



TERRE DES FEMMES

Human rights for women
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NGO Submission – UPR on Federal Republic of Germany – September 2017

Submitted by: TERRE DES FEMMES (TDF) is a German non-profit human rights organisation for girls and women, founded in 1981. We are committed to ensuring that girls and women can live a free, safe, and self-determined life while holding equal and inalienable rights regarding all aspects of life. Our aim is to raise public awareness by means of education and advocacy, campaigning and lobbying, international networking, and individual personal assistance. We also promote a number of independent and local self-help projects abroad. TDF deals with a big variety of subjects through its five focus areas: Female Genital Mutilation (FGM), honour crimes, domestic violence, women trafficking, and virginity myths. Based in Berlin, TDF maintains a nation-wide body of support of more than 3,500 members and patrons, 25 local groups, and 4 working groups at present.

Domestic violence and the protection of victims in Germany

Statement by TERRE DES FEMMES on the recommendations from Slovakia to Germany from the last UPR procedure (2012/13)

We refer to the recommendation from the last UPR procedure:

A - 124.137. Increase the protection of women against violence particularly those of immigrant background, by, inter alia, strengthening their access to counselling and support services nationwide (Slovakia);

Introduction

Violence against women, especially domestic violence, remains a severe problem in Germany. While there are no current numbers for unreported cases in Germany, the annual police statistics provide an insight into the reported cases of domestic violence: According to these statistics, in 2015, more than 100,000 women have been victims of domestic violence, including 131 women who were killed by their partner or ex-partner, and another 200 who survived a murder attempt.ⁱ The number of unreported cases is much higher. It is estimated that every fourth woman in Germany has experienced domestic violence at least once in her life.ⁱⁱ

1. Situation of the support system

In Germany, a relatively large support system is available for women, consisting of counselling centres for women, women's shelters and, since 2013, a national helpline. In recent years, especially the establishment of the helpline has improved the access to the support system for those affected by violence, also through the possibility of receiving assistance from an interpreter and having access to translation services.

There is, however, a problem concerning the provision of care for women affected by violence, which has grown since the last UPR procedure. The support system is overstretched in many ways, which leads to women being rejected by women's shelters. Counselling centres and women's shelters work on the limits of their capacity – in terms of staff as well as space. The protection of women and children affected by violence is not guaranteed. We are deeply concerned about the fact, that the government has been aware of the problem for many years, but – unfortunately – does not act.ⁱⁱⁱ



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In 2011, the *Report of the Federal Government on the Situation of Women's Shelters and Counselling Centres* already showed very clearly that each year, approximately 350 women's shelters arrange accommodation for about 18,000 women with their children, but that more than 9,000 women had to be turned away in 2011 alone.^{iv} Since the government does not regularly collect numbers on violence against women, current figures on the occupancy situation are missing. Newspaper reports indicate, however, that the problem has aggravated severely in recent years.^v The Association of Women's Shelters also sounds alarm: in an open letter from September 2017, the organisation reports that the situation in German women's shelters is now worse than ever before and that there has been a dramatic deterioration in the situation of women and girls affected by violence. In several federal states, there has been no space available in weeks.^{vi}

According to the CEDAW alternative report, the quota in Germany is 1: 12,000, in at least 125 counties/cities there is no women's shelter. However, the Istanbul Convention provides for a quota of 1: 10,000, the Taskforce of the Council of Europe even 1: 7,500.

The space problem particularly affects women with disabilities. They are highly affected by both domestic violence and the lack of accessibility of women's shelters: only about five per cent of women's shelters are well accessible and 65% have only a restricted accessibility for women with disabilities.^{vii}

Another major problem is the financing of the support system. Germany is a federal state. This means that the financing of the support system is very different in every individual federal state within Germany. Even within the individual federal states, financing may differ.^{viii} In practice, this often leads to problems, especially if women coming from one federal state seek refuge in another federal state, as a case from our counselling centre shows:

A young woman contacts our counselling centre because she is afraid of her family and fears an impending forced marriage. She calls several women's shelters in the south of Baden-Württemberg one week before her planned departure. The women's shelters inform her that there is no space left (not even in a week's time). Also, it is not possible to book accommodation a week beforehand. The young woman is anxious, but she stays hopeful that she will be admitted to a women's shelter on that very day. On the day of escape, she calls several shelters just before midday. There is only one space available in one single shelter. However, they demand a written assumption of cost of the daily-rate financing ("Tagesentgelt") by the local department BEFORE they can actually accommodate her.

The young woman organises a private accommodation and tries to get the document in two days. She ends up organising another private accommodation for the upcoming weekend. On Monday, the assumption of costs fails. She is turned away by the administrative district where the shelter is located as well as by the administrative district where she had lived before and is still registered. Both declare that they are not in charge of this request.

