



Convention on the Elimination of All Forms of Discrimination against Women

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Summary record of the 881st meeting

Held at the Palais des Nations, Geneva, on Monday, 2 February 2009, at 3 p.m.

Chairperson: Ms. Gabr

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The meeting was called to order at 3 p.m.

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

Sixth periodic report of Germany (continued)
(CEDAW/C/DEU/6, CEDAW/C/DEU/Q/6,
CEDAW/C/DEU/Q/6/Add.1)

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

Articles 7 to 9

2. **Ms. Popescu** commended the significant improvement in women's representation at the federal level. However, more information was needed on representation at the Länder and local levels. It was important to monitor quotas or other temporary special measures and raise awareness of them. She wondered whether the General Equal Treatment Act complied with the provisions of article 8 of the Convention and whether the sharing of good practices was encouraged.

3. She asked about measures to encourage cooperation with civil society for supporting women political candidates with funding or specialized training. It would also be interesting to know how many women ambassadors there were and whether women working in the Federal Foreign Office found part-time working to be an obstacle to promotion.

Articles 10 to 14

4. **Ms. Bailey** commended the action taken with regard to education and training. She asked whether the impact of the "Girls' Day" strategy had been evaluated, as a more sustained approach might be needed to address the entrenched stereotypical views of occupations which were established at a very early age. It was also important to address the structural barriers that reinforced horizontal segregation in training opportunities. Quotas for women university professors should be enforced.

5. According to the Special Rapporteur on the right to education, there was a discrepancy between Germany's immigration legislation and the right to education of refugees. Many refugee children and teenagers stayed away from school for fear of deportation, while the remote location of refugee centres was often an additional deterrent to attendance.

In relation to asylum-seeking children, refugee children and children without the proper papers, the Special Rapporteur had recommended, as a matter of urgency, that the legal framework for the protection and promotion of the human right of such children to education should be appraised. She asked whether action had been taken in that respect. Migrant populations were primarily located in socially disadvantaged areas and exclusion from education was a further disadvantage, especially for girls.

6. **Ms. Patten** was interested to hear how the Government's initiatives for tackling persistent horizontal and vertical segregation in the labour market differed from classic career guidance programmes which had too often ignored the entrenched stereotypes that affected girls' and boys' choices. It would also be useful to hear what measures had been taken to promote gender-sensitive career guidance and active cooperation between employment services and local equality agencies. She wondered whether career counsellors were trained to be gender sensitive and whether improvements were being made to career guidance materials. As the pay gap was closely linked to segregation, she also asked whether the Government was considering stronger action to encourage diversification of occupational choices by using temporary special measures in the form of quotas or other recruitment incentives, or scholarships for girls in non-traditional subjects.

7. The Government's initiative for a voluntary agreement with the private sector to promote equality had not had much success, as discrimination in recruitment, remuneration, promotion and horizontal mobility practices continued in the private sector. She asked whether the Government was considering an equality bill specifically for the private sector, with statutory quotas. It would also be interesting to hear whether quotas for the private sector had ever been proposed and if so, what the response had been.

8. The female employment rate had risen in recent years, but so had women's share of part-time work. While women often preferred to work part time for personal and family reasons, it was often due to limited opportunities or an unfair burden of family responsibilities. The introduction of a statutory minimum wage could perhaps bring more women into the social insurance system. It would be interesting to hear what measures were being taken to prevent the spread of part-time, low-paid employment. She asked

whether the Government was monitoring the access of women part-time workers, in both the public and private sectors, to effective job training, retraining, counselling and placement services, and also to services facilitating a re-entry into full-time employment.

9. **Mr. Bruun** said that a report by a non-governmental organization (NGO) had claimed that the General Equal Treatment Act did not correctly transpose the provisions of the relevant European Union directive. Employment termination, for example, was explicitly outside its scope of application. In another area, the equality provisions did not apply to landlords if fewer than 50 housing units were involved, leaving migrants in a vulnerable position. He was also interested to know how Germany was applying the recent European Union legislation which created an opportunity to link public procurement to employment policy and equality issues. Finally, he asked how the Government planned to address women's representation on works councils at the national and European levels.

