**Federal Republic of Germany**

*21 June 2016*

**Questionnaire of the Special Rapporteur on adequate housing on homelessness**

1. Please provide any statistical indicators regarding the health, mortality and morbidity consequences of inadequate housing and homelessness in your country, disaggregated by sex, race, immigration status, age and disability, or other grounds, if and where possible. Please also provide references to any documentation (written, visual and otherwise) of the lived experiences that lie behind these statistics.

In Germany, no statistics on the requested information exist. Data on homelessness are not systematically collected.

2. Please refer to the provisions of your state's constitution or human rights legislation which guarantee the right to life and explain whether these apply to circumstances where homelessness or inadequate housing place health, security or life at risk and whether positive obligations of governments have been recognized in this context. Please provide references to any relevant cases or other examples, if available.

The German constitution („Basic Law“) recognizes in its Art. 2 the right to life and physical integrity. There is no specific mention of a right to housing nor is there any reference to spe-cific threats to those rights caused by homelessness or inadequate housing.

However, the Basic Law also defines the Federal Republic of Germany in its Art. 20 as a social state. This so-called principle of the social state has been interpreted to mean that the authorities have a duty to care for social security and social justice. This includes a duty to provide shelter for homeless persons.

In addition, some Länder constitutions do include a right to adequate housing. This right is, however, not an individual enforceable right but rather a description of a general positive obligation for the state.

3. Please explain whether and in what ways courts or human rights bodies in your state have recognized the disproportionate effect of homelessness and inadequate housing on particular groups (such as persons with disabilities, Indigenous peoples, women experiencing violence, etc.) as an issue of discrimination. Please provide references to any relevant cases or other examples, if available.

Paragraph 19 of the General Equal Treatment Act AGG provides a prohibition of discrimination under civil law, including housing. Any discrimination on the grounds of ethnic origin, sex, religion, disability, age or sexual orientation shall be illegal. Except from discrimination on grounds of ethnic origin it is necessary that the lessor lets out more than 50 apartments in total. There are also special provisions for rental of housing when a different treatment serves to create and maintain stable social structures regarding inhabitants and balanced settlement structures, as well as balanced economic, social and cultural conditions. Cases of tenancy where the parties or their relatives use housing situated on the same plot of land do not fall under the protection of discrimination.

Any person who believes he or she has been discriminated on the said grounds may take their case to the Federal Anti-Discrimination Agency FADA. The Agency gives independent assistance by providing information concerning claims and possible legal action based on legal provisions providing protection against discrimination, by arranging for advice to be provided by another authority and by endeavouring to achieve an out-of-court settlement between the involved parties.

Within its tasks FADA has done research work in 2015 on discrimination in the housing market to find strategies for furnishing proof of racist discriminations. The outcomes of this survey show that even where conditions are most renter-friendly, racist discriminations occur, which are particularly revealed during the last step of the process of placing the tenancy agreement. The risk of being discriminated against will be increased once again considerably, if there is a visible affiliation to the Muslim or the Jewish religion.

Regarding jurisdiction there are two cases worth mentioning where compensation and damages were provided as a tenant with Turkish ethnic origin had to pay a higher rent than other tenants in the apartment building and as an applying couple with African ethnic origin was insulted by a staff member of the landlord.