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**COMPILATION PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15(B) OF
THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1**

Germany

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations¹

<i>Core universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	16 May 1969	None	Individual complaints (art. 14): Yes
ICESCR	17 Dec 1973	None	-
ICCPR	17 Dec 1973	Yes (arts. 2(1), 14(3)(d), 14(5), 15(1), 19, 21, 22)	Inter-State complaints (art. 41): No
ICCPR-OP 1	25 Aug 1993	Yes (art.5, para.2(a))	-
ICCPR-OP 2	18 Aug 1992	None	-
CEDAW	10 Jul 1985	None	-
OP-CEDAW	15 Jan 2002	None	Inquiry procedure (arts. 8 and 9): Yes
CAT	1 Oct 1990	None	Inter-State complaints (art. 21): Yes Individual complaints (art. 22): Yes Inquiry procedure (art. 20): Yes
CRC	6 Mar 1992	Yes (arts. 3(2), 18(1), 38(2), 40(2)(b)(ii) and (v))	-
OP-CRC-AC	13 Dec 2004	Binding declaration under art. 3 : 18 years	-

Core treaties to which Germany is not a party: OP-CAT (signature only, 2006), OP-CRC-SC (signature only, 2000), ICRMW, CPD (signature only, 2007), CPD-OP (signature only, 2007), CED (signature only, 2007).

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	Yes
Rome Statute of the International Criminal Court	Yes
Palermo Protocol ³	Yes
Refugees and stateless persons ⁴	Yes
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁵	Yes, except Additional Protocol III
ILO fundamental conventions ⁶	Yes
UNESCO Convention against Discrimination in Education	Yes

1. In 2004, the Human Rights Committee (HR Committee) regretted that Germany maintains its reservations to the ICCPR and the ICCPR-OP1.⁷ The Committee on the Rights of the Child (CRC) recommended in 2004 and in 2008 that Germany proceed to ratifying the OP-CRC-SC⁸ and the Committee against Torture (CAT) called upon it in 2004 to ratify OP-CAT.⁹ The Committee on the Elimination of Racial Discrimination (CERD) encouraged in 2008 Germany to consider ratifying the ICRMW.¹⁰

B. Constitutional and legislative framework

2. In 2004, the Committee on the Elimination of Discrimination against Women (CEDAW) commended Germany on adopting a substantial number of laws and amendments with a view to improving the legal position of women.¹¹ Also in 2004, CRC expressed concern that the Convention has not been incorporated into the Basic Law and recommended Germany to do so and to ensure that all national and *Länder* laws fully conform to the CRC.¹² Also in 2004, the HR Committee and CAT made similar recommendations concerning the full applicability of their respective instruments.¹³

C. Institutional and human rights infrastructure

3. The German Institute for Human Rights was established in March 2001 as an independent national human rights institution, and given “A” status by the ICC in 2003.¹⁴ It will be reviewed at the ICC Sub-Committee session in November 2008. In 2001, the Committee on Economic, Social and Cultural Rights (CESCR) regretted that the Institute did not enjoy the powers to investigate complaints, conduct national inquiries and formulate recommendations.¹⁵ In 2004, CRC recommended that Germany allocate to the Institute adequate human, technical and financial resources for a comprehensive monitoring of the Convention.¹⁶

D. Policy measures

4. In 2004, the HR Committee welcomed the progress made in the area of human rights education, in particular for police officers, soldiers and youth.¹⁷ In 2008, CRC (on OPAC) regretted, however, that human rights education and peace education are not elements of the curricula of all schools at all levels.¹⁸

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body¹⁹</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	2007	August 2008	Due August 2009	Nineteenth to twenty-second reports due in 2012
CESCR	2000	August 2001	-	Fifth report overdue since 2006
HR Committee	2002	March 2004	January 2005	Sixth report due in 2009
CEDAW	2003	January 2004	-	Sixth report due in 2006, received in 2007 and scheduled for consideration in 2009
CAT	2002	May 2004	August 2005	Fifth report overdue since 2007
CRC	2001	January 2004	-	Combined third and fourth reports due in 2009
OP-CRC- AC	2007	February 2008	-	-

5. In 2008, CRC (on OPAC) regretted that some of the concerns expressed and the recommendations made after its consideration of Germany’s initial report have been insufficiently addressed.²⁰

