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**Committee on the Rights of the Child****Concluding observations on the combined fifth to sixth periodic reports of Germany\*****I. Introduction**

1. The Committee considered the combined fifth to sixth periodic reports of Germany<sup>1</sup> at its 2642nd and 2643rd meetings,<sup>2</sup> held on 5 and 6 September 2022, and adopted the present concluding observations at its 2668th meeting, held on 23 September 2022.

2. The Committee welcomes the submission of the combined fifth to sixth periodic reports of the State party and the written replies to the list of issues,<sup>3</sup> which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses its appreciation for the constructive dialogue held with the multisectoral, high-level delegation of the State party.

**II. Follow-up measures taken and progress achieved by the State party**

3. The Committee welcomes the various legislative measures to implement the Convention, including the adoption of the Act to Strengthen Active Protection of Children and Juveniles, the Second Act Amending the Youth Protection Act, the Act to Combat Sexualised Violence against Children, the Act on Modernising Criminal Procedures, the Act to Combat Child Marriages, the Act on the Protection of Children with Variants of Sex Development, the Act on Providing All-Day Care and Education for Primary School Children, and the Act to Improve the Combating of Human Trafficking and to amend the Federal Central Register act and Book VIII of the Social Code.

**III. Main areas of concern and recommendations**

4. The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party's attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: violence against children (para. 23), children deprived of a family environment (para. 27), health and health services (para. 31), education, including vocational training and guidance (para. 36), asylum-seeking,

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\* Adopted by the Committee at its ninety-first session (29 August–23 September 2022).

<sup>1</sup> CRC/C/DEU/5-6.

<sup>2</sup> See CRC/C/SR.2642 and CRC/C/SR.2643.

<sup>3</sup> CRC/C/DEU/Q/5-6.

refugee and migrant children (para. 40), and the optional protocol on children in armed conflict (para. 45).

5. The Committee recommends that the State party ensure the realization of children's rights in accordance with the Convention, the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography, throughout the process of implementing the 2030 Agenda for Sustainable Development. It urges the State party to ensure the meaningful participation of children in the design and implementation of policies and programmes aimed at achieving all 17 Sustainable Development Goals as far as they concern children.

## A. General measures of implementation (arts. 4, 42 and 44 (6))

### Legislation

6. The Committee recommends that the State party strengthen efforts to incorporate children's rights explicitly into the Basic Law.

### Comprehensive policy and strategy

7. While noting the various sectoral strategies and measures at federal, *Land* and municipal levels on children's rights, the Committee considers that a comprehensive child rights policy and strategy at the federal level could serve as a basis for plans and strategies at *Land* and municipal levels. Recalling its previous recommendations,<sup>4</sup> the Committee recommends that the State party:

(a) Develop and adopt a comprehensive policy on children that encompasses all areas covered by the Convention and, on the basis of that policy, develop a strategy for its application at *Land* level that is supported by sufficient human, technical and financial resources;

(b) Ensure that such a policy provides guidance for *Länder* on implementing the Convention, and includes a special focus on children in disadvantaged situations including asylum-seeking, refugee and migrant children, children belonging to minority groups, children with disabilities, LGBTI children and socioeconomically disadvantaged children.

### Coordination

8. Recalling its previous recommendations,<sup>5</sup> the Committee recommends that the State party establish or designate a body at the federal level, with corresponding structures at *Land* level, responsible for ensuring the effective monitoring and coordination of all activities related to the implementation of the Convention across all sectors at the federal, *Land* and municipal levels, including the implementation of the various sectoral strategies on children's rights.

### Allocation of resources

9. Recalling its general comment No. 19 (2016) on public budgeting for the realization of children's rights, the Committee recommends that the State party incorporate a child rights-based approach into the State budgeting process and:

(a) Implement a tracking system for the allocation, use and monitoring of resources for children throughout all *Länder* and municipalities, and assess how investments in all sectors serve the best interests of children;

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<sup>4</sup> CRC/C/DEU/CO/3-4, para. 12.

<sup>5</sup> *Ibid.*, para. 14.

(b) Ensure transparent and participatory budgeting processes at federal, *Land* and municipal levels in which civil society, the public and children can participate effectively.