Her background: the young woman has finished an apprenticeship, has worked for several weeks already and receives an illness benefit of 800 €. It seems to be unclear who is responsible for this "case". The young woman has been without any accom



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modation for five days now. We try to find an accommodation for her in a shelter without daily-rate financing ("Entgeltfinanzierung"). There are none in Baden Württemberg, and in Bavaria, accommodation could not be found since there is no space left. In Rheinland-Pfalz, a shelter has capacity for one more person. Coincidentally, this shelter is obliged to refuse women that are from other federal states. In the south of Hessen all shelters are occupied, the closest available shelter is in a city far away. It was impossible to find accommodation within 350-400 km for a woman affected by violence who has been without accommodation for five days.

The promised support was not existent. The support system was not sufficient and the national helpline was only able to provide phone numbers of women's shelters, which was not helpful at all.

This case clearly shows that it is becoming increasingly difficult for women to find a women's shelter in a state other than their place of residence. It is existential for many of the women affected by violence to be able to flee to a shelter far away from the perpetrator's place of residence. According to the CEDAW alternative report, municipalities increasingly prohibit women's shelters to take in women and children from other federal states since the cost reimbursement is problematic.^{ix} This problem occurs mainly in the federal states with the so-called "day-rate financing" ("Tagessatzfinanzierung"). This is illustrated by another case from our counselling centre:

This summer, a young woman (H., 21 years old) contacted our counselling centre because she was facing a forced marriage and honour related violence. Since she was in fear of her life, she was planning to escape from her family and wanted to leave Berlin. Her parents are Lebanese Kurds, holding Syrian citizenship and her family members live in several different cities, widely spread all over Germany. Together with the young woman, we solved the difficult task of finding a women's shelter in an area where none of her family members are living.

When contacting the women's shelter, which we found together with the young woman, we were facing another, more serious problem. Even though the shelter had a spare place, which is very unusual, the responsible staff member was not willing to book accommodation for her. Since the woman had to escape during her working time, the earliest day for her to arrive was Monday. The women's shelter is financed based on a so-called "daily-rate financing" ("Tagessatzfinanzierung"). The accommodation of women can be financed via the job centre, if they are entitled to ALG 2 (unemployment benefit). Even though the job centre assured the assumption of the costs, the women's shelter refused to accept her. The fear of not receiving the financial coverage for one weekend outweighed the needs of a young woman in fear of her life, looking for support in escaping from her family and the violence she was facing.

The reaction of this member of staff was almost unbearable for us. She persistently refused to understand the woman's situation and tried to get rid of her. What is happening to our system, when the question of costs is outweighing the purpose of



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helping those in need, especially in such a serious situation? It was only after a strong intervention from our side that the women's shelter confirmed a place for her.

The financial pressure, which is put on the women's shelters, has become so intense that the main mission, which has always been to protect women from violence, fades into the background. Without the intervention of our counselling centre, the young woman would not have received help and a accommodation in a women's shelter.

In the case of so-called "daily-rate financing", not only women from other municipalities or federal states have problems to be admitted, but also several other groups. Some do not find accommodation at all since they are not entitled to social benefit. These groups include:

- students, women doing an apprenticeship and adult pupils
- migrant women (also from the EU)
- women without a secure residence status
- women with residence restriction / residence obligation (for example, refugees)
- women with an own income or with common property

These women will, in most cases, only find accommodation in a women's shelter, if they are capable of financing the stay themselves (the daily rates are between 30 and 100 euros). Since 2016, also migrant women from other EU countries are affected by this, which has led to a further aggravation of the situation, for the women affected by it as well as for the staff supporting the women.

Additionally, a tight housing market, leading to a longer stay of women in the shelters, and the increase in the number of women migrants in the shelters aggravate the situation. Migrant women who have little knowledge of German and are still in the process of receiving a residence permit are more time-consuming for the staff or the counselling centres. Often, an interpreter has to be contacted. Consequently, this also leads to higher costs.

2. Situation for asylum seekers and migrant women

For asylum seekers and migrant women, however, further problems arise when they are looking for protection against violence in a women's shelter. If they are asylum seekers, they are subject to residence requirements for three months after arriving in Germany (§ 56 Asylum Procedure Act). During this period, they are obliged to stay within a defined area.

As soon as they are exempted from the residence requirements, asylum seekers are obliged not to change their place of residence in a particular city or a certain county until their application process for asylum is completed. It is only after the application for asylum has been approved and it was made sure that asylum seekers are able to provide for their living that they are exempted from these obligations. This causes severe problems for women affected by violence. They cannot, for instance, flee to friends or to a women's shelter that is outside a certain area. If they do it anyway, they will have to face fines and in the event of repetition even a prison sentence of up to one year.

Additionally, the "Ehebestandszeit" stipulates that a foreigner must be married in Germany



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for at least three years before he or she can obtain an independent right of residence (§ 31 para. 1 AufenthG). In 2011, the required duration of a marriage was increased from two to three years. Cases of hardship, such as forced marriages or domestic violence, which grant exemptions and guarantee an independent right of residence even before the expiration of the three-year period (§ 31 para. 2 AufenthG), are applied very restrictively by the authorities. This means that migrant women affected by domestic violence who do not yet have an independent right to residence often do not separate from their husbands because they are afraid of losing their residence title. The partner, in turn, can take advantage of the situation and may use violence against his wife without having to fear consequences. If the woman escapes to a women's shelter, she risks losing her residence permit due to ending the "Ehebestandszeit". Many women therefore stay with their abusive partner, as the example from our counselling centre shows:

Ms H. is Tunisian and came to Germany two years ago. She studied in Tunisia where she lived with her parents. The family life was dominated by authority and rigour, and the father planned a marriage for her with a man she had never met. She decided to escape to Germany, mentioning the threat of a forced marriage in her application for asylum. The request was rejected.

