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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Germany and welcome the constructive engagement of your Government during the 30th session of the UPR Working Group in May 2018.

As the final outcome report on the review of the Federal Republic of Germany has been recently adopted by the Human Rights Council at its 39th session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Germany – the Compilation of UN information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying those areas, I have also considered the statements and recommendations made by 109 delegations, the presentation and responses made by the delegation of Germany and the actions taken by Germany to implement the 170 recommendations it had accepted during the second cycle of the UPR. The aforementioned areas cover a range of issues and appear in the Annex to this letter.

During the adoption, your delegation stated that some of the recommendations had been noted because they fell under the authority of the *Länder* and that there was insufficient time to give full consideration to those recommendations across all levels of government. In the circumstance, I would encourage Germany to continue with the consideration of those recommendations, particularly at the *Länder* level, with a view to supporting them.

I commend Germany for its reception of a high number of asylum-seekers and refugees and for its efforts to promote diversity and integration and note the challenges faced in this regard, as outlined in your delegation's statement. It is noteworthy that about 290 000 people have participated in government-financed language and integration courses. Also commendable, is the leading role Germany is playing in Europe with regard to refugee protection.

While noting the establishment of an inter-ministerial committee for business and human rights, I would encourage your Government to establish a national mechanism for reporting and follow-up to outcomes from all human rights mechanisms in line with the practical guide published by my Office in 2016 which is available at:
http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

H.E. Mr. Heiko Josef Maas
Federal Minister for Foreign Affairs
The Federal Republic of Germany



Please kindly note that I will be sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of UPR recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage Germany to submit a mid-term report on the follow-up of the third cycle of the review, by 2020.

As the Secretary-General stated in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist Germany to take action in the areas I have identified in this letter and its Annex.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read "Michelle Bachelet".

Michelle Bachelet
High Commissioner for Human Rights

cc: H. E. Dr. Bärbel Kofler
Federal Government Commissioner for Human Rights
Policy and Humanitarian Aid
The Federal Republic of Germany



Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

National human rights framework.

- Considering stronger linkage between human rights and the national sustainable strategy for the sustainable development goals
- Extension of the mandate of the German Institute for Human Rights to include the reception of complaints of human rights violations committed by agents of the State.
- Regulation of the legislation of arms export control should be harmonized in line with article 7 (4) of the Arms Trade Treaty and the Council Common Position 2008/944/CFSP of the European Union.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Revision of the General Act on Equal Treatment (2006) to address the concern that the Act was limited in scope and failed to comprehensively protect women from gender-based discrimination; and to include the prohibition of structural racial discrimination committed by the State.
- Development and implementation of a comprehensive national gender equality strategy, policy or action plan to eradicate the structural factors perpetuating gender inequalities; and ensuring that gender equality is part of the implementation of the 2030 Agenda for Sustainable Development.
- Incorporation of a statutory definition of racial discrimination in line with article 1 of the Convention on the Elimination of All Forms of Racial Discrimination in national legislation.
- Prohibition of the practice of racial profiling by federal and state law enforcement officials in law.
- Establishment of independent complaints mechanisms, at both the federal and state levels, to investigate allegations of racial discrimination by law enforcement officials.
- Introduction of a comprehensive training strategy for law enforcement officials to ensure that law enforcement tasks were performed without racial profiling or any other methods leading to racial discrimination.
- Introduction of sanctions and similar measures in order to deter the proliferation and dissemination of racist ideas by political parties and movements.
- Expedition of implementation to recognize a third gender within the context of LGBTI rights.



Development, the environment, and business and human rights

- Establishment of a regulatory framework for industries to ensure that the power production linked to the use of coal did not negatively affect human rights or endanger environmental and other standards.
- Legislation governing the conduct of transnational companies registered or domiciled in Germany and operating abroad should be strengthened in relation to their activities abroad and effective mechanisms to investigate complaints filed against those companies should be established.
- Promotion of cooperate social responsibility and implementation of the Guiding Principle of Business and Human Rights.
- Realization of children's rights should be a top priority in international cooperation agreements with developing countries,

Human rights and counter-terrorism

- Reviewing of the legislation on counter-terrorism adopted by the Federal Legislator which made provisions for measures such as preventative detention and restrictions of freedom of movement without judicial authorization, to ensure their full adherence to international standards.

B. Civil and political rights

Right to life, liberty and security of person

- Establishment of an independent and well-functioning complaints mechanism covering all law enforcement officials to undertake investigations into allegations of torture and other ill-treatment.
- Ensuring that preventative detention is used as a measure of last resort and when administered, regular periodic reviews by an independent body are undertaken to determine whether continued detention was justified.
- Investigations of all incidents of hate crimes and attacks on refugees and asylum seekers in shelters and camps, with a view to prosecuting alleged perpetrators.
- Prohibition of involuntary placement of persons with psychosocial disabilities in institutions.
- Ensuring that all psychiatric treatments and services were delivered with the free and informed consent of the individual concerned and conduct an investigation into human rights violations in psychiatric and older persons' care settings in all Länder.
- Prohibition of the use of physical and chemical restraints, solitary confinement and other similar harmful practices, especially on persons with psychosocial disabilities in institutions and on older persons in residential care.

Administration of justice, including impunity, and the rule of law

- Specialized training of judges and prosecutor to help them identifying and characterizing racist hate crimes.
- Undertaking a comprehensive and independent study so that recommendations made by the committees of inquiry of the Bundestag and the parliaments of several of the Länder in relation to the failure of the authorities to investigate the murders committed by the National Socialist Underground are implemented.



