

## UNIVERSAL PERIODIC REVIEW 29th SESSION

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### Germany

Joint Submission to the UN Office of the High Commissioner for Human Rights

from the

**German Federal Youth Council (DBJR) and the European Youth Forum (YFJ).**

*Key words: protection of children and youth rights especially in regards of the rights of young refugees, enable participation of young people by lowering the voting age, continue to emphasize the rights for young LGBTQI people.*

### INTRODUCTION

In spite of good achievement, Germany still does not engage young people fully in democratic processes.

Also, youth issues were largely overlooked in the last two UPR processes regarding Germans Human Rights situation. Beside of Rec. no. 124.145, 124.146 and 124.49 (UPR 2013) which were pointing out the judicial control over the administrative decisions of the Office of Youth - which the German Government accepted because it regarded them as fulfilled- just a negligible number of recommendations were about youth rights.<sup>1</sup>

The German Federal Youth Council (DBJR) defines youth as people between 12 and 27 years according to an analogous application of § 7 SGB III and the 15<sup>th</sup> Children and Youth Report.<sup>2</sup>

<sup>1</sup> BT- Drucksache 18/12924: <http://dip21.bundestag.de/dip21/btd/18/129/1812924.pdf>

<sup>2</sup> BT-Drucksache 18/11050: <https://www.bmfsfj.de/blob/115438/d7ed644e1b7fac4f9266191459903c62/15-kinder-und-jugendbericht-bundestagsdrucksache-data.pdf>

The DBJR demands an independent Policy on Youth, which has to focus on three areas:<sup>3</sup>

- The image and role of youth in the society
- Subjects which are important or which have an impact on young people's life
- Structures for and by young people

Referring to these three important pillars the DNK expresses concerns regarding young refugees rights, the political participation of young people and the recognition of queer youth.

Therefore, we present the following comments to the Office of the High Commissioner for Human Rights:

## **I. Protection of Youth Rights: Same living conditions and opportunities for all young people - including young refugees**

*Recommendations accepted by Germany during the second UPR cycle in 2013: 124.32, 124.38, 124.76, 124.197.*

As a stakeholder for all young people we demand the same rights for everyone, regardless of the citizenship and/or the resident status. We stand for a self-determined life, for young people with or without a secure-stay perspective. In order for young people to develop their potential through full enjoyment of their rights, the State has the duty of safeguarding these rights using appropriate legal protection.

### *Developments*

Measures for unaccompanied minors were taken, such as a new law that intends to improve the situation of placement, care and support of young foreigners.<sup>4</sup> Furthermore the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth finalized a cooperation agreement with UNICEF to protect violence in communal accommodations for refugees.<sup>5</sup> The Ministry also supports the project "Willkommen bei Freunden" that will guide municipalities exercising their legal duties in regards of the creation and strengthening of local networks for young refugees.<sup>6</sup>

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<sup>3</sup> Stellungnahme DBJR- Eigenständige Jugendpolitik: [https://www.dbjr.de/fileadmin/user\\_upload/pdf-dateien/Stellungnahmen/2011\\_stellungnahme\\_Eigenstaendige-Jugendpolitik.pdf](https://www.dbjr.de/fileadmin/user_upload/pdf-dateien/Stellungnahmen/2011_stellungnahme_Eigenstaendige-Jugendpolitik.pdf) ;Eigenständige Jugendpolitik, Grundsätze und Ziele: <https://www.jugendgerecht.de/eigenstaendige-jugendpolitik/grundsaeetze-und-ziele/>

<sup>4</sup> Gesetz: <http://dipbt.bundestag.de/extrakt/ba/WP18/685/68556.html>

<sup>5</sup> <http://dip21.bundestag.de/dip21/btd/18/108/1810800.pdf>;

<https://www.bmfsfj.de/blob/107848/5040664f4f627cac1f2be32f5e2ba3ab/schutzkonzept-mindeststandards-unterkuenfte-data.pdf>

<sup>6</sup> <https://www.bmfsfj.de/blob/115438/d7ed644e1b7fac4f9266191459903c62/15-kinder-und-jugendbericht-bundestagsdrucksache-data.pdf>;

Moreover the State is financing a number of projects to enable and encourage young refugees in accessing their right to education.<sup>7</sup>

### *Status Quo*

Despite the considerable attention to the situation of refugees, there still is an insufficient collection of data and information about the situation of child and adolescent refugees.