She then contacted an uncle, whom she barely knew, and met his son. Since she did not want to be alone and worried about the family's honor, she decided to marry him in October 2016. Because of his German nationality, she was then tolerated in Germany.

Since October 2016, she was beaten by her husband three times so heavily that she had to get treatment at a hospital. After escaping from Tunisia, where she had to live with her violent father, she does not want to suffer in Germany under a violent husband. She is sure that a return to Tunisia will be life-threatening for her, since she must be afraid of being killed by her father, who sees the honour of the family injured. However, since the three-year marriage period ("Ehebestandszeit") applies to her, she must expect to be sent back to Tunisia in case of a separation from her husband.

Challenges and recommendations

Due to these various problems in the support system, the CEDAW Committee concludes that neither the sustainable financing of women's shelters, nor an equal access to them is guaranteed. In its concluding remarks on the 6th State Report of the Federal Government, the CEDAW-Committee stressed that it is the Federal Government's responsibility to ensure the implementation of the *Convention on the Elimination of All Forms of Discrimination Against Women* at all levels, and called on the Federal Government to ensure that women's shelters are available in sufficient numbers, are adequately financially supported and open to all women regardless of their income.^x

Additionally, in 2018, the Istanbul Convention will enter into force in Germany. In order to ensure compliance with both conventions, we state that the Federal Government is obliged to eliminate the shortcomings mentioned in the report.



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This applies especially to the following sections:

1. Expansion of the support system: Germany must ensure that adequate assistance and support is available to all women who suffer violence, regardless of their place of residence, state of health, origin or their residence title. Those affected have a human right to assistance and support (see Article 18, 23, 25 of the Istanbul Convention). A new federal law has to regulate these claims, ensure a demand-oriented supply (including women's shelters, specialized women counselling centres, victim protection ambulance, psychosocial support in legal proceedings) and ensure adequate financing.

2. Data collection: Data on violence against women must be collected regularly and extensively, taking into account the effects of violence on further (working) life. The Istanbul Convention, however, urges the collection of data or consistent time-series data (see Article 11). Forms, occurrence and overall social costs of domestic violence must be investigated more closely and existing counter-measures regularly evaluated for their effectiveness.

3. Independent right of residence for migrants and withdrawal of the reservation to the Istanbul Convention: Germany has made a reservation on the right of residence (Article 59, paragraphs 2 and 3) when signing the Istanbul Convention. The reservation means that migrant women are not allowed to get a residence permit independent of the husband before the end of the "Ehebestandszeit" ("three-year marriage period"). We demand for third-country residents to have a independent right of residence and we call for the withdrawal of the reservation.

ⁱ BKA (Bundeskriminalamt) 2016: Partnerschaftsgewalt. Kriminalistische Auswertung – Berichtsjahr 2015. p. 5.

ⁱⁱ BMFSFJ (Bundesministerium für Familie, Senioren, Frauen und Jugend) 2005: Lebenssituation, Sicherheit, und Gesundheit von Frauen in Deutschland. Ergebnisse der repräsentativen Untersuchung zu Gewalt gegen Frauen in Deutschland. p. 29.

ⁱⁱⁱ Gemeinsamer Antrag der Bundestagsfraktionen CDU/CSU und SPD „Die Situation von Frauenhäusern verbessern“, BT-Drs. 16/12992, 3 May 2009.

^{iv} Bundesregierung (2012): Bericht der Bundesregierung zur Situation der Frauenhäuser, Fachberatungsstellen und anderer Unterstützungsangebote für gewaltbetroffene Frauen und deren Kinder, Bestandsaufnahme zur Situation der Frauenhäuser, Fachberatungsstellen und anderer Unterstützungsangebote für gewaltbetroffene Frauen und deren Kinder. p. 52.

^v TDF compilation of relevant newspaper articles published in 2017 (see annex).

^{vi} Press release of the Association of Women's Shelters (Frauenhauskoordinierung e.V.), 12 September 2017. <http://www.frauenhauskoordinierung.de/aktuelles/view/artikel/frauenhaeuser-in-deutschland-schlagen-alarm-faktisch-herrscht-vielerorts-aufnahmestopp.html>

^{vii} CEDAW Alternative Report Germany 2016. p. 24.

^{viii} Deutscher Verein für öffentliche und private Fürsorge 2010: Diskussionspapier des Deutschen Vereins zur Finanzierung von Frauenhäusern, p. 2-4.

^{ix} CEDAW Alternative Report Germany 2016. p. 23.

^x CEDAW 2009: EDAW/C/DEU/CO/6, para. 43, 44.