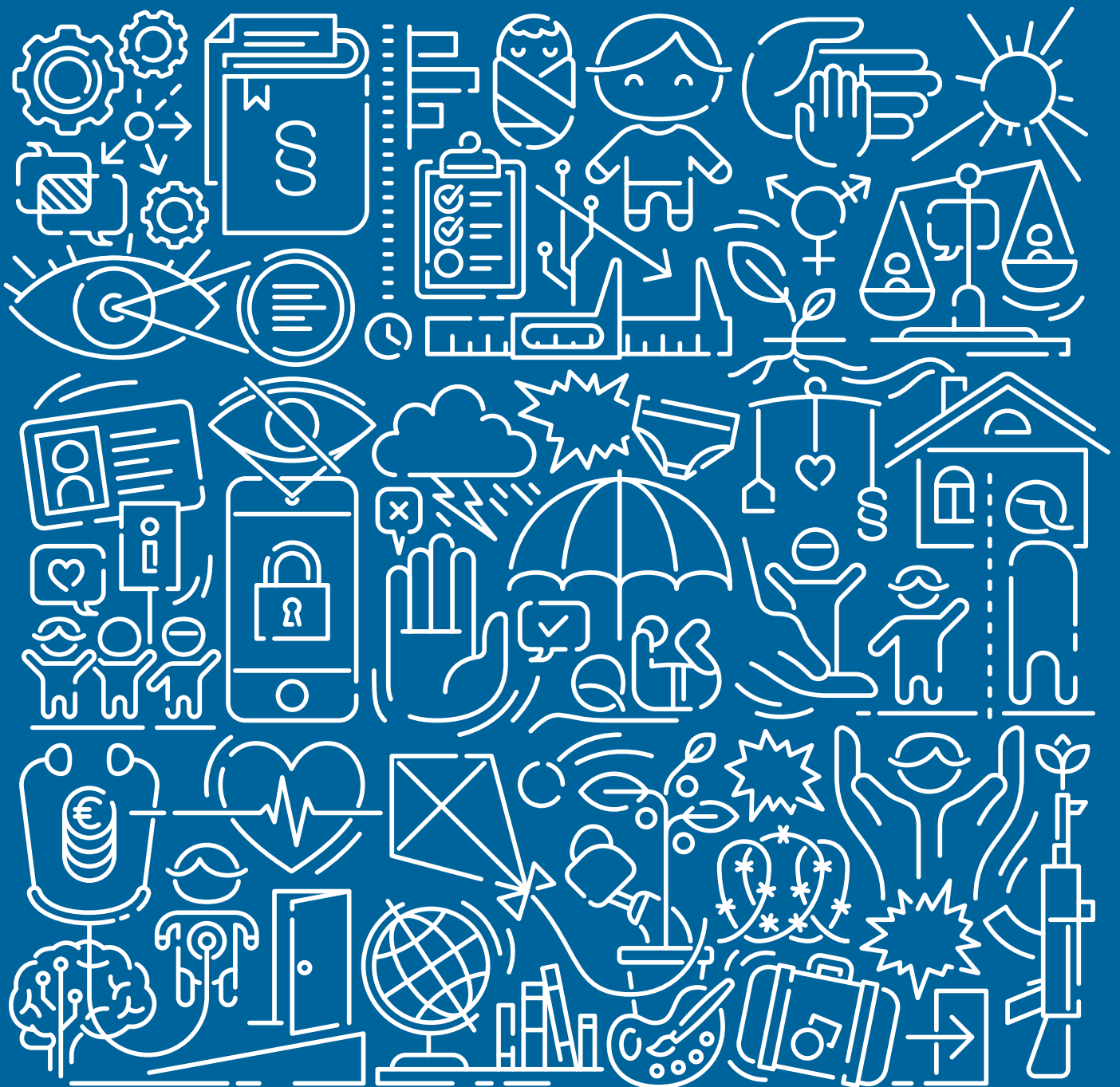


# Interim report

## On the child rights situation in Germany



2019 —————> 2023

2027

## Imprint

**Interim report of the National Coalition - Network for the Implementation of the UN Convention on the Rights of the Child regarding the child rights situation in Germany 2023**

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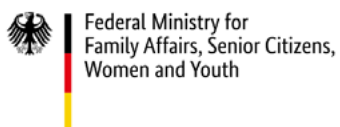


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**Interim report of the  
National Coalition Germany,  
Network for the Implementation  
of the UN Convention  
on the Rights of the Child  
on the child rights situation  
in Germany in 2023**

# Foreword

Four years have passed since the 5<sup>th</sup>/6<sup>th</sup> Supplementary Report was submitted in 2019. In 2020, a coronavirus-related update on the pandemic deepened the implementation of some topics. The time between two supplementary reports is intensive but long. We therefore drew an interim conclusion together with the members of our network in 2023. Where do we stand with the implementation of children's rights in Germany?

The interim report is not an official part of the state reporting process with the UN Committee on the Rights of the Child, but from the National Coalition's point of view it is nevertheless necessary in order to keep an eye on the child rights situation in the follow-up process in Germany and to speak with a strong voice. It is addressed to the federal government and, in part, also to the state governments with regard to their federal competencies.

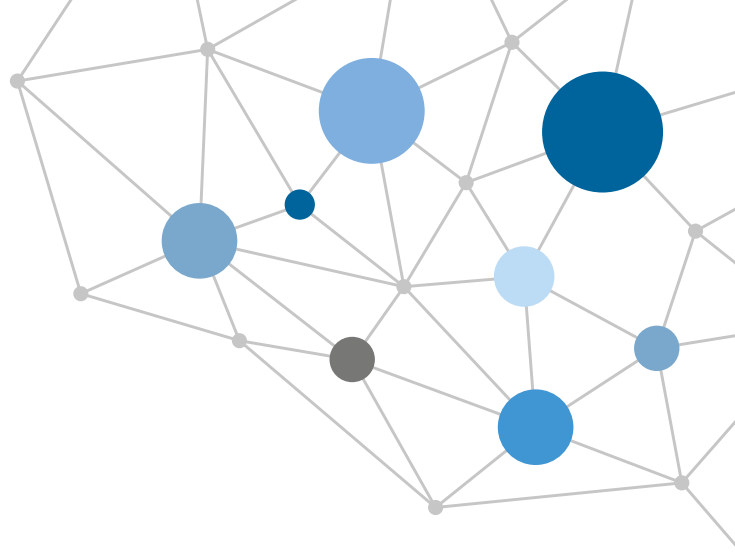
In 2023, the central activity of civil society monitoring was to jointly draw up this interim report on the implementation of the UN Convention on the Rights of the Child (UN CRC), analyze the laws and measures enacted since 2020 and call for the implementation of the Concluding Observations of the UN Committee on the Rights of the Child of 2022 by the Federal Government.

The former topic coordinators of the Supplementary Report were invited to participate, as were all other members of the National Coalition. A total of 42 topic suggestions were submitted by 24 members for the interim report. An editorial team summarized and edited the contributions. In September 2023, around 110 members of the National

Coalition were invited to comment on the interim report. Following a second editorial phase, the extended Executive Board approved the interim report at its meeting on 27.11.2023.

The interim report on the implementation of children's rights in Germany highlights key issues where the members of the National Coalition see a significant need for action in the follow-up. It essentially describes the issues where there are relevant changes or reassessments and does not repeat the points already outlined in the Supplementary Report or Addendum. It is therefore much leaner in scope than the Supplementary Report. The structure of the Interim Report follows the structure of the Supplementary Report, which is specified by the UN Committee, whereby all topics on which we have received updates appear in the Interim Report. Last but not least, the Interim Report serves as preparation for the next Supplementary Report, which will be submitted to the UN Committee on the Rights of the Child in 2027.

In view of the tight budget situation, a clear commitment to child rights-based budget planning is required. In accordance with the UN Convention on the Rights of the Child, the Federal Government is obliged to take all appropriate legislative and administrative measures to realize children's rights and to act in the best interests of children (primary consideration of the best interests of the child). Budget cuts must not lead to violations of children's rights. The fact that child and youth welfare organizations are not equipped to meet their needs is currently reflected in the fact that inflation-related increases



in personnel and material costs, for example, are not compensated. As a result, institutions that strengthen the rights of children and young people have to cut or severely restrict their services.

This is a fatal signal for young people in Germany, especially after the corona-related restrictions in recent years, and will also have a negative impact on the issues addressed in the interim report.

One focus of the interim report is on the situation of refugee children and young people in Germany. Since the beginning of the Russian war of aggression against Ukraine, the situation for unaccompanied refugee minors in particular has increasingly deteriorated due to overburdened accommodation and care structures for children and young people. A nationwide shortage of skilled workers, precarious working conditions in refugee-related social work and the shortened length of stay in the overburdened child and youth welfare system all too often prevent the realization of children's rights for refugee children and young people in many places.

In addition, the COVID-19 pandemic, the Russian war of aggression against Ukraine and inflation and the resulting consequences are affecting all children and young people. In the interim report, we talk about the situation of all children and young people in Germany. In this context, it must always be borne in mind that children live in their own individual contexts and sometimes have special protection or support needs. As if under a magnifying glass, gaps in protection and scarcity of resources become apparent, so that the demands formulated in the Supplementary Report must be reaffirmed and expanded.

*Berlin, 20th December 2023*

Bianka Pergande  
Speaker

Üwen Ergün  
Speaker

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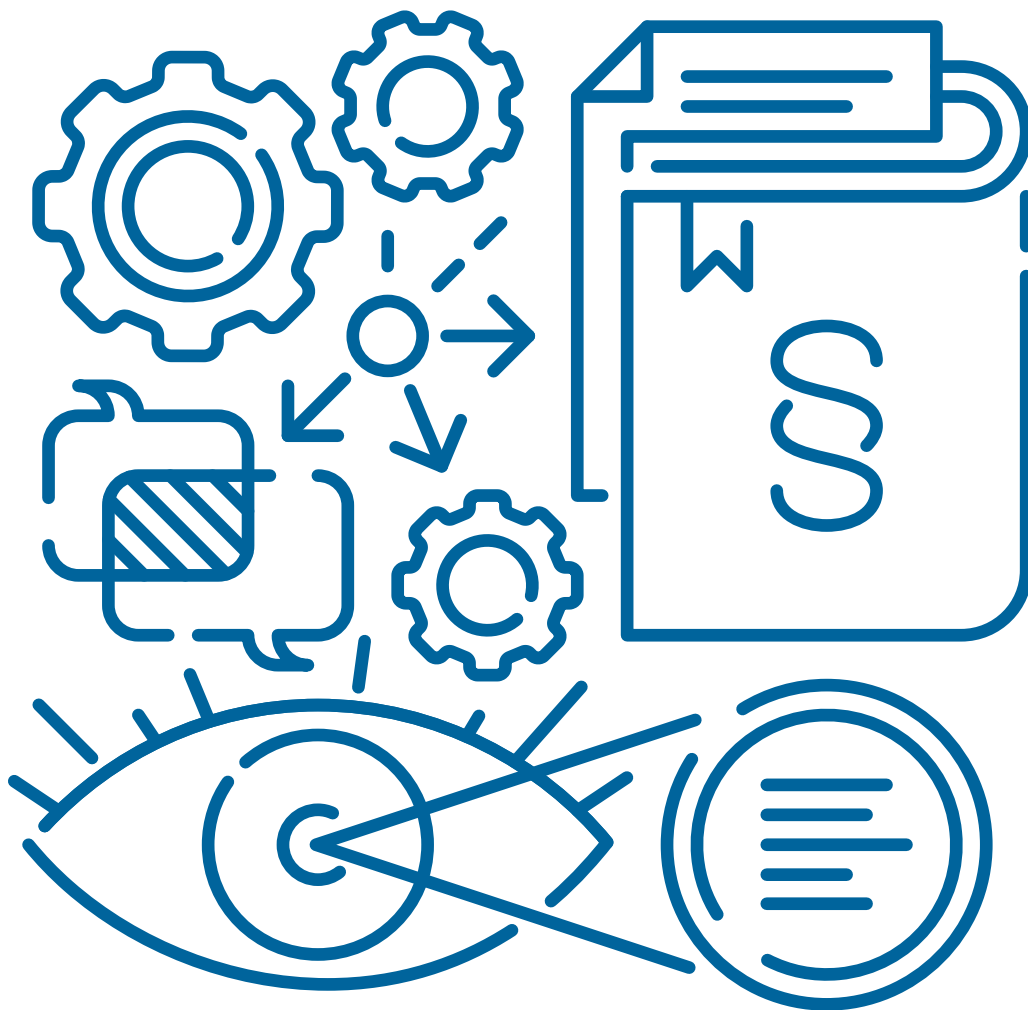
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# 1. General measures of implementation



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## **The rights of children in the German Constitution**

In the Supplementary Report (2019), the National Coalition called for the basic principles of the UN CRC to be explicitly enshrined in the Basic Law (German Constitution). The 2021–2025 coalition agreement by the German government states: “Children have rights. That is why we will expressly enshrine children’s rights in the Basic Law.” So far, this is all that has been announced.



In 2021, the inclusion of children's rights in the Basic Law failed. However, children's rights need to be enshrined in the Basic Law and are long overdue. The planned amendment to the Basic Law must include a wording that is in line with the requirements of the UN CRC and strengthens the position of children and young people. The best interests of the child must

not only be considered appropriately, but primarily.

The National Coalition is in agreement with the UN Committee on the Rights of the Child in this stance. In its Concluding Observations, the Committee has already called on Germany four times (1995, 2004, 2014 and 2022) to include children's rights in the Basic Law.

Our demand:

- Reaffirming the demand from the Supplementary Report, "the basic principles [of the UN CRC] should be expressly enshrined in the Basic Law [...]. It must be ensured that children's rights establish subjectively enforceable legal entitlements and that both the primacy of the best interests of the child and participation rights include a child-specific right to development and the mandate to protect and promote."

