



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
Thirtieth session

Summary record of the 640th meeting

Held at Headquarters, New York, on Wednesday, 21 January 2004, at 3 p.m.

Chairperson: Ms. Açar

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The meeting was called to order at 3.10 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Fifth periodic report of Germany (continued)
(CEDAW/C/DEU/5; CEDAW/PSWG/2004/1/CRP.1/Add.3 and CRP.2/Add.5)

1. *At the invitation of the Chairperson, the delegation of Germany took places at the Committee table.*

2. **Ms. Thielenhaus** (Germany), responding to the questions relating to article 9 of the Convention, said that, although the statistics for the participation of women in public life in each individual Land did not appear in the report, she could obtain them from the women's computer centre in Berlin, where a database containing the relevant information was maintained. Although far fewer women than men were employed in the public sector, in particular the diplomatic corps, the commitment made by the German Foreign Office within the framework of the Fourth Community Action Programme on equal opportunities for women and men (1996-2000) to increase the number of female diplomats had begun to bear fruit: women now accounted for 50 per cent of new recruits, and there were four female Deputy Division Heads. The mobility aspect of diplomatic posts presented problems for men and women alike, since their partners were not always willing to give up their careers.

3. It was difficult to provide a clear picture of women's participation in political bodies on account of the fact that the composition of a number of those bodies was determined by the federal Government. In accordance with the Federal Act on Appointment to Bodies, when a seat on a political body (such as an administrative, advisory or research committee) became vacant, the Government was obliged to propose two equally qualified candidates, one of each gender, to fill the vacancy. Further information on the implementation of that Act could be found in a report submitted to the Bundestag. Lastly, with reference to the importance attributed to gender mainstreaming at the community level, she said that the Länder equality commissioners were responsible for taking action in that regard. Advanced training was available in that field.

4. **Ms. Ferrer Gómez** recalled that, in its concluding comments and recommendations on Germany's previous report, the Committee had expressed its concern at the employment situation of women, in particular the wage gap between women and men, the high percentage of women engaged in part-time work and the large numbers of unemployed women, which were indicative of the persistence of discrimination against women in the labour market. Unfortunately, those problems did not appear to have been solved. It was still not possible for women to fully reconcile their family and work responsibilities and, although there had been an increase in the number of women engaged in part-time work during the reporting period, that work was generally of a domestic nature and poorly paid. Women with part-time jobs were unable to make any provisions for personal pensions and therefore remained financially dependent on their husbands. In that connection, she requested additional information about the potential benefits for women of two acts relating to modern services in the labour market adopted in January 2003. Lastly, she also expressed her concern at the implications for women of the new unemployment policy that would come into force in 2005: surely being forced to take the first job offered would severely limit their employment prospects.

5. **Ms. Khan**, while acknowledging that there had been an overall drop in unemployment during the reporting period, observed that women were still at a disadvantage. Although more women were employed, as a group they were not better off, since many of the new jobs were part-time. Given that the lack of full-time jobs was posing a problem in Germany, she enquired whether any policy measures, in particular temporary special measures under article 4 of the Convention, had been taken to improve women's access to full-time jobs. Since women were apparently opting for part-time jobs on account of their family responsibilities, she would be grateful to know whether any steps had been taken to increase the availability of affordable, high-quality childcare facilities and to raise the awareness of men about the possibility of taking paternal leave. The Committee would also be grateful for information on the measures taken to reduce the wage gap between women and men.

6. Turning to the situation of female migrant workers, she had understood that migrant workers' residence permits were dependent on their work

permits and that, if their employment situation changed, they were obliged to reapply for those permits. That state of affairs was a cause for concern, as it was likely to encourage exploitation. Lastly, she enquired whether the provisions of the Basic Law for the Federal Republic of Germany applied to all employment contracts, including those concluded between private parties, and was particularly interested to know whether domestic workers employed in diplomatic households were covered by those provisions.

7. **Ms. Tavares da Silva** wondered whether the German Government had envisaged the introduction of any additional binding measures to eliminate discrimination in the labour market in the event that results achieved by the Agreement to promote the equal opportunities of women and men in private industry were inadequate. Turning to the far-reaching reforms undertaken by the federal Government in order to boost the German economy and modernize social systems, she enquired about the extent to which the legislature had taken into account the possible impact of those reforms on the female population when drafting the relevant legislation. Lastly, she observed that European Union legislation and treaties were often cited as the legal basis for policies and programmes on gender equality in Germany and wondered why greater reference was not made to the provisions of the Convention.

