

CRC PRE-SESSION GERMANY 2013



ISSUE

THE PROJECT NATIONAL COALITION FOR THE IMPLEMENTATION OF THE UN CONVENTION ON THE RIGHTS OF THE CHILD IN GERMANY

The National Coalition for the Implementation of the UN Convention on the Rights of the Child in Germany (NC) is a coalition of over 115 organizations and associations operating nationwide.

Its members are committed to the realization of children's rights in Germany and draw attention to shortcomings in the implementation of the UN Convention on the Rights of the Child (CRC) in Germany.

Apart from assisting in the reporting of the Federal Republic of Germany according to Article 44 and Article 45 of the CRC, one of the central tasks of the National Coalition is to promote the dialogue in various areas of society on the implementation of the UN CRC.

To that end the National Coalition annually organizes the so-called „Open Forum“ as well as numerous special events, interviews with experts and the so-called „Children's Rights Day“ during which individual articles of the CRC are highlighted. The National Coalition publishes discussion and position papers on various key issues related to the implementation of the CRC in Germany and maintains a close relationship with the Children's Commission of the German Parliament (Bundestag).

Another important focus of the work of the National Coalition is to coordinate the members of the National Coalition. In addition to the regularly scheduled special events and forums, the National Coalition offers its members more information on their internet site and regularly publishes an e-mail newsletter of the National Coalition.

The coordination group (board) of the National Coalition coordinates the activities of the National Coalition, which consists of 16 volunteer representatives of the NC members. Their work is supported by two part-time coordinators (one full-time staff position) in the head office in Berlin.

Last but not least it is a central concern of the National Coalition to promote and support the participation of children and youth in the discussion about the implementation of the CRC. This is why the National Coalition, as part of the German delegation to the World Summit for Children in 2002, accompanied children and adolescents participating in the "Children's Forum" for Germany. Also, the office of the National Coalition took charge of involving children and young people in the creation of the National Action Plan „For a Germany fit for children 2005 - 2010“. The National Coalition also contributed to the „First Children and Youth Report“, by means of which children and adolescents from Germany were for the first time directly involved in the UN dialogue on the current third and fourth periodic report of the Federal Republic of Germany.

ISSUE	WORSE HEALTH STATUS OF CHILDREN FROM LOW-INCOME AND LESS EDUCATED HOUSEHOLDS
SUMMARY	<p>The Committee's Concluding Observations of 2004 state: "The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age and urban and rural area. This system should cover all children up to the age of 18 years with specific emphasis on those who are particularly vulnerable, such as foreign children. It further encourages the State party to use these indicators and data in formulating policies and programmes for the effective implementation of the Convention."¹</p> <p>In May 2007, the Robert Koch Institute published the Child and Youth Health Survey (Kinder- und Jugendgesundheitsurvey, KiGGS)², commissioned by the Federal Government, and provided for the first time comprehensive and representative information on the health status and lifestyle of children and youth from age 0 to 17.</p> <p>The results show that:</p> <ul style="list-style-type: none"> • children and youth from low-income and less educated families have a worse health status and more often psychological problems than their peers from higher income and better educated families, • a precarious financial situation of the family increases the risk of psychological irregularities especially for boys, • youth whose parents only completed general secondary schooling (Hauptschule) are far more often obese and smokers than youth whose parents received a diploma qualifying for university admission (Abitur and Fachabitur), • boys and girls who grow up with a single-parent suffer more frequently from emotional problems. <p>A migration background is regarded as a special health risk because in addition to the factors mentioned above other impediments may exist, including inadequate knowledge of German, lack of trust in public institutions, lack of information about health care services, and possibly cultural barriers such as a culture-specific understanding of disease and shame.</p> <p>Health risks increase dramatically for refugee minors because they receive health benefits under the Asylum Seekers Benefits Act (Asylbewerberleistungsgesetz), which excludes a large part of health care for refugee minors, for example preventive measures. They are only entitled to treatment of acute disorders and pain. High bureaucratic hurdles hinder psychotherapy or treatment of chronic diseases.</p>