#### Data collection

10. Recognizing the large body of data available, of which only a selection was made to the Committee, it is however noted that there remain gaps relating to some areas of the Convention. The Committee recommends that the State party:

(a) Strengthen its data collection system regarding both qualitative and quantitative indicators that encompasses all areas of the Convention, and that the data are disaggregated by age, sex, disability, geographical location, ethnic origin, nationality and socioeconomic background;

(b) Improve the collection and analysis of data on violence against children, including abuse and neglect, sexual exploitation and online violence, and the situation of children in disadvantaged situations, including children in alternative care, children without a regular residence status and children of incarcerated parents;

(c) Ensure that the data are shared among relevant ministries, professional groups and civil society, and used for the evaluation of policies and projects on children's rights.

#### Independent monitoring

11. The Committee welcomes the establishment in 2015 of an independent monitoring mechanism within the German Institute for Human Rights to monitor the implementation of the Convention. However, it remains concerned about the lack of a child-friendly complaints mechanism for children covering all areas of the Convention and regrets the position of the State party that such a mechanism is not "necessary". The Committee recommends that the State party:

(a) Establish the monitoring mechanism for the Convention as a permanent mechanism, with independence with regard to its funding, and with the mandate to receive, investigate and competently address complaints from children in a child-friendly manner;

(b) Ensure that all children are aware of their right to file a complaint under existing mechanisms.

#### Dissemination, awareness-raising and training

12. The Committee welcomes the State party's efforts to provide training to relevant professional groups on children's rights and to raise public awareness about children's rights, including through the dissemination of a child-friendly version of its combined fifth to sixth periodic reports, but notes with concern that such training is not systematic and that the level of knowledge of the Convention among children is relatively low. The Committee recommends that the State party:

(a) Continue its awareness-raising regarding children's rights among the public and promote the active involvement of children in public outreach activities;

(b) Ensure systematic training on children's rights, the Convention and the Optional Protocols thereto for all professionals working for and with children, in particular those working in education, social work, migration and justice;

(c) Integrate human rights education into study programmes of relevant professional groups, and provide financial support and incentives for research in the area of human rights education for relevant professional groups.

#### International cooperation

13. The Committee commends the State party for meeting the internationally agreed target of 0.7 per cent of gross national income for official development assistance in

2020 and 2021, and notes with appreciation the adoption in 2017 of the action plan on children and youth rights in development cooperation activities. Taking note of target 17.2 of the Sustainable Development Goals, the Committee encourages the State party to adopt a child rights-based approach in respect of its trade agreements and development aid policy and programmes, including on climate change.

#### Children's rights and the business sector

14. Noting with appreciation the adoption of the act on corporate due diligence in supply chains, the Committee recalls its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights and recommends that the State party:

(a) Ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the State party's territory in relation to international and national human rights, labour, environmental and other standards;

(b) Adopt the bill on strengthening integrity in business and establish monitoring mechanisms for the investigation and redress of violations of children's rights, with a view to improving accountability and transparency;

(c) Require companies to undertake assessments of, consultations on and full public disclosure of the environmental, health-related and child rights impacts of their business activities and their plans to address such impacts.

## B. General principles (arts. 2–3, 6 and 12)

#### Non-discrimination

15. The Committee welcomes the efforts to combat discrimination against children in disadvantaged situations but is concerned about the disproportionate effect of *de facto* discrimination on such children, including in access to education and health. Taking note of target 10.3 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Strengthen policies and awareness-raising measures aimed at addressing the root causes of *de facto* discrimination, with a view to eliminating discrimination against children in disadvantaged situations including asylum-seeking, refugee and migrant children, Sinti, Roma and other children of minority groups, children with disabilities, LGBTI children and socioeconomically disadvantaged children;

(b) Evaluate, with the participation of children and civil society actors, existing measures aimed at combating discrimination against children in disadvantaged situations, to assess their impact and revise measures accordingly.

#### Best interests of the child

16. The Committee notes that the Act on Procedure in Family and Non-Contentious Matters allows for certain proceedings concerning children to be expedited, but is concerned that the principle of the best interests of the child is not being applied in all proceedings affecting children. The Committee recommends that the State party:

(a) Ensure that the principle of the best interests of the child is consistently applied in all policies, programmes and legislative, administrative and judicial proceedings affecting children, including in relation to trafficking and migration and asylum procedures;

(b) Strengthen the provision of training and guidance to all relevant professionals for assessing and determining the best interests of the child and for giving it due weight as a primary consideration.