10. **Ms. Murillo de la Vega** said that the high percentage of women in part-time work meant that Germany was not fully utilizing its human capital. It was important for the General Equal Treatment Act to be understood as an active employment policy. She asked whether all ministries had equality units and whether women's employment in the private sector could be monitored. She also wondered how sexual discrimination at work was addressed. Specific efforts were needed with unions and employers in relation to equality legislation, while the salary gap should be monitored, diagnosed and corrected. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth could perhaps establish oversight mechanisms, as had been done in other countries.

11. **Ms. Zou** Xiaoqiao said that the report did not provide information on migrant women, ethnic minorities and women asylum-seekers, and asked what specific measures were in place to ensure that women from those groups had access to health services without discrimination. The information should be included in the next report.

12. Despite the delegation's reference to the importance attached to health care for women victims of abuse, problems in that area had been reported. She asked whether legislation had been introduced to

ensure that women and girl victims of abuse had access to health care and psychological counselling.

13. She also asked for more information on abortion and on action taken in that respect, particularly in relation to ethnic groups. It would also be interesting to hear about medical treatment for women who were unable to have children, and whether such services were considered expensive.

14. **Ms. Halperin-Kaddari** commended the Government's many efforts to change gender stereotypes and perceptions of family roles. However, some measures might have unintentionally reinforced gender stereotypes by creating a disincentive for women to engage in full-time employment. In the tax system, spouses had the option of selecting different tax classes so that the higher income, usually the husband's, was taxed at a lower rate.

15. The planned introduction of a home childcare subsidy in 2013 could also act as a disincentive to women's employment outside the home. As for old age pensions, the retirement age was being gradually increased to 67 years, but less than 3 per cent of women met the 45-year contribution requirement for a full pension, compared to almost 30 per cent of men. Even when child-raising periods were included, less than 5 per cent of women qualified. She wondered whether the Government was considering adjustments to those schemes. Even welfare and unemployment subsidies treated women as dependents, by considering the family as a unit. The husband, as the beneficiary, was eligible for work re-entry programmes, while the wife had no such entitlement.

Articles 15 and 16

16. **Ms. Halperin-Kaddari** said that changes to the maintenance system meant that divorced women were only eligible for maintenance until their children reached the age of 3 years and were then obliged to enter the workforce. She asked whether the Government was working to provide sufficient coverage in terms of childcare facilities, especially full-day and flexible hour facilities for children aged over 3 or 4 years.

17. It would be useful to hear more about the contents of the draft bill on forced marriage. She wondered whether the requirement that persons entering Germany for the purposes of family reunion should have some knowledge of German was applied

to all applications for family reunification or just to people from certain countries. It would be interesting to know whether any credible data were available on forced marriage.

18. She wondered whether couples in registered partnerships had the same status as married couples in terms of the tax system, parent-child relationships and access to fertilization treatment, and whether couples in such partnerships, including same-sex unions, were able to adopt children. In relation to child custody, she asked if any data were available and whether the governing principle was the welfare of the child. She asked what action was being taken concerning cases of violent fathers who had been given visiting rights.

19. **Ms. Welskop-Deffaa** (Germany) said that part-time work was not a barrier to promotion in the civil service and that she herself had worked part-time for many years. As for women in politics, the large proportion of such women who had previously been active in civil society illustrated the important role of civil society associations in empowering women for political activities.

20. Studies to evaluate the impact of Girls' Day had pointed to the beneficial effects for the participating companies, as the girls' questions had made it clear what they expected from a future employer. In 2008, Girls' Day had been complemented by an agreement between Government and industry that would bring more women into mathematical, engineering, natural science and technological professions.

21. In response to a question about abortions, she said that the figures had gone down significantly — from 134,964 in 2001 to 119,710 in 2006. In fact, Germany was viewed as an example of international best practice for its success in reducing the number of teenage abortions. Preventive efforts had been made through the Federal Centre for Health Education, which had a programme targeting vulnerable groups, including young women and girls with an immigrant background.

22. In 2009, an amendment to the tax law would remedy the unfair treatment of spouses. In addition to the previous options for spouses, an additional option would offer the same tax advantages without leaving women in a weaker position. Statistics had been compiled on the gender pay gap since 2007.

23. **Ms. Augstein** (Germany) said that women accounted for an average of 33 per cent of members of the Länder parliaments, with the proportion of women varying from 22.2 per cent to 45 per cent. Figures were lower at the local level but a campaign was under way to encourage women's participation. At present, just 5 per cent of ambassadors were women but the equality plan of the Federal Foreign Office would bring change.

