

Human Rights Now!

Joint Civil Society Report on the 2nd and 3rd States Report of the German Federal Government on the Implementation of the United Nations Convention on the Rights of Persons with Disabilities by Germany



Alliance of German Non-Governmental Organisations
on the CRPD (Ed.)
June 2023

Imprint

Editor

Alliance of German Non-Governmental Organisations on the CRPD
c/o German Disability Council DBR (Weibernetz e. V.)
Samuel-Beckett-Anlage 6, 34119 Kassel, GERMANY
Phone: +49 561 72885313
Email: info@deutscher-behindertenrat.de
www.deutscher-behindertenrat.de

Editorial

Prof. Dr. Sigrid Arnade
Dorothee Czennia
Anieke Fimmen
Michael Herbst
Veronika Hilber
Thomas Künneke
Martina Menzel
Carola Pohlen
Martina Puschke
Antje Welke

Layout

and accesible PDF
Brigitte Faber

Cover Picture

Brigitte Faber

Status: June 2023

Preliminary Note

The alliance for the preparation of the present parallel report have been collaborating since 2020 to accompany Germany's combined second and third state report review. A total of 37 organisations support the parallel report, including organisations of persons with disabilities (OPD), self-help associations, the social welfare leading associations as well as the associations of non-statutory welfare and the professional associations of disability assistance and psychiatry. The preparation of the report was coordinated by the German Disability Council (DBR). The participating associations represent a large proportion of persons with disabilities and/or chronic illnesses living in Germany.

The organisations involved are united by the intention of joint reporting from a civil society perspective. Nevertheless, not all organisations can endorse every assessment and recommendation expressed here.

The parallel report is written from a human rights-based and cross-disability perspective, refraining largely from highlighting individual categories of impairments and chronic illnesses. All statements can be substantiated. Intersectional perspectives and cross-cutting issues such as gender, age, flight and migration have been taken into account wherever possible.

List of Contents

Imprint	
Preliminary Note	1
List of Contents	2
Summary	4
Cross-cutting issue Corona Pandemic	8
Recommendations	9
Article 1-4 Purpose; Definitions; General Principals; General obligations	10
Recommendations	11
Article 5 Equality and non-discrimination	12
Recommendations	12
Article 6 Women with disabilities	13
Recommendations	15
Article 7 Children with disabilities	16
Recommendations	17
Article 8 Awareness raising	18
Recommendations	18
Article 9 Accessibility	
Article 20 Personal mobility	19
Recommendations	20
Article 11 Situations of risk and humanitarian emergencies	21
Recommendations	22
Article 12 Equal recognition before the law	23
Recommendations	23
Article 13 Access to justice	24
Recommendations	24
Article 14 Liberty and security of person	
Article 15 Freedom from torture or cruel, inhuman or degrading treatment or punishment	25
Recommendations	25

Article 16	Freedom from exploitation, violence and abuse	26
	Recommendations	26
Article 18	Liberty of movement and nationality	27
	Recommendations	27
Article 19	Living independently and being included in the community	28
	Recommendations	29
Article 21	Freedom of Expression, Opinion and Access to Information	30
	Recommendation	30
Article 23	Respect for home and the family	31
	Recommendations	31
Article 24	Education	32
	Recommendations	33
Article 25	Health	34
	Recommendations	34
Article 26	Habilitation and rehabilitation	35
	Recommendations	35
Article 27	Work and employment	36
	Recommendations	37
Article 28	Adequate standard of living, social protection	38
	Recommendations	38
Article 29	Participation in political and public life	39
	Recommendations	39
Article 32	International cooperation	40
	Recommendations	40
Appendix 1	41
	Glossary / Abbreviations	
Appendix 2	42
	List of organisations of the Alliance for the Implementation of the CRPD that support this report	
	Reference to available versions of the parallel report	

Summary

The civil society alliance for the preparation of this parallel report recognises the different measures taken by the German federal government, the federal states and local authorities to implement the UN Convention on the Rights of Persons with Disabilities (CRPD).

However, a various number of the key rights of the CRPD are still far from being implemented. This is particularly evident in the fact that laws that are not in line with the CRPD are still being passed, for example concerning persons needing intensive care, reducing their options to receive this care at home and who therefore are in fear of having to move into institutions. There is no systematic review of existing laws for their alignment with the CRPD. The second National Action Plan for the implementation of the CRPD (2016, NAP 2.0) lacks a human rights orientation. Neither long-term nor intermediate goals are mentioned. Currently (May 2023), newly planned measures of the federal government to implement the CRPD are subject to a reservation of financial feasibility. The government still hasn't developed participation standards for the involvement of civil society. According to the federal government, action plans shall be dispensed with entirely in the future. Instead, only a catalogue of measures lists the activities of the federal government, without participation of the associations. This is not a carefully planned, structured implementation of the CRPD.

Private providers of goods and services are still not required to provide accessibility. The European Accessibility Act (EAA) has only been implemented with minimal standards of harmonisation. There are no mandatory standards for accessible social housing.

Access to health services and health care, as well as to rehabilitation, is still not accessible across the board and in all areas. On the contrary, accessible rehabilitation facilities now increasingly refuse to admit persons with disabilities (as of June 2023).

Women with disabilities continue to be discriminated against in the area of protection against violence as they contact prevention services, counselling and protection facilities because these aren't accessible. The same applies to gynaecological practices leading to underuse, as well as low access to the labour market with the consequence of a high risk of poverty.

The participation of children, young, adult and elderly persons with disabilities is still severely restricted. Germany is a long way from an inclusive education system, with structures of exclusion being consolidated rather than dissolved. The same is true in the area of gainful employment, where individual companies stand out positively, but overall unemployment rates in the area gainful employment remain high. The number of people living in residential institutions (special forms of housing) is rising.

For refugees with disabilities, the situation varies depending on their country of origin. Refugees who have been in Germany since 2015 often still live in isolation in shared accommodations. They are subject to residence requirements and have no right to statutory inclusion benefits. In contrast, for example, people who fled to Germany from Ukraine have a right to integration benefits (“Eingliederungshilfe”). These benefits refer to people with disabilities and they include medical rehabilitation, work and employment, education and social inclusion benefits for persons with severe impairments.

The corona pandemic showed how far Germany still is from being an inclusive society that can withstand crisis situations. In particular, there was a lack of action plans developed with persons with disabilities living in their own homes or in institutions, accessible information and access to protective measures, equal access to education, to digital services. This led to massive discrimination and restrictions on self-determination.

Most of the demands made by civil society in the first parallel report are still relevant. Various recommendations from the concluding observations on Germany’s first states party review in 2015 have also not yet been implemented.

These include, for example:

- Programmes for and measures for the promotion of women and girls with disabilities, especially migrant women and female refugees to eliminate discrimination, and systematic data collection (No. 16)
- Equal opportunities and inclusion of all children with disabilities (No. 18).
- Awareness raising strategy with measurable impact analysis (No. 20).
- Prohibition of coercive measures (No. 30 and 34b)
- Comprehensive, effective and adequately funded violence protection strategy for women and girls with disabilities and the creation of an independent complaints body (No. 36)
- Eliminate all exceptions to sterilisation without full and informed consent (No. 38).
- Accessibility of all concepts and programmes in native languages of key migrant communities (No. 40).
- Facilitate deinstitutionalisation through adequate funding (No. 42).
- Strategy with targets and timeline for inclusive education in all federal states (No. 46)
- Creating accessible jobs, especially for women with disabilities, and phasing out sheltered workshops (No. 50)
- Developing inclusive development cooperation across the board (No. 60)

Some recommendations have been insufficiently implemented, such as ensuring participation (No. 10), see Articles 1-4 in this report. Also, substituted decision-making (No. 26) has not been comprehensively abolished, see Article 12, and access to justice according to No. 28 is still not possible without barriers, see Article 13. Likewise, the right to assistance for parents with disabilities (No. 44) has an insufficient effect in practice, see Article 23. Regarding No. 52, although the limit for imputation of income and fortune to inclusion benefits was raised in the Federal Participation Act (BTHG), the risk of poverty of persons with disabilities, especially women and children, is still high, see Article 28. Systematic data collection (No. 58) was improved under the new reporting procedure in BTHG. However, consistent systematic data by gender, age, origin and disability still isn't available.

