



CEDAW Alternative Report

With reference to the combined Seventh and
Eighth Periodic Report from the Federal Republic of
Germany on the Convention on the Elimination of
All Forms of Discrimination against Women
(CEDAW)

Drafted and compiled by the
**CEDAW Alliance of civil society
organizations in Germany**

Imprint

Members of the CEDAW Alliance:

agisra e. V. (Information and Counseling Center for Female Migrants and Refugees); Aktionsbündnis muslimischer Frauen in Deutschland e. V. (Action Alliance of Muslim Women in Germany); Arbeitsgemeinschaft Sozialdemokratischer Frauen – ASF (Working Group on Social Democratic Women); AWO Bundesverband e. V. (Federal Association on Workers' Welfare); BAG – Bundesarbeitsgemeinschaft kommunaler Frauenbüros und Gleichstellungsbeauftragter (National Association of Municipal Women's Offices and Equal Opportunities Officers); Brot für die Welt (Bread for the World - Protestant Development Service); KOK – Bundesweiter Koordinierungskreis gegen Menschenhandel e. V. (German NGO Network against Trafficking in Human Beings); bff – Bundesverband Frauenberatungsstellen und Frauennotrufe/Frauen gegen Gewalt e. V. (Federal Association of Women's Counselling Centres and Women's Emergency Hotline/Women against Violence); Bundesverband TRANS* e. V. i. Gr. (Federal TRANS* Association); DaMigra e. V. – Dachverband der Migrantinnenorganisationen (umbrella organization of migrant organizations); Demokratischer Frauenbund e. V. (dfb – Democratic Women's League); Deutscher Frauenrat e. V. (DF – National Council of German Women's Organizations); Deutscher Frauenring e. V. (German Women's Circle); Deutscher Gewerkschaftsbund (DGB – German Trade Union Confederation); Deutscher Juristinnenbund e. V. (djbb – German Women Lawyers Association); Evangelisches Werk für Diakonie und Entwicklung e. V. (Social Welfare Organization of Germany's Protestant Churches); Feministisches Institut Hamburg (Hamburg Feminist Institute); FIAN Deutschland e. V. (FIAN Germany); Frauenbrücke Ost-West e. V. (Women's Bridge East-West Association); Frauenhauskoordinierung e. V. (Association of Women's Shelters); Frauenpolitischer Runder Tisch Magdeburg (Roundtable on Women's Policy in Magdeburg); Fußball und Begegnung e. V./DISCOVER FOOTBALL; Gender Mainstreaming Experts International (GMEI); Initiative für einen geschlechtergerechten Haushalt in Berlin (GBI – Initiative for a gender-equitable budget in Berlin); Intersexuelle Menschen e. V. – Bundesverband (Federal Association of Intersex People); JUMEN – Juristische Menschenrechtsarbeit in Deutschland e. V. (JUMEN – Legal Human Rights Work in Germany); Lesben- und Schwulenverband in Deutschland (LSVD) – Bundesverband (The Lesbian and Gay Federation in Germany); Marie-Schlei-Verein e. V.; Mother Hood e. V.; Paritätischer Wohlfahrtsverband – Gesamtverband e. V. (The Paritätische is an association of social movements); pro familia Landesverband Berlin e. V. (pro familia Berlin); Soroptimist International Berlin-Mitte/Landesfrauenrat Berlin e. V. (Soroptimist International Berlin Mitte/Women's Council of the Land Berlin); Sozialverband Deutschland e. V. (SoVD – Social Association of Germany); Union deutscher Zonta Clubs (Union of German Zonta Clubs); UN Women – Nationales Komitee Deutschland (UN Women – National Committee in Germany); ver.di – Bereich Genderpolitik (United Services Union – section: gender policy); Verein der in der DDR geschiedenen Frauen e. V. (association of women divorced under the GDR regime); Weibernetz e. V. – Bundesnetzwerk von FrauenLesben und Mädchen mit Beeinträchtigung (Weibernetz, German Network of WomenLesbians and Girls with Disabilities); Zentrale Informationsstelle Autonomer Frauenhäuser (ZIF – Central Information Centre of Autonomous Women's Refuges).

Composition of the editorial group from specialist representative groups of the Alliance:

General gender, women and equality policy:

Susanne Kahl-Passoth (DF – National Council of German Women's Organizations)

Fundamental and human rights policy:

Dr. Katja Rodi (djbb – German Women Lawyers Association)

Labour market and social policy:

Dr. Simone Real (SoVD – Social Association of Germany)

Anti-violence policy:

Stefanie Föhring and Eva Risse (ZIF – central information centre of autonomous women's refuges)

Migration and refugee policy:

Saboura Naqshband (DaMigra – umbrella organization of migrant organizations)

LGBTIQ representative:

Henny Engels (LSVD – The Lesbian and Gay Federation in Germany)

Coordination of the process as well as compilation and co-editing of the report:

Dr. Birte Rodenberg, commissioned by Deutscher Frauenrat (National Council of German Women's Organizations)

English translation: Romy Bartsch (entire report except for chap. 1 & 7: Marlene Schoofs)

German proofreading: Karin Nungeßer

Layout: Poli Quintana – www.interlinea.de

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Severability clause

“The explanations and demands in this report are made by the NGOs supporting this report according to their respective fields of action and purposes. The participating NGOs have the same intention of a joint report from a civil society perspective. However, not all the participating NGOs agree fully with every judgement and recommendation made in it.”

(Pt. 11, statute of the CEDAW Alliance)

List of abbreviations

ADS	Federal Anti-Discrimination Agency
AGG	General Act on Equal Treatment
AsylG	Asylum Act
AufenthG	Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory – Residence Act
BAföG	Federal Training Assistance Act
BAMF	Federal Office for Migration and Refugees
BMFSFJ	Federal Ministry of Family Affairs, Senior Citizens, Women and Youth
BMZ	Federal Ministry of Economic Cooperation and Development
BGleiG	Federal Act on Gender Equality
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
FamFG	Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction
FGC/FGM	female genital cutting/mutilation
GG	Grundgesetz (Basic Law)
GGO	Joint Rules of Procedure of the Federal Ministries
ICESCR	International Covenant on Economic, Social and Cultural Rights
LGBTIQ	Lesbians, Gays, Bi, Trans, Inter, Queer
MDGs	Millennium Development Goals
NGO	Non-governmental organization
ProstSchG	Protection Act for Sex Workers
SDGs	Sustainable Development Goals
SGB	Social Code
StGB	Criminal Code
TSG	Transsexual Act
UN	United Nations

Explanation on the writing in the German report

The CEDAW Alliance used the so-called asterisk (*) for gender-related terms and the identification of groups of persons. This is to show intersectional aspects of multiple discrimination regarding origin, sex, gender identity, sexual orientation, physical or mental impairment and social disadvantage.¹

This form is used if the people referred to are not exclusively cis female, i.e. their biological female sex and the social gender identity coincide, but rather can also refer to inter or trans people, as well as cis-men. The *form in the German symbolically refers to diverse gender positionings.²

Preface

At the initiative of the National Council of German Women's Organizations, a group of civil society organizations formed the CEDAW Alliance in November 2015. The 38 Alliance members unite their commitment to women and gender equality policy with their commitment to human rights. The common objective is the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in Germany. In a process that took more than a year, they formulated all their political demands to present to the CEDAW Committee their alternative view of the situation in Germany and to lend weight to these demands to be made of the Federal Government.

The text of the report emerged during lively discussions in the working groups, the results of which can be seen in the chapters Introduction, Education and Role Stereotypes, Professional Life, Participation and gender budgeting, Violence against women, Health and International issues. This report follows the same structure.

An editorial group made up of elected representatives of the Alliance was, in consultation with the working groups and their spokespersons, responsible for amalgamating these texts into a joint report. Both the working groups and the editorial group put great emphasis on taking into account cross-sectional issues which are key for a social and gender-equitable society: Age, poverty, bodyism, women with disabilities, LGBTIQ, migration and flight, differences between East and West Germany, racism and social origin were of particular importance for the entire work and discussion process.

The cooperation was based on a statute jointly agreed on where members of the Alliance all had the same voting rights. The use of a severability clause ensures that the participating organizations can support the content within the boundaries of their respective mandates and in cases where they don't share the view of the report they can highlight this specifically.

The process of writing the alternative report was supported by a solidarity contribution from all Alliance members. The National Council of German Women's Organizations would like to thank Diakonie Deutschland (social welfare organisation of Germany's Protestant churches), the Deutsche Gewerkschaftsbund (German Trade Union Confederation) and the Paritätische Gesamtverband (an association of social movements) for their early financial support which enabled the coordination of the process in the first place. Thanks are also due to Dr. Birte Rodenberg for the reliable coordination of the content.

The National Council of German Women's Organizations would like to thank all those involved in the drafting of the report for their result-oriented and reliable cooperation as well as for the great commitment shown by both full-time staff and volunteers.

Dr. Anja Nordmann

Office of the National Council of German Women's Organizations

Coordination office of the alternative report process of the CEDAW Alliance

Berlin, November 2016

Summary

Chapter 1: Introduction

Recommendations 11-20, 22, 25, 26 und 66 of 10 February 2009 by the CEDAW Committee:

The CEDAW Alliance concludes that the Federal Government has not pursued a consistent and targeted policy of gender equality during the reporting period. The legal bases, including the creation of the Federal Anti-Discrimination Agency (ADS), are limited in their scope and do not provide comprehensive protection against discrimination. The adoption of temporary special measures aimed at accelerating the implementation of equality between women and men according to art. 4 is regarded as a matter of discretion.

The Federal Government has not taken any measures to raise awareness of the CEDAW agreement. The creation of the periodic report submitted was treated as a purely administrative task. There was no consultation either with the deputies of the German Bundestag (parliament) or with NGOs in its preparation.

Essential demands of the Concluding Observations of the Committee have only been insufficiently covered in the Federal Government's report. Significant discrimination areas and intersectional topics, such as the increased feminization of poverty, the still existing difference between the eastern and the western parts of Germany, and the spread of racism are either not addressed or only mentioned in a cursory manner.

The CEDAW Alliance calls for

- Bundestag debate on the periodic reports before finalization, NGO consultation in generating the reports, and a CEDAW National Action Plan (with de facto Laender inclusion) to guide implementation between periodic reports.
- specific evaluation of racism and discrimination against women in order to show the associated obstacles to integration and inclusion, and efficient measures against inequality.
- the ADS to have additional authority to launch investigations and impose sanctions, and especially the right to take legal action, and to be equipped with more financial and human resources.
- a federal programme to establish and sustain independent anti-discrimination offices in and throughout all the Laender.

Chapter 2: Education and role stereotypes

Recommendations 27 and 28: Stereotype – CEDAW art. 5, 10 (c)

In Germany, role stereotypes remain unchanged. Prevailing ideas are shaped by sexual dualism and interwoven with other categories of social difference. Media also significantly contributes to the **continuity of traditional gender stereotypes**. The state rarely does anything about combating these ideas in a proactive and sustainable manner. Instead it continues to pursue a policy of disincentives.

The CEDAW Alliance calls for

- policies and legislation to be examined constantly for the disincentives resulting therefrom. And it needs to be checked if they are actually contributing to a consolidation of gender stereotypes.
- State policy needs to continuously examine the media published and promoted by it for consolidated gender stereotypes and counteract them.

The protection against **gender-discriminatory advertisement** is not sufficient in Germany.

The CEDAW Alliance calls for

- an express legal ban on gender-discriminatory advertisement
- a mandatory pre-examination of advertisement activities by the German Advertising Standards Council or another inspection authority.
- the provision of the inspection authority with sufficient sanction and enforcement powers.

Sexism, homo- and transphobia and racism are very common in **sport** making equal participation in social life via sport difficult if not impossible for those affected.

The CEDAW Alliance calls for

- the promotion of diversity competence in sport pedagogy training and further training.

Recommendations 33 and 34: Education – CEDAW art. 10

The **educational system** reproduces social inequalities and is still very much characterized by gender stereotypes. Gender non-conforming and/or LGBTIQ adolescents often experience discrimination. The situation of female refugees in the area of education is inadequate.

The CEDAW Alliance calls for

- , on a nation-wide basis, compulsory and financially secured educational concepts for a gender and prejudice aware pedagogy in order to reduce stereotypes and promote concepts of gender diversity (including training and further training for actors, relevant materials, curricula which promote acceptance and anti-discrimination).
- the guarantee of a non-discriminatory pedagogy of diversity in teacher training and other pedagogical training courses.
- through specialized classes, the mandatory integration of women's and gender studies into vocational training courses in the areas of social studies and education as well as social-pedagogical and teacher training courses at third level. LGBTIQ (of colour) should be addressed as a matter of course and in an unexcited manner during teacher training courses at third level;
- increased incentives to counteract gendering of professional fields.
- the provision of a sufficient and nationwide offer of gender-sensitive integration and language courses for all refugees. These should also be promoting acceptance and gender equality.

Chapter 3: Working life

Recommendations 29 and 30: Reconciliation of family and working life

The promotion of the **equal distribution** of work and family tasks within partnerships is important to the Federal Government. However, the measures mentioned by the Federal Government in its report are insufficient.

The CEDAW Alliance calls for

- the provision of options for a life-phase-oriented working hours concept which are safeguarded legally and by collective bargaining agreements, e.g. an act on flexible working hours with regulated participatory and co-decision procedures, ensuring both the implementation of collective bargaining and in-house working hours concepts, and the establishment of the individual rights of employees to flexible working hours.
- elimination of the tax category combination III/IV and income taxation splitting, and introducing instead individual taxation and checking the non-contributory co-insurance of spouses in statutory health insurance schemes for disincentives.
- repeal of the deduction of the parental leave benefit from basic social security benefits for job seekers.
- financially safeguarding all care activities and adequate consideration of these activities when it comes to retirement provisions.
- staffing ratios for day-care centres in Germany to be adapted to child-oriented and educationally meaningful educator-child ratios. Good and reliable care for children after school enrolment should be ensured, mainly by having more compulsory all-day schools whose all-day care offers have to have a conceptual connection with the curriculum.

Recommendations 35 and 36: Discrimination in professional life

The Federal Government declares that it regards the **interpretation of the General Act on Equal Treatment (AGG)** as conforming to European legislation. However, counter to this claim, the AGG still does not cover all areas of professional life. It lacks a realistically measured limit to the period for bringing an action, easily accessible anti-discrimination counselling on a nationwide basis, as well as provision for the sensitization of legal practitioners.

The CEDAW Alliance calls for

- the deletion without substitution of the permissible difference in treatment due to religion or belief (AGG art. 9) (see annotation No. 19 by Social Welfare Organization of Germany's Protestant Churches on page 37 in this report).
- the resolute combating of discrimination against trans people, including those who have undergone reassignment procedures according to the Transsexual Act (TSG).
- the elimination of the existing protection gaps in the AGG and the urgent introduction of group action.

Recommendations 37 and 38: Equal participation of women in the labour market

The Federal Government states as a central goal of their policy "the de facto equality of men and women in professional life." However, the **equality policy action** of the Federal Government lacks a stringent concept.

The CEDAW Alliance calls for

- equality policy action to be strictly oriented towards everyone securing their own livelihood and to the guiding principle of the earner-carer model.

- the adoption of an effective equal treatment act for private industry, as well as the consistent implementation of the existing equal treatment acts for public service and the continued legal development thereof.
- strengthening the statutory pension to such an extent that it ensures livelihood and living standards of the individual, and that the current pension level remains the minimum.
- ensuring through changes in the law that part of the statutory, company or partially state-funded pension is not deducted from basic social security benefits for job seekers so that statutory pension and additional provision are worthwhile.

Recommendations 39 and 40: Equal pay

At the moment, gross hourly earnings of women and men show a **gap of 21 %**.

The CEDAW Alliance calls for

- the creation of a law for more fairness of wages between women and men which makes it mandatory for all employers to check their pay practices and make them more gender-equitable by applying suitable qualitative test examinations to overcome pay discrimination at company level. It needs to go beyond the planned scope of application (for companies with more than 500 employees) so that as many women as possible can benefit from it.

Recommendations 55 and 56: Economic consequences of divorces and separations

The Federal Government assumes that a “gender-neutral” spouse maintenance law satisfies today’s gender roles of men and women in modern society in a divorce case. This point of departure cannot be agreed to as long as courses of life and employment patterns of men and women are characterized by stereotypical familial division of labour and **discrimination of women in the labour market**. Unfortunately, the Federal Government did not follow recommendation 56 from the CEDAW Committee from 2009 which called upon the government to investigate the economic consequences of a divorce on both spouses.

The CEDAW Alliance calls for

- the undertaking and publishing of an investigation as mentioned in that CEDAW recommendation, taking a look at the economic consequences of divorces, in particular for single parents, both intersectionally and in detail.
- counteracting the disadvantages for those affected with temporary special measures so that equality for divorced women and especially single mothers can be achieved. This particularly applies in the case of female migrants.

Chapter 4: Participation and gender budgeting

Recommendation 23 and 24: Gender mainstreaming and gender budgeting

The Federal Government hardly meets its obligations stemming from the principle of gender mainstreaming, nor has it presented an **implementation plan** or concrete implementation steps.

The CEDAW Alliance calls for

- a guarantee that impact assessments of legislation and actions be conducted across all departments, that targets and indicators be established by them and that data collection and evaluation include gender-differentiated target groups.
- the establishment of an independent Gender Institute, with experts and citizens participating in their work.
- the implementation of gender mainstreaming at the Office of the Federal Chancellor.

An implementation of gender budgeting is possible in a cameralistic budget system.

The CEDAW Alliance calls for

- the immediate introduction of gender budgeting for revenues and expenses at national level, and its establishment in the Budgetary Principles Act and in financial regulations.
- the stipulation of binding targets, measurable indicators and time limits in all areas of revenues and expenses of the budget. The implementation thereof needs to be verified throughout the budgetary cycle.
- the examination of the impact of levies and taxes as well as expenses on equality. In the case of discrimination and defective impact they should be adjusted accordingly.

Recommendation 31 and 32: Participation

Germany still shows serious shortcomings when it comes to participation and gender parity. The **Federal Act on Gender Equality** (BGleIG) remains ineffective. Temporary specific promotion measures (art. 4.1) are not being implemented.

The CEDAW Alliance calls for

- all measures affecting participation to be accompanied by transparent, effective governance, in particular systematic gender-sensitive impact assessments of legislation and resources, as well as impact analysis.