¹ CRC/C/15/Add. 226, para. 18.
² (ed.) (2007), KiGGS – Study on Children and Youth Health in Germany, (Original: Robert-Koch-Institut (Hrsg.) (2007), KiGGS – Studie zur Gesundheit von Kindern und Jugendlichen in Deutschland. In Bundesgesundheitsbl - Gesundheitsforsch - Gesundheitsschutz Mai 2007 · 50:529–530 DOI 10.1007/s00103-007-0267-x, Springer Medizin Verlag, Berlin. Robert-Koch-Institute

CRC PRE-SESSION GERMANY 2013



ISSUE	WORSE HEALTH STATUS OF CHILDREN FROM LOW-INCOME AND LESS EDUCATED HOUSEHOLDS	
QUESTIONS	<p>The Federal Government should inform the Committee how it will promote a discrimination-free use of health care services by <u>all</u> children.</p> <p>The Committee is kindly requested to ask the Federal Government what measures it will undertake to bring together health, social, family and education policies to improve the health of socially disadvantaged children and youth.</p>	<p>Concerning refugee minors, the Federal Government should inform the Committee how appropriate provision of health care services and prevention specifically targeted to the needs of refugee minors can be ensured.</p>
RECOMMENDATION	<ul style="list-style-type: none"> • Health, social, family and education policies have to work together in order to improve the health of socially disadvantaged children and youth. Stronger measures are needed particularly in disadvantaged neighbourhoods and communities. • The Federation, the federal states, the communes and health insurance companies should in the future increasingly concentrate resources for health promotion activities where the need is greatest, i.e. for the socially disadvantaged. 	<ul style="list-style-type: none"> • Refugee minors must get access to all health care services irrespective of their residence status and should be included in the statutory health insurance.

ISSUE	INCLUSION OF CHILDREN'S RIGHTS IN THE CONSTITUTION
SUMMARY	<p>As a State party to the UN Convention on the Rights of the Child Germany shall under Art. 4 "undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention." This includes the inclusion of children's rights in the German Constitution (<i>German Basic Law / Grundgesetz</i>).</p> <p>In its Concluding Observations of 30 January 2004 on the second periodic report of Germany, the Committee stated (in para. 9) that it "remains concerned that the Convention has not been incorporated into the Basic Law, as foreseen at the time of the initial report." It also recommended to the Federal Government (in para. 10) to "reconsider the incorporation of the Convention into the Basic Law."</p> <p>The Federal Government has so far not complied with this recommendation. In its third and fourth periodic report it stated (in para. 19): "A constitutional amendment is (...) not necessary."</p> <p>Children only objects of the parents in the German Constitution</p> <p>In the German Constitution children do not appear as subjects of the law, but merely as subject matter (objects of the parents).</p> <p>Art. 6 para 2 of the Constitution (<i>German Basic Law</i>) states: "The care and upbringing of children is the natural right of parents and a duty primarily incumbent upon them."</p> <p>In addition, the German Constitutional Court has so far not formulated an all-encompassing primacy of the best interests of the child, according to Art. 3 para. 1 CRC.</p> <p>Relationship between the UN Convention on the Rights of the Child and the German Constitution</p> <p>Unlike in many other countries, the international treaties ratified by Germany do not automatically become part of the Constitution. This also applies to the CRC. Under Article 25 of the German Constitution (German Basic Law), the Convention holds the rank of an ordinary federal law. Therefore, the Constitution takes precedence.</p> <p>Core elements of a Constitutional Amendment</p> <p>Following the guidelines of the CRC, the inclusion of children's rights in the Constitution should include the following core elements:</p> <ul style="list-style-type: none"> • Recognition of the child as a subject and bearer of his or her own rights • The right of the child to protection and provision • The right of the child to participation and age-appropriate consideration of his or her opinion • Priority of the best interests of the child in all decisions affecting them. <p>The general public opinion does not yet fully include respect for children as individuals with their own rights and their participation in society. In the view of the National Coalition for the Implementation of the CRC this would change with a Constitutional Amendment.</p>