**States Parties undertake
to ensure and promote the full realization
of all human rights and fundamental freedoms
for all persons with disabilities
without discrimination of any kind
on the basis of disability.**

**Article 4 General Obligations
UN-Convention on the Rights of
Persons with Disabilities**

Cross-cutting issue Corona Pandemic

During the corona pandemic, measures of containment were developed without the systematic participation of persons with disabilities, and their heterogeneous living situations were rarely considered and not included (information was not available in accessible formats, especially at the beginning, and priority access to vaccinations was difficult for those living outside institutions). In addition, their already precarious financial situation was exacerbated in part because additional costs for individual protective measures (e.g. masks, disinfectants) for themselves and their assistants were not sufficiently compensated.

Education

The support systems for children and adolescents with disabilities in day-care centres and schools have largely broken down in 2020. Until 2021, the right to education and inclusion had to be fought for individually with regard to the provision of appropriate and accessible distance learning, assistance, transportation and participation in class. After the partial opening of the schools, some students with disabilities were no longer able to attend school. There were hardly any concepts for accessible, digital learning or for social contacts.

In higher education, there is an enormous need to catch up in the inclusive design of online teaching and learning opportunities. This applies to accessibility both in terms of communication and didactics. We observe a general lack of corresponding service structures.

Violence, civil liberties

During the corona pandemic, there was an increase in domestic violence against women. It can be assumed that violence against women with disabilities in their own homes and in institutions has also increased, even though this hasn't been publicly discussed.

The freedom rights of persons with disabilities, particularly those living in institutions, including arrival centres and shared housing facilities, were significantly restricted. The implementation of legal requirements for protection against infection led to bans on going out and visiting and, in many cases, to a ban on social and personal contact with important caregivers, including children, adolescents and the elderly.

Triage

In some cases, persons with disabilities requiring treatment were not admitted to the hospital. The allocation of scarce medical resources was to be based on discriminatory recommendations by medical societies. Only as a result of a decision by the Federal Constitutional Court obtained by persons with disabilities did the legislator introduce a legal provision to protect against discrimination. However, this legal provision cannot guarantee the intended protection. The medical profession continues to call, sometimes vehemently, for the impunity of ex post triage (discontinuation of a treatment already begun in favour of another person with the same indication).

Recommendations

- Develop infection control guidelines and establish crisis teams with participation of people with disabilities.
- Close dovetailing of infection control and social inclusion, independent living of persons with disabilities must remain possible even in times of crisis.
- Accessible information and communication services.
- Have contingency plans in place in support systems as well as counselling centres, violence shelters, etc. for times of pandemic and crisis.
- Triage:
 - Equal treatment opportunities for all.
 - Maintaining the ban on ex post triage.
 - Teaching the human rights model of disability in all education, training and professional development of health care professionals.

Article 1-4 Purpose; Definitions; General Principals; General obligations

Review of existing laws

There has not been and still is no systematic review of existing laws for its compatibility with the CRPD. New laws are even being passed that contradict the CRPD, such as amendments to the Act on Restraint of Competition or amendments to the Social Code Book Five (SGB V, Statutory Health Insurance) and the associated directive on outpatient intensive care (AKI, see Art. 26) - it is not even mentioned by the federal government in its progress report. There is a danger that those persons with severe disabilities who are concerned will be pushed into institutions.

Action plans to implement the CRPD

The second National Action Plan (2016, NAP 2.0)¹ lacks human rights orientation. It defines neither long-term nor intermediate goals.

According to an analysis by the German Institute for Human Rights, protection against discrimination is either only mentioned in some areas of action or not at all in the action plans of the federal states and the federal government. For example: In seven of the 16 federal states (Länder), Article 5 CRPD is not even mentioned in the action plans despite its high relevance.² There is no prominent and direct implementation of the CRPD. Persons with disabilities in vulnerable situations (i.e. with refugee experience, affected by homelessness or poverty) receive hardly any attention in the action plans.

The State Report states that the BTHG promotes the goal of independent living. This assessment is not shared by civil society. Moreover, in the federal government's supplementary report on CRPD implementation,³ a basic proviso of financial feasibility was included for all measures.

1 Second national action plan (06/2016), https://www.gemeinsam-einfach-machen.de/GEM/DE/AS/NAP/NAP_20/nap_20_node.html

2 German Institute for Human Rights (03/2020): Analyse. Zukunftspotenzial entfalten, <https://www.institut-fuer-menschenrechte.de/publikationen/detail/zukunftspotenzial-entfalten>

3 Measures of the Federal Republic of Germany implementing the CRPD in the period from September 2019 until March 2023, https://www.gemeinsam-einfach-machen.de/SharedDocs/Downloads/DE/AS/UN_BRK/Progress_since_2019.pdf;jsessionid=2F34187848F45FBA62D3C5CE9C575108.internet981?__blob=publicationFile&v=4

Participation

The participation of persons with disabilities, including young people and their organisations remains insufficient. There are still no participation standards, although the DBR has repeatedly presented its recommendations in this regard, in 2018 and 2022.⁴ Deadlines for comments on draft legislation are too short and documents sent are not accessible. The tax-financed Participation Fund in the Disability Equality Act (BGG) of 2016, introduced with the intention to enable OPD to work, only provides project-by-project instead of basic funding. Under these circumstances, organisations of persons with disabilities cannot work continuously. The administration of the fund is so complex that in some cases, this has a deterrent effect.

Recommendations

- Systematically review existing and future legislation for compatibility with the CRPD.
- Human rights orientation of action plans.
- Development of binding participation standards.
- Straightforward long-term funding for OPD with disabilities

⁴ DBR Call to Action „Nichts über uns ohne uns – Zur notwendigen Entwicklung von Partizipationsstandards“ (Nothing about us without us - Why the development of participation standards is necessary“ ,20. April 2022, <https://www.deutscher-behindertenrat.de/ID275249>

Article 5 Equality and non-discrimination

Inadequate protection against discrimination

Providers of goods and services have not yet been obliged to provide accessibility or reasonable accommodation. This gap prevents persons with disabilities from participating on equal terms. This ranges from inaccessible toilets in restaurants that can only be reached via steps to the insufficient accessibility of digital services or to information that is neither available in sign language nor in plain language.

Experiences of discrimination

In 2017-2020, the Federal Anti-Discrimination Agency received a total of 16,415 requests for advice related to discrimination. With 32 percent of the inquiries, discrimination on the basis of disability represented the second largest group, and in 2020 even the largest group with 41 percent. Of the Corona-related inquiries, as many as 86 percent came from persons with disabilities in 2020.⁵

6,413 inquiries reached the Federal Government Commissioner for Matters relating to Persons with Disabilities during this period. Of these, 26 percent related to conflicts with administrative offices/government agencies. Health/care issues came second, with 17 percent, followed by work/employment with 14 percent of the inquiries.⁶

Inadequate procedures for enforcing equal treatment

In order to counter forms of discrimination against persons with disabilities, the federal government has adopted instruments such as the conciliation board and the right of associations to file lawsuits in recent years, but these have weaknesses.