The living conditions could not be more diverse and are influenced by various factors (where the young refugees are originally from, if they are traveling alone or not, in which federal state they are living, and so on).<sup>8</sup> In many cases the opportunity for a successful inclusion of young refugees is determined by coincidence rather than by law.

Young refugees are still discriminated against compared to their young German peers. One example is that the law on Child and Youth Welfare is not applicable for young (accompanied) refugees in communal accommodation.<sup>9</sup> The German Federal Youth Council strongly rejects the widening gap between treatment of German and foreign children, young people and young people of full age, which the Federal Government attempts to reach with the amendment in SGB VIII §78f.<sup>10</sup> But also in other domains young refugees are more often treated like “adults” than like “youth”. For example, the full process-capability in residence and asylum procedures starts from the age of 16,<sup>11</sup> meaning that the legal age limit-regulation that usually is relevant to protect young people is not applicable in this case.

Young refugees are human beings like others, who need to be seen as youth and be fully included in society, with protection, rights and obligations. In order to ensure a rights-based approach, refugee youth must be involved in decisions and initiatives concerning them, as opposed to decisions being made on their behalf. Still in too many cases young refugees are considered as vulnerable and dependent persons due to the challenging situation that they are facing in Germany. Usually they are perceived as an unprotected and passive group of persons with the

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<sup>7</sup> <https://www.bmfsfj.de/blob/115438/d7ed644e1b7fac4f9266191459903c62/15-kinder-und-jugendbericht-bundestagsdrucksache-data.pdf>

<sup>8</sup> <https://www.willkommen-bei-freunden.de/programm/ziele/>, <https://www.unicef.de/blob/137024/ecc6a2cfed1abe041d261b489d2ae6cf/kindheit-im-wartezustand-unicef-fluechtlingskinderstudie-2017-data.pdf>

<sup>9</sup> SGB VIII, Aches Buch: [https://www.gesetze-im-internet.de/sgb\\_8/](https://www.gesetze-im-internet.de/sgb_8/); Unicef-studie zur Situation von Kindern und Jugendlichen in Flüchtlingsunterkünften <https://www.unicef.de/blob/137024/ecc6a2cfed1abe041d261b489d2ae6cf/kindheit-im-wartezustand-unicef-fluechtlingskinderstudie-2017-data.pdf>

<sup>10</sup> German Federal Youth Council, 29.05.2017, [https://www.dbjr.de/fileadmin/user\\_upload/pdf-dateien/Stellungnahmen/2017-DBJR-Stellungnahme-KJSG.pdf](https://www.dbjr.de/fileadmin/user_upload/pdf-dateien/Stellungnahmen/2017-DBJR-Stellungnahme-KJSG.pdf)

<sup>11</sup> §§ 12 Abs. 1 Nr. 2 VwVfG, 12 Abs. 1 AsylVfG

need to be represented by professionals. It is often forgotten that besides being victims, these young people are also competent, independent, proactive, curious and engaged.<sup>12</sup>

## Recommendations

- A. Perceive all youth refugees as independent individuals, not just as a part of their families.
- B. Revise the law on Child and Youth Welfare to include all young people without exception, including young refugees who are accompanied by their families.
- C. Introduce the topics of immigration, refugees and asylum into primary school curricula nationwide, using a rights-based approach.
- D. Develop sustainable, long-term funding programmes dedicated to supporting migrant and refugee youth-led organisations.

## II. Enable participation of young people by lowering the voting age

Child and youth participation in the democratic system should begin at an early stage. Children should already have the possibility to participate actively in the life of their society and hence be able to influence the decisions which affect them. To facilitate the effective integration of young people into democratic processes, youth must be provided with increasing opportunities for participation as they grow older.

