



Statement by TERRE DES FEMMES on the „Report submitted by Germany pursuant to Article 68, paragraph 4 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (First thematic evaluation round)“

TERRE DES FEMMES welcomes the efforts undertaken by the German government to implement the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), including important legislative developments such as the adoption of the Violence Protection Act (Gewalthilfegesetz). However, despite these advancements, the implementation of the Convention in Germany remains incomplete, inconsistent, and insufficient in practice. As a federal state, Germany continues to exhibit significant disparities between Länder, resulting in uneven levels of protection for women and girls. The current situation amounts to a patchwork implementation that undermines the binding nature of the Convention and fails to ensure equal protection across the country.

1. Sexual Offences Law

With regard to sexual offences law, TERRE DES FEMMES observes that Germany has not yet fully implemented the requirements of Article 36 of the Istanbul Convention. The Convention clearly establishes that all non-consensual sexual acts must be criminalized on the basis of the absence of freely given and voluntary consent. In practice, however, German law and its application continue to reflect a “no means no” paradigm, placing the burden on victims to demonstrate non-consent. This approach does not adequately reflect the realities of sexual violence. In particular, it fails to sufficiently account for power imbalances between victims and perpetrators, psychological coercion, and the well-documented freeze response, which affects a significant proportion of victims and often prevents active resistance.

The consequences of this legal and practical framework are reflected in extremely low conviction rates. According to estimates, approximately 15% of rape cases are reported and out of these cases only 7.5% are sanctioned¹. Therefore only one in one hundred rapes results in a conviction when unreported cases are taken into account. Rape thus remains a criminal offence that is rarely punished. This situation sends a deeply concerning message both to perpetrators, who perceive a low risk of consequences, and to victims, whose experiences are effectively devalued by the system. In addition, victims face significant procedural barriers, including lengthy and invasive interrogations, inconsistent access to psychosocial support, and a high risk of secondary victimization. These factors contribute to low reporting rates and undermine trust in the justice system.

TERRE DES FEMMES is further concerned that the Istanbul Convention and the legal framework governing sexual offences are not systematically integrated into legal education in Germany. Many legal professionals lack sufficient familiarity with the Convention, and its standards are not consistently applied in practice, despite its binding status under

¹ <https://www.tagesschau.de/investigativ/report-muenchen/verurteilungen-vergewaltigung-101.html>



international law. Against this background, TERRE DES FEMMES calls for the introduction of a comprehensive “only yes means yes” standard that applies to all individuals, regardless of age. The currently announced plan to introduce such a standard only for children and adolescents² is insufficient and raises concerns regarding unequal protection. Furthermore, mandatory and continuous training on the Istanbul Convention, gender-based violence, and trauma-informed approaches must be introduced for all professionals involved in the investigation and adjudication of sexual offences. The Convention itself must also become an integral part of legal education in Germany.

2. Confidential and Anonymous Forensic Evidence Collection

Since 1 March 2020 it has been agreed that the statutory health insurance in Germany covers the costs of confidential and anonymous forensic evidence collection for survivors of sexualized and physical violence (Social Code Book V, §§ 27 and 132k), including documentation, laboratory examinations, and the storage of evidence. While this marks important progress, significant gaps remain in implementation. Despite the agreement each of the Länder must come to its own agreement with the health insurance providers which has led to considerable regional disparities in access to services. Comprehensive and low-threshold provision is not ensured nationwide: in many areas, there are no specialized contact points, and services are often unavailable during evenings and weekends. In addition, awareness of the right to confidential evidence collection remains limited, leaving many survivors uninformed.

Barriers also persist for specific groups. Privately insured individuals, asylum seekers, and minors without parental consent may face restricted access and, in some cases, financial burdens. Contrary to assumptions at the legislative level, practical experience from healthcare providers, counseling centers, and survivors shows that medical care following sexualized violence is not consistently adequate. Many healthcare institutions lack sufficient knowledge or fail to provide comprehensive, trauma-sensitive care, including information, risk assessment, and referral to specialized support services.

Further shortcomings exist in the scope of coverage and timely access to care. Emergency contraception is only reimbursed up to the age of 22, and certain laboratory tests, including those for sexually transmitted infections, are not always covered. Delays caused by unclear procedures, long waiting times, or limited service availability can prevent access to time-sensitive interventions, such as toxicological testing or HIV post-exposure prophylaxis.

In addition, medical professionals are often insufficiently trained and sensitized. Survivors are sometimes incorrectly informed that a police report is required in order

² <https://www.br.de/nachrichten/meldung/justizministerium-fuer-nur-ja-heisst-ja-regelung-bei-jugendlichen%2C3007b665e>



to access evidence collection. Findings by TERRE DES FEMMES indicate that misinformation and inappropriate communication remain common, further increasing the psychological burden on those affected. Language barriers and a lack of translation services add to these challenges.