Recommendations

- Dovetailing of BGG, Accessibility Reinforcement Act (BFSG) and General Equal Treatment Act (AGG): Obligation for accessibility in BGG and BFSG, including for private providers of goods and services. Addition of a provision to the AGG that both the failure to provide reasonable accommodation and a violation of accessibility provisions under other laws constitute prohibited discrimination.
- BGG conciliation board: Enabling proceedings against the private sector; possibility of bundling procedures to take advantage of synergy effects; expansion to include a child-specific access and complaints procedure.
- Association legal action (BGG): Introducing the possibility of a claim for removal in the event of a successful law suit; establishment of an appeal fund; easier recognition as an association entitled to bring an action; possibility of bringing an action as an association even without prior conciliation proceedings

5 Fourth joint report of the federal body for anti-discrimination (10/2021), BT-Drucks.19/32690, <https://dserver.bundestag.de/btd/19/326/1932690.pdf>

6 Cf. *ibid.*

Article 6 Women with disabilities

In principle, there is no consistent consideration of intersectional aspects in the development of measures to implement the CRPD. The interest groups of women with disabilities, both at the Länder and state level, do not have sufficient long-term funding to represent their political concerns consistently. At the federal state level, there is only project funding; at the Länder level only two federal civil society networks are financially secured.

In the following, individual aspects that particularly affect women are highlighted and reference is made to the specific articles of the CRPD in each case.

Protection against violence

The violence protection measures and legislative initiatives mentioned in the State Report are to be welcomed. Nevertheless, some measures fall short.

There is still no comprehensive concept for the protection of women and girls with disabilities against violence and it is not apparent that the requirements of the United Nations from the Concluding Observations No. 36 are being implemented.

The legal obligation of service providers (rehabilitation facilities, psychiatric facilities and outpatient services) to prepare violence protection concepts is insufficient (also see Article 16).

Exercises to strengthen self-confidence of women and girls with disabilities, which are regulated by the Social Code Book Nine (SGB IX) since 2001, are still offered only sporadically in the practice of rehabilitation sport, contrary to the statement in the State Report.

The Protection Against Violence Act continues to provide inadequate protection for women living in institutions. Assistance structures of women's shelters and women's counselling centres are not fully accessible in most cases and not adequately funded. There is a lack of funding for full accessibility, staff and reasonable accommodation. The federal government's welcome investment program of 90 million euros to promote the women's aid system until 2024, provided funding only for a few new or converted accessible women's shelters or counselling centres.

Sexual and reproductive health

Contrary to the federal government's assertion of legal claims for "unrestricted access to medical services during pregnancy and to information about sex education", accessibility continues to be provided only in a few gynaecological practices. Of formerly five specialised outpatient clinics,⁷ only three still exist (also see Article 25).

Model projects have shown how pregnancy counselling centres can advise women with learning difficulties (cognitive impairments). However, fully accessible counselling is not offered nationwide.

Employment

Research shows that more than one-third of women with severe disabilities work part-time, compared to only 10 percent of men with disabilities.⁸ This leads to worryingly high levels of poverty among women with disabilities - especially as they age. Nearly one-third of all women with severe disabilities are already affected by poverty at working age (net personal income below 1,000 euros). This is true for only 12 percent of men with disabilities, 14 percent of women without disabilities and five percent of men without disabilities.⁹

Mothers with disabilities

The possibility to use assistance for mothers with disabilities is good. Nevertheless, there are many hurdles in the use of the services, which, for example, still lead to separations of children from parents with learning difficulties or mental impairments, because there is a lack of needs-covering assistance at the place of residence (see also Article 23).

Sterilisation

Sterilisation on the basis of a substituted decision (according to § 1830 of the German Civil Code - BGB) hardly ever takes place. Nevertheless, the legal norm is discriminatory in itself. At the same time, "voluntary" decisions must also be questioned. In practice, women with learning difficulties in particular often agree to sterilisation because they feel unable to live with their own child due to a lack of support. They are also afraid that the child will be taken away from them on the grounds of the child's best interests.

7 Bielefeld University (ed.) (2019): Final report on the evaluation of specialist ambulances and gynaecological consultation services for gynaecological and obstetric care for women with disabilities, <https://www.bundesgesundheitsministerium.de/service/publikationen/details/evaluation-von-spezialambulanz-und-gynaekologischen-sprechstundenangeboten-zur-gynaekologischen-und-geburtshilflichen-versorgung-von-frauen-mit-behinderung.html>

8 Third Participation Report of the Federal Government (2021), <https://www.bmas.de/DE/Service/Publikationen/Broschueren/a125-21-teilhabebericht.html>

9 Study by Aktion Mensch (2021): Situation of women with severe disabilities in the labour market, <https://www.aktion-mensch.de/inklusion/arbeit/frauen-mit-behinderung-auf-dem-arbeitsmarkt>

Recommendations

- Full implementation of Concluding Observations 2015 No. 36 (more comprehensive, effective, adequately funded violence protection strategy). Amend the Violence Protection Act to comprehensively protect women from violence in institutions.
- Permanent funding of self-advocacy organisations at the national and federal state levels to represent the interests of women and girls with disabilities.
- Comprehensive accessibility in the women's assistance system for prevention of and intervention against violence, and in gynaecological practices.
- Counteracting structurally induced poverty among women with disabilities, for example by increasing support for labour force participation.
- Eliminating substituted decision-making for sterilisations and replacing it with the default of supported decision-making.

Article 7 Children with disabilities

Children and young persons with disabilities receive benefits from several different allocation systems, including the child and youth welfare system, the health care as well as the integration assistance systems. Which service system is applicable depends on the type of disability. This makes access more difficult and hinders children with disabilities from exercising their rights on an equal basis with others.

Inclusive child and youth welfare

The changes to Social Code Book Eight (SGB VIII child and youth welfare) that came into force on 10 June 2021 obligate the youth welfare organisations to offer their services accessible and inclusive also for young persons with disabilities. This applies for example to child protection, open youth services and day-care centres. Also, it has to be taken into account in youth welfare planning.¹⁰ Unfortunately, all these changes to SGB VIII have hardly been implemented so far. Among other things, there is a lack of knowledge among child and youth welfare professionals about disability-specific issues.

Nationwide, there is a lack of accessible playgrounds as well as services for children that are planned according to the principles of universal design. Lack of accessibility and assistance for young persons with disabilities often lead to the exclusion from youth job offers.

Cost recovery

Parents of children with disabilities are charged for assistance services or for inpatient help in raising their minor children and pay with their income and assets, which usually leads to young persons with disabilities being denied access to inclusive leisure activities.

Refugee children with disabilities

The number of accompanied and unaccompanied refugee children with disabilities living in Germany is unknown. The conditions in the reception facilities vary considerably. Accessibility is often not considered. The residence obligation for children with disabilities leads to the restriction of their personal freedom. There is no equal access to the education, care and health system, and neither to cultural and leisure activities. Children traumatised by war and flight are particularly underserved.

Child protection

The protection of children with disabilities is not enshrined in the BGG. Children need access to accessible external complaints offices. The ombudsman offices in child and youth welfare must open up for children with disabilities. In child and youth welfare there is a lack of accessible and needs-based protection facilities and services.

¹⁰ See also § 1, 7, 8a, 8b, 9 No. 4, 11 Abs. 1 No. 2, 22 Abs. 2, 22 a, 36 a, as well as 70, 79 a and 80 Abs. 2 No. 4 SGB VIII

Recommendations

- Create inclusive, needs-based, and accessible services for all young people free of charge.
- Services for the inclusion in child and youth welfare without personal contribution by the young people or their parents.
- Protection for children with disabilities by qualifying professionals in recognising child welfare risks.
- Better support for foster families with children with disabilities.
- Creating inclusive places and services for children and youth.
- Include children's rights in the constitution (Basic Law).

Article 8 Awareness raising

There is no overall strategy for awareness raising or human rights education. Even public broadcasters don't provide universal accessibility. Even the latest State Media Treaty only contains target regulations on accessibility and a reporting obligation, but does not provide for sanctions.¹¹

The incorrect German translation of the CRPD has still not been corrected, so that administrations continue to work with the wrong terminology and thus violate disabilities rights.

Recommendations

- Develop an overall strategy for raising awareness in a participatory process including sustainable human rights education.
- Comprehensive nationwide training programmes on the CRPD.
- Broadcast all media programmes in accessible formats.
- Correction of the German official translation of the CRPD.

