

Council of Europe contribution for the 44th UPR session (October-November 2023) regarding Germany

Contents

<i>Prevention of torture (CPT).....</i>	<i>2</i>
<i>Council of Europe Commissioner for Human Rights.....</i>	<i>2</i>
<i>Fight against racism and intolerance (ECRI).....</i>	<i>4</i>
<i>Protection of minorities.....</i>	<i>4</i>
<i>Framework Convention for the Protection of National Minorities.....</i>	<i>4</i>
<i>European Charter for Regional or Minority Languages.....</i>	<i>4</i>
<i>Action against trafficking in human beings (GRETA).....</i>	<i>5</i>
<i>Preventing and combating violence against women and domestic violence (GREVIO).....</i>	<i>5</i>
<i>Protection of children against sexual abuse (Lanzarote Convention).....</i>	<i>6</i>
<i>Fight against corruption (GRECO).....</i>	<i>7</i>
<i>Execution of judgments and decisions of the European Court of Human Rights.....</i>	<i>8</i>
<i>Social and Economic Rights (ECSR).....</i>	<i>8</i>

Prevention of torture (CPT)

The CPT's report on the 2020 periodic visit to Germany



**CPT_inf_2022_18_Ger
many.pdf**

In the course of the visit, the delegation examined the treatment and conditions of detention of persons held in several police establishments and prisons, as well as the treatment, living conditions and legal safeguards offered to forensic psychiatric patients in two Länder. In this connection, it reviewed the measures taken by the relevant authorities to implement various recommendations made by the Committee after the previous visit carried out in 2015. Particular attention was also paid to the situation of inmates held in solitary confinement for prolonged periods in prisons and to the use of other special security measures (including mechanical restraint – Fixierung) in various types of establishment.

Executive summary



**CPT_inf_2022_18_Exec
sum_Germany.pdf**

Government response



**CPT_inf_2022_19_Gov
resp_Germany.pdf**

Council of Europe Commissioner for Human Rights

In a [letter](#) of 16 May 2019 addressed to the Chairwoman of the Committee on Internal Affairs and Community of the Parliament of Germany, the Commissioner raised concerns about some aspects of a draft bill aimed at facilitating removals of people obliged to leave the country (“Geordnete-Rückkehr-Gesetz”).



**Letter HR
Comm_Andrea Lindh**

The Commissioner was concerned about the proposal to classify information relating to the practical steps leading to a removal as state secret, as this could result in members of civil society and NGOs being prosecuted for the disclosure of confidential information when disseminating any information about planned removals. She stressed the important role played by NGOs as watchdogs of society, a role repeatedly also confirmed by the European Court of Human Rights, and noted that the proposed provision could have a chilling effect on freedom of information for the concerned organisations as their activities could be criminalised. In addition, she noted that it was essential for migrants to be given all relevant information about their planned removal to allow them to seek legal advice and ensure that their rights were adequately protected throughout the process.

The Commissioner also expressed her concern about the proposal to expand the grounds for the detention of migrants pending expulsion. Noting that the number of migrants in detention in Germany had more than doubled in previous years while deportation figures had remained stable, she encouraged the authorities to invest in alternative measures to detention, as those could not only be essential for safeguarding the human rights of migrants but also, if properly implemented, constitute tools to increase the effective compliance with immigration procedures.

In a [letter](#) addressed to the Federal Minister of Justice and Consumer Protection and Federal Minister for Family Affairs, Senior Citizens, Women and Youth of Germany on 13 July 2021, the Commissioner urged the German authorities to ensure that the best interests of children were considered a priority in all government action affecting them. She emphasised that this was particularly crucial at a time when the severe detrimental effects of the pandemic and related containment measures on children and youth were so clearly emerging.



Letter HR
Comm_Christine Lamt

The Commissioner noted with regret that efforts to anchor children's rights in the Constitution of Germany, as repeatedly requested by the UN Committee on the Rights of the Child, had failed because the proposed amendments had fallen short of international and European child protection standards. She encouraged the Minister to take determined steps to ensure that the German Constitution provided the same guarantees as enshrined in the UN Convention on the Rights of the Child, in particular with respect to the primary consideration of the best interest of the child and enhanced child participation guarantees.

Since Germany had imposed especially strict lockdowns on schools, the Commissioner further stressed that it should be a key objective for governments to keep schools open and that closures, given their well-established adverse effects on child health and well-being and on educational outcomes, should be considered only as a measure of last resort, when other measures had proven ineffective.

Fight against racism and intolerance (ECRI)

Conclusions on Germany (adopted on 29 June 2022 / published on 20 September 2022)



**ECRI_2022_32_Conclu
sions_Germany.pdf**

Sixth report on Germany (adopted on 10 December 2019 / published on 17 March 2020)



**ECRI_Report_Sixth
monitoring cycle_Gerr**

Protection of minorities

Framework Convention for the Protection of National Minorities

The Advisory Committee on the Framework Convention adopted its 5th Opinion on Germany on 3 February 2022.



**FCNM_5th
opinion_Germany.pdf**

The CM/ResCMN(2022)7 on the implementation of the Framework Convention for the Protection on National Minorities by Germany was adopted by the Committee of Ministers on 27 September 2022 at the 1444th meeting of the Ministers' Deputies.



