

# **Suggestions for the List of Issues for the Committee for the UN Convention on the Rights of Persons with Disabilities within the Framework of the 2nd Federal review of Ger- many**

presented by an alliance of civil society organisations

under coordination of the following actors:

**Deutscher Behindertenrat (DBR)**

**Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege (BAGFW)**

**Die Fachverbände für Menschen mit Behinderung**

**LIGA Selbstvertretung**

Berlin, June 2018

## **Art. 1 – 4 Purpose, Definition, Principles, general Obligations**

Which concrete measures are planned by the Federal Government in the next two years to implement an appropriate screening of laws with the goal of a systematic standardised review of the legislation and which indicators will be developed for this? How does the Federal Government guarantee that the new laws and regulations are in accord with the UN Convention on the Rights of Persons with Disabilities (UN-CRPD)? To which extent are budget financial resources earmarked for it?

Please inform us, which measures the Federal Government will take to remove the time limitations on the “additional independent participation counselling” according to § 32 SGB IX-new (Social Code IX) and to sustainably anchor the concept of peer counselling to strengthen self-determination and the empowerment of persons with disabilities in the counselling landscape.

How will the Federal Government implement the UN-CRPD obligation to eliminate discrimination of people with disabilities by private companies, for example, by disregarding the principles of universal design for household appliances and electronic entertainment devices?

Please describe which standards for participation the Federal Government together with the organisations for people with disabilities, especially self-representation organisations (DPOs), has defined or rather, by when these will be defined, to guarantee the obligations in Article 4, Paragraph 3 CRPD.

How is the Federal Government planning to strategically design and politically steer the accessibility of digitalisation for everyone, especially considering the central role that the interdisciplinary topic of digitalisation shall and will play in Germany in the design of all areas of life (work related, social etc)?

## **Art. 5 Non-discrimination**

Which specific measures is the Federal Government planning to legally anchor reasonable accommodation as an enforceable right for people with disabilities and the failure of this as an act of discrimination in all regulatory and life areas?

Which specific legislative measures within which timeframe is the Federal Government planning in order to also legally anchor the duty to provide reasonable accommodations in the scope of private law?

Which systematic training initiatives for reasonable accommodation have been implemented until now at the Federal, Länder and municipal levels and with what evaluation results?

How will the Federal Government guarantee that new legal regulations for the group of persons entitled to integration assistance (§ 99 SGB IX-new) does not lead to people with impairments, who have participation needs, being excluded from necessary participation services?

Which reasonable accommodations is the Federal Government adopting to guarantee the necessary assistance services for equitable participation (e.g. speech-to-text reporters and sign language interpretation) in a non-discriminatory manner throughout the whole country?

How does the Federal Government justify that refugees with disabilities only get the same entitlement to benefits of integration assistance if they have a relevant residence permit and expect to stay in Germany permanently - especially considering the EU Guidelines 2013/33/EU for particularly vulnerable groups of people?

## **Art. 6 Women**

Which tangible steps is the Federal Government planning in order to guarantee that the interests of disabled women are represented, also outside of the sheltered workshops, throughout Germany?

When and how will Germany ensure that ongoing gender-specific data and statistics on the living situation of persons with disabilities is compiled and published?

## **Art. 7 Children**

Which tangible steps are planned for the amalgamation of services for children and youth with and without disabilities in the benefit legislation of the children and youth welfare services and within which timeframes shall this happen? How will the Federal Government ensure that in the process it doesn't become worse for children and their parents?

Through which measures does Germany ensure that children with impairments can exercise their rights equitably and be included in a participatory manner in political decisions?

## **Art. 8 Awareness Raising**

How does the Federal Government together with the Länder guarantee that the concepts and nominations of the UN-CRPD become known and are taken into consideration in administrative decisions at all levels of government, such as the recognition of sign language as a native language among other things?

Which measures does Germany intend to adopt in order to develop a strategy to raise awareness and to eliminate discrimination? How does Germany intend to make public and private media more accountable?

Which consciousness raising and human rights based training programmes for public servants have already been developed and implemented and how were the associations of disabled people involved in this?

Please inform us when the Federal Government will present a corrected German translation of the UN-CRPD comparable to the approach in Austria, that was developed together with the organisations for people with disabilities, in particular with self-representation organisations (DPOs)?

Which strategies, programmes and measures is the Federal Government pursuing, also in collaboration with the Länder, to create a strong awareness in the general public of equitable participation and self-determination of people with disabilities and to counteract stigmatisation and discrimination (e.g. in the school sector)?