2. Cooperation with special procedures

<i>Standing invitation issued</i>	Yes
<i>Latest visits or mission reports</i>	Special Rapporteur on the right to education (13-21 February 2006)
<i>Visits agreed upon in principle</i>	None
<i>Visits requested and not yet agreed upon</i>	None
<i>Facilitation/cooperation during missions</i>	The Special Rapporteur on education ²¹ expressed his deep appreciation for the warmth and frankness in the meetings he had during his visit to Germany.
<i>Follow-up to visits</i>	

<i>Responses to letters of allegations and urgent appeals</i>	A total of 9 communications were sent during the period under review. In addition to communications sent for particular groups, 8 individuals, including 1 woman, were covered by these communications. Between 15 November 2004 and 14 November 2008, the Government replied to 6 communications, representing replies to 67 per cent of communications sent.
<i>Responses to questionnaires on thematic issues</i> ²²	Germany responded to 9 of the 12 questionnaires sent by special procedures mandate holders ²³ during the period under review, within the deadlines. ²⁴

3. Cooperation with the Office of the High Commissioner for Human Rights

6. Germany is a regular donor to OHCHR work²⁵ and contributed to the United Nations Humanitarian Funds.²⁶

7. In the context of the German Presidency of the European Union, the High Commissioner visited Germany in 2006,²⁷ where she discussed issues of both local and multilateral concern, such as discrimination and the need to uphold human rights in the context of international migration and counterterrorism.²⁸

B. Implementation of international human rights obligations

1. Equality and non-discrimination

8. In 2008, CERD welcomed the adoption of the General Equal Treatment (GET) Act which prohibits discrimination on the grounds of race and ethnic origin, gender, religion and belief, disability, age and sexual orientation.²⁹ However, CERD regretted the absence of a definition of racial discrimination in domestic legislation and expressed concern, inter alia, about the increase of reported racial-related incidents and the fact that many Roma and Sinti continue to experience discrimination.³⁰ It recommended, inter alia, that Germany consider adopting a clear and comprehensive definition of racial discrimination;³¹ increase its efforts to prevent racially motivated offences on the internet and ensure that relevant criminal law provisions are effectively implemented;³² take more resolute action to prevent and punish perpetrators of racially motivated acts of violence against members of the Roma/Sinti, Muslim and Jewish communities and against German nationals of foreign origin and asylum-seekers, in particular of African origin;³³ take effective measures to counter the incitement to discrimination and violence in the media and to overcome the disadvantages brought about by persistent discrimination.³⁴ CRC recommended in 2004 that Germany undertake the necessary steps to prevent and combat discriminatory disparities and de facto discrimination against foreign children or children belonging to minorities.³⁵

9. According to a study by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, far-right parties, notably the National Democratic Party (*Nationaldemokratische Partei Deutschlands*, NPD) and the German People's Union (*Deutsche Volksunion*, DVU), had until 2006 remained out of political power at the national and regional levels as they had never crossed the threshold of 5 per cent of votes required to be represented in parliament. This situation changed in 2006 when the NPD entered the *Land* parliament in Mecklenburg-Vorpommern and the DVU the *Land* parliament in Brandenburg. A recent study concluded that right-wing extremist ideology is not only found at the right fringe of the German political spectrum but across all population classes and generations. The study cautioned that special attention should be paid to xenophobia as the "gateway drug" leading to right-wing extremism.³⁶

10. The ILO Committee of Experts in 2007, in reference to the Convention concerning Discrimination in respect of Employment and Occupation (No. 111), noted the Government's indication that the Industrial Relations Act (*Betriebsverfassungsgesetz*) offered employers and work councils a variety of possibilities to contribute to the integration of foreign workers and the elimination of racism and xenophobia at the workplace, including the conclusion of workplace agreements on these issues.³⁷

11. In 2004, CEDAW expressed concern about the situation of migrant and minority women, including Roma/Sinti women, who suffer from multiple forms of discrimination, and at the vulnerability of some of these women to trafficking and sexual exploitation. It recommended taking effective measures to eliminate discrimination against migrant and minority women, and to respect and promote their rights.³⁸

12. The ILO Committee of Experts in 2007 indicated that section 9 of the GET Act allows for certain differential treatment on the basis of religion or world view (*Weltanschauung*) in respect of employment by religious communities (*Religionsgemeinschaften*).³⁹