**Respect for the views of the child**

17. The Committee notes with appreciation the various legal regulations and strategies aimed at promoting the participation of children in matters affecting them, including the federal inter-departmental youth strategy entitled “shared responsibility: a policy for, with and by young people” and lowering the voting age for municipal elections to 16 in some *Länder*, but is concerned that children’s views are not always taken into account in courts and administrative proceedings. The Committee recommends that the State party:

(a) Ensure that all children, including children under 14 years of age, can express their opinions and be heard in all decisions affecting them, including in courts and administrative and civil proceedings, and establish legal standards for ensuring that such proceedings are child-friendly;

(b) Strengthen measures to promote the meaningful and empowered participation of children, including children in disadvantaged situations, in the family, community and schools, and in policymaking at federal, *Land* and municipal levels, and ensure that children’s views are taken into account by relevant authorities;

(c) Ensure that all relevant professionals working with and for children systematically receive appropriate training on the right of the child to be heard and to have his or her opinion taken into account in accordance with the child’s age and maturity.

**C. Civil rights and freedoms (arts. 7–8 and 13–17)****Birth registration**

18. The Committee is concerned that some children, particularly children whose parents are not able to present documentation proving identity or nationality, receive a certified register printout, instead of a birth certificate, which restricts their access to certain services. Taking note of target 16.9 of the Sustainable Development Goals, the Committee recommends that the State party strengthen its efforts to ensure that:

(a) All children born in the State party, irrespective of their parents’ legal status or country of origin, promptly receive birth certificates;

(b) Staff of registry offices receive training on the options available for parents to prove their identity, such as documents other than official identification or a legal affirmation by parents;

(c) Parents without regular residence status who register the births of their children are not reported to migration authorities.

**Right to identity**

19. Noting with appreciation the adoption of the Act on the Expansion of Assistance for Pregnant Women and Confidential Birth Arrangements and the decrease in the number of cases of anonymous child abandonment during the reporting period, the Committee recommends that the State party continue to strengthen measures to promote the use of confidential births and ensure that information about the biological origins of such children are preserved, with a view to eliminating the use of baby boxes.

**Right to freedom of religion**

20. The Committee is concerned about reported case laws in courts and discussions about the possibility of bans on wearing of religious face coverings in schools, and recommends that the State party assess the potential impacts of such proposed bans on the rights of the child as contained in the Convention and its Optional Protocols.

**Right to privacy and access to appropriate information**

21. Recalling its general comment No. 25 (2021) on children's rights in relation to the digital environment, the Committee recommends that the State party:

(a) Allocate sufficient technical, financial and human resources to the newly established federal agency for child and youth protection in the media and ensure that it develops regulations and safeguarding policies to protect the rights, privacy and safety of children in the digital environment and to protect them from harmful content and online risks;

(b) Strengthen the implementation of laws that protect children in the digital environment, including the reformed youth protection act and the act to enhance the assertion of legal rights in social media networks, such as by providing for mechanisms to prosecute violations of children's rights in the digital environment;

(c) Enhance the digital literacy and skills of children, parents and teachers, including by incorporating digital literacy into school curricula.

**D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)****Violence against children**

22. The Committee welcomes the various legislative and policy measures to combat all forms of violence against children, including the establishment of a federal coordination office of specialised counselling centres to combat sexual exploitation and a national council on sexual violence against children and adolescents; the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence; and various programmes and awareness-raising activities. Nonetheless, the Committee remains seriously concerned about the high prevalence of violence against children, including sexual exploitation and online violence.