¹¹ State Media Treaty of June 30, 2022, https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Gesetze_Staatsvertraege/Medienstaatsvertrag_MStV.pdf

Article 9 Accessibility

Article 20 Personal mobility

Most obligations for accessibility aren't justiciable, including services of general interest. Neither the AGG, nor the BGG, nor provisions of regulatory law (trade regulations, statutes governing restaurants etc.) make it mandatory for private providers of goods and services to provide accessibility and reasonable accommodation. The only exception is the regulation on bringing assistance dogs introduced in 2021. Germany has implemented the EAA only with minimum standards of harmonisation,¹² but these do not include the environment to be accessible as a prerequisite for the use of services covered by the EAA. Germany has made use of long transition periods (e.g., until 2035 for accessible ATMs). Public funding is not consistently linked to accessibility. Although the federal government's coalition agreement addresses accessibility strongly and launches a federal accessibility initiative, no concrete legislative projects or funding programs have been planned to date.

Construction

While the federal government's obligation to ensure accessibility when rebuilding its existing buildings, which has even been expanded to leases, there is no deadline for ensuring complete accessibility. Important requirements for accessibility (e.g. DIN 18040-3) are excluded in the building codes of the federal states. There is no federal model building code that fully specifies standards for accessibility.

The supply gap for accessible housing exceeded 2 million homes in 2020.¹³ The federal government is funding social housing with a total of 14.5 billion euros in the period from 2022 to 2026. Mandatory standards for providing accessible social housing are non-existing.

Transportation

The transportation infrastructure must become more accessible; 20 % of train stations are not accessible.¹⁴ Trains are also still being procured that are not level with the platform height. Programmes in accordance with § 2 of the German Railway Construction and Operating Regulations (EBO) for creating accessibility are not being drawn up by the railroad companies across the board. Deutsche Bahn AG, which is 100 % federal government owned, largely evades the federal government's accessibility obligations without sanction. Even though there have been improvements thanks to the BFSG and, for example, the assistance dog ordinance, still no federal state has achieved the accessibility of local public transport by the deadline stipulated by law in the Passenger Transport Act, 01.01.2022. Consistent implementation of the two-senses principle both in public transportation and at train stations is lacking.

12 Law for strengthening accessibility (BFSG), 16 July 2021

13 Pestel Institut gGmbH (2023): Living in old age, <https://www.baustoffwissen.de/kategorie-ausbildung/azubi-ratgeber/hintergrundwissen/studie-wohnen-im-alter-2023-pestel-institut-bdb/>

14 Response of the federal government to the minor parliamentary inquiry Accessibility of stations, stops and trains in Germany, 18 November 2021, Drucksache 20/3216, <https://www.allianz-pro-schiene.de/presse/pressemitteilungen/20-prozent-der-bahnhoefe-noch-nicht-stufenlos-zugaenglich/>

Digital

Digital accessibility is far from being achieved. There is a wide range of gaps, including the lack of Internet connections for residents in institutions for persons with disabilities, inaccessible websites, apps and software from public agencies and private providers, the lack of training opportunities for persons with disabilities and of (personal) assistance for digital participation. Federal structures make it difficult for digital services to function according to uniform standards, especially in the areas of administration and education. The first German report to the European Commission¹⁵ shows that none of the audited websites and apps of public institutions were fully accessible. The federal government has not achieved its goal of ensuring the accessibility of its electronic administrative processes by 2021. Comparable regulations are completely lacking at the Länder level.

Communication

At the federal level, the use of comprehensible and plain language in communication with public authorities is insufficiently regulated; at the Länder level, it is only partially regulated.

Law enforcement

An arbitration procedure introduced in 2016 for disputes arising from the BGG has been established. However, legal protection via legal action remains unsatisfactory because it is limited to actions for a declaration on the existence of the barriers, not their removal. Only a few Länder have low-threshold dispute resolution options.

Recommendations

- Introduce requirements for all private providers of goods and services to provide accessibility and reasonable accommodation as part of the upcoming reforms of AGG and BGG.
- Timely provision of autonomously usable and accessible local and long-distance public transport.
- Sufficient staff for the Federal Accessibility Agency to be able to advise the private sector as well.
- Education and training curricula for all professions with content on the implementation of accessibility.
- Legal right to use plain language in communications with authorities.
- New social housing must be built accessible without any exceptions.

¹⁵ Report on compliance with accessibility requirements of websites (12/2021), <https://www.bmas.de/DE/Service/Presse/Meldungen/2021/bericht-periodische-ueberwachung-einhaltung-barrierefreiheitsanforderungen.html>

Article 11 Situations of risk and humanitarian emergencies

Accessible emergency app

Deaf associations were not sufficiently involved in the development of the accessible emergency call app. Advance information for the first National Warning Day 2022 was inadequate and not all people were warned regardless of location and type of disability.

Foreign policy

The Federal Foreign Office (AA) in charge of German humanitarian assistance has formulated guidelines for its Feminist Foreign Policy and disability is mentioned several times as a factor of discrimination. However, the focus is on aspects of gender equality.

The AA introduced a Gender Age Disability (GAD) marker for the implementation of humanitarian aid. However, this is only used for project planning, but not for monitoring.

Refugees

Disabilities, especially invisible ones, of asylum seekers and refugees, and their support needs are not recorded uniformly and rapidly. Accessible housing is lacking. Refugees arriving as early as 2015 still live in collective accommodation centres. Isolation and residence restrictions make it more difficult for those affected to receive support.

The Federal Contact Point for Refugees with Disabilities from Ukraine (“Bundeskontaktstelle”) only takes care of refugees from institutions and only places them in institutions. Benefits are often granted depending on the residence status and only after the disability is recognised. Decisions are too much at the discretion of the competent authorities. Refugees who are not from Ukraine are not entitled to inclusion benefits for persons with disabilities.

Recommendations

- Ensure systematic participation of persons with disabilities, including refugees, providing comprehensible information in advance of planned activities of disaster preparedness, humanitarian assistance, and refugee assistance.
- Ensure the participation of OPD with disabilities in AA strategy building and the implementation of Feminist Foreign Policy.
- All reporting formats of AA and the Federal Ministry of the Interior and Community (BMI) systematically collect and record information as to whether and to what extent planned measures have been successfully implemented and have effectively reached persons with disabilities.
- Uniform and transparent registration, specialist assistance and provision for asylum seekers and refugees with disabilities in accordance with the EU Reception Directive (2013/33/EU).
- Accessible accommodation outside institutions with access to services and training of all helpers on the range of available services for persons with disabilities.
- Reduction of the housing obligation in the initial reception facility to 3 months, concretization of § 49 (2) of the Asylum Act.
- Deletion of § 100 SGB IX to end the exclusion of refugees with disabilities from inclusion benefits.

Article 12 Equal recognition before the law

With the reform of the guardianship regulations in the BGB and other legislation,¹⁶ the federal government has not abolished all forms of substituted decision-making and thus continues to act in violation of the Convention.

Assisted decision-making

Likewise, it has not yet complied with the recommendation to establish specialised agencies and model projects for assisted decision-making. In legal relations, legal guardians can continue to make unrestricted use of their legal right of representation vis-à-vis legally assisted persons within the scope of their mandate. Whether the person with legal guardianship wanted to be represented or not is not checked. The person under legal guardianship has no low-threshold right of appeal against unwanted legal representation by the legal guardian.

Legal capacity

Giving third party authority as a possible alternative to legal guardianship is linked to legal capacity (Federal Court of Justice (BGH),¹⁷ BGH, for which a degree of cognitive and communicative ability is required that is usually hastily denied, e.g. to persons with learning difficulties.¹⁸ The regulation of incapacity in § 104 No. 2 BGB has not been changed by the reform of the law on guardianship. It continues to contradict the CRPD.

