**REPORTS ON DISCRIMINATION, SEGREGATION AND THE RIGHT TO ADEQUATE HOUSING**

QUESTIONNAIRE

**Background and Objective of the report**

The thematic reports of the Special Rapporteur on the right to adequate housing,
Mr. Balakrishnan Rajagopal, to the General Assembly in 2021 and to the Human Rights Council in 2021 will focus on the issue of discrimination in relation to the right to adequate housing, including the impact of spatial segregation in urban or rural-urban environments on the enjoyment of human rights.

Spatial segregation can be understood as the imposed or preferred separation of groups of people in a particular territory by lines of race, caste, ethnicity, language, religion or income status. Spatial, including residential segregation can have different forms depending on the territorial, cultural or historical context and is often characterized by forms of economic and social exclusion, inequity and spatial disparity in access to infrastructure, services and livelihood opportunities.

Discrimination is understood as any formal or substantive distinction, exclusion, restriction, preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination as to race, colour, sex, language, religion, national or social origin, political or other opinion, property, birth or other status - including disability, age, nationality, marital and family status, sexual orientation and gender identity, health status, place of residence, economic and social status - which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights.[[1]](#footnote-1)

The main objectives of the two interrelated reports will be to identify contemporary and historical forms of discrimination and segregation that affect the right to adequate housing, to highlight good practices in the prevention of discrimination and segregation and to provide guidance to States on how they can ensure their human rights obligations in relation to non-discrimination and the right to adequate housing.

To inform his reports Mr. Rajagopal welcomes contributions from States, local and regional governments, national human rights institutions, civil society organizations, academics, UN agencies and other stakeholders.

The questionnaire is detailed to allow for comprehensive collection of information covering all aspects of the right to adequate housing. However, responding to only those questions on which the responding organization, institution or entity has information, or expertise is much appreciated.

**BASIC INFORMATION**

1. Name of Individual, Organization, Institution, Agency or State: German Federal Foreign Office

Type of Entity\*

[x]  National Government or federal governmental ministry/agency

[ ]  Inter-governmental organization or UN agency

[ ]  Local or regional government, agency, representative or mayor

[ ]  Association, tenant union or housing cooperative

[ ]  NGO network, umbrella organization

[ ]  Community-based NGO

[ ]  Academia

[ ]  Foundation

[ ]  National human rights organization, ombudsperson

[ ]  Real estate, urban planning or construction

[ ]  Real estate investor or investment fund

[ ]  Trade Union

[ ]  Other:

2. Categorization of your Work

Please select one or more responses, as appropriate.

[x] Public administration

[ ] Advocacy

[ ] Funding

[ ] Legal Assistance

[ ] Networking

[ ] Policy

[ ] Research

[ ] Technical Assistance

[ ] Training

[ ] N/A

[ ] Other:

3. City/Town: Berlin

4. State/Province: Click here to enter text.

5. Country (please indicate your region or “international” if focus the work of your organization covers multiple countries); GERMANY

6. Contact e-mail (will remain confidential) in case we have questions:

**HOUSING DISCRIMINATION**

*Independently of individual neighbourhood residential structures, discrimination against population groups with immigrant backgrounds has been proven in studies, specifically in urban areas with high influx. In this sense, discrimination is not limited to equal access to residential space; rather, it must be understood more broadly to include rental conditions, housing quality, neighbourly coexistence, and neighbourhood participation opportunities. The Land of Berlin for example has reacted to this issue by establishing ‘Rent fairly – live fairly’, an office offering advice and fostering networks to establish a culture of discrimination-free rental in Berlin.*

**SPATIAL AND RESIDENTIAL SEGREGATION**

*German integration policy aims to effectively counter social, ethnic and economic segregation. Approximately 18.6 million people with immigrant backgrounds live in Germany, many in urban areas. In certain major cities, some 30% of the current population has an immigrant background. Residential environments and public spaces, public and private infrastructure and housing provide an important framework for social coexistence and successful integration. Localities with a blend of population groups have a long tradition in Germany. Social stability in local neighbourhoods is best ensured with a blend, e.g. younger/older residents, households with higher/lower incomes. Social housing makes a significant contribution to this. Care is taken during initial planning and when funding is granted to ensure that social housing is distributed throughout an urban area to avoid segregation. Socially-stable residential structures also play a role in allocating these subsidised homes.*

