

1.

Are the following components of the right to housing subject to hearings and effective remedies before courts and/or tribunals in your country? If yes, please explain which law provides this protection, who has standing to bring claims forward and what court or tribunal adjudicates the claim. Provide an example of a leading case and explain briefly how this may have advanced protection of the right to housing.

- a.) Non-discrimination (including accommodation of disabilities)**
- b.) Security of tenure (including prohibition of eviction without appropriate alternative housing)**
- c.) Adequacy standards (habitability, access to water, sanitation, services, health and safety etc.)**
- d.) Non-retrogression (review of effect on right to housing of program cuts, removal of legal protections or austerity measures)**
- e.) Progressive Realization – (obligation to take reasonable measures, establish and meet goals and timelines, prioritize the most disadvantaged, allocate maximum available resources, etc.)**

In Germany, civil, administrative or social courts may be seized with cases relating to the right to housing, depending on the nature of the claim. As far as disputes over tenancy contracts, duties of the landlord (with regard to adequacy standards etc.) and eviction with regard to a private tenancy agreement are concerned, the civil courts will be competent, including for cases relating to discrimination. Most German civil courts have judges/chambers specializing in tenancy law. Building standards, access to services, water etc. will be regulated by (usually local) regulating authorities whose decisions may be challenged before the administrative courts. Social welfare issues such as housing benefits or questions regarding the organization of and placing in shelters may come before the social courts. Parliamentary decisions on the budget of subsidy programs for social housing can generally not be challenged in court (contrary to the aforementioned claims based on welfare provisions, there is no individual right that funds be provided for a subsidy program that gives social housing incentives to landlords). Social court procedures are free of charge.

Policy decisions as exemplified under lit. d) and e) have to respect the basic constitutional principle of “Sozialstaat” which obliges all powers to consider and respect the minimum social standards. In certain circumstances, the Federal Constitutional Court may be called upon to rule on the compatibility of such measures with the constitution and Germany’s international obligations.

2.

What measures have been taken or are planned to improve access to justice for the right to housing? Please include, where applicable, measures relating to i) education of lawyers, advocates

and potential rights claimants; ii) barriers facing women and other groups; iii) access to legal representation; iv) making hearings and other procedures more accessible and less intimidating or costly; v) more effectively addressing systemic issues; and vi) ensuring implementation of remedial orders.

Access to justice in Germany is guaranteed by the constitution. Legal aid, including access to free legal consultation for indigent persons, is provided for by law. Remedial orders by courts have to be implemented by all authorities.

3. Please identify where responsibility lies for education and training of judges and administrative decision-makers regarding their international human rights obligations. What measures have been taken to ensure that domestic law is interpreted as far as possible to provide for effective remedies for the right to housing?

In the federal system in Germany, responsibility for education and training of judges and other decision-makers lies with the Länder. The topics set out under 1. above are the subject of regular courses at the appropriate facilities.

4.

Are you aware of examples in your country of community-based initiatives to provide hearings and remedies for the right to housing outside of formal court or tribunal processes? How have they been supported and how effective have they been? Do these operate at the national or subnational level, and do decisions create precedents that can be relied upon by others?

Not applicable.

5.

What role does your National Human Rights Institution play in ensuring access to justice for the right to housing? Are there other human rights bodies that play a role in this respect, such as an ombudsperson?

The German Institute for Human Rights is active in the promotion of social rights, including the right to adequate housing. Information about the right to adequate housing is provided on the Institutes' website (e.g.: <https://www.institut-fuer-menschenrechte.de/aktuell/news/meldung/article/jeder-mensch-hat-ein-recht-auf-wohnen/>).