Avoidance of care

Five to 15 % of persons with legal guardianship - affecting up to about 200,000 persons with disabilities - do not require any support for decision-making on legal issues. But they do require fully accessible social services. The extent to which the new “extended support” of the guardianship authorities will avoid guardianships has not yet been evaluated. Independent clearinghouses are not envisaged.

Recommendations

- Establishment of a specialised unit and model projects to test and disseminate supported decision-making.
- Creation of low-threshold complaint options for care recipients in the Care Organisation Act.

16 §§ 1814 et seq. BGB – Federal Civil Code, FamFG – Law on Procedure in Family law and matters of voluntary jurisdiction, VBVG – Law on remuneration of legal guardians, ZPO – Civil Procedure Code, GVG – Court Constitution Act, BtOG – law on the organisation of legal guardianship; also see German Institute for Human Rights, Synopsis Federal Civil Code- Legal guardianship legislation, https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/PDF/Sonstiges/Materialiensammlung_MR_in_betreuungsrechtlicher_Praxis/Synopse_BGB_-_Betreuungsrecht.pdf

17 BGH, decision of 02.11.2022 - XII ZB 339/22, <http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&az=XII%20ZB%20212/22&nr=132113>

18 BGH, decision of 02.10.2019 - XII ZB 164/19, <http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&az=XII%20ZB%20164/19&nr=101453>

Article 13 Access to justice

Procedural and age-appropriate accommodations

Persons with disabilities do not have equal access to justice. Procedural and age-appropriate accommodations are lacking. There is no enforceable obligation of the courts and authorities to communicate in a perceptible and understandable form. Codes of Procedure and Courts Acts don't contain relevant provisions on the subject. Neither is there any reimbursement for accessible communication between legal guardians and the person under legal guardianship

Effective Access

Access to the social courts is free of costs, but there is a lack of lawyers specialising in matters relating to persons with disabilities to enforce the complex substantive law. Excessively long proceedings often prevent effective legal protection

Recommendations

- Reimbursement of costs for procedural and age-appropriate accommodations, e.g. for personal assistance and accessible communication in judicial costs law.
- Assumption of costs for accessible communication between caregivers and cared-for persons in the Guardianship and Caregiver Remuneration Act.
- Accessible courts.

Article 14 Liberty and security of person

Article 15 Freedom from torture or cruel, inhuman or degrading treatment or punishment

Deprivation of liberty on the basis of impairment is still allowed by national legislation. Also, since 2015, the federal and Länder governments have not developed any concepts to avoid coercive measures. In many cases, medical professionals, judges and employees of the care system are not qualified to avoid coercion and are insufficiently informed about “milder means”. Robust data on the use of coercive measures are not available. The “Dialogue on the further development of assistance for people with mental illnesses” launched in 2018 has not yet achieved any discernible results.

Recommendations

- Develop and implement concepts to avoid coercion.
- Establish a nationwide registry to continuously track coercive measures.
- Mandatory human rights qualification of system-relevant representatives in guardianship law (e.g. judges, judicial officers)

Article 16 Freedom from exploitation, violence and abuse

Persons with disabilities are two to four times more likely to experience physical or psychological violence than persons without disabilities.¹⁹ Women - and among them women who are deaf and women with learning difficulties - are particularly likely to be affected. Their risk of experiencing sexual violence is also two to three times higher than for women without disabilities²⁰ (see also Article 6).

Protection against violence

Since 2021, service providers for persons with disabilities have been obliged to have violence protection concepts in place. Here, too, the focus must be on the needs of children and women with disabilities. However, there is no regular review of the extent to which these concepts exist and are applied and meet professional standards. Protection against violence, e.g. in psychiatric clinics, in institutions for persons with disabilities and in residential and nursing homes, requires sufficient human and financial resources as well as effective monitoring, e.g. through the creation of an independent monitoring mechanism and the establishment of independent complaints bodies.

Offender programmes

The general availability of counselling services for violent offenders with disabilities in Länder and municipalities cannot be confirmed. What is known is a project that is the first to develop concepts for the accessibility of offender programmes for persons with disabilities for the first time since 2020.

Recommendations

- Presentation of nationwide guidelines for violence protection concepts.
- Special consideration of women and children with disabilities in all aspects of protection against violence.
- Adequate funding for violence protection in and outside institutions.

19 Study Violence protection structures for persons with disabilities- stock-taking and recommendations, (11/2021), https://www.bmas.de/SharedDocs/Downloads/DE/Publikationen/Forschungsberichte/fb-584-gewaltschutzstrukturen-fuer-menschen-mit-behinderungen.pdf?__blob=publicationFile

20 Situation and burdens of women with disabilities and impairments in Germany (2013), <https://www.bmfsfj.de/resource/blob/94206/1d3b0c4c545bfb04e28c1378141db65a/lebenssituation-und-belastungen-von-frauen-mit-behinderungen-langfassung-ergebnisse-der-quantitativen-befragung-data.pdf>

Article 18 Liberty of movement and nationality

Stays abroad, such as voluntary service, study or professional stays, are hardly feasible for persons needing personal assistance due to restrictive granting of benefits, because inclusion benefits (work assistance, integration assistance, etc.) are rarely granted abroad. This limitation of inclusion benefits for persons with disabilities abroad are codified in § 101 SGB IX which states that these benefits generally can only be granted if the person is in Germany.

Currently, persons with disabilities and their organisations are very concerned about a draft law to revise the Nationality Act in Germany, which would violate the right under article 18 (1) a) CRPD. Among other things, this law is intended to stipulate that persons who receive benefits that secure their livelihood cannot be granted German citizenship. This constitutes indirect discrimination against persons with disabilities, as they disproportionately depend on subsistence benefits due to the restrictions on participation in working life (cf. article 27 CRPD). The legislator was to pass this law, persons with disabilities would be excluded from their right to acquire German citizenship on the basis of their disability.

Recommendations

- Developing intergovernmental agreements to fund assistance services, including for extended stays abroad.
- Maintain the provision that persons with disabilities can obtain citizenship even if they are dependent on benefits to secure their livelihood and are not responsible for having to claim these benefits.

Article 19 Living independently and being included in the community

BTHG

The goal of the BTHG, to strengthen the self-determination of persons with disabilities through person-centred services, has not been achieved. Positive effects on the situation of those entitled to benefits can hardly be proven. The so-called appropriateness and reasonableness test, which is still anchored in § 104 (2) SGB IX after the introduction of the BTHG, limits the choice and decision-making options for a self-determined lifestyle. It is still permitted to forcibly “pool” inclusion benefits, i.e. to grant benefits only jointly, contrary to the will of the person concerned. This is the case for educational and leisure assistance as well as regularly for services for participation in work (in sheltered workshops for disabled people) or for living (in assisted living groups or homes).

Deinstitutionalization

Since CRPD came into force, the number of people living in special forms of housing has increased, according to an analysis by the German Institute for Human Rights.²¹ This contradicts the guidelines on deinstitutionalization of the UN Committee of Experts on the implementation of the CRPD. There are major differences between the Länder, and people with learning difficulties or multiple impairments are largely cared for in inpatient facilities.

Personal budget

There are too many hurdles in the use of the “personal budget”: Too little awareness, lack of clarity about the assessment basis for services outside of disability assistance, too high qualification requirements in the target agreements for assistance staff to be hired, lower cost rates for assistance staff compared to service providers, and the exclusion of certain groups (e.g., people with learning difficulties from accessing this form of service). The exclusion of certain groups (e.g. people with learning difficulties) from access to this form of service makes the practical implementation of a self-determined lifestyle according to the standard of person-centeredness more difficult and leads to exclusion from the various areas of daily life (including the provision of necessary medical care).

Living benefits

People with disabilities who rely on living benefits often receive inadequate cost rates to finance accessible housing and independent living.