Participation of women in the **public service sector** is poor.

The CEDAW Alliance calls for

- binding provisions for both the creation of gender equality plans, as well as implementation processes and controlling which take into account multiple discrimination. Said gender equality plans should also be published.
- the establishment of a central supervisory and control agency for gender equality plans under the responsibility of the Federal Government and the Laender.

- the strengthening of the control functions of equal opportunities officers, as well as their participation in all personnel measures.
- all personnel instruments and career regulations to be examined for discriminatory effects on women (CEDAW art. 3).

Participation of women in the **health care system**:

Even though the share of female medical graduates has been higher than that of male graduates since 1998, this has still not lead to an increased number of women at executive and board level.

The CEDAW Alliance calls for

- data to be gathered on employment in the health care system, including qualification levels and positions. This should be done in an essentially gender-differentiated way, while also taking into account racial discrimination, and should be analysed for development trends.
- a status report to be drawn up every two years in the context of the Federal Health Reporting of the Robert Koch Institute as regards the share of women in executive positions in health research and health care and at board level in the health care system, as well as an account of what their specific roles are (see chap. 6, health).
- every effort to be made towards the consistent implementation of the gender equality acts applicable to the public law area at both federal and Laender level.

There is no equal participation of girls and women in **sport**.

The CEDAW Alliance calls for

- the use of sport funding as a steering tool to increase participation of girls and women, as well as integrate women of colour and groups which have not explicitly and sufficiently been taken into account, such as women with disabilities, LGBTIQ, women with a migration and refuge history, and poor women.
- support programmes in sport at both grassroots and elite levels to be evaluated for their impact on gender equality, and gender-differentiated data to be gathered for all sport funding fields.
- a binding quota for executive positions in athletic unions and clubs to be agreed on with organized sport.
- the promotion of sport to be oriented towards increasing both the gender and diversity competence of trainers and referees, as well as the overall share of women in these roles.
- the promotion of gender-fair sports coverage via specific incentive systems.

The *leaky pipeline*, i.e. the decreasing share of women in **science** at higher career levels is more pronounced in Germany than in other European countries.

The CEDAW Alliance calls for

- targets for gender equality and their sustainable financial support to be included as an integral part of all Federal Government-Laender-programmes.
- ensuring that non-university research organizations promoted by the Federal Government apply the standard content of the BGleIG.

- the under-representation of women to be reduced by equality-oriented awarding of professorships in all subjects, especially in humanities and social sciences.
- the targeted reduction of the gender pay gap, especially when it comes to performance bonuses.

The equal participation of women in all **political offices** can only be achieved through legally binding targets.

The CEDAW Alliance calls for

- the introduction of a parity electoral law for the Federal Government, Laender and municipalities (taking France as an example).
- the participation of all girls and women to be promoted by temporary special measures.

Female migrants need equal participation in societal, economic, social, cultural and political life in Germany.

The CEDAW Alliance calls for

- the different life situations of female migrants and women of colour to be considered in an overarching systematic manner, and effective measures to be taken for their successful participation.
- the sensitization of the responsible authorities to the legal recognition of women and gender-specific reasons for flight and putting this into practice.
- the needs of women, as well as of LGBTIQ and women with disabilities to be taken into account in the reception camps for refugees. To that end, concepts and standards are to be developed and evaluated.

Trans, intersexual women and gender-queer people are faced with special barriers to participation.

The CEDAW Alliance calls for

- intersex to be recognized and introduced as a sex category in vital records.
- inter persons to be registered statistically with an account of how many were forced into a gender and what their economic and health situation looks like.
- the guaranteed covering of costs for special needs during the transition for recipients of Arbeitslosengeld II (unemployment benefit paid by the job centre after the first 12-18 months of unemployment).

In large areas of their lives women with disabilities are denied equal participation in society. In addition, they lack the support for the realization of their parenthood.

The CEDAW Alliance calls for

- the cabinet draft of the Federal Participation Act from June 28, 2016 to be converted into a comprehensive human rights act for people with disabilities.
- the legal entitlement of mothers and fathers with disabilities to support in the care of their children (assistance for parents and accompanied parenthood) to be included as part of services for participation in the community.
- the consideration of both gender mainstreaming and disability mainstreaming in all measures of the Federal Government.

Chapter 5: Violence against women

Recommendations 41, 42, 45 and 46: Violence against women – CEDAW art.1, 2, 3, 6

Violence in close social relationships; domestic violence

One of the key problems for women in Germany is violence exercised by their partner. Recently, the number of homicides by the (ex) partner has significantly increased and often the culprits receive a lenient sentence. **Legal protection measures** are rarely effective in practice; prevention hardly ever occurs and often perpetrators still have family access through visitation arrangements. Counselling and support for those affected is often not sufficiently financed, women's refuges don't have spaces and the access for women with disabilities as well as for female migrants and female refugees is very limited.

Unsupervised interactions in situations where there is a history of domestic violence means further danger for women and children. Even if the interactions are supervised further danger can sometimes occur. Therefore, the German practice does not conform to the Convention.

The CEDAW Alliance calls for

- the development of an overall concept for the prevention of and protection against violence in close social relationships.
- the assurance of priority to matters of protection against violence over other decisions, and a better dovetailing of concepts for the protection of women and children along the lines of the two UN conventions.
- the adequate consideration of domestic violence in custody and access proceedings, and that appropriate measures for the protection of women and children be taken.

Homicides in close social relationships; so-called honour killings

Currently, there is no recognizable concept with the aim of preventing killings due to separations and so-called extended suicides. Effective protection measures for the subsequent victims are also absent, even though they have often contacted state authorities regarding sexual or domestic violence prior to their death. This hints at a general **negligence of the root causes**, manifestations and repercussions of gender-specific violence in decisions made by public authorities.

The CEDAW Alliance calls for

- measures to prevent homicides against women as well as target-group specific education in order to prevent in particular misconceptions of violence against women as being a "family drama" or the like on the part of the general public and authorities.
- effective protection measures for potential victims of homicides in close relationships as well as safe shelter and witness protection programmes.
- the examination of whether the killing of the (ex) partner due to the separation or the intent of separation should be judged as particularly reprehensible in a criminal law context.

Sexualized violence

The new legislation on sex offences puts **lack of consent** in the foreground; it's successful implementation in practice remains to be seen. Further training for police and the judiciary as well as protection, counselling, support and access to acute medical care for those affected are still insufficient.

The CEDAW Alliance calls for

- taking all necessary measures to stop, if applicable, the continued legal practices which are in breach of Convention provisions. In particular, there should be mandatory training courses for the judiciary and police, as well as improvements to the protection, support and counselling offered to those affected.
- the introduction for all victims of sexualized violence, irrespective of their age, of a legal entitlement to free psychosocial care during legal proceedings and the guarantee of nationwide access to acute medical care including the possibility of preserving evidence independent of whether or not proceedings have been issued at that point in time.
- taking all other necessary measures to reduce sexualized violence, including the introduction of general education campaigns.

Forced marriage

Measures against forced marriage largely remain on a symbolic level; the right of return from abroad is linked to conditions which can hardly be met.

The CEDAW Alliance calls for

- the extension of the criminal offence of forced marriage to all subjectively binding marriages, i.e. also to religious or traditional marriages.
- the formulation of the right of return to Germany for people forced into marriage in art. 37 of the Residence Act (AufenthG) in a way that a return is indeed possible, i.e. in particular, eliminating the irrelevant economically-oriented integration prognosis.
- the creation of sufficient support measures for those affected by forced marriages (mainly safe shelters, but also witness protection programmes).
- the introduction of a statutory rule according to which people affected by forced marriage can expressly obtain refugee status and with it humanitarian protection.

Particularly vulnerable groups: female migrants, female refugees, women with disabilities, economically and socially disadvantaged women

The CEDAW Alliance calls for

- the amendment of art. 33 of the Asylum Act (AsylG) so that in cases of violence, the infringement of the residential obligation no longer automatically leads to the end of the asylum application.
- the guarantee that women and girls also get access to legal counsel in expedited proceedings such as according to art. 18a AsylG ("airport procedure"), and that they can claim their experience of violence as reason for residence or barrier to deportation.
- the deletion without substitution of the continuation of marriage as a prerequisite for residence entitlement in their own right from art. 31 of the Residence Act (AufenthG).
- a broad, effective strategy equipped with adequate financial means for the protection of women and girls with disabilities against violence, which also covers female migrants and refugees.
- the creation of independent monitoring bodies and complaints mechanisms in institutions for people with disabilities.

Violence in the area of sexual and reproductive rights: FGC/FGM; sterilization

In Germany, sterilization of people who are unable to give consent to this fundamental intervention still happens. This is particularly true for women with disabilities and intersex children.

The CEDAW Alliance calls for

- a legal ban without exception on sterilization in cases where the affected person is unable to give their complete and informed consent. This should be explicitly applicable for (intersex) children and people with disabilities.
- compensation for affected intersex persons for gonadectomies and genital mutilations and sex assignments conducted without consent.
- compensation for those affected by unwanted sterilizations according to the TSG (version 1981-2011).
- the creation of support systems and appropriate spaces for mothers/parents with disabilities who wish to have or who already have children.

Recommendations 43 and 44: Shelter and help for women in distress – CEDAW art. 1, 2, 3, 6

An effective strategy to combat violence against women requires fast, free and unbureaucratic access to protection and needs-based support (empowerment) for all women and children affected by violence. However, there are numerous barriers: a lack of space, refugees not being financed as institutions but rather only receiving funding for individual cases, a lack of accessibility, insufficient premises and staffing levels. The Federal Government can and should overcome these barriers and by doing so ensure **fast, unbureaucratic and free nationwide access** to protection and needs-based support for all women affected by violence and their children.

The CEDAW Alliance calls for

- the consistent implementation of the quota recommended by the task force of the Council of Europe of one place at a women's refuge per 7,500 inhabitants (total population) and the provision of funds for the approximately 4,000 additional places required at women's refuges across the country.
- securing financing for women's refuges as well as women's and specialized counselling centres consistently accessible to all regardless of their ability or disability.
- the consideration in all measures of the needs of female refugees and migrants due to disability or impairment.
- the cost-covering financing of appropriate services working with women, girls and boys affected by violence as well as interlingual communication in all women's support centres.
- the creation of a federal law, thus the same for every Land (state), regarding the needs-based financing of women's refuges and specialized counselling centres independent of individual cases.

Recommendations 47 and 48: Human trafficking – CEDAW art. 6

Human trafficking for the purpose of labour and other forms of exploitation

Nationwide and needs-based support structures for those affected by all forms of human trafficking and an **overall strategy** against it are still missing.

The CEDAW Alliance calls for

- adequate financing of existing specialized counselling centres and other support structures in the case of all forms of human trafficking in order to provide the necessary support for trafficked persons.
- the guarantee of immunity from prosecution for trafficked persons.
- with the involvement of civil society, the development of an overall strategy or action plan on measures against all forms of human trafficking, as well as the provision of support for trafficked persons.
- the establishment of an independent reporting body.

Recommendations 49 and 50: Exploitation of sex work – CEDAW art. 6

The new Protection Act for Sex Workers (ProstSchG) does not ensure the strengthening of the **rights and self-determination of sex workers**. Offers for counselling and for those who want to quit sex work have to be extended and financed. Women are not only affected by sexual exploitation through human trafficking, but also by labour exploitation. An overall strategy against all forms of human trafficking, offering effective protection of victims and access to justice for trafficked persons, is missing.

The CEDAW Alliance calls for

- the increased provision of anonymous, voluntary counselling, in particular, the examination of already existing regional alternatives to the planned registration requirement.
- ensuring the increased availability on a nationwide basis of multilingual counselling and support for sex workers and those who want to reorient themselves; in particular, the assurance of nationwide access to and financing for reorientation offers and living groups for mainly young and minor sex workers.

Chapter 6: Health

Recommendations 53 and 54: Gender sensitivity and gender equality in the health care sector – CEDAW art. 12

In the German health care sector, the needs of women are especially neglected. Male-hierarchic dominated structures and a paternalist stance often oppose the **respect of women's issues** and patient autonomy. As regards sex, gender and diversity, consistent meaningful public health reporting is missing. Pharmaceutical research and development as well as treatment guidelines take the standard human being as being "young, white and male" – with severe health impacts on women. For intersexually born people, severe damage due to drug treatment and surgeries in early childhood are accepted tacitly. The connection of sex and other characteristics which affect the life situation of women (intersectionality) leads to the **particular vulnerability of certain groups** resulting in clear discrimination in health care for: women in socially and economically precarious life situations, girls and older women, women with disabilities and women of non-European origin.

The CEDAW Alliance calls for

- the recognition and implementation of findings from gender health research and practice for a gender-sensitive and gender-fair further development of health policy and legislation, as well as vocational and further training for health care personnel.
- all actors in the health care system to ensure, within their possibilities for action, that when it comes to health care for intersex and trans people the services of statutory health insurers are oriented towards the

biological circumstances of the bodies, the highest available standard of care and the needs of people and not based on the sex entered in their vital records.

- the safeguarding of accessible health care with free choice of physician at national level.

Health in the workplace: Work-related physical and psychological stress of women is often not noticed or underestimated. This is particularly true for the psychological stress in “women’s jobs”. Non-discriminatory health protection for pregnant and breast-feeding women is insufficient. Effective gender-sensitive concepts and measures for hazard analysis as well as for occupational health promotion exist neither in industrial safety practice nor in typical industrial health and safety policy.

The CEDAW Alliance calls for

- the topic “health in the workplace” from the perspective of gender equality to be placed on the agendas of health policy, labour and industrial health and safety policy as well as gender equality policy.
- the draft of programmes, measures and legislation for safety and health in the workplace according to the guiding principles of gender mainstreaming and gender budgeting.
- the increase of gender-specific significance in statistics and reports on industrial safety.
- the promotion of gender-specific research on work-related impacts on health taking into account the broad discriminatory perspective presented in the first section of this chapter.

Reproductive health and gynaecological care: Neighbourhood access to obstetrics is becoming increasingly rare in Germany due to economization in the health care sector. In particular, gynaecological and obstetric care is insufficient for women refugees. Couples of the same sex and single women are being discriminated against as regards the access to reproductive medicine. The access to safe and legal pregnancy terminations is not possible for everyone free of charge. Only a few Laender and municipalities offer (partial) cover for the costs for contraceptives.

The CEDAW Alliance calls for

- the undertaking of measures ensuring local, comprehensive accessible care for all pregnant women to obstetric and midwife services, and making sure that all women affected by violence and/or pregnant refugees as well as women who have recently been given birth and those breastfeeding have at their disposal medical and other help specific to their needs.
- the submission of a draft for a reproductive medicine act through which women irrespective of their sexual identity, their partnership status and their financial means can have access to reproductive procedures.
- all women living in Germany to be provided with guaranteed access to free contraceptives, as well as ensuring access to safe and legal pregnancy terminations.
- the presentation of a draft which firstly, limits punishability according to art. 218, 219 of the StGB (Criminal Code) to pregnancy terminations without consent as well as acknowledging the autonomous decision-making rights of women, and secondly, provides for a mandatory consultation only in cases of so-called late terminations.

Care work by and health of women: Paid and unpaid care work for children, the elderly and the sick, as well as for people with disabilities is mainly performed by women. Physical and psychological health risks in the care system have hardly been investigated, but the existing findings point to very high risks. The health of those providing care is impacted in many ways: They suffer from lack of appreciation, low wages, exhaustion, mental illness such as depression, and back pain. For **people in need of care**, the health objective of the Ottawa Charter for Health Promotion from 1986 is also valid in its physical, mental and social dimensions. Measured against it, people in need of care are blatantly underserved. Amongst the very old, the rate of underserved women is two to three times higher compared to men.

The CEDAW Alliance calls for

- the extension of a high-quality care infrastructure and services to support the independence and self-determination of those in need of care, promote their participation in social life, significantly ease the burden on those family members providing that care, as well as clearly improve labour conditions in professional care and the compatibility of care and professional work.
- access to these offers to be ensured, in particular for vulnerable groups of people in need of care and their family carers.

Informed consent – patient autonomy – right to not know: The informed consent and patient autonomy anchored in the Patients' Rights Act are often implemented either insufficiently or not at all in clinical practice. In particular, it's pregnant women who, under the constant assumption of their child's life being at risk, are at risk themselves of losing their rights to physical self-determination, privacy, rejection of treatment and informed decision-making, as well as the right to not know.

The CEDAW Alliance calls for

- the inclusion of training on informed decision-making in the medical licensure act for physicians, and steps to be taken towards this being included in the vocational and further training of all healthcare professions.
- the evidence-based information of the Cochrane Library to be made publicly accessible.

Chapter 7: International issues

Germany has committed to applying the **Beijing Declaration and Platform for Action**. However, it does not have any systematic and checkable **implementation process** of doing so that uses targets, indices and timelines, and that involves civil society.

The CEDAW Alliance also concludes that the Federal Government has not made sufficient efforts to raise awareness among the public at large or at institutions of the Declaration and Platform for Action from the Beijing World Conference on Women. It has not mobilized sufficient institutions and civil society organizations for participation, nor has it made sufficient resources available for systematic implementation.

The Federal Government has not produced any proactive policy to **achieve the Millennium Development Goals** (MDGs) with respect to gender equality and women's empowerment. On the contrary: German development funds invested into large-scale agriculture have contributed to the displacement of people from their land. This especially violates the rights of women and leads to increased poverty of rural women.

A positive note is the Federal Government's commitment to Sustainable Development Goal (SDG) number 5, along with Germany's updated **sustainability strategy** in connection with Agenda 2030 for Sustainable Development. However, there is a lack of transparency and interministerial coherence in the process of achieving these development policy aims and meeting these human rights obligations.

The non-ratification of important international and regional human rights instruments, such as the **Optional Protocol to the ICESCR** and the **Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**, by the Federal Republic of Germany weakens the existing state of human rights and therefore also the Convention on Women's Rights (CEDAW).

