

Deutscher Juristinnenbund e.V.
German Women Lawyers' Association

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Berlin, January 31, 2020

Contribution

to the UN Committee on the Elimination of Discrimination Against Women (CEDAW) on the List of Issues Prior to Reporting by Germany (Ninth Periodic Report) submitted by the German Women Lawyers' Association (djbb).

These suggestions for the List of Issues Prior to Reporting are made by the German Women Lawyers' Association (Deutscher Juristinnenbund e.V., djbb).

The primary goal of the German Women Lawyers' Association is to achieve substantive equality for women in all areas of society and to help realize women's human rights. It was founded in 1948, bringing together women from all legal professions. The German Women Lawyers' Association addresses gender-based discrimination in every field of society, professional and family life by advocating for and participating in law reforms, by submitting *amicus curiae* briefs to the Federal Constitutional Court, by reporting to human rights bodies, by offering continued legal education, by supporting young female legal professionals and scholars, and by connecting women lawyers from different backgrounds.

Issues

1. Political participation of women
2. Digitalisation
3. Protection of victims of gender-based violence in criminal proceedings
4. Combatting gender stereotypes
5. Female refugees
6. Access to the labour market
7. Tax law and tax policies
8. Forced sterilization of women with learning disabilities
9. Access to safe and legal abortion and measures against street harassment by anti-abortion activists

The German Women Lawyers' Association suggests that the CEDAW Committee asks Germany to report on the following issues:

1. Political participation of women

(a) What measures will be taken to finally enforce the *de facto* political participation of women?

(b) When will temporary special measures for parliamentary elections and electoral offices be introduced at federal level?

With the elections in 2017, the percentage of female members of the Federal Parliament (Bundestag) dropped to a mere 30.9 % (from 36.5 % during the preceding legislative period), which is the lowest percentage within the past 20 years.¹ Only political parties that committed themselves to a gender quota through their statutes reached an adequate percentage.² In the parliaments of the federal states (Länder), the percentage ranges from 21.8 % to 40.7 %.³ The percentage of women in the municipal councils (Kommunalvertretungen) reaches 25 %, and that of female mayors 10 %.⁴

The German states Brandenburg and Thuringia passed so-called “parity laws” in 2019. In both states, political parties will have to appoint as many female as male candidates for elections starting with the 2024 state elections.⁵ However, opposition parties in these state parliaments have announced to take legal action before the respective state constitutional courts against parity legislation. In the other federal states, demands for parity laws have been made, but only Saxony-Anhalt and Lower Saxony have taken further steps towards parity legislation.⁶ On the federal level, however, there are no concrete initiatives to establish a parity law.

2. Digitalisation

What measures will be taken

(a) to assess the impact of digital developments on gender equality and to avoid disadvantages for women regarding paid work, the distribution of care work, and social security?

(b) to ensure effective protection against digital gender-based violence?

(c) to prevent gender-based discrimination through algorithms?

Digitalisation has an impact on equality. The last Gender Equality Report of the Federal Government, published in 2017, identifies numerous challenges in the field of digitalisation.⁷ But as the report makes clear, discussions on digitalisation have so far been gender-blind.⁸

The report shows that digitalisation has a significant impact on the organisation of gainful employment. The report notes, inter alia, that digitalisation is changing labour demand and supply, organisation and structures in enterprises.⁹ With regard to digital work, the report recommends enabling and regulating mobile work.¹⁰ Also, digital platforms need to be better regulated, particularly in the area of social and household services.¹¹ Gender-competent labour market monitoring must also take into account the transformation of the labour market through digitalisation.¹²

Cyber harassment entails particular dangers to health and self-determination; more effective protection mechanisms are necessary here.¹³ Online hate speech directed against female politicians, journalists and women's rights activists is characterized by sexist insults and threats

of gender-based violence and threatens to drive women off the digital space and political life. A lower court decision in 2019 spurred a debate about the effectiveness of civil and criminal protection of women in this area.¹⁴ The Federal Government announced a package of measures to combat hate crimes and right wing extremism,¹⁵ but without a gender-perspective.¹⁶

3. Protection of victims of gender-based violence in criminal proceedings

(a) What concrete measures will be taken to prevent victims of gender-based violence in criminal proceedings from being retraumatized or otherwise harmed, especially by gender stereotyping and victim blaming, by defence lawyers, prosecutors, or judges?

(b) Given the number of unreported cases, what measures will be taken to ensure that sexualised and other gender-based violence is actually reported by those affected?

In 2017, a fundamental Penal Code reform took place to establish consent or the lack of consent as the central element of the criminal law against sexual assault and rape (among other reasons, to implement the Istanbul Convention). Despite law reforms, research and public debate on sexual violence, attrition rates continue to rise in Germany. Judges and prosecutors show little knowledge about sexual violence and its consequences or about different manifestations of trauma. Victims report court proceedings to be characterized by gender stereotypes, rape myths, blaming the victim, secondary victimization, and obstructions to the work of the legal counsel to whose support they are entitled.