21 German Institute for Human Rights (ed.): Those who want inclusion, will look for avenues. Ten years anniversary of the CRPD in Germany, https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/ANALYSE/Wer_Inklusion_will_sucht_Wege_Zehn_Jahre_UN_BRK_in_Deutschland.pdf

Recommendations

- No restriction of the free choice of place and form of living, neither by a cost proviso nor by unrealistic requirements for the living environment or assistants.
- Pooling of services only on a voluntary basis, i.e., with the consent of the beneficiary and sufficient unpooled/individualised support services in all areas of life.
- Low-threshold and needs-covering personal budget for all people with disabilities regardless of support needs and financing of necessary budget assistance.
- Participatory development of strategies and action plans for deinstitutionalization by the federal government.

Article 21 Freedom of Expression, Opinion and Access to Information

While public broadcasting continues to expand its offerings with subtitles, sign language and audio description, accessible offerings on private television and German streaming services are completely inadequate.

In implementing the Marrakesh Treaty, Germany has made use of the option of a remuneration obligation to authors for the production and distribution of accessible works by authorised bodies. This restricts availability.

Recommendation

- Quota regulations for accessible offerings and mandatory action plans for both public and private broadcasting.
- Significant expansion of services in plain language.
- Continued government co-funding of more accessible literature to support participation in education and work to strengthen freedom of expression.

Article 23 Respect for home and the family

The legally anchored assistance for parents with disabilities in the care and support of their children in the BTHG is positive. However, implementation hurdles still lead to separation of children from parents, for example, with learning difficulties. There is a lack of information for parents with disabilities, for example on family planning and parenthood. There is a lack of knowledge about support options and also assistance services available in the place of residence. Parents often receive the service only after other assistance has been applied for and rejected. The particularly serious support needs and inclusion barriers of parents of children with disabilities and the resulting need for political action are documented in the November 2022 study commissioned by the Federal Ministry of Labour and Social Affairs.²²

Recommendations

- Facilitation for parents with disabilities by eliminating the demarcation difficulties between inclusion and youth services in the use of assistance for parents with disabilities.
- Introduction of a low-threshold family relief benefit for everyday household support or care services for burdened families with children with disabilities.

22 Study of the Federal Ministry of Labour and Social Affairs (ed.) (2022): Parents of children with impairments- support needs and indications of hurdles for inclusion, https://www.bmas.de/SharedDocs/Downloads/DE/Publikationen/Forschungsberichte/fb-613-elternstudie-unterstuetzungsbedarfe-inklusionshuerden.pdf?__blob=publicationFile&v=2

Article 24 Education

During the reporting period, implementation of inclusive education stalled in almost all Länder, and in some cases even declined. There is no binding overall strategy (goals, timetable, quality criteria, resources) from the federal government and the Länder for the development of inclusive educational institutions in any area of education - from daycare centres to schools, training and higher education to adult education. There is no scheduled removal of structural barriers in the existing educational facilities and no consistent consideration of accessibility in digitization.

We consider the statements of the Federal Government in the State Report to be evasive and partly misleading. The figures requested by the CRPD Committee in the questions on Article 24 are not collected.

Awareness

In-service training of school administrators and teachers is not regular and compulsory. As a result, even at “inclusive” schools, only a few teachers receive further training in inclusive education, support and lesson development. Therefore, the human rights content of inclusive education is largely unknown among teachers.

Inclusion remains a marginal topic in general teacher training. Special education teachers are still largely trained to work in special schools.

Furthermore, there has been no effective administrative control of the extent and quality of inclusive school and classroom development. Länder School ministries and school supervisors only set frameworks for staffing and curricula, leaving the concrete design of instruction and school life largely to the individual schools. There are no binding quality criteria for inclusive education.

Universities, in turn, often see inclusion as a task that they tie to the provision of additional funding by the Länder. Measures in individual cases, i.e. at the request of individual students, dominate. Only in isolated cases is inclusion anchored in action plans as a structural, university-wide task.

Personnel

The introduction of inclusive education in regular schools is characterised by a considerable lack of staff. In most Länder, there is no sufficient transfer of specialised teachers to inclusive settings.

There are no capacity development programmes to prepare teachers with disabilities for their service.

Educational institutions

There is no transparency and data collection on “Inclusive schools” and their quality. The number of students in special schools is constant or even increasing, depending on the Länder and their special focus, particularly regarding students with learning difficulties, physical and mental impairments. High “inclusion rates” of the Länder result predominantly from an immensely increased attribution of “special educational needs” to students of general schools.

“Inclusive schools” are not available nationwide and mostly students are only admitted depending on their type of disability or selected individually. In practice, parents in many countries have the “choice” between a special school and a less accessible, less well-equipped and insufficiently developed “inclusive” school. Information, sensitisation, counselling, or even encouragement of parents for inclusive education is largely absent.

Legal entitlement/reasonable accommodation

The legal entitlement to inclusive schooling is subject to (resource) reservations in most Länder, and access to reasonable accommodation is not assured. The majority of state governments maintain the special education system as a supposedly better alternative for many children with disabilities. Reference is made to a purported “parental choice”, neglecting children’s right to be asked about their needs to ensure their inclusion in education (e.g. type of school).

The use of accessible materials and communication is not systemically ensured, German sign language is not a subject of instruction. Many types of reasonable accommodation, including student transportation, personal assistance, sign language interpretation and disadvantage compensation, must be applied for individually each year and are subject to the discretion of different authorities, some of which are local regional, leading to immense individual and geographical differences in obtaining grants.

Learners with disabilities still have fewer opportunities to leave school obtaining a recognised certificate and to complete vocational training.

They are also underrepresented in access to vocational training and higher education. In higher education, benefits for inclusion in education (assistive devices, sign language interpretation, personal assistance) are only granted for compulsory internships, compulsory stays abroad and only in exceptional cases for doctorates. Students with psycho-social disabilities are increasingly denied access to disadvantage compensation. Representatives and advisors for students with disabilities are still inadequately equipped with rights and resources.

In the digitization strategies of the federal government, the Länder and universities, technical and didactic accessibility is increasingly, but insufficiently, taken into account.

Lack of analysis and limited data make it difficult to create inclusive structures and adequate support measures for students and young researchers with disabilities.

Recommendations

- Comprehensive national and Länder strategy for all education and training institutions to build an inclusive education system.
- Länder action plans setting timelines and defining activities for building inclusive, high-quality school options close to home.
- Reasonable accommodations for students with disabilities to fully participate in academic learning.

Article 25 Health

The action plan for a diverse, inclusive as well as accessible healthcare system announced in the coalition agreement 2021-2025 for the end of 2022 does not exist.

Access to health care continues to be characterised by numerous barriers for persons with disabilities: Inaccessible medical practice spaces, communication barriers, small time budgets for treatment, and lack of understanding of specific concerns affecting their health care.

One of the issues is an undersupply in the area of gynaecology (see also Article 6).

Accessibility for medical services is also inadequate in hospitals. Accessible toilets on the wards, wayfinding systems, accessible labelling, information in plain language as well as sign language are lacking. The expansion of the “Medical Treatment Centres for Adults with Intellectual Disabilities or Severe Multiple Disabilities” (MZEB) has been very slow since 2015. Many groups of persons with disabilities are medically underserved.

Persons with disabilities often have to fight for years with the statutory health insurance for suitable assistive devices. Despite a doctor’s prescription, assistive devices are often rejected by health insurance companies.

Since 2022, relatives who accompany a person with a disability during a stay in hospital can receive sick pay (§ 44b SGB V). However, many persons with disabilities - people with dementia, after an accident or stroke - do not benefit from this, although they are in urgent need of accompaniment.

Recommendations

- Codification of the expansion of accessible health care, including § 75 of SGB V (mandate to ensure accessibility) as well as in nationwide directives and regulations (requirements planning, licensing).
- Increase the number of MZEB to meet demand.
- Extend entitlement to funded accompaniment in hospitals and rehabilitation clinics, e.g., for persons with dementia.
- Provision of assistive devices in line with the CRPD, i.e. oriented towards the person’s full inclusion in society. Assistive devices must no longer be limited to purely compensating for disability. Additional and supplementary payments must be excluded.