8. **Ms. Shin**, referring to the growing numbers of women engaged in part-time employment or so-called “mini-jobs”, asked whether the German Government was fully aware of the negative impact of that trend on women’s pension plans. Had any assessment been carried out of its implications and were any measures envisaged to counteract women’s financial dependence on their husbands? As far as the sharing of childcare was concerned, she felt that awareness-raising activities alone were not sufficient. Financial incentives were needed to encourage fathers to take parental leave. The delegation should indicate if any action had been taken in that regard.

9. **Ms. Saiga** said that she was a little unsure about the concept of joint parental leave and asked whether, under that system, both parents were able to take leave at the same time and, if so, how benefit payments were arranged. The Committee also requested further information about the prizes awarded to family-friendly companies.

10. **Mr. Flinterman** said that he would be grateful for an indication of the relevance of gender mainstreaming in the context of the restructuring of the social welfare State.

11. **Ms. Riemann-Hanewinkel** (Germany), with reference to the employment of women, said that a survey had shown that the salaries of women and men were more or less equal until the age of 30. The wage gap only became apparent once women began to have children and stopped working in order to take care of them. As far as part-time work was concerned, she acknowledged that, although both men and women now enjoyed a statutory right to part-time work, women exercised that right more often than men, although their motives for doing so tended to differ: in the western Länder, childcare provision for children under three years of age was insufficient, whereas in the east of the country, a lack of full-time employment was forcing women to accept part-time work.

12. The amendments to the Federal Child-Raising Benefit Act meant that both parents were now able to take leave simultaneously in order to bring up children. They were also entitled to engage in part-time work and, depending on the family’s income, child-raising benefits were available. It was hoped that those economic incentives would encourage more fathers to take longer periods of parental leave, but she observed that they were often unwilling to give up their jobs because private sector salaries, which were determined by collective bargaining, a process in which the federal Government was not involved, were generally higher for men than for women.

13. **Ms. Thielenhaus** (Germany) acknowledged that, although the principle of equal pay for equal work was enshrined in German legislation, it was not always observed in real life. The federal Government did have some influence on the collective bargaining process and, in that connection, had prepared a set of guidelines on equal pay on the basis of strategies used by other member States of the European Union. It had also drawn up recommendations for the participants in the collective bargaining process and carried out a review of the wages of public sector employees with a view to removing any hidden discrimination, the results of which would be available on 31 January. In addition, the trade unions had drawn up a checklist for the collective bargaining process to prevent gender-based discrimination.

14. Turning to the issue of part-time work and “mini-jobs”, she pointed out that the situation differed from east to west in Germany: there were 50 per cent fewer women engaged in part-time work in the east than in the west. In 2003, the federal Government had decided to reform the existing system of so-called “mini-jobs” and “midi-jobs”. Under the new system, women occupying those jobs had access to basic social security coverage, for instance sick pay, and were exempt from income tax if their earnings did not exceed €400 per month. Their employers were also required to make social security and pension contributions on their behalf. A federal Government evaluation of the new “mini-” and “midi-job” system, carried out in November 2003, had revealed both positive and negative trends: 400,000 new jobs had been created, but around 500,000 existing full-time jobs had been converted to “mini-jobs”, particularly in the hotel and catering industry. As far as jobs in private households were concerned, she said that, in the past, many women had occupied such jobs on an illegal basis. However, steps were being taken to rectify that situation by, inter alia, introducing tax breaks for private employers and reviewing the provisions governing household help with a view to criminalizing the failure to register domestic employees.

15. All legislation and programmes were required to be reviewed for the purposes of gender mainstreaming. Appropriate researchers had been identified to undertake such reviews and to ensure that gender was taken into account in government policies. Unfortunately, that process had only been partially successful, given that many reforms and programmes were politically sensitive and required complex negotiations between the Government and the Federal Council. In such cases, political consensus often took priority over technical questions.

16. One example of a success was that women with children would not be obliged to work and would be exempt from the requirement of geographical mobility in searching for employment. A woman with children under three could be obliged to work only if adequate childcare was available. Women with children who wished to work should also be able to do so and, if they felt that they could work, for example, three hours a day, they had the right to receive assistance from case workers in seeking employment and finding appropriate childcare. Those measures applied to all women, including migrants and single parents, and

were aimed at overcoming past obstacles to women’s integration into the labour market.