Moreover, in some cases, criminal court judges seem to approve of cruel and degrading treatment of female rape victims by defence lawyers whose conduct cannot be justified by the presumption of innocence nor by any other right of the accused. Victims who have to testify are intimidated, retraumatized, and asked most intimate questions with no regard to the sexual violence that took place etc. One case is known in which the victim was forced to watch video recordings of her own rape. The German association of defence lawyers has published a policy paper in which the credibility of rape victims is fundamentally questioned and which employs the term 'alleged victims' in quotation marks throughout and sent this paper to German criminal court judges. The aim of this kind of defence seems to be to end the criminal proceedings by forcing the victim to give up.

No more than 5-10% of all (generally punishable) sexual assault and rape incidents are reported to the police or the public defender. The total number was slightly rising after a criminal law reform in 1997/98 but the percentage, in fact, was declining. Knowledge of what will happen in court (see above) is one of the main reasons for the decline of reporting rates. While judges, jurists and defence counsels vigorously campaign against effective laws on sexual assault and rape, no measures are recognizably taken by any authority to stop traumatization and victim blaming in court, to protect both the rights of the accused as well as the rights of the victims, to guarantee effective prosecution of sexual violence, and to prevent sexual assault, harassment and rape in the first place.

4. Combatting gender stereotypes

(a) Which systemic measures (beyond isolated projects) has Germany taken on the federal and state (Länder) levels so as to effectively combat gender stereotypes

(aa) in kindergarten, preschool, school and university education as well as vocational training, including in educational and training material (school books etc.)? In particular: Which measures have been taken to monitor the implementation of the Guidelines for gender-sensitive schooling?

(bb) in occupational counselling, including for refugee women?

(cc) in media, especially public TV programmes?

(dd) reinforced by sexist advertisements?

(b) With respect to gender stereotypes in advertising and in gender-segregated marketing, could Germany explain why it considers purely commercial activities to be protected by freedom of speech and not by the (constitutionally protected) freedom of doing business, and why it considers that doing business through sexist advertisements outweighs the obligation of businesses not to discriminate against women?

(c) With respect to gender stereotypes in advertisements, has the Federal Government taken any measures to evaluate the effectiveness of the work of the German Advertising Standards Council, including by taking into account possible under-reporting due to a perceived lack of ineffectiveness? If so, what conclusions has the Government drawn from these findings? If not, on what basis has the Government taken its decision not to carry out an evaluation?

(d) Do governments at the federal and state (Länder) levels take measures to ensure that public funds are not spent in a way benefitting businesses that promote gender stereotypes?

During the last reporting cycle, the CEDAW Committee repeated its concerns that gender stereotypes prevail in Germany and that stereotyped and sexualised images of women continue to appear in the media and advertisements, and that stereotyped media portrayals of women with a migration background undermines their ability to integrate into society.¹⁷ Since then, the following developments can be observed:

Education: In 2016, the Conferences of the Ministers of Culture (responsible for school education) and of the Equality Ministers adopted Guidelines to ensure gender equality through gender-sensitive schooling.¹⁸ Since then, no analysis of gender stereotypes in educational material has been published. With respect to early childhood education, the Federal Legislature adopted a law on improving the quality of kindergartens in 2018.¹⁹ The Federation provides money for actions taken by the states (Länder) in enumerated areas; none of them, however, covers combatting gender stereotypes explicitly. Despite an analysis of gender stereotypes in legal education²⁰ that caused discussions in law faculties and the legal profession, no specific measures have been introduced.

Public media: According to the Broadcasting Treaty concluded by the states (Länder), commercials in all (public and private) TV and radio stations may not contain or promote discrimination based on gender (inter alia).²¹ There is no provision obligating public TV and radio stations to abstain from promoting gender stereotypes through their programmes or to combat them.

Advertisement: In 2017, the state of Bremen adopted a law prohibiting sexist advertisements on advertising panels owned by the state.²² In 2017, the Federal Government withdrew its plan to introduce a law prohibiting sexist advertisements and mandated the NGO Pinkstinks with monitoring sexist advertising for two years, i.e. until end of July 2019.²³

Labour Market Integration: In 2017, the Government's Second Equality Report recommended to develop gender-sensitive training material for the labour market integration of refugee women.²⁴

5. Female refugees

(a) When will gender guidelines be used to identify gender-based persecution and protection needs due to gender-based vulnerabilities?

(b) How will existing laws be amended to guarantee that female refugees and other migrant women have unrestricted access to women's shelters and all other forms of support for domestic and sexual violence and that they can decide in full autonomy about the safest place to stay?