- Ensuring that Ovaherero and Nama peoples are included in the negotiations between the Governments of Germany and Namibia following the apology by Germany for the genocide of these peoples.
- Guarantee of independent, impartial and effective investigations and prosecutions in cases of alleged police violence and that the model of an independent special commission, as established in Hamburg are considered by all Länder.
- Identification of members of the police when on duty in all Länder.
- Amendment of all criminal, civil, labour and administrative procedures to accommodate persons with disabilities, and effective training of all personnel in the justice, police and prison sectors on the application of human rights standards in relation to persons with disabilities.

Fundamental freedoms and the right to participate in public and political life

- Decriminalization of defamation and its incorporation in the Civil Code in accordance with international standards.
- Eradication of structural barriers and discriminatory stereotypes relating to women's engagement in political and public life, and decision-making positions in elected and appointed positions in public office and within political parties, the judiciary and academia.
- Development of a framework for the inclusive, comprehensive and transparent participation of organizations representing persons with disabilities to ensure their meaningful and effective participation in decision-making on matters relating to the lives of persons with disabilities.

Prohibition of all forms of slavery

- Establishment of a comprehensive strategy to address human trafficking, and of the national guidelines for the identification of victims and the introduction of systematically organized and harmonized measures for victims' assistance, rehabilitation and reintegration.
- Encouragement of travel enterprises to sign the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

Right to family life

- Supporting parents with disabilities to bring up their children and exercise their parental rights.
- Amendment of the relevant legislation to include recognition of unmarried couples in established relationships, including same-sex couples.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Considering providing specific education and training to people of African descent to enable them to get better jobs and the possibility of affirmative action policies for people of African descent.
- Strengthening of ongoing efforts to eliminate the gender wage gap and ensure women and men had equal opportunities in the labour market.



- Strengthening of existing measures to improve the integration of ethnic minorities in the labour market.
- Addressing concerns relating to the financial disincentives for persons with disabilities that prevented their entry or transition to the open labour market; and concerns that the segregated, sheltered workshops had failed to prepare workers for or promote transition to the open labour market.

Right to an adequate standard of living

- Investigation of all cases of discriminatory practices by landlords in light of the observation by the Committee on the Elimination of Racial Discrimination that landlords could refuse to rent apartments to persons applying for accommodation, with a view to creating and maintaining socially stable residential structures and balanced housing estates or balanced economic, social and cultural conditions.
- Introduction of a sustainable system of child maintenance payment with a means-test for child allowance and a minimum maintenance payment for children after the separation or divorce of their parents.

Right to health

- Undertaking efforts to ensure access to affordable, accessible and available contraceptives throughout the territory of Germany to all women and girls, particularly those living in poverty and/or in remote areas.
- Guarantee the access to health care for asylum seekers and refugees with disabilities and eradication of existing barriers.
- Access to non-emergency health services to undocumented migrants should be given without the risk of being reported to the authorities and subsequently deported.
- Access to safe abortion without mandatory counselling and a three-day waiting period, and that such procedures are reimbursed by health insurance.

Right to education

- Adoption and implementation of measures to foster the inclusion in the education system of children from the Sinti and Roma communities, and other ethnic minorities to ensure inclusive education.
- Supporting and assistance to children of African descent to ensure so that they are not being assigned to lower tracks in a tiered education system, thereby preventing them from going to university upon completion of their secondary education.
- Taking efforts to facilitate inclusion of students with disabilities and that children with disabilities so that they have the choice to be enrolled in mainstream schools.
- Assessment of the teaching of human rights education in all Länder with a view of ensuring a uniform curricula for human rights education.

D. Rights of specific persons or groups

Women

- Implementation of a comprehensive and sustainable national action plan to eliminate violence against women.



- Holding of awareness-raising campaigns on the harmful effects of female genital mutilation and providing a training to health and social services professionals to identify potential victims.
- Investigation and prosecution of gender-based violence, and undertaking initiatives to address the underreporting of gender-based violence and the low prosecution and conviction rates, so that women are encouraged to report incidents of gender-based violence, including domestic violence.
- Implementation of programmes to prevent and combat discrimination against women and girls with disabilities, particularly migrants and refugees.

Children

- Putting in place safeguards for girls under the age of 18 years that are allowed to be married in exceptional cases.
- Tackling the root causes that place children at risk of becoming victims of the offences such as child prostitution and child pornography.
- Protection of children under the age of 18 years by the Criminal Code from offences such as child pornography, which currently only offers such protection to children up until the age of 14 years.

Persons with disabilities

- Monitoring of cases of violence and abuse in institutions for persons with disabilities through the operationalization of independent monitoring mechanisms.
- Ensuring access to the national emergency call system to persons with disabilities, especially deaf persons, and formulation of a specific strategy for the inclusion of persons with disabilities in disaster risk reduction and humanitarian relief.

Minorities and indigenous peoples

- Reviewing measures that are currently in place to ensure an adequate response to the discrimination experienced of Sinti and Roma communities in accessing housing, education, employment and health care.
- Consideration to recognizing in law people of African descent as a minority group.

Migrants, refugees, asylum seekers and internally displaced persons

- Aligning legislation relating to asylum seekers, migrant workers and undocumented persons with international human rights law.
- Adequate assessment of asylum application for child soldiers and children who had escaped coerced recruitment to ensure they are properly identified as such, and their protection needs are fully satisfied.
- Guarantee asylum seekers the access to independent, qualified and free-of-charge counselling before hearings, as well as legal aid after a negative decision. Investigation of the increase in violence against asylum seekers.



Stateless persons

- Addressing the issue of the birth registration of foreign children, including children of refugees and asylum seekers, notwithstanding their irregular residence status.