17. The Federal Ministry for Women was also developing gender-specific tools to evaluate specific areas, for example education and advanced training, and was considering studies of other areas such as part-time employment. She did not agree that women in Germany faced massive employment discrimination and referred Committee members to the measures described in the report concerning the reform of Book III of the Social Code. The Federal Employment Service had for example exceeded its 40 per cent target for balanced integration of women into the labour market, achieving a 44 per cent rate. Women’s participation had increased despite a generally poor labour market, and gender balance in the labour market would continue to be monitored annually.

18. She agreed that in a contribution-based system, part-time work would reduce a woman’s pension. Claims for statutory pensions showed in fact that men received approximately double the amount women received. She stressed, however, that pension reforms were aimed at ensuring a basic minimum income at least equivalent to the level of social assistance. That represented progress for women who had low pension incomes. Current figures indicated that total income from statutory pensions and other sources for men and women was appropriately €1,100 and €1,000 respectively. Furthermore, in the future it would be possible for a man to transfer a portion of his pension income to his wife, further guaranteeing older women’s income.

19. With regard to the situation of domestic help in diplomatic households, she said that such workers of course had the right to make a claim before the courts if they were exploited or mistreated, but since such households benefited from diplomatic immunity, there was little that the Government could do. To her knowledge it was not necessary for migrant women who changed employment to reapply for a residency or work permit. Their legal status was not dependent on a specific job.

20. Turning to the evaluation of the results of the Agreement to promote the equal opportunities of women and men in private industry, she said that a review had been undertaken and completed and would be published the following week. The two-year study had involved projects concerning the family-

friendliness of businesses, measures to reconcile family responsibilities and work, encouraging women to explore different careers and increasing equality of opportunity for women. Such reviews would be undertaken regularly in the future. The German Trade Union Federation had undertaken a similar review which had obtained very similar results. There seemed to be a pattern where some companies did a great deal to facilitate employment by women, for example, the use of flexible hours, working from home, and mentoring, although there seemed to be relatively little provision of childcare opportunities. All such information would be provided to the Committee as soon as possible.

21. **Ms. Morvai** expressed concern at estimates that there were more than 200,000 women involved in prostitution in Germany, which implied that they must have millions of clients, most of whom were probably married. She wondered what effect that had on the men's families and also expressed concern about the women involved in prostitution, who were exposing themselves to infection and illness. The delegation should indicate whether there were any public health campaigns to increase awareness among potential clients of the fact that prostitution was an attack on human dignity.

22. In view of the State party's obligation under article 12 of the Convention to provide appropriate health care for women, the Committee wished to know to what extent training was provided to health-care professionals in areas such as domestic violence and to ensure that women had adequate access to appropriate health care. Health-care professionals should also be made aware of and receive training in dealing with the negative effects, both physical and psychological, of prostitution on women.

23. **Ms. Patten** expressed concern that women might be shifting from full-time to part-time employment, not because they were taking advantage of their right to do so, but rather out of necessity. That trend could reinforce gender stereotyping in the labour market, where women tended to have low-paying, short-hour, or non-technical jobs with little responsibility. Although there had been studies of the situation, she wondered whether there was any organized strategy to address that problem and make a real effort to improve the employment situation of women.

24. Continued resistance on the part of men to taking advantage of their parental leave rights had a negative effect on women's employment opportunities and income. More work must be done in the public and private sectors as well as in cooperation with unions to encourage men to share the burden and take full advantage of parental leave. With regard to pay inequity between men and women, she took note of the delegation's explanation that such inequalities were often the result of collective agreements. Although a code of practice on equal pay existed, it was not binding. She, therefore, wondered if there had been any review of that situation and whether any other measures were envisioned to ensure pay equity for women.

25. **Ms. Šimonović** said that, while she recognized that there might be some resistance to obtaining statistics based on race, ethnicity, etc., for historical reasons, such statistical measures were common and widely accepted. She therefore called for more sex-disaggregated data as well as data on national minorities, including the Sinti and Roma. Information would be appreciated on the incidence of early marriage and the drop-out rate among Sinti and Roma girl children in Germany. The Committee also wished to know whether the Government had undertaken measures to reduce drop-out and early marriage rates among those populations and provide programmes for girl children of those groups.