Since 2015, the number of female applicants has risen steadily and currently amounts to over 43 %.²⁵ Since the 2005 amendments, the asylum law has been stating that all forms of gender-based persecution must be identified during the asylum procedure and that they are grounds for granting refugee status.²⁶ Even though decision-makers, who are specially trained on gender-sensitive issues, shall conduct the official interviews with refugees, gender-based violence is often not identified in the interviews and gender-based persecution not recognized in the asylum procedure. Only 1.74 % of the positive asylum decisions are based upon the recognition of gender-based persecution.²⁷

Furthermore, the restrictions on freedom of movement during the asylum procedure²⁸ represent a major obstacle to access to effective protection against violence. Female refugees who are victims of violence by family members, social or security staff or other refugees are not allowed to seek refuge in women's shelters outside the assigned refugee accommodation. Although the legislation on 'compulsory residence' (Residenzpflicht) provides for exemptions, neither the legislation itself nor the guidelines for interpreting the laws state gender-based violence as constituting grounds for exemption. The often short-term need to seek protection in a women's shelter without prior official permission constitutes an administrative offence, which makes access to protection more difficult and severely endangers female refugees who are victims of gender-based violence.

6. Access to the labour market

(a) What concrete measures will be taken to eliminate the distinct gender segregation of the labour market in Germany?

(b) What concrete measures will be taken to end discrimination and stereotyping of women with disabilities and women with a migration background who try to participate in the labour market?

(c) Which strategy is pursued for more successful labour market integration of refugee women? To what extent is the participation of female refugees in language courses, e.g. also considering childcare, encouraged?

(d) What measures will be taken to combat discrimination against Muslim women in employment?

There are still many occupations in the German labour market that are dominated by women or men. Only about 10% of employees work in a profession dominated by the other sex. The occupations dominated by women include in particular social work, health, care, education and household services. The professions dominated by women are regularly paid significantly less than the professions dominated by men.²⁹

Disabled women are even more affected by discrimination and stereotyping in accessing the labour market than women without disabilities.³⁰ Despite their strong desire to work, the labour market integration of female refugees (78.8% would like to work) is far less successful compared to male refugees. The employment rate is worryingly low: 11.5% in 2016.³¹ Moreover, women with a migrant background are exposed to significant discrimination when looking for a job. In 2015, the UN Committee against All Forms of Racial Discrimination expressed its concern about Germany, in particular about ethnic-religious discrimination against Muslim women in access to employment.³² They are less frequently invited to job interviews and have lower overall job prospects. Generally, the proportion of employees with very low weekly working hours is significantly higher among women with a migrant background than among women without a migrant background. And the income differences between women and men are greater among immigrants *after* moving to Germany than before moving to Germany.³³

7. Tax law and tax policies

(a) How and when will employment barriers created by the tax system for women be eliminated?

(b) How will future tax reforms be prevented from discriminating against women and ensure substantive gender equality as a result of tax policies?

Joint taxation with income splitting, the system of payroll taxes for spouses, the insufficient deductibility of employment-related childcare costs and the tax privileges of marginal employment create strong disincentives for women's financially sufficient labour force participation, in particular when returning to work after a family phase. These incentives reinforce traditional gender roles and thus contradict the objectives of the German parental allowance. They also consolidate or even intensify gender gaps in income, care work, and old age security.

Despite national and international recommendations to review the tax system and introduce an individual taxation, the Government refuses to adopt effective changes.³⁴

Furthermore, tax reforms over the last decades have weakened the redistributive power of the tax system. The rising tax burden on consumption and the decreasing taxation of capital income and high incomes, in general, imply a shift of the tax burden away from men towards women.³⁵ The planned reform of the solidarity surcharge is likely to enhance this effect further. However, despite the obligation for gender-based impact assessments in legislative procedures, the distributive and allocative impact of tax reforms on women and men is neither examined nor adequately considered.³⁶

8. Forced sterilization of women with learning disabilities

What immediate measures will be taken to effectively abolish the sterilization of women with learning disabilities without their consent, knowledge or understanding?

German law provides for the possibility of sterilization of women with so-called mental disability at the decision of a care-giver and with participation of a court. There are still around 30 to 40 annual cases of sterilization of women with learning disability documented, but the number of undocumented cases is significantly higher. 9% to 18% of women with disabilities are sterilized in comparison to between 2% to 6% of the female population. According to a study on the sterilization of women with so-called mental disabilities, only half of the women explained that they consented to their sterilization. In the other half of cases, the determining factors were persuasion by parents, physicians or nursing staff, lack of knowledge about contraception or lack of prospects of living with a child.³⁷

9. Access to safe and legal abortion and measures against street harassment by anti-abortion activists

(a) What measures will be taken to guarantee access to safe and legal abortion for all women, especially women living in rural areas, and to guarantee this access in respect for women as competent decision-makers?

(b) What measures will be taken to offer respectful and supportive counselling on a voluntary basis for every pregnant woman in need?