## **Art. 9 Accessibility**

Which concrete measures does the contracting member state envisage to effectively improve the structural barrier-free accessibility in all important areas of life of people with impairments?

Which concrete measures are planned to review and evaluate compliance with accessibility standards?

Which specific steps are planned in order to eliminate the distinction between private and public providers of goods and services in creating barrier-free accessibility? What concrete timeframe is the Federal Government planning for this?

When will the Federal Government introduce targeted and effective sanctions for violations of the barrier-free standards?

With which specific steps and in which timeframe will Germany sustainably guarantee the equal access to information and to barrier-free communication (including sign language and speech-to-text reporters)?

How does the Federal Government ensure the availability of sufficient, affordable, barrier-free housing throughout Germany or that this will be systematically created in a timely manner?

How do the Federal Government and Länder ensure that the General Comment Nr. 2 will be implemented, i.e. barrier-free accessibility as a mandatory standard for new buildings and a binding time schedule underpinned with resources to be presented for older buildings?

How do the Federal Government and the Länder guarantee that the implementation of barrier-free accessibility (planning, implementation, monitoring and inspection) will also be effectively monitored?

How does the Federal Government ensure entirely barrier-free accessibility in the expanding digital world - in private and public areas of application, e.g. relating to electronic identification cards for digital interaction with agencies or in cashless transactions?

With which concrete measures shall the qualitative upgrade of barrier-free mobility and transport infrastructure at the Federal, Länder and municipal level be implemented so that by 2022 local and long-distance public transport takes i.a. the two senses principle into constant consideration?

How will it be ensured that people who are dependent on aids, can take these with them on local and long-distance travel as a basic principle?

## **Art. 11 Situations of Risk and Humanitarian Emergencies**

Which measures will Germany take so that all people with any kind of impairment can use emergency call systems and emergency call points, barrier-free, 24 hours a day, 7 days a week with full coverage over the whole of Germany and by when is the additional development of the barrier-free emergency app planned?

How will the inclusion of people with disabilities in national and international disaster preparedness and in all phases of humanitarian aid be mandatorily implemented and accompanied by monitoring, including criteria to measure the actual implementation?

## **Art. 12 Equal Recognition before the Law**

Which concrete steps will the Federal Government introduce and by when, within the framework of the planned reform of the guardianship law, to guarantee the right to self-determination of the person affected and in this respect, to gradually replace the representation in the guardianship law as it has been until now in favour of a system of supported decision-making?

How will the participation of those persons affected and their associations be guaranteed in this legislative procedure?

Which measures will the Federal Government take in order to strengthen the quality (incl. reasonable remuneration) of the supervision up until now of the organisations and the carers, courts and agencies so that they fulfil their duties according to Art. 12 UN-CRPD?

### **Art. 13 Access to Justice**

Which specific measures - beyond the training for judges by the National CRPD Monitoring Mechanism - have the Federal and Länder governments taken, or will they take, in order to ensure the same recognition before the law and access to justice for all people, regardless of the type and degree of disability, as recommended by the UN committee in the first State report review.

### **Art. 14 und 15 Liberty and security of person and freedom from torture**

By which specific measures will Germany ensure that a disability or a mental illness in no event justifies a deprivation of liberty?

Which (legal) measures is the Federal Government planning in collaboration with the Länder governments in order to significantly minimise measures that deprive liberty according to § 1906 Para. 4 BGB, and moreover to guarantee that this under no circumstances occurs without a judicial order?

Which procedural safeguards are planned to restrict the duration of mandated measures depriving liberty to the minimum and to continuously and closely monitor the necessity of these?

Which concrete measures is the Federal Government taking in association with the Länder to prevent psychiatric involuntary treatment (e.g. administration of medication or electric shocks)?

Which measures does the Federal Government intend to take to overcome the so-called concept of being unable to give consent?

## Art. 16 und 17 Protection from Violence and Abuse and Integrity of the Person

What legal regulations will be made at a Federal and Länder level to guarantee protection from violence in ones own home, but also in types of shared residence?

How will it be ensured that independent agencies effectively monitor protection against violence?

By when will the Federal Government regulate the reliable and long-term financing of adequate barrier-free counselling centres and women's shelters nationwide?

When exactly will Germany set up a comprehensive strategy for the prevention of violence and for the protection against violence for women and children with disabilities, especially those in psychiatric institutions?