26. **Ms. Manalo** recalled that, in its concluding comments to the fourth periodic report of Germany, the Committee had called for comprehensive studies on the situation of women and girls and on assistance measures for women in the areas of education, training, employment, health and social protection. Such studies should also include both legal and illegal residents of the country. That information had not been provided and should be included in the next periodic report. In that context, she stressed the need to involve non-governmental organizations and all stakeholders in the preparation of reports.

27. **Ms. Gaspard** said that women were still underrepresented among university teachers and researchers, especially at the higher levels, where they were only 7.1 per cent of the total. That was especially troubling since such women could serve as models for girls and female students. The reporting State should provide more data on the representation of women at the university level, broken down by discipline, and

indicate whether it was considering any concrete measures, including temporary special measures, to remedy that situation.

28. She noted differences in levels of part-time work between women in eastern and western Germany. Although the delegation had suggested that many women preferred part-time work, it had been her experience with regard to other countries that women often preferred but could not find full-time work. She wondered if any further statistics were available on whether women were working part-time by choice or out of necessity. The Committee was also concerned by the effect on women's pensions of high levels of part-time work and interruptions in their working life, for example, for pregnancy or childcare. She asked, therefore, whether there was any mechanism for monitoring the situation of older women, many of whom seemed to be at risk of living in poverty.

29. **Ms. Riemann-Hanewinkel** (Germany), with regard to the issue of prostitution, said the Government did not intend to ban prostitution because such efforts had never succeeded. She stressed that women who worked as prostitutes did so by choice, were legally recognized as either self-employed or employed workers, had a professional association, had access to health care and counselling and were required to undergo regular medical examinations. An overwhelming majority of the population of Germany supported legalized prostitution. That situation was of course quite different from the international problem of trafficking in women who were forced into prostitution. Those women needed support and protection in order to escape their fate, and her Government, working also in cooperation with the international community, was doing everything possible to eliminate such practices.

30. **Ms. Augstein** (Germany) said that the Government had adopted measures to create a work environment for prostitutes which did not expose them to criminality and to give them medical coverage through the State health insurance system.

31. **Ms. Thielenhaus** (Germany) said that the results of the study on female immigrants had only recently been made available. A detailed report, conducted over a two-year period, had considered issues of daily concern to young women, such as family life, religion, self-esteem and support systems, as well as issues of relevance to older persons. An analysis of the results of the study would be submitted to the Committee in due

course. The Federal Labour Agency was keenly interested in the integration of female immigrants into the labour market, and their efforts were expected to lead to improvements in that area.

32. The surge in part-time employment was due largely to the fact that the general participation of women in the labour market had risen significantly over the past decade, and, in some cases, part-time work was regarded as a first step towards full employment. Official statistics had been compiled on the impact of part-time work. With regard to poverty, the situation had improved for older women, while the proportion of single-mother households in need of social assistance had actually increased. Special benefits included child allowance payments, tax breaks, priority placement in childcare facilities, and training in job centres. Lastly, the proportion of female professors at institutions of higher learning stood at 11.9 per cent and that of female junior professors had increased in 2002 to 32.4 per cent, as a result of a number of incentives for research. Several universities and research institutions were engaged in gender studies and further details would be provided in subsequent reports.

Articles 15 and 16

33. **Ms. Šimonović**, referring to the Act Reforming the Law of Parent and Child, asked why single parents did not have the freedom of choosing the surname of their children.

34. **Ms. Gnancadja** said she was surprised that the report gave no information on the implementation of article 15. Even if, as stated in previous reports, women and men continued to receive equal treatment in terms of legal capacity and choice of place of residence, States parties should provide a minimum amount of information on each article in subsequent reports. The Committee was interested in knowing how the provisions of article 15 were guaranteed with respect to women of foreign origin.

35. The delegation should explain how the provisions under article 16 related to domestic legislation. For example, articles 13 and 14 of the German Civil code stipulated that a marriage between two foreigners performed in Germany should be registered in their country of origin. She asked whether that provision was optional or mandatory, and what consequences there were when foreign laws contravened German

legislation. Lastly, regarding the concept of gender-specific persecution, the reporting State should indicate whether follow-up action had established a link between forced marriages and such instances of persecution.

36. **Ms. Belmihoub-Zerdani** asked whether German legislation on marriage provided for a general contract when a marriage was performed, and if so, whether it was a model contract, what the situation of the spouses was in the event of a divorce, and how property was divided between the partners. The reporting State should also explain how wealth was distributed between men and women in Germany, whether Germany had fulfilled its commitment undertaken at the Beijing Conference to provide resources for support to economic and social development, and whether such funds financed projects of benefit to women.