(c) When will objective information about abortion be comprehensively de-criminalized, including when given by doctors or clinics offering abortion services?

(d) In light of the German past, is the German government considering to introduce a fine imposed for the equation of abortion and the Shoah in (digital) public?

(e) What measures will be taken to guarantee protection against degrading treatment and street harassment of pregnant women by anti-abortion activists in front of approved counselling centres or medical practices and clinics offering abortion services?

In follow-up to the Concluding Observations, the German government rejected any recommendations by the Committee to ensure access to safe abortion without subjecting women

to mandatory counselling and a three-day waiting period, and to reimburse such procedures through health insurance. The government referred to a 25-year-old highly controversial Federal Constitutional Court decision and an alleged societal consensus on the legal framework for abortion.

Over the last 15 years, the number of doctors and clinics offering abortion services has declined from 2,050 to 1,173.³⁸ Access to abortion is not ensured, especially not for rural women. It is still a punishable crime for doctors to publicly inform about the methods, costs and circumstances when they are offering abortion services.³⁹ Meanwhile, anti-abortion activists are not prevented from equating abortion with the Shoah in public and on social media.⁴⁰ Moreover, anti-abortion activists turned to long-term (40 days three times a year) street harassment of (supposedly unintentionally pregnant) women in front of state-approved counselling centres for sexual and reproductive health, mostly undisturbed by German authorities.

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Selected data and legal literature

1. Political participation of women

Council of European Municipalities and Regions (CEMR): Women in Politics. Local and European Trends, 2019,

https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_Study_Women_in_politics_EN.pdf

Deutscher Juristinnenbund, Press Release of 31 January 2019, "Brandenburg schreibt Geschichte: Erstes Paritätsgesetz der Bundesrepublik",

<https://www.djb.de/verein/Kom-u-AS/K5/pm19-05/>.

Deutscher Juristinnenbund, Press Release of 26 September 2017, "Nach der Wahl: Knapp 6 Prozent weniger Frauen im Deutschen Bundestag",

<https://www.djb.de/verein/Kom-u-AS/K5/pm17-35/>.

European Institute for Gender Equality (EIGE), Gender Statistics Database: Parliaments and assemblies in Germany,

https://eige.europa.eu/gender-statistics/dgs/indicator/wmidm_pol_parl__wmid_natparl/line/year:1999-Q3,2003-Q3,2004-Q2,2004-Q3,2004-Q4,2005-Q1,2005-Q2,2005-Q3,2005-Q4,2006-Q1,2006-Q2,2006-Q3,2006-Q4,2007-Q1,2007-Q2,2007-Q4,2008-Q1,2008-Q2,2008-Q3,2008-Q4,2009-Q1,2009-Q2,2009-Q3,2009-Q4,2010-Q1,2010-Q2,2010-Q3,2010-Q4,2011-Q1,2011-Q2,2011-Q3,2011-Q4,2012-Q1,2012-Q2,2012-Q3,2012-Q4,2013-Q1,2013-Q2,2013-Q3,2013-Q4,2014-Q1,2014-Q2,2014-Q3,2014-Q4

Q3,2014-Q4,2015-Q1,2015-Q2,2015-Q3,2015-Q4,2016-Q1,2016-Q2,2016-Q3,2016-Q4,2017-Q1,2017-Q2,2017-Q3,2017-Q4,2018-Q1,2018-Q2,2018-Q3,2018-Q4,2019-Q1,2019-Q2,2019-Q3/geo:DE/sex:W/UNIT:PC/POSITION:MEMB_PARL/EGROUP:PARL_SINGLOW.

Federal Ministry for Family, Senior Citizens, Women and Youth, Digital Equality Atlas with figures on political participation for federal, state and local level, <https://www.bmfsfj.de/bmfsfj/service/online-rechner/gleichstellungsatlas>.

Helene Weber Kolleg, Data on Women in Politics in Germany (parliaments, government, mayors), <https://www.frauen-macht-politik.de/infothek.html>.

2. Digitalisation

Deutscher Gewerkschaftsbund, „Was bedeutet die Digitalisierung der Arbeitswelt für Frauen? Eine Beschäftigtenumfrage“, 2017 (Survey of the German Trade Union Confederation on the effects of digitisation on the employment of women), <https://innovation-gute-arbeit.verdi.de/++file++58c0090b086c2602d72dfc7a/download/DGB-Index-Gute-Arbeit-Frauen-und-Digitalisierung.pdf>

Deutscher Juristinnenbund, Policy Paper „Mit Recht gegen Hate Speech – Bekämpfung digitaler Gewalt gegen Frauen“, 4 November 2019, <https://www.djb.de/verein/Kom-u-AS/ASDigi/st19-23/>.

Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>

3. Protection of victims of gender-based violence in criminal proceedings

Deutscher Juristinnenbund, djb-Policy Paper „Opferrechte im Strafverfahren wegen geschlechtsbezogener Gewalt“ of 22 November 2018, <https://www.djb.de/verein/Kom-u-AS/K3/st18-18/>

Deutscher Juristinnenbund, Position Paper on the draft of an ... Act Amending the Criminal Code - Implementation of European Directives on Sexual Criminal Law of the Federal Ministry of Justice and Consumer Protection of 25 July 2014, <https://www.djb.de/verein/Kom-u-AS/K3/14-14/>

Terre des Femmes, Sexual violence in Germany, <https://www.frauenrechte.de/images/downloads/hgewalt/Sexuelle-Gewalt-in-Deutschland.pdf>

Deutscher Juristinnenbund, Position Paper on the effective implementation of the Convention on preventing and combating violence against women and domestic violence in Germany, 2018, <https://www.djb.de/verein/Kom-u-AS/K6/st18-02/>

Kotlenga/Nägele/Nowak/Goergen, “Rechte und Bedarfe und Rechte von Opfern im Strafverfahren – Befunde einer Aktenanalyse und einer qualitativen Interviewstudie“, 2016, <http://www.inasc.org/pdf/Opferschutz-Strafverfahren-Partnergewalt-Forschungsbericht2016.pdf>.

bff (Federal Association of Women's Counselling Centres and Women's Emergency Calls), Sex offences as a dispute: facts and figures, <https://www.frauen-gegen-gewalt.de/de/streitsache->

[sexualdelikte.html?file=files/userdata/downloads/studien/Dokumentation_bff_Kongress_Str
eitsache_Sexualdelikte.pdf](#)

4. Combatting gender stereotypes

Bundesregierung, Zweiter Gleichstellungsbericht, 2017 (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>, p. 227.

Dana-Sophia Valentiner, Stereotype in juristischen Ausbildungsfällen. Eine hamburgische Studie, in: Social Transformations. Research on Precarisation and Diversity, Vol 2, 2018, pp. 1-29, <https://www.socialtrans.de/index.php/st/article/download/25/21>

Berit Völzmann, Geschlechtsdiskriminierende Wirtschaftswerbung, Baden-Baden (Nomos) 2015.

5. Female refugees

Deutscher Juristinnenbund, Position Paper on the draft bill of the Federal Ministry of the Interior, for Building and Home Affairs on the draft law on the delimitation of the Integration Act, 2019, <https://www.djv.de/verein/Kom-u-AS/K4/st19-05/>

Federal Office for Migration and Refugees, The Federal Office in numbers, 2018, <https://www.bamf.de/SharedDocs/Anlagen/DE/Statistik/BundesamtinZahlen/bundesamt-in-zahlen-2018.html>.

Dorothee Frings & Anne Pertsch, "Die Bedeutung der Istanbul-Konvention für geflüchtete Frauen", *djvZ* 4/2018, https://www.djv.de/static/common/download.php/save/2675/djvZ_4-2018_Fokus-IK-final.pdf.

6. Access to the labour market

Timm Bönke, Astrid Harnack & Miriam Wetter (2019), „Wer gewinnt? Wer verliert? Die Entwicklung auf dem deutschen Arbeitsmarkt seit den frühen Jahren der Bundesrepublik bis heute“ (Who wins? Who loses? Developments on the German labour market from the early years of the Federal Republic to today), <https://www.bertelsmannstiftung.de/de/publikationen/publikation/did/wer-gewinnt-wer-verliert-2/>, <https://www.bertelsmannstiftung.de/index.php?id=12932>

Bundesagentur für Arbeit, Statistik/Arbeitsmarktberichterstattung, Berichte: Blickpunkt Arbeitsmarkt – Die Arbeitsmarktsituation von Frauen und Männern 2018, Nürnberg, Juli 2019 (*Federal Employment Agency*, Report on the labour market situation of women and men in 2018), <https://statistik.arbeitsagentur.de/Statischer-Content/Arbeitsmarktberichte/Personengruppen/generische-Publikationen/Frauen-Maenner-Arbeitsmarkt.pdf>

BMFSFJ (2013), Lebenssituation und Belastungen von Frauen mit Behinderungen und Beeinträchtigungen in Deutschland (*Federal Ministry of Family Affairs, Senior Citizens, Women and Youth*, Report on the life situation and burdens of women with disabilities) <http://www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationsliste,did=199822.html>.

Deutscher Juristinnenbund, Stellungnahme „Schlussfolgerungen des Deutschen Juristinnenbundes e.V. aus der Evaluation des Entgelttransparenzgesetzes“ vom 07.07.2019 (djB Position Paper on the evaluation on the transparency of pay law)

<https://www.djb.de/verein/Kom-u-AS/K1/st19-18/>

Susanne Worbs & Tatjana Baraulina (2017), Female Refugees in Germany: Language, Education, and Employment, BAMF Brief Analysis,

https://www.bamf.de/SharedDocs/Anlagen/DE/Forschung/Kurzanalysen/kurzanalyse7_gefluechtetefrauen.html.

Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>

7. Tax law and tax policies

Deutscher Juristinnenbund, Press Release of 10 September 2019, „Ehegattensplitting und Gleichstellung im deutschen Steuersystem“,

<https://www.djb.de/verein/Kom-u-AS/K4/19-28/>.

Bundesregierung, Antwort vom 30. August 2019 auf die Kleine Anfrage u.a. der Bundestagsfraktion Die Linke, BT-Drs. 19/12857,

<http://dip21.bundestag.de/dip21/btd/19/128/1912857.pdf>.

European Parliament, Resolution of 15 January 2019 on gender equality and taxation policies in the EU, 2018/2095 (INI),

https://www.europarl.europa.eu/doceo/document/TA-8-2019-0014_EN.pdf.

Federal Ministry of Finance, „Zur Reform der Besteuerung von Ehegatten“, Gutachten des Wissenschaftlichen Beirats beim Bundesministerium der Finanzen, 2018,

https://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Ministerium/Geschäftsbereich/Wissenschaftlicher_Berat/Gutachten_und_Stellungnahmen/Ausgewaehlte_Texte/2018-09-27-Gutachten-Besteuerung-von-Ehegatten-anlage.pdf?__blob=publicationFile&v=2.

Asa Gunnarsson, Margit Schratzenstaller & Ulrike Spangenberg, Gender equality and taxation in the European Union, Study for the FEMM Committee, Brussels 2017, pp. 20f.,

[http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583138/IPOL_STU\(2017\)583138_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583138/IPOL_STU(2017)583138_EN.pdf).

8. Forced sterilization of women with learning disabilities

Federal Ministry for Family, Senior Citizens, Women and Youth (2013), Lebenssituation und Belastungen von Frauen mit Behinderungen und Beeinträchtigungen in Deutschland,

<http://www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationsliste,did=199822.html>.

Julia Zinsmeister, Zur Einflussnahme rechtlicher Betreuerinnen und Betreuer auf die Verhütung und Familienplanung der Betreuten, in: BtPrax 2012, S. 227-232.

9. Access to safe and legal abortion and measures against street harassment by anti-abortion activists

40% decline in number of doctors and clinics offering abortion services in Germany: ZeitOnline vom 23. August 2018, <https://www.zeit.de/gesellschaft/zeitgeschehen/2018-08/schwangerschaftsabbrueche-statistisches-bundesamt-arztpraxen-kliniken>.

Gloria Berghäuser, Die Strafbarkeit des ärztlichen Anerbietens zum Schwangerschaftsabbruch im Internet nach § 219a StGB – eine Strafvorschrift im Kampf gegen die Normalität, in: Juristenzeitung 10/2018, S. 497-504.

Andrea Büchler, Reproduktive Autonomie und Selbstbestimmung – Dimensionen, Umfang und Grenzen an den Anfängen menschlichen Lebens, 2017.

Deutscher Juristinnenbund, Stellungnahme vom 26. Juli 2019 zum Gesetzesentwurf der Fraktion DIE LINKE Hessisches Gesetz zum Schutz der Rechte von schwangeren Frauen bei Schwangerschaftsberatung und -abbruch (Drs 20/384 vom 22.03.2019), https://www.djb.de/verein/djb-regional/hessen/pm-st/St19-07_LV-Hessen/.

Deutscher Juristinnenbund, Stellungnahme vom 31. Januar 2019 zum Referentenentwurf des BMJV „Entwurf eines Gesetzes zur Verbesserung der Information über einen Schwangerschaftsabbruch“ vom 28. Januar 2019 und zum Eckpunktepapier zur „Verbesserung der Informationen und Versorgung in Schwangerschaftskonfliktlagen“ vom 12. Dezember 2018, <https://www.djb.de/verein/Kom-u-AS/ASRep/st19-03/>.

Deutscher Juristinnenbund, Stellungnahme vom 26. Juni 2018 zur öffentlichen Anhörung des Ausschusses für Recht und Verbraucherschutz des Deutschen Bundestages am 27. Juni 2018 zu den Gesetzesentwürfen zur Änderung des Strafgesetzbuches – Einschränkung bzw. Aufhebung von § 219a StGB, <https://www.djb.de/verein/Kom-u-AS/ASRep/st18-09/>.

Administrative Court of Karlsruhe, judgment of 27 March 2019, 2 K 1979/19 (http://lrw.juris.de/cgi-bin/laender_rechtsprechung/document.py?Gericht=bw&nr=27813).

Higher Criminal Court of Gießen, judgment of 12 October 2018, 3 Ns 406 Js 15031/15, <https://www.rv.hessenrecht.hessen.de/bshe/document/LARE190006030>.

