

Implementation of the UN Convention on the Rights of the Child in Germany

Addendum to the 5th/6th Supplementary Report to the United Nations



Imprint

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NETWORK FOR THE IMPLEMENTATION OF THE UN CONVENTION ON THE RIGHTS OF THE CHILD

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5th/6th Supplementary Report to the United Nations**

Foreword

One year ago, in October 2019, the National Coalition published its 5th/6th Supplementary Report on Germany's implementation of the UN Convention on the Rights of the Child to the United Nations. This addendum focuses on the situation among children and adolescents since the outbreak of the 2020 coronavirus pandemic. It has been created as a result of the fact that the civil society hearing by the UN Committee on the Rights of the Child has been postponed due to the rate of new infections.

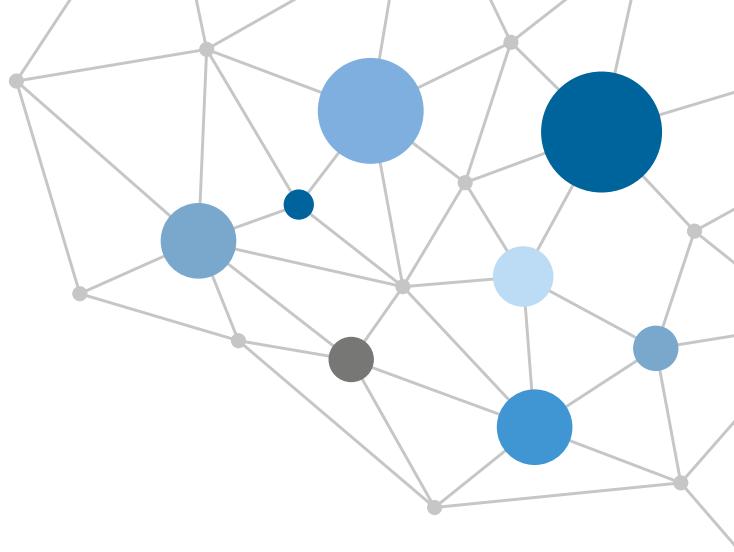
The pandemic has acted as a magnifying glass in illustrating and intensifying problems that already existed beforehand. Children and adolescents were, and continue to be, hit particularly hard by restrictions in many places – namely by the closure of educational, care and recreational facilities. This addendum to the report thus re-examines children's rights in five core areas, especially their rights to education, participation and protection against violence. It is centred on children and adolescents in particularly vulnerable situations, such as because they live in poor conditions, or because they have fled their homeland as refugees.

Many other children's rights not mentioned here have of course also been affected by the pandemic. Generally speaking, it can thus be said that the measures taken to contain the pandemic have much more serious impacts on the physical, mental and emotional development of children and adolescents than on adults, due to the highly dynamic nature of children's development and children's differing sense of time. They have a lasting negative impact on the course of children's lives.

When the coronavirus pandemic began in Germany in March 2020, day-care centres and

academic and vocational education establishments, all playgrounds and sporting grounds, and extracurricular educational facilities were closed, virtually across the entire country. Ninety-eight percent of all children and adolescents were primarily being looked after by their parents due to the closures of schools and day-care centres. The early-childhood education services that resumed limited operations at the end of April were primarily reserved for children of parents working in 'essential services', and then later also to children of solo parents, and were only used by one in ten children. Schools organised remote and digital learning to varying degrees, and this was supplemented with sporadic face-to-face learning from the early summer onwards. Many children and adolescents spent weeks and months predominantly at home, often leading to increased loneliness, excessive media use and more children having to be on their own. Initial studies have shown that socially and educationally disadvantaged children – including children with disabilities and children from migrant backgrounds – were hit harder than other children by the negative effects of the pandemic-induced closures of schools and other educational facilities.

After a summer during which many restrictions were eased, the infection rates are starting to climb again in October 2020, and laws and measures primarily aimed at containing the virus are again being enacted. But while Germany's Minister for Family Affairs, Seniors, Women and Youth Dr Franziska Giffey was not invited to the federal government's crisis meetings in spring, the Federal Minister for Health Jens Spahn, the State Minister-Presidents, and the scientific community now stress that the



impact on children's rights needs to be seen as an ultima ratio.