The CEDAW Alliance calls for

- a National Action Plan to implement the Beijing Platform for Action with binding targets, indices and deadlines, as well as the provision of necessary resources. Regular dialogue and participation by civil society, especially women's organizations, must be an integral part of all stages of development. Länder and municipalities must be involved in the implementation process.
- ensuring greater transparency by monitoring and efficiently evaluating gender-sensitive implementation of the SDGs in connection with Agenda 2030 for Sustainable Development.
- greater involvement by the public at large, and especially women's organizations and gender experts, in achieving the goals of Agenda 2030 for Sustainable Development.
- application of gender mainstreaming and gender budgeting based on quantitative and qualitative indices for all SDGs, and ensuring participation by women's organizations in this process.
- Germany's long overdue ratification of the Optional Protocol to the ICESCR and the UN Migrant Workers Convention without further delay.
- all state reporting procedures on human rights, including CEDAW, to include the status of implementing human rights for migrants.

Chapter 1: Introduction

Recommendations 11-20, 22, 25, 26 and 66 of 10 February 2009 by the CEDAW Committee

The CEDAW Alliance concludes that Germany has not shown a consistent and targeted policy of **gender equality**, as called for by the Federal Government's First Gender Equality Report. Most of the country's legislation and draft legislation does not have a gender equality component. Major calls for action in the Concluding Observations by the CEDAW Committee on the Sixth Periodic Report have not been implemented or are inadequately addressed in the combined Seventh and Eighth Report. Germany needs to implement the Convention resolutely, especially in light of the country's growing right-wing conservative and anti-feminist movement and its attacks on women's rights.

Dissemination and visibility of the Convention and the Optional Protocol, and parliamentary participation on federal and Laender (state) levels

The Federal Government is not adequately meeting its obligation to disseminate CEDAW and the associated reference texts on federal, Laender and municipal levels. The publications available on the Websites of the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) and the German Institute for Human Rights are insufficient, do not allow universal access, and require targeted efforts to be found. The periodic reports are only presented to the Bundestag (federal parliament) after they are finished and already at the UN. No NGOs are consulted in **preparing reports on implementing the Convention** and the General Recommendations of the Committee. Only a few judicial decisions in Germany refer to the Convention. Treatment of CEDAW at universities and research institutes is limited primarily to specialized areas such as European and international law or gender studies.

The CEDAW Alliance calls for

- the Convention, its Optional Protocol and other relevant texts to be available on a central website with universal access in German and in other languages spoken in Germany.
- these texts to be available in printed versions, to be accompanied by educational materials, and to be anchored in curricula at schools, vocational training and adult education institutes.
- a verifiable way of checking all law-making processes for CEDAW implementation.
- Bundestag debate on the periodic reports before finalization, NGO consultation in generating the reports, and a CEDAW National Action Plan (with *de facto* Laender inclusion) to guide implementation between periodic reports.
- German legal norms to be brought into agreement with the Convention, judges to receive additional training, and CEDAW to be anchored as a central and mandatory topic in all branches of judiciary education.
- a follow-up process with NGO participation on the Concluding Observations by the CEDAW Committee.

Failure to address areas of discrimination, intersectional issues

The Federal Government's report does not devote sufficient attention to the problem of poverty, which disproportionately affects women. Disadvantaged groups of women such as migrants,³ refugees and asylum-seekers, Roma, single mothers, the disabled and elderly face an especially high **risk of poverty**. Life-long discrimination against women has led to a pension gap of currently 57 percent. The report does not mention the situation of women who divorced under East German law or the situation of West German women who divorced before statutory pension equalization in 1976.

The message conveyed by the report is that the integration of East Germany 25 years ago has had nearly no effect on women's or family policy in the Federal Republic of Germany. The Periodic Report ignores **East German women's** achievements and greater modernity regarding role models, as well as the higher birth rates and higher female employment figures⁴ in the GDR due to better framework conditions. As for the way women want to live their lives, The

difference between East and West (...) [is] a major category, even decades after reunification.”⁵ This difference is evident not only in the Federal Government’s latest social reports, but also in current statistics.

The Federal Government has not reported on **racism**, which is rising in connection with migration and refugee movements, and which hits people facing multiple forms of discrimination – such as women – especially hard. Despite the recommendations, insufficient efforts have been made to combat discrimination against **trans and inter persons**.

The CEDAW Alliance calls for

- facts and figures on female poverty, especially old-age female poverty, to be presented as specific categories.
- female poverty to be eliminated by means such as statutory pension equalization; and where this is not currently possible, for temporary special measures to be taken and minimum pensions that ensure subsistence to be introduced.
- specific evaluation of racism and discrimination against women in order to show the associated obstacles to equal participation, break-down of facts and figures on all categories and levels of social participation, and efficient measures against inequality.
- immediate prohibition of non-consensual operations on inter children, compliance with recommendations by inter organizations, and support for establishing an advisory structure by NGO self-help organizations.
- the rights and needs of trans and inter persons to be met, their organizations to be involved and their participation to be secured.
- public information campaigns on diverse gender identities, including LGBTIQ of colour.

General Act on Equal Treatment (AGG) and Federal Anti-Discrimination Agency (ADS)

Experts all agree that the General Act on Equal Treatment (AGG) is limited in scope and **does not provide comprehensive protection against discrimination**. See Chapter 3 for a closer look at the AGG’s effectiveness and need for reform. The Federal Government’s response to the CEDAW Committee’s recommendations for the Federal Anti-Discrimination Agency (ADS) is entirely inadequate in our view. The ADS provides important counselling and support to persons who suffer from discrimination, and makes a significant contribution to shed a light on cases of discrimination. Despite this, the ADS is still limited in its possibilities for action, ten years after it was founded. It nominally covers the entire country and all groups of persons subject to discrimination under section 1 of the AGG. But it still lacks sufficient funding and personnel despite a budget increase to 3.7 million euro (2015) and an expansion of its staff to 26. The ADS has **no comprehensive mandate, no right to take legal action**, and no authority to launch investigations or impose sanctions in order to effectively address discrimination. Its information service alone does not help those affected. Germany also lacks a full network of anti-discrimination agencies in all the Laender and at the municipal level. Without independent offices that have suitable multilingual resources, discriminated persons cannot receive counselling about their rights and the corresponding support. Thus far only six of the 16 Laender have anti-discrimination agencies. The programmes to promote implementation of the AGG in some individual Laender mentioned in the Periodic Report⁶ can only have a supplementary effect.⁷

The CEDAW Alliance calls for

- the AGG to be amended to give anti-discrimination associations and the Federal Anti-Discrimination Agency (ADS) the right to take legal action.
- a real reversal of the burden of proof for discrimination suits instead of the relaxation of the burden of proof in section 22 of the AGG.
- extension of the period in which discriminated persons may take legal action.
- the ADS to have additional authority to launch investigations and impose sanctions, and to be equipped with more financial and human resources so as to be more effective.
- a federal programme to establish and sustain independent anti-discrimination offices in and throughout all the Laender.

Temporary special measures

The CEDAW Alliance concludes that the Federal Government is very hesitant in this area. Following 16 years of calls by NGOs, it has in fact introduced a quota for women on supervisory boards of companies listed on the stock exchange and subject to co-determination requirements. However, this affects only a numerically small target group of women. Although the Federal Government acknowledges that temporary special measures under article 4 (1) CEDAW can be an instrument to achieve equality, it also insists that they are a matter of discretion. When the CEDAW Committee recommends special measures, the Federal Government denies any **obligation under international law** to follow these recommendations. Both German and European case law has held quotas and other temporary special measures to be admissible and advisable for equality; the Federal Government's hesitation here is inexplicable.

The CEDAW Alliance calls for

- all existing CEDAW recommendations for special measures under article 4 (1) CEDAW to receive expert evaluation and to be implemented wherever possible in order to accelerate the achievement of equality.
- broad public discussion with all relevant actors about General Recommendation No. 25 on the applicability of article 4 (1) CEDAW.
- temporary special measures to be specified as part of a yet to be generated National Action Plan, including systematic evaluation of additional applications needed to combat discrimination in order to fully utilize the potential of article 4 (1) CEDAW for women.

Chapter 2: Education and role stereotypes

Recommendations 27 and 28: Stereotype – CEDAW art. 5, 10 (c)

Changes to the role models in society

In Germany, role stereotypes remain unchanged. Prevailing ideas of gender are shaped by sexual dualism and interwoven with other categories of social difference. For example, black women who fled to Germany have other experiences and experience other forms of discrimination in Germany than white women of German nationality. The report from the Federal Government misses this **systematic intersectional perspective**; it does not go beyond heteronormative sexual dualism. Gender stereotypes lead to discrimination and legitimize their structures. However, the state hardly combats this situation in a proactive, sustainable manner. Instead it continues to pursue a **policy of disincentives** which has been criticized by the Committee several times (i.e. independent taxation of husbands and wives), and a gender-related social division of labour is not addressed because unpaid care work is mainly provided by women, in particular by female migrants. The report only describes societal changes, yet the active contribution of government officials is missing.

The CEDAW Alliance calls for

- policies and legislation to be examined constantly for disincentives resulting therein, so that these can be eliminated and counteracted. In particular, the Federal Government should investigate if family policy and family law convey and consolidate stereotypes on gender, social origin, ethnicity (*race*) and heteronormativity. If this is the case, it should be prevented from happening.
- the content and wording of all laws and regulations to be examined to ensure that they do not contribute to a consolidation of gender stereotypes, as was called for by the UN Human Rights Council.
- the next Periodic Report by the Federal Government on the CEDAW implementation to take an intersectional perspective, going beyond heteronormative sexual dualism.

Stereotypes in mass media

Media greatly contribute to a **continuation of traditional gender stereotypes**. Non-stereotype images in the mass media are not sufficiently reinforced by politics.

The CEDAW Alliance calls for

- state policy to continuously examine the media published and promoted by it for consolidated gender stereotypes and counteract these.
- different life situations and social diversity to be represented in all bodies of public service media (balanced representation).

The protection against gender-discriminatory and racist advertisement is not sufficient in Germany. The answer from the Federal Government suggests that **discriminatory advertisement** per se is covered by the fundamental right to freedom of opinion. On the contrary, the constitution declares it the state's duty to protect against discriminatory advertisement (art. 3, art. 5 of the GG – German Basic Law). The Federal Act Against Unfair Competition is fundamentally flawed and as such not applicable; in practice it never leads to a claim for an injunction against or removal of sexist advertising. The German Advertising Standards Council is not enough to protect against gender-discriminatory advertisement.

The CEDAW Alliance calls for

- an express legal ban on gender-discriminatory (racist) advertisement; a legal definition of the term “sexist advertisement” should be either included in the wording of the ban or in some other appropriate place.⁸
- the mandatory pre-examination of advertisement activities by the German Advertising Standards Council or another inspection authority.
- a representation of experts on the German Advertising Standards Council who do not belong to the advertising sector – as is the case in other European countries.
- the provision of the German Advertising Standards Council with sufficient sanction and enforcement powers.

Gender stereotypes and discriminatory structures in sport

Sexism, homo- and transphobia and racism are very common in sport, making equal participation in social life via sport difficult if not impossible for those affected. The same is true for people with disabilities and the economically disadvantaged. Gender stereotypes have significant **discriminatory repercussions** in sport (cf. chap. 4, participation). Sports coverage in the media is characterized by gender stereotypes and the exclusion of women. This refers to both the quantity and quality of coverage. Often, female athletes are sexualized and their success is trivialized. The sports editorial office is dominated by men.⁹

The CEDAW Alliance calls for

- the promotion of broad diversity competence in sport pedagogy training and further training.
- working towards the elimination of so-called gender tests in elite sport.

Recommendations 33 and 34: Education – CEDAW art. 10

The educational system reproduces social inequalities. The state measures taken against it only have a selective impact. The choice of one's course of studies and profession is still very much shaped by gender stereotypes. Wages in educational and socio-pedagogic jobs, which are mainly performed by women, are too low. (White) men are clearly

overrepresented in better paid positions of higher status in the fields of education and research. Educational institutions are definitely **not non-discriminatory places**, neither for learners nor instructors. Gender non-conforming and/or LGBTIQ adolescents often experience discrimination, not only by their peers but also by teachers. In the case of bullying, teachers often do not intervene.¹⁰ The acquisition of formal education is hampered for trans people as they often do not get certificates issued with the name corresponding to their identity. In the curricula and teaching materials, **many lifeworlds and identities**, such as those of migrants¹¹, are not addressed. In textbooks, for example, outdated and traditional gender stereotypes are still conveyed.¹² Currently, there is a strong anti-feminist, partly threatening resistance against LGBTIQ-inclusive education plans and gender studies. The situation of refugee women and girls in the area of education is lacking. Integration and language courses are only accessible to refugees with prospects of remaining in the country and/or recognized refugees. Even for them, no sufficient nationwide provision has been made. Different from what the UN Convention on the Rights of Persons with Disabilities calls for, the German educational system is still not inclusive.

The CEDAW Alliance calls for

- , on a nationwide basis, compulsory and financially secured educational concepts for a gender and prejudice aware pedagogy in order to reduce stereotypes and promote concepts of gender diversity (including training and further training for actors, relevant materials, curricula which promote acceptance and anti-discrimination).
- the provision of study and training options which encourage adolescents irrespective of their gender in their choice of training and occupation, as well as the guarantee of gender competence on the part of career counselling experts.
- the ensuring of a non-discriminatory pedagogy of diversity in teacher training at third level and other pedagogical training courses.
- through specialized classes, the mandatory integration of women's and gender studies into vocational training courses in the areas of social studies and education, as well as social-pedagogical and teacher training courses at third level. LGBTIQ (of Colour) should be addressed as a matter of course and in an unexcited manner during teacher training at third level.
- the guarantee of a non-discriminatory and gender-sensitive instruction in all university subjects as well as equal access opportunities to professorships.
- increased incentives to counteract gendering of professional fields. Thus, people are encouraged to choose their profession independent of traditional role expectations.
- better income opportunities and the associated social revaluation reflecting the high social relevance of social and pedagogic occupations, which are mainly performed by women.
- the provision of a sufficient nationwide offer of gender-sensitive integration and language courses for all refugees promoting acceptance and gender equality.

Chapter 3: Working life

Recommendations 29 and 30: Reconciliation of family and working life

The promotion of the equal distribution of work and family tasks within partnerships through changes as regards time, money and infrastructure is important to the Federal Government. By doing so it follows the guiding principle of the earner-carer model¹³, which is to be welcomed. However, the measures mentioned by the Federal Government in its report are insufficient. An adequate social infrastructure with the provision of high-quality **care options for children and people in need of care**, non-discriminatory and equality-promoting framework conditions, and an equal distribution of care work between men and women is lacking.

Time

Most care work is still done by women, in particular female migrants. Unpaid work has to be redistributed between the genders. This requires a clear **shortening of daily working hours** with no negative effect for employees, such as reductions to wages or the numbers of staff.

The CEDAW Alliance calls for

- the provision of options for a life-phase-oriented working hours concept which are safeguarded legally and by collective bargaining agreements, e.g. an act on flexible working hours with regulated participatory and co-decision procedures, ensuring both the implementation of collective bargaining and in-house working hours concepts, and the establishment of the individual rights of employees to flexible working hours.
- the creation of incentives in order to redistribute unpaid work between genders.

Money

The Federal Government points out the **introduction of parental benefit**. It can be regarded positively that care work is partially secured and that fathers receive a financial incentive to participate. However, mothers and fathers without income, such as the unemployed, students and housewives/husbands only receive the minimum parental benefit of EUR 300 which is deducted from their basic social security benefits to cover subsistence costs.

The **disincentive of splitting income taxation** between married couples, which promotes an asymmetric partnership, is only counteracted by the Federal Government with the option of the tax category combination IV/IV using a factor method.¹⁴

The CEDAW Alliance calls for

- the elimination of the tax category combination III/IV and income taxation splitting, introducing instead individual taxation and checking the non-contributory co-insurance of spouses in statutory health insurance schemes for their disincentives.
- repeal of the deduction of the parental leave benefit from basic social security benefits for job seekers.
- financially safeguarding all care activities and adequate consideration of these activities when it comes to retirement provisions.

Infrastructure

There is still a lot of catching up to do when it comes to public childcare facilities. In the age bracket of those under three years of age, on the reference date of March 1st, 2015 a proportion of 32.9 % of children were cared for in a day-care centre or by a childminder. Whereas in the East German Laender the care rate of 51.9 % was comparatively good, in the West-German Laender, it amounted to just 28.2 %.¹⁵ Apart from quantitative expansion, Germany also has some catching up to do regarding the quality of day-care centres.

The CEDAW Alliance calls for

- staffing ratios for day-care centres in Germany to be adapted to child-oriented and educationally meaningful educator-child ratios. Good and reliable care for children after school enrolment should be ensured, mainly by having more compulsory all-day schools offering all-day care with a mandatory conceptual connection to the curriculum.

As regards **women with disabilities** the Federal Government focuses on labour promotion and basic security benefits for job seekers. Though the objective of their permanent inclusion in the labour market is to be welcomed, the measures mentioned by the Federal Government in its Periodic Report regarding the target of an employment which secures their livelihood are insufficient.

Germany still has a family-based care system with many associated drawbacks for women. **Family carers** often find themselves living in poverty after a very short time as well as facing significant health impacts. Even worse than in the case of childcare provision, there is a considerable lack of municipal infrastructure for outpatient care and support of people in need of care in order for them to live self-determined lives. There is also a lack of household-related services affordable to all, as well as sufficient offers for those seeking to live self-determined lives in their own homes.¹⁶ The shift from privately performed care work to civic engagement or the use of extremely underpaid and legally unprotected female migrants is not a gender-fair solution to the crisis in elderly care.

The CEDAW Alliance calls for

- social security cover for all jobs created in the area of care and household-related services and the provision of adequate pay.
- the inclusion of care of the elderly and the ensuring of their quality of life in the task catalogue for public services.

Recommendations 35 and 36: Discrimination in professional life

The Federal Government declares that it regards the interpretation of the General Act on Equal Treatment (AGG) as conforming to European legislation. However, counter to this claim, the AGG still does not cover all areas of professional life. There exists both a legal need for the concretization of as well as a practical need for equal treatment of women and men regarding the quality of labour conditions and company and **institutional industrial safety and health protection**. Examples of gender discrimination are the non-consideration and/or the systematic underestimation of physical and mental stress in “typical female” jobs and monotonous activities.¹⁷ Nothing can be found on that topic in the reports from the ADS (Federal Anti-Discrimination Agency). Obviously, there is a lack of information and opportunities for affected women to achieve their right to healthy and safe labour conditions. The reports and decisions by the equality and female minister conference and the labour and social minister conference of the Laender from the years 2011 and 2012 show the diverse need for action, as well as addressing corresponding demands to those responsible for safety and health in the workplace. Furthermore, there is a significant awareness and implementation deficit regarding art. 3, para. 1 of the AGG (immediate disadvantage in the case of pregnancy/motherhood).