24. No decision had yet been reached as to whether Germany had implemented the European Union directive on equality in an appropriate manner. Germany had not been called before the European Court of Justice in that connection.

25. Labour termination was not covered by the General Equal Treatment Act because anti-discrimination provisions had been included in many other acts. The Termination Protection Act provided sufficient protection against discriminatory termination, except in the case of a small company, in which case general civil provisions would apply. As for unequal treatment of migrants in relation to housing rentals, the limit of 50 housing units did not apply to a case of racial or ethnic discrimination.

26. According to a statutory provision, works councils were obliged to observe gender parity among their members, although in practice they did not always do so. Anti-discrimination bodies existed at the Länder level and would probably be established later at the local level. There were equality commissioners at all levels of administration — federal, state and municipal.

27. Victims of abuse did have access to health care and services, but they did not always tell medical practitioners of the cause of their health problems. A large-scale project was under way to raise the awareness of doctors and help them to recognize violence and cooperate with support centres.

28. Problems had arisen with regard to the visiting rights of violent fathers when the family court dealing with visiting rights was unaware of a sentence imposed on the father by a different court. The issue would be addressed through civil law by ensuring that family courts were always informed of such sentences.

29. **Mr. Tetzlaff** (Germany) said that education for migrant children who had residence permits was the responsibility of the Länder, although the Federal Government cooperated closely with them. The National Integration Plan focused on education and

training as key factors for the social integration of migrants. It also specified that the Länder had to bring the educational level of young people with a migrant background to the average level of all pupils, although that objective had not yet been achieved. Language training was offered both in and outside schools and integration was a cross-cutting policy issue. In 2008, 750 million euros had been allocated for integration measures, including a substantial amount for special measures for women. Migrants without a residence permit were not covered by the integration measures because they were assumed to be in Germany on a temporary basis. However, the children of all migrants had the right to attend school.

30. Since August 2008, one of the requirements imposed on foreign spouses applying for a visa from abroad had been to pass a German language test. The actual level of knowledge required was minimal: 650 words, including 300 used actively. There were also exemptions, including for sick persons and persons with disabilities. The purpose of the language test was twofold: to promote integration into German society and to act as an impediment to forced marriage. Women with at least a basic language knowledge were more independent and less likely to be victims of forced marriage. An arriving spouse also had to be at least 18 years old. A preliminary analysis had shown that the number of visa applications from spouses abroad had declined in the first quarter following introduction of the new regulation but had subsequently increased again.

31. **Ms. Kaiser** (Germany) said that labour market policy had previously been geared to supporting the unemployed but one of its current goals was to overcome gender segregation in training and the labour market. Much of the vocational information offered to young people had been revised to offer a wider spectrum of occupational choices for both boys and girls. Vocational counselling was now being provided earlier in the school year, funded by the Länder.

32. In 2001, part-time employment had expanded substantially when a legal entitlement to it had been introduced and the employment rate for women had risen from 55 to 65 per cent. The number of men working part time had also doubled, with parental allowances and changed gender perceptions contributing to that trend. Some workers used part-time work to reconcile their family duties and employment.

33. Although the 2005 reform of the basic support for job seekers had strengthened women's financial dependence, a change of policy meant that non-beneficiaries could now also receive assistance under many of the labour market measures. A three-year study to consider the consequences and impact of the programme would be completed in 2009.

34. It was true that many more men than women met the requirements for receipt of a full pension, but the system was based on contributions and had to include incentives to work. Allowance was made for periods spent taking care of young children. The requirements for a full pension were met by 33 per cent of men and only 11 per cent of women who retired in 2004, but the percentages would change over time, as would occupational choices.

35. There was no federal minimum wage in Germany, but draft legislation was being considered that would allow some collective agreements to be applied to an entire sector. Many of the sectors affected were male dominated but others, including care provision, had many women workers.

36. **Ms. Falconere** (Germany) said that the main aims of family policy were to lift children out of poverty, improve education, increase the birth rate, promote the equality of men and women, and contribute to the reconciliation of employment and family life, thereby enabling more women to work. In addition to financial benefits, family policy provided for a whole range of measures that included the expansion of childcare facilities and associated infrastructure. The child-raising benefit was a controversial idea in Germany, as in Scandinavian countries it had led to many children being taken care of at home rather than in childcare facilities. However, the issue would be reviewed again in 2013. The labour market integration of single parents in Germany was an important aspect of family policy, as about 1.6 million single parents had at least one child under 18 years of age.