Yet children's wellbeing has so far not been focused on as a key principle when assessing measures to fight the pandemic. This has clearly highlighted to the 105 member organisations of the National Coalition Germany the failures associated with the years of delays in incorporating children's rights into the German Constitution, particularly the fundamental principles: Giving preference to child wellbeing, the right to participation and involvement, protecting against any form of discrimination, and the right to life and development. Only when all new laws and measures include the consequences for children and adolescents the way they do for adults, and systematically take into account child wellbeing, can we talk about holistic implementation of the UN Convention on the Rights of the Child. This is also particularly true in times of a global pandemic, and is what we are working on as a network

designed to implement the UN Convention on the Rights of the Child.

We would like to thank the many member organisations and individuals who constantly stand up for children's rights, and tirelessly examine the consequences of measures, or the abolition thereof, on children and adolescents, and contribute these findings to the political discourse, even during these exceptional times. We would particularly like to thank the Deutscher Kinderschutzbund, ECPAT, the Deutsches Kinderhilfswerk, the German Association for Unaccompanied Refugee Minors (UMF), Save the Children, and the Masters of Early-Childhood Education Research and M.A. Childhood Studies and Children's Rights courses at the Potsdam University of Applied Sciences for creating this addendum.

One final note: The terms 'coronavirus' or 'coronavirus pandemic' are used synonymously with 'SARS-CoV-2' or 'Covid19' in this document.

Berlin, 30 October 2020

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Right to participation

Art. 12 UN CRC

The right to participation, as established in Art. 12 UN CRC, does not cease to exist during and after crises; children should instead be encouraged and enabled to play an active role in tackling the crisis. Child wellbeing can only be properly investigated if the child's right to be heard and have their opinion taken into account is respected. As the measures have far-reaching impacts on the children's lives, and intensify existing inequalities, shortcomings in minors' participation in democratic decision-making processes have deteriorated further since the start of the pandemic.

The lack of involvement of young people in the decision to open and close schools, and in structuring lessons and school operations, including hygiene measures and remote learning, was particularly noteworthy. Student representatives, both from the

individual schools and at a state and federal level, were not listened to enough.¹ The German federal government's education summits did not involve directly affected children or specialists from various formal and informal educational establishments to discuss or consider the children's interests and needs. Affected children were similarly not involved in establishing measures for extracurricular aspects, such as closing playgrounds and subsequently imposing conditions on their use.

Children engaged in representative forums at a municipal and state level spoke of difficulties exchanging ideas with others during the coronavirus period due to technical problems and a lack of support, and that the contact restrictions had delayed many processes because digital structures first had to be set up, and some of the adults in charge were already overwhelmed with work. In addition, the vast majority of people in Germany also believe that children's interests were not adequately taken into account, if at all, in the measures implemented during the coronavirus pandemic.^{2,3}

The National Coalition Germany recommends that the UN Committee call on the German federal government to

- Create ways for children's interests to be taken into account at a policy level. This requires establishing effective, serious involvement at all state levels in order to be able to gear political processes and decisions around children's needs and interests, including times of crisis, and giving account of this.
- Provide information in a manner appropriate to children, particularly during the pandemic, as a requirement for effective participation by children.
- Establish a committee of experts, such as paediatricians, educators and developmental psychologists, as well as young people themselves, to formulate measures to balance out disadvantages when it comes to children and adolescents, and to conduct scientific analyses (upon surveying of demand) on the consequences of the pandemic for children.

Protection against violence

Art. 19 and Art. 34 UN CRC

Irrespective of the pandemic, children from all social classes are affected by various forms of violence. But poverty and cramped living conditions particularly trigger tension and conflict where there is suddenly no other alternative. It is safe to assume that, in many families and institutions, violence will increase the longer the pandemic continues.

Protection against violence and exploitation is a central right for children, and exists as Sustainable Development Goal 16.2. While there is not yet any proof that physical, emotional and sexual violence and neglect of children has increased during the pandemic, initial indications already exist in the form of higher numbers of calls to the 'Nummer gegen Kummer' helpline and the 'Medizinische Kinderschutzhelpline' children's medical hotline.⁴ The full extent cannot be ascertained purely from the times that children and adolescents remain at

home for infection-control reasons, because some of the reports of risks to child wellbeing through violence and abuse come from day-care centres and schools.

Although there is still very little documentation available for Germany, EUROPOL indicates that, during the contact restrictions between March and May 2020, there was a significant increase in activities on the clear web and dark net relating to sexual exploitation of children online.⁵ This particularly applies to intensified trading of child-abuse images through peer-to-peer (P2P) networks, exchanges by perpetrators in relevant dark-net forums relating to cybergrooming and abuse strategies, and live-streaming of child sex abuse.