Criminal Court of Gießen, judgment of 24. November 2017, 507 Ds 501 Js 15031/15, <https://www.rv.hessenrecht.hessen.de/bshe/document/LARE190000405>.

Endnotes

¹ <https://www.bpb.de/gesellschaft/gender/frauen-in-deutschland/49418/frauenanteil-im-deutschen-bundestag>.

² Viz. a percentage above 40%. *Deutscher Juristinnenbund*, Press Release of 26 September 2017, “Nach der Wahl: Knapp 6 Prozent weniger Frauen im Deutschen Bundestag”, <https://www.djb.de/verein/Kom-u-AS/K5/pm17-35/>.

³ <http://kuerschners.com/verlag/aktuelles/thema/news/frauenanteil-in-parlamenten.html>.

⁴ See www.frauen-macht-politik.de/infothek.html. For details regarding municipal councils (as of 2015), see: www.bmfsfj.de/bmfsfj/service/online-rechner/gleichstellungsatlas. For a more detailed breakdown with respect to female mayors see: *Helga Lukoschat & Jana Belschner* (2014), *Frauen führen Kommunen*, p. 16,

http://www.frauen-macht-politik.de/fileadmin/eaf/Dokumente/Schwerpunktthema/Studie_Frauen_fuehren_Kommunen.pdf. See also: Council of European Municipalities and Regions (CEMR): Women in Politics. Local and European Trends, 2019, https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_Study_Women_in_politics_EN.pdf, p. 75.

⁵ This will be the first elections after the entry into force of the law in 2020. See DW (Deutsche Welle Radio Station), "Germany: Brandenburg approves law to get more women in parliament", <https://www.dw.com/en/germany-brandenburg-approves-law-to-get-more-women-in-parliament/a-47312321>; *Deutscher Juristinnenbund*, Press Release of 31 January 2019, "Brandenburg schreibt Geschichte: Erstes Paritätsgesetz der Bundesrepublik", <https://www.djb.de/verein/Kom-u-AS/K5/pm19-05/>. See for further analysis: <https://www.frauen-macht-politik.de/die-ersten-paritaetsgesetze.html>.

⁶ See „Gesetzesinitiativen in den Bundesländern“, Helene Weber Kolleg, <https://www.frauen-macht-politik.de/gesetzesinitiativen-in-den-bundeslaendern.html>.

⁷ See Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>.

⁸ Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>, p. 242.

⁹ Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>, p. 215-216.

¹⁰ Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>, p. 216.

¹¹ Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>, p. 217-218.

¹² Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>, p. 220.

¹³ Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>, p. 218-220.

¹⁴ Landgericht (Reginal Court) Berlin, Decision of 09 September 2019 - 27 AR 17/19, <https://openjur.de/u/2180445.html>.

¹⁵ Bundesregierung, Maßnahmenpaket zur Bekämpfung des Rechtsextremismus und der Hasskriminalität, of 30 October 2019, https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/2019/massnahmenpaket-bekaempfung-rechts-und-hasskrim.pdf?__blob=publicationFile&v=5.

¹⁶ *Deutscher Juristinnenbund*, Press Release of 4 November 2019, "Umfangreiche Maßnahmen gegen Hate Speech von djb gefordert", <https://www.djb.de/verein/Kom-u-AS/ASDigi/pm19-36/>. See also: *Deutscher Juristinnenbund*, Policy Paper „Mit Recht gegen Hate Speech – Bekämpfung digitaler Gewalt gegen Frauen“, 4 November 2019, https://www.djb.de/static/common/download.php/savepm/4208/st19-23_HateSpeech.pdf.

¹⁷ CEDAW/C/DEU/CO/7-8, para. 21.

¹⁸ They require, inter alia, adapting educational plans and curricula, to review school books and other educational material, to make gender competence a substantial quality requirement in the education and further training of teachers, and to make overcoming gender stereotypes the purpose of life planning and occupational counselling. See: „Leitlinien zur Sicherung der Chancengleichheit durch geschlechtersensible schulische Bildung und Erziehung“, Beschluss der Kultusministerkonferenz vom 06.10.2016/ Beschluss der Konferenz der Gleichstellungs- und Frauenministerinnen und -minister, -senatorinnen und -senatoren der Länder vom 15./16.06.2016,

https://www.kmk.org/fileadmin/Dateien/veroeffentlichungen_beschluesse/2016/2016_10_06-Geschlechtersensible-schulische_Bildung.pdf.

¹⁹ Gesetz zur Weiterentwicklung der Qualität und zur Verbesserung der Teilhabe in Tageseinrichtungen und in der Kindertagespflege („Gute-Kita-Gesetz“) of 19 December 2018, <https://www.gesetze-im-internet.de/kiqutg/BJNR269610018.html>.