2. Right to life, liberty and security of the person

13. While appreciating the reduction in the number of complaints made public, the HR Committee expressed concern in 2004 about continuing reports of ill-treatment of persons by the police, including foreigners and members of ethnic minorities. It recommended that Germany ensure prompt, thorough and impartial investigation, bring to justice those responsible for violations of the law, and grant full reparation. It also recommended that Germany provide training to police and establish independent bodies throughout its territory to investigate complaints of ill-treatment by the police.⁴⁰ On the same issue, CAT in 2004 recommended that Germany take all appropriate measures to ensure that criminal complaints lodged against its law enforcement authorities are resolved expeditiously.⁴¹ In its response, Germany noted that the long duration of investigation and prosecution of public officials is the "cumulation of problems" specific to the individual cases.⁴² CAT also called upon Germany to clarify whether all complaint facilities and avenues of legal redress available against members of the law enforcement authorities are applicable to the employees of private security companies utilized to provide security to certain detention facilities at Frankfurt-am-Main international airport; and what kind of training is provided to such employees.⁴³ In its supplementary response to CAT, Germany noted, inter alia, that there is no advanced training for the employees of private security services specifically directed toward the substance of the Convention against Torture.⁴⁴

14. In 2004, the HR Committee noted the vulnerable situation of elderly persons placed in long-term care homes, which in some instances has resulted in degrading treatment and violated their right to human dignity. It recommended that Germany pursue its efforts to improve the situation of elderly persons in nursing homes.⁴⁵

15. In 2004, CRC and the HR Committee noted with concern the persistence of domestic violence despite legislation adopted by Germany. CRC recommended, inter alia, that Germany strengthen awareness-raising campaigns in order to prevent and combat child abuse, evaluate the work of existing structures and provide training for professionals involved in such cases.⁴⁶

16. In 2006, the Working Group on Enforced or Involuntary Disappearances transmitted one urgent action case regarding the arrest of a foreigner in his home country after having been deported from Germany. Subsequently, it was reported that the person was in a labour camp in his country of origin.⁴⁷

17. In 2004, the HR Committee expressed concern that despite positive measures adopted by Germany, trafficking in human beings, especially women, persisted. The HR Committee recommended that Germany strengthen its measures to prevent and eradicate this practice and to protect victims and witnesses.⁴⁸

18. While noting the efforts undertaken in this regard, CRC expressed concerns in 2004 at the increasing number of street children in Germany, as well as the high percentage of foreign children among them. CRC called upon Germany to pursue its efforts to prevent and reduce this phenomenon by addressing its root causes, with a special emphasis on the protection of foreign children; to ensure that street children are provided with adequate food, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development; and to ensure that these children are provided with recovery and reintegration services for physical, sexual and substance abuse, and services for reconciliation with their families.⁴⁹ On the same issue, the ILO Committee of Experts in 2007 requested Germany to provide information on the effective and time-bound measures taken or envisaged to protect street children from the worst forms of child labour.⁵⁰

3. Administration of justice and the rule of law

19. In addition to the reservations to article 40 (2) (b) (ii) and (v), CRC expressed concern in 2004 at the increasing number of children placed in detention, disproportionately affecting children of foreign origin, and that children in detention or custody are placed with persons up to the age of 25 years. CRC recommended that Germany take all appropriate measures to implement a juvenile justice system in conformity with the Convention and with other United Nations standards in this field; ensure that deprivation of liberty is only used as a measure of last resort and for the shortest possible time; that guarantees of due process are fully respected; and that persons under 18 are not detained with adults.⁵¹

4. Right to privacy, nationality, marriage and family life

20. While noting the amendments to the Nationality Law simplifying the acquisition of German citizenship by long-term residents, CERD regretted in 2008 that a considerable proportion of non-citizens who might fulfil the requirements to obtain naturalization still live in Germany without citizenship. CERD recommended that Germany facilitate acquisition of German citizenship by long-term residents and persons born in Germany.⁵²

21. CESCR in 2001 and CRC in 2004 noted with concern the lack of sufficient childcare facilities and recommended that Germany take measures to establish more childcare services. CRC also called upon Germany to ensure that quality child care is available to all children.⁵³

22. In 2004, CRC expressed concern that the abduction of children by either of their parents is a growing problem. The Committee recommended inter alia that Germany effectively apply the Hague Convention on the Civil Aspects of International Child Abduction of 1980 to all children abducted into Germany and encourage States which are not yet parties to this Convention to ratify or accede to it and, if necessary, conclude bilateral agreements to deal adequately with international child abduction.⁵⁴

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

23. In 2004, the HR Committee reiterated its concern that adherence to certain religious organizations or beliefs constitutes one of the main grounds for disqualifying individuals from

obtaining employment in the public service. The HR Committee urged Germany to comply fully with its obligations under the ICCPR in this respect.⁵⁵