The more time children spend online unsupervised due to school closures, the greater the risk of self-made 'sexting' images being created and circulated amongst minors. EUROPOL expects there to be a sharp rise in the quantities of these images over the next year, which could also lead to corresponding rise in the recruitment and exploitation of minors online.

The National Coalition Germany recommends that the UN Committee call on the German federal government to

- Ensure child-protection systems are well staffed and funded, particularly during times of crisis, and to not shift the focus away from child protection, e.g. through pandemic-induced savings programmes, even later on.
- Work with the state governments to further sustain child and youth support as the crucial backbone of a functioning society, and to also take into account the non-government sector in order to maintain existing support services.
- Inform children, adolescents and adults how they can access the child-protection system, particularly during times of crisis.
- Ensure children and adolescents are protected against digital violence and exploitation, particularly during times of pandemic.

Child poverty

Art. 27 UN CRC

Education is an effective way of combating poverty. If the right to education is denied, the risk of poverty, as well as health risks, increases. The pandemic and many of its associated consequences – job losses, reduced working hours, closures of day-care centres, schools and care facilities, the multiple switches to digital remote learning – hit children and adolescents particularly hard. The pandemic amplifies existing problems, and this has lasting impacts, especially for poor families.

When day-care centres and schools closed, children and adolescents lost many of their social contacts, and financial distress became more acute. The free lunch at day-care centres and schools, to which approx. 3 million children and adolescents are entitled, disappeared without a substitute. At the same time, some food prices rose, and food banks for those in need were forced to shut their doors. It is virtually impossible to make up for the lost free lunches through the existing social benefits, because the standard rate for children and adolescents is extremely meagre: The budget for food and drink, for example, is around four euros a day for a ten-year-old. The free lunch granted by the Education and Participation Package at day-care centres and schools was previously in addition to this. The child bonus of 300 euros per child made as a one-off payment to all families is not an effective way of sustainably combating child poverty.

While the German federal government's Education and Participation Package has also enabled day-care-centre or school meals to be home-delivered (wherever the municipalities were able to organise this), this could only make up for the loss in certain

cases. No further requested measures were implemented, e.g. temporary increases of social benefits to directly and non-bureaucratically compensate for the price increases and the loss of the free lunch.

Cramped living conditions mean there is often nowhere quiet to study. The experiences of self-efficacy necessary for successful learning evaporated almost completely as a result of the lack of social interaction, causing disadvantaged students to fall even further behind.

Many families do not have any or enough of the necessary personal digital learning materials, such as laptops and computers.⁶ Barely fifteen per cent of twelve-year-olds and twenty-seven per cent of fourteen-year-olds from households receiving social welfare benefits have their own computer that they can also use for schoolwork.⁷ The federal and state governments have launched a 550-million-euro schools emergency programme intended to cover purchases of mobile end devices for students who do not have their own. The funds are spread based on the 'Königstein Key', which is geared around tax revenue and population. This choice of distribution key does not enable adequate funding to actually go where it is most needed. Device purchases are also slow in many places, even though the new school year is in full swing at the time of writing and face-to-face learning cannot be guaranteed everywhere. Loaning devices to particularly poor students can in turn also have a stigmatising effect.

Applying the recommendations from the 5th/6th Supplementary Report on Germany's implementation of the UN Convention on the Rights of the Child would have reduced or avoided many of the consequences we are currently seeing. For this reason, the National Coalition Germany – Network for the Implementation of the UN Convention on the Rights of the Child is hereby further reinforcing its recommendations for tackling child poverty.

The National Coalition Germany recommends that the UN Committee call on the German federal government to

- Do all possible to ensure day-care centres and schools can remain open, while protecting against infection. At the same time, conditions also need to be created so that, even if schools are closed, remote learning is available to all children.
- Gear all new measures around the children's actual needs, and to design them in such a way that they can directly mitigate hardship in a non-bureaucratic manner.
- Use the Social Index as the basis for assessing benefits intended to compensate for disadvantages.

Education

Art. 28 UN CRC

The pandemic has shown that opening educational and care facilities is not seen as a child's right, but rather primarily as a way of ensuring work-life balance. The early-childhood education services, which have been available again to a limited extent since around the end of April 2020, were mainly reserved for children of parents working in essential services (and from late April 2020 also for children of solo parents), and were only used by one in ten children.⁸

The shortcomings in the education system that already existed before the crisis have been heightened by the pandemic, and reducing educational services has had serious negative effects on the rights of many children and adolescents, such as the decline in education quality and intensification of educational inequality (Art. 28 and 29 UN CRC).

