



I. Ratification of the Optional Protocol and Implementation in the Basic Law

The German government played a decisive role in concluding and formulating the Optional Protocol in 2008, and subsequently iterated that it also intended to sign it without, however, committing to specific dates or denominating prerequisites.

In the 6th State Report, recommendation number 36 “Ratification of the Optional Protocol” states that this is “an important and proven instrument. (...) During this legislative term, the review process has not yet been completed”; any further explanation is missing. The 5th State Report had already made clear that “the clarification of open questions concerning a functioning complaint mechanism should be expedited quickly” (page 21).

In response to a request from Member of the German Parliament Azize Tank on the obstacles of an immediate ratification, the Federal Government declared in contrast 2014 that the decision-making practice of the UN Committee on Economic, Social and Cultural Rights was “to be assessed only to a limited extent” and in part missing “general comments on some articles of the UN International Covenant on Economic, Social and Cultural Rights (ICESCR)” (reply by Parliamentary State Secretary Gabriele Lösekrug-Möller to question 47 of delegate Azize Tank, plenary protocol 18/22).

The opposite is the case, if it were at all relevant for the ratification of a treaty binding under international law. The consequences of the ratification can be estimated reasonably well according to an opinion of the German Institute for Human Rights. The rights of the ICESCR are substantiated by “general comments” and “concluding observations” of the committee. Because national legal remedies have to be exhausted before filing a complaint before the committee, a large flood of complaints is not to be expected, much less a large number of convictions against Germany.

Recommended question: What specific obstacles does the State party consider to be hindering the ratification of the Optional Protocol? Until when will the examination of the possibility of ratification be completed?

In addition to ratifying the Optional Protocol, the implementation of social human rights in the Basic Law is indicated in light of the detailed catalogue of individual civil rights and rights of liberty, in order to underline their universal character. Social human rights are already found in constitutions of several German states.

Recommended question: In view of the universality of human rights and the already existing comprehensive list of fundamental rights of individual civil rights and rights of liberty, does the State party intend to put social human rights into law beyond the welfare state principle, in addition to the ratification of the Optional Protocol?



II. Right to adequate housing for everyone (Article 11(1))

This important social human right was not even worth mentioning in the State Report, although the committee had already expressed the urgency of introducing a basic right to housing in its conclusions of the 5th German State Report (2011).

Recommended question: Does the social human right to housing for everyone not require the actual and legal non-discriminatory access of each person to his own (barrier-free) housing, including the supply of water and energy?

1.1. Combating homelessness

The concern voiced by the committee about the number of homeless people (page 6) is confirmed by current developments: in view of estimated figures of one-third to half a million homeless people as well as 39 000 unsheltered people (2014) and rapidly rising forecasts for the coming years by the Federal Working Group for Assistance to Homeless People (BAGW e.V.)

(http://www.bagw.de/de/themen/zahl_der_wohnungslosen/index.html), it is urgently necessary for a rich country like Germany to entitle every person to adequate housing.

Homelessness is a nationwide problem and especially severe in big cities. Recently, it increasingly affected refugees and migrant workers from Eastern European countries as well as other people without a secure status.

Recommended question: Does the State party intend to include a right to housing in the Basic Law and the relevant laws as a subjective right, in particular because of the steadily tightening housing situation?

1.2. Official statistics on homelessness

In order to identify and improve the causes and extent of homelessness in Germany, it is necessary to provide detailed data. The German government notes in the State Report that “both the extent as well as the causes of homelessness vary greatly between municipalities”. However, the degree of the problem can only be comprehensively compared to a statistic at hand.

Recommended question: Would an official nationwide statistic on homelessness not be an important aid for the State party in combating homelessness?

1.3. Creating or maintaining social housing

The demand for social housing is steadily increasing, but the number of available apartments is in decline. According to a study by the Pestel Institute, only every fifth economically weak household is able to get social housing. The demand for 5.6 million apartments is in stark contrast to only 1.6 million available apartments. In order to maintain the status quo alone, 130 000 new apartments would be required each year. Particularly in urban centers, the situation is often particularly delicate (<http://www.pestel-institut.de/themenbereiche/wohnungsmarkt/>).

Although the Federal Ministry of Construction now provides more funds each year, social housing has not been built in some German states for years. Often, the means are also



misappropriated, e.g. in Saxony they were mainly used for supporting private homes (<http://www.mdr.de/nachrichten/politik/regional/sozialwohnungen-sachsen-100.html>).

Recommended question: How will the State party ensure in the future that subsidies for social housing are actually retrieved and, above all, appropriately used?

1.4. Evictions

According to BAGW estimates, about 172 000 households in 2014 (2012: 144 000) were directly threatened by homelessness. In total, there were 86 000 new housing losses in 2014. 33 000 (38 %) were due to evictions and 53 000 (62 %) so-called “cold” losses of housing, in which tenants leave the apartment without clean-out procedures or before the eviction deadline (http://www.bagw.de/de/themen/zahl_der_wohnungslosen/index.html).

Recommended question: What measures does the State party take to prevent homelessness by persisting housing loss after eviction? Would it not be an effective means to offer a new, reasonable, appropriate and affordable apartment to those affected in time before a possible eviction?

III. Right to the highest attainable standard of health (Article 12)

In this regard, the State Report contains a separate chapter with a number of sub topics, however, these do not compensate for the fundamental deficits due to the lack of implementation as a social human right.

In Germany, contrary to the principle of social welfare, the medical and nursing care is strongly dependent on a person’s financial capacity. Numerous studies and expertise prove a link between poverty and risks of illness as well as between poverty and a lower life expectancy (compare the summary of current study results by the Robert Koch Institute: <http://edoc.rki.de/series/gbe-kompakt/sonstige/reAwH2wxwRHfM/PDF/29wYJ9AaKy3gU.pdf>).

Recommended question: What will the State party undertake to fully and effectively counteract the social inequality of health opportunities according to the WHO statement of June 2013? Would it not be beneficial for the implementation of the social human right to the highest attainable standard of health for all to include it in the Basic Law and the relevant laws, as well as to allow for a complaint mechanism to the UN committee?