37. **Ms. Patten** commended the Government on the number of laws enacted since 1998 and on the work that it had carried out in the area of family law reform. She asked to what extent German women were aware of their rights and benefits accrued through those important reforms and whether the Ministry for Family Affairs had a comprehensive strategy for disseminating information and raising awareness of marriage and family rights, or a specific strategy targeting migrant women.

38. As regards the 1998 Legal Assistance Act, the Committee wished to know whether there were other laws on legal aid, what the criteria were for obtaining such aid, and whether it was widely available in the area of family law. The delegation should furnish data on the number of women, including migrants, who had obtained legal aid and indicate whether the Ministry for Family Affairs had addressed the rising incidence of violence linked to forced marriage. In conclusion, she asked to what extent the judiciary gave a liberal interpretation to claims seeking an extension of child support beyond the limitations imposed by statute.

39. **Ms. Gaspard** asked what steps had been taken to provide young women with information in order to help them avoid forced marriages.

40. **Ms. Augstein** (Germany) said that no information had been included in the current report on the implementation of article 15 of the Convention in an effort to avoid repetition, as there had been no new developments since the previous report. Of course, forced marriage was against the law, and any marriage

contracted under such conditions would be considered invalid. However, the girls involved in such situations would rarely take their cases to court. It was clear that more data was needed on the subject of forced marriage, although it had been included in the recent Government survey on violence against women. The results of the survey among immigrant communities had revealed that, while most young women accepted the cultural values taught to them by their parents, very few wanted to enter into an arranged marriage. On the other hand, few would be willing to seek counselling from government agencies for family conflicts. The federal Government was concentrating its efforts on education and training in that area for social service and youth workers. Some girls did run away from their families rather than accept arranged marriages, and thus needed support.

41. Marriages taking place in Germany between two foreign nationals were a matter of international private law for the most part. More information on the applicable law and on marital property distribution would be included in the next report. While a woman could decide not to request alimony for herself from her former husband, child support was mandatory; the Government would otherwise have to make up the deficit through some form of social assistance. The federal Government made women aware of their rights under the law through its Internet homepage, flyers, brochures and other forms of media. Information was available to migrant women in several languages on such subjects as educational opportunities, female genital mutilation and disability. All women were eligible for free legal assistance according to their income levels.

42. **Ms. Rogall-Grothe** (Germany), in reply to the questions on family names of children, said that if a child was legitimate, it received both family names. If a child was born out of wedlock, the parents must agree on the name or the courts would decide the matter. The child was usually given the name of the custodial parent; in situations of joint custody, both parents must agree on the name.

43. **Ms. Thielenhaus** (Germany) said that a report on income and distribution of wealth had been submitted to Parliament; a copy would be provided with the next report. Germany had not quite met the development assistance target set at the Beijing Conference, but it had incorporated gender mainstreaming into its assistance as a matter of course. The 2003 gender-

mainstreaming guidelines included special activities on empowerment of women. In its Millennium Proclamation, the federal Government had announced a contribution of €28 million for women in development activities in Africa.

44. **Ms. Morvai** said that, in her view, the new law on prostitution resulted in a specific form of emotional abuse of wives whose husbands were being encouraged to use prostitutes.

45. **Ms. Shin** requested a copy of the report to Parliament on the effect of the Act on prostitution.

46. **The Chairperson** said that Germany held a position of leadership in Europe and in the world, and therefore its policies were doubly important. She commended its advocacy of a dual-strategy equality policy at the European Union level, and urged it to advocate application of the Convention among member States and candidate countries. The gender dimension in its development cooperation policies was also to be commended.

47. A few concerns remained, however, about ongoing discrimination based on negative stereotypes of women, including in the media and the immigrant and minority communities. Freedom of the press and cultural differences were factors, but they could not be used as excuses. She urged the Government to take more forceful action to address that problem, especially in the media. The measures to protect migrant and minority women left much to be desired, and gender-disaggregated data on their access to education, health care and employment were needed for the next report. It was clear that Germany was very advanced in political and economic terms, yet puzzling gaps remained in attitudes and behaviours towards women. She urged the Government to continue evaluating the specific impact of such practices as part-time work on women. Finally, she expressed appreciation for the withdrawal of the reservation to article 7 (b) of the Convention regarding military service, and for the many objections to reservations which Germany had entered.

The meeting rose at 5.35 p.m.