Children also lacked quiet spaces and daily routine at home, which sometimes resulted in more frequent family conflicts and greater child-welfare risks (Art. 19).⁹ Mental strain, shortcomings in care and healthy eating habits (Art. 6 and 24), a lack of contact with peers (Art. 15) and educators, and less exercise and time spent outdoors, and less playing, culture and recreation (Art. 31) were additional consequences. Opportunities for undertaking extra-curricular education and participating in (organised) youth work have been, and continue to be, massively reduced as a result of the coronavirus pandemic, with the consequences not yet clear.

Children and adolescents were not sufficiently involved – on their own behalf or through representatives – in dealing with the crisis itself. For instance, Germany's Minister for Family Affairs was not invited to any of the federal government's crisis talks, nor were children or adolescents systematically given the chance to contribute their priorities and ideas for coping with everyday life or restructuring educational services.

The National Coalition Germany recommends that the UN Committee call on the German federal government to

- Proactively involve children in tackling the crisis at educational and care facilities, listen to them, and appropriately take their opinion into account.

- Give greater weight to children's rights to participation, support and protection to cater to their best interests in education, in addition to the infection-control considerations previously treated as a priority.
- Ensure the digitisation of educational services goes hand in hand with further developing educational quality and inclusion, so that already disadvantaged children are not impacted even more negatively than other children.
- Ensure further scientific studies on pandemic events also always focus on the effects crises have on children and their rights, including particularly concentrating on already disadvantaged children, resilience factors among children and families, children's participation in crises, and educational injustice.

Refugee children

Art. 10 and Art. 22 UN CRC

The pandemic has negative effects on development opportunities and resilience among refugee children and adolescents at initial reception centres and large accommodation facilities. In places where children's rights were already neglected due to geographic and social isolation, limited recreational options, cramped living conditions, a lack of privacy and limited access to education, the pandemic has further intensified this risk, particularly for girls.

The pandemic's impacts on refugee children and adolescents at reception centres are yet to be documented or statistically surveyed. The lack of data makes it difficult to quantify and qualify shortcomings, including those relating to racist acts of violence.¹⁰ Only sporadic, local information is available, though this sheds light on structural deficits.

Accompanied minors are required to live at reception centres, which are cramped and offer limited privacy. Everyday family life is characterised by experiences of violence and an atmosphere of fear of being deported (cf. 5th/6th Supplementary Report to the United Nations, p. 62 ff). Children and adolescents at accommodation facilities were also particularly exposed to the risk of infection, as the

living conditions mean infection-control rules cannot be upheld.

Isolation and exclusion from social connections are challenges that especially arise at accommodation facilities with no access to the standard municipal care. In-house child-care and substitute educational services at the accommodation facilities cannot replace statutory structures, and can affect the children's right to education and development.¹¹ Disadvantage in the educational system intensified between March and June as a result of day-care and school closures. External educational services outside the family unit are particularly essential for children whose native language is not German, so as to ensure they can be part of and have access to mainstream society.¹²

Making up for school closures by studying from home is disproportionately more difficult at accommodation facilities compared to normal family homes. Access to materials and remote learning, and contact with teachers, was generally severely limited due to a lack of technological equipment, parents' language difficulties, and a lack of opportunities for independent learning in cramped spaces.

Despite the legal entitlement for accompanied minors, there are generally no structures in place at reception centres to provide access to youth welfare services. Child and youth welfare services only reach families at accommodation facilities if situations

threatening children's welfare already exist. Experts trained in children's rights are still in short supply, despite the protection schemes available.¹³ Between March and June 2020, there was even less access to child and youth welfare, as the pandemic had intensified skill shortages at places such as youth welfare offices, and many government workers were unable to do home visits. In cases where child-welfare reports were sent by specialists at accommodation facilities, field studies found that, between March and June 2020, the youth welfare office sometimes did not respond at all.

Educational, recreational and sporting services within and outside of the accommodation facilities were cut once contact restrictions began in March 2020. As such, children and adolescents lost the opportunity to maximise the development options and maintain supportive networks and helpful contact with educators beyond the confines of their accommodation facilities, which are generally not very child-friendly.¹⁴

Limited visitation rights already massively reduce the possibility of having an independent social life, and further restrictions were introduced at a number of accommodation facilities as a result of the pandemic. Between March and July 2020, for instance, some accommodation facilities went into total lockdown, not allowing any visitors, or, in other cases, residents who tested positive were strictly quarantined. This resulted in intensified (repeat) experiences of police violence or racist incidents in the context of police operations.¹⁵

Children and adolescents end up bearing great responsibility within the family when it comes to obtaining information on everyday processes due to their often better German skills. Yet information about COVID-19 and the relevant rules was not provided in child-friendly formats or across the board in various languages, causing anxiety and uncertainty amongst families at accommodation facilities.

