Deutscher Behindertenrat") had then recommended that the German Institute for Human Rights should take over this task.

The German Institute for Human Rights, formally established in 2001, has been accredited an A-status institution according to the Paris Principles by the International Coordinating Committee of National Institutions for the Promotion and the Protection of Human Rights. The general mandate of the Institute is to promote and protect human rights. The Institute's mandate is strengthened according to the additional CRPD mandate with view to the aspect of monitoring.

Forming an integral part of the Institute, the national monitoring body to the CRPD will be set up as an own department which is named national monitoring-body to the CRPD ("Monitoring-Stelle"). The mandate of the monitoring-body is derived directly from the CRPD according to which it shall "promote, protect and monitor implementation of the present Convention".

Due to the above mentioned Parliamentary decision, the German Institute for Human Rights will receive additional public funds of 430.000,00 € per year in order to perform the monitoring task related to CRPD. The Government is still working on establishing a solid funding structure that secures funding of the monitoring function on a long-term basis. At the moment it is project funding. Besides the head, the monitoring-body will have two research and policy officers (one law, one social science) and one assistant as well as support by public relations and communications each equivalent to one staff member. The budget of the monitoring-body provides enough additional means to produce and distribute publications, to organise conferences and workshops, to commission research (to a minor extend), to cover travel expenses etc.

Question d): The process regulating involvement and participation of civil society and in particular persons with disabilities and their representative organizations in the national implementation and monitoring process (art. 33, para. 3):

Prior to ratification persons with disabilities and their representative organisation were consulted at two stages with respect to the draft law to the ratification. In the first instance regarding an early draft to provide a forum for comments on the Explanatory Memorandum of the draft law, and at a later stage the German Parliament ("Deutscher Bundestag") held a public expert hearing in which a selected number of civil society organisations could take part as speakers. Additionally, disability organisations were consulted on the issue how to go about with art. 33 para. 2 (see above).

In order to provide a forum for deliberation on the draft translation of the CRPD into German, in 2007 the German Institute for Human Rights organised a one day workshop for members of both Federal Ministries and members of civil society. This turned out to be a very important and challenging endeavour to work out language that reflects the sensitive wording of the Convention as well as language that lives up to the spirit of the CRPD. Not all critique has been taken up, such as the critique related to the wording related to the right to inclusive education (art. 24).

Moreover in 2008, the German Institute for Human Rights held two meetings with representatives of disability organisations for consultations in the context of the ratifications process. Post to ratification, in the phase of implementation and monitoring, the national monitoring body of the German Institute for Human Rights has started to invite non governmental organisations for consultations. This is a very inclusive setting. All organisations are invited to join who pursue the interest in supporting the implementation of CRPD in Germany. It is the intention that these consultations will form a crucial precondition for the monitoring tasks according to art. 33 paras. 2 und 3 CRPD.

Berlin, 15 September 2009