**FCNM_resolution_CM
_Germany.pdf**

European Charter for Regional or Minority Languages

The Committee of Experts adopted its seventh evaluation report on Germany on 15 June 2022.



**ECRML_7th
evaluation report_Ger**

The Committee of Ministers adopted Recommendation CM/RecChL(2022)5 on the application of the European Charter for Regional or Minority Languages by Germany on 23 November 2022 at the 1449th meeting of the Ministers' Deputies.



**ECRML_Recommenda
tion_CM_Germany.pdf**

Action against trafficking in human beings (GRETA)

GRETA evaluation report (2nd evaluation round)



**GRETA_2019_07_Rep
ort_Germany.pdf**

[Press release](#)

Preventing and combating violence against women and domestic violence (GREVIO)

Germany ratified the Convention in 2017. GREVIO published its first baseline evaluation report on Germany in 2022 (the Executive summary can be found in pp. 6-8). The Committee of the Parties to the Convention issued its [Recommendation](#) in respect of Germany, based on GREVIO's findings, in 2022.



**GREVIO_Evaluation
report_Germany.pdf**



GREVIO_Recommendation_Germany.pdf

Protection of children against sexual abuse (Lanzarote Convention)

Germany ratified the Lanzarote Convention on 18 November 2015 and it entered into force in its respect on 1 March 2016.

Since Germany became a Party to the Convention after the launching of the 1st monitoring round, the Lanzarote Committee did not assess the situation in its respect on the “Protection of children against sexual abuse in the circle of trust”. In 2023, the Committee however plans to launch an evaluation of the situation with respect to this theme for all Parties it had not assessed during its 1st thematic monitoring round and this will thus include Germany.

Germany was assessed under the urgent monitoring round on “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse” and on the second monitoring round on “Protecting children against sexual exploitation and sexual abuse: Addressing the challenges raised by child self-generated sexual images and/or videos”.

Urgent monitoring round on “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”

To respond to the urgent migrant and refugee situation in Europe, the Lanzarote Committee decided in 2016 to address the protection of children affected by the refugee crisis from sexual exploitation and sexual abuse through an urgent monitoring round. This resulted in a [special report](#) published in March 2017. The information submitted by Germany in the context of this round is accessible [here](#). To follow-up on the Special report and its monitoring findings, the Committee carried out a compliance procedure to assess the conformity of Parties with the recommendations urging them to act (the “urge” recommendations) in 2019, as well as those considering that they should act (the “consider” recommendations) in 2021 and 2022.



Lanzarote
Committee_Special re



T-ES_2016_RFG-GER.
pdf

Following the compliance procedure, the recommendations still requiring Germany to take steps to implement the Lanzarote Convention effectively in the context of this monitoring round are as follows:



Lanzarote
Committee_recommen

In addition, the Lanzarote Committee adopted in March 2022 a [Statement on protecting children from sexual exploitation and sexual abuse resulting from the military aggression of the Russian Federation against Ukraine](#), in which it reaffirmed the relevance of its [Declaration on protecting](#)

[refugee and migrant children against sexual exploitation and sexual abuse](#). In this Statement, the Lanzarote Committee called upon States Parties to the Lanzarote Convention to “ensure that follow-up is given to the recommendations contained in its urgent monitoring round report on “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse” also with respect to the ongoing crisis due to the military aggression of the Russian Federation against Ukraine, and highlighted that priority should be given to the increasing number of children in vulnerable situations at a higher risk of sexual exploitation and sexual abuse in this context, such as unaccompanied and missing children. An evaluation of measures taken in this specific respect is being considered.



T-ES_2022_06_Statement.pdf



T-ES_2018_17_Declaration.pdf

2nd thematic monitoring round: Protecting children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs): Addressing the challenges raised by child self-generated sexual images and/or videos.

This monitoring round was carried out between October 2017 and March 2022 and was dedicated to the “Protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)”, with a focus on “Addressing the challenges raised by child self-generated sexual images and/or videos”. It led to the adoption of an [implementation report](#) in March 2022. The information submitted by Germany in the context of the 2nd monitoring round is available [here](#).



T-ES_2022_22_final.pdf



T-ES_2017_ICT_DE.pdf

The recommendations requiring and requesting Germany to take steps to implement the Lanzarote Convention effectively in the context of this monitoring round are as follows (editing of the recommendations to be verified with the final version of the implementation report):



Lanzarote
Committee Recommendations

Germany was evaluated in 2019 under the Fifth Evaluation Round on “Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies”. The corresponding [5th Round Evaluation Report](#) was adopted by GRECO Plenary and made public in 2020. GRECO’s 5th Round Compliance Report, assessing the implementation of the recommendations, was adopted in 2022 and awaits authorisation by the authorities to be published.



**GRECO_Eval_Evaluati
on report_2019_6_Ger**

Concerning the Fourth Evaluation Round on “Prevention of corruption in respect of members of parliament, judges and prosecutors” the [4th Round Second Interim Compliance Report](#) was published in 2022 and additional information from the authorities is due by 30 June 2023.



**GRECO_RCA_Second
interim report_2022_2**

Execution of judgments and decisions of the European Court of Human Rights



**CoE_UPR_44th_Appen
dix_Execution of Judg**

Social and Economic Rights (ECSR)



**ESC_Factsheet_Germa
ny.pdf**