CRC PRE-SESSION GERMANY 2013



ISSUE	INCLUSION OF CHILDREN'S RIGHTS IN THE CONSTITUTION
QUESTIONS	<p>The National Coalition recommends to the Committee to ask the Federal Government, how the implementation of children's rights according to the CRC and especially the primacy of the best interests of the child can be ensured in Germany, if the German Constitution (<i>German Basic Law</i>) can claim precedence over the CRC in case of conflict?</p>
RECOMMENDATION	<p>The National Coalition recommends to the Committee to urge the Federal Government to undertake concrete steps for the explicit inclusion of children's rights in the German Constitution (<i>German Basic Law</i>).</p>

CRC PRE-SESSION GERMANY 2013



ISSUE	RIGHT TO PARTICIPATION, PERSONAL DEVELOPMENT, REST AND LEISURE
SUMMARY	<ul style="list-style-type: none"> In recent years, almost all federal states have begun to shorten the time at high school from 9 to 8 years (G8).¹ The aim of the so-called G8 reform was to make German students fit for the European and global competition in the labor market. They should be younger when starting university and when entering professional life. In many federal states the date of enrolment has been brought forward. In many places, after introduction of the G8 reform, the affected students – but also their parents and teachers – feel overwhelmed. They complain about the lack of “tidying up” of the curriculum and a „work week“ which sometimes has far more than 40 hours.² The demand for “more freedom”³ in the sense of more free time available is made very often by children and adolescents. In the First Child and Youth Report most children and adolescents rat- <p>ed the implementation of children's rights in their free time positively. The main criticisms, however, are the lack of free self-determined time and the cost of certain activities. The older the children, the worse are the marks for the realization of the “right to leisure” and the greater their need for “time-outs and self-determined time”.</p> <ul style="list-style-type: none"> The expert committee of the Eighth Family Report states a “lack of time” and demands that families get more control over their time, be better supported in everyday life and that family needs are better reflected in German working time regulations (<i>Arbeitszeitrecht</i>).⁴

1 See <http://www.kmk.org/bildung-schule/allgemeine-bildung/sekundarstufe-ii-gymnasiale-oberstufe.html>(consulted 18 February 2013)
 2 See <http://www.spiegel.de/schulspiegel/wissen/g8-eltern-lehnen-turboabitur-ab-a-854096.html> und <http://www.daserste.de/information/wissen-kultur/ttt/sendung/ndr/2012/turboabitur-100.html> (consulted 15 February 2013)
 3 See AG: First Child and Youth Report for UN-Review (Original: AGJ: Erster Kinder- und Jugendreport zur UN-Berichterstattung, Berlin 2010.) pp. 42

4 Ministry for Family, Senior Citizens, Women and Youth, Time for the Family. Family Time Policies as a Chance for Sustainable Family Policies. Eight Family Report (Original: BMFSFJ (Hrsg.): Zeit für Familie. Familienzeitpolitik als Chance einer nachhaltigen Familienpolitik. Achter Familienbericht. Berlin 2012. <http://www.bmfsfj.de/RedaktionBMFSFJ/Broschuerenstelle/Pdf-Anlagen/8.-Familienbericht,property=pdf,bereich=bmfsfj,sprache=de,rwb=true.pdf>) (consulted on 15 February 2013).

CRC PRE-SESSION GERMANY 2013



ISSUE	RIGHT TO PARTICIPATION, PERSONAL DEVELOPMENT, REST AND LEISURE
QUESTIONS	<p>How does the Federal Government in the future adapt the „all-day education system“, considering the federal structure of Germany, in order to provide for the best realisation of the right to rest and leisure and participation of students?</p>
RECOMMENDATION	<ul style="list-style-type: none">• The Federal Government should influence the federal states in order to adequately implement the right to play, the right to leisure and participation in the full-time education system. Nurseries and schools must allow for enough room for play and personal development as well as participation rights in addition to the teaching of subject matter. A „full-day learning approach“ must not mean a full day of formal education.• The Federal Government should update the National Action Plan for a Germany fit for children 2005-2010 and should in this context implement the established quality standards and quality requirements for the participation of children and young people at all levels, particularly at the local level.