Which work with perpetrators or potential perpetrators [*Täter- Arbeit*] (therapies, prevention measures etc.) especially concerning men with disabilities is the Federal Government planning and how will this be embedded sustainably throughout Germany?

## Art. 18 Freedom of Movement

Which measures are the Federal Government, Länder and municipalities planning to enable refugees with disabilities to access appropriate and barrier-free accommodation and equal access to health, rehabilitation and assistance services?

How will the needs of refugees be systematically gathered on first contact and documented in the future?

## Art. 19 Independent living, habitation

How does Germany guarantee that people with disabilities of all ages, including older persons, will have full and equal access to participation services and their right to free choice of residence and type of housing will be ensured?

What is Germany doing against the ousting of people with disabilities on low income from the housing market?

What concrete measures are planned in collaboration with Länder and municipalities in order to increase the proportion of housing that is barrier-free and suitable for wheelchairs?

Which safety mechanisms are planned to assume the rental costs for the necessary, barrier-free housing for people with disabilities on low income? What are the intended measures/financial funding/guarantees for inclusion-promoting counselling and meeting structures in social spaces?

What legal changes is the Federal Government planning and in which timeframe to establish equal access to the long-term care insurance benefit for people with impairments needing care who are living in integration assistance services' communal housing and comparable residential settings?

How will it be ensured that full access to the aforementioned services remains unchanged in the future, also for those living in out-patient types of housing according to the law on contracts for sheltered living and nursing care facilities?

When and by which means will Germany guarantee that people with disabilities don't have to share the use of their necessary participation services (e.g. assistance benefit) with others against their will (so-called "forced pooling"), as is envisaged in the participation act (BTHG), in order to implement General Comment Nr. 5 and in addition, that the necessary financial support will be made available?

How will the Federal Government ensure effective and tailored assistance services as well as sufficient numbers of qualified assistants, given the fact that qualified assistance and support are essential for deaf-blind people to lead self-determined lives?

## **Art. 20 Mobility**

Which measures are planned to anchor reasonable accommodations, in the sense of mandatory provisions on the part of the transport companies for any situation in which the use of public transport is not possible for people with disabilities, also due to barriers in the infrastructure or mode of transport or due to a lack of information regarding disruptions to services?

## **Art. 21 Access to Information**

How does the Federal Government wish to ensure that the implementation of the Marrakesh Treaty of the WIPO affords effective access to public works for people with any kind of disa-



bility, in particular for blind, visually impaired and reading impaired people without unreasonable related costs for the readers?

How does the Federal Government in collaboration with the Länder wish to ensure that the right of people with disabilities to information according to Art. 5 GG regarding private operators of media services will be guaranteed and significantly more offers will be made accessible in barrier-free formats? Which improvements are planned for this in public broadcasting?

## **Art. 23 Respect of the Family**

When will it be explicitly embedded in law that children are not allowed to be separated from one or both of the parents based on the parent having a disability?

## **Art. 24 Education**

When will the Federal Government present a binding overall strategy with all Länder for inclusive education, which includes schedules, verifiable goals and quality criteria as well as financial resources for the implementation of inclusive education?

In which Länder has the right to attend mainstream schools been implemented with immediate effect since the last review of Germany?

Which specific steps is the Federal Government planning in order to reduce the constantly high rate at special needs schools and establish high quality, inclusive education to all children, including gaining practical life skills and learning sign language?

Is it planned to offer German sign language as a second language at mainstream schools?

How do Länder promote the employment of teachers with disabilities?

## **Art. 25 Health**

With which concrete steps and within which timeframe does the Federal Government intend to ensure that all health facilities, including doctors' practices, will be barrier-free?

How does the Federal Government guarantee that people with disabilities receive the necessary assistance for treatment in hospital, if they do not employ an assistance person in their employer model according to § 63 b Paragraph 4 SGB XII?

How will it be ensured that in all health care services the necessary disability-related communication and assistance services will be financially secured?

Which specific measures will Germany take for a gender equitable health and nursing care service?

Which measures is the Federal Government taking so that in particular, medical products, medicines and aids are equitably utilised by people with various kinds of disabilities?

## **Art. 26 Habilitation und Rehabilitation**

What strategy is the Federal Government planning in order to establish equitable access to vocational rehabilitation measures for long-term unemployed people with disabilities?