Furthermore, art. 2 para. 4 of the AGG excludes the application of the AGG in the case of dismissals. However, an interpretation of this regulation, as it is done in German jurisprudence, does not live up to the requirements of **transparency of protection against discrimination**. The burden of proof for detecting discriminatory structures in the case of termination of employment contracts lies with the dismissal protection process, which is largely unsuited to detecting indirect discriminatory dismissal conditions.

There is a series of other **protection gaps** (e.g. regarding people suffering from obesity and former prisoners and former GDR citizens). Moreover, numerous proceedings show that there is no consistent interpretation of art. 9. para. 1 of the AGG (permissible different treatment for reasons of religion or belief). This is also still true for areas which are not close to the direct preaching of religious beliefs¹⁸, and has an impact on Muslim or lesbian/bisexual women.

The CEDAW Alliance calls for

- the deletion without substitution of the permissible difference in treatment due to religion or belief (AGG art. 9).¹⁹

Discrimination against a trans person is not recognized as such any longer, once that person has undergone the TSG procedure (TSG – Transsexual Act). Furthermore, **trans people** are affected by unemployment and/or poverty more than average despite high educational levels. They experience discrimination both when looking for a job (37 % in the past 12 months according to their own statements) and in the workplace (27%).²⁰

The CEDAW Alliance calls for

- the resolute combating of discrimination against trans people, including those who have undergone reassignment procedures according to the TSG.

Irrespective of their educational level, **female migrants and women of colour** face great difficulties when looking for a job. They suffer more often from unemployment, work more often in precarious employment relationships and are underrepresented in public administration. Muslim women are particularly discriminated against when it comes to labour market access. Even at higher educational levels, they are more often dependent on social transfer than Muslim men.²¹

With its decision from January 27th, 2015, the Federal Constitutional Court declared a general headscarf ban for school staff as impermissible.

The CEDAW Alliance calls for

- the adjustment of the legal framework in all Laender to reflect this verdict.

The federal Act on the Improvement of the Determination and Recognition of Professional Qualifications Acquired Abroad (Recognition Act) which entered into force on April 1st, 2012, is to be welcomed.²² However, professionally qualified female migrants are recognized too rarely by industry, commerce and trade as recognition procedures often do not seem economically sensible. Moreover, the financing of these procedures is difficult and often cannot be afforded by individuals. The rare **recognition of foreign qualifications** contributes to the difficult situation of female migrants on the labour market so that even highly-qualified female migrants don't get an appropriate job and even stay out of the labour market.

The CEDAW Alliance calls for

- the provision of financing for refugees for both the recognition procedure, as well as associated further education measures. This would be similar to Aufstiegs-BAfög²³ and participants would be able to apply for it irrespective of their residence status.

The practical efficacy of the AGG is still limited by the lack of a **right to group action**²⁴, a realistically measured limit to the period for bringing an action, easily accessible anti-discrimination counselling on a nationwide basis, as well as provision for the sensitization of legal practitioners.

The CEDAW Alliance calls for

- the elimination of the existing protection gaps in the AGG and the urgent introduction of the right to group action.

Recommendations 37 and 38: Equal participation of women in the labour market

The Federal Government states as a central goal of their policy "the de facto equality of men and women in professional life." This goal can only be achieved if **care work** is not mainly assigned to women and provided by them, but if it

is organized differently. Despite a few steps in the right direction, the equality policy action of the Federal Government is missing a rigorous concept.

The CEDAW Alliance calls for

- equality policy action to be strictly oriented towards everyone securing their own livelihood and to the guiding principle of the earner-carer model.

Though the labour participation of women in western Germany has continuously come closer to that of men, the difference in the employment rate²⁵ between women and men still amounts to ten percentage points.²⁶ Above all, their volume of employment has been hovering at a low level for years: Almost every second woman, but not even every tenth man, works part-time. Amongst employees paying social security contributions it is every third woman. Germany is one of the countries with the biggest **gender-specific working time gap** in Europe. This also is an essential reason for the gender-based gap in overall earnings (according to Eurostat: approx. 45 %). So-called mini jobs represent a particularly precarious form of female part-time employment with a great potential for abuse; approximately three-quarters of mini job employees²⁷ in the prime working age are women.

It is proven fact, one of which the Federal Government is aware of, that two thirds of all employed women in prime working age do not earn enough to ensure their long-term livelihood: In the case of unemployment, incapacity for work or at retirement age, they are not entitled to benefits sufficient for **independently securing their livelihoods**. With their current salary, four fifths of these women would not be able to provide for themselves or their child in the long run. Amongst female employees of non-German nationality, the share of those without a living wage is significantly higher than amongst those with German nationality. The facts for women with disabilities are: Their full-time employment rate is just 50 %. They often have a job that does not correspond to their qualification level and their unemployment rate is almost twice as high compared with women without disabilities. Only 36 % of women with disabilities can live on their income from work. Almost every fourth woman with a disability lives in a household that is at risk of poverty.

Regarding the vertical segregation of the labour market, i.e. the favouring of men when it comes to in-house promotions, as well as the **underrepresentation of women in leadership positions**, the Federal Government makes reference to the “law on equal participation of men and women in leadership positions in the private and public sector”. However, due to its limited scope it can only have an effect on the selection process for a small group of top positions. Despite the symbolic value of this regulation, there is a lack of specific special measures with established timing and targets against vertical segregation at the medium, upper and top levels. In order to counteract the continued horizontal segregation of the labour market, something which was also criticized by the Committee, a double strategy consisting of **effective equal treatments acts plus limited special programmes** is needed. It is incomprehensible why the Federal Government does not say a single word about horizontal segregation in spite of the unambiguous data available.

The CEDAW Alliance calls for

- the adoption of an effective equal treatment act for private industry, as well as the consistent implementation of the existing equal treatment acts for public service and the continued legal development thereof.

Equal opportunities for women, in particular for female migrants in employment largely depends on health-relevant aspects of their labour conditions. When taking a closer look at the horizontal and vertical segregation of the labour market, gender differences in the quality of labour conditions regarding work structure, **work load and health hazards** become obvious. Gender-specific particularities regarding stress consequences, work-related illness and absence from work and early retirement are proven. However, these go virtually unnoticed in the realms of politics and in the practice of industrial safety and health protection. Need for action is usually identified and prevention measures are taken when it comes to men and maintaining their health and employability. The drastic difference can be seen when looking at the situation of **pregnant women and breastfeeding mothers**: The reality of maternity protection in Germany is still an exclusive one, instead of one which is non-discriminatory and ensures participation.

The CEDAW Alliance calls for

- , at long last, as part of the new regulation on maternity rights currently being pursued, the provision of a legal framework for a non-discriminatory maternity leave that ensures participation, as well as the implementation of such in practice. Explicit gender equality orientation in all politically-overarching programme initiatives of the Federal Government, and further development of the legal framework for industrial safety, working time conditions and workplace health promotion are a must. Both the Committee and the Federal Government need to pay more attention to these fields of action.

The provisions in SGB II (Social Code II) regarding the community of members of a household in need of social benefit place the household context over the economic independence of women and men. The socio-legal construct of that community goes beyond marital maintenance obligation because non-marital cohabitation is also included here. This promotes the **financial dependence** of women on their partners and their specific poverty risk is concealed: The lack of or insufficient securing of one's livelihood through one's own employment can easily lead to poverty if the partner loses their job or if the couple separates.

The consequence that follows from the lack of equal participation in the labour market is a **gender pension gap of 57 % (2011)**, the second highest in the EU. For those married and widowed, it is significantly higher at approximately 60% compared with those divorced and singles (below 20 % each).²⁸ For those married or widowed, the gender pension gap is an expression of the gender-related employment patterns and the division of labour between married couples. Regarding the gender pay gaps in both employment histories and actual pay received and the gender pension gaps resulting therefrom, lesbian women are greatly at risk of old-age poverty, which reduces the possibilities of self-determination and participation. Potentially, lesbian couples are affected twice by the gender pay gap and gender pension gap.

The CEDAW Alliance calls for

- the reduction of all obstacles to a full-time or near full-time employment of women of all educational levels and the promotion of women according to the principle of economic and social independence on the labour market, in particular in the case of unemployment and with instruments of labour market policy. Older women, single mothers and women with disabilities should be especially taken into consideration. The data situation needs to be improved.
- the adoption of measures that enable women to be economically independent by both having a job that covers livelihood costs, as well as allowing them to make provision for independent old-age security. This requires, amongst other things, social security for all employment relations starting from the first working hour, a reduction of the reasonability criteria for taking on a job (SGB II, art. 10), and the elimination of the community of members of a household in need of social benefit.

The lack of equal participation in working life and earned income that covers livelihood costs has a continuing influence due to the fact that the **statutory pension insurance scheme** is based on income earned. All too often women are unsuccessful in building up company and private pension plans as a further pillar for securing their livelihood in old age.

The CEDAW Alliance calls for

- strengthening the statutory pension to such an extent that it ensures livelihood and living standards of the individual, and that the current pension level remains the minimum. The reintroduction of the pension according to minimum wage points can contribute to that as those on a low wage can also benefit from their contribution into the statutory pension scheme.
- ensuring through changes in the law that part of the statutory, company or partially state-funded pension is not deducted from basic social security benefits for job seekers so that statutory pension and additional provision are worthwhile.

- all factual drawbacks for women to be balanced out by pension regulation, for example, doing away with the pension privileges in the statutory pension scheme for the long-time insured as they mostly favour men.

Recommendations 39 and 40: Equal pay

The gross hourly earnings of men and women currently show a gap of 21 %²⁹. The causes for pay differences, more pronounced in the western part of Germany than in the east, are diverse, something which the Federal Government also points out: Men and women work in different jobs, sectors and positions. They strongly differ in their volume of employment. These causes have to be counteracted at different levels. To overcome the pay gap, the reconciliation of work and family life as well as the equal participation of women in the labour market are of key importance.

Furthermore, the Federal Government notes that wage discrimination is already prohibited today by the AGG (General Act on Equal Treatment). Nevertheless, the legislator still does not fulfil its obligation to ensure the **application of the principle of equal pay for men and women** for equal work or work of equal value despite the obligation on it arising from EU law (Treaty on the Functioning of the European Union – art. 157 para. 1 and EU Charter of Fundamental Rights – art. 23) and the Basic Law (GG – art. 3, para. 2), which binds public and private employers to the same extent. The introduction of the AGG in 2006 has done nothing to change the lack of implementation, as the entitlement to equal pay - systemically less successful - is only implicitly established in art. 8 para. 2 in conjunction with art. 2 para. 1 No. 2 and art. 7 para. 1. The German legislator informs individuals who are affected by wage discrimination about their **individual right of appeal and action**. This, however, has proven to be unsuitable in preventing or eliminating wage discrimination as the pursuit of these measures by those affected puts a disproportionate strain on themselves and their relationship with their employer.

The CEDAW Alliance calls for

- the creation of a law for more fairness of wages between women and men which makes it mandatory for all employers to check their pay practices and make them more gender-equitable by applying suitable qualitative test examinations to overcome pay discrimination at company level. It needs to go beyond the planned scope of application (for companies with more than 500 employees) so that as many women as possible can benefit from it.

Society-related income differences between women and men not only have to do with the different hourly earnings (gender pay gap). Moreover, an essential part of the overall **income inequality between women and men** has to do with reduced weekly working hours, which in turn lead to a lower monthly income, and inactivity, both of which lower lifetime earnings. The reason for this is that it is still mainly women who take care of children or family members in need of care. To do so, they interrupt their employment and/or reduce working hours greatly and often permanently. In an **EU comparison**, Germany currently shows one of the greatest gender-related pay gaps.

The CEDAW Alliance calls for

- the removal of all barriers which oppose an equal integration of women in working life and the adoption of all measures required in order to do away with income inequality between women and men.

The Federal Government rightly determined that neither individual nor collective wage bargaining were suitable to sustainably contribute to the end of “**typical female**” activities being assessed as being worth less. This is particularly true for services to individuals, mainly in the care sector which mainly employs women. Politically, the trend towards ever more profit-oriented companies, including even big international corporations, taking over the provision of care work should be opposed. Where carers such as hospital nurses, educators or geriatric nurses are employed in the public service sector of the municipalities, the Laender or the Federal Government, the **collective agreements of the federal, Laender and local authorities** are applicable. Independent charitable organizations generally orientate their payment towards the collective agreements of the public service.

Public employers from the federal, Laender and local authorities have a special role model function and can counteract indirect pay discrimination by an **upgrading of these care activities**. One example is the wage dispute around the upgrading of activities of community workers and educators by the trade unions United Services Union (ver.di), German Education Union (GEW) and the German Civil Service Association (dbb) in 2015: Despite strikes and strong support from the general public, only the first steps of an upgrade were implemented as public authorities were unwilling to cover the costs of a comprehensive one. The state has failed in three ways: As a gender equality policy actor it is obliged legally and by the Basic Law, as a party to a wage agreement in public service it is also bound to the principle of equality, and as a public employer it needs to lead by example.

However, the realization of the CEDAW Committee “that workplace evaluation systems do not use the same criteria for male and female employees”³⁰ falls short because collective agreements do not usually contain any direct discrimination. Yet, there is indirect discrimination if **activities of equal value** which are mainly performed by women are both considered to be of lower value as well as being less well paid than those dominated by men. Moreover, just a little bit more than half of all employees benefit from collective bargaining coverage.

The CEDAW Alliance calls for

- the federal, state and local governments to make their contribution to the upgrading of activities dominated by women, which fall under the responsibility of public authorities and are paid for by taxes and social security contributions.
- collective bargaining agreements to be implemented in a non-discriminatory manner by public employers and their parties in these agreements. This also includes the official recognition and upgrading of social qualifications and the consideration of mental stress in care professions.
- the intensification of efforts to strengthen collective bargaining coverage.

Recommendations 55 and 56: Economic consequences of divorces and separations

The Federal Government assumes that a “gender-neutral” **spouse maintenance law** satisfies today’s gender roles of men and women in modern society in a divorce case. This point of departure cannot be agreed to as long as courses of life and employment patterns of men and women are characterized by stereotypical familial division of labour and discrimination of women in the labour market.

Unfortunately, the Federal Government did not follow recommendation 56 from the CEDAW Committee from 2009 which called upon the government to investigate the **economic consequences of a divorce** on both spouses.

The CEDAW Alliance calls for

- the undertaking and publishing of an investigation as mentioned in that CEDAW recommendation, taking a look at the economic consequences of divorces, in particular for single parents, both intersectionally and in detail.
- counteracting the disadvantages to those affected with temporary special measures so that equality for divorced women and especially single mothers can be achieved. This particularly applies in the case of female migrants.

Furthermore, the Federal Government states that single mothers are integrated in the labour market to a large extent. By way of contrast it needs to be said that in 2014 around 38 % of single parent families depended on basic security benefits. Out of these, 94 % were single mothers. Half of all single mothers do not get any child maintenance; just under one-third receive only partial child maintenance, while only about one fifth receive the complete amount of **child maintenance**.³¹ Only half of the child maintenance actually paid is high enough to cover the minimum claim – the official minimum subsistence level of a child as set by the government. Maintenance advance, which is only used in a few cases, does not seem an appropriate way to compensate for long-term overdue child maintenance payments due to the entitlement requirements.

The CEDAW Alliance calls for

- the adaptation and guaranteeing of entitlements to, as well as the amounts and duration of child maintenance in such a way that the livelihood of children is ensured and poverty for single-parent families is avoided.

Even if the CEDAW Committee decided at the end of 2015 on account of the submission of CEDAW/OP/Inquiry/2012/Germany/1 not to initiate an examination procedure according to art. 8 of the Optional Protocol, there is still **discrimination against the group of women who divorced in the GDR** and for whom recognition of their life employment period of mostly 40 years is often denied by the unification treaty and pension transferral act. And yet the Federal Government could build on the option formulated by their interministerial working group in 2003 of a tax-financed solution outside of existing pension law³² for women affected by this. The reasons stated back then for it not being implemented, that it costs too much, is administratively cumbersome and could be understood negatively by tax payers, are **not human and fundamental rights permissible arguments**. Should a just solution for women divorced in the GDR cause injustice to another group – for women divorced before 1977 in Western Germany – then their situation should also be improved. According to CEDAW art. 2 and 3 and Basic Law art. 3 para. 2, the Federal Government is obliged to immediately eliminate of its own accord all gender discriminations.

The CEDAW Alliance calls for

- the immediate ending of the pension undervaluation of those affected, which has been proven to be unjust for more than 26 years (since the unification treaty) by all sides and by three decisions of the Bundesrat (upper house of the German parliament), and its replacement with a just solution. The pensions of the women divorced in the GDR finally need to reflect their life's achievements (40 working years and care work).

Chapter 4: Participation and gender budgeting

Recommendation 23 and 24: Gender mainstreaming and gender budgeting

The principle of gender mainstreaming is legally enshrined. However, the obligation resulting therefrom is hardly being fulfilled by the federal ministries. The Federal Government has neither presented an **implementation plan** nor even taken any concrete steps towards its implementation. Systematic management, consistent, gender-oriented regulatory impact assessment and sufficiently differentiated **data collection** are all missing. Gender mainstreaming and gender budgeting in the Länder are only reported on sporadically by the Federal Government.

The CEDAW Alliance calls for

- the adoption by the Federal Government of a responsibility and leadership role appropriate to it with the aim of a systematically and methodically controlled implementation of gender mainstreaming.
- a guarantee that impact assessments of legislation and actions be conducted across all departments, that targets and indicators be established by them and that data collections and evaluations include gender-differentiated target groups.
- the establishment of an independent Gender Institute, with experts and citizens participating in their work.
- the implementation of gender mainstreaming at the Office of the Federal Chancellor.

The feasibility study on gender budgeting at federal level (“Machbarkeitsstudie Gender Budgeting³³ auf Bundesebene”) published by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) in 2007 shows that an implementation is possible in a cameralistic budget system.³⁴ Germany has no experience whatsoever in **gender-oriented impact assessment of public revenue**, which forms part of gender budgeting.