37. The Government did not agree that the maintenance law reform placed women in a disadvantaged position. The reform had focused on the well-being of children and a parent raising a child under the age of 3 years, regardless of marital status, was not obliged to work.

38. Couples in registered partnerships were mostly treated in the same way as married couples in terms of

family, inheritance and almost all other legislation. Maintenance provisions, social security and provisions for foreign nationals were the same in both cases. There were some tax differences, but in general the treatment of civil partnerships compared favourably to that of other countries. In the case of a civil partnership, only one partner could adopt a child, as the European adoption agreement of 1976 specified that only married couples could adopt a child as a couple. No time frame had yet been set for the adoption of a planned amendment which would enable individual Länder to decide whether both civil partners could be adoptive parents. The Committee would be informed of any change. The Ministry of Justice was surveying the living situation of children in same-sex partnerships, in order to prepare for a debate on possible joint adoption by civil partnerships. The results were not yet available.

39. **Mr. Berger** (Germany) said that the pension system now recognized periods of time spent caring for children under the age of 3 years in its consideration of pension entitlements, which was a significant contribution to women's pensions. The child supplement had also improved the situation of children and had helped women to be more financially independent.

Follow-up questions

40. **Ms. Ameline** said that political and institutional arrangements were key areas for making progress in the evolution of gender equality policies and that the federal structure should be an advantage in implementation. She asked if the current debate on gender equality in Germany was taking place in the press, in political parties or in Government bodies. She also wondered whether Germany was applying the concept of equality to all social and economic issues in the context of its economic recovery plan. It would be helpful to know whether the vulnerable situation of single-parent families was being taken into account.

41. **Ms. Pimentel** drew attention to a new publication entitled "15 Years of the United Nations Special Rapporteur on Violence against Women, its Causes and Consequences", which referred to violence against women on the grounds of sexual identity. Perhaps that report could inspire the German Government to improve its current laws and policies on all forms of violence against women, in view of existing stereotypes about diverse sexuality and gender identity.

42. **Ms. Jaising** asked whether the Convention applied automatically in domestic law or whether specific legislation was needed to implement it. She also wondered whether the guarantee of equality applied to non-State actors and whether any cases had been brought before the European Court of Justice on the grounds that the guarantee of equality did not seem to apply to the private sector.

43. Alternative reports had suggested that the huge gender gap in wages was partly due to the fact that collective bargaining agreements between employers and employees did not take gender equality into account. It would be interesting to receive information on gender representation in leadership positions in trade unions and women's participation in the negotiating process through which such agreements were signed.

44. **Mr. Bruun** said that dismissal on discriminatory grounds was one of the most common forms of discrimination against women in the labour market. It remained unclear whether there was an explicit prohibition against sex discrimination in the Termination Protection Act.

45. **Mr. Flinterman** said that the establishment of the Federal Anti-Discrimination Agency had been an important step forward. He asked how well known the agency was, whether it was durable and effective and what resources were available to it.

46. **Ms. Neubauer** said that as the earlier inter-ministerial structure had ceased to exist in 2004, she wondered whether a new mechanism would be established to coordinate the efforts of the federal ministries. There seemed to be insufficient cooperation between the ministries, as no information had been provided by the Ministry of Justice.

47. According to the Federal Equality Act, each ministry was obliged to adopt an equality action plan every four years. She wondered whether all ministries had adopted such plans, what would happen if a ministry did not do so and to whom they reported on their achievements and on obstacles encountered in implementation. She asked for information on the action plans and whether they were general in nature or had more specific goals. It would also be useful to receive information on any efforts made to implement gender budgeting.

48. **Ms. Halperin-Kaddari**, returning to the subject of maintenance provisions, noted that although they took into account future earning capacity and human capital, they did not take into account significant differences between spouses with respect to earning potential or human capital. The first communication considered under the Optional Protocol to the Convention had been submitted by a German national and had involved a claim related to that issue. As the new law on maintenance limited the possibility of post-divorce maintenance, it had moved even further away from equalizing the cost of marriage between the two spouses. She asked whether additional measures were planned in that area.

49. **Ms. Pospescu** asked how many ambassadors were working in the foreign service, how many women were in senior positions in the Länder governments and in the private sector and how many women in such positions were from a migrant background. If the information was not immediately available, it should be included in the next report, disaggregated by gender at the national, Länder and local levels.