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## Coordination of implementation

Successful implementation of the UN CRC requires strong interest groups at federal, state and municipal level, which have specialist and coordinating tasks in political as well as ministerial and administrative action. In addition to professional structuring, they must also carry out political lobbying. There are now representatives for children's rights in the federal states of Brandenburg, Hesse, Saxony and Saxony-Anhalt. They all work full-time. While the

commissioners in Brandenburg and Saxony can do this independently, those in Hesse and Saxony-Anhalt are bound by instructions. Children's rights commissioners are a clear further development of the previous coordination offices at state level and are to be introduced for all federal states. In addition to their professional role, children's and young people's rights commissioners also act as political representatives and have other opportunities to influence the advancement of children's rights issues at state and municipal level. In doing so, the commissioners should cooperate with the existing interest groups of young people.

Our demand:

- For the sustainable implementation of children's rights, each federal state should appoint a children's rights commissioner or a children and youth commissioner. These should be full-time and independent of directives.

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## Development cooperation

In May 2021, the Federal Ministry for Economic Cooperation and Development (German: Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung, short: BMZ) became the first German ministry to establish a Youth Advisory Council, thereby taking an important step towards greater participation by children and young people. The members are appointed by a selection committee following a public tendering process. Currently, 16 young people from Germany are discussing and advising the BMZ on topics and strategies. At an International Youth Forum in November 2022, the Youth Advisory Council worked with young people from the Global South to develop recommendations for action for youth participation in development cooperation. In the current legislative period, the BMZ has developed a quality attribute for human rights, gender equality and inclusion and sets

out fundamental requirements for all German development cooperation projects in a performance profile. In particular, the concerns of women and girls, people with disabilities and children and young people are identified. After the BMZ had denied the need for systematic child protection in development cooperation in previous legislative periods, the introduction of a child protection policy and minimum standards for all implementing organizations have now been announced. It is also to be welcomed that the BMZ is introducing the OECD-DAC marker on inclusion, making it clear which projects are being supported for the inclusion of people with disabilities. At the end of 2023, the BMZ has published the performance profile and provides information on implementation steps. Civil society organizations will continue to be consulted and involved. How effectively the quality feature of human rights, gender equality and inclusion is implemented depends crucially on solid and practicable monitoring.

### Our demands:

- The BMZ should increase the number of projects to implement children's rights and, in particular, promote measures that quickly and effectively improve the situation of children and young people (protection from violence and exploitation, health, nutrition, education) and further strengthen the participation of children and young people in the design and implementation of projects.
- The announced systematic child protection policy and the minimum standards for implementing organizations should be based on internationally recognized standards and implemented in trusting cooperation with specialist organizations.
- In addition to the BMZ and the BMFSFJ, other ministries should also promote the participation of children and young people and establish youth advisory councils, for example.

## Independent monitoring mechanism

The Federal Government took up the recommendation of the UN Committee on the Rights of the Child from the 2014 Concluding Observations and established a monitoring office for the UN CRC at the German Institute for Human Rights (German: Deutsches Institut für Menschenrechte, short: DIMR) in 2015 with funding from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (German: Bundesministerium für Familien, Senioren, Frauen und Jugend, short: BMFSFJ). In recent years, the monitoring office has been funded for a limited period of time. Even then, the Committee expressed concern about the lack of a child-friendly complaints procedure covering all areas of the Convention. It regretted the position of the State party that such a procedure was not necessary. In its Concluding Observations (2022), the Committee recommended that the Federal Government “establish the UN CRC Monitoring Body as a permanent institution that is financially independent and tasked with receiving, investigating and expertly processing complaints from children in a child-friendly manner.” It should also ensure “that all children are aware of their right

to lodge complaints in accordance with existing procedures”.<sup>1</sup>

In November 2022, the Monitoring Body was transferred to the institutional resources of the German Institute for Human Rights by resolution of the German Bundestag. The National Coalition welcomes the fact that it is now an integral part of the independent National Human Rights Institution. This means that the Monitoring Body is now secured as a permanent institution and financially independent. However, its mandate and its financial and human resources have not been expanded—not even with regard to the acceptance of complaints from children and young people.

Since June 2021, children’s and young people’s rights have also been monitored at state level for the first time. The Hessian state government commissioned the UN CRC Monitoring Body of the German Institute for Human Rights with the conception and subsequently (since July 2022) also with a first working phase of child and youth rights monitoring. This was the first time that state-wide (non-representative) data on the level of awareness among children and young people and within the administrations in Hesse (representative) was collected at state and local authority level. The results were published in August 2023 in the form of an interim report.

<sup>1</sup> Paragraph 11, *Concluding Observations of the UN Committee on the Rights of the Child (2022)*

### Our demands:

- The federal government should increase the financial resources of the UN CRC Monitoring Body so that it can fulfill its mandate of fully monitoring children’s rights in Germany.
- In addition, the federal government should work towards independent monitoring of children’s rights at state level.
- The federal government should facilitate and promote the establishment of independent complaints offices at federal, state and municipal level.
- The Bundestag should demand an annual report on the implementation of the UN CRC in Germany from the UN CRC monitoring body and debate it publicly.

## 2. General principles



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## Non-discrimination

### Adultism

The problem of adultism, i.e. discrimination against children and young people on the basis of their age<sup>2</sup>, is not directly addressed in the existing federal laws that affect children. It is only indirectly addressed in a few laws (Federal Immission Control Act, Federal Child Protection Act, Act to Strengthen Children and Youth) in an abstract, limited form.

Children are the only group of people who cannot assert a legally secured claim to the available political and social resources. Even today, children have hardly any entitlements of their own, e.g. to social benefits. Even in the case of so-called child benefit, it is not the children but the parents who are entitled to it. According to the Federal Child Benefits Act, children can only claim so-called “child benefit for themselves” in rare exceptional cases.

The co-determination of pupils provided for in the school laws of the federal states has so far been limited to marginal areas and issues and does nothing to change the unequal power structure that encourages adultism in schools. The establishment of independent advisory and complaints structures in schools, as is being considered in several federal states, can counteract adultism, but must also be

accompanied by comprehensive and effective participation of students in all matters affecting them, i.e. a fundamental democratization of schools.

Although the General Equal Treatment Act is also directed against age-specific discrimination, the relevant provisions remain limited to older people<sup>3</sup>. In cases where a lower age is mentioned (Section 10—Permissible different treatment on grounds of age), unequal treatment is even justified, primarily with reference to professional integration and remuneration.

To date, adultism has been entrenched in legislation, jurisprudence and politics in that children have only very limited access to justice, are discriminated against by existing laws and are kept from participating in and being active in political institutions.

The analysis of adultism must always bear in mind that unequal relationships between adults and young people cannot be derived from age alone. It must also take into account that the people involved are in different life situations, have different levels of assertiveness and are each integrated in a particular way into social circumstances or institutions that shape their experiences, attitudes and actions and influence relationships between people of different ages. This can be countered by a conscious and balanced consideration of protection needs, support needs and opportunities for participation.

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2 For the definition of adultism: Liebel & Meade (2023): *Adultismus. Die Macht der Erwachsenen über die Kinder. Eine kritische Einführung.* Berlin: Bertz + Fischer.

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3 C. Janda & M. Wagner (2021): *Diskriminierung von und wegen Kindern. Eine rechtliche Betrachtung des jungen Alters. Gutachten im Auftrag der Antidiskriminierungsstelle des Bundes.*

#### Our demands:

- All children are to be recognized as beneficiaries in the upcoming law on “basic child allowance”.
- In the upcoming reform of the General Equal Treatment Act, both possible discrimination by state bodies and age-specific discrimination against young people in all areas of life are to be included.
- More attention should be paid to adultism in the initial and further training of professionals and in educational work with adults and young people.

## Children born intersex

Intersex children are born with gender characteristics and a physical development that do not correspond to the binary medical gender norms. They are victims of violent and irreversible interventions in their gender development and their rights.

There have been some positive changes for children with a gender variant since 2019: Persons with gender development variants can declare to the registry office that the indication of their gender in a German civil status entry should be replaced by another designation provided for in PstG Section 22 (3) or deleted<sup>4</sup>. The declaration can also be used to determine new first names. Only a legal representative can make the declaration for a child who is legally incapacitated or under the age of 14. The consent of the legal representative must also be obtained for children over the age of 14. The family court can replace this consent if the change of gender or first names is not contrary to the child's best interests.

On May 22, 2021, the Act on the Protection of

Children with Gender Variant Development came into force. The protection framework is narrowly defined with the description "variant of sex development" and denies protection to many affected children. In medicine, the framework is not applied to all children, but only to children with a medical diagnosis of "Differences of Sex Development". In practice, this does not include all children. The law provides for an evaluation by 2025, which cannot be carried out in a comprehensible manner due to the lack of regulations on recording and documentation.

Despite the provision in the Act to Strengthen Children and Youth to "take into account the different life situations of girls, boys and transgender, non-binary and intersex young people, to reduce disadvantages and to promote gender equality"<sup>5</sup> the rights of children born intersex and their own gender identity are not sufficiently implemented in the school laws and curricula of the federal states. It is welcomed that the law recognizes children's own gender identity and rights, but there are hardly any necessary accompanying measures.

<sup>4</sup> § Section 22 PStG – individual standard.

<sup>5</sup> cf. *IM e.V. (2021): Inklusiv und differenziert: Das Kinder- und Jugendstärkungsgesetz und seine erweiterte Geschlechterperspektive.*

### Our demands:

- The protective framework against standardizing irreversible interventions on sexual characteristics should be extended to all children. The best interests of the child are to be valued higher than parental rights. Legal protection for victims of violence in medicine should be regulated by the state.
- The Federal Government should take all appropriate measures to enable children born intersex to enjoy equal social and cultural rights and participation, an undisturbed childhood and equal representation in schools and education in all countries. Laws that lead to further discrimination against intersex children should be prevented.
- The aim is to ensure that children born intersex and their guardians are granted safe asylum in Germany and that intersex is recognized as a reason for flight.
- The visibility and data situation of children born intersex should be ensured while respecting the right to privacy and protection against data misuse.

## The right to a clean, healthy and sustainable environment

The speed at which the climate crisis is progressing is increasing every day. Although the climate crisis affects everyone regardless of age, gender, origin or social status, the effects and the scope to counter them are very unevenly distributed globally and within society and reinforce social inequalities and discrimination: Children and young people are not involved in political decision-making processes, but suffer massively from the consequences, and the long-term effects of the climate crisis will result in life-changing circumstances for future generations<sup>6</sup>. In addition, there is an increasing criminalization of young people who take action against the climate crisis: The school strike by *Fridays for future* groups was initially denigrated as truancy; there was only wider social acceptance when other sections of the population joined the students' protests. Activists from *Fridays for Future* and

<sup>6</sup> UNICEF (2021): *The Climate Crisis is a Child Rights Crisis: Introducing the Children's Climate Risk Index*.

*The Last Generation* are increasingly being criminalized and their protests prosecuted. In terms of children's rights, a change of perspective is required here: For the sake of justice (here: intergenerationally and towards future generations), human rights are always also a legal critique of existing law and therefore absolutely necessary. Sit-in blockades as a conscience-driven, public, non-violent protest aimed at changing government policy are civil disobedience and an expression of the human right to freedom of expression and assembly.

Although the climate crisis is mainly caused by the industrialized nations, the countries of the Global South are the worst affected. However, the consequences of the climate crisis are already being felt in Germany too, e.g. in the form of heatwaves, air pollution and water shortages. As a particularly vulnerable group, these phenomena have a strong impact on children, from which they cannot protect themselves. This is particularly true for children and young people from low-income, socially disadvantaged families. The German government must fulfill its responsibilities and obligations under international agreements and meet the targets for reducing greenhouse gases and other pollutants contained therein.

### Our demands:

- The independent right to a healthy and sustainable environment must be recognized and enshrined in law.
- Youth welfare services should be involved in intersectional, discrimination-sensitive awareness-raising and support for marginalized young people.
- Measures that strengthen solidarity between the generations and different population groups in society as a whole in order to develop joint strategies should be promoted more strongly.
- The recommendations of General Comment No. 26 (2023)<sup>7</sup> on children's rights, the environment and climate change of the UN Committee on the Rights of the Child must be implemented as quickly as possible. Existing international agreements on climate and environmental protection should be complied with.

<sup>7</sup> available at: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/crcgc26-general-comment-no-26-2023-childrens-rights>



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## Participation and involvement of children and young people

In recent years, the participation of children and young people has fortunately become an increasing priority. Especially in the area of environmental and climate policy, many young people are getting involved in a variety of ways, be it through protests on the streets and in social movements, in youth association work or through involvement in committees. A number of successes have already been achieved in recent years in the participation of young people in political decision-making processes: Children's and youth parliaments have been established in municipalities and at state level, for example, and participation formats have also been created at federal level. Welcome developments also include the continuation of the National Action Plan for Child and Youth Participation, the support of the Federal student conference (Bundeschüler:innenkonferenz) through a participation office, the inclusion of people under the age of 27 in the Federal Youth Advisory Board, the new appointment of people under the age of 27 to the BMFSFJ's Youth Policy Advisory Board, the convening of a BMZ Youth Advisory Board, the participation of young people in the Advisory Board of the Federal Agency for Child and Youth Media Protection and the invitation of exclusively young experts under the age of 27 to the meetings of the Bundestag's Children's Commission on "Education, Schools, Digitalization and Media Education". Nevertheless, further efforts and binding structures are needed to enable as many young people as possible to participate inclusively in decision-making<sup>8</sup>. A lack of participation by children and young people can lead to discrimination (see chapter 3a Adulthood).