24. While appreciating that women's participation in political life had exceeded the critical threshold of 30 per cent, CEDAW expressed concern that women are underrepresented in the higher echelons of several other sectors of public life. CEDAW called on Germany to facilitate increased access of women to high-level positions.⁵⁶ According to a United Nations Statistics Division database, the proportion of seats held by women in the national Parliament decreased from 32.8 in 2005 to 31.6 in 2008.⁵⁷

6. Right to work and to just and favourable conditions of work

25. In 2004, CEDAW called upon Germany to intensify its efforts to increase women's de facto equal opportunities in the labour market, and to promote equal pay for work of equal value. The HR Committee made similar recommendations in 2004.⁵⁸

26. The ILO Committee of Experts in 2007 noted that the employment rate of women slightly increased from 58.9 per cent in 2002 to 59.2 per cent in 2004. The Committee noted concerns of the German Confederation of Trade Unions (DGB) about the high concentration of women in part-time jobs, their over-average representation among the long-term unemployed, and difficulties they faced when returning to work. The Committee requested the Government to provide information on any measures taken or envisaged to address the issues raised by the DGB, and the impact thereof.⁵⁹

7. Right to social security and to an adequate standard of living

27. In 2008, CERD expressed concern about the exception to the principle of equal treatment as regards access to rental housing contained in the GET Act, and recommended that Germany guarantee the equal enjoyment of the right to adequate housing and to consider modifying that Act.⁶⁰

28. In 2004, CRC noted the approval of the Programme of Action 2015 for Poverty Reduction, and welcomed the first national report on poverty in 2001. CRC also noted with concern the prevalence of poverty, mainly affecting large families, single-parent families, families of foreign origin and disproportionately families from the eastern part of Germany. CRC recommended inter alia measures to accelerate the elimination of child poverty, and continuing to provide material assistance and support to economically disadvantaged families.⁶¹

8. Right to education and to participate in the cultural life of the community

29. According to the Special Rapporteur on the right to education, several studies undertaken under the OECD PISA programme (Programme for International Student Assessment) have revealed that in Germany there is a high co-relation between social/migrant background of students and educational achievement. This, among other reasons, has been a trigger for education reform. The Special Rapporteur urged the Government to reconsider the multitrack school system, which is selective and could lead to a form of de facto discrimination. The Special Rapporteur believed that the classification process which takes place at lower secondary level (average age of students is 10, depending on each *Land's* regulation) does not assess students in an adequate manner and instead of being inclusive, is exclusive.⁶² The Special Rapporteur also believed that the education authorities might be attaching disproportionate weight to the linguistic competence of schoolchildren, given that one of the key elements of the classification assessment is their proficiency in German. This element has the effect of

discriminating against schoolchildren of foreign origin whose mother tongue is not German.⁶³ The Special Rapporteur further stated the one of the major challenges facing Germany relates to the situation of the disabled,⁶⁴ and one of the main difficulties in this area arises from the fact that the education authorities offer very limited opportunities to the parents of disabled children to choose the best options for their sons or daughters.⁶⁵

30. In 2008, CERD recommended that Germany take effective measures to ensure the integration of children of non-citizens in the regular school system and to reconsider the problem of the transfer of such children to special schools for “under-achievers” (*Sonderschulen*) including the criteria for any such transfer, and to improve current arrangements to support German language skills of such children.⁶⁶

9. Minorities and indigenous peoples

31. While taking note that Germany recognizes German Roma and Sinti as national minority, CERD in 2008 expressed concern that many Roma and Sinti continue to experience discrimination in the field of education, employment and housing. It recommended that Germany take special measures to improve the situation of all Roma and Sinti to overcome the disadvantages brought about by persistent discrimination.⁶⁷

10. Migrants, refugees and asylum-seekers

32. In 2004, the HR Committee noted with concern reports that Roma are disproportionately affected by deportation and other measures to return foreigners to their countries of origin. The HR Committee recommended that Germany guarantee the principle of non-discrimination in its practice relating to deportation and return of foreigners to their countries of origin.⁶⁸

