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Germany again delays ratification of the Optional Protocol to the Covenant on Economic, Social and Cultural Rights

Human Rights Council adopts Universal Periodic Review outcome on Germany

Amnesty International welcomes the improved consultation with civil society in the lead up to the review, including the public hearing on the National Report. We note, however, that consultation is not an end in itself and hope to see also substantive changes in the assessment of human rights challenges in Germany and an increased openness to input from civil society in future reviews.

While we welcome that Germany has accepted many of the recommendations, we do not always share the government's view that the recommendations have already been implemented. During the consultation process it became clear that the assessment by the government and that by civil society differed quite widely, including with regard to racism and discrimination.¹

We welcome the government's commitment to continue the dialogue on the obligation to make enforced disappearance a criminal offence in national law;² however, we are concerned that there are significant gaps in the criminal law which could prevent investigation and prosecution of those suspected of criminal responsibility for enforced disappearances.

Amnesty International is deeply disappointed that Germany has further delayed its ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.³ The government's statement that it is "assessing the accession" is confusing in light of the acknowledgement by the government during the public hearing in 2012 that it would await the view of the Committee on Economic, Social and Cultural Rights on communications before further considering ratification.⁴ The failure to ratify the Optional Protocol undermines Germany's leadership on initiatives on the right to water and sanitation and the right to adequate housing.

On the issue of refugees, asylum-seekers, and migrants, Amnesty International welcomes that Germany accepted several important recommendations;⁵ however, remains concerned about inadequate procedures in a number of federal states for the identification of the most vulnerable asylum-seekers, including traumatized individuals and unaccompanied or separated children, as required by the EU Reception Conditions Directive.

Amnesty International deeply regrets that recommendations with regard to the prevention of ill-treatment by the police were rejected, concerning independent complaint mechanisms and

¹ A/HRC/24/9, recommendation 124.34 (Uruguay), 124.124.77 (Ecuador) and 124.126 (Russian Federation) are some examples of this.

² Ibid, recommendation 124.34 (Uruguay)

³ Ibid, recommendation 124.11-13, 124.18, 124.20-21 (Ecuador, Sierra Leone, Portugal, Spain, Bosnia and Herzegovina, France)

⁴ Germany also stated this at the ESCR Committee session in 2011.

⁵ Ibid, recommendations 124.125, 124.188, 124.195-197 (Ireland, Namibia, Sierra Leone, Brazil, France)

mandatory individual identification for Federal Police officers.⁶ Germany did undertake to investigate thoroughly and without bias all allegations of ill-treatment by law enforcement officials,⁷ and the organization strongly encourages the government to do so in full compliance with international and regional standards and to consider replicating recent positive developments in terms of individual identification measures established by some of the Federal States (Länder).

Amnesty International also warmly welcomes Germany's acceptance of recommendations to equip its National Preventive Mechanism with sufficient resources to fulfil its functions effectively and in line with the obligation under the Optional Protocol.⁸

Background

The UN Human Rights Council adopted the outcome of the Universal Periodic Review of Germany on 19 September 2013 during its 24th session. Prior to the adoption of the review outcome, Amnesty International delivered the oral statement above.

Amnesty International had earlier submitted information on the situation of human rights in Germany: <http://www.amnesty.org/en/library/asset/EUR23/002/2012/en/e76cc102-a9da-40f3-9b04-dd7554fcda6d/eur230022012en.pdf>

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⁶ Ibid, recommendations 124.127, 124.128, 124.130 (Botswana, Hungary, Netherlands)

⁷ Ibid, recommendations 124.126 (Russian Federation)

⁸ Ibid, recommendations 124.43 (UK), 124.124 (Switzerland)