

COUNTRY PROFILE FOR GERMANY

Status of Ratifications

Human Rights Instrument : (Date into force)	Ratification Status	Declaration
International Convention on the Elimination of All Forms of Racial Discrimination :1969	Signature: 1967, Ratification/Accession: 1969	✓
International Covenant on Civil and Political Rights :1976	Signature: 1968, Ratification/Accession: 1973	✓
Optional Protocol to the International Covenant on Civil and Political Rights :1976	Signature: NA, Ratification/Accession: 1993	✓
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty :1991	Signature: 1990, Ratification/Accession: 1992	
International Covenant on Economic, Social and Cultural Rights :1976	Signature: 1968, Ratification/Accession: 1973	
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights :2013	Signature: NA, Ratification/Accession: NA	
Convention on the Elimination of All Forms of Discrimination against Women :1981	Signature: 1980, Ratification/Accession: 1985	✓
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women :2000	Signature: 1999, Ratification/Accession: 2002	
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment :1987	Signature: 1986, Ratification/Accession: 1990	✓
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment :2006	Signature: 2006, Ratification/Accession: 2008	✓
Convention on the Rights of the Child :1990	Signature: 1990, Ratification/Accession: 1992	
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict :2002	Signature: 2000, Ratification/Accession: 2004	✓
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography :2002	Signature: 2000, Ratification/Accession: 2009	
Optional Protocol to the Convention on the Rights of the Child on a communications procedure :2014	Signature: 2012, Ratification/Accession: 2013	✓
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families :2003	Signature: NA, Ratification/Accession: NA	
International Convention for the Protection of all Persons from Enforced Disappearance :2010	Signature: 2007, Ratification/Accession: 2009	✓
Convention on the Rights of Persons with Disabilities :2008	Signature: 2007, Ratification/Accession: 2009	
Optional Protocol to the Convention on the Rights of Persons with Disabilities :2008	Signature: 2007, Ratification/Accession: 2009	

Declarations

Ratifications (Acronym)	Declarations
<p>International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)</p>	<p>30 August 2001</p> <p>The Federal Republic of Germany hereby declares that pursuant to Article 14 paragraph 1 of the Convention it recognizes the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within her jurisdiction claiming to be victims of a violation by the Federal Republic of Germany of any of the rights set forth in this Convention. However, this shall only apply insofar as the Committee has determined that the same matter is not being or has not been examined under another procedure of international investigation or settlement.</p>
<p>International Covenant on Civil and Political Rights (ICCPR)</p>	<p>"1. Articles 19, 21 and 22 in conjunction with Article 2 (1) of the Covenant shall be applied within the scope of Article 16 of the Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms. "2. Article 14 (3) (d) of the Covenant shall be applied in such manner that it is for the court to decide whether an accused person held in custody has to appear in person at the hearing before the court of review (Revisionsgericht). "3. Article 14 (5) of the Covenant shall be applied in such manner that: (a) A further appeal does not have to be instituted in all cases solely on the grounds the accused person having been acquitted by the lower court-was convicted for the first time in the proceedings concerned by the appellate court. (b) In the case of criminal offences of minor gravity the re- view by a higher tribunal of a decision not imposing imprisonment does not have to be admitted in all cases. "4. Article 15 (1) of the Covenant shall be applied in such manner that when provision is made by law for the imposition of a lighter penalty the hitherto applicable law may for certain exceptional categories of cases remain applicable to criminal offences committed before the law was amended." 27 December 2001</p> <p>The Federal Republic of Germany now recognizes for an unlimited period the competence of the Human Rights Committee under Article 41(1) of the Covenant to receive and consider communications to the effect that at State Party claims that another State Party is not fulfilling its obligations under the Covenant.</p>
<p>Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP1)</p>	<p>Reservation: "The Federal Republic of Germany formulates a reservation concerning article 5 paragraph 2 (a) to the effect that the competence of the Committee shall not apply to communications a) which have already been considered under another procedure of international investigation or settlement, or b) by means of which a violation of rights is reprimanded having its origin in events occurring prior to the entry into force of the Optional Protocol for the Federal Republic of Germany c) by means of which a violation of article 26 of the [said Covenant] is reprimanded, if and insofar as the reprimanded violation refers to rights other than those guaranteed under the aforementioned Covenant."</p>
<p>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)</p>	<p>Declaration: The right of peoples to self-determination, as enshrined in the Charter of the United Nations and in the International Covenants of 19 December 1966, applies to all peoples and not only to those living 'under alien and colonial domination and foreign occupation'. All peoples thus have the inalienable right freely to determine their political status and freely to pursue their economic, social and cultural development. The Federal Republic of Germany would be unable to recognize as legally valid an interpretation of the right to self-determination which contradicts the unequivocal wording of the Charter of the United Nations and of the two International Covenants of 19 December 1966 on Civil and Political Rights and on Economic, Social and Cultural Rights. It will interpret the 11th paragraph of the Preamble accordingly.</p>
<p>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)</p>	<p>Upon signature: The Government of the Federal Republic of Germany reserves the right to communicate, upon ratification, such reservations or declarations of interpretation as are deemed necessary especially with respect to the applicability of article 3. Upon ratification: Article 3 This provision prohibits the transfer of a person directly to a State where this person is exposed to a concrete danger of being subjected to torture. In the opinion of the Federal Republic of Germany, article 3 as well as the other provisions of the Convention exclusively establish State obligations that are met by the Federal Republic of Germany in conformity with the provisions of its domestic law which is in accordance with the Convention. 19 October 2001</p> <p>In accordance with article 21 (1) of the Convention, the Federal Republic of Germany declares that it recognizes the competence of the Committee against Torture to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Convention. In accordance with article 22 (1) of the Convention, the Federal Republic of Germany declares that it recognizes the competence of the Committee against Torture to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by the Federal Republic of Germany of the provisions of the Convention.</p>
<p>Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT)</p>	<p>Declaration: "The distribution of competences within the Federal Republic of Germany means that a treaty between the Länder (federal states), which requires parliamentary approval, is needed in order to establish the national preventive mechanism at Länder level. Because of this requirement, Germany shall postpone the implementation of its obligations under Part IV of the Optional Protocol. The Subcommittee will be informed as soon as possible of the date from which the national prevention mechanism is operational."</p>
<p>Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OP-CRC-AC)</p>	<p>Declaration: The Federal Republic of Germany declares that it considers a minimum age of 17 years to be binding for the voluntary recruitment of soldiers into its armed forces under the terms of Article 3 paragraph 2 of the Optional Protocol. Persons under the age of 18 years shall be recruited into the armed forces solely for the purpose of commencing military training. The protection of voluntary recruits under the age of 18 years in connection with their decision to join the armed forces is ensured by the need to obtain the consent of their legal guardian and the indispensable requirement that they present an identification card or passport as a reliable proof of their age.</p>