How does the Federal Government - independently of special programmes - guarantee that there is regular, comprehensive and barrier-free availability of rehabilitation services in Germany for people with various kinds of disabilities to ensure gainful employment, but that this must also be fully available to people in other life situations (children, elderly)?

## **Art. 27 Participation in Working Life**

What will the Federal Government specifically do to bring the long-term above average unemployed rate of people with a serious disability closer to the overall unemployment rate?

How does the Federal Government intend to guarantee the same right to work for people with disabilities, in particular regarding the extent of participation in working life of people with impairments or disabilities, as well as those affected by unemployment and the length of unemployment, compared with the rest of the population and which measures are planned specifically for this?

Which specific incentives does the Federal Government plan to set for an inclusive labour market, in particular, through higher compensation levies, through binding inclusion agreements and by strengthening the representation of the seriously disabled?

Which steps is Germany taking with a view to the digitalisation of the working world so that persons with disabilities can have barrier-free participation and which further education programmes are envisaged regarding this, especially for older people with disabilities?

Which specific measures are intended to solve problems with rehabilitation agencies and job centres regarding access, application procedures and financing of support and services (incl. employment assistance benefits, sign language and speech-to-text reporters)?

What is the Federal Government undertaking to ensure the permanent existence of inclusive companies and to expand their capacities?

How does the Federal Government ensure that persons with serious disabilities are sufficiently taken into consideration in the creation of a socially just employment market?

Which steps has Germany taken or will it take to a) systematically collect data on barrier-free workplaces b) make it compulsory by law for companies to gradually design workplaces to be barrier-free?

What will Germany do to fulfil the request for better pay of employees at sheltered workshops (WfbM)?

Which concepts has Germany developed (or will be further developed soon) in favour of those employed in sheltered workshops, rehabilitants and students with special needs to support the transitions to the open labour market?

Which further development requirements does the Federal Government see and which concrete strategies and measures for alternatives to the sheltered workshops are being specifically prepared?

Which measures will Germany take and when, so that people with extensive care needs have equitable access to participation in vocational training and employment and not remain excluded from these offers on the grounds of “minimum amount of economically productive work output”?

## **Art. 28 Standard of Living/Poverty**

What measures is the Federal Government planning in order to counteract the close correlation of disability and poverty and in particular, to better encourage and support children and youth with disabilities from poor families?

Which measures is Germany taking in order to enable people with disabilities unrestricted access to the existing services of the basic benefit (with no omissions e.g. in the vocational training areas of the sheltered workshops (WfbM)?

How and by when will it be ensured that people with disabilities on comparable incomes to people without disabilities can realise the same standard of living?

When will further steps be taken to follow the first improvements of the BTHG in exempting income and assets (also those of the partner) when claiming the integration assistance benefit?

## **Art. 29 Political Participation**

With which specific steps and by when will Germany comply with the call of the UN committee to abolish all laws and regulations depriving people with disabilities the right to vote in European, German Parliament, Länder and municipal elections, as well as to also dismantle barriers and to provide necessary support (e.g. supplying tactile voting devices)?

## **Art. 30 Participation in Culture**

Which measures is the Federal Government taking to work through multiple discrimination in the past and to avoid it in the future e.g. the discrimination of hearing impaired Jews?

## **Art. 31 Statistics and Data Collection**

How will the Federal Government ensure that data relating to people with disabilities - itemised according to the type of disability or care needs - is obtained and collected in a barrier-free accessible process for use in important official statistics representing the population, labour market or housing situation, such as the micro census, for example?

## **Art. 32 International Cooperation**

Which measures will be taken to ensure that benefits for participation (in working life) as well as benefits for integration assistance and care are also paid during a stay abroad as part of an employment and education framework?

How does the Federal Government ensure, after having evaluated the action plan according to verifiable criteria in the Federal Ministry for Economic Cooperation and Development, that on one hand, people with disabilities are equitably able to contribute to the development cooperation, and on the other hand, that targeted projects are specifically aimed at people with disabilities and inclusion?

Which efforts is the Federal Government undertaking in order to continue, evaluate and improve the European Disability Strategy (2010-2020) at the EU level?

## **Art. 33 Domestic Monitoring**

When will the Federal Government present an evaluation of the work of the existing Länder focal points for the implementation of the UN-CRPD in the Federal Ministries and Länder?