Due to a lack of political rights, in particular because minors are neither allowed to vote nor accept political mandates, they have not yet been able to participate extensively in political decisions

or in the drafting and application of laws. Efforts to involve young people in elections at state and local level are to be welcomed, but the political participation of young people must be expanded and regulated uniformly throughout Germany. Democracy and participation should be made possible, taught and learned from the very beginning in all educational contexts (daycare centers, schools, clubs, self-organizations, etc.). By actively helping to shape decision-making processes, children and young people develop an understanding of democratic principles; they learn to take responsibility and experience how they can express their opinions and exert influence. Anchoring education for sustainable development in daycare centers, schools and youth association work contributes both to implementing the 17 Sustainable Development Goals (SDGs) of the United Nations and to promoting the participation of children and young people. The effectiveness of their own involvement is an important factor for successful child and youth participation. By volunteering, they can experience that it is possible to bring about concrete changes in everyday life at an early age. In this context, youth associations, daycare and school support associations are indispensable, as they act as an interface between schools, society and politics and enable children and young people to actively participate. Structural support for the state associations of daycare and school support associations and youth associations is therefore necessary in order to create the framework conditions for active participation and to sustainably promote the civic engagement of children, young people and all interested parties.

Involvement in participation structures is often on a voluntary basis and is often associated with a high administrative burden. Participation offices are needed to make access to participation as low-threshold and inclusive as possible. The administrative burden should be reduced by full-time structures and made easier by reducing bureaucracy.

Information on opportunities for participation and the content of official political discourse and legislative procedures should be disseminated

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<sup>8</sup> cf. *BMFSFJ & DBJR (2023): Qualitätsstandards für Kinder- & Jugendbeteiligung. Impulse zur Weiterentwicklung in Theorie und Praxis.*



via target group-specific media. A child-oriented approach must meet the needs and interests of children and young people and use suitable and target group-oriented media to disseminate information. It is important to note that not all children and young people have the same access to information. It therefore makes sense to create and strengthen low-threshold participation spaces—both in daycare centers and schools as well as in youth facilities and outside of institutionalized educational institutions. In order to increase the

visibility of the effective engagement and participation of children and young people, regular large-scale participatory events (e.g. bar camps) can be organized that generate media attention and are funded by the federal government.

At a national level, a larger and long-term children's and youth festival on the topic of participation or an annual national student congress could be launched to offer children and young people who are already involved a platform to honor their commitment and inspire others as role models.

#### Our demands:

- Youth associations, as a democratic form of self-representation and representation of young people's interests, should be given appropriate consideration and supported with an appropriate, needs-based budget.
- The voting age limit for local, state, federal and European elections as well as for referendums and petitions is to be lowered.
- Structural and financial support of 5 million Euros per year from federal funds is to be provided for the nationwide commitment to education.
- Bodies such as youpaN, a youth committee for the participation of young people in the implementation of the National Action Plan for Education for Sustainable Development, should be integrated into all ministries and national processes at federal level.
- Full-time participation offices should be created in order to enable the lowest possible threshold and inclusive participation of children and young people. Additional resources and long-term funding should be provided in order to sustainably promote the participation of children and young people.
- More financial resources are to be used to enable research and develop inclusive participation opportunities. The focus should be on the inclusion of children and young people in rural regions and difficult living conditions. Measures must be taken to ensure that participation is inclusive and represents the diversity of the young population.
- New forms of representation for future generations should be created so that children and young people can participate in (political) decisions and issues that affect them. This includes, for example, laws and measures on climate protection and investments in public infrastructure.

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## Child-friendly justice

Every year, thousands of children in Germany come in contact with the judicial and administrative system. For example, they are involved in family law proceedings when their parents separate, in asylum proceedings, as (victim) witnesses in criminal proceedings, or their interests are affected by local authority projects.

The UN CRC (Art. 2, Art. 12, Art. 3 and Art. 40), the Council of Europe's Guidelines on child-friendly justice and the EU Fundamental Rights Agency's checklists for professionals contain numerous guidelines for child-friendly justice procedures. The Council of Europe's and the European Union's Strategy on the Rights of the Child calls on the member states to implement the Council of Europe's Guidelines for child-friendly justice in order to ensure that the best interests of the child are given primary consideration.

Despite the legislative changes that have already been made in recent years and the development of practical guidelines for child-friendly proceedings<sup>9</sup>, there are still numerous deficits in Germany when it comes to implementing international standards. Overall, there are many good examples, but a structural anchoring of child-friendly justice is lacking. How children experience proceedings therefore depends heavily on the skills and commitment of the professionals involved. According to surveys, children want to be heard better, informed and treated with respect. They want to be able to understand the process and legislation and to

count on professionals who are willing to listen and take due account of children's opinions. However, the reality is often different: Children often feel very ill-informed, intimidated or not taken seriously by adults in court proceedings.

In court proceedings, children only have very limited opportunities to take legal action against the violation of rights. As minors, they are predominantly dependent on the representation or consent of their parents or other guardians. Children are entitled to a guardian ad litem to represent their interests in family court proceedings in accordance with Section 158 Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction, but they have neither the right to have a say nor the right to object to this person. Furthermore, there is no requirement for state recognition for legal advisors. In criminal proceedings, underage victim witnesses also have the option in certain cases of being assisted by a support person in the form of psychosocial legal aid. However, the costs are not covered by the state in all cases. An assignment by the court, which entails the assumption of costs, can only be made upon application (by the legal guardians for their child).<sup>10</sup> In addition, children often lack sufficient information about the proceedings, the course of the proceedings and how the court decision was ultimately reached. There is also a need to catch up regional differences that exist in terms of the equipment for a child-friendly setting in courts as well as the resources and qualifications of the professionals involved and there is a lack of monitoring of the actual implementation status.

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<sup>9</sup> Practical guidelines on the application of child-friendly criteria for family court (2022) and criminal proceedings in relation to victim-witnesses (2021)

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<sup>10</sup> cf. section 406g (3) sentence 1 and sentence 2 of the Code of Criminal Procedure

Our demands:

- It requires space and time resources for child-friendly procedures, especially for child-friendly discussions (including child-friendly information).
- For the structural anchoring of a child-friendly justice system, it is essential that all professionals involved in proceedings are trained in dealing with children and young people. To this end, minimum qualification standards and corresponding mandatory further training should be introduced for all relevant professionals in order to ensure that their qualifications are in line with the state of the art.
- To ensure that proceedings do not take an unnecessarily long time, taking into account children's perception of time, the introduction or application of an acceleration and priority requirement for all proceedings involving children is called for.
- A suitable guardian ad litem must be appointed for each child in child custody matters in consistent application of Section 158 Para. 1 Family Matters and in Matters of Non-contentious Jurisdiction. This guardian must be selected according to the interests and needs of the child and the child should be able to indicate which criteria are important to them.
- With regard to child victim witnesses in criminal proceedings, it is recommended to introduce the possibility of assigning psychosocial court counseling ex officio (without an application by the person concerned). In addition, video hearings should be used as a regular substitute in criminal proceedings in order to avoid multiple hearings during the main trial. In addition to a stronger legal basis, the necessary resources (child-friendly rooms, trained staff and technology) are also required.
- The rights of the accused and the principles of child-friendly justice should be given greater consideration in the practice of juvenile criminal law and in public discourse.
- Data collection and evaluation for the implementation of child-friendly justice and studies should take place under the participation of children.

### 3. Civil rights and freedoms



## Children's rights in the digital environment

In spring 2021, the United Nations Committee on the Rights of the Child published General Comment No. 25<sup>11</sup> on children's rights in the digital environment. In this document, the Committee comprehensively describes how children's rights should be implemented and realized on the internet and in digital applications so that children can partici-

pate, with and in digital media, are protected and, as far as possible, not exposed to any dangers and can thus develop and flourish fully. In doing so, the UN Committee on the Rights of the Child points out a multitude of advantages and benefits of new technical possibilities, without losing sight of the associated risks and resulting dangers. With the reform of the Youth Protection Act 2021, the federal government has already addressed the protection aspects in particular in a targeted manner and has made an important contribution to the realization of children's rights in the digital environment with the further development of the Federal Review Board for Media Harmful to Young Persons into the Federal Department for Media Harmful to Young Persons.

<sup>11</sup> available at: <https://www.kinderrechte.digital/hintergrund/index.cfm/aus.11/key.1738/StartAt.11/page.2>

### Our demands:

- In order to prevent digital exclusion and the associated discrimination, the federal government, federal states and local authorities have a joint responsibility to enable all children to participate in the digital environment. To this end, safe and barrier-free access should be provided in public spaces such as schools, children's and youth facilities and public places.
- Safe media use is of great importance for children to grow up healthily with digital technologies. Furthermore, it increasingly represents a key competence for participation in a democratic society. Media education and skills development must therefore be bindingly and comprehensively included in education plans.
- Young people should be able to access a wide variety of different digital content and offerings that take their interests into account, stimulate their development and are equally accessible to all children. In addition to education, this content is particularly important for young people's recreation, culture and leisure time. The state must therefore promote the provision of appropriate child-friendly offers. It must also be ensured that young people in all their diversity are involved in the development and design of these offers and that their perspectives and needs are taken into account.
- The state, platform providers, parents and professionals share responsibility for ensuring that children can use digital content safely. The federal and state governments should oblige media providers to fulfill this responsibility in a suitable form and enable parents and other caregivers to assume this responsibility.
- The federal, state and local authorities should fulfill their respective responsibilities for the implementation of General Comment No. 25 of the UN Committee on the Rights of the Child.

# 4. Violence against children



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## Digital violence

When using digital services, children are increasingly exposed to phenomena of digital violence<sup>12</sup>. These must be prevented and investigated under (criminal) law. Young people are growing up in a digitalized world. They experience unpleasant encounters with other people. Almost one in two young people (48 %) have encountered offensive comments in the month prior to the JIM Study Survey 2022<sup>13</sup>, and more than a third of young people (35 %) have seen hate messages in these four weeks. 16 % of girls and boys have experienced personal insults and hostility during this period. A quarter of boys and girls aged between 12 and 19 in Germany report being

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12 Digital violence generally refers to the use of violence via digital media and on the internet. The various forms of digital violence include cyberbullying, hate speech, cyberstalking, identity theft, cybergrooming, doxing, online threats of murder and rape as well as image-based sexualized violence such as sextortion or the unwanted forwarding of intimate images. All of these forms of violence in the digital space can have different effects on those affected. In particular, children and young people who are exposed to a particularly high risk of violence due to various discriminatory characteristics such as gender, sexuality, origin, class, religion or disability can be affected to varying degrees.

13 *Feierabend, Sabine et al. (2022): JIM-Studie 2022. Jugend, Information, Medien. Basisuntersuchung zum Medienumgang 12- bis 19-Jähriger. Medienpädagogischer Forschungsverbund Südwest.*

contacted by strangers in their digital environment in the past twelve months. This does not necessarily pose a risk in every case. Nevertheless, the initiation (cybergrooming) and perpetration of sexualized violence against children is a real danger. In 2021, police crime statistics showed an increase of around 110 % in the distribution, acquisition, possession and production of depictions of sexualized violence against children and adolescents in Germany. Following the reform of Section 184b of the German Criminal Code and the simultaneous increase in sexting practiced by adolescents, young people are also increasingly coming under criminal jurisdiction.

With regard to social media and online games in particular, there is a "high need for protection against aggressive interactions, unwanted contacts and negative contact experiences. [...] For 9 to 13-year-olds, negative contact experiences from which they would like to be protected are primarily bullying (in a broad sense), blasphemy and insults in messengers and games as well as offline contact."<sup>14</sup>

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14 *Brüggen, Niels et al. (2021): Online-Interaktionsrisiken aus der Perspektive von Neun- bis Dreizehnjährigen. JFF – Institut für Medienpädagogik in Forschung und Praxis im Auftrag des Deutschen Kinderhilfswerkes e. V.*

### Our demands:

- **The federal government should initiate or support regulations that appropriately prevent digital (sexualized) violence against children and adolescents, expand child-friendly reporting procedures as well as assistance and counselling services to accompany and support those affected, promote international cooperation and appropriately and fairly sanction any damage that has occurred.**
- **The federal states should invest more in the media education of children, parents and educational staff as well as law enforcement and justice professionals and anchor this as a binding task in the education plans and provide adequate funding for corresponding measures and child and youth welfare services.**
- **Media providers should be held more responsible and encouraged to provide safe online content for children.**

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## Sexualized violence

Many children and young people around the world are affected by physical and psychological violence, neglect and exploitation.<sup>15</sup> Due to the pandemic, wars and refugee movements, inflation, etc., rising poverty increases the vulnerability of children. The UN CRC and its additional protocols attach great importance to the right to protection from violence, as experiences of violence can have a massive impact on the development of children and young people, both psychologically and psychiatrically as well as somatically. Transgenerational consequences are also addressed in research, e.g. risks of violence within the family in adulthood.

The establishment of the National Council against Sexual Violence against Children and Adolescents at the end of 2019 and the inclusion of the agreed measures in the 2021 coalition agreement show the high priority that the Federal Government gives to the protection mandate against this form of violence against children.

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<sup>15</sup> *UBSKM (2023): Zahlen und Fakten – Sexuelle Gewalt gegen Kinder und Jugendliche.*

With the Act to Combat Sexualized Violence against Children, sexualized violence against children was classified as a crime by increasing the penalty range from one year to up to 15 years imprisonment (previously a misdemeanor with a penalty of six months to ten years imprisonment). The reform of social compensation law aims to support those affected in a simplified and low-threshold procedure in a timely manner.

Even though the establishment of the National Council and the strengthening of the Office of the Independent Commissioner for Child Sexual Abuse Issues are extensive political measures, there is currently no evidence that this body corresponds to the national strategy for preventing, combating and monitoring all forms of violence against and among children called for by the UN Committee on the Rights of the Child.<sup>16</sup>

The above-mentioned initiatives and resolutions are also generally to be welcomed, although they only partially meet the Committee's demands to strengthen criminal prosecution and ensure access to child-friendly proceedings.