33. An urgent appeal was sent on 21 February 2006 by the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on contemporary forms of racism and the Special Rapporteur on the human rights of migrants. They brought to the attention of the Government information they had received relating to a questionnaire introduced in the *Land* of Baden-Württemberg, to be answered by citizens of the 57 States members of the Organization of the Islamic Conference (OIC) who apply for German citizenship. Furthermore, under the new legislation, those who pass the test can have their citizenship revoked if they are found guilty of acting in conflict with their responses to the questions. The Special Rapporteurs were concerned that an obligation imposed only on the citizens of the 57 OIC member States could be discriminatory. The Government replied that there has been one complaint from an applicant for naturalization regarding the interview guide, who refused to answer the questions posed and, according to the Interior Ministry of Baden-Württemberg, this person’s application for naturalization was rejected.⁶⁹

34. The ILO Committee of Experts in 2007 noted that regarding the employment situation of migrants, the unemployment rate for female and male foreigners was in 2003 almost double that for the active population as a whole and that the Federal Employment Agency made the integration of persons with immigrant backgrounds one of its priorities.⁷⁰

35. In 2004, CRC noted with concern that refugee children between 16 and 18 years of age do not benefit from the rights contained in the Youth Welfare Act; that Roma children and other children belonging to ethnic minorities may be forcibly expelled to countries their families have been fleeing; that the national requirements and procedures for family reunification for refugee families are complex and too long; and that some children of asylum-seekers in the *Land* Berlin

were denied the right to a birth certificate because of incomplete documentation provided by the parents.⁷¹

36. In 2008, CRC (on OP AC) expressed concern that unaccompanied children may be detained. It recommended that Germany provide protection for asylum-seeking and refugee children arriving in Germany who may have been recruited or used in hostilities abroad.⁷² On the same issue, UNHCR informed that according to the German Asylum Procedures Act, minor refugees between 16 and 18 years are treated like adults in the asylum procedure. In particular, they are included in accelerated procedures, e.g. the airport procedure. Certain minor asylum-seekers encounter difficulties in accessing primary and secondary schools, as a consequence of the fact that in some of the German *Länder* they are not obliged to go to school. Special attention will continuously have to be paid to ensure that all vulnerable asylum-seekers receive fair treatment in the asylum procedure and the treatment they are entitled to under the EC Reception Conditions Directive.⁷³

37. A 2008 UNHCR report noted that Germany as a country with a high number of pending cases of asylum claims (34,100).⁷⁴ It also referred to the rigorous interpretation by the German authorities of the “cessation clause” in relation to refugee status has led in many cases to a premature termination of refugee status in situations characterised by instability, absence of an effective rule-of-law system, or a high level of general danger for personal security or economic subsistence in the country of return. UNHCR further informed that, based on the assumption that the general situation in a country had deteriorated, certain groups of people from this country were exempted from revocation procedures as of spring 2007 and subsequently all revocation procedures concerning such persons were stopped as of May 2008, enabling the refugees to maintain their status. However, the interpretation of the criteria for revocation remains the same and is likely to produce more premature revocations in the future.⁷⁵

11. Internally displaced persons

38. On 16 October 2006, the Special Rapporteur on the right to food wrote to the Government regarding allegations that the Züblin Company has submitted an application for an export risk guarantee for the construction of a dam in a third country. The information received claimed that in November 2005 the consortium submitted a revised environmental impact assessment and a new resettlement plan. Nevertheless, it appeared that the dam could displace between 50,000 and 80,000 people in that country. According to this information, the region had a large number of IDPs and has been affected by widespread marginalization. Many families were already reported to lack of access to food, clean and accessible water, sanitation and housing. The Special Rapporteur believed that the alleged facts could lead to a violation of the obligation to cooperate in respecting the right to food and water of the people who could be displaced in that country by the dam construction.⁷⁶

12. Human rights and counter-terrorism

39. While taking note of the firm stance of Germany in favour of respect for human rights within the framework of the anti-terrorism measures, the HR Committee expressed its concern in 2004 regarding the effect of those measures on the situation of human rights, in particular for certain persons of foreign extraction, because of an atmosphere of latent suspicion towards them. The HR Committee recommended that Germany ensure that anti-terrorism measures are in full conformity with the ICCPR and that it undertake an educational campaign through the media to protect persons of foreign extraction from stereotypes associating them with terrorism, extremism and fanaticism.⁷⁷

40. On 18 December 2006, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on the question of torture sent a communication to the Government of Germany concerning the organization of secret transfers of terrorist suspects to Guantánamo Bay. The Special Rapporteurs urged Germany to take all necessary measures to guarantee the accountability of any person guilty of the alleged violations and to adopt effective measures to prevent the use of German territory or involvement of German authorities in practices of extraordinary rendition in breach of human rights treaties ratified by Germany.⁷⁸