Uncertainties about procedures, due to the unavailability of relevant authorities, intensify the unsettled feeling already experienced by parents in relation to asylum and residency matters, and this has an effect on children too. Counselling services and lawyers were unavailable for months, further fuelling existing fears.

Family reunions were also subject to substantial additional barriers and delays: The pandemic prolonged application acceptance and processing by the International Organization for Migration and the German Federal Foreign Office. Embassy closures and staff cuts meant fewer processing capacities. The German foreign representations around the world, for instance, issued a total of 4,059 visas in the first quarter of 2020, whereas, in the second quarter, only 220 visas were issued to persons with protection status for the purposes of reuniting them with their families. This is a pandemic-induced decline of 96 %. The legally permitted quota of 1000 approved family reunifications per month was thus not met during that period.¹⁶

The severely limited worldwide passenger traffic, border closures and increased entry restrictions also made it more difficult to get into Germany from abroad. Citizens of third-party states whose visas would have entitled them to enter Germany after 15 March 2020, but, due to the travel restrictions, could no longer be used for entry and subsequently expired abroad, were able to apply for visa re-issuing¹⁷ once the travel restrictions were lifted.

On a positive note, age tests were not re-conducted during these re-issuing procedures, meaning that children who had become adults in the meantime were still considered children, their age being counted from the date of their initial application. A negative aspect in terms of children's rights, however, is the fact that various other application criteria had to be proven by the applicant, creating new obstacles that put additional strain on them. Special humanitarian grounds as per Section 23 of the German Residence Act (AufenthG) particularly had to be re-proven, resulting in further delays during which families were forced to be apart.

Family reunions within the EU also proved to be more difficult than before as a result of the pandemic. Procedures took longer, partly due to issuing errors and additional scheduling problems, particularly in relation to reuniting families from Greece in Germany. This is especially noteworthy, given the serious lack of hygiene at the accommodation facilities on the Greek islands is well known, posing a constantly high risk of COVID-19 infection for all residents, including children.

Deportations of families with children in high-risk areas have resumed with increased frequency. The fear of deportation has intensified at

accommodation facilities, coupled with the concern about the associated health risk. The parents' fears are projected onto the children.¹⁸

The National Coalition Germany recommends that the UN Committee call on the German federal government to

- Promptly spread asylum-seekers across the various municipalities and limit the mandatory requirement of having to live at a reception centre to a maximum of one month. Refugee families should be housed locally in small units or apartments as quickly as possible.
- Immediately facilitate access to youth welfare services for refugee children by increasing the number of qualified staff who have an awareness of the living conditions at accommodation facilities. Experts should undergo further training in dealing with coronavirus and other crises as part of their work with refugee families and children, so that they can still have contact with these people, e.g. even with heightened hygiene/safety measures. In terms of reduced social-service staffing and restricted access to educational and recreational services, alternative services need to be offered and made available to refugee children and adolescents in all forms of housing.
- Introduce a direct right for underage refugees to access day-care centres and compulsory schooling across all states, establish suitable education-promoting services to reduce disadvantage in terms of remote learning for refugee children and adolescents, and ensure all accommodation facilities have WiFi.
- Provide child-friendly information on the measures taken and pandemic-related information in various languages across the board.
- Give children and their families unrestricted access to healthcare for coronavirus-related issues.
- Facilitate family-reunion procedures digitally wherever possible, and, if this is not possible, increase staffing capacities. Reassessment of application criteria for family reunions should also be waived, particularly the special humanitarian grounds as per Section 23 AufenthG in the visa re-issuing process.
- Abolish the quota rules for family reunions, or at least apply them to all non-exhausted quotas. A generous extension should also be arranged for all deadlines that have elapsed due to coronavirus.
- Advocate for all children's rights in EU asylum policy, particularly for child wellbeing to be given top priority there too.
- Take decisive action against coronavirus-related racism.
- Encourage and finance surveys of the experiences of refugee children and adolescents during this unprecedented pandemic situation in order to highlight the shortcomings.

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