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<sup>16</sup> *Concluding Observations of the UN Committee on the Rights of the Child (2022)*



Our demands:

- The objectives of the National Council should be translated into an effective, verifiable action plan to protect children from violence.
- The effects of the legal reforms need to be evaluated and, if necessary, adapted in order to minimize unintended consequences and optimize improvements, especially with regard to underage offenders in relation to § 184b StGB distribution, acquisition and possession of child pornographic content.
- The child and youth welfare system should be strengthened and developed into a crisis-resilient child protection system in which low-threshold access to counseling and complaints is guaranteed for children as well as for parents and professionals.
- Investment is needed in the child protection skills of all professionals in law enforcement, social work and the justice system—both in training and in coordinated multi-professional cooperation. In this context, a nationwide and comprehensive implementation of child-friendly procedures in family, criminal and social compensation law, including the implementation of all victim protection rights, should also take place and the processing of sexualized violence in organizations should be made possible.
- Specialist counseling and psychotherapeutic care for children and young people affected by violence is to be strengthened. One focus is on the expansion of trauma outpatient clinics.
- A prevention and intervention strategy for dealing with (potential) underage sex offenders is to be developed.

# 5. Family environment and alternative care



## Children living apart from their family

When young people who have experienced neglect or violence within the family are placed in a home or foster family, they still have little or no opportunity to influence the choice of home or foster parents. In German youth welfare, there is a “right of wish and choice” according to § 5 Book 8 of the German Social Code (SGB VIII). However, this is only available to the “beneficiaries”, usually the parents, and is also dependent on other factors. Even if the right to wish and choose lies with the beneficiaries, Section 36 SGB VIII requires that the children and young people are involved in the decision. How this is implemented in practice varies greatly. Children have no legal means of having decisions made by the youth welfare office or the family court reviewed. Children who grow up in alternative forms of care are also restricted in the area of self-determination in medical matters. For example, until the age of 16, they cannot effectively decide for themselves that they want to undergo psychotherapy. As medical custody often still lies with the parents, children are dependent on the consent of their parents or must obtain consent through legal proceedings via the family court or apply to their guardians.

Within child and youth welfare services, there are too many interventions in the freedom of movement, physical integrity and social life of children

and young people. In particular, measures involving deprivation of liberty through restraints, medication or confinement represent serious legal interventions that are regulated by Section 1631b of the German Civil Code, but whose requirements are not consistently adhered to in practice.<sup>17</sup> The reasons for these violations include a lack of financial resources, a shortage of professionals in institutions, the institutional-structural power imbalance between children and institutions and a lack of opportunities for complaints and self-representation.

At the same time, it must be noted that children and young people also have a right to be taken into care by the youth welfare office if they request it (Children and Youth Welfare Law, Section 42, Paragraph 1 No. 1<sup>18</sup>). However, this presupposes that the public youth welfare services are structurally able to do so. There is currently a lack of places in care facilities as well as staff in public child and youth welfare services. There is a massive shortage of family placements, particularly for young children.

17 See parallel reports on the implementation of the UN Convention on the Rights of Persons with Disabilities, e.g.

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

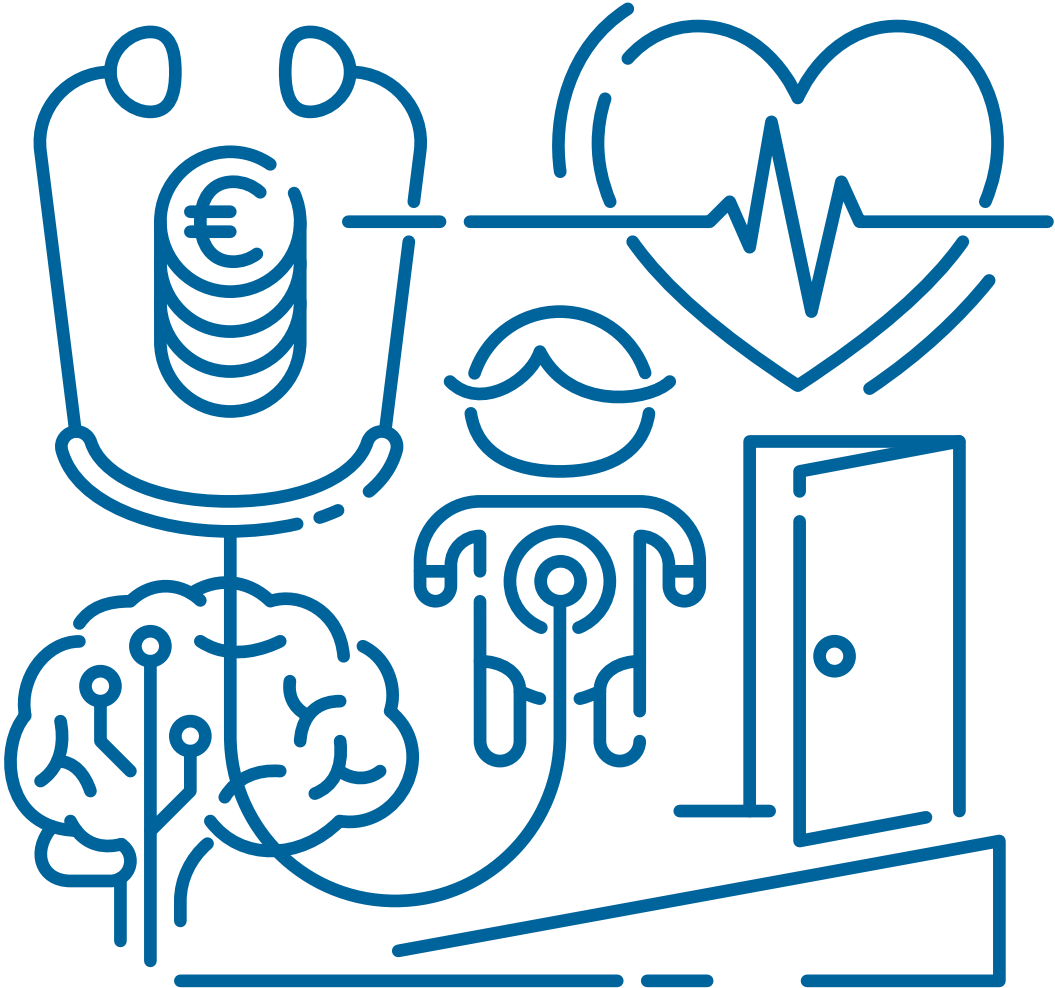
· <https://www.institut-fuer-menschenrechte.de/publikationen/detail/parallelbericht-an-den-un-ausschuss-fuer-die-rechte-von-menschen-mit-behinderungen-zum-23-staatenpruefverfahren-deutschlands>

18 [https://www.gesetze-im-internet.de/sqb\\_8/\\_42.html](https://www.gesetze-im-internet.de/sqb_8/_42.html)

### Our demands:

- The participation of children and young people in child and youth welfare services should be improved in order to do justice to their position as subjects and to contribute to their development into self-determined, responsible and socially competent individuals.
- Inspections of facilities and free access to external, independent complaints bodies—including for children living with their families—are essential.
- Further preventive measures such as training for professionals and care staff should be taken to prevent degrading educational measures, violence and abuse.
- Childcare facilities are to be expanded in line with demand, especially for younger children.

# 6. Disability, basic health and welfare



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## Children with disabilities

A shortage of professionals and poorly qualified staff impair the life and development opportunities of children, especially children with disabilities. The considerable shortage of professionals in child-related work results in more barriers for children that hinder their participation in education (school, hobbies), community (clubs, friends) and society (infrastructure, social recognition, political participation), and fewer opportunities and spaces for the development of a good life. This particularly affects the coexistence of children with and without disabilities, as possible additional personnel costs and/or necessary action and reflection skills cannot be provided. The shortage of specialist staff also means that less capacity is available for necessary further and advanced training. The implementation and establishment of inclusive processes requires comprehensive and multi-layered action and reflection skills. In addition to sound and interlinked knowledge of personal and socio-structural conditions of disability<sup>19</sup>, barriers, their removal and the development of appropriate precautions, this also requires in-depth skills in shaping relationships and reflecting on recognition processes. Continuous further and advanced training is essential for this.

Different staffing levels in crèches, daycare centers and after-school care centers lead to different conditions that open up or restrict development opportunities. The personnel regulations for child and youth welfare, early intervention and integration assistance are determined by the responsibilities of the federal states and local authorities. In some cases, this results in considerable differences in institution-related living conditions. As a result, children are less able to be seen in their individuality and supported in their development. Children with impairments and (impending) disabilities are particularly affected

by these unequal living conditions. In this way, barriers are created or can be removed depending on where they live.

The anchoring of services for children with physical and/or intellectual disabilities and children with mental disabilities in different codes of law contradicts the approach that children should first and foremost be perceived as children. The Supplementary Report (2019) already refers to the (still existing) different responsibilities for services for children with impairments and (impending) disabilities. The services for children with (impending) physical and intellectual disabilities are anchored in SGB IX, whereas the services for children with (impending) mental disabilities are regulated in SGB VIII. However, the fact that there is a prospect of merging the benefits for all children in SGB VIII leads to uncertainty among those providing benefits under SGB IX, with the result that benefits for children with physical and/or intellectual disabilities who have started school are sometimes not granted due to a perceived lack of responsibility.

In SGB VIII, however, there is little focus on children with disabilities: For example, the qualifications for experienced professionals are currently still largely unrelated to the conditions of children with disabilities.

In 2021, the Act to Strengthen Children and Youth was passed, which aims to bring together services for children with (any type of) and without disabilities. The process is structured until 2028 and is supported by civil society.<sup>20</sup>

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<sup>19</sup> The term “conditions of disability” was used to refer to the multi-dimensionality and processuality of disability. Disability is not a static condition, but can change in terms of its manifestation, conditioning factors, etc.

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<sup>20</sup> cf. *Bundesverband für Erziehungshilfe (2023): Informationsplattform zum KJSG.*

#### Our demands:

- Effective measures are needed to strengthen the educational professions in non-school and school-based fields (childhood education, social pedagogy, special education, curative education, teaching) and their importance for successful social coexistence through further and advanced training.
- Child day-care facilities, early intervention as well as outpatient, day-care and inpatient youth welfare services should be staffed uniformly and in line with the upper limit, regardless of where the children live.
- The needs of children with disabilities should be regularly anchored in the curricula of the qualification as an experienced specialist.
- Participation and assistance plan discussions should be regularly equipped with Augmentative and Alternative Communication options and case managers should be obliged to undergo appropriate further training.

## Health and healthcare

### Mental health

The degree of mental health of a growing generation as an expression of their resilience to stress reflects the problem-solving ability of the society in which they live. It also shows how much importance society attaches to the vulnerability of its children. In the course of multiple crises, society as a whole can also reach the limits of its resilience. However, children suffer in particular.

The significant increase in treatments, mental health diagnoses and inpatient psychiatric treatment days in childhood and adolescence is worrying. In terms of diagnoses, the focus is on developmental disorders in young children, followed

by ADHD, social behavior disorders, compulsions, depressive symptoms and anxiety in school-age children, and eating disorders, substance abuse and suicidal tendencies in older children in the transition to adolescence.<sup>21</sup> Despite a significant increase in private practices, outpatient clinics and day clinic treatment places, the need for psychotherapeutic support and therapy is still far from being adequately met. The UN Committee on the Rights of the Child also expresses concern regarding the mental well-being of children and adolescents.<sup>22</sup> Mental well-being is shaped in both the digital and analog space, whereby it is often almost impossible to differentiate between these spaces.

<sup>21</sup> Koch-Gromus & Kuhn (2023): *Psychisch gesunde Kinder – eine gesamtgesellschaftliche Herausforderung*. *Bundesgesundheitsblatt* – 66:715-716.

<sup>22</sup> Paragraph 32, *Concluding Observations of the UN Committee on the Rights of the Child (2022)*.

#### Our demands:

- The federal government should step up its efforts to improve the mental well-being of children. Information and education programs for children and parents as well as further training measures for educational professionals should be developed and implemented.

- Support services, e.g. from mental health coaches, should be geared towards real needs. The development of community-based, low-threshold services (counseling and prevention) should be promoted, as should the evaluation of these services.

### Children's rights in the context of birth

The quality of obstetric care provided by obstetricians (midwives) and/or obstetric medicine (doctors) has an individual impact. In terms of health policy, processes of change are taking place in Germany in this regard. For example, there is a trend towards the concentration of maternity clinics. Individual obstetric care and aftercare close to home are being called into question. In 2019, Techniker health insurance presented a study on child health.<sup>23</sup> This study presents the correlation

between the mode of birth (vaginal, caesarean section, premature birth) and medical diagnoses of 38,800 children from birth to the age of eight. The consequences of the birth modes on the frequency of illnesses and behavioral problems are presented on the basis of evidence. Medication administered to the mother during birth has also been shown to reach the child. The study also shows that possible effects of medication on children in the first year of life could not be investigated due to a lack of data, although the first year of life is a key time window for the child's psychosocial development.

<sup>23</sup> *Techniker Krankenkasse (2018): Kindergesundheitsreport 2018.*

#### Our demands:

- Obstetric facilities should be maintained close to where people live and out-of-hospital obstetrics services (birth centers and home births) should be strengthened. To this end, the shortage of specialists in obstetrics must be countered with targeted measures.
- Offers of stress-free birth attendance for physiological births should be increased in order to reduce premature births and birth operations in consideration of the child's well-being (such as forceps, suction bell births and caesarean sections).
- Medication administered to the mother and thus indirectly to the child during the birth must be recorded in the maternity pass or child examination booklet.
- The results of stress and trauma research should be given greater consideration in healthcare.

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## Genital autonomy

The UN CRC stipulates that a different allocation of children's rights depending on the sex of the child is inadmissible. In addition, gender research has established that the external genitalia at birth do not necessarily correspond to a person's actual gender. For this reason, particularly when it comes to the genital integrity and self-determination of children,

only a uniform regulation for the protection of all children is ethically and legally justifiable. Removing a healthy and functional part of the body without the consent of the person concerned is always contrary to the child's right to grow up and fully develop their personality. Only a legal protection of all children from any medically unnecessary genital injury, mutilation, surgery and standardization would fulfill the provisions of the UN CRC.