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

41. In 2008, CRC (on OPA C) welcomed Germany's contributions to projects for the rehabilitation and reintegration of child soldiers in several countries experiencing conflict or in post-conflict situations.⁷⁹

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

A. Pledges by the State

42. In its voluntary pledge submitted on 5 April 2006 in support of its candidacy to the membership of the Human Rights Council, Germany committed, inter alia, to strive to further increase its support to OHCHR; to readily submit itself to the universal periodic review of its own human rights obligations and its record of promoting and protecting human rights within Germany, whenever the Council wishes; to continue to give special emphasis to the strengthening of gender equality, the rights of women and the rights of the child; and to take steps to ratify OP-CAT and OP-CRC-SC.⁸⁰

B. Specific recommendations for follow-up

43. In 2004, CAT requested Germany to provide, by May 2005, information on the implementation of its recommendations concerning criminal complaints lodged against law enforcement authorities; the grouping of its criminal provisions relating to torture and ill-treatments; complaint facilities and avenues of legal redress available against the employees of private security companies and training provided to such employees.⁸¹ In a letter dated 30 October 2006,⁸² the Rapporteur for Follow-up on Conclusions and Recommendations of CAT requested further clarification, which was provided by Germany in September 2007.⁸³

44. In 2004, the HR Committee requested Germany to provide, by April 2005, information on the applicability of the ICCPR to persons subject to its jurisdiction in situations where its troops or police forces operate abroad, in particular in the context of peace missions, as well as on trainings provided to its security forces deployed internationally.⁸⁴ In its follow-up response, Germany provided information that it ensured to all persons that they will be granted the rights recognized in the ICCPR, insofar as they are subject to its jurisdiction. It also noted that the training it gives its security forces for international missions includes tailor-made instruction in the provisions of the ICCPR.⁸⁵ The HR Committee decided not to take further action after it received the reply of Germany.⁸⁶

45. After his 2006 mission, the Special Rapporteur on education recommended that studies be carried out to clarify the actual school attendance situation of asylum-seeking children, refugee children or children without the proper papers; and also to appraise as a matter of urgency the legal framework for the protection and promotion of the human right of such children to education, including exploring the possibility of withdrawing Germany's reservations

and declarations to the Convention on the Rights of the Child.⁸⁷ He also recommended that measures be taken by the Government to improve the enjoyment of the right to education, including access to education by refugees, asylum-seekers and persons with disabilities, as well as to ensure that the home schooling system is properly supervised by the State, thereby upholding the right of parents to employ this form of education when necessary and appropriate, bearing in mind the best interests of the child.⁸⁸

46. In 2008, CERD recommended that Germany provide information, by August 2009, on the way it has followed up on the recommendations regarding efforts to prevent racially motivated offences; the equal enjoyment of the right to adequate housing; obstacles faced by children of asylum-seekers in connection with school enrolment; and efforts to include a specific provision to ensure that the motive of ethnic, racial or religious hatred is taken into account as an aggravating circumstance in proceedings under the criminal law.⁸⁹

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

47. CESCR in 2001 and CRC in 2004 noted the many activities in the area of international cooperation and assistance, but remained concerned that Germany devoted only about 0.27 per cent of GDP (CESCR reported 0.26 per cent for 1998) to official development assistance. CRC further noted with concern that the foreseen increase to 0.33 per cent in 2006 was very slow.⁹⁰ A 2005 UNDP report also noted that Germany was giving less aid assistance than it was in 1992.⁹¹ Both CRC and CESCR encouraged Germany to implement the United Nations target of allocating 0.7 per cent of GDP to ODA.⁹² In 2004, CEDAW welcomed Germany's policy of integrating a gender dimension into its development cooperation programmes and promoting women's human rights in that framework.⁹³

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://untreaty.un.org/>.

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CPD	Convention on the Rights of Persons with Disabilities
OP-CPD	Optional Protocol to Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance

³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁴ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

⁵ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

⁶ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

⁷ Concluding observations of the Human Rights Committee (CCPR/CO/80/DEU), para. 10.

⁸ Concluding observations of the Committee on the Rights of the Child on OP-CRC-AC (CRC/C/OPAC/DEU/CO/1), para. 24; see also concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add. 226), para. 62.

⁹ Concluding observations of the Committee against Torture (CAT/C/CR/32/7), para. 5(i).

¹⁰ Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/DEU/CO/18), , para. 29.