Berlin, 20.6.2018

## List of organisations that support the suggestions for the list of issues\*:

Autismus Deutschland e.V.  
 Allgemeiner Behindertenverband in Deutschland e.V. (ABiD)  
 Behinderung und Entwicklungszusammenarbeit e.V. (bezev)  
 Beirat der Angehörigen im CBP (Caritas Behindertenhilfe und Psychiatrie e.V.)  
 Bundesarbeitsgemeinschaft der Berufsbildungswerke e.V.  
 Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege e.V.  
 Bundesarbeitsgemeinschaft Hörbehinderter Studenten und Absolventen e.V. (BHSA)  
 Bundesarbeitsgemeinschaft Selbsthilfe von Menschen mit Behinderung, chronischer Erkrankung und ihren Angehörigen e.V. - BAG SELBSTHILFE  
 Bundesnetzwerk "Gemeinsam leben - gemeinsam lernen"  
 Bundesverband anthroposophisches Sozialwesen e.V.  
 Bundesverband Psychiatrie Erfahrener e.V.  
 Bundesverband Ehlers-Danlos-Selbsthilfe e.V.  
 Bundesverband evangelische Behindertenhilfe e.V.  
 Bundesverband Frauenberatungsstellen und Frauennotrufe – Frauen gegen Gewalt e.V. (bff)  
 Bundesverband für körper- und mehrfachbehinderte Menschen e.V. (bvkm)  
 Bundesverband Kleinwüchsige Menschen und ihre Familien e. V. (BKMF)  
 Bundesverband Selbsthilfe Körperbehinderter e.V.  
 Bundesvereinigung Lebenshilfe  
 Bundesvereinigung Selbsthilfe im anthroposophischen Sozialwesen e.V.  
 Caritas Behindertenhilfe und Psychiatrie e.V. (CBP)  
 DACHVERBAND GEMEINDEPSYCHIATRIE  
 Deutsche Alzheimer Gesellschaft e.V. Selbsthilfe Demenz  
 Deutsche Diabetes-Hilfe – Menschen mit Diabetes (DDH-M) e. V.  
 Deutsche Dystonie Gesellschaft e.V.  
 Deutsche Fibromyalgie Vereinigung (DFV) e.V.  
 Deutscher Blinden- und Sehbehindertenverband e.V. - DBSV  
 Deutscher Gehörlosen-Bund e.V.  
 Deutsche Gesellschaft für Soziale Psychiatrie  
 Deutscher Gewerkschaftsbund, Bundesvorstand  
 Deutsche Rheuma-Liga Bundesverband e.V.  
 Deutscher Schwerhörigenbund e.V.  
 Deutscher Schwerhörigenbund Landesverband Niedersachsen e.V.  
 Deutscher Verein der Blinden und Sehbehinderten in Studium und Beruf e.V.- DVBS  
 Eltern für Integration e.V. Berlin  
 Endometriose-Vereinigung Deutschland e.V.  
 Forum-Pflege -aktuell  
 Gehörlosen-Landesverband Mecklenburg Vorpommern  
 Grundschulverband e.V.  
 Handicap Netzwerk e.V.  
 Hannoversche Cochlea-Implantat-Gesellschaft e. V.  
 Interessengemeinschaft Gehörlose jüdischer Abstammung in Deutschland e.V. (IGJAD)

Interessenvertretung Selbstbestimmt Leben in Deutschland - ISL e.V.  
Kreisverband der Gehörlosen Potsdam und Umgebung e. V.  
LIGA Selbstvertretung  
Landesarbeitsgemeinschaft Inklusion in Sachsen (LAGIS) Gemeinsam leben - Gemeinsam-  
lernen e. V.  
mittendrin e. V.  
MOBILE-Selbstbestimmtes Leben Behinderter e.V.  
NETZWERK ARTIKEL 3 – Verein für Menschenrechte und Gleichstellung Behinderter e.V.  
People First Berlin-Brandenburg  
SELBSTHILFE Mecklenburg-Vorpommern e.V.  
Sozialverband Deutschland e.V. (SoVD)  
Sozialverband VdK Deutschland e.V.  
Vereinigung Integrationsförderung  
Weibernetz e.V. - Bundesnetzwerk von FrauenLesben und Mädchen mit Beeinträchtigung  
Werkstatträte Deutschland

\*The proposed questions submitted in this document correspond with the range of focus areas and aims of the individual civil society organisations that contributed. All of the organisations involved are united in the intention of presenting a joint civil society perspective. However, it should be noted, that not all of the individual questions formulated here can be shared by all of the civil society organisations involved.