CRC PRE-SESSION GERMANY 2013



ISSUE	PROTECTION OF SEXUAL VIOLENCE IN FAMILIES AND INSTITUTIONS: SUPPORT MUST BE ACCESSIBLE FOR EVERY CHILD	
SUMMARY	<ul style="list-style-type: none"> • According to the police crime statistics 12.444 children were affected by sexual abuse in 2011.¹ Around 1.500 minors above 14 years of age were victims of sexual abuse.² • In a study concerning unreported cases 2.4 % of the female and 0,6 % of the male between 16- to 20-years responded that they had an one abusive experience with physical contact before the age of 16.³ • The number of police-registered minor male sex offenders multiplied in the last decade. According to police statistics approximately 4000 minors were suspects in offenses against sexual self-determination.⁴ 	<ul style="list-style-type: none"> • There is no statewide coverage with counseling services specialized in sexual violence in childhood and youth. Gaps exist especially in the eastern federal states, but also in rural underdeveloped regions. Neither are there sufficient treatment units for sexualized violence in these regions. Generally, the existing specialized services are not adequately funded. • The services are not equally accessible to all affected persons: It is in particular difficult to reach boys, girls and boys with impairments and disabilities, and migrants with no or poor knowledge of German. In counseling services, skills, barrier-free access and funding for verbal communication in foreign languages are missing.⁵

1 Ministry of the Interior, Police Crime Statistics, (Original: Bundesministerium des Inneren, Polizeiliche Kriminalstatistik), 2011, p. 9

2 Ibid., p. 45

3 Criminological Research Institute Lower Saxony, First Research Report Representative Survey Sexual Abuse (Original: Kriminologisches Forschungsinstitut Niedersachsen, Erster Forschungsbericht zur Repräsentativbefragung Sexueller Missbrauch), 2011, p. 40

4 König, Andrej (2011) Sexual Offences by Children and Youth (Original: Sexuelle Übergriffe durch Kinder und Jugendliche), p. 18

5 Kavemann, Barbara and Rothkegel, Sibylle (2012), Final Report on the Review of Specialised Counselling Services for Sexual Violence During Childhood and Youth (Original: Abschlussbericht der Bestandsaufnahme spezialisierter Beratungsangebote bei sexualisierter Gewalt in Kindheit und Jugend), pp. 135

CRC PRE-SESSION GERMANY 2013



ISSUE	PROTECTION OF SEXUAL VIOLENCE IN FAMILIES AND INSTITUTIONS: SUPPORT MUST BE ACCESSIBLE FOR EVERY CHILD
QUESTIONS	<p>What actions has the Federal Government undertaken to ensure statewide coverage with counseling services for all children and the people caring for them to answer questions and in case of personal involvement, especially also for children with migration background, for children with disabilities and also for children who exert sexualized violence?</p>
RECOMMENDATION	<p>In cooperation with the federal states, communes and social welfare institutions, the Federal Government should ensure that measures to prevent sexual and other violence in all facilities and activities for kids become standard - especially in the areas of education, health care, integration assistance for persons with disabilities, children and youth welfare services. In addition, nationwide coverage of counseling services according to existent needs shall be guaranteed, providing help and support for all children and the people caring for them to respond to questions and in case of personal involvement.</p>