¹¹ Concluding observations of the Committee on the Elimination of Discrimination against Women (A/59/38), para. 380.

¹² Concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add. 226), paras. 9 and 10(a), (b).

¹³ CCPR/CO/80/DEU, para. 12; CAT/C/CR/32/7, paras. 4(d) and 5(c).

¹⁴ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/7/69, annex VIII, and A/HRC/7/70, annex I.

¹⁵ Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add. 68), paras. 8 and 12.

¹⁶ CRC/C/15/Add. 226, paras. 15 and 16.

¹⁷ CCPR/CO/80/DEU, para. 5.

¹⁸ CRC/C/OPAC/DEU/CO/1, para. 12.

¹⁹ The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child

²⁰ CRC/C/OPAC/DEU/CO/1, para. 5.

²¹ A/HRC/4/29/Add. 3.

²² The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate holder.

²³ See (a) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006; (b) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in 2006; (c) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons sent in 2006; (d) report of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2006/95 and Add.5), questionnaire on the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms sent in June 2005; (e) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous people sent in August 2007; (f) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005; (g) report of the Special Rapporteur on the right to education (E/CN.4/2006/45), questionnaire on the right to education for girls sent in 2005; (h) report of the Working Group on mercenaries (A/61/341), questionnaire concerning its mandate and activities sent in November 2005; (i) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs sent on July 2006; (j) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2005/78), questionnaire on child pornography on the Internet sent in July 2004; (k) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8), questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation sent in July 2007; (l) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add. 3), questionnaire on human rights policies and management practices.

²⁴ Questionnaire on the impact of certain laws and administrative measures on migrants (A/HRC/4/24, para. 9); questionnaire on issues related to forced marriages and trafficking in persons (A/HRC/4/23, para. 14); questionnaire on the human rights of indigenous people (A/HRC/6/15, para. 7); joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation (E/CN.4/2006/62, para. 24 and E/CN.4/2006/67, para. 22); questionnaire on the right to education for girls (E/CN.4/2006/45, para. 89); questionnaire on the sale of children's organs (A/HRC/4/31, para. 24); questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation (A/HRC/7/8, para. 35); questionnaire on human rights policies and management practices (A/HRC/4/35/Add. 3, para. 7)

²⁵ OHCHR, *2007 Report on Activities and Results*, p. 153.

²⁶ *Ibid.*, p. 149.

²⁷ OHCHR, *2006 Annual Report*, p. 18.

²⁸ Statement of the High Commissioner to the third session of the Human Rights Council, 29 November 2006.

²⁹ CERD/C/DEU/CO/18, para. 4.

³⁰ *Ibid.*, paras. 18 and 27.

³¹ *Ibid.*, para. 15.

³² *Ibid.*, para. 16.

³³ *Ibid.*, para. 18.

³⁴ *Ibid.*, para. 27.

³⁵ CRC/C/15/Add. 226, paras. 23 and 24.

³⁶ A/HRC/5/10, para. 21.

³⁷ ILO Committee of Experts on the Application of Conventions and Recommendations, 2007, Geneva, Doc. No. 092007DEU111, para. 4.

³⁸ A/59/38, paras. 394 and 395.

³⁹ ILO Committee of Experts on the Application of Conventions and Recommendations, *op. cit.*, para. 1.

⁴⁰ CCPR/CO/80/DEU, para. 16.

⁴¹ CAT/C/CR/32/7, paras. 4(a), (b) and 5(a).

⁴² Comments by the Government of Germany to the conclusions and recommendations of the CAT received on 4 August 2005 (CAT/C/CR/32/7/RESP/1), para. 6.

⁴³ CAT/C/CR/32/7, paras. 4(e), 5(e) and (f).

⁴⁴ Supplementary response of the Federal Republic of Germany to the letter by the Rapporteur on follow-up on conclusions and recommendations of CAT with regard to Germany received on 27 September 2007. See also CAT/C/CR/32/7/RESP/1, and the request for further clarification addressed to the Government of Germany from Ms. Felice Gaer, Rapporteur on follow-up on conclusions and recommendations of CAT, sent on 30 October 2006 (CAT/C/DEU/CO/3/ADD.1/LFP).

⁴⁵ CCPR/CO/80/DEU, para. 17.

⁴⁶ CRC/C/15/Add. 226, paras. 40, 41 (b) and (c); CCPR/CO/80/DEU, para. 14.

⁴⁷ E/CN.4/2006/56, para. 145.

⁴⁸ CCPR/CO/80/DEU, para. 18.

