

UN OHCHR
Mr. Ibrahim Wani
Development, Economic and Social Issues
Branch
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Schweiz

Berlin, 18 September 2008

Dear Mr. Wani,
Dear Ms. Zarraluqui,

Referring to your letter of 8 August 2008, please find below the requested information regarding the UN Convention on the Rights of Persons with Disabilities (the "Convention") and the Optional Protocol (the "OP") in the German context.

a) Legal measures for ratification of the Convention and the OP:

Germany has signed the Convention and the OP on 30 March 2007 in New York.

Presumably, the Federal Cabinet will pass and introduce the draft law regarding the Convention and the OP in September 2008. Once the law is accepted by the legislator (both chambers - *Bundestag* and *Bundesrat*), the government will be authorised to internationally declare ratification regarding both the Convention and the OP.

The law as drafted now is simply for authorisation purposes and does not contain particular implementation measures. The "explanatory memorandum" ("Denkschrift"), which is legally non-binding, contains remarks in relation to Article 33 of the Convention (see below).

It can be estimated that the parliamentary process will at least take four months. The responsible Ministry for Labour and Social Affairs pushes this project with determination and plans to achieve ratification early 2009.

At present, some parts of the federal government seems to agitate for an interpretation clause, which might be directed to reduce possible legal effects of the Convention after its entry into force in Germany.

b) Legal measures for implementation of the Convention and the OP

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In preparation of the implementation of the Convention, the responsible Ministry has elaborated a German translation and achieved an agreed version together with Austria, Luxembourg, and Switzerland.

It has been said that the government has commissioned to produce accessible formats on this basis. The existing German translation has, however, been criticised by German NGOs and the German Institute for Human Rights, since the translation - in parts - does not seem to be appropriate (e.g. the English term "inclusion" has been translated into "integration" which does not reflect the object and purpose of the Convention adequately in German language).

Further, legal measures for implementation are to be expected after ratification at both state levels. In particular, the government has announced activities in the field of education. A comprehensive programme of work does not exist.

c) Legal measures on national monitoring

The government is planning to designate the German Institute for Human Rights to function as the independent monitoring body according to Article 33 (2) of the Convention.

Before the official request, the government had consulted with all relevant NGOs in the field (in particular the *Deutscher Behindertenrat* - the roof organisation of German NGOs in the field of disability rights) on that issue. The Institute is willing to take on this function and has announced this publicly. A legal basis in terms of statute law is not planned yet, but the aforementioned *Denkschrift* contains a corresponding note.

The government at the federal level is further planning to designate focal points and to establish some coordination mechanisms. Until now, it is not clear to the government which specific responsibilities these focal points will or should have. Also, the concept of a "coordination mechanisms" needs to be developed.

There is no information from the *Länder*, whether they will establish focal points and coordination mechanisms according to Article 33 of the Convention, too.

The German Institute for Human Rights has published a Policy Paper in September which takes up these issues in order to promote the strengthening of national implementation structures at all levels before the ratification is completed.

**d) Any other information relating to paragraph 16 of the HRC resolution
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Comprehensive legal or other implementation measures are to be expected after ratification at both state levels, since the convention touches upon quite a wide range of issues the need to become reconsidered in the light of the ratified Convention.

In view of some specific areas we can report some activities. For example, a study is under preparation which examines the impact of Article 32 of the Convention and consequences for the field of German development cooperation. This study was commissioned by the *Gesellschaft für technische Zusammenarbeit (GtZ)* - the federal owned agency for bilateral developmental cooperation in the country.

If you have any further queries, please do not hesitate to contact me. I am looking forward to your study. Best success with it.

Sincerely Yours,
German Institute for Human Rights



Dr. Valentin Aichele
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