The CEDAW Alliance calls for

- the immediate introduction of gender budgeting for revenues and expenses at national level, and its establishment in the Budgetary Principles Act and in financial regulations.
- the stipulation of binding targets, measurable indicators and time limits in all areas of revenues and expenses of the budget. The implementation thereof needs to be verified throughout the budgetary cycle.
- the application of the Gender Equality Index of the European Institute for Gender Equality (EIGE) as a basis for comparable statistics.³⁵
- the examination of the impact of levies and taxes as well as expenses on equality. In the case of discrimination and defective impact they should be adjusted accordingly.

Recommendation 31 and 32: Participation

Germany still shows serious shortcomings when it comes to participation and gender parity. The Federal Act on Gender Equality (BGleG) remains ineffective.³⁶ Specific temporary special measures (art. 4.1) are not being implemented. The Federal Government (see recommendation 26) has once again rejected **the binding nature of art. 4.1**, but has not expressed any specific reservations regarding that article.

The CEDAW Alliance calls for

- all measures related with participation to be accompanied by transparent, effective governance, in particular systematic gender-sensitive impact assessment of legislation and resources, impact analyses, gender-differentiated anonymous statistics including all target groups, regular evaluation and consistent readjustment.
- the recognition of a separate category for inter persons in vital records and the expansion of all statistics to guarantee their participation.

Participation of women in public service

The **gender equality plans**³⁷ provided for in the BGleG have so far neither been drawn up nor updated by more than 40 % of the federal ministries and authorities. Concrete, measurable targets with deadlines are missing from these plans. There is also a lack of sanctions and right of action for equal opportunities officers. An **analysis of the repercussions** of personnel management tools which discriminate against women is not being carried out. There is a lack of human resource development concepts with a curriculum vitae perspective.

The CEDAW Alliance calls for

- binding provisions for both the creation of gender equality plans, as well as implementation processes and controlling which take into account multiple discrimination. Said gender equality plans should also be published.
- the establishment of a central supervisory and control agency for gender equality plans under the responsibility of the Federal Government and the Laender.
- the strengthening of the control functions of equal opportunities officers, as well as their participation in all personnel measures.

- the development of career concepts for employees with family responsibilities.
- all personnel instruments and career regulations to be examined for discriminatory effects on women (CEDAW art. 3).

Participation of women in the judiciary

Female judges and public prosecutors have worse career prospects, above all when they work part-time. The administrative and judicial practice regarding the performance-based quotas for women³⁸ is not in conformity with the constitution. Constitutionally required targets are not taken into account in **selection decisions**.³⁹

The CEDAW Alliance calls for

- the creation of new trial period positions⁴⁰ for female judges and public prosecutors close to their home, especially in the non-city states.
- the provision of leading positions in a part-time capacity to be ensured in judicial authorities and courts.
- the balancing of constitutional values with a legal revision of the conditions surrounding access to public offices.
- a limit to the differentiation of qualification criteria.
- the preference of women for promotions if and when they fulfil all other legal requirements.
- the introduction of nomination quotas for supreme court elections similar to what is in place for elections to the European Court of Human Rights and the European Court of Justice.

Participation of women in the health care sector

In Germany, health research and care are not characterized by gender and diversity-sensitive prospects. Even though the share of female medical graduates has been higher than that of male graduates since 1998 (in 2014 around 63 %), this has still not lead to an increased **number of women at executive and board level**, a fact which is disguised by the lack of meaningful data. The male power to define and decide also influences the selection and execution of research projects.

The CEDAW Alliance calls for

- data to be gathered on employment in the health care system, including qualification levels and positions. This should be done in an essentially gender-differentiated way, while also taking into account racial discrimination, and should be analysed for development trends.
- a status report to be drawn up every two years in the context of the Federal Health Reporting of the Robert Koch Institute as regards the share of women in executive positions in health research and health care and at board level of the health care system, as well as an account of what their specific roles are (see chap. 6, health).
- every effort to be made towards the consistent implementation of the gender equality acts applicable to the public law area at both federal and Laender level. Statutory regulations have to be made more effective and be strengthened by accompanying measures of a life-phase oriented working time concept (cf. Chap. 3, professional life) for implementation.

Participation of girls and women in sport

The membership of girls and women in athletic clubs and athletic unions is significantly lower than that of boys and men⁴¹ and they do less sport in clubs.⁴² Gender equality requirements are often missing for public sport funding.⁴³ Women, in particular female migrants, are clearly under-represented in executive committees and positions and amongst trainers and referees.⁴⁴ So far, the German Olympic Sports Confederation has only introduced **voluntary commitments** for its members. Sexism, homo- and transphobia as well as racism in sport hamper participation. Gender binary structures and the lack of sanitary facilities which can be used by trans people without fear often result in trans adolescents being excluded from physical exercise in school.⁴⁵ Sports coverage neglects women's sport, reports in a sexualized manner and is shaped by gender stereotypes, resulting in the performance of female athletes often being trivialized (cf. chap. 2, role stereotypes).

The CEDAW Alliance calls for

- the use of sport funding as a steering tool to increase participation of girls and women, as well as to integrate women of colour and explicitly involve groups which have not been taken into account sufficiently, such as women with disabilities, LGBTIQ, women with a migration and refugee history, and poor women.
- funding programmes in sport at both grassroots and elite levels to be evaluated for their impact on gender equality, and gender-differentiated data to be gathered for all sport promotion fields.
- a binding quota for executive positions in athletic unions and clubs to be agreed on with organized sport.
- the funding of sport to be oriented towards increasing both the gender and diversity competence of trainers and referees, as well as the overall share of women in these roles.
- the promotion of gender-fair sports coverage via specific incentive systems.

Participation of women in science

The objective of gender equality needs to remain a mark of quality for excellent research and teaching.⁴⁶ The **gender equality standards** of the German research community need to be adhered to. The gender pay gap is striking: The higher the salary grade, the lower the share of women. The *leaky pipeline*⁴⁷ is more pronounced in Germany than in other European countries.⁴⁸ The **drop-out of women** during the post-doc period needs to be stopped.

The CEDAW Alliance calls for

- targets for gender equality and their sustainable financial support to be included as an integral part of all Federal Government-Laender programmes.
- ensuring that non-university research organizations promoted by the Federal Government apply the standard content of the BGleig.
- the under-representation of women to be reduced by equality-oriented awarding of professorships in all subjects, especially in humanities and social sciences.
- the reduction of the gender pay gap, in particular for incentive bonuses, in a target-oriented manner.
- the creation of permanent employment and positions at all levels.
- the promotion of a slow-down of the career system with permanent employment contracts and flexible working (time) models.

Participation of women in politics

The equal participation of women, in particular women of colour, in all political offices, be it in governments or parliaments, can only be achieved by **legally binding targets** – at least that's what the German experience tells us.

The CEDAW Alliance calls for

- the introduction of a parity electoral law for the Federal Government, Laender and municipalities (taking France as an example)⁴⁹.
- the participation of all girls and women to be promoted by temporary special measures.

Participation of female migrants, women of colour and female refugees

Female migrants need **equal participation** in societal, economic, social, cultural and political life in Germany.

The CEDAW Alliance calls for

- the different life situations of female migrants and women of colour to be considered in an overarching systematic manner, and effective measures to be taken for their successful participation.
- its regular evaluation at all levels as well as its examination for discrimination.
- the sensitization of the responsible authorities to the legal recognition of women and gender-specific reasons for flight and putting this into practice.
- the needs of women, as well as of LGBTIQ and women with disabilities to be taken into account in the reception camps for refugees. To that end, concepts and standards are to be developed and evaluated.

Participation of transgender people

Trans women suffering from poverty face particular participation barriers as they cannot pay for medical intervention to express their gender identity. This is also true for gender-queer people, as well as mentally or cognitively impaired trans people or trans people in care facilities as the staff on site are often not sufficiently prepared for their needs.

The CEDAW Alliance calls for

- the guaranteed covering of costs for special needs during the transition for recipients of Arbeitslosengeld II (unemployment benefit paid by the job centre after the first 12-18 months of unemployment).

Participation of intersex people

The wrong sex entry in vital records for intersex people leads to a series of discriminatory consequences. A wrong entry on the electronic health insurance card leads to misinterpretations of laboratory findings and mistreatments. Without the **recognition of the sex of intersexual people** they are excluded from any kind of participation.

The CEDAW Alliance calls for

- intersex to be recognized and introduced as a sex category in vital records.
- intersex people to be registered statistically with an account of how many were forced into a sex and what their economic and health situation looks like.

Participation of women with disabilities

In large areas of their lives, women with disabilities are denied equal participation in society. In addition, they lack, for example, **support for the realization of their parenthood**.

The CEDAW Alliance calls for

- the cabinet draft of the Federal Participation Act from June 28, 2016 to be converted into a comprehensive human rights act for people with disabilities.
- the legal entitlement of mothers and fathers with disabilities to support in the care of their children (assistance for parents and accompanied parenthood⁵⁰) to be included as part of the services for participation in the community.
- the consideration of both gender mainstreaming and disability mainstreaming⁵¹ in all measures of the Federal Government.

Chapter 5: Violence against women

Recommendations 41, 42, 45 and 46: Violence against women – CEDAW Art.1, 2, 3, 6

Violence in close social relationships; domestic violence

35% of women in Germany have experienced physical and/or sexual violence since their 15th year of their life, mostly perpetrated by their own partners (22%); in 2014 160 women (2013: 138; 2012: 106) were killed by their (ex)partner. The **protection of women against domestic violence** is incomplete and hardly effective, and in the case of particularly vulnerable and/or strongly discriminated-against groups almost non-existent. Neither police nor legal measures (Protection Against Violence Act) are effective against especially dangerous perpetrators. Preventive measures are lacking to a large extent.

It is to be welcomed that state authorities increasingly see domestic violence as the child's welfare being endangered, something which has led to the improvement of child protection. Courts have to make a **decision oriented towards the child's welfare** and according to their office's duty of investigation (FamFG – Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction art. 26) they have to exhaust all possibilities of inquiry to discover the relevant facts. Indications of violence are rarely investigated if the woman affected does not herself talk about experiencing it. Practical experience shows that the safety of the child and the woman are not the primary criterion when the child's welfare is being examined, but rather that the visitation rights of the violent father often have priority.

Unsupervised interactions in situations where there is a history of domestic violence means further endangerment for women and children. Even though the possibility of ordering supervised interactions exists, further endangerment can often occur during these interactions. Therefore, the German practice does not conform to the Convention.⁵²

The CEDAW Alliance calls for

- the development of an overall concept for the prevention of and protection against violence in close social relationships.
- the assurance of priority to matters of protection against violence over other decisions, and a better dovetailing of concepts for the protection of women and children along the lines of the two UN conventions.
- the adequate consideration of domestic violence in custody and access proceedings, and that appropriate measures for the protection of women and children be taken.

Homicides in close social relationships; so-called honour killings

So-called honour killings have been investigated for a longer period of time and are punished by the courts as murder with life imprisonment. Thus, the perpetrators clearly receive a tougher punishment than those who have committed other homicides in close social relationships. **Homicide of an ex-partner due to the separation** is the most frequent manifestation of this; in some cases it is treated as a less serious form of homicide and is punished with a very lenient sentence as the courts find the motive of the abandoned ex-partner comprehensible and assess it as mitigating. Currently, there is no recognisable concept with the aim of preventing killings due to separations and so-called extended suicides. Effective protection measures for the subsequent victims are also absent, even though they have often contacted state authorities regarding **sexualized or domestic violence** prior to their death. This hints at a general negligence of the root causes, manifestations and repercussions of gender-specific violence in decisions made by public authorities. Moreover, analyses of the **causes of homicides** in close social relationships, comprehensive prevention and early intervention concepts as well as nationwide and systematic endangerment assessments are all absent.

The CEDAW Alliance calls for

- measures to prevent homicides against women as well as target-group specific education in order to prevent in particular misconceptions of violence against women as being a “family drama” or the like on the part of the general public and authorities.
- effective protection measures for potential victims of homicides in close relationships as well as safe shelter and witness protection programmes.
- the examination of whether the killing of the (ex) partner due to the separation or the intent of separation should be judged as particularly reprehensible in a criminal law context.

Sexualized violence

On July 7, 2016 the German legislation governing sex offences (official documents 18/8210 and 18/8626 of the German Bundestag) was fundamentally reformed. The **new legislation governing sex offences** establishes sexual acts against the noticeable will of another person as a basic offence, prosecutable without further conditions. Exploiting a vulnerable situation, a threat, surprise, joint action or violence all lead to an aggravated sentence. By doing so, the **requirements of the Istanbul Convention** are implemented and conditions are set to create a legal practice that is conforming to CEDAW⁵³. However, amongst the legal professions and the public media there is strong resistance against the reform. Therefore it remains to be seen what the impact of this reform will look like in practice.

The support available to those affected continues to be insufficient. Amongst the police and at the court, there are not enough experts trained in dealing with people who have experienced sexualized violence and **traumatic experiences**. Moreover, sufficient acute medical care including securing of evidence is not ensured at national level. Often, people affected have to decide immediately on pressing charges. Preserving evidence for several years independent of whether or not proceedings have been issued with valid legal documentation only exist here and there as a model project. As of 2017, children and adolescents are legally entitled to free **psychosocial support** during their case, i.e. extensive support for victim-witnesses aimed at the prevention of a secondary victimization through legal proceedings. Such a legal entitlement is not foreseen for adults. The granting of it is at the discretion of the court. Based on experience with the assigning of a joint plaintiff representative to victim-witnesses which is paid for by legal aid, such discretionary powers are rarely used for the benefit of those affected.

The CEDAW Alliance calls for

- taking all necessary measures to stop, if applicable, the continued legal practices which are in breach of Convention provisions. In particular, there should be mandatory training courses for the judiciary and police.
- improvements to the protection, support and counselling offered to those affected by sexualized violence.
- the introduction for all victims of sexualized violence, irrespective of their age, of a legal entitlement to free psychosocial support during legal proceedings.

- the guarantee of nationwide access to acute medical care including the possibility of preserving evidence independent of whether or not proceedings have been issued at that point in time.
- taking all other necessary measures to reduce sexualized violence, including the introduction of general education campaigns.

Measures against forced marriage

Despite research investments, the making of forced marriage punishable in art. 237 of the Criminal Code (StGB) and re-entry possible in art. 37 of the Residence Act (AufenthG), as well as the existence of specific victim support measures in some Länder, sufficient support is still missing at national level, in particular when it comes to safe refugees.⁵⁴ Existing support structures are underfunded and overstretched. Special protection measures are only offered occasionally. There are only very few measures aimed at prevention and informing people. The barriers for the **right of return to Germany**, which is at the discretion of the authorities, for those in forced marriages are too great; between 2011 and 2014, this rule was not used at all. In any case, art. 237 of the StGB only punishes official forced marriages, but not subjectively binding religious or social marriages or the continuance of forced marriages already concluded. A marriage lasting three years as a prerequisite for an **independent right of residence** promotes forced relationships. (The later-to-be single) mothers with children are faced with insurmountable barriers when they have to furnish proof of their independence from social benefits in order to receive independent permanent right of residence.

The CEDAW Alliance calls for

- the introduction of target-group specific education and prevention measures.
- the extension of the criminal offence of forced marriage to all subjectively binding marriages, i.e. also to religious or traditional marriages.
- the formulation of the right of return to Germany for people forced into marriage in article 37 of the Residence Act (AufenthG) in a way that a return is indeed possible, i.e. in particular, eliminating the irrelevant economically-oriented integration prognosis.
- the creation of sufficient support measures for those affected by forced marriages (mainly safe refugees), but also witness protection programmes.
- the introduction of a statutory rule according to which people affected by forced marriage can expressly obtain refugee status and with it humanitarian protection.

Violence in the area of sexual and reproductive rights: FGC/FGM; sterilization

The current efforts on the part of the BMFSFJ (Federal Ministry of Family Affairs, Senior Citizens, Women and Youth) to present reliable data on the number of cases of female genital cutting and/or genital mutilation (FGC or FGM) amongst women and girls living in Germany are to be welcomed. The **failure to provide information and education projects**, in particular for female migrants, the lack of training for professionals, i.e. physicians and police officers,⁵⁵ as well as the lack of nationwide, adequately-provisioned counselling services remains especially problematic for affected women.

The CEDAW Alliance calls for

- targeted information, education and counselling for affected women, girls and LGBTIQ to be provided on a nationwide basis, and adequate resources to be made available for this purpose.
- prevention measures to be strengthened, i.e. by training professionals and integrating this topic in study and vocational training curricula (social work, administration, police, etc.).

The sexual and reproductive **rights of intersex people** are still not adequately legally protected in Germany. What is urgently needed is a legal regulation of the conditions for gender-assignment or clarification surgeries, which are currently performed at a very early age and are often associated with the loss of fertility, as well as for hormonal treatments of minors.

Between 9% and 18% of **women with disabilities** are sterilized. Women with a so-called mental disability are particularly affected. According to a study on the sterilization of women with disabilities, only 50% of the respondents said that they themselves decided on the sterilization, for the rest the determining factors were a lack of knowledge on contraception, persuasion efforts by physicians, professionals or parents, or the lack of prospects in life with a child.⁵⁶ In addition, there are 37 sterilizations of people unable to consent documented annually; these are performed at the decision of a caregiver and with the collaboration of a court.

Trans people had to decide for a forced sterilization if they wanted a legally binding change to the sex entry in their vital records until the Federal Constitutional Court declared it unconstitutional in 2011 in light of the right to sexual self-determination and physical integrity. So far, there has been no compensation for those trans people who were sterilized against their will.

The CEDAW Alliance calls for

- a legal ban without exception on sterilization in cases without the prior complete and informed consent of those affected. This should be explicitly applicable for (intersex) children and people with disabilities.⁵⁷
- compensation for affected intersex people for gonadectomies and genital mutilations and sex assignments conducted without consent.
- compensation for those affected by unwanted sterilizations according to the Transsexual Act (TSG) (version 1981–2011).
- the creation of support systems and appropriate spaces for mothers/parents with disabilities who wish to have or who already have children.

Homo and transphobic violence

Trans people, in particular (migrant) trans women and LGBTIQ of colour, are strongly at risk of becoming the victim of **violence in a public space or in their family of origin**. Many tell of vilifications and reversals of blame on the part of authorities which lead to them not reporting incidents to the police.

The CEDAW Alliance calls for

- the adoption of measures for raising awareness of, preventing and prosecuting transphobic violence, as well as guaranteeing target-group-sensitive victim support from state bodies.
- the systematic recording of transphobic and racist incidents and the presentation of data on the scope of this kind of violence in the next Periodic Report.
- the collection and publication of reliable data on violence against lesbian women, as well as the adoption of target-oriented measures based thereon.