*Problematic social structures within individual neighbourhoods can be avoided or remedied if care is taken when allocating housing that, at least to a certain degree, there is blend of population groups. A precondition for this, however, is a certain latitude in selecting tenants. Creating such latitude is the goal of the exception clause in section 19 (3) of Germany’s General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG). While the AGG ensures equal treatment in selecting tenants, this provision allows population groups to be treated differently when allocating housing if necessary to create socially-stable residential structures and balanced housing estates, as well as balanced economic, social and cultural environments. It does not allow discriminatory practices in procuring or leasing residential property; rather, it serves to strengthen social cohesion and – subject to strict conditions – aims at preventing ghetto-formation and ethnic marginalisation, thereby averting living environments that could have negative effects on current or future residents. It cannot be used to justify an underrepresentation of certain groups. Indeed, section 19 (3) AGG serves the idea of the European city in the sense of integration and coexistence of cultures without mutual marginalisation (*[*cf. Bundestag printed matter 16/1780, p. 22*](https://dserver.bundestag.de/btd/16/017/1601780.pdf)*).*

***Accommodation of asylum seekers and persons required to leave the country***

*Section 47 (1) of the* [*German Asylum Act*](https://dserver.bundestag.de/btd/16/017/1601780.pdf) *(AsylG) generally obligates asylum seekers to live in the accommodation they are assigned to for a maximum term of six months. Since 21 August 2019, asylum seekers are obliged to live in the accommodation they are assigned to for a maximum of 18 months; however, the maximum is six months for minor children and their parents or others with custody rights as well as their adult, unmarried siblings.*

*A rule applicable only to asylum seekers from safe countries of origin is that they are generally obligated to live in the accommodation they are assigned to (section 47 (1a) AsylG) until BAMF decides on their asylum application and, if the latter is rejected as manifestly unfounded/inadmissible, to remain there until they leave the country or the deportation warning/order has been executed.*

*Section 47 (1b) AsylG was added with the Act to Improve Enforcement of the Obligation to Leave the Federal Territory, which took effect on 29 July 2017 (Federal Law Gazette Part I, p. 2780). This provision allows the Länder to oblige asylum seekers whose asylum application is rejected as manifestly unfounded/inadmissible to live in specific accommodation until they leave the country or until deportation, but for a maximum of 24 months. The explanatory memorandum accompanying the law explains that these rules, as lex specialis based on the provision applicable to those from safe countries of origin (subsection 1a), permit the Länder to provide for a longer mandatory accommodation period than the six months foreseen in subsection 1 for asylum seekers with no prospect of remaining in Germany. In particular, this is designed to prevent an impending termination of the residence title from becoming unnecessarily complicated because the foreigner is required to move to another residence. Land (constitutional) law determines the form in which the Länder make such rules. Some Länder have not made use of this possibility at all. In others, e.g. Saxony-Anhalt, placement in collective accommodation is possible in principle for persons whose deportation has been temporarily suspended; however, section 1 (5), first sentence of Saxony-Anhalt’s Reception Act then calls for placement in shared accommodation facilities with the smallest possible number of residents. They may also be accommodated in residential housing. The fact that over 60% of those foreigners in Saxony-Anhalt who are not entitled to remain permanently are currently accommodated in residential housing shows that a flexible approach is taken to this regulation. In any case, however, the federal-law rules of sections 48–50 AsylG remain unaffected, i.e. the asylum seeker must be discharged from the accommodation if BAMF cannot decide, or cannot decide in a timely manner, whether an asylum application is inadmissible/manifestly unfounded.*

**MEASURES AND GOOD PRACTICES TO CURB DISCRIMINATION AND REDUCE SEGREGATION**

*With regard to access to housing, section 19 of Germany’s General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG) prohibits discrimination based on race or ethnic origin. This also applies to discrimination based on sex, religion, disability, age or sexual orientation in cases where the lease is conducted on a large scale by the landlord. A differing treatment with regard to access to housing is only permissible, if the parties to the lease agreement or their relatives are living on the same property.*