### Our demands:

- **The protection of all children from genital surgery that is not therapeutically necessary should be formulated in law. Ways of implementation should be developed in broad social forums (e.g. moratoria, intermediate steps, transitional periods), accompanied by information and awareness-raising campaigns.**

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## Children with life-shortening illnesses

In Germany, around 50,000 children and young people are affected by a diagnosis that offers no prospect of a cure or recovery. Every year, around 5,000 children, adolescents and young adults die from such a disease. Most of them suffer from a rare disease. The data on this group of children and adolescents is imprecise, as there have been no surveys in Germany to date. These figures are estimated comparative figures, based on earlier studies from the United Kingdom.

Not least due to medical advances, children with a life-shortening illness are increasingly reaching adulthood. School, training, work and moving out of the parental home into a suitable form of accommodation are existential issues for this special group of young people growing up. However, experience shows that they are often denied the right to education. Fear of contact, excessive demands or the feeling of being left alone cause many educational professionals to avoid the subject. It is also misjudged, for example, that not all affected children need a special school. On the contrary: some

of them are underchallenged there and are perfectly capable of achieving a regular school-leaving certificate. A-levels are also not uncommon. The children are aware of their own life limitations and increasing restrictions. Nevertheless, they must be allowed to lead a normal and child-friendly life. As a rule, they should attend an inclusive mainstream school, as the segregated school system both contradicts the UN Convention on the Rights of Persons with Disabilities and deprives their peers without disabilities of the opportunity to get to know human diversity and learn to deal with the associated challenges and opportunities.

For the group of young adults with life-shortening illnesses, there are currently hardly any parent-independent forms of accommodation that meet their needs. According to the current framework agreement, the entitlement to a stay in an inpatient hospice for children and young people ends at the age of 27. The existing inpatient hospices for children and young people are not designed as a permanent form of accommodation—also in terms of the legal basis. The young adults have the choice between their children's room at home or a place in a fully inpatient care



facility. Against this background, the question arises as to what need for differentiated forms of housing for people with chronic life-shortening illnesses beyond the age of 18 can be assumed.<sup>24</sup>

Ensuring the participation of young people with disabilities and shorter life expectancy is also important with regard to working life. This requires barrier-free access to and at universities (including affordable, individual mobility for young people), better information and training for employers and faster access to participation services such as personal assistance. Under the leadership of the Federal Ministry of Labor and Social Affairs, a law to promote an inclusive labor market was launched in spring 2023. Among other things, a package of measures is intended to create the necessary incentives for employers to hire more people with disabilities. The law was promulgated on June 13, 2023 and will come into force in parts on July 1, 2023 and January 1, 2024.

Last but not least, the personal budget is an important prerequisite for a self-determined life outside the parental home, e.g. for personal assistance that provides support in everyday life as required. However, applications often take up to two years or longer to process. Young people

<sup>24</sup> cf. *Charta zur Betreuung schwerstkranker und sterbender Menschen in Deutschland (2022): Handlungsempfehlungen im Rahmen einer Nationalen Strategie.*

with life-limiting illnesses do not have this time.

The fact that children and adolescents die every day in Germany due to certain illnesses is a taboo subject. But this is also associated with a life on the margins of society and, in some cases, of care—not only for the children concerned, but also for their families. Removing taboos from the subject of children and death is an essential task in order to strengthen children's hospice work in Germany and to better inform society. This is the only way to ensure nationwide care in the future, e.g. through children's SAPV (SAPV = specialized outpatient palliative care), to recruit enough specialists for the palliative care of children and to mobilize enough volunteers for outpatient children's hospice work. Up to now, the very important grief counseling for children in Germany (loss of siblings, loss of parents) has not been paid for by health insurance companies, but financed by donations. Outpatient children's hospice services usually also offer special groups and grief counseling for siblings, orphaned parents, grandparents, but also for children whose mothers or fathers are seriously ill or have died, as well as for children from war zones. The establishment of bereavement centers by outpatient children's hospice services is increasing nationwide. However, these should no longer be funded by donations, but should be supported by the public sector and better publicized.

#### Our demands:

- **Affected children need professional care and support at school. There is therefore a need for a clear and unambiguous definition of responsibilities, particularly with regard to funding bodies.**
- **Specific housing offers are to be developed and incentives for investment created in order to ensure the right to a self-determined life and living outside of institutions. In addition, applications from those affected (e.g. for a personal budget) are to be processed and approved by the relevant health insurance funds within the legally stipulated deadlines.**
- **Training and coaching offers for companies should be made better known and expanded. Companies that offer internships and apprenticeships for young people with disabilities should also be given special support.**
- **The construction of barrier-free residential, university and office buildings as well as research facilities should be standard throughout Germany.**

→ The special needs of seriously ill people with disabilities should be taken into account in the further development of children's hospice and palliative care facilities. Breaks in the overall care system should be avoided and palliative care should be interlinked with other care services. Concepts for general and specialized palliative care should be developed and implemented together with those affected, experts and self-help groups. Regional and supra-regional networked structures for pediatric palliative care are required.

## Children's rights and tobacco/nicotine consumption

Last year, the proportion of young people (aged 14–17 years) in Germany who smoke rose sharply from 8.7 percent (2021) to 15.9 percent (2022). The proportion of young people using e-cigarettes has even increased fivefold in this period, from 0.5 to 2.5 percent; disposable e-cigarettes play an important role in this.<sup>25</sup>

The Supplementary Report (2019) already stated that the consumption of tobacco (and illegal drugs) is strongly influenced by social characteristics, as is children's exposure to tobacco smoke. In the Second Children's Rights Report, children demand a ban on the sale of tobacco, that adults should not smoke near them and that children and young people should not smoke. Inequalities in tobacco consumption persist<sup>26</sup>, as do inequalities in exposure to tobacco smoke.<sup>27</sup>

Nevertheless, there have also been positive developments: From 2021, tobacco and e-cigarette

advertising was banned in cinemas, on the internet and on television, as well as in outdoor spaces (with transitional periods). However, it remains permitted at points of sale, e.g. kiosks and supermarkets, just as promotion and sponsorship are not further restricted. Enforcement of the law is lagging far behind, especially when it comes to online advertising, particularly on social media, where influencers continuously advertise tobacco/nicotine products such as disposable e-cigarettes.<sup>28</sup>

In 2021, tobacco tax increases were also decided from 2022 for the next five years. However, the effectiveness for children's right to health is limited. The planned increases in tobacco tax on cigarettes are far too low and do not even compensate for current inflation. A health policy steering effect, i.e. a reduction in smoking, cannot be achieved in this way.<sup>29</sup>

In the Concluding Observations (2022), the UN Committee on the Rights of the Child mentions the need to improve education about the health consequences of tobacco/nicotine products among parents, pregnant women and adolescents and to regulate the marketing of tobacco/nicotine products to children and adolescents.

<sup>25</sup> See: [Kotz, Acar & Klosterhalfen \(2022\) DEBRA-Factsheet 09](#) and [Kotz, Pashutina & Kastaun \(2022\): Factsheet 07](#).

<sup>26</sup> [BZgA \(2022\): Der Substanzkonsum Jugendlicher und junger Erwachsener in Deutschland. Ergebnisse des Alkoholsurveys 2021 zu Alkohol, Rauchen, Cannabis und Trends.](#)

<sup>27</sup> [M. Mlinarić, S. Kastaun, D. Kotz \(2022\): Exposure to Tobacco Smoking in Vehicles, Indoor, and Outdoor Settings in Germany: Prevalence and Associated Factors. Int. J. Environ. Res. Public Health 2022, 19, 4051.](#)

<sup>28</sup> [J. Vassey, T. Valente, J. Barker et al. \(2022\): E-cigarette brands and social media influencers on Instagram: a social network analysis. Tobacco Control Published Online First: 07 February 2022.](#)

<sup>29</sup> [DKFZ \(2021\): Moderate Tabaksteuererhöhung: vertane Chance für die Gesundheitsprävention.](#)

#### Our demands:

- The Second Act Amending the Tobacco Products Act (tobacco advertising ban) must be reformed with regard to a comprehensive ban on advertising at the point of sale, promotion and sponsorship in order to close the loopholes.
- In order to achieve a significant health policy steering effect through the Tobacco Tax Modernization Act, a significant increase in tax increases is required.
- Educational measures and information on the health and other consequences of tobacco/nicotine consumption must be expanded and improved. This requires appropriate funding.
- In order to fully implement the WHO Framework Convention on Tobacco Control, a comprehensive tobacco control strategy must be developed, as called for in General Comment Nos. 15 and 16 of the UN Committee on the Rights of the Child.

## Standard of living

Poverty restricts the lives of children and young people and robs them of their opportunities to make use of their right to co-determination. Child poverty remains high in Germany. The at-risk-of-poverty rate for under-18s was 21.3 percent in 2021 and a provisional 21.6 percent in 2022.<sup>30</sup> It is neither understandable nor acceptable that an economically strong and prosperous country like the Federal Republic of Germany allows such a high level of child poverty. Around two million children and young people under the age of 18 live in households that receive citizen's benefit (Bürgergeld).<sup>31</sup> The situation of children and young people living in poverty has worsened in recent years. On the one hand, due to the pandemic-related closures and restrictions of the social and educational infrastructure, which is particularly important for social participation, and the associated psychosocial stress. On the other hand, their situation has been exacerbated by inflation, which has developed into a cost of living crisis with an annual average of 7.9 %

<sup>30</sup> *Statistische Ämter des Bundes und der Länder: Armutsgefährdungsquoten, Bundesländer nach soziodemografischen Merkmalen (Bundesmedian) ab 2020.*

<sup>31</sup> *Bundesagentur für Arbeit (2022): Kinder in Bedarfsgemeinschaften – Deutschland, West/Ost, Länder und Kreise (Monatszahlen).*

in 2022. The high inflation rates place a greater burden on families with children and low incomes than other households.<sup>32</sup> The persistently high food prices are particularly worrying. Even before inflation, the standard rates in the citizen's Benefit were scientifically assessed as too low for a healthy diet; inflation and the temporary discontinuation of school/day-care meals due to the pandemic resulted in further significant burdens.

Against this backdrop, the pressure to act is great. Although the reform of SGB II has adjusted the standard rates to inflation with the introduction of the citizen's benefit, it has not substantially put them on a better methodological footing. The problems identified in the Supplementary Report (2019) regarding the coverage of the socio-cultural subsistence minimum therefore remain at their core.

The federal government, which has been in office since 2021, has set itself the goal of bundling the existing monetary support benefits for families with children and making them more easily accessible, as well as redefining the minimum subsistence level for children in order to lift more children out of poverty, as stated in the coalition agreement. For the time being, however, only 2.4 billion euros in

<sup>32</sup> *Hans-Böckler-Stiftung (2022): 11,4 % Inflation für Familien mit niedrigem Einkommen, große soziale Spreizung bei Teuerung, Beruhigung in Sicht.*

additional funds have been earmarked in the federal budget for the basic child allowance from 2025; sufficient funding for the recalculation of the minimum subsistence level for children is questionable. In the legislative process, it is important to ensure that the basic child allowance is a success for children living in poverty. Comprehensive basic child allowance for children is an important prerequisite for exercising the right to genuine participation and the right to an adequate standard of living. The Federal Government describes the basic child allowance as its most important social policy project. According to the current state of knowledge, the basic child allowance is to be paid out for the first time from 2025. Contrary to the original ideas of the Federal Ministry for Family Affairs, it currently looks as if the basic child allowance will not lead to a real improvement in benefits due to differences within the governing parties and could result in increased bureaucracy in some cases. In the debate about how much the basic child allowance should cost, the technical

debate about the exact structure of the new benefit is unfortunately taking a back seat. Parts of the governing coalition seem to assume that an administrative reform, which should lead to simplified access and a higher take-up rate, is sufficient to combat child poverty in Germany. Furthermore, the upcoming budget cuts must not be at the expense of social infrastructure and children in poverty. With the National Action Plan "New Opportunities for Children in Germany", there must therefore also be substantial improvements including additional investments in all facets of social participation. In the Concluding Observations (2022), the Committee already noted with concern the high number of children who continue to live in poverty or are at risk of poverty in Germany. With regard to Goal 1.2 of the Sustainable Development Goals, measures were recommended for implementation. These include tackling the causes of child poverty as part of a national strategy and ensuring a decent standard of living for all children.

#### Our demands:

- **The introduction of a basic child allowance that bundles existing child-related benefits, guarantees financial security to cover needs as an independent entitlement for every child regardless of their origin and residence status and is paid out automatically should be advanced swiftly. This requires a recalculation of the socio-cultural minimum subsistence level with the participation of children and young people in order to secure their real needs with the basic child allowance.**
- **The education and participation package is to be abolished and it is to be decided that the lump sums previously included in it will be incorporated into the basic child allowance. In addition, further benefits, such as extra tuition or free lunches, are to be provided via the institutions where children attend.**
- **The sanctions in SGB II against families with underage children must be abolished.**
- **The establishment and expansion of free and accessible services for all local children in the areas of education, leisure, sport and culture should be promoted. To this end, disadvantaged neighborhoods should be upgraded and social services, facilities and educational institutions in disadvantaged neighborhoods should be particularly well staffed so as not to increase the disadvantage of children affected by poverty.**



# 7. Education, leisure and cultural activities



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## Right to education

### Holistic education without disruptions for all children

From a children's rights perspective, education is more than just concentrating on the core subjects at school. Rather, education must be geared towards the development and promotion of the child's personal potential and thus include physical, artistic, social, linguistic, mathematical, factual subjects and content that addresses key social problems, as formulated in the 17 goals of the 2030 Agenda. Instead, during the pandemic-related restrictions on school operations in the 2019/2020 and 2020/2021 school years and as part of the so-called catch-up programs in the 2021/2022 school year, primary school lessons were limited to the subjects of German and mathematics in particular. The Standing Conference of the Ministers of Education and Cultural Affairs of the Länder only has educational standards for the primary school sector for these subjects.