Particularly vulnerable groups: female migrants, female refugees, women with disabilities, economically and socially disadvantaged women

In Germany, protection against violence and access to counselling and support are particularly limited for female migrants with a precarious residence status and women refugees. The **consistent application of the Protection Against Violence Act** is hardly achieved in (collective) accommodation centres; in general, protection measures in this type of accommodation vary greatly from region to region. The accommodation available for women refugees who trav-

elled on their own (with children) often puts them at risk of experiencing further violence, sometimes at the hands of employees of the security services and volunteers working there. Finding a place in a women's refuge is not possible due to legal and financial obstacles.

For an **independent right of residence** for a spouse, a marriage lasting three years is required according to art. 31 of the AufenthG (Residence Act). This makes the problems for female migrants affected by violence worse. If a woman finds refuge in a women's refuge before the three years are up, it means the premature end of the required period of marriage. Even though she can apply for independent right of residence before the expiry of the three years in order to avoid special hardship (art. 31, para. 2 of the AufenthaltG), evidence of violent acts needs to be furnished. Mostly, the immigration authorities doubt the violence experienced, if the perpetrator has not been legally convicted. Then the woman needs to return to her husband or leave the country.

According to a BMFSFJ (Federal Ministry of Family Affairs, Senior Citizens, Women and Youth) study from 2012⁵⁸ women with disabilities experience sexual violence two to three times as often, and physical violence twice as often as the average female population. Care facilities lack independent monitoring authorities to investigate violence and abuse and independent complaint mechanisms are also absent. The **access to support measures** is very limited due to the lack of accessibility.

The CEDAW Alliance calls for

- the amendment of article 33 of the Asylum Act (AsylG) so that, in cases of violence, the infringement of the residential obligation no longer automatically leads to the end of the asylum application.
- the guarantee that women and girls also get access to legal counsel in expedited proceedings such as according to article 18a AsylG ("airport procedure"), and that they can claim their experience of violence as reason for residence or barrier to deportation.
- the deletion without substitution of the continuation of marriage as a prerequisite for residence entitlement in their own right from article 31 of the Residence Act.
- a broad, effective strategy equipped with adequate financial means for the protection of women and girls with disabilities against violence, which also covers female migrants and refugees.⁵⁹
- the creation of independent monitoring bodies and complaints mechanisms in institutions for people with disabilities.

Gender-specific statistics

Currently, the gender-specific data on domestic and sexualized violence against women, forced marriage, FGC/FGM, violence against LGBTIQ and unwanted sterilizations that Germany has is both little and fragmentary. Since 2014, police crime statistics contain **information on the offender-victim relationship**. However, regular evaluations of violence against women are not conducted. The interior ministries of the Laender collect various data on police protection against domestic violence, but this is not compiled for all of Germany. When it comes to finding out how often the support system is used, there are currently only annual surveys conducted by the Frauenhauskoordination (Association of Women's Shelters) covering about two thirds of women's refuges and their residents.

Recommendations 43 and 44: Refuge and help for women in distress – CEDAW Art. 1, 2, 3, 6

An effective strategy to combat violence against women requires fast, free and unbureaucratic access to protection and needs-based support (empowerment) **for all women and children affected by violence**.

The nationwide Violence Against Women Support Hotline provides access to women affected by violence who want to talk about their experience of violence or look for local support. However, there is a lack of resources for the latter. The around **350 women's refuges accept around 18,000 women** with their children annually; another 18,000 requests for admission have to be turned down.⁶⁰ Women affected by violence looking for protection and support have to overcome several obstacles.

Obstacle lack of space: In big cities and conurbation areas, there is a clear lack of space in women's refuges, in some cities up to 500 women per annum are referred to other places.⁶¹ The average space quota in Germany is 1:12,000;⁶² mainly in rural areas there are too few or no spaces available. At least 125 rural districts/independent towns in Germany do not have a women's refuge.

Obstacle funding of individual cases: The funding of women's refuges via the benefit entitlements of women from the Social Codes II or XII excludes many groups of women from protection: Female migrants with a precarious residence status, women refugees, female trainees and students, mature secondary-school students, newly arrived women from EU countries, the wives of diplomats, UN staff, women with restrictions on their place of residence/residence obligations as well as women with income and assets. The daily rate in women's refuges are between EUR 30 and EUR 100 per person. Women not entitled to funding have to pay for their accommodation and counselling themselves, or the women's refuge needs to finance their stay from donations. Increasingly, municipalities are denying women's refuges the admittance of women and children from other municipalities of origin as cost reimbursements prove to be problematic.

Obstacle lack of accessibility: The hotline is also accessible to women with disabilities (except for the deaf). But after this initial contact, they often do not receive any further support on site due to the lack of accessibility and resources. According to a report by the Federal Government from 2012⁶³ only around 5 % of women's refuges are well suited for women with disabilities, with 65 % suited to a limited extent. In the case of specialized counselling centres, 30 % are well suited with 60 % suited to a limited extent. Public funds for the creation of nationwide accessibility are lacking. 10 to 15 % of refugees in Germany suffer from a disability or a chronic disease. Nevertheless, accessibility is completely forgotten about here.

Obstacle lack of rooms and staff: In many women's refuges several women have to share a room. Women with a particular need for **space** or increased support (e.g. women with psychiatric issues, women addicted to drugs, or women with adolescent sons) cannot be admitted to most women's refuges due to a lack of spatial capacity and staff.

The CEDAW Alliance calls for

- ensuring fast, unbureaucratic and free nationwide access to protection and needs-based support for all women and children affected by violence.
- the consistent implementation of the quota recommended by the task force of the Council of Europe of one place at a women's refuge per 7,500 inhabitants (total population) and the provision of funds for the approximately 4,000 additional places required at women's refuges across the country.
- securing financing for women's refuges as well as women's and specialized counselling centres consistently accessible to all regardless of their ability or disability.
- the consideration in all measures of the needs of female refugees and migrants due to disability or impairment.⁶⁴

Lack of staff, offers for girls and boys, interlingual communication

Support services such as around-the-clock admission of women affected by violence in women's refuges are often not possible. The CEDAW Alliance sees special need for action in the support of boys and girls also affected in women's refuges and specialized counselling centres by providing the relevant staffing and space resources. The support of children and adolescents in **overcoming experiences of violence** is a key preventive measure. There is also a significant lack of counselling capacity at specialized counselling centres. Staffing at specialized counselling centres is not sufficient for the counselling and support needed by women affected by violence and their children, and is different in every Land (federal state). The **lack of expert staff** results in long waiting periods for first interviews and big intervals from one counselling appointment to the next. Intervention agencies with a proactive counselling approach which step in after police involvement in cases of domestic violence are not universally present in all the Länder. Personnel and physical resources are also missing here, so that in many places information can only be sent by post or the initial consultation is only possible over the phone. **Outreach counselling options** are missing almost everywhere. The services offered by women's refuges and specialized counselling centres are also expressly orientated towards female migrants who have suffered from violence, but only in a few women's refuges and specialized counselling centres

is counselling provided in their mother tongue. Low or no funding for professional interpreting makes support only possible to a limited extent.

Lack of funding for support options

The “sustainable funding” for women’s refuges and specialized counselling centres called for in the recommendations 43 and 44 is not ensured. The Federal Government, Laender and municipalities continue to pass responsibility back and forth. When it comes to support options for violence against women, there is neither a **uniform legal framework** nor **regular funding**. They are financed by the benefit entitlements of women affected by violence, or on the basis of so-called voluntary benefits provided by the Laender and municipalities, which depend on their respective budget situations and have to be applied for anew every time. In addition, women looking for protection and the providers themselves have to contribute to financing with their own money, with the latter being required to put a lot of effort into attracting funding. Women’s refuges and specialized counselling centres still show a blatant lack of personnel, space and material resources.

The CEDAW Alliance calls for

- the cost-covering financing of appropriate services working with women, girls and boys affected by violence as well as interlingual communication in all women’s support centres.
- the creation of a federal law, thus the same for every Land (state), regarding the needs-based financing of women’s refuges and specialized counselling centres independent of individual cases.

Accommodation of queer refugees – protection against violence

LGBTIQ refugees are exposed to a high level of **violence and discrimination** in first reception facilities and collective accommodation. Moreover, there is discrimination on the part of authorities and other state agencies.

The CEDAW Alliance calls for

- the sensitization of BAMF (Federal Office for Migration and Refugees) staff (decision-makers as well as interpreters needed) in cooperation with civil society organizations regarding how to deal with LGBTIQ seeking asylum.
- the organization of accommodation and care of asylum seekers in such a way that there won’t be any discrimination against LGBTIQ. If it still occurs, adequate support options have to be provided to those affected.
- the consideration of the special needs of LGBTIQ refugees when elaborating concepts for protection against violence, and to this end the establishment of connections with LGBTIQ organizations.

Recommendations 47 and 48: Human trafficking - CEDAW Art. 6

Human trafficking for the purpose of labour and other forms of exploitation

It should be noted that not all appropriate measures for the prevention of every form of trafficking in women are being taken. Nationwide, needs-based **support structures for those affected** by all forms of human trafficking are still missing.

Women affected by **labour exploitation** are not sufficiently perceived by the public and politics, and thus are hardly taken into account in the different measures undertaken. This results in it being more difficult for them to access protection and support.

The CEDAW Alliance calls for

- the future consideration in all measures against human trafficking of the up until now overlooked group of women experiencing labour exploitation.
- adequate funding to be made available for the existing specialized counselling centres and other support structures for all forms of human trafficking so that necessary support for trafficked persons can be provided.

Human trafficking for the purpose of begging and/or committing criminal acts has been observed by specialized counselling centres for quite some time. In these cases of human trafficking, the people affected are often regarded **as offenders and not as victims** of a crime. This criminalization hinders their access to justice. Due to the new legal regulation from July 7th, 2016⁶⁵ the immunity from prosecution for trafficked persons is only regulated as a discretionary provision resulting in significant **legal uncertainty** for them.

The CEDAW Alliance calls for

- the inclusion of these forms of human trafficking in the measures and expansion of support structures to ensure access to justice.
- the guarantee of immunity from prosecution for trafficked persons.

Missing overall strategy against all forms of human trafficking

There is no action plan and no overall political strategy against human trafficking. At federal level, there are three bodies addressing different aspects of human trafficking but there is no **independent reporting or coordination body**. This leads to a waste of valuable resources and partly to parallel structures. Thus, coherent action against all forms of human trafficking, and support for trafficked persons are not possible.

The CEDAW Alliance calls for

- with the involvement of civil society, the development of an overall strategy or action plan on measures against all forms of human trafficking, as well as the provision of support for trafficked persons.
- the establishment of an independent reporting body.

Human trafficking and data protection

When it comes to human trafficking, special care needs to be taken with the collection and processing of personal data. Effective data protection is indispensable to enable trafficked persons a **life without fear of stigmatization and persecution**.

The CEDAW Alliance calls for

- the collection of data on cases of human trafficking to be in accordance with existing European and German data protection laws, and the guarantee of data protection standards and protection of the rights of trafficked persons by any reporting agency.

The assertion of legal rights, protection of victims and residence status

It is deplorable that the implementation of the EU directive 2011/36 in national law is exclusively limited to criminal provisions. The aspects of **victim protection, rights of victims and support of trafficked persons** contained therein are largely excluded. For the stabilization of trafficked persons and the guaranteeing of their legal entitlements, an early, long-term and **reliable view of things** needs to be taken to ensure their personal safety. For non-EU citizens this depends on their residence status. Residence and subsistence costs should be granted at least until the legal rights of trafficked persons can be asserted, irrespective of their willingness to cooperate and their suitability as witnesses in legal proceedings. In particular for minors, for reasons of their welfare it is necessary to **uncouple their right of residence from their willingness to testify**.

The CEDAW Alliance calls for

- the adequate consideration of the rights of trafficked persons in all political and legal measures. The focus cannot only be on the criminal prosecution of the perpetrators.
- the guarantee of residence to trafficked persons, in particular minors, independent of their willingness to cooperate in criminal prosecutions.

Recommendations 49 and 50: Exploitation of sex work - CEDAW Art. 6

There is also a heated debate about how to correctly handle sex work in Germany. In doing so, it is important to differentiate between **sex work and human trafficking**. The autonomous decision to offer sex work needs clear and non-discriminatory rules. **Human trafficking** characterized by force and exploitation is a **human rights violation** and the state needs to take decisive action against it.

Sexualized violence

With the fundamental reform of the legislation governing sex offences, sex workers of any sex are also better protected against sexualized violence. The aspect of effective access to justice for **sex workers** who have become victims of sexualized violence remains a problematic one. For this, (multilingual) information provided by specialized counselling centres, as well as training for and sensitization of expert staff are urgently needed.

Protection Act for Sex Workers

On July 7, 2016, the German Bundestag adopted the Protection Act for Sex Workers (ProstSchG). The **provisions on the regulation of sex work**, such as the introduction of an obligation on brothel operators to obtain authorization, are to be welcomed. On the whole, however, the legislation does not contribute to strengthening the right of sex workers to self-determination, but rather creates disproportionate special rules and obligations. This perpetuates **stigmatization and repression**. The obligation to register contains essential obstacles and is virtually designed as a mandatory permit. It remains unclear how non-German sex workers can go through this process without a right to translation. Also the data protection problems associated with it remain unsolved and the sex workers' obligation to carry registration and health certificates makes them vulnerable towards clients. The mandatory annual health counselling measure is disproportionately cumbersome and counter-productive since it excludes attending internationally-recognized **voluntary, anonymous outreach health counselling**. Also the obligation to use condoms is questionable as it gives an impression of legitimacy to police checks, which are actually unconstitutional. The obligation to obtain authorization for brothels, which can be broadly welcomed, is applicable to all business sizes which puts small brothels with possibly better conditions under pressure. Finally, the ProstSchG includes an extended authority clause for police and authorities to intervene against sex work which increases the **risk of abuse**. According to the Federal Government, the ProstSchG is also supposed to fight human trafficking. However, practical experiences over the years have confirmed that anonymous low-threshold outreach counselling options based on trust are clearly better suited.

The CEDAW Alliance calls for

- the abandonment of the rules for sex workers mentioned above. Instead, increased anonymous, voluntary counselling shall be provided, and in particular, pre-existing regional alternatives to the planned registration requirement shall be examined.
- the adoption of measures which actually strengthen the rights and self-determination of sex workers, e.g. by reducing access barriers in educational and employment institutions, and providing options which take into account their life situations and which are also available to sex workers who are not entitled to state-funded benefits.

Counselling and reorientation

The **rehabilitation and support programmes** demanded by the CEDAW Committee require nationwide, sustainably funded and adequate multilingual support options with enough staff. In Germany, these prerequisites do not exist. Support options have to be diverse in order to protect the interests of all people involved, such as minor or male sex workers. It can make sense to provide counselling for sex workers and trafficked persons in one place. Yet it is important that these **groups are viewed in a differentiated way**. To ensure access to these options, the focus should be placed on outreach workers. Furthermore, if sex workers wish to change their profession then it is often hard for them to do as there is a lack of prospects for the future. Also, minor or young sex workers face the problem of not being accepted into socio-pedagogical assisted living groups.

The CEDAW Alliance calls for

- ensuring the increased provision on a nationwide basis of multilingual counselling and support for sex workers and those who want to reorient themselves; in particular, the assurance of the nationwide availability of and financing for reorientation offers and living groups for mainly young and minor sex workers.

Chapter 6: Health

Recommendations 53 and 54: Gender sensitivity and gender equality in the health care sector – CEDAW Art. 12

When it comes to women's health and gender-sensitive and -equitable health care in Germany, then important and urgent gender questions arise, e.g. regarding the following situations and trends in the health care system:

The economisation of the health care system is associated with trends that particularly neglect the needs of women, for example by giving high-tech medicine, invasive treatments and medicalization priority in the use of resources. Human-related prevention, narrative-based medicine and nursing miss out. Male-hierarchic dominated structures, norms and dealings, as well as a paternalist stance often oppose the respect for women's issues and patient autonomy.

As regards sex, gender and diversity, consistent meaningful public **health reporting** is missing: Yes, more attention is paid to gender specifics, e.g. in the health reports of the statutory health insurers, but when "gender" is addressed then it's men's health that is in the foreground. In 2013, a **Men's Health Report** was published by the Robert Koch Institute in the context of federal health reporting. By contrast, the first and so far only **Women's Health Report** stems from the year 2001. It was initiated and co-developed by the Nationales Netzwerk Frauen und Gesundheit (National Network on Women and Health).

Even when they claim to be gender neutral, basic and applied medical research, the development of drugs, diagnostics and therapies as well as their guideline control and evaluation are all still androcentrically-generalizing or distorted. This is due to gender insensitivity or double standards.

Gender-specific discrimination and risks

Gender-specific discrimination can already be observed when it comes to the biological gender; pharmaceutical research and development, as well as treatment guidelines take the standard human being as being “young, white and male”. The differences between women and men such as their different metabolism or hormone status are usually not addressed. This leads to **negative health impacts on women**: over- or underdosing, wrong use, lack of efficacy, adverse events. For intersexually born people severe harm caused by drug therapies is blithely accepted.

Sexual orientation and identity are social determinants of health. A health system which postulates heterosexuality as the social norm and hereby implies a binary gender system, one in which biological sex is equated with gender identity, gender role and sexual orientation for all, inevitably prevents adequate **health care and medical research for all** of those people who cannot be accommodated in that system: lesbian and bisexual women, trans and intersex persons.

Gender-specific differences associated with the social gender role can be seen in many places:

- More **women** are diagnosed with **mental disorders** than men and with different definitions of the illness. However, the connections with the predominating gender stereotypes are obvious.
- Deliberately or unknowingly, **women** are prescribed too many psychiatric drugs but when it comes to, for example, coronary heart disease, there is an **undersupply** due to the lack of attention paid to gender-specific symptoms.
- Studies on the health of **trans people** have shown that they are at increased risk of suffering from depression and committing suicide. They are also more frequently victims of violence and the care and preventive measures offered to them are worse. Examples of this include delayed or no access to necessary health services, **burdensome mandatory opinions/therapies** as well as insufficient specialized knowledge or discriminatory behaviour on the part of health care professionals.
- To create gender “unambiguity” **intersex toddlers** are being operated on resulting in **severe damage** regularly leading to infertility, life-long diseases and traumas.