50. **Ms. Belmihoub-Zerdani** wished to know why the Convention could not be directly invoked in the domestic system, when Germany had ratified the Convention with no reservation. Although the Länder had their own legislation, they were still subject to the authority of federal law and therefore international law.

51. **Ms. Welskop-Deffaa** (Germany) said that Germany was in the process of analysing its previous experiences, and was looking at Austrian and Scandinavian examples for guidance in devising an action plan that combined various measures of equality policy in an objective perspective. Work would begin in 2010, if there was sufficient political support after the federal elections in autumn 2009.

52. Germany was not planning a comprehensive equality act for the private sector but was considering various specific changes to legislation and an expansion of the German corporate governance code to include gender equality as a benchmark for good governance. The reporting obligations of companies were set out in the Commercial Code.

53. In the current financial crisis, it was very important to ensure that single-parent families did not suffer a greater risk of poverty. Equal pay was an important factor and collective agreements were very important. The Federal Ministry for Family Affairs,

Senior Citizens, Women and Youth had issued a brochure on pay equality to help collective bargaining parties to take that factor into account in all their negotiations. The preparation of job evaluations on a more analytical basis had produced some successes. It was true that not many women were involved in the bargaining process.

54. The inter-ministerial structure that had existed until 2004 had served to introduce the concept of gender mainstreaming. At present the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth worked with the Equality Commissioners who evaluated and appraised the equality reports that were produced every four years. The second outcome report would be prepared in 2010.

55. With regard to gender budgeting, a clear agreement had been reached regarding the importance of measuring equality impacts, rather than merely comparing facts. The Federal Ministry of Finance was working to modernize the budget and make it goal-oriented.

56. There was already an awareness that maintenance law, labour law and other social laws, including the sharing of pension rights in the case of divorce, had to be harmonized. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth was working in close cooperation with the Federal Ministry of Labour and the Federal Ministry of Justice on that issue.

57. With regard to women in managerial positions in the Länder, she said that an equality atlas of Germany was being prepared and would provide such data. The first issue was expected to appear in March 2009.

58. **Ms. Augstein** (Germany) said that the Convention had been directly applicable in Germany since its ratification. However, some of its provisions were judicial and others were programmatic in nature, while yet others gave political mandates to Governments. It might therefore require a legal seminar to determine which provisions could be invoked directly by women and which would need a different approach.

59. Article 3 of the Basic Law prohibited discrimination, but it was the General Equal Treatment Act that contained provisions for women to make legal claims against private sector companies if they felt that they had been victims of discrimination. Most

collective bargaining parties would say that their agreements were not discriminatory, but indirect discrimination did persist and was difficult to identify and address. Some of the factors considered in the job evaluation process were oriented more to typical male occupations, which then received higher evaluations than women's jobs.

60. The Federal Anti-Discrimination Agency was still relatively new and in the process of becoming better known. It had received about 4,000 inquiries in connection with the General Equal Treatment Act. Many individuals had received counselling, mostly on issues related to disability, gender and age. There had been few complaints of discrimination on the grounds of beliefs, religion or sexual identity. The Agency had 23 employees and its 2009 budget would be 3 million euros, compared to 2.8 million euros in 2008. An evaluation currently taking place would indicate whether the current level of resources was appropriate.

61. There were no problems with inter-ministerial cooperation: the Ministry of Justice had already been contacted on the issue of crimes committed by women and had sent some information. Several studies had been conducted in that area. The Centre for Criminology had organized a conference in December 2008 on women criminals and the conference report would soon be issued.

62. The human rights provisions of the Basic Law were virtually identical to those in international law. If any discrepancy was found, national legislation had to be interpreted in a way that complied with international instruments, including the Convention. If the international provisions were more extensive, the national law would be interpreted accordingly.

63. **Ms. Welskop-Deffaa** (Germany) thanked the Committee for its interesting and challenging questions. Her delegation would continue its work to ensure full implementation of the Convention in Germany.

64. **The Chairperson** thanked the delegation of Germany for its participation in the constructive dialogue and for its excellent and timely report. The Committee looked forward to receiving information in the future on the number of women in senior positions and the results of the studies on forced marriage, transsexuals and stereotypes. Greater attention should be given to migrant women, to ensure that they received equal and non-discriminatory treatment.

NGOs and civil society organizations had contributed very useful reports and she hoped that the State party would continue its communication with those bodies in the future.

The meeting rose at 5.05 p.m.