In order to reach all children, educational opportunities must generally be designed at different levels and with different access options so that all children in an inclusive group of children (school class) can work and learn on the same subject. Children's educational careers must not be jeopardized by discrimination or segregation, nor by insufficiently tailored support. In structural terms, this applies in particular to the prescribed grading system, the continuity of support at transitions and the premature allocation of children to educational tracks in the structured school system. There is a lack of clear regulations for feedback during learning and the best possible support for each child. There is a persistent lack of needs-based training for teachers in all three phases of teacher training (university, traineeship, teacher training<sup>33</sup>) as well

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33 For teacher training, see: *Autor:innengruppe (2022): Bildungsberichterstattung Bildung in Deutschland 2022. Ein indikatorengestützter Bericht mit einer Analyse zum Bildungspersonal. S. 288 und 289.*

as in the further training of other teachers<sup>34</sup> and other educational professionals. There is a need for joint initial and in-service training for all professions working in schools to lay the foundations for multi-professional teamwork.

Since the 2019/2020 school year, the staff shortage has worsened, partly due to a rising number of pupils as a result of increased immigration and a simultaneous rise in the number of retirements at schools. The proportion of other teachers without a teaching degree increased to varying degrees in the federal states and school types.<sup>35</sup> Attractive working conditions (small classes, multi-professional teamwork, two educational specialists in the classroom), a workplace for preparation and follow-up work in the school, fixed times for joint planning in the team are needed to counteract the staff shortage. In addition, structural changes are needed above all, i.e. the conversion from a structured to a graded school system up to at least year 9 in order to eliminate discrimination and segregation at transitions. Support must not stop at school entry and at the transition from elementary school to secondary school, but must be secured throughout the entire educational pathway so that there are no unreasonable staff changes for a child and parents are not forced to apply.

All-round education and inclusion require more relaxed educational time and are made more difficult by the compression of lesson times in the narrower sense. An all-day school offers opportunities to prevent this if it structurally enables rhythmization throughout the day and this is also implemented in practice. One basis for this is the firm integration of teachers and other educational specialists into school life. The division between teaching staff and support staff hinders the necessary cooperation between the different professions as well as the equalization of the daily routine for

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34 "Other teachers" is used as a collective term for all types of lateral entrants and career changers. see: *Klemm (2023): Seiteneinstieg in den Schuldienst. Eine Übersicht im Vergleich der Bundesländer. Gutachten im Auftrag der Friedrich Ebert Stiftung.*

35 cf. *Klemm (2023): Seiteneinstieg in den Schuldienst. Eine Übersicht im Vergleich der Bundesländer. Gutachten im Auftrag der Friedrich-Ebert-Stiftung.*

the children. In recent years, this problem has been exacerbated by the shortage of specialist staff, the ever-decreasing level of qualifications, particularly in the primary school sector due to lateral entries, reduced participation in further training due to

staff absences and the reallocation of support hours to sickness cover. Overall, the conditions for holistic education without disruptions for all children have deteriorated in terms of quality and quantity since 2019.

#### Our demands:

- Educational opportunities for holistic education must be ensured. The link to the 17 Sustainable Development Goals of the 2030 Agenda must be strengthened. All children must be enabled to learn inclusively on a common subject by providing differentiated learning opportunities at different levels and with different access options, including feedback to accompany learning and the abolition of grading.
- All-day schools should be established in all federal states. Qualified specialists enable a rhythm throughout the day (with more time for non-formal education, e.g. through sport and play) and the best possible support for all children (without the need for parental requests). At the same time, jobs for all educational staff and shared time slots for preparation and follow-up work in multi-professional teams must be secured.
- The school system must be transformed from a structured to a graded education system up to at least grade 9, so that children's educational careers are not jeopardized by discrimination and segregation at transitions or by insufficiently tailored support.

## Early education

On the basis of equal opportunities, all children have the right to education (Art. 28 UN CRC), which must be aimed at the full development of the child's personality, talents as well as mental and physical abilities (Art. 29 UN CRC). This implies the obligation of the federal government to ensure the expansion of institutions, facilities and social services for the care of children (Art. 18 para. 2 UN CRC). Following the massive quantitative expansion of the last 20 years and in view of

the forthcoming legal entitlement to all-day care for all primary school children, the focus must now be on developing and ensuring the quality of child daycare.

Child daycare is still not inclusive, burdened with access barriers for disadvantaged families and still characterized by mediocre quality. Children experience hurtful and abusive behavior, restrictions on their self-determination, co-determination and development rights on a daily basis. There is currently a shortage of thousands of professionals and daycare places, and the trend is rising.

#### Our demands:

- A childcare place with an appropriate childcare ratio must be provided for each child.



- The quality of early childhood education should be consistently child rights-based, non-violent and primarily oriented towards the best interests of the child.<sup>36</sup>
- A training and further education campaign must be launched to overcome the shortage of skilled workers and prevent unqualified educational staff from working in educational settings.
- Children's rights education that is understandable and perceptible to children as well as opportunities for participation and complaints should be accessible to all children in child daycare facilities from birth.

<sup>36</sup> *Die Reckahner Reflexionen zur Ethik pädagogischer Beziehungen* can be taken into account as minimum standards.

## Education for sustainable development

Young people around the world are affected by the consequences of unsustainable actions. From a children's rights perspective, education for sustainable development (ESD) is important because it enables children and young people to understand the current and future impact of their own actions on the world and to promote sustainable thinking and action for the future.

In addition to the orientation towards the guiding principle of sustainable development, i.e. the demands for intergenerational equity and global justice, ESD is oriented towards the content of the Sustainable Development Goals (SDGs), which form the core of the 2030 Agenda for Sustainable Development.<sup>37</sup>

<sup>37</sup> cf. *BMZ: The Global Goals for Sustainable Development*.

With the climate crisis, environmental pollution, species decline and pandemics, the "familiar" world in which children will grow up in the future is changing rapidly. Digitalization, social media and the increasing influence of artificial intelligence will bring about further changes. It is becoming increasingly clear that education must do more to counter global developments and crises. Children and young people must be equipped with skills that enable them to understand and question global contexts in a holistic and sustainable way.

The National Plan for ESD aims to implement ESD in Germany. The federal states are on the way to implementing ESD in their own contexts. To this end, ESD is to be implemented in the areas of early childhood education, schools, vocational training, higher education, non-formal/informal learning and municipalities.

### Our demands:

- The National ESD Plan should be implemented effectively and quickly. To this end, the federal states are called upon to provide more resources, especially financial resources, and to give ESD a higher priority.
- The education and training of teaching staff for ESD should be established and consolidated as a basic orientation in educational institutions.

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## Human and children's rights education

Since November 2022, the National Coalition and its members have been making an important contribution to children's and human rights education with the children's rights portal,<sup>38</sup> which is funded by the federal government's Children and Youth Plan. The children's rights portal is to be further expanded in the coming years.

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<sup>38</sup> to be found at [www.kinderrechte-portal.de](http://www.kinderrechte-portal.de).

In its Concluding Observations (2022)<sup>39</sup>, the UN Committee on the Rights of the Child criticizes the fact that school legislation only explicitly refers to children's and human rights in three countries. Efforts to promote the development of a culture of human rights and peaceful coexistence in the education system must be intensified. The recommendations from the Concluding Observations of the UN Committee on the Rights of the Child 2022 should therefore be emphasized here once again.

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<sup>39</sup> Paragraph 37, *Concluding Observations of the UN Committee on the Rights of the Child (2022)*

### Our demands:

- Human and children's rights education should be included as an educational objective in the school legislation of all federal states to ensure that all children in all educational institutions are taught about children's rights and the UN CRC. Children's rights should also form the basis and understanding for cooperation in all institutions.
- Materials for human rights and children's rights education should be made available that promote respect and appreciation for diversity. In addition, the aim is to ensure that teachers receive the necessary support and training to teach children's rights.
- The nationwide dissemination of initiatives for human rights education is to be promoted, e.g. the "Children's Rights Schools" and "Live Democracy!" projects.

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## Rest, play, leisure, recreation and cultural and artistic activities

Children and young people need to be given space in their everyday lives where they can develop and grow freely. In addition to school education, spaces for non-formal education, play and relaxation are also necessary so that children and young people can find time for rest and leisure as a positive balance to the usually stressful school day. During the coronavirus measures, the opportunity for children and

young people to organize their leisure time in a self-determined way and participate in cultural life was associated with very significant restrictions, which led to impairments in their subjective well-being. In their free time, children and young people discover who and what they are, what they enjoy and what defines them, be it a sport, a talent or something else.

To promote the participation of children and young people in cultural life, the introduction of the Kulturpass 2023<sup>40</sup> and the temporary introduction of the 9-euro ticket, which has given young people the opportunity to attend events nationwide, are welcomed. We also welcome so-called student rates at museums and theaters.

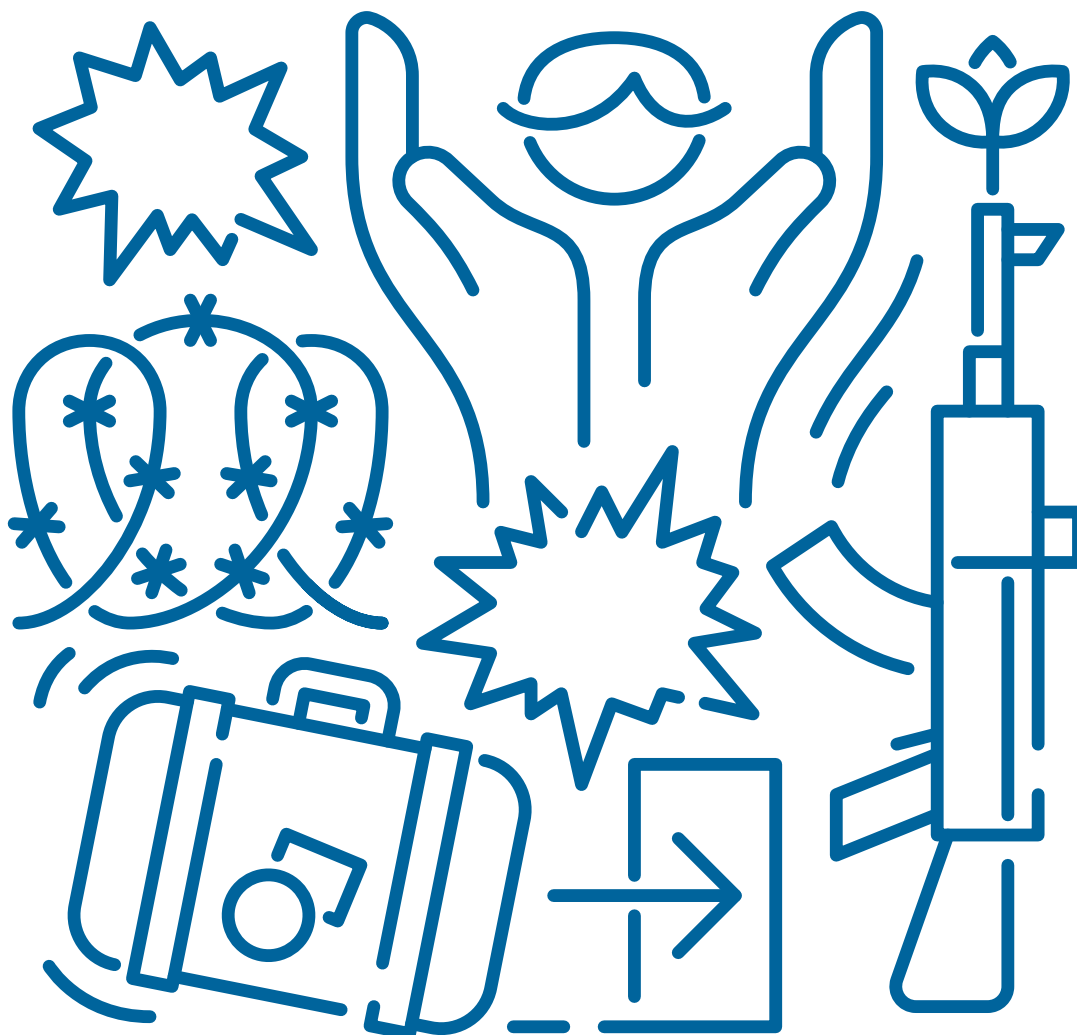
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40 *BKM (2023): Mit der KulturPass-App Kultur entdecken.*

### Our demands:

- School must provide time and space for personal development.
- Leisure activities for children and young people, such as those provided by youth associations or local authorities, should be expanded.
- To promote their cultural development, children and young people should be given free access to museums, theaters and events at local, state and national level.
- In order to strengthen cohesion and understanding, children and young people should be given the opportunity to experience diversity through integrative cultural events.

# 8. Special protection measures



## Refugee children

In the period from January to June 2023, 47,495 people, or 31.6 % of all asylum applicants in Germany, were under the age of 18.<sup>41</sup> Unaccompanied and accompanied refugee minors are considered a particularly vulnerable group, and not just because

of their young age. Stressful experiences before, during and after their flight shape the reality of their lives in Germany, and many of these young people face an uncertain future and a complex asylum procedure. The UN CRC and SGB VIII take into account the needs of refugee children and provide specific measures for their needs-based care and support. However, there are still glaring deficits in the implementation of these state obligations under the UN CRC at all levels of government.

<sup>41</sup> [Federal Office for Migration and Refugees \(2023\): Aktuelle Zahlen.](#)

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## Deportation, arrest and detention

In the case of detention pending deportation for up to 18 months (Section 62 Residence Act) and custody to secure departure (Section 62b Residence Act), there is no statutory exclusion of minors. During the reporting period, there was an increase in the deportation of families and thus also in family separations, some of which were carried out unlawfully and with disproportionate hardship. There are also frequent reports of detention pending deportation of a parent or a single parent—the children then remain with one parent or in the care of the youth welfare office. The administrative regulations of the Residence Act recommend this procedure for families. In some cases, family separation continues after deportation. The coalition agreement of the current federal government includes the commitment “not to take children and young people into custody pending deportation”.<sup>42</sup> Nothing has yet been implemented. It is also unclear whether this will take the form of an absolute ban on detention pending deportation, as demanded by children’s rights.