23. Taking note of targets 5.2, 16.1 and 16.2 of the Sustainable Development Goals, the Committee urges the State party to:

(a) Develop, with the involvement of *Länder*, municipalities and children, a comprehensive national strategy for preventing, combating and monitoring all forms of violence against and amongst children, including neglect, sexual exploitation, online violence, emotional violence and bullying, with a view to ensuring complementarity and coherence across all measures and programmes addressing violence against children;

(b) Ensure the effective investigation of and intervention in all cases of sexual exploitation and abuse of children in and outside the home, in the digital environment, in religious and educational institutions, and in child and youth welfare facilities, including by designating specialised law enforcement and prosecution services to investigate such offences against children;

(c) Strengthen measures for ensuring that children who are victims or witnesses of violence have prompt access to child-friendly, multisectoral and comprehensive interventions, services and support, including forensic interviews and psychological therapy, such as Childhood Häuser, with the aim of preventing the secondary victimization of those children; and ensure that such services and support are also available for, and address the specific needs of, children in disadvantaged situations;

(d) Enhance awareness of violence and sexual exploitation among both the members of the public and professionals working with and for children, including by promoting accessible, confidential, child-friendly and effective channels for reporting all forms of sexual exploitation and abuse;

(e) Strengthen efforts to train professionals working with and for children, including as part of mandatory training of teachers and social workers, to identify and adequately respond to cases of violence, including sexual exploitation;

(f) **Ensure that measures aimed at preventing violence include awareness-raising campaigns that promote positive, non-violent and participatory forms of child-rearing and discipline;**

(g) **Expand access to treatment programmes for children with sexually inappropriate behaviour, including children who may have committed sexual offences, and ensure that such children receive appropriate therapeutic attention and benefit from child protection services.**

#### **Harmful practices**

24. **Recalling joint general recommendation No. 31 of CEDAW/general comment No. 18 of CRC on harmful practices, the Committee recommends that the State party:**

(a) **Take all measures to eliminate child marriage, including forced and religious marriages, and develop awareness-raising campaigns targeted at religious communities that conduct child marriages on their harmful effect on the physical and mental health and well-being of girls;**

(b) **Strengthen measures aimed at preventing female genital mutilation, including through the allocation of sufficient resources for the protection of and support for victims, awareness-raising campaigns and the training of relevant professional groups, including health personnel and migration officers;**

(c) **Enforce the Act on the Protection of Children with Variants of Sex Development, and establish procedural safeguards and accountability mechanisms for medical doctors.**

### **E. Family environment and alternative care (arts. 5, 9–11, 18 (1)–(2), 20–21, 25 and 27 (4))**

#### **Family environment**

25. **The Committee recommends that the State party:**

(a) **Further strengthen its legislation in order to encourage and promote the role of both parents in child upbringing, particularly in cases of divorce or separation, in line with the Convention;**

(b) **Address regional disparities in the quality of and access to services provided by local youth welfare offices, including through increased funding and staffing, and invest in building the linguistic skills and cultural understanding of social workers and youth welfare specialists to adequately address the needs of children belonging to minority groups.**

#### **Children deprived of a family environment**

26. **The Committee is concerned about:**

(a) **The increasing number of children living in alternative care and, in particular, in closed institutions and without proper assessment of their best interests;**

(b) **The lack of uniform standards and quality criteria, and inadequate child protection in foster care system;**

(c) **Regional disparities in the quality of and access to services provided by local child and youth welfare offices;**

(d) **Insufficient support for children leaving alternative care.**

27. **Drawing the State party's attention to the United Nations Global Study on Children Deprived of Liberty and the Guidelines for the Alternative Care of Children, the Committee recommends that the State party:**

(a) Restore the culture of needs-based social work, urgently reconsider the use of “intensive education” involving deprivation of liberty for children in alternative care, and ensure regular monitoring of every placement;

(b) Strengthen alternative care settings with a social space orientation that can provide individualised needs-based support involving a combination of interlinked supportive measures;

(c) Further strengthen its system of foster care, introduce uniform standards and quality criteria and prevent frequent transfers of children in foster care and other alternative care settings; encourage their application across all *Länder* and allocate adequate funds towards families to promote and support care in a family environment;

(d) Ensure that children are heard in decisions affecting them in alternative care placement and throughout their stay, and that relevant authorities and professionals have the technical capacities required to guarantee respect for children’s views in alternative care;

(e) Strengthen measures, including through increased funding, aimed at providing education, skills and opportunities for independent living for children leaving alternative care.