CRC PRE-SESSION GERMANY 2013



ISSUE	ESTABLISHMENT OF A MONITORING MECHANISM IN GERMANY
SUMMARY	<p>The Committee recommended in the concluding observations to the first periodic report¹ and to the second periodic report of Germany² to the Federal Government to establish an effective monitoring mechanism for the implementation of the CRC. Based on the Paris Principles³ the National Coalition believes that a broad based civil society monitoring mechanism with an independent monitoring body is needed.</p> <p>Within the framework of its children’s rights advocacy the National Coalition has vigorously supported the recommendations of the Committee and urged the Federal Government to establish an effective monitoring mechanism. Appropriate action by the Federal Government was not taken.</p> <p>Against this background, the National Coalition tried to stimulate political initiatives in 2006 with an “Entry Model”⁴, on 20 November 2009 with the First National Conference on the Rights of the Child⁵, in 2011 with a “Benchmark Paper”⁶, and in 2012 with an additional brochure entitled “The Next Step”⁷, expecting that the proposed model would be implemented in conjunction with the recommendations of the Committee. This is how the critical accompaniment of the implementation by the civil society and the independent assessment, in accordance with the Paris Principles, of the situation of children’s rights in Germany should complement each other. The assistance provided by the Federal Government to support civil society monitoring by the National Coalition is explicitly recognized; the establishment of an independent monitoring mechanism is still pending.</p> <p>The National Coalition notes that the United Nations outlined essential steps for independent monitoring through the Convention of the Rights for Persons with Disabilities (CRPD). Therefore, the National Coalition is in favor of mandating the German Institute for Human Rights, which already provides the independent monitoring for the implementation of the CRPD, also with the independent monitoring of the implementation of the CRC.</p>

1 CRC/C/15/Add.43, para. 23
 2 CRC/C/15/Add. 226, paras. 12 and 16
 3 A/RES/48/134 paras. 1 and 3g

4 National Coalition for the Implementation of the UN Convention on the Rights of the Child in Germany (ed.) (2006): Publication Series on the Monitoring of the UN Convention on the Rights of the Child in Germany. Volume 1 – The Entry-Level Model, Berlin. (Original: National Coalition für die Umsetzung der UN-Kinderrechtskonvention in Deutschland (Hrsg.) (2006): Publikationsreihe zum Monitoring der UN-Kinderrechtskonvention in Deutschland. Band 1 – Das Einstiegsmodell, Berlin.)

5 National Coalition for the Implementation of the UN Convention on the Rights of the Child in Germany (ed.) (2010): It’s time... „Priority for Children’s Rights!”. First National Conference for the Rights of the Child. Documentation and Call for Dialogue, Berlin. (Original: National Coalition für die Umsetzung der UN-Kinderrechtskonvention in Deutschland (Hrsg.) (2010): Es wird Zeit...“Vorrang für Kinderrechte!”. Erste Nationale Konferenz für die Rechte des Kindes. Dokumentation und Aufruf zum Dialog, Berlin.)

6 National Coalition for the Implementation of the UN Convention on the Rights of the Child in Germany (ed.) (2012): Publication Series on the Monitoring of the UN Convention on the Rights of the Child in Germany. The Next Step. Volume 2, Berlin. (Original: National Coalition für die Umsetzung der UN-Kinderrechtskonvention in Deutschland (Hrsg.) (2012): Publikationsreihe zum Monitoring der UN-Kinderrechtskonvention in Deutschland. Der nächste Schritt. Band 2, Berlin.)

7 Ibid.

CRC PRE-SESSION GERMANY 2013



ISSUE	ESTABLISHMENT OF A MONITORING MECHANISM IN GERMANY
QUESTIONS	<p>In line with the monitoring mechanism created for the Convention on the Rights for Persons with Disabilities the following question arises: What initiatives does the Federal Government develop in order to implement the concluding observations of the UN Committee on the Rights of the Child to its first and second report with respect to a monitoring mechanism for the UN Convention on the Rights of the Child?</p>
RECOMMENDATION	<p>In the light of the present submission the Committee should recommend to the Federal Government to establish an independent monitoring mechanism at the German Institute for Human Rights, in addition to the civil society function of the National Coalition for the Implementation of the UN Convention on the Rights of the Child, in order to guarantee an effective monitoring.</p>