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<sup>42</sup> SPD, Alliance 90/The Greens and FDP (2021): *Daring more progress. Alliance for freedom, justice and sustainability.*

Accompanied and unaccompanied children and young people are also not exempt from the airport procedure in accordance with Section 18a Asylum Act. Accommodation during this shortened asylum procedure takes place in a closed facility at or near the airport. Children and young people experience violence and deportations there, and in some cases there is no separate accommodation for families and children. This also violates the ban on immigration detention of children under the UN CRC, especially as the procedural guarantees under asylum law are reduced in accelerated airport procedures. There are also an increasing number of cases of detention pending deportation to secure the return of families with children if their asylum applications were examined in the airport procedure (so-called “transit detention” Section 15 (6) Residence Act).

In September 2022, the UN Committee on the Rights of the Child admonished Germany to avoid family separations and to prohibit the arrest and detention of children if this is ordered on the basis of their parents’ residence status.<sup>43</sup> Non-compliance with this admonition continues to be reported.

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<sup>43</sup> Paragraph 39–40, *Concluding Observations of the UN Committee on the Rights of the Child (2022)*

### Our demands:

- Accompanied and unaccompanied minors should be explicitly excluded by law from airport procedures and transit detention as well as from custody to secure departure and detention pending deportation.
- Family separations through detention should be prevented by law, including through a corresponding duty of examination in court proceedings for detention pending deportation. In addition, an obligation to use alternatives to detention for families should be introduced.
- The primary consideration of the best interests of the child by legislators and the administration should also be enforced in migration law and its interface areas.

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## Family reunification

Currently, it is not always possible to restore the family unit for families in Germany.<sup>44</sup> If children and young people have to flee alone, for example because they are exposed to child-specific persecution such as forced marriage or recruitment as child soldiers in their home country, or because they are separated from their families while fleeing, they are often unable to bring their nuclear family to Germany without further ado after being granted protection. Their underage siblings do not have the right to join them<sup>45</sup>; according to current official practice, they are usually denied reunification, even if they are to enter the country together with their parents. This is because the sibling relationship is not recognized as particularly worthy of protection in German residence law, so that additional hurdles are attached to the reunification of siblings of a recognized refugee child, such as securing a livelihood and proof of sufficient living space, which are not required for the parents. As a result, the siblings have to wait in war or crisis zones until one or both parents are granted protection in Germany and the sibling can join their parents. This violates the right to family and the best interests of the children concerned. In the case of war refugees who receive subsidiary protection, it is also made more difficult for their families to join them, although they often come from the same countries and have a comparable need for protection as refugees recognized under the Geneva Refugee Convention. However, unlike refugees, their reunification is limited to 1,000 people per month and is subject to additional conditions. In the coalition agreement in October 2021, the federal government committed to facilitating the reunification of siblings and placing family reunification with beneficiaries of subsidiary protection on an equal footing with that of refugees. This has

not yet happened and the violations of children's rights continue.<sup>46</sup>

In the case of beneficiaries of subsidiary protection, children must be minors at the time of the decision. As the asylum procedure and the subsequent visa procedure take so long that a decision on the visa application is only made after the refugee child has reached the age of majority, family reunification becomes impossible. The realization of family reunification must not be dependent on the duration of the asylum and visa procedure. It must be regulated by law that the minor's age at the time of applying for asylum is sufficient to implement the right to respect for family life and the primary consideration of the best interests of the child.

Long procedures also contradict the principle of acceleration in Art. 10 of the UN CRC with regard to family reunification. It is also noticeable in the actions of the authorities and, in particular, in the case law on the subject of family reunification that the best interests of the child are not given priority and that there is no or insufficient justification for putting the best interests of the child behind migration policy concerns. In its Concluding Observations (2022), the UN Committee on the Rights of the Child admonished the Federal Government that it must ensure that the principle of the best interests of the child is always observed in the legislative, executive and judicial branches of government—especially in the area of migration. No change to this admonition is discernible with regard to family reunification.

In addition, there is still unequal treatment of children under and over the age of 16 in the regulation on child reunification, although the UN Committee on the Rights of the Child called for a change in the regulation in its Concluding Observations (2014). Over 16-year-olds must still fulfill a language requirement under certain conditions and prove their integration into German living conditions.

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44 See: *DIMR (2020): Hürden beim Familiennachzug. Das Recht auf Familie für international Schutzberechtigte.*

45 See: *Save the Children & Hörich (2017) Die vergessenen Kinder: Gutachten zum Geschwisternachzug.*

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46 See: *terre des hommes (2022): Familiennachzug rechtssicher, human und gerecht gestalten – Koalitionsvertrag umsetzen.*

#### Our demands:

- Family reunification of beneficiaries of subsidiary protection is to be treated in the same way as for recognized refugees.
- In the case of family reunification, the concept of nuclear family should be extended to include siblings. It must be ensured that the siblings of unaccompanied minor refugees can join them immediately, whether with or without their parents, as long as it is in the best interests of the child (sibling reunification).
- The best interests of the child must be given primary consideration and the benevolent, humane and accelerated reunification of separated families must be ensured, regardless of their residence status. In concrete terms, this means that the federal government should digitalize family reunification procedures as far as possible and increase staffing capacities accordingly.
- The unequal treatment of under and over 16-year-olds, which is contrary to the Convention, is to be abolished and the language requirement for over 16-year-olds and the requirement for proof of integration into the local community are to be removed.

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### Age assessment

Since the increase in the number of (young) refugees entering the country, age assessments (Section 42 SGB VIII) have been carried out under staff shortages since around mid-2022. Estimates of the age of majority as part of the youth welfare office's inspection, but also through medical age assessment procedures, are increasing. The increasing duration of age assessment procedures prolongs the arrival process, creating a waiting position without secure access to education, healthcare, support from youth welfare services and independent legal representation. The young people, who are considered to be of legal age, end up in large-scale accommodation for adults after being taken into care. At the same time, there is a lack of space in child and youth welfare accommodation. Young people need support to lodge a complaint and appeal against the age determination (Section 42 SGB VIII, 3). The appeal has no suspensive effect. As a result, the young

people are not accommodated according to their needs and are left on their own without information about their rights and legal assistance.

Age assessment is a necessary tool for identifying unaccompanied minor refugees and granting them protection, but it must not be misused as a regulatory mechanism in times of a lack of accommodation and care structures.

The rights of minors, i.e. the obligations of the Member States to give primary consideration to the best interests of the child in all measures and to ensure protection and care in all appropriate legislative and administrative measures while respecting the principle of non-discrimination, are not upheld here. On the contrary, the rights of potential minors are under attack, and the right to equal opportunities in education and the right to healthcare and protection are also jeopardized if minors are placed without protection in large-scale accommodation without guardians, without a daily structure and without legal representation.

Our demands:

- In all proceedings, the best interests of the child must be given primary consideration, even and especially in cases of doubt.
- In age assessment procedures and the resulting care, it is therefore important to follow the principle “If in doubt, give the minor the benefit of the doubt!” until an age has been determined. In cases of doubt, legal representation and placement in youth welfare services must be guaranteed. Legal protection must be made practicable through close-knit, independent, first-language advice and support in all matters concerning young people.

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### **Accommodation and the realization of social and cultural rights of accompanied refugee minors**

In its Concluding Observations (2022), the UN Committee on the Rights of the Child admonished Germany to release families from initial reception facilities as quickly as possible, to provide regular schooling for refugee children from the outset and to improve healthcare services for refugee children. The committee also pointed out that the

federal government must ensure that the federal states uphold children's rights—this is also important with regard to accommodation. Although it was agreed in the coalition agreement of the current federal government (2021) to discontinue the concept of so-called “anchor centers” and to improve access to regular schooling and health-care services, no improvements or changes have been made to date. On the contrary, the political call for large and isolated mass accommodation is getting louder and louder.

Our demands:

- Refugee families should be accommodated in small housing units or apartments in the municipalities in a decentralized manner as soon as possible. The legal obligation to live in an initial reception center should be abolished or limited to a maximum of one month.
- Direct access to standard care for accompanied minors must be guaranteed and enshrined in law. This includes, for example, unrestricted healthcare as well as regular schooling and daycare from the moment of entry, but also full social and cultural participation through the lifting of spatial restrictions and residence requirements.

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### **Accommodation and care of unaccompanied refugee minors**

Since the end of 2021 in particular, more unaccompanied minor refugees have been arriving in Germany compared to previous years. They are in a particularly vulnerable situation; many were exposed to very stressful experiences before and during their



sometimes very dangerous flight. In Germany, they encounter a severely weakened arrival and care system. The area of inpatient youth welfare is characterized by a lack of accommodation capacity and a massive shortage of specialists.<sup>47</sup> These deficits have a direct impact on the situation of unaccompanied minors. As a result of the lack of capacity, there is a nationwide deviation from the standards

<sup>47</sup> BumF (2022): *Zwischenruf zur Unterbringungssituation unbegleiteter Minderjähriger*.

of SGB VIII with regard to the reception and care situation of unaccompanied young people. The lowering of standards not only exists as a de facto practice, but was officially implemented in various federal states in 2022 and 2023, with the reductions applying specifically to work with refugee children and young people. This exposes this group of people to serious discrimination within the system.

#### Our demands:

- **Unaccompanied refugee minors must be accommodated within the standards of SGB VIII—no lowering of standards!**
- **Resources for support structures and youth welfare facilities are to be provided on a long-term and sustainable basis.**
- **Measures are needed to combat the shortage of skilled workers and to improve working conditions in the child and youth welfare sector.**

## Right to health for refugee minors

Minors with a refugee background need special protection and support for their healthy development. But in many places, paediatricians, early childhood educators, teachers and school social workers, employees of children's and youth centers or youth welfare offices find that they are only able to meet the special needs of refugee children to a limited extent.<sup>48</sup>

Children, adolescents and their families with mental health issues must have the opportunity to access care outside of the accommodation and should be actively supported in their search for help if necessary. It is generally not sufficient to provide care solely through consultation formats in the accommodation itself—firstly because there are

<sup>48</sup> cf. BAfF e. V. (2020): *Living in a box. Psychosoziale Folgen des Lebens in Sammelunterkünften für geflüchtete Kinder*.

often no appropriately specialized professionals on site, and secondly because psychosocial stress in particular requires a protected space and an atmosphere of trust, which cannot be created in collective accommodation.<sup>49</sup> The current difficulties in covering the costs of psychotherapy, language mediation and travel costs are incomprehensible. Refugee minors are among the particularly vulnerable groups within the meaning of the EU Reception Directive: in their case, the discretionary scope provided by the Asylum Seekers Benefits Act for the granting of benefits under Section 6 Asylum Act is reduced to "zero". Experience with support services in mass accommodation facilities also shows that it is primarily the living conditions that trigger, exacerbate or maintain symptoms of mental illness.

<sup>49</sup> See: Janssen (n.d.): *Gesundheitliche Auswirkungen der Pandemie-maßnahmen auf geflüchtete Kinder*.

#### Our demands:

- The provision of care for refugee children and young people must be expanded and improved in terms of quality both within the accommodation facilities and in the regular system.
- People with mental health problems living in collective accommodation must be given early access to diagnostics, counseling and treatment.
- Barriers caused by information and placement deficits, the structural restrictions imposed by the Asylum Act and the spatial and geographical isolation in mass accommodation must be dismantled. The capacities of needs-based services such as psychological consultations or art therapy groups must be strengthened.
- From the initial examination onwards, it must be ensured that communication in a common language is possible in the context of healthcare. Qualified language mediation must be guaranteed to prevent misunderstandings, misdiagnoses and treatment errors.
- Medical treatment should be granted if there is a professional indication. To ensure that this provision is interpreted in accordance with European law, administrative regulations are required that define clear guidelines for official practice.

### **Tightening of EU asylum law—further loss of solidarity with refugees**

The Common European Asylum System (CEAS) is expected to further tighten asylum regulations, particularly through the expansion of “safe countries of origin and third countries”, with the result that refugee children are exposed to a higher risk of deportation, separation from their families or imprisonment.<sup>50</sup> Social desolidarization with refugees in transit and host countries also increases the risk of psychological and physical violence, abuse, exploitation and human trafficking: Refugee children are increasingly dependent on the use of dangerous routes under unsafe conditions. Flight and the loss of a familiar social environment lead to considerable stress and traumatization. The “fiction of non-entry” can also lead to children and young people undergoing accelerated asylum procedures in centers at the border under de facto detention under certain conditions, such as a low protection quota in the country of origin.

<sup>50</sup> *Pro Asyl (2023): Keine Kompromisse auf Kosten des Flüchtlings-schutzes (gemeinsames Statement von über 50 Organisationen).*

Member States will not classify the accommodation as detention because people are not detained individually by detention order. In accordance with the “fiction of non-entry”, they should only be prevented from entering the country and theoretically retain the option of returning to non-European countries of their own free will. In practice, however, this possibility of return will not usually be given, especially if a sea would have to be crossed for the return journey, and even if it were, the application for protection would have to be withdrawn without examination. Rather, closed centers are to be expected, which restrict the freedom of movement of the children concerned and which cannot be left voluntarily, with increased security measures and admission controls, as we already see today in external border countries such as Greece. Access to healthcare, education and leisure activities will in all likelihood be made more difficult or even denied by this type of accommodation.