#### **Children of incarcerated parents**

28. The Committee recommends that the State party:

(a) Ensure the visitation rights of children of incarcerated parents, including by increasing the frequency and duration of visits and supplementing visits with remote contact on a regular basis, in line with the recommendations of the Council of Europe Committee of Ministers concerning children with imprisoned parents (2019);

(b) Evaluate, with the participation of children of incarcerated parents and their families, existing policies regarding visitation rights of such children, with a view to developing federal standards for ensuring that such children can maintain personal relations with their parents and have access to adequate services and appropriate support.

### **F. Children with disabilities (art. 23)**

29. The Committee recommends that the State party:

(a) Streamline all support for children with disabilities into one body, such as child and youth support services, with a view to ensuring that all children with disabilities have equal access to benefits under Book VIII of the Social Code;

(b) Establish federal legal regulations to ensure that all disability-support facilities and services have specific measures and mechanisms to protect girls and young women with disabilities from violence, including sexual abuse;

(c) Strengthen support provided to children with disabilities, including migrant children with disabilities, for their social integration and individual development, and ensure that families of such children know how to seek the necessary support.

### **G. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1)–(3) and 33)**

#### **Health and health services**

30. The Committee is concerned about the following:

(a) Reports of a shortage of qualified medical professionals specialized in paediatric health care;

(b) That asylum-seeking and migrant children and children without a regular residence status only have access to limited health services;

(c) The large number of children, in particular children in socioeconomically disadvantaged situations, who are exposed to second-hand smoke;

(d) The prevalence of gaming disorders and other forms of online addiction among children in the State party.

**31. Recalling its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, the Committee recommends that the State party:**

(a) **Ensure the availability of quality paediatric primary care to all children, including through adequate succession planning, particularly in respect of children in disadvantaged situations and children living in rural areas, including by ensuring that the number of qualified medical professionals is sufficient to meet children's health needs;**

(b) **Consider expanding the health services available to asylum-seeking and migrant children and children without a regular residence status, with a view to ensuring that they have access to comprehensive health and mental health services;**

(c) **Conduct awareness-raising activities for parents, including pregnant mothers, on the harmful effects of substance abuse and second-hand smoke on children's health;**

(d) **Regulate the marketing of tobacco to children and continue to strengthen measures to provide adolescents with information on preventing substance abuse, including of tobacco and alcohol, and to ensure the early identification and adequate referral of adolescents requiring treatment for substance abuse;**

(e) **Ensure that adolescents who are at risk of or already have gaming disorders and other forms of online addiction are aware of the health risks associated with excessive media use, and receive appropriate support.**

#### **Mental health**

**32. Taking note of target 3.4 of the Sustainable Development Goals, the Committee is concerned about the high levels of somatic disorders, eating disorders and other self-harming behaviours among children and recommends that the State party:**

(a) **Strengthen efforts to improve children's mental well-being, including by developing community-based mental health services and counselling and preventive work in schools, homes and alternative care facilities;**

(b) **Ensure the early and independent assessment of any initial diagnosis of mental health problems, ADHD and other behavioural issues, and provide such children, their parents and teachers with appropriate non-medical, scientifically-based psychiatric counselling and specialist support.**

#### **Impact of climate change on the rights of the child**

**33. The Committee notes with appreciation the adoption of the climate action law. Nonetheless, it is concerned about the harmful effects of carbon emissions on the enjoyment of children's rights, plans for the reduction of emissions that are not ambitious enough, and insufficient measures to implement several sectoral carbon dioxide reduction plans. Taking note of targets 13.2 and 13.3 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Reduce greenhouse gas emissions in line with the State party's international commitments;**

(b) **Ensure that national policies and programmes on environmental protection including climate change are implemented in accordance with the principles of the Convention and taking into account children's needs and views;**

(c) **Conduct an assessment of policies and practices related to various sectors and the impacts of the resulting greenhouse gas emissions on children’s rights as a basis for designing a well-resourced target for reduction of emissions and strategy to remedy the situation, and ensure that the strategy includes special safeguards and appropriate legal protection for children;**

(d) **Promote, with the active participation of schools, children’s awareness of climate change and environmental health, including with regard to relevant air quality and climate legislation and their right to the enjoyment of the highest attainable standard of health, and allocate sufficient resources for the implementation of the national action plan on education for sustainable development;**

(e) **Undertake legislative and other measures to uphold its extraterritorial obligations concerning impacts on the environment, including in the context of international cooperation;**