CRC PRE-SESSION GERMANY 2013



ISSUE	DISCRIMINATION IN ACCESS TO EDUCATION
SUMMARY	<ul style="list-style-type: none"> • Education in public institutions is not intended to be inclusive and does not allow customization of educational processes in terms of the whole personality and all talents of the students. It amplifies social disadvantages for children and marginalises children with disabilities, children with migration background and children with uncertain residency status. • While around 30 % of children under 3 years of age without migration background are in kindergarden, only 14 % of children with migration background benefit from this early education. Between 2009 and 2011 this difference has only increased.¹ • The four-tier school system with four parallel types of schools starting from grade 4², depending on the performance of the pupils, works with selection and segregation mechanisms. <p>While 61 percent of 15-year-olds of parents with high social economic status went to high school, only 16 % of 15-year-olds of parents with low economic status went to high schools (Gymnasium) in 2009. The opposite situation is observed at for secondary schools with simple diploma (Hauptschule) (5 percent compared to 27 percent).³</p> <ul style="list-style-type: none"> • Only 28 % of children with special educational needs attend secondary schools, 72 % are taught in separate special schools (Förderschulen).⁴ • Among secondary school drop outs, foreigner youth are overrepresented by factor 2.5. • Children without or with uncertain residency status are denied participation in public education due to legal provisions, the location of their accommodation, waiting periods or subordination in the allocation of places.

¹ Ministry for Family, Senior Citizens, Women and Youth (2012), Third Intermediary Report on the Evaluation of the Child Care Funding Act (Original: BMFSFJ (2012), Dritter Zwischenbericht zur Evaluation des Kinderförderungsgesetzes), p. 10.

² Förderschulen: special schools for children with developmental delays and disabilities, Hauptschulen: secondary schools with a simple diploma, Realschulen: secondary schools with a superior diploma, Gymnasium: high schools with Abitur, a diploma that qualifies for university admission

³ Editorial Group Reporting on Education (2012), Education in Germany 2012, (Original: Autorengruppe Bildungsberichterstattung (2012), Bildung in Deutschland 2012), p. 70.

⁴ Ibid.

CRC PRE-SESSION GERMANY 2013



ISSUE	DISCRIMINATION IN ACCESS TO EDUCATION	
QUESTIONS	<p>How does Germany implement the right to a non-discriminatory and inclusive public formal and non-formal education for all children - especially for children from socially disadvantaged families, children with disabilities, children with a migration background and children without or with uncertain residency status?</p>	
RECOMMENDATION	<ul style="list-style-type: none"> The Federal Government should urge the federal states (which are in charge of education) and the communes (which are responsible for the extra-curricular rather non-formal education) to meet their contractual obligations in education, so that they design the formal and non-formal education of child care institutions, schools, youth welfare services and all other institutions in an inclusive and discrimination-free way. For all children the individual support for all their talents should be guaranteed - regardless of their social or cultural background, their personal qualities and 	<p>their residence status. All legal and other regulations that hinder children in participating in public education or segregate them from the community should be repealed.</p> <ul style="list-style-type: none"> The Federal Government should ensure the availability of the necessary resources - also through the use of existing resources in special schools.

CRC PRE-SESSION GERMANY 2013



ISSUE	LEGAL CAPACITY TO ACT AT AGE 16	
SUMMARY	<p>In Germany, minors have legal capacity to act in the asylum procedure at age 16 and therefore have the right to apply for asylum on their own. Even though a guardian always has to be appointed for a minor, this usually only happens after the application for asylum which the minor has to do on his or her own shortly after arriving in Germany. Given the different cultural background and language issues, as well</p>	<p>as potential trauma of the arriving minors, this constitutes a major challenge. Qualified counselling by a person the minor trusts and who is familiar with child-specific reasons for flight is missing.</p>
QUESTIONS	<p>Could the Federal Government please inform the Committee about how the best interests of the child are considered in the legal capacity to act at age 16 and how it can be ensured that legal capacity to act before majority does not lead to disadvantages?</p>	
RECOMMENDATION	<p>Legal capacity to act in asylum and residence related issues should be raised to 18 years of age. At the same time, every foreign child, independent of his or her age, should be allowed to apply for asylum and participate in all decisions relating to his or her residence. In addition, asylum-seeking minors should be awarded legal counsel free of charge.</p>	