*Combining urban, economic, social and ecological policies, urban development assistance at federal and Länder level plays a particularly prominent role in fostering integration of people from immigrant backgrounds – especially the ‘Social City’ programme. This programme supports cities in creating liveable neighbourhoods, promoting integration and neighbourly coexistence. The Länder and municipalities are responsible for implementation, and hence for selecting neighbourhoods. This guarantees that decisions on where demand lies are taken locally. Investments in neighbourhood centres, improving the living environment, neighbourhood management and fostering networks, for example, are important for socially just neighbourhoods and improve integration of newcomers. As a core social-integration programme within the scope of urban development assistance, the ‘Social City’ programme is ongoing and underpins the ‘Inter-Departmental Strategy for a Social City’ adopted in 2016. With the latter, neighbourhoods with significant integration requirements are given more targeted support by bundling funds from other departments locally and coordinating them more effectively. To date, 891 ‘overall measures’ in 513 cities and municipalities have been included in the Federation-Länder programme. Funding of €190 million was provided in 2018.*

*The Federation and Länder also support the integration of people with immigrant backgrounds via the 2017 ‘Social Integration in Neighbourhoods’ investment compact. This programme strengthens social integration and societal cohesion in cities and communities to enable all population groups to participate in public life. The investments transform community organisations into places of social integration and cohesion. An annual budget of €200 million was allocated for this purpose between 2017 and 2020.*

*The anti-discrimination office in Saxony conducted a study on racist discrimination in Saxony’s residential market, testing for concealed discrimination. In the test, at least two individuals comparable on all points relevant for a decision were put in the same situation. They differed only in terms of a single characteristic, which would potentially make them vulnerable to discrimination. Comparing social situations – in this case looking for an apartment – allows an analysis of how discrimination occurs and of its (qualitative) impact. Especially by including anonymised assessments of case files held by anti-discrimination counselling services, this type of study enables more precise capturing of the ‘how’ of discrimination and allows more targeted action by administrations. The study resulted in a findingthat discrimination was clearly present in 60% of cases; 22.5% of the cases could not be assessed, and no discrimination took place in 17.5% of cases. The anti-discrimination office also gleaned recommendations for action from the results.*

***Institutional mechanisms exist to report, redress and monitor cases of discrimination or segregation in relation to the right to adequate housing***

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*Germany’s national equality body, the Federal Anti-Discrimination Agency (FADA) was established in 2006 as the national body for protection against discrimination (section 25 AGG). Its tasks include providing informing about rights and legal protection to persons who believe they have been disadvantaged on grounds listed in section 1 AGG. Furthermore, FADA can refer to other bodies for advice and seek amicable settlements between parties (section 27 (2) nos. 1 to 3 AGG). 173. It is also responsible for monitoring cases of discrimination, also with regard to the right to housing. All citizens who feel discriminated against on one of the grounds listed in Section 1 AGG may contact the Federal Anti-Discrimination Agency for advice (cf. Section 27 I AGG). This also includes cases of discrimination in the housing market.   Contact can be made via the contact form (*[*https://www.antidiskriminierungsstelle.de/DE/Beratung/Beratung\_Moeglichkeiten/Formular/Formular1\_node.html*](https://www.antidiskriminierungsstelle.de/DE/Beratung/Beratung_Moeglichkeiten/Formular/Formular1_node.html)*) or by e-mail at* *beratung@ads.bund.de* *as well as via the postal address or by fax. In the context of the consultation the advice center examines whether a offence against the AGG comes into consideration and informs in this case about the legal action possibilities after the AGG. If a violation of the AGG comes into consideration (cf. § 27 II No. 1 AGG), the counseling center can also contact the landlord directly with the request for a statement and the goal of reaching an amicable agreement (cf. § 27 II No. 3 AGG). In addition, the Anti-Discrimination Agency also cooperates with local anti-discrimination counseling centers that can offer on-site support, such as the counseling center fair mieten-fair wohnen (*[*https://fairmieten-fairwohnen.de/*](https://fairmieten-fairwohnen.de/)*) (see also § 27 II No. 2 AGG).   Further information on the topic of discrimination in the housing market can also be found in our brochure “Fair mieten-fair wohnen”, a guide for tenants and advice centers:* [*https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Leitfaeden/leitfaden\_wohnungsmarkt.pdf?\_\_blob=publicationFile&v=4*](https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Leitfaeden/leitfaden_wohnungsmarkt.pdf?__blob=publicationFile&v=4)

1. See article 2.1 of International Covenant on Economic, Social and Cultural Rights and the related General Comment No. 20 of the Committee on Economic, Social and Cultural Rights. [↑](#footnote-ref-1)