⁴⁹ CRC/C/15/Add. 226, paras. 58 and 59.

⁵⁰ ILO Committee of Experts on the Application of Conventions and Recommendations, op. cit., para. 8.

⁵¹ CRC/C/15/Add. 226, paras. 60 and 61.

⁵² CERD/C/DEU/CO/18, para. 20.

⁵³ E/C. 12/1/Add. 68, para. 44; CRC/C/15/Add. 226, paras. 48 and 49.

⁵⁴ CRC/C/15/Add. 226, paras. 38 and 39.

⁵⁵ CCPR/CO/80/DEU, para. 19.

⁵⁶ A/59/38, paras. 396 and 397.

⁵⁷ United Nations Statistics Division coordinated data and analyses, available at: <http://mdgs.un.org/unsd/mdg>.

⁵⁸ A/59/38, paras. 388 and 389; CCPR/CO/80/DEU, para. 13.

⁵⁹ ILO Committee of Experts on the Application of Conventions and Recommendations, op. cit., para. 2.

⁶⁰ CERD/C/DEU/CO/18, para. 17.

⁶¹ CRC/C/15/Add. 226, paras. 21, 50 and 51.

⁶² A/HRC/4/29/ Add. 3, p. 2.

⁶³ Ibid., para. 54.

⁶⁴ Ibid., para. 75.

⁶⁵ Ibid., para. 78.

⁶⁶ CERD/C/DEU/CO/18, paras. 22 and 23.

⁶⁷ Ibid., para. 21.

⁶⁸ CCPR/CO/80/DEU, para. 21.

⁶⁹ A/HRC/4/21/Add. 1, paras. 152, 153 and 157.

⁷⁰ ILO Committee of Experts on the Application of Conventions and Recommendations, op. cit., para. 5.

⁷¹ CRC/C/15/Add. 226, para. 54.

⁷² CRC/C/OPAC/DEU/CO/1, paras. 16, 17 and 18.

⁷³ UNHCR submission to UPR on Germany, p. 4, available at www.ohchr.org/EN/HRBodies/UPR

⁷⁴ UNHCR, *2007 Global Trends: Refugees, Asylum Seekers, Returnees, Internally Displaced Persons and Stateless Persons*, Geneva, 2008, p. 17, available at http://www.unhcr.de/uploads/media/2007_Global_Trends_v3_hq.pdf.

⁷⁵ UNHCR submission to UPR on Germany, p. 3.

⁷⁶ A/HRC/4/30/Add. 1, para. 28.

⁷⁷ CCPR/CO/80/DEU, paras. 6 and 20.

⁷⁸ A/HRC/4/26/Add. 1, para. 24.

⁷⁹ CRC/C/OPAC/DEU/CO/1, para. 4(b).

⁸⁰ Pledges and commitments undertaken by Germany before the Human Rights Council, as contained in the note verbale dated 5 April 2006 from the Permanent Mission of Germany to the United Nations addressed to the President of the General Assembly, pp. 2-3, available at: <http://www.un.org/ga/60/elect/hrc/germany.pdf>.

⁸¹ CAT/C/CR/32/7, para. 6, referring to recommendations made in paragraphs 5(a), (b), (e) and (f).

⁸² CAT/C/DEU/CO/3/Add.1/LFP.

⁸³ Supplementary response of the Federal Republic of Germany to the letter by the Rapporteur on follow-up on conclusions and recommendations of CAT, op. cit. .

⁸⁴ CCPR/CO/80/DEU, para. 23, referring to recommendations made in paragraph 11.

⁸⁵ CCPR/CO/80/DEU/Add. 1.

⁸⁶ Human Rights Committee, A/60/40, vol.I, chapter VII, paras. 233 and 234.

⁸⁷ A/HRC/4/29/Add. 3, para. 92.

⁸⁸ Ibid., para. 93.

⁸⁹ CERD/C/DEU/CO/18, para. 33, referring to recommendations made in paragraphs 16, 17, 22 and 26.

⁹⁰ E/C.12/1/Add. 68, paras. 7 and 15, and CRC/C/15/Add. 226, para. 21.

⁹¹ UNDP, *International cooperation at a crossroads; Aid trade and security in an unequal world*, New York 2005, p. 86, available at http://hdr.undp.org/en/media/hdr05_complete.pdf .

⁹² CRC/C/15/Add. 226, para. 22 and E/C.12/1/Add. 68, para. 33.

⁹³ A/59/38, para. 382.