The connection of gender and other characteristics which determine the life situation of women (intersectionality) emphasizes the special **vulnerability of certain groups**:

- For **women in socially and economically precarious life situations** (the unemployed, women living in material poverty, with a migration and flight story, refugees, without educational participation) the **gap** between their need and their actual health care is especially wide.
- **Girls and older women, women with disabilities as well as women of non-Western European origin** are disadvantaged in **pharmaceutical supply** because of the lack of differentiated research.
- In addition, **women with disabilities** experience significant disadvantages in the health care system. Only 4 % of gynaecological practices have a height-adjustable chair and only about 25 % of all doctor’s offices are wheelchair accessible. Also the practices for physiotherapy, psychotherapy, the fields of medical prevention and prenatal care show a general lack of **accessibility**. Moreover, there are also barriers in the psychosocial area as there is, for example, no **information in simple language**, and there is a lack of psychotherapists who are willing to work with women with learning difficulties.

Such **intersectional discrimination** exacerbates the access to health care services and significantly reduces their level of effectiveness in restoring health and well-being.

The CEDAW Alliance calls for

- the advancing of gender-sensitive medical prevention and health promotion and the use of available gender expertise for the assessment of demand as well as for the drafting and definition of quality standards. The Medical Prevention Act which became effective in 2015 provides numerous approaches.
- the further development of federal health reporting with a consistent gender perspective and the immediate provision of resources for a second National Women's Health Report.
- the consistent implementation of the funding programmes for medical and health research as well as for health-related model projects according to the guidelines on gender mainstreaming stipulated in the GGO (Joint Rules of Procedure of the Federal Ministries). Progress reports should be made every two years.
- the use of findings from gender health research and practice for the further development of politics and legislation in a gender sensitive way, as well as the formulation of leading questions aimed at developing objectives to strengthening the cross-sectional requirement of equal opportunities in health.
- the ensuring through monitoring or, if needs be, through clear legal regulation that in clinical studies done according to articles 40, 41 of the German Medicines Act a gender-differentiated trial design with corresponding therapy-relevant evaluations is realized.
- the protection of intersex children against damaging surgical interventions done with the aim of removing gender ambiguity, and compensation for those who had to undergo such surgeries.
- all actors in the health care system to ensure, within their possibilities for action, that when it comes to health care for intersex and trans people the services of statutory health insurers are oriented towards the biological circumstances of the bodies, the highest available standard of care and the needs of people and not based on the sex entered in their vital records.
- the promotion of vocational and further training of all health care personnel and executives as regards awareness and knowledge about all forms of gender-specific health risks and disadvantages as well as the gender-equitable organization of care.
- the guarantee of accessible health care and free choice of physician at national level.

Health in the workplace

Work-related stress and gender roles

Work-related physical and psychological stress for women is often not noticed or underestimated. This is particularly true for the psychological stress in "women's jobs". In the personal service professions, **empathy and willingness to provide care are seen as "natural female characteristics"** and not as special skills. Potentially stressful activity requirements go unnoticed in these jobs. Health impacts associated with gender roles do not appear in hazard analyses and are rarely taken into account in **in-house health promotion and prevention**. Physical stress in industrial jobs typically done by women, such as those in the food industry and the electrical engineering sector, gets less attention than that experienced in typical men's jobs in the automotive or mechanical engineering sectors. Nobody seems to think about the mental stress for women caused by, for example, monotony and a lack of work structuring possibilities and professional prospects.

Health protection for pregnant and breastfeeding women

One example of discrimination against women with far-reaching consequences can be observed in maternity protection. Effective and at the same time non-discriminatory health protection for pregnant women and their unborn children is inadequately implemented: There are deficiencies in **general prevention** in the workplace through **hazard analysis**, which makes provision for the requirements of women in the case of potential pregnancies, as well as in concrete cases where there is a failure to adapt health-relevant conditions and eliminate specific health risks for pregnant women and breastfeeding mothers.

Consequences of stress and gender

Gender-specific consequences of stress for women, due to **double or triple stress** caused by having a job and family work to do for children and/or a family member in need of care, can be seen in their higher rates of absence from work and them more frequently suffering from certain psychosomatic conditions. According to statistics from the Deutsche Rentenversicherung (German Statutory Pension Insurance Scheme), mental illness is the most frequent reason stated by women for early retirement: In 2013, it was given by almost every second woman. **Effective gender-sensitive concepts and measures** for hazard analysis as well as for occupational health promotion exist neither in industrial safety practice nor in typical industrial health and safety policy. This has principally a negative impact on women's health and their safety in the workplace. But the traditional role of men also leads to health hazards for them, with a lack of risk awareness and indifference to physical and mental stress on their part not being uncommon.

The CEDAW Alliance calls for

- the topic "health in the workplace" from the perspective of gender equality to be placed on the agendas of health policy, labour and industrial health and safety policy as well as gender equality policy.
- the draft of programmes, measures and legislation for safety and health in the workplace according to the guiding principles of gender mainstreaming and gender budgeting.
- the increase of gender-specific significance in statistics and reports on industrial safety.
- ensuring that statutory health insurers fulfil their legally standardized obligation in the area of health promotion in a gender-sensitive and gender-equitable way.
- the promotion of gender-specific research on work-related impacts on health taking into account the broad discriminatory perspective presented in the first section of this chapter.

Reproductive health and gynaecological care

Safe and healthy births

Neighbourhood access to obstetrics area is becoming increasingly rare. The closure of obstetrics wards and obstetricians giving up their jobs because of economic pressure has led to the **socially guaranteed care of all women** during pregnancy, childbirth and in confinement not being ensured. Furthermore, the existing care does not live up to the psychosocial needs of women: Only about 7 % of women have an **intervention-free childbirth**. In 2014, the rate of caesarean section was around 33 %.

Urgent problems of gynaecological care for women refugees

(Psycho)gynaecological care for women refugees, who have often experienced sexual violence, is frequently insufficient and, in particular, does not **correspond to their specific needs**. The same is true of medical and obstetric care for pregnant women and medical care for women in confinement and their newborns.

Equal access to reproductive procedures

The access to medically assisted reproduction is only governed by the **guidelines of the medical associations** and thus solely depends on the individual decision of the treating physician and/or the respective ethics committee. The associated costs are only paid for under strict conditions and only for couples. Same-sex couples and single women have **no access** to this procedure.

Access to safe and legal pregnancy terminations

The Schwangerschaftskonfliktberatungsgesetz (act on counselling for women in conflict with their pregnancy) states that the Laender have to ensure that there are sufficient institutions to carry out abortions. In practice, however, the

number of these institutions is decreasing. In addition, the **financing of pregnancy terminations** is only partly guaranteed. Undocumented women face problems as their use of this medical service could threaten their stay in Germany.

Access to contraceptives

Lack of access to contraceptives means a potential health hazard for women from vulnerable groups, while material poverty plays a particular role. In 2004 and 2005, the nationwide applicable regulation on **covering the costs of contraceptives** for people without an income of their own or on a low income was axed. Only a few Laender and municipalities offer (partial) cover for the costs of contraceptives.

The CEDAW Alliance calls for

- the undertaking of measures ensuring local, comprehensive accessible care for all pregnant women with obstetric and midwife services.
- the promotion of the consideration of the psychosocial dimension of pregnancy and childbirth through education and continued training and, as the case may be, the promotion of incentives for intervention-free childbirth via adapted remuneration schemes.
- the ensuring that all women affected by violence and/or pregnant refugees as well as women who have recently given birth and those breastfeeding have at their disposal medical and other help specific to their needs.
- the submission of a draft for a reproductive medicine act through which women irrespective of their sexual identity, their partnership status and their financial means can have access to reproductive procedures.
- , via a reform of family law, the ensuring and legal safeguarding of a desired parenthood independent of sexual identity or orientation or partnership status (entry of the co-mother in the birth certificate, parental agreement).
- the presentation of a draft which firstly, limits punishability according to art. 218, 219 of the StGB (Criminal Code) to pregnancy terminations without consent as well as acknowledging the autonomous decision-making rights of women, and secondly, provides for a mandatory consultation only in cases of so-called late terminations.
- the guarantee of gender- and diversity-sensitive voluntary counselling options close to their place of residence for all pregnant women.
- the ensuring of access to safe and legal pregnancy terminations through information, vocational and continued training for physicians and health care professionals as well as secured financing, and the effective removal of obstacles to the actual access.
- all women living in Germany to be provided with and guaranteed access to free contraceptives, as well as ensuring access to safe and legal pregnancy terminations.

Care work by and health of women

Paid and unpaid care work for children, the elderly and the sick, as well as for people with disabilities is mainly performed by women. Physical and psychological **health risks in the care system** have hardly been investigated, but the existing findings point to a very high risk. The health of those providing care is impacted in many ways:

Mothers are suffering from constant time pressure and the gap between their expectation of themselves when it comes to combining professional and family life and the reality of their situation. According to the Deutsche Muttergenesungswerk (German charitable organization for the promotion of the interests and the well-being of mothers), **more than two million mothers are in need of a health retreat**. They suffer from a lack of appreciation, exhaustion, mental illness and back pain.

As **family carers** women are exposed to enormous physical, mental and time burdens which lead to disproportionate levels of health disorders, mainly mental illness such as depression, as well as musculoskeletal disorders, and limited social participation.

Apart from the big responsibility without the required resources and the work-related stress resulting from it, it is disillusionment in particular which makes **people who provide care** to family members in addition to their **regular job** ill. Their expectation of themselves to be able to provide good care can only be met to a limited extent under the prevailing conditions. On top of it, they suffer from significant physical stress. This combination leads to a disproportionately high rate of absence from work due to illness, them leaving their jobs completely and early retirement.

For **people in need of care**, the health objective of the Ottawa Charter for Health Promotion from 1986 is also valid in its physical, mental and social dimensions. Measured against it, people in need of care are blatantly underserved – amongst the very old, the rate of underserved women is two to three times higher compared to men. The longer they are in need of care, the more precarious their life circumstances are regarding **self-determination and social participation**. Moreover, women in need of care are especially affected by poverty and have no resources of their own which could be put towards their health.

The CEDAW Alliance calls for

- the ensuring on the part of the Federal Government of more time relief and needs-based help for mothers in order to prevent them from putting excessive strain on their health.
- the steering of the structures of the family-based care system towards service instead of profit orientation.
- the extension of a high-quality care infrastructure and services to support the independence and self-determination of those in need of care, promote their participation in social life and significantly ease the burden on those family members providing that care. Gender and culture-sensitive care as well as access to these options are to be ensured, in particular for vulnerable groups of people in need of care and their family carers.
- a proactive approach to the improvement of labour conditions in professional care through improved work-force planning, prevention-oriented industrial safety and effective in-house health management, as well as greater co-determination. Nursing staff should work in regular employment and should not be replaced by volunteers.
- the continued improvement of the compatibility of care work and a job. The income missed out on due to being a family carer has an impact on your pension rights. This should be compensated for by providing something similar to pension allowances made for child-minding duties for the first 2 years (children born before 1992) or 3 years (children born in 1992 or after) of the child's life.

Informed decision – patient autonomy – right to not know

The informed consent and patient autonomy anchored in the Patients' Rights Act are often **implemented** either **insufficiently or not at all** in clinical practice. This has to do with an imbalance in knowledge and power, communication barriers or simply lack of time. On top of it, there is a lack of proven guidelines and evidence-based information accessible to all. Moreover, patient autonomy is limited by **stereotypes and paternalistic views**. In particular, it's pregnant women who, under the constant assumption of their child's life being at risk, are at risk themselves of losing their rights to physical self-determination, privacy, rejection of treatment and informed decision-making, as well as the right not to know. Knowledge can also be damaging. Before diagnostics and screening measures, female patients are rarely adequately informed about the possibility of choosing not to know. They often feel put under pressure that if they decide that they don't want to know, and if it should subsequently turn out that there is some issue with the child which might have been detectable with further testing, then they will be blamed for it.⁶⁶

The CEDAW Alliance calls for

- the inclusion of training on informed decision-making in the medical licensure act for physicians, and working towards this being included in the vocational and further training of all health care professions.
- the provision of training on informed decision-making from a patient's perspective not just for medical professionals but also for lay people within the context of public health education.
- the evidence-based information of the Cochrane Library to be made publicly accessible.⁶⁷

Chapter 7: International Issues

Recommendation 63: Implementation of the Beijing Declaration and Platform for Action

The CEDAW Alliance concludes that although Germany has committed to applying the **Beijing Declaration and Platform for Action**, it does not have any systematic and checkable **implementation process** of doing so that uses targets, indices and timelines, and that involves civil society.

The CEDAW Alliance also concludes that the Federal Government has not made sufficient efforts to **raise awareness among the public at large or at institutions** of the Declaration and Platform for Action from the Beijing World Conference on Women, or of the Political Declaration and Outcome Document from the 23rd special session of the UN General Assembly on Beijing+5. It has not mobilized sufficient institutions and civil society organizations for participation, nor has it made sufficient resources available for systematic implementation.

The CEDAW Alliance welcomes the National Action Plan on **UNSC resolution 1325** (2000), which was produced jointly by the Federal Government and NGOs in 2012 but is not binding.⁶⁸ Criticism by NGOs in subsequent years, especially on **insufficient civilian crisis prevention** to prevent violent conflict and on insufficient support for local and regional women's peace initiatives, continues unchanged. In this context we refer to the report by the Women's Security Council in Germany (Frauensicherheitsrat) and the German Women Lawyers Association (djv) on recommendations 51 and 52.⁶⁹

The CEDAW Alliance calls for

- a National Action Plan to implement the Beijing Platform for Action with binding targets, indices and deadlines, as well as the provision of necessary resources. Regular dialogue and participation by civil society, especially women's organizations, must be an integral part of all stages of development. Länder and municipalities must be involved in the implementation process.

Recommendation 64: Millennium Development Goals (MDGs)

The Federal Government has not produced any proactive policy to achieve the MDGs with respect to gender equality and women's empowerment.

The Federal Government's report does not address the continuing disproportionate number of women in extreme poverty worldwide (MDG 1). That figure is 70 percent. Women are especially at risk of **hunger and malnutrition** in rural areas, as shown by the UN Human Rights Council.⁷⁰ CEDAW article 14 calls on States Parties to take into account the particular problems faced by rural women.⁷¹ But German development funds invested into large-scale agriculture have contributed to the **displacement of people from their land**. The Federal Government is therefore violating its extraterritorial obligations under General Recommendation No. 28 of the CEDAW Committee.⁷² This especially violates the rights of women. Given their responsibilities to care for their families, women have fewer opportunities than men to compensate for the loss of natural resources. Higher levels of poverty due to displacement also lead to higher levels of domestic violence by men and to higher levels of early pregnancy in girls.⁷³

Publicity and educational measures referring to the MDGs have reached neither the public at large nor civil society organizations. The project examples mentioned in the Federal Government's report consist of general claims without any information about their gender-specific quantitative or qualitative effects. These projects therefore cannot be checked to see if they are achieving the **goals of gender equality and women's empowerment**. Germany still lacks active gender equality policy to achieve checkable and measurable progress in development and budgetary matters on national and European levels.

On a positive note: when the "Development Policy Gender Action Plan 2009-2012" (*Entwicklungspolitischer Gender-Aktionsplan 2009-2012*)⁷⁴ terminated, the Federal Government passed the trans-sector "Gender Equality in German Development Policy 2014-2016" (*Gleichberechtigung der Geschlechter in der deutschen Entwicklungspolitik 2014-2016*)⁷⁵ and then the "Development Policy Action Plan for Gender Equality 2016-2020" (*Entwicklungspolitischer*

Aktionsplan zur Gleichberechtigung der Geschlechter 2016–2020).⁷⁶ Annual road maps and a continuous reporting process are planned to ensure transparent and precise implementation. Monitoring is to include **participation by civil society**. Another positive note is the Federal Government's commitment to Sustainable Development Goal (SDG) number 5, along with Germany's updated sustainability strategy in connection with Agenda 2030 for Sustainable Development. However, there is a lack of **transparency and interministerial coherence** in the process of achieving these development policy aims and meeting these human rights obligations.

The CEDAW Alliance calls for

- the Federal Government to require independent gender impact assessments for all agriculture projects, programmes and investments that it pursues independently, in cooperation with other states, via its own development agencies and banks, or in cooperation with companies. The women affected should be actively involved in the process.
- ensuring greater transparency by monitoring and efficiently evaluating gender-sensitive implementation of the SDGs in connection with Agenda 2030 for Sustainable Development.
- gender impact assessments to be based on General Recommendation No. 34 of the CEDAW Committee on the rights of rural women.
- greater involvement by the public at large, and especially women's organizations and gender experts, in achieving the goals of Agenda 2030 for Sustainable Development.
- institutional and financial support for women's organizations in implementing the Agenda.
- application of gender mainstreaming and gender budgeting based on quantitative and qualitative indices for all SDGs, and ensuring participation by women's organizations in this process.
- the Federal Government to promote Europe-wide coordination of gender policy with other areas of policy to ensure coherence.

Recommendation 65: Ratification of other conventions

The CEDAW Alliance concludes that non-ratification of important international and regional human rights instruments by the Federal Republic of Germany **weakens the existing state of human rights** and therefore also the convention on women's rights (CEDAW).

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁷⁷

The German government has been actively involved in discussions on the December 2008 Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR). But Germany has not signed or ratified this document. This is especially hard to understand given that the Protocol's procedure for individual and state communications and for inquiries into States Parties' compliance with recognized obligations is already in effect via ratification of the ICESCR. Germany has been a State Party to the ICESCR since 1973. By **ratifying the Optional Protocol** it can make a substantial **contribution to strengthening** national and international indivisibility and universality of **human rights**.

The CEDAW Alliance calls for

- Germany's long overdue ratification of the Optional Protocol to the ICESCR without further delay which will set an example in strengthening and recognizing economic, social and cultural rights. This will also strengthen the rights of women and especially vulnerable discriminated groups.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families⁷⁸

The only one of nine major international human rights instruments that Germany **has not ratified** is the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. This convention, whose preamble affirms the validity of the principles and norms in CEDAW, addresses rights guaranteed in other international human rights treaties. It defines them in more concrete terms for the **specific situation of migrants**, both male and female, “without distinction of any kind such as sex, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status”.⁷⁹

The Federal Government’s reservations against ratifying this convention are especially difficult to understand given that Germany is required by human rights treaties to protect the rights of migrants.