CRC PRE-SESSION GERMANY 2013



ISSUE	CUSTODY PENDING DEPORTATION FOR MINORS
SUMMARY	<p>In almost all federal states custody pending deportation is still imposed against minors. Custody can last up to 18 months and may increase traumatic flight experiences.¹ Such custody is not to be reconciled with the best interests of the child as a primary concern.²</p>
QUESTIONS	<p>Could the Federal Government please explain to the Committee how the imposition of custody pending deportation can be reconciled with the best interests of the child as a primary concern?</p>
RECOMMENDATION	<p>Custody pending deportation for asylum-seeking minors and refugees should be prohibited.</p>

¹ The draft bill of the Federal Government for the implementation of the EU Return Directive § 62 I Residence Act (Aufenthaltsgesetz) of 28 October 2010 provides for custody pending deportation as ultima ratio.

² On the situation in German detention centers for deportation see German Parliament (Deutscher Bundestag), file number 16/11384. Reply of the Federal Government to an Inquiry by MPs Josef Philip Winkler, Volker Beck, Kai Gehring and others, and the Fraction BÜNDNIS 90/DIE GRÜNEN – file number 16/9142, 17 December 2008, <http://dipbt.bundestag.de/dip21/btd/16/113/1611384.pdf>, p. 3 and pp. 24-26.

CRC PRE-SESSION GERMANY 2013



ISSUE	CHILD TRAFFICKING, CHILD PORNOGRAPHY, CHILD PROSTITUTION
SUMMARY	<p>In Germany, there is only insufficient data on child trafficking, child prostitution and child pornography. The situation report on trafficking by the Federal Criminal Police Office (<i>Bundeskriminalamt</i>) captures only a part of the issue of child trafficking in Germany. Research on unreported cases or representative studies of child trafficking, child prostitution and child sex tourism in Germany are not yet known. The police statistics cover crimes of sexual violence against children under sexual abuse. Therefore it is not clear whether the sexual abuse took place at home or abroad, i.e. there is no evidence on the extent of child sex tourism.</p> <p>The terminology of child trafficking in the German legislation is not in line with international conventions. This is reflected, for example, in the fact that child trafficking only comprises illegal adoptions, but not other purposes such as the economic or sexual exploitation of a child. This results in numerous drawbacks for the victims of child trafficking and a less effective prosecution.¹</p> <p>In order to improve the implementation of international conventions on child trafficking, the Federal Government should, apart from adapting the laws, ensure the training, strategic orientation and appropriate equipment of the relevant authorities at home and abroad.</p>

¹ The suspicion of child trafficking, especially with very young victims, is not treated as suspicion of trafficking in minors (Penal Code StGB § 232), but as recruitment of a child into prostitution (Penal Code StGB § 180). As a result, fewer investigative tools and victim protection measures or witness protection measures are available, which is to the detriment of the victims.

CRC PRE-SESSION GERMANY 2013



ISSUE	CHILD TRAFFICKING, CHILD PORNOGRAPHY, CHILD PROSTITUTION
QUESTIONS	<p>Which obstacles to the effective and full implementation of the ratified conventions on child trafficking does the Federal Government see and how does it intend to overcome these obstacles?</p>
RECOMMENDATION	<ul style="list-style-type: none"> • The Federal Government should implement the ratified international conventions to combat child trafficking fully and quickly into national law and in national strategies. To ensure the effective implementation of the conventions, the Federal Government should take the special protection measures for minors and the protection measures for professionals who come in contact with potential victims (police, prosecutors, youth welfare services, foreigners offices), which are mentioned in the EU Directive Preventing and Combating Trafficking in Human Beings and Protecting its Victims. • The Federal Government should ensure through specific and ongoing trainings that the relevant authorities are aware of child trafficking. • The Federal Government should ensure that vulnerable children find contact points and that the authorities are sufficiently equipped to combat the trafficking of children in Germany effectively. • With respect to child trafficking, child pornography and child prostitution, the Federal Government should make efforts to explore the so-called "dark field" of unreported cases and create a comprehensive data base, based on which effective interventions will become possible.