Article 26 Habilitation and rehabilitation

Out of hospital intensive care (AKI)

Shortage of specialists and high qualification requirements narrow the circle of specialists and nurses available to care for people in need of intensive care and thus endanger the security of care at the desired place of residence, increasing the risk of institutionalisation. Particularly children and adolescents in need of AKI will no longer be able to participate in social activities such as leisure activities, school and day-care as a matter of course.

Rehabilitation measures

Access to rehabilitation measures, particularly for long-term unemployed persons with disabilities, is difficult to put into practice. Long-term unemployed persons with health issues in the Social Code Book Two (SGB II, Basic benefits and employment promotion) legal system have significantly poorer chances of receiving support for vocational rehabilitation measures.

Training and capacity development as well as work opportunities in sheltered workshops are not oriented enough to the interests and abilities of the people.

Rehabilitation before care

Medical rehabilitation services are non-existent or completely inadequate to date for certain groups of people, including older persons after vision loss or persons with high support or care needs. The principle of “rehab before care” is often disregarded. This is especially true for elderly stroke patients.

Persons with complex disabilities, high support needs, mental impairments and older persons with disabilities receive inadequate services for their inclusion in society. In some cases, they have to move into nursing homes against their will.

Recommendations

- Overcoming the segmented system of rehabilitation with its different providers and responsibilities and transformation into a uniformly regulated system for social inclusion.
- Nationwide development of missing services of care without further delay, based on already existing legal requirements (early rehabilitation, mobile rehabilitation, etc.)
- Closing existing gaps in care in the area of rehabilitation by the introduction of needs-based and target-group-specific services.
- Human rights compliant design of all AKI regulations. Ensuring care while safeguarding the right to self-determination and free choice of place and form of residence.
- No pushing into institutions against the will on the grounds of special medical or nursing needs.

Article 27 Work and employment

At 57 percent, the employment rate of persons with disabilities between the ages of 15 and 64 is significantly lower than that of those without disabilities (82 percent).²³ People with high support needs remain largely excluded from participation in working life. At 35 percent, the employment rate of women with severe disabilities is significantly lower than that of men with disabilities. They are also much more likely to work part-time.²⁴

The number of persons with severe disabilities registered as unemployed in 2022, although slightly lower compared to 2021 and 2020, is still higher than the level from 2017 to 2019. The average duration of unemployment for persons with severe disabilities is significantly higher than for persons without disabilities.

According to the law, employers with 20 or more employees must fill five percent of their jobs with persons with severe disabilities. Employers must pay a staggered compensatory levy for unfilled mandatory positions. It is completely counterproductive that employers can deduct these costs from their taxes and, from 2024, will no longer have to fear sanctions even if they deliberately fail to employ persons with severe disabilities. Almost 45,000 employers, i.e. a quarter of all employers subject to the employment tax, do not employ a single person with severe disabilities.

Accessibility of workplaces is only mandatory if a person with severe disabilities already works in the company or is hired. This prevents many employers from hiring persons with disabilities.

Although sheltered workshops for persons with disabilities are supposed to promote the transition to the general labour market, the transition rate is still only a maximum of one percent. The number of people employed in sheltered workshops continues to rise. So-called “other service providers” as an alternative to sheltered workshops are formally strongly bound to the Workshops Ordinance, so that hardly any operational alternatives to the sheltered workshops offer arise here. The Budget for Training is hardly used so far and misses the target group, because no partial and additional qualifications are promoted and inclusive jobs are missing. Vocational qualification and job application training are inadequate.

The remuneration system for workshop employees is neither sustainable nor fair. The average wage nationwide is only 212 euros per month.

23 https://www.destatis.de/DE/Presse/Pressemitteilungen/Zahl-der-Woche/2021/PD21_20_p002.html

24 Situation of women with severe disabilities in the labour market, SINUS Institute on behalf of Aktion Mensch e.V. (2021), <https://delivery-aktion-mensch.stylelabs.cloud/api/public/content/studie-frauen-mit-behinderung-auf-dem-arbeitsmarkt.pdf?v=d06c3de9>

Services such as Supported Employment, which are aimed at inclusive employment, are put out to tender and are thus subject to price competition. However, services for persons with disabilities must address their individual requirements and needs. Standardised offers at the lowest possible price can lead to a loss of quality. Despite demonstrable success, this also affects specialist integration services that offer services for persons with disabilities and companies.

Recommendations

- Develop an overall strategy to create an inclusive labour market.
- Create special labour market and support programmes for the employment of persons with disabilities.
- Elimination of the tax deductibility of the costs of the equalisation levy of companies that do not comply with the employment obligation.
- The Workplace Ordinance must stipulate that workplaces must be designed to be accessible, regardless of whether persons with disabilities are already employed in the company.
- Clarification by the legislator that persons with disabilities can also use the Budget for Work without having to work first in a sheltered workshop.
- The right to inclusion in working life must be ensured for all persons with disabilities, regardless of the type and severity of the disabilities. Deletion of the access requirement “minimum level of economically viable work performance” in § 219 (2) SGB IX.
- Fair pay for employees in sheltered workshops, making them independent of basic social security benefits (“Grundsicherung”).

Article 28 Adequate standard of living, social protection

Inclusion benefits under SGB IX continue to be dependent on income and assets of persons with disabilities.

Poverty risk

The poverty risk rate among persons with disabilities is above average at 20 percent.²⁵ Many persons with disabilities rely on low disability pensions, for example.

Older persons with disabilities bear a particularly high risk of poverty. If they are over 65, which is the majority,²⁶ they usually only receive care services instead of integration benefits (“Eingliederungshilfe”). They have to pay a high share of the costs: an average of 2,400 euros per month in a nursing home

Poverty through care

:With regard to support services for older persons, 500 “Local Alliances for People with Dementia” were only funded for a limited period, and the “Care Support Points” required by Social Code Book Eleven (SGB XI, Care insurance) do not exist in all Länder.

Laws intended to enable reconciling work and caring for relatives do not work in practice. Financial and time resources must be available so that care for relatives (regardless of age) can be provided by family members.

Poverty reduction

Women, children and youth with disabilities are little in the focus of poverty reduction. Women with disabilities, especially in older age, are still more affected by poverty than men with disabilities.

Recommendations

- Gender-responsive and targeted poverty reduction strategy for persons with disabilities.
- Complete exemption of the imputation of income and assets of persons with disabilities, their partners and families for integration benefits (“Eingliederungshilfe”).
- Recipients of basic social security benefits (“Grundsicherung”) for reduced earning capacity and old age should not be treated less favourably than recipients of the citizen’s income (“Bürgergeld”).
- Family members providing care must be financially secure, e.g. with their own wage compensation benefit.
- More permanently funded support services nationwide for patients with dementia and their families.

25 Third Participation Report of the Federal Government on the situation of persons with impairments (2021), https://www.bmas.de/SharedDocs/Downloads/DE/Publikationen/a125-21-teilhabebericht.pdf%3Bjsessionid=33047E84BCB52D7B4AA28FF1C77DE6F9.delivery1-replication?__blob=publicationFile&v=4

26 ibid

Article 29 Participation in political and public life

Accessible and equal participation in political life and especially in elections is only possible to a limited extent due to a lack of sufficient accessible information and polling stations.

Despite the abolition of voting exclusions based on disability,²⁷ the possibility of accessible and thus equal voting does not exist everywhere.

The exercise of elective political office is still not possible on the basis of equal opportunity. In terms of the proportion of the total population, there should be 66 members of the German parliament with disabilities. However, currently the representation is significantly lower, with only 23 members with disabilities.²⁸

Personal assistance for volunteering is only financed to a very limited extent within the framework of integration benefits (“Eingliederungshilfe”). According to SGB IX, personal assistance is only provided if the support cannot also be provided within the framework of family, friendship or neighbourly relationships. This makes it more difficult for persons with disabilities to engage in volunteer work and thus makes them socially dependent on support persons.