(f) **Collect data on the impact of climate change on children and provide in its next report information on the measures taken to mitigate its impact on children.**

#### **Standard of living**

34. **The Committee welcomes the measures taken to increase the number of single parents and low-income families receiving supplementary child allowance but notes with concern the large number of children still living in poverty or at the risk of poverty in the State party. Taking note of target 1.2 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Develop a national strategy, with the participation of children, to address the root causes of child poverty and ensure that all children have an adequate standard of living. The strategy should encompass: (i) a reform of social benefits based on an adequate subsistence level and a stronger method of calculation that takes into account other factors contributing to eligibility; and (ii) include a particular focus on children from disadvantaged families, including migrant children, children without a regular residence status and children of single parents;**

(b) **Ensure that all eligible children receive child allowance, regardless of any other social benefits received by their families.**

## **H. Education, leisure and cultural activities (arts. 28–31)**

### **Education, including vocational training and guidance**

35. **The Committee commends the State party for its efforts to expand the inclusive education system, address learning gaps experienced by children during the Coronavirus (Covid-19) pandemic, expand digitalisation in schools, promote language child day-care centres, and combat violence in schools. Nonetheless, the Committee is concerned about the following:**

(a) **Disparities in equal access to quality education and vocational training across *Länder* and among children in disadvantaged groups;**

(b) **The lack of inclusive secondary schools, and the large number of children with disabilities leaving school without a school-leaving certificate;**

(c) **The shortage of teachers throughout the State party and high levels of stress reported by students owing to academic pressure or bullying.**

36. **Taking note of targets 4.5 and 4.a of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Strengthen measures to ensure equal access of children in disadvantaged groups, including asylum-seeking, refugee and migrant children, children with disabilities and children from socioeconomically disadvantaged families, to comprehensive schools, higher education and vocational training;**

(b) Establish national standards for guaranteeing the right of all children with disabilities to inclusive education, and encourage all *Länder* to develop strategies for ensuring the access of children with disabilities to quality inclusive education in mainstream schools at all levels, including at secondary level, with adapted curricula and individual support by specialized staff and reasonable accommodation for their educational needs;

(c) Strengthen measures to address the shortage of teachers, including through creative incentives for the teaching profession, and to address the root causes of the high levels of stress felt by students owing to academic pressure;

(d) Continue efforts to combat bullying in schools, including cyberbullying, and ensure that they encompass prevention, early detection mechanisms, intervention protocols, mandatory training for teachers, harmonized guidelines for the collection of case-related data, and awareness-raising about the harmful effects of bullying;

(e) Enact legislation at federal and *Land* levels providing for child-friendly complaints procedures in all educational institutions.

#### Human rights education

37. The Committee notes that education is primarily the responsibility of the *Länder* but is concerned that only three *Land* school laws explicitly refer to children's and human rights. Drawing attention to target 4.7 of the Sustainable Development Goals, the Committee recommends that the State party strengthen efforts to promote the development of a culture of human rights and peace in the education system and:

(a) Encourage all *Länder* to: (i) incorporate human rights education as an education target into their school laws, with a view to ensuring that all children in all educational settings receive teaching on children's rights and the Convention; (ii) develop human rights education materials that foster respect for and appreciation for diversity; and (iii) ensure that teachers receive the necessary support to teach children's rights in schools;

(b) Support the national rollout of human rights education initiatives, such as the "Schools on Children's Rights" and "Living Democracy!" projects.

#### Rest, leisure, recreation, and cultural and artistic activities

38. The Committee recommends that the State party, or the *Länder* as applicable:

(a) Ensure that children have sufficient time to engage in play and recreational activities that are inclusive and age-appropriate, and that their participation in such activities is voluntary and is not influenced by pressure for educational attainment;

(b) Involve children in decisions regarding urban-planning processes and the development of spaces for children to play;

(c) Ensure that the planned expansion of full-time childcare and education services for primary school children include initiatives aimed at promoting periods of unstructured and free play in schools and day-care centres and at home.