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- ²⁰ Dana-Sophia Valentiner, Stereotype in juristischen Ausbildungsfällen. Eine hamburgische Studie, in: Social Transformations. Research on Precarisation and Diversity, Vol 2, 2018, pp. 1-29, <https://www.socialtrans.de/index.php/st/article/download/25/21>.
- ²¹ Staatsvertrag für Rundfunk und Telemedien (Rundfunkstaatsvertrag - RStV), § 7(1)1, https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Gesetze_Staatsvertraege/Rundfunkstaatsvertrag_RStV.pdf.
- ²² News report of 4 April 2017, <https://www.tagesspiegel.de/gesellschaft/panorama/schmuddelwerbung-bremen-geht-gegen-sexistische-plakate-vor/19614438.html>.
- ²³ <https://pinkstinks.de/kommt-jetzt-ein-bundesweites-gesetz-gegen-sexistische-werbung/>. The report is not freely available. The discussion on a law prohibiting sexist advertising was triggered by the doctoral thesis of Berit Völzmann (2015), Geschlechtsdiskriminierende Wirtschaftswerbung, which was taken up by women's organizations.
- ²⁴ Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>, p. 227.
- ²⁵ Bundesamt für Migration und Flüchtlinge (BAMF), Das Bundesamt in Zahlen 2018, <http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Broschueren/bundesamt-in-zahlen-2018.html>, p.22.
- ²⁶ Cf. § 3b AsylG.
- ²⁷ Bundesamt für Migration und Flüchtlinge (BAMF), Das Bundesamt in Zahlen 2018, <http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Broschueren/bundesamt-in-zahlen-2018.html>, p.41.
- ²⁸ CT. §§ 56, 60 AsylG; §§ 12a, 61 AufenthG.
- ²⁹ Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>, p. 85.
- ³⁰ BMFSFJ (2013), Lebenssituation und Belastungen von Frauen mit Behinderungen und Beeinträchtigungen in Deutschland, <http://www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationsliste,did=199822.html>.
- ³¹ Susanne Worbs & Tatjana Baraulina (2017), Female Refugees in Germany: Language, Education, and Employment, BAMF Brief Analysis, http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Kurzanalysen/kurzanalyse7_gefluchetete-frauen.html.
- ³² UN Doc. CERD/C/DEU/CO/19–22, 15. Mai 2015, marginal number 14.
- ³³ Zweiter Gleichstellungsbericht der Bundesregierung (Second Gender Equality Report of the Federal Government of 2017), <https://www.gleichstellungsbericht.de/de/topic/2.zweiter-gleichstellungsbericht-der-bundesregierung.html>, p. 86.
- ³⁴ E.g. CEDAW (2017), Concluding Observations on the combined seventh and eighth periodic report of Germany, CEDAW/C/DEU/CO/7-8; European Parliament (2018), Resolution on gender equality and taxation policies in the EU, 2018/2095 (INI); Bundesregierung (2019), Antwort auf Kleine Anfrage der Bundestagsfraktion Die Linke vom 30.08.2019, BT-Drs. 19/12857.
- ³⁵ Asa Gunnarsson, Margit Schratzenstaller & Ulrike Spangenberg (2017), Gender equality and taxation in the European Union, Study for the FEMM Committee, Brussels, pp. 20f., [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583138/IPOL_STU\(2017\)583138_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583138/IPOL_STU(2017)583138_EN.pdf).
- ³⁶ Deutscher Juristinnenbund, Press Release of 10 September 2019, „Ehegattensplitting und Gleichstellung im deutschen Steuersystem“, <https://www.djb.de/verein/Kom-u-AS/K4/19-28/>.
- ³⁷ BMFSFJ (2013), Lebenssituation und Belastungen von Frauen mit Behinderungen und Beeinträchtigungen in Deutschland, <http://www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationsliste,did=199822.html>.
- ³⁸ ZeitOnline vom 23. August 2018, <https://www.zeit.de/gesellschaft/zeitgeschehen/2018-08/schwangerschaftsabbrueche-statistisches-bundesamt-arztpraxen-kliniken>.
- ³⁹ (Amended) Section 219a of the Penal Code, https://www.gesetze-im-internet.de/stgb/_219a.html.
- ⁴⁰ Suggesting a fine for such equations (given that they are not a criminal offence) and explaining the shortcomings and pitfalls of the legal framework on access to information about abortion: Deutscher Juristinnenbund, Stellungnahme vom 31. Januar 2019 zum Referentenentwurf des BMJV „Entwurf eines Gesetzes zur Verbesserung der Information über einen Schwangerschaftsabbruch“ vom 28. Januar 2019 und zum Eckpunktepapier zur „Verbesserung der Information und Versorgung in Schwangerschaftskonfliktlagen“ vom 12. Dezember 2018, <https://www.djb.de/verein/Kom-u-AS/ASRep/st19-03/>.