Recommendations

- Comprehensive accessible election information and voting.
- State funding of disability-related additional requirements for voluntary or political commitment, e.g. deletion of the restriction for personal assistance in voluntary work in § 78 (5) SGB IX.

27 BVerfG (Federal Constitutional Court), Decision of the Second Senate of 29 January 2019, http://www.bverfg.de/e/cs20190129_2bvc006214.html

28 Volk und Vertreter (People and Representation), (19 Legislation Period, 2017-2021): Study of Süddeutsche Zeitung, <https://www.sueddeutsche.de/projekte/artikel/politik/bundestag-diese-abgeordneten-ehlen-e291979/>

Article 32 International cooperation

The 2019 German Federal Ministry for Economic Cooperation and Development (BMZ) inclusion strategy has not been implemented and will be merged into a “Quality Criteria Strategy Human Rights, Gender Equality, Inclusion”. None of the recommendations of the German Institute for Development Evaluation (DEval) from the 2017²⁹ evaluation of the BMZ Disability Inclusion Action Plan has been fully implemented.

The BMZ Strategy on Feminist Development Cooperation (2023) refers to persons with disabilities several times, but remains largely unspecific at the target and activity levels.

The increase of the inclusive portfolio of the Gesellschaft für internationale Zusammenarbeit (GIZ) by about 1/3 since 2019 to 132 projects and measures (GIZ analysis, May 2020) is hardly significant compared to the total portfolio of German technical cooperation of currently 1470 projects worldwide³⁰ (May 2023). Nothing is known about the funding volume of German development programmes with inclusive components.

Since the discontinuation of BMZ funding, the German Institute for Human Rights can no longer ensure the monitoring of Article 32. The competence centre for inclusion in the volunteer programme “Weltwärts” is also no longer funded.

Recommendations

- Rapid development of the Human Rights, Gender Equality, Inclusion performance profile by BMZ, taking into account the 2017 recommendations of DEval from the evaluation of the BMZ Disability Inclusion Action Plan.
- Verifiable definition of concrete and time-bound measures, indicators of success, clearly assigned responsibilities and the allocation of a budget to implement the performance profile and the BMZ strategy on feminist development policy including for the inclusion of persons with disabilities.
- Swift implementation of the OECD-DAC Disability Marker, setting ambitious targets to increase the share of development projects scoring “principle” or “significant” regarding the inclusion of persons with disabilities.
- Adequate funding for the German Institute for Human Rights to monitor the implementation of Article 32 and for proven initiatives for inclusive volunteer programmes in development cooperation should not be questioned.
- Ensuring and providing the necessary financial and human resources for effective and continuous participation of OPD both at the Global Disability Summit 2025 and in German development cooperation in general.

29 <https://www.deval.org/de/publikationen/umsetzung-von-empfehlungen-aus-evaluierungen-des-deval>

30 <https://www.giz.de/projekt Daten/region/-1/countries/>

Appendix 1

Glossary / Abbreviations

AA	Federal Foreign Office
AGG	General Equal Treatment Act
AKI	Outpatient intensive care
BFSG	Accessibility Reinforcement Act
BGB	German Civil Code
BGG	Disability Equality Act
BGH	Federal Court of Justice
BMI	Federal Ministry of the Interior and Community
BMZ	German Federal Ministry for Economic Cooperation and Development
BTHG	Federal Participation Act
CRPD	UN Convention on the Rights of Persons with Disabilities
DBR	German Disability Council
DEval	German Institute for Development Evaluation
EAA	European Accessibility Act
EBO	German Railway Construction and Operating Regulations
EU	Europe
GAD	Gender Age Disability
GIZ	Deutsche Gesellschaft für internationale Zusammenarbeit (German Society for International Cooperation)
MZEB	Medical Treatment Centres for Adults with Intellectual Disabilities or Severe Multiple Disabilities
NAP 2.0	Second National Action Plan
OECD DAC	Organisation for Economic Co-operation and Development Development Assistance Committee
OPD	Organisations of Persons with Disabilities
SGB	Social Code Book

Appendix 2

List of organisations of the Alliance for the Implementation of the CRPD that support this report

A

ABiD Allgemeiner Behindertenverband in Deutschland e. V.

Anthropoi Selbsthilfe Bundesvereinigung Selbsthilfe im anthroposophischen Sozialwesen e. V.

Aspies e. V. Menschen im Autismus-Spektrum

autismus Deutschland e. V. Bundesverband zur Förderung von Menschen mit Autismus

B

BAGFW Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege e. V.

BAG SELBSTHILFE e. V. Bundesarbeitsgemeinschaft Selbsthilfe von Menschen mit Behinderung, chronischer Erkrankung und ihren Angehörigen

bbe e. V. Bundesverband behinderter und chronisch kranker Eltern

BDH Bundesverband Rehabilitation

BeB Bundesverband evangelische Behindertenhilfe e. V.

bezey Behinderung und Entwicklungszusammenarbeit e.V.

bff: Frauen gegen Gewalt e. V. Bundesverband der Frauenberatungsstellen und Frauennotrufe in Deutschland

BSK Bundesverband Selbsthilfe Körperbehinderter e. V.

BUG Büro zur Umsetzung von Gleichbehandlung e. V.

Bundesnetzwerk „Gemeinsam leben – gemeinsam lernen“

Bundesvereinigung Lebenshilfe e. V.

bvkm Bundesverband für körper- und mehrfachbehinderte Menschen e. V.

C

CBM Christoffel-Blindenmission e. V.

CBP Caritas Behindertenhilfe und Psychiatrie e. V.

D

Dachverband Gemeindepsychiatrie e. V.

DBSV Deutscher Blinden- und Sehbehindertenverband e. V.

Deutsche Alzheimer Gesellschaft e. V.

Deutsche Gesellschaft der Hörbehinderten – Selbsthilfe und Fachverbände e. V.

Deutsche Rheuma-Liga Bundesverband e. V.

DGB Deutscher Gehörlosenbund e. V.

DSB Deutscher Schwerhörigenbund e. V.

F

ForseA Bundesverband Forum selbstbestimmter Assistenz behinderter Menschen e. V.

G

Grundschulverband e. V.

I

ISL e. V. Interessenvertretung Selbstbestimmt Leben in Deutschland

L

Liga Selbstvertretung - Politische Interessenvertretung der Selbstvertretungsorganisationen behinderter Menschen in Deutschland (DPO Deutschland)

M

mittendrin e. V.

MOBILE Selbstbestimmtes Leben Behinderter e. V.

N

NETZWERK ARTIKEL 3 Verein für Menschenrechte und Gleichstellung Behinderter e. V.

S

SoVD e. V. Sozialverband Deutschland

VdK e. V. Sozialverband VdK Deutschland e. V.

V

VENRO Verband Entwicklungspolitik und Humanitäre Hilfe deutscher Nichtregierungsorganisationen e.V.

W

Weibernetz e. V. Bundesnetzwerk von FrauenLesben und Mädchen mit Beeinträchtigung

Werkstatträte Deutschland e. V.



Bundesarbeitsgemeinschaft



der Freien Wohlfahrtspflege



The parallel report is available in these versions

- printed brochure in German
- accessible PDF in German
- accessible PDF in English
- Braille (print)

Summary of the report

- printed brochure in Easy-to-read
- accessible PDF in Easy-to-read
- German sign language

Info and links to all versions

<https://www.deutscher-behindertenrat.de/ID292569>

Gefördert durch:



Bundesministerium
für Arbeit und Soziales

aufgrund eines Beschlusses
des Deutschen Bundestages

The printing and transfer into accessible formats
was supported by:
Federal Ministry of Labour and Social Affairs
based on a resolution of the German Bundestag.