### I. Special protection measures (arts. 22, 30, 32–33, 35–36, 37 (b)–(d) and 38–40)

#### Asylum-seeking, refugee and migrant children

39. The Committee welcomes the measures taken by the State party to establish a legal basis for age assessment procedures; conduct asylum hearings of unaccompanied children by special commissioners; and ensure the access of asylum-seeking and refugee children to education. It also commends the State party for hosting a large number of asylum-seeking children from Ukraine and for taking measures to guarantee their rights, including to education. However, the Committee is concerned about the following:

- (a) The use of medical examinations for age determination if a child's age is in doubt, and the inconsistent application of age determination procedures across *Länder*;
- (b) Lengthy stays by some asylum-seeking and refugee children in reception centres and collective accommodation facilities, including in centres that are not child-friendly, which limit their access to education;
- (c) Reports of an increase in the number of deportations of families during the reporting period, sometimes leading to the separation of children from their families; unaccompanied children being turned away at the border; and the treatment of unaccompanied children as accompanied if adults travelled with them, even if these adults were not their parents or guardians;
- (d) The limited access to schools for children in initial reception centres.

40. **With reference to the joint general comments No. 3 and No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 of the Committee on the Rights of the Child (2017) on the human rights of children in the context of international migration, the Committee recommends that the State party:**

- (a) **Strengthen measures to ensure that asylum-seeking children are interviewed in a child-friendly manner by specially trained professionals; that they receive age-appropriate information and legal advice about their rights, asylum procedures and requirements for documentation; that their best interests are given primary consideration in all asylum processes; and that their views are heard, taken into account and given due weight;**
- (b) **Ensure that all *Länder* implement a uniform protocol on age determination procedures that includes multidisciplinary assessments of the child's maturity and level of development, and respects the legal principle of the benefit of the doubt;**
- (c) **Invest the resources necessary to ensure that reception centres are child-friendly and prioritize the immediate transfer of asylum-seeking and refugee children, including unaccompanied children, from reception centres to ensure their prompt access to education and necessary support;**
- (d) **Prevent the separation of migrant children from their parents;**
- (e) **Prohibit the arrest and detention of asylum-seeking and migrant children on the basis of their or parents' migration status;**
- (f) **Continue to ensure that all unaccompanied children are promptly identified and appointed a guardian with legal expertise in asylum;**
- (g) **Ensure that children in initial reception centres have prompt access to education in the regular school system;**
- (h) **Repeal the statutory obligation on all service facilities to inform the immigration authorities of any child without a regular residence status.**

### **Trafficking**

41. **Noting with appreciation the adoption of a federal cooperation model on protecting and supporting child victims of trafficking and exploitation, the Committee takes note of target 8.7 of the Sustainable Development Goals and recommends that the State party:**

- (a) **Amend the Residence Act to ensure that all alleged child victims of trafficking are issued residence permits regardless of their cooperation in criminal investigations, and that their best interests are taken as a primary consideration in decisions regarding their place of stay;**
- (b) **Ensure the identification and referral of child victims of trafficking to appropriate child-friendly services, including by ensuring the effective implementation of the federal cooperation model;**

- (c) Investigate all cases of trafficking of children, using intersectoral and child-friendly proceedings, and bring perpetrators to justice.

#### Administration of child justice

42. The Committee notes with appreciation the measures taken to bring its child justice system in line with the Convention, including through the transposition into national law of the Directive (EU) 2016/800 of the European Parliament and of the Council on procedural safeguards for children who are suspects or accused persons in criminal proceedings. With reference to its general comment No. 24 (2019) on children's rights, the Committee recommends that the State party continue to actively promote in all *Länder* the application of non-judicial measures, such as diversion, mediation and counselling, and, wherever possible, the use of non-custodial measures for children, such as probation or community service, including through training for judges, prosecutors, police officers and other professionals on children's rights, the Convention and the Committee's general comment No. 24 (2019).