TERRE DES FEMMES therefore calls for a nationwide, low-threshold, and fully accessible system of confidential evidence collection for all survivors, regardless of insurance or residence status. Existing gaps must be addressed to ensure timely, trauma-informed, and high-quality care, without additional barriers that risk further harm or the loss of crucial evidence.

3. Violence Protection in Custody and Visitation Proceedings

With regard to custody and visitation proceedings, TERRE DES FEMMES observes a significant gap between the existing legal framework and its implementation in practice. While Germany has both binding obligations under the Istanbul Convention and relevant national legal provisions, these are not applied consistently or effectively. The German government refers in its report to the training brochure "Child Matters and Domestic Violence" (Kindschaftssachen und häusliche Gewalt), which is a valuable resource for family court judges and other actors involved in such proceedings. However, this guidance has not sufficiently permeated judicial practice. As a result, mothers and children who have experienced domestic violence are often not adequately protected in custody and visitation decisions.

In many cases, contact between children and violent fathers is maintained or even enforced without sufficient consideration of the risks involved. Proceedings are frequently perceived by affected mothers as non-transparent and arbitrary, and there are considerable regional differences in how cases are handled. While some courts demonstrate a strong awareness of domestic violence and prioritize the protection of victims, others fail to do so. A clear and consistent stance within the judicial system that violence against women and children will not be tolerated is often lacking. Instead, TERRE DES FEMMES observes a tendency towards misplaced empathy for perpetrators, while the experiences and safety concerns of victims do not receive adequate weight.

These findings are further supported by the survey *"Post-Separation Abuse and Institutional Violence in Custody and Visitation Rights Proceedings"*³, conducted by TERRE DES FEMMES among mothers who had separated from a partner who is also the father of their child or children. The survey highlights the various ways in which post-separation abuse is perpetuated through custody and visitation proceedings. It demonstrates that institutions frequently fail to provide adequate protection and, in some cases, exacerbate the harm. In particular, institutional actors have been found to lend credibility to perpetrators by invoking or reinforcing harmful and discriminatory narratives, such as allegations of "parental alienation" or assumptions of a "symbiotic" mother-child relationship. These practices contribute to the marginalization of victims' experiences and can significantly undermine their efforts to protect themselves and their children.

³ <https://frauenrechte.de/unsere-arbeit/haeusliche-und-sexualisierte-gewalt/hintergrundinformationen/umgangsrecht/nachtrennungsgewalt/umfrage>



Particularly concerning in this context is the decision of the German Federal Court of Justice of 17 December 2025 (Az. XII ZB 279/25), in which the primary residence of a child was transferred to the father in the context of a custody dispute. This decision risks setting a dangerous precedent. It may deter mothers from taking protective measures, such as limiting contact between their children and violent fathers, out of fear that such actions could negatively affect their position in custody proceedings. The ruling illustrates a lack of sufficient awareness of the risks that perpetrators continue to pose in post-separation contexts and highlights the urgent need for a more consistent application of protective standards. TERRE DES FEMMES therefore calls for mandatory training for all professionals involved in family law proceedings on domestic violence, gender-based power dynamics, and the requirements of the Istanbul Convention. Risk assessments must be systematically conducted and must prioritize the safety of women and children above all other considerations, including contact rights. In addition, greater transparency and accountability in family court proceedings are required, as well as a harmonization of practices across the Länder to ensure equal protection nationwide.

4. Conclusion

The recent study on unreported crimes, "*Lebenssituation, Sicherheit und Belastung im Alltag*" (*LeSuBiA*)⁴, clearly demonstrates that officially recorded cases of domestic and sexualized violence in Germany represent only the tip of the iceberg. A vast number of incidents remain unreported, reflecting persistent barriers to disclosure, including lack of trust in institutions, fear of retaliation, and anticipated secondary victimization. This significant dark figure underscores the urgent need for a comprehensive and coordinated response to violence against women and other vulnerable groups. Such a response must go beyond legislative measures and include effective prevention strategies, accessible support services, consistent data collection, and the systematic removal of structural barriers within the justice system. It also requires a sustained commitment to awareness-raising, education, and mandatory training for all relevant professionals. Only through a holistic and fully implemented approach, in line with the obligations of the Istanbul Convention, can Germany ensure meaningful protection, accountability, and access to justice for all victims.

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⁴https://www.bka.de/DE/UnsereAufgaben/Forschung/ForschungsprojekteUndErgebnisse/Dunkelfeldforschung/LeSuBiA/lesubia_node.html