The UN CRC guarantees every child the right to life, survival and development, regardless of their origin or migration status. It stipulates that the best interests of the child must be a primary consideration in all decisions that affect them. The European Court

of Human Rights has already referred to this several times in its case law. In April 2023, the Berlin Administrative Court condemned the German legal practice of not considering the best interests of the child and

family ties before issuing a deportation order as a violation of EU law.<sup>51</sup>

<sup>51</sup> *VG Berlin, judgment of 06.04.2023 – 34 K 21/22 A – asyl.net: M31492.*

#### Our demands:

- The best interests of the child must be given primary consideration in the entire asylum process, especially under the conditions of application of the “fiction of non-entry”.
- It must be made clear that a placement in which freedom of movement is severely restricted and which cannot be left voluntarily, and which is characterized by security precautions and visit controls, can constitute a deprivation of liberty within the meaning of the Convention on the Rights of the Child even without a formal order.
- The interests of the child should be represented by a legal advisor specializing in children’s rights, and the right to participation should be guaranteed throughout the asylum process.
- The Federal Government should advocate a child rights-based, balanced admission procedure that is binding for all EU member states and ensures that children’s rights and humanitarian obligations are respected and that adequate resources are provided for the protection of refugee children and young people and the promotion of their inclusion in host societies.

## Children in situations of exploitation

The fight against exploitative child labor has already gained momentum in Germany and the EU through the introduction of supply chain laws and other regulatory measures. These laws aim to hold companies accountable and create transparency in relation to their supply chains to ensure that children’s rights are respected and protected.

However, there are still considerable gaps and challenges. One of these gaps is the inadequate specification and systematic recording of projects relevant to children and young people’s rights. The lack of involvement of children and young people in decision-making processes is also a significant problem. The existing regulations and enforcement mechanisms are not sufficient to effectively tackle the complex and deeply rooted problem of exploitative child labor.

Recommendations for improving the situation are diverse and address various actors. On the one hand, the EU and the German government could improve supply chain laws through clearer definitions and better enforcement mechanisms. This also includes equipping the controlling authorities accordingly and functioning complaints procedures. Child protection and participation measures could be explicitly prescribed as part of due diligence obligations. On the other hand, in the area of development cooperation, the German Federal Ministry for Economic Cooperation and Development (BMZ), the German Development Cooperation (GIZ) and the KfW development bank could adapt their strategies and resources accordingly in order to consistently integrate children’s and young people’s rights.<sup>52</sup>

<sup>52</sup> *Syspons (2023): Review des BMZ-Aktionsplans “Agents of Change – Kinder- und Jugendrechte in der deutschen Entwicklungszusammenarbeit (2017–2019)”.*

Our demands:

- The increasing vulnerability of children and young people abroad, both in development cooperation and in supply chains and the travel industry, is to be countered with effective protective measures.
- Child protection and participation measures should be explicitly prescribed as part of due diligence obligations.
- Child-friendly complaints procedures should be provided for in supply chains where child labor cannot be ruled out.

## Children in armed conflicts

### Underage soldiers in Germany

Germany is one of the few countries in the world that, despite repeated calls from the UN Committee on the Rights of the Child and the Children's Commission of the German Bundestag, maintains the recruitment age for minors as soldiers. From 2011 to 2022, the German military (Bundeswehr) recruited over 17,000 17-year-old boys and girls as soldiers, and 1,773 recruits were accepted in 2022—an increase of 43% compared to the previous year.<sup>53</sup> They receive the same military training on weapons as adult soldiers and are also housed together with them. The legal protection of minors and the Youth Employment Protection Act are not observed.

Due to this practice, underage soldiers in the German Armed Forces are exposed to serious violations of children's rights: sexual violence, degrading treatment, physical and psychological harm such

as accidents, depression, mental disorders and suicides. In recent years, there have been several cases of serious injuries and one death among young recruits during marches due to misconduct by superiors and excessive military drill.

The total number of criminal sexual assaults recorded by the armed forces has quadrupled between 2015 (86) and 2022 (357). Despite promises, the Ministry of Defense has not published any data on the situation of underage soldiers and violations of their rights in the armed forces—with the exception of an answer to a parliamentarian's question.

Instead of stopping the military's advertising to minors, as the UN Committee on the Rights of the Child has been calling for since 2008, new and more expensive campaigns are constantly being launched. Many of these are disseminated via social media, including several YouTube series, or include mass appearances such as at the computer games fair "Gamescom" and the youth fair "YOU", which are clearly aimed at an underage target group. In addition, several hundred so-called "youth officers" or military "career counselors" visit schools and teacher training courses, reaching hundreds of thousands of children every year.

<sup>53</sup> See: *terre des hommes Germany, Kindernothilfe e. V. & World Vision Germany (2020): Shadow Report 2020 Child Soldiers.*

Our demands:

- The minimum age for the recruitment of soldiers in the German military should be raised to 18.

- All forms of military advertising and marketing aimed at children must be banned.
- Any reports of sexual abuse, sexual harassment and other forms of violence against children in the armed forces must be investigated immediately. It must be ensured that the perpetrators are prosecuted and punished.
- As long as underage soldiers serve in the German military, data on their situation should be published at least once a year, including information on sexual and other forms of violence, physical and psychological impairments (accidents, depression, mental disorders, suicides), as well as exit interviews and counseling and terminations of service.

### German arms exports

Over the past five years, the German government has approved significant arms exports to countries that are involved in armed conflicts and/or commit serious human rights violations. For example, arms are supplied to Egypt, Saudi Arabia, the United Arab Emirates, India, Pakistan, Indonesia, Thailand, Colombia and Turkey, where children's rights are disregarded and violated, including the killing and maiming of children and the recruitment of children as soldiers. In addition, several countries with internal armed conflicts have received German weapons, for example Brazil, the Philippines and Mexico.<sup>54</sup> In these countries, many civilians, especially children and young people, are killed by the police and/or the military, often in the context of a so-called "war on drugs". The arms deliveries contradict both the German government's political guidelines on arms

exports and the EU's legally binding Common Position on Arms Exports, as the European Parliament also stated in February 2021. Despite the European Parliament's appeal and the EU regulations, the German government approved an enormous amount of arms exports in 2021 and 2022, according to the annual government report.

In 2021, 64 % of German arms exports worth 6 billion euros—a new high—went to so-called "third countries" (neither EU, NATO nor NATO equivalent), where in many cases massive human rights violations and wars have taken place. Egypt, Brazil and other "third countries" are—as in previous years—among the top ten recipients of German military equipment in 2021. In 2022, arms exports to third countries fell to 3.2 billion euros, but still account for 39 % of the total volume of arms exports. The consequences for civilians, including many women, young people and children, are serious.

<sup>54</sup> cf. z. BMWK (2021): *Report of the Federal Government on its export policy for conventional military equipment in 2021.*

#### Our demands:

- The new arms export control law should include a right to sue for associations, as already exists in several European countries and is essential for the effective control of arms exports and compliance with national and European laws.
- The export of weapons, ammunition and related production facilities is to be banned if these supplies go to countries that are involved in foreseeable or ongoing armed conflicts or

serious human rights violations. This also applies to countries whose state organs are responsible for at least one of the six grave violations of children's rights in armed conflicts or other grave violations of children's rights, such as the killing of children and young people by the police or other state organs.

- Regular checks on the use of exported German weapons and ammunition must be enshrined in law.
- The UN definition of small arms and light weapons is to be used in accordance with the obligation under Article 5.3 of the International Arms Trade Treaty.
- Transparency and the information to be published on arms exports must be significantly improved, including the publication of written justifications for licensing decisions.

### **Protection and asylum for children fleeing recruitment as soldiers**

The use of minors as soldiers or the risk of recruitment by state or non-state armed groups constitutes a child-specific form of persecution as defined in Article 1 (A) 2 and 1 (F) of the Geneva Refugee Convention. It should therefore lead to protection and the granting of asylum—regardless of the type of armed group and regardless of whether it is classified as a terrorist organization or not.

Former child soldiers should not, as a rule, be prosecuted for alleged crimes committed as child soldiers, in accordance with Article 6(3) of the Optional Protocol to the UN CRC on Children in Armed Conflict (OPAC) and the UN Committee on the Rights of the Child's General Comment No. 10 (2007). Instead, they should be supported in coping with their role as victims and possibly also as perpetrators through therapy and efforts to ensure fair transitional justice.

#### **Our demand:**

- **Former child soldiers and children who are at risk of being recruited as child soldiers should be granted protection and asylum in Germany, as well as support in coping, therapy and fair transition**



# Members of the National Coalition Germany

- Aktionskomitee KIND IM KRANKENHAUS  
AKIK-Bundesverband
- Amadeu Antonio Stiftung
- Arbeitsgemeinschaft Allergiekranke Kind
- Arbeitsgemeinschaft der Evangelischen Jugend  
in Deutschland
- AWO Bundesverband
- **Berufsverband der Heilpädagoginnen und  
Heilpädagogen – Fachverband für Heilpädagogik**
- **Berufsverband Deutscher Psychologinnen  
und Psychologen**
- Berufsverband Kinderkrankenpflege Deutschland
- **Bildungswerk für Schülervertretung  
und Schülerbeteiligung**
- **BLUE 21 Berliner Landesarbeitsgemeinschaft Umwelt  
und Entwicklung**
- Bundesarbeitsgemeinschaft der Kinderschutz-Zentren
- Bundesarbeitsgemeinschaft Kind und Krankenhaus
- Bundesarbeitsgemeinschaft Kinder-  
und Jugendschutz
- **Bundesarbeitsgemeinschaft kommunale  
Kinderinteressen**
- Bundesarbeitsgemeinschaft Mädchenpolitik
- Bundesarbeitsgemeinschaft Mehr Sicherheit  
für Kinder
- **Bundesfachverband unbegleitete minderjährige  
Flüchtlinge**
- Bundesjugendwerk der AWO
- Bundeskonferenz für Erziehungsberatung
- **Bundesstelle der Katholischen Jungen Gemeinde**
- **Bundesverband der Freien Alternativschulen**
- Bundesverband der Sozialistischen Jugend  
Deutschlands – Die Falken
- Bundesverband für Kindertagespflege
- Bundesverband katholischer Einrichtungen und  
Dienste der Erziehungshilfen
- **Bundesverband Kinderhospiz**
- Bundesvereinigung Kulturelle Kinder- und  
Jugendbildung
- Bundesvereinigung Lebenshilfe
- **Bundesweite Arbeitsgemeinschaft Psychosozialer  
Zentren für Flüchtlinge und Folteropfer**
- Das Kindermissionswerk ‚Die Sternsinger‘
- **Der Kinderschutzbund Bundesverband**
- Deutsche Akademie für Kinder- und Jugendmedizin
- Deutsche Gesellschaft für Demokratiepädagogik
- Deutsche Gesellschaft für Kinderchirurgie
- Deutsche Gesellschaft für Prävention und  
Intervention bei Kindesmisshandlung,  
-vernachlässigung und sexualisierter Gewalt
- **Deutsche Liga für das Kind in Familie  
und Gesellschaft**
- **Deutsche Vereinigung für Jugendgerichte  
und Jugendgerichtshilfen**
- Deutsche Wanderjugend
- Deutscher Caritasverband
- Deutscher Juristinnenbund
- Deutscher Paritätischer Wohlfahrtsverband
- Deutsches Institut für Jugendhilfe und Familienrecht
- Deutsches Jugendrotkreuz
- **Deutsches Kinderhilfswerk**
- Deutsches Komitee für UNICEF
- Deutsches Rotes Kreuz
- Diakonie Deutschland – Evangelisches Werk  
für Diakonie und Entwicklung
- djo-Deutsche Jugend in Europa Bundesverband
- **ECPAT Deutschland**
- evangelische arbeitgemeinschaft familie
- Fachhochschule Potsdam – Studiengangsverbund  
M.A. Frühkindliche Bildungsforschung und M.A.  
Childhood Studies and Children’s Rights



- Förderverein PRO ASYL
- FRÖBEL Bildung und Erziehung
- Gesamtverband für Kindergottesdienst in der EKD
- Gesellschaft der Kinderkrankenhäuser und Kinderabteilungen in Deutschland
- Gewerkschaft Erziehung und Wissenschaft
- **GreenBirth**
- GRIPS Theater
- **Grundschulverband**
- Hochschule Düsseldorf – Fachbereich Sozial- & Kulturwissenschaften
- Hochschule für angewandte Wissenschaften Coburg – Fakultät Soziale Arbeit und Gesundheit
- Hochschule Magdeburg-Stendal – Studiengang Kindheitswissenschaften
- Initiative für Große Kinder
- Intergeschlechtliche Menschen Bundesverband
- **Internationale Gesellschaft für prä- und perinatale Psychologie und Medizin**
- Internationale Gesellschaft für erzieherische Hilfen
- Internationaler Bund
- Jugend der Deutschen Lebens-Rettungs-Gesellschaft
- **JUMEN**
- Kinder- und Jugendwerk der Naturfreunde – Verein zur Förderung der Naturfreundejugend Deutschlands
- Kinderfreundliche Kommunen
- Kindernetzwerk
- Kindernothilfe
- **Kinderrechte-Institut**
- KRF KinderRechteForum
- LERNEN FÖRDERN – Bundesverband zur Förderung von Menschen mit Lernbehinderungen
- Lindenstiftung für vorschulische Erziehung
- MACHmit! Museum für Kinder
- **Makista**
- **MOGiS**
- Montessori Dachverband Deutschland
- NAJU – Naturschutzjugend im NABU

- **OUTLAW. die Stiftung**
- **PFAD Bundesverband der Pflege- und Adoptivfamilien**
- pfv – Pestalozzi-Fröbel-Verband
- Plan International Deutschland
- PROKIDS PROSOZ Herten
- Ringe deutscher Pfadfinderinnen- und Pfadfinderverbände
- **Save the Children Deutschland**
- **SOS-Kinderdorf**
- **Stiftung Bildung**
- **Stiftung Digitale**
- Teach First Deutschland
- Technische Jugendfreizeit- und Bildungsgesellschaft
- **terre des hommes Deutschland**
- The Duke of Edinburgh's International Award – Germany
- Verband binationaler Familien und Partnerschaften iaf
- Vereinigung der Waldorfkindergärten
- **World Future Council**
- **World Vision Deutschland**

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*Legally established civil society organisations of nationwide importance working in the field of children's rights can apply for membership, if they support the statutory objective of the National Coalition Germany. If you are interested in becoming a member, please contact us.*



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