### J. Follow-up to the Committee's previous concluding observations and recommendations concerning the implementation of the Optional Protocols to the Convention

#### Optional Protocol on the sale of children, child prostitution and child pornography

43. With reference to its 2019 guidelines regarding the implementation of the Optional Protocol,<sup>6</sup> the Committee recommends that the State party:

(a) Expand the scope of the Media Youth protection Act to encompass all online applications and services where children are active and expand the definition of illegal content to the production of sexual abuse material of children between 14 and 17 years of age;

(b) Take all necessary measures to prevent, prosecute and eliminate the exploitation of children online and in travel, tourism and prostitution, including by: (i) requiring the digital business sector to put in place child protection standards; (ii) ensuring that Internet service providers control, block and promptly remove online sexual abuse material; (iii) encouraging travel enterprises to sign the code of conduct for the protection of children from sexual exploitation in travel and tourism; (iv) undertaking awareness-raising campaigns aimed at prevention for professionals working with and for children, parents and the public at large;

(c) Ensure that remedies are available to all child victims of offences under the Optional Protocol, including by expanding the scope of the victim protection law to allow for victims without a regular residence status to apply for compensation.

#### Optional Protocol on children in armed conflict

44. The Committee notes the position of the State party that voluntary recruitment of personnel in the armed forces starting at 17 is in line with its obligations under international law, but is of the view that children should not be recruited into the armed forces under any circumstances. The Committee expresses concern about:

(a) Reports of advertising and marketing for military service for children, including at schools;

(b) Reports of sexual abuse and harassment against children in the armed forces;

(c) That a child's actual or threatened involvement in combat activities is not consistently considered by migration authorities as a child-specific form of persecution in decisions granting protective status;

<sup>6</sup> CRC/C/156.

(d) Reports of children who are nationals of the State party residing in camps in Syria;

(e) Insufficient information on the measures taken to identify asylum-seeking and refugee children who may have been involved in armed conflicts abroad, and to ensure that arms are not exported to countries where children are known to be recruited or used in hostilities.

45. **Recalling its previous recommendations,<sup>7</sup> the Committee urges the State party to reconsider its position regarding the minimum age of voluntary recruitment into the armed forces, and recommends that the State party:**

(a) **Raise the minimum age of voluntary recruitment into the armed forces to 18 years, and prohibit all forms of advertising and marketing for military service targeted at children, especially at schools;**

(b) **Promptly investigate any reports of sexual abuse, sexual harassment and other forms of violence against children in the armed forces, and ensure that perpetrators are prosecuted and sanctioned;**

(c) **Ensure the early and effective identification of all asylum-seeking, refugee and migrant children who may have been involved in armed conflicts abroad upon entering the State party, and that all cases of actual or threatened involvement in armed conflicts are considered as child-specific forms of persecution;**

(d) **Consider extending extraterritorial jurisdiction for crimes of recruitment and involvement of children in hostilities without the criterion of double criminality;**

(e) **Undertake effective and urgent measures to repatriate children who are nationals of the State party from camps in Syria;**

(f) **Prohibit the export of arms, including small arms and components for weapons systems, to countries where children are known to be recruited or used in hostilities.**

## **K. Ratification of international human rights instruments**

46. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

## **L. Cooperation with regional bodies**

47. **The Committee recommends that the State party continue to cooperate with the Council of Europe on the implementation of the Convention and other human rights instruments, both in the State party and in other States members of the Council of Europe.**

# **IV. Implementation and reporting**

## **A. Follow-up and dissemination**

48. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented and that a child-friendly version is disseminated to, and made widely accessible for, children, including the ones in the most disadvantaged situations. The Committee also recommends that the combined fifth to sixth periodic reports and**

<sup>7</sup> CRC/C/OPAC/DEU/CO/1.

the present concluding observations be made widely available in the languages of the country.

## **B. National mechanism for reporting and follow-up**

49. The Committee recommends that the State party establish a standing government structure to coordinate and prepare reports to and engage with international and regional human rights mechanisms, and to coordinate and track national follow-up to, and implementation of, treaty obligations and the recommendations and decisions emanating from such mechanisms. The Committee emphasizes that such a structure should be adequately and continuously supported by dedicated staff and should have the capacity to consult systematically with the national human rights institution and civil society.

## **C. Next report**

50. The Committee invites the State party to submit its combined seventh and eighth periodic reports by 24 April 2027 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines<sup>8</sup> and should not exceed 21,200 words.<sup>9</sup> In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

51. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents<sup>10</sup> and paragraph 16 of General Assembly resolution 68/268.

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<sup>8</sup> [CRC/C/58/Rev.3](#).

<sup>9</sup> General Assembly resolution 68/268, para. 16.

<sup>10</sup> [HRI/GEN/2/Rev.6](#), chap. I.