Optional Protocol to the Convention on the Rights of the Child on a communications procedure (CRC-OP-IC)

Declaration: "The Federal Republic of Germany recognizes the competence of the Committee to receive and consider communications pursuant to Article 12(1) of the Optional Protocol."

International Convention for the Protection of all Persons from Enforced Disappearance (CPED)

Declarations: "Article 16 The prohibition of return shall only apply if the person concerned faces a real risk of being subjected to enforced disappearance. Regarding Art. 17 (2) (f) Under German law it is guaranteed that deprivation of liberty is only lawful if it has been ordered by a court or – in exceptional cases – subsequently authorized by a court. Article 104 para. 2 of the Basic Law (Grundgesetz) expressly provides: 'Only a judge may rule upon the permissibility or continuation of any deprivation of liberty. If such a deprivation is not based on a judicial order, a judicial decision shall be obtained without delay'. Article 104 para. 3 of the Basic Law provides that a person who has been provisionally arrested on suspicion of having committed a criminal offence 'shall be brought before a judge no later than the day following the arrest'. In the event that a person is being held arbitrarily in contravention of Article 104 of the Basic Law, anyone can bring about a judicial decision leading to that person's release by applying to the competent Local Court for his/her immediate release. If the person concerned has been detained beyond the time limit permissible under the Basic Law, the court has to order that person's release pursuant to section 128 (2), first sentence, of the Code of Criminal Procedure (Strafprozessordnung, StPO). Article 17 para. 3 In the case of an involuntary placement of sick persons by a custodian or a person having power of attorney, the information required under letters (a) to (h) is known to the court which authorizes the placement. The court can ascertain the information required under letters (a) to (h) at any time through the custodian or person having power of attorney; the information is then included in the case-file. This information is also to be regarded as records within the meaning of article 17 para. 3. Regarding Article 18 Under German law all persons with a legitimate interest are entitled to obtain information from the court files. The restrictions provided for in German law for the protection of the interests of the person concerned or for safeguarding the criminal proceedings are permissible pursuant to Article 20 para. 1 of the Convention. Regarding Article 24 para. 4 It is clarified that the envisaged provision on reparation and compensation does not abrogate the principle of state immunity." Article 31
In accordance with Article 31 of the International Convention for the Protection of all Persons from Enforced Disappearance (CED) of 20 December 2006, the Federal Republic of Germany declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to the jurisdiction of the Federal Republic of Germany claiming to be victims of a violation of provisions of this Convention by the Federal Republic of Germany.
Article 32
In accordance with Article 32 of the International Convention for the Protection of all Persons from Enforced Disappearance (CED) of 20 December 2006, the Federal Republic of Germany declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that the Federal Republic of Germany is not fulfilling its obligations under this Convention.