The CEDAW Alliance calls for

- Germany to ratify the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in order to take an important step in strengthening the rights of migrants in Germany and to eliminate existing deficits in the protection of human rights. This is of particular importance due to the current situation of big migration and refugee movements.
- all state reporting procedures on human rights, including CEDAW, to include the status of implementing human rights for migrants.

Annotations

- 1 For an extensive analysis of interwoven forms of discrimination cf.: parallel report to the UN Anti-Racism Committee on the 19th to 22th report of the Federal Republic of Germany: Racist Discrimination in Germany, March 2015, http://rassismusbericht.de/wp-content/uploads/Parallelbericht_15Jun_Zweite-Auflage.pdf (access on: Oct. 4, 2016)
- 2 Cf. <http://feministisch-sprachhandeln.org/leitfaden/kapitel4/>
- 3 In German the term “Migrant*in” is frequently used for people of numerous generations with migration ancestry. Most descendants of the guest workers and refugees following the Second World War, i.e. two to five generations, already have *German* citizenship. They often view the phrase “with a migration background” as a racist designation by the white majority society. In order to describe groups facing sexism and – related – racism (i.e. intersectional discrimination), the CEDAW Alliance uses the term “migrant” in connection with “women/people with a migration background”, “women of colour” or “people of colour” with general reference to people who face racism, including black people and/or people from the African Diaspora.
- 4 The percentage of those employed and unemployed among the population of working age.
- 5 Allmendinger, Jutta et. al (2013), “Lebensentwürfe heute, Wie junge Frauen und Männer in Deutschland leben wollen: Kommentierte Ergebnisse der Befragung 2012” (p. 12), www.britte.de/producing/pdf/fads/Discussion-Paper-2013.pdf (access on: Oct. 4, 2016)
- 6 Cf. BMFSFJ (ed.) Combined Seventh and Eighth Periodic Report of the Federal Republic of Germany on CEDAW, p. 9 (German version), <https://www.bmfsfj.de/blob/95314/b2f7c425e27a5cf461fb268315b3d288/siebter-und-achter-cedaw-bericht-zum-uebereinkommen-der-vn-deutsch-data.pdf> (access on: Oct. 4, 2016)
- 7 Ten years after the AGG came into force, the ADS has spoken out in favour of a reform of this act. It has based its decision on new findings from an independent evaluation body, see the following ADS release of 9 August 2016, http://www.antidiskriminierungsstelle.de/SharedDocs/Aktuelles/DE/2016/20160809_AGG_Evaluation.html (access on: Oct. 4, 2016)
- 8 For this, the expansion of art. 7 “unreasonable annoyance” in the Federal Act Against Unfair Competition to include an art. 7A “discriminatory advertisement” containing a definition thereof would be possible.
- 9 Coverage is almost exclusively of female athletes from individual- or “women’s sports” (an exception is women’s football) and sports reporting is mainly dominated and watched/read by men. Cf. Daniela Schaaf et al.: Medienpräsenz von Sportlerinnen: Emanzipation oder Sexualisierung? In: Aus Politik und Zeitgeschichte, No. 16-19, 2011, p. 15-20, published online at <http://www.bpb.de/apuz/33339/medienpraesenz-von-sportlerinnen-emanzipation-oder-sexualisierung?p=all> (access on: Oct. 4, 2016)
- 10 Claudia Krell et al. (2015): Coming out – und dann?! Pub. by Deutsches Jugendinstitut (German Youth Institute), http://www.dji.de/fileadmin/user_upload/bibs2015/DJI_Broschuere_ComingOut.pdf (access on: Oct. 4, 2016)
- 11 Inga Niehaus et al. (2015): Schulbuchstudie Migration und Integration. Pub. by the Federal Government Commissioner for Migration, Refugees and Integration, https://www.bundesregierung.de/Content/Infomaterial/BPA/IB/Schulbuchstudie_Migration_und_Integration_09_03_2015.html (access on: Oct. 4, 2016)
- 12 Melanie Bittner (2011): Geschlechterkonstruktionen und die Darstellung von Lesben, Schwulen, Bisexuellen, Trans* und Inter* in Schulbüchern. Pub. by the Gewerkschaft Erziehung und Wissenschaft (German Education Union), <https://www.gew.de/ausschuesse-arbeitsgruppen/weitere-gruppen/ag-schwule-lesben-trans-inter/ratgeber-praxishilfe-und-studie/gleichstellungsorientierte-schulbuchanalyse/> (access on: Oct. 4, 2016)
- 13 Different from the traditional “male breadwinner/female full-time homemaker” ideal of western welfare states, the earner-carer model is based on the assumption that all people should work but also have care responsibilities on the side, and that they should do care work from time to time throughout their lives.
- 14 The factor method in tax category IV, which married couples and registered life partners can choose instead of the tax category combinations III/V or IV/IV, is a proportional model intended to provide for a more just taxation of unequal income as well as to lower the threshold to employment ascribed to tax category V. According to the factor method, the person with the lower income also pays less payroll tax. However, it is not always

worth it compared with the tax category III/IV because income taxation splitting is also applied to the factor method.

- 15 Statistische Ämter des Bundes und der Länder (Hg.) (Statistical Offices of the Federal Government and the Laender) (Pub.) (2016): Kindertagesbetreuung regional 2015, Wiesbaden, p. 7, <https://www.destatis.de/DE/Publikationen/Thematisch/Soziales/KinderJugendhilfe/KindertagesbetreuungRegional.html> (access on: Oct. 4, 2016)
- 16 With the concept "Workplace private household - good work is possible" ("Arbeitsplatz Privathaushalt - Gute Arbeit ist möglich") the German Trade Union Confederation presented a sustainable proposal in May 2016 on the structuring of household-related services, cf. <http://www.dgb.de/themen/++co++993cf6d8-15b7-11e6-9083-52540023ef1a> (access on: Oct. 4, 2016).
- 17 Many examples of gender differences for those criteria relating to labour conditions are proven: see, amongst others, Andrea Lohmann-Haislah et al. (2012): Stressreport Deutschland 2012, pub. by the Federal Institute for Occupational Safety and Health, http://www.baua.de/de/Publikationen/Fachbeitraege/Gd68.pdf?__blob=publicationFile&v=23 (access on: Oct. 4, 2016) as well as the annual report by the Federal Government on safety and health in the workplace (SuGA reports).
- 18 "Close to direct preaching of religious beliefs" refers to all areas which have a direct connection to their respective Christian doctrine, such as priests, pedagogues at a Catholic day-care centre or carers in a Protestant home for the elderly. However, there is no clear and general applicable interpretation of which church services are regarded as being close to direct preaching of religious beliefs and which are regarded as subsequent services.
- 19 Social Welfare Organization of Germany's Protestant Churches (Evangelisches Werk für Diakonie und Entwicklung e. V.) does not share this demand. In their eyes, art. 9 of the AGG expresses an objectively justified difference between the employment practices of church social welfare organizations and non-church employers, as well as the right to self-determination for the churches in accordance with German constitutional law, European and international law, in particular, with human rights standards.
- 20 European Union Agency for Fundamental Rights (2014): Being Trans in the European Union, http://fra.europa.eu/sites/default/files/fra-2014-being-trans-eu-comparative_en.pdf (access on: Oct. 4, 2016) as well as Jannik Franzen et al. (2010): Benachteiligung von Trans*Personen, insbesondere im Arbeitsleben, pub. by the ADS, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Expertisen/Expertise_Benachteiligung_von_Trans_personen.pdf?__blob=publicationFile&v=1 (access on: Oct. 4, 2016)
- 21 Ministry of Labour, Integration and Social Affairs of the Land North Rhine-Westphalia (ed.) (2010): Muslimisches Leben in Nordrhein-Westfalen, table 5-8, p. 115, http://www.cig-bockum-hoevel.de/downloads/studie_muslimisches_leben_nrw.pdf (access on: Oct. 5, 2016)
- 22 Act on the Improvement of the Determination and Recognition of Professional Qualifications Acquired Abroad ("Recognition Act") (April 1, 2012): https://www.anerkennung-in-deutschland.de/html/de/anerkennungsgesetz_des_bundes.php (access on: Oct. 7, 2016)
- 23 The Aufstiegs-BAföG (Upgrading Training Assistance Act (formerly „Meister-BAföG")) supports skilled workers in the financing of their further training. With the help of a state programme, knowledge and skills already present can be developed through special further training. The only prerequisite for an application is that vocational training has been completed. There is no age restriction.
- 24 Group action is the action of associations or unions through which they do not claim the infringement of their own rights but those of the general public.
- 25 Activity rate (different from labour force participation, s. foot note 5) means the proportion of gainfully active persons (both employed and the unemployed) in an age group compared to the corresponding population of the same age group.
- 26 Bundesagentur für Arbeit (Federal Employment Agency), Statistik/Arbeitsmarktberichterstattung (2016): Der Arbeitsmarkt in Deutschland. Frauen und Männer am Arbeitsmarkt 2015, <https://statistik.arbeitsagentur.de/Statistischer-Content/Arbeitsmarktberichte/Personengruppen/Broschuere/Frauen-Maenner-Arbeitsmarkt-2016-07.pdf> (access on: Oct. 5, 2016)
- 27 A mini job is minor employment; remuneration does not exceed a certain limit (currently EUR 450 per month). The employee does not need to pay social security contributions for the mini job; pay does not need to be taxed.

- 28 The gender pension gap measures the difference between the average independent pensions of men and women. Taking into account all three pillars of old-age security, in 2007 it was 59.6%, i.e. women received a pension that was almost 60% lower compared to that of men. For each new age group entering retirement, the pension gap between men and women is a bit smaller, so that over the course of time there will be a clear decrease in the gender pension gap; cf. Christina Klenner et al.: Große Rentenlücke zwischen Männern und Frauen, WSI Report No. 29, 6/2016, pub. by the Institute of Economic and Social Research of the Hans Böckler Foundation, http://www.boeckler.de/pdf/p_wsi_report_29_2016.pdf (access on: Oct. 5, 2016).
- 29 Press release No. 97 of the Federal Statistical Office from March 16, 2016: Verdienstunterschied zwischen Frauen und Männern in Deutschland bei 21 %, www.destatis.de/DE/PresseService/Presse/Pressemitteilungen/2016/03/PD16_097_621.html (access on: Oct. 5, 2016)
- 30 Compare comments on the CEDAW recommendations 29/30 and 37/38.
- 31 Bastian Hartmann (2014): Unterhaltsansprüche und deren Wirklichkeit. DIW-SOEPpapers No. 660, pub. by the German Institute for Economic Research (DIW Berlin), www.diw.de/documents/publikationen/73/diw_01.c.466460.de/diw_sp0660.pdf (access on: Oct. 5, 2016)
- 32 Interministerielle Arbeitsgruppe der Bundesregierung zur Überprüfung der Möglichkeiten zur Verbesserung der Altersversorgung der nach DDR-Recht geschiedenen Frauen (Interministerial working group of the Federal Government to investigate possibilities for improvement of old-age pension for women divorced according the GDR law) (ed.) (Oct. 2003): Altersversorgung von vor 1992 in den neuen Bundesländern geschiedenen Frauen, appendix in the submission to CEDAW: Doc. 12; Vereinsakten: Handakte Ute Lauterbach
- 33 United Nations Entity for Gender Equality and the Empowerment of Women (ed.) (2010): Gender Responsive Budgeting in Practice: A Training Manual, <http://www.unwomen.org/en/digital-library/publications/2010/1/gender-responsive-budgeting-in-practice-a-training-manual> (access on: Oct. 5, 2016)
- 34 Some Laender (states), including Berlin, as well as some municipalities implement gender budgeting with cameralistics or double-entry book keeping.
- 35 The relevant statistics can be found at <http://eige.europa.eu/gender-statistics> (access on: Oct. 5, 2016).
- 36 Background note of the BMFSJF from July 7, 2015: Fragen und Antworten zu dem Gesetz für die gleichberechtigte Teilhabe von Frauen und Männern an Führungspositionen – Novellierung des Bundesgleichstellungsgesetz (BGleig). - Questions and answers regarding the act on equal participation of women and men in executive positions – amendment to the Federal Act on Gender Equality (BGleig).
- 37 Second progress report of the Federal Government on the Federal Act on Gender Equality, reporting period July 1, 2004 – June 30, 2009, Bundestag official publication 17/4307, <http://dipbt.bundestag.de/dip21/btd/17/043/1704307.pdf> (access on: Oct. 5, 2016)
- 38 Performance-based quotas are mentioned as an alternative model to rigid quotas which only allow for the preference of female applicants in the case of equal qualification levels. A revision of the regulations on performance-based quotas for women could state: Women are to be promoted preferably if and when an applicant does not obviously show better aptitude, skills or professional performance. Cf. Hans-Jürgen Papier (2014): Rechtsgutachten zur Frage der Zulässigkeit von Zielquoten für Frauen in Führungspositionen im öffentlichen Dienst sowie zur Verankerung von Sanktionen bei Nichteinhaltung, p. 56 et. seq. https://www.mik.nrw.de/fileadmin/user_upload/Redakteure/Dokumente/Themen_und_Aufgaben/Moderne_Verwaltung/1407ga_zielquoteoedie.pdf (access on: Oct. 5, 2016).
- 39 Cf. loc. cit., p. 41 et. seq.
- 40 The higher court trial period is a prerequisite for the promotion of judges in some Laender. In general, judges for life have to undergo a trial period before they receive a judge mandate with a higher final basic salary. This is also true for public prosecutors.
- 41 Deutscher Olympischer Sportbund – German Olympic Sports Confederation (2016): Bestandserhebung 2015, https://www.dosb.de/fileadmin/sharepoint/Materialien%20%7B82A97D74-2687-4A29-9C16-4232BAC7DC73%7D/Bestandserhebung_2015.pdf (access on: Oct. 5, 2016)
- 42 European Commission (2014): Sport and physical activity, Special Eurobarometer 412, http://ec.europa.eu/health/nutrition_physical_activity/docs/ebs_412_en.pdf (access on: Oct. 5, 2016)
- 43 This is exemplified by measures on gender-equitable use of sports facilities as with Gender Budgeting Berlin.

- 44 Deutscher Olympischer Sportbund - German Olympic Sports Confederation (2015): Report by the executive committee and the board, https://www.dosb.de/fileadmin/Bilder_allgemein/Veranstaltungen/Mitgliederversammlung_Hannover_2015/Bericht_des_Praesidiums_und_des_Vorstands.pdf (access on: Oct. 5, 2016)
- 45 Claudia Krell et al. (2015)
- 46 Statement of the Bundeskonferenz der Frauenbeauftragten und Gleichstellungsbeauftragten an Hochschulen e. V. (Federal Conference of the Women's Officers and Equal Opportunities Officers at Universities) on the final report of the International Commission of Experts for the evaluation of the German Excellence Initiative and on the programme report of the Joint Commission on the Excellence Initiative from February 4, 2016: Geschlechtergerechtigkeit in der Exzellenzinitiative II konsequent umsetzen! http://www.bukof.de/tl_files/Veroeffentl/sn-16-Exzellenzinitiative.pdf (access on: Oct. 5, 2016)
- 47 Half of the students in the EU are women. But with every higher stage of the scientific career their number drastically decreases. They disappear in the scientific structures traditionally oriented towards men – a phenomenon which is called “leaky pipeline”.
- 48 Internationale Expertenkommission (2016): Evaluation der Exzellenzinitiative, Endbericht. Berlin, p. 27 et. seqq. <http://www.gwk-bonn.de/fileadmin/Papers/Imboden-Bericht-2016.pdf> (access on: Oct. 5, 2016)
- 49 The parity electoral law is supposed to help implement the actual, democratic participation of women and men in parliaments. Intended is a binding statutory regulation on the equal representation of genders for the nominees and constituencies through the political parties for elections to the German Bundestag, as well as for state parliament and municipal elections. The French parity electoral law adopted in 2000 serves as an example.
- 50 For a successful daily life with a child, parents suffering from physical or sensory disability or from a chronic illness sometimes need practical support provided by third parties during the baby and toddler period. This form of personal assistance is called assistance for parents. In general, parents know what is good for their child, how they can respond to it and nurture it appropriate to its age. Cf. website of the Bundesverband behinderter und chronisch kranker Eltern (Federal Association of Disabled and Chronically Ill Parents), <http://www.behinderte-eltern.de>, key word “Elternassistenz” (assistance for parents).
- Accompanied parenthood is directed at parents (to be) with learning difficulties and their children who would like to live together as a family in their own home but require support, in particular when it comes to raising their children. Cf. website of the association MOBILE-Selbstbestimmtes Leben Behinderter e.V., (<http://www.mobile-dortmund.de/64-0-Begleitete-Elternschaft.html>).
- 51 The English term “disability mainstreaming” is used similarly to gender mainstreaming. A consistent strategy of disability mainstreaming has the aim of considering and implementing the equality of people with disabilities at all societal levels. Disability mainstreaming is supported by the UN Convention on the Rights of Persons with Disabilities (<http://www.behindertenrechtskonvention.info/>), which is binding in Germany since 2009.
- 52 CEDAW (2014): Communication No. 47/2012, 18 July 2014, CEDAW/C/58/D/47/2012, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/58/D/47/2012&Lang=en (access on: Oct. 5, 2016)
- 53 Cf. CEDAW (2010): Communication No. 18/2008, 16 July 2010, CEDAW/C/46/D/18/2008
- 54 Regarding legal and actual protection gaps, see the answer from the Federal Government to the minor interpellation from the deputy Ulle Schauws et al. and the parliamentary faction Bündnis 90/Die Grünen, Zwangsverheiratungen in Deutschland (forced marriages in Germany), BT-Drucksache 18/7749, <http://dip21.bundestag.de/dip21/btd/18/077/1807749.pdf> (access on: Oct. 5, 2016).
- 55 Also cf. CEDAW (1990): General Recommendation No. 14, A/45/38; CEDAW/CRC (2014), Joint General Recommendation No. 31, CEDAW/C/GC/31-CRC/C/GC/18, paras. 73 (d), 82.
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- 57 CRPD (2015): Concluding observations Germany, CRPD/C/DEU/CO/1, para 37 and 38 a), http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/PDF-Dateien/Pakte_Konventionen/CRPD_behindertenrechtskonvention/crpd_state_report_germany_1_2011_ConObs_2015_en.pdf (access on: Oct. 5, 2016)

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