

Germany's response to the Letter from the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance from January 25, 2018

Concerning the invitation from Special Rapporteur Ms. E. Tendayi Achiume, Germany would like to provide information on various issues:

- 1. Steps taken to ensure that access to citizenship and naturalization is granted on an equal basis i.e, without discrimination on grounds of race, colour, descent, or national and ethnic origin***
- 2. Efforts to combat gender discrimination affecting racial, ethnic and other minorities with regards to access to citizenship and nationality***
- 3. Efforts made to remove barriers for the naturalization of long-term or permanent residents belonging to ethnic and racial minorities and other groups, including people without nationality***

Naturalization applicants who meet the requirements mentioned in section 10 of the German Nationality Act shall be naturalized (entitlement to naturalization). This entitlement applies to every applicant, regardless of race, colour, gender, descent or national and ethnic origin.

Naturalization requirements:

A foreigner who has been legally ordinarily resident in Germany for eight years shall be naturalized upon application if he or she meets these basic requirements for naturalization:

- right of permanent residence at time of naturalization
- renunciation of previous citizenship
- familiarity with the legal system, society and living conditions in the Federal Republic of Germany (naturalization test)
- ability to support oneself without recourse to social assistance
- oral and written German language skills equivalent to level B 1 of the Common European Framework of Reference for Languages
- no criminal convictions
- commitment to the constitutional principles of freedom and democracy.

4. Steps taken for the regularization of former citizens of predecessor States

(This problem does not apply to Germany.)

- 5. Measures taken to ensure that provisions to strip individuals of their nationality comply with State's obligations to ensure the non-discriminatory enjoyment of the right to nationality***

According to Article 16 (1) of the Basic Law for the Federal Republic of Germany, no German may be deprived of his or her citizenship.

Citizenship may be lost only pursuant to a law, and against the will of the person affected only if he or she does not become stateless as a result.

6. *Measures taken to prevent and reduce statelessness of persons belonging to racial, national, and ethnic minorities*

The Federal Republic of Germany has implemented the UN conventions relating to the status of stateless persons (1954) and on the reduction of statelessness (1961) in its national law on citizenship.

A stateless person (regardless of race or national or ethnic origin) may acquire German citizenship upon application by means of naturalization subject to less stringent conditions (cf. Article 32 of the 1954 UN Convention relating to the Status of Stateless Persons).

A child born in Germany who would otherwise be stateless may acquire German citizenship a) at birth by law, or b) through naturalization upon application (cf. Article 1 (1) of the 1961 UN Convention on the Reduction of Statelessness).

7. *Laws and policies imposing restrictions on the basis of nationality*

8. *Safeguards designed to ensure that immigration laws, policies, and practices do not discriminate – in purpose or effect – against certain groups of non-nationals*

The citizenship and nationality law and the law on immigration in force in Germany and administrative practice in accordance with this legal basis set out restrictions based on nationality. Admission of immigrants to the federal territory varies insofar as a distinction is made between EU citizens and their family members, nationals from states with which Germany has signed bilateral treaties on special rules on reciprocity, and third-country nationals. In accordance with German constitutional law and international law, this kind of differentiation is appropriate and non-discriminatory. Since the administration is bound to the prohibition of discrimination which is enshrined in the German Basic Law and international law and due to the free access to judicial and extrajudicial legal protection it is ensured that neither the purpose nor the consequence of executive action taken to enforce the statutory differentiation referred to above results in discrimination.