### *Developments*

The National Youth Strategy 2015 - 2018<sup>13</sup> marks a turning point for an independent youth policy. Furthermore, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, which launched the Strategy, developed a „Youth check“ in cooperation with the German Federal

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<sup>12</sup> [https://www.willkommen-bei-freunden.de/fileadmin/Redaktion/Downloads/Themendossier\\_Partizipation\\_junger\\_Gefluechteter\\_in\\_der\\_Kommune.pdf](https://www.willkommen-bei-freunden.de/fileadmin/Redaktion/Downloads/Themendossier_Partizipation_junger_Gefluechteter_in_der_Kommune.pdf);  
<http://www.b-umf.de/de/themen/partizipation>

<sup>13</sup> Jugendstrategie 2015- 2018 des BMFSFJ:  
<https://www.bmfsfj.de/blob/115544/e5d2bcd8918db3e0d8384058cbd09906/handeln-fuer-eine-jugendgerechte-gesellschaft-die-jugendstrategie-2015-2018-data.pdf> (04.09.2017)

Youth Council (DBJR). This check was developed to review, evaluate and negotiate the federal political agenda regarding youth topics.<sup>14</sup> Especially in the run-up to the federal elections many projects and working groups were undertaken to involve young people in political discussions.<sup>15</sup>

In eleven federal states, voting at the age of 16 is possible in municipal elections; in four federal states it is allowed in federal elections.<sup>16</sup> In 2014 a group of 15 children and adolescents lodged a complaint against the 2013 Federal State Elections before the Federal Constitutional Court. The reason for the complaint was that 13 million German citizens were excluded from the elections owing to their age. Even though the court rejected the appeal in 2016, it adjudicated that the “Bundestag” is free to lower the voting age in the constitution.<sup>17</sup>

### *Status Quo*

Nine million voters in Germany are between the age of 18 and 29, compared to 22 million voters aged 60+.<sup>18</sup> Statistical calculations predict that the population aged 12-27 will continue to decrease by around 15% and in 2030 people aged over 60 will represent one third of the German population.<sup>19</sup> This leads to young people being increasingly marginalised in shaping decisions that affect their lives and sharing power with older generations. At the moment, only few topics about or for youth are taken into consideration in the election programs of the mainstream political parties.<sup>20</sup> Young people and young adults are only partially involved in social and political issues.<sup>21</sup>

According to a study by YouGov, two-thirds of adolescents aged 14-17 years old do not have the impression that they have an impact on the current political situation, with just one out of ten teenagers feeling represented in politics. Almost 2 in 5 young people find that politics focus on

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<sup>14</sup> BT-Drucksache 18/10800: <http://dip21.bundestag.de/dip21/btd/18/108/1810800.pdf>; Jugendcheck: <https://www.jugendgerecht.de/jugend-check/> (05.09.2017)

<sup>15</sup> BT-Drucksache 18/10800: <http://dip21.bundestag.de/dip21/btd/18/108/1810800.pdf> (05.09.2017)

<sup>16</sup> Brandenburg: § 5 I Nr. 1 BbgLWahlG, Schleswig Holstein: § 5 I Nr. 1 LWahlG, Bremen: § 1 I Nr. 1 BremWahlG, Hamburg: § 6 I Nr. 1 BüWG

<sup>17</sup> Begründung BverfG: [http://www.wolfgang-gruendinger.de/wp-content/uploads/2016/05/bvferg\\_antwort.pdf](http://www.wolfgang-gruendinger.de/wp-content/uploads/2016/05/bvferg_antwort.pdf)

<sup>18</sup> Bundeswahlleiter: [https://www.bundeswahlleiter.de/info/presse/mitteilungen/bundestagswahl-2017/01\\_17\\_wahlberechtigte.html](https://www.bundeswahlleiter.de/info/presse/mitteilungen/bundestagswahl-2017/01_17_wahlberechtigte.html)

<sup>19</sup> <https://www.bmfsfj.de/blob/115544/e5d2bcd8918db3e0d8384058cbd09906/handeln-fuer-eine-jugendgerechte-gesellschaft-die-jugendstrategie-2015-2018-data.pdf>; Statistisches Bundesamt: Bevölkerung Deutschlands bis 2060 – 13. Koordinierte Bevölkerungsvorausberechnung, Wiesbaden 2015, S.42 ff, unter: [https://www.destatis.de/DE/Publikationen/Thematisch/Bevoelkerung/VorausberechnungBevoelkerung/BevoelkerungDeutschland2060Presse5124204159004.pdf?\\_\\_blob=publicationFile](https://www.destatis.de/DE/Publikationen/Thematisch/Bevoelkerung/VorausberechnungBevoelkerung/BevoelkerungDeutschland2060Presse5124204159004.pdf?__blob=publicationFile)

<sup>20</sup> Studie: [https://www.destatis.de/DE/Publikationen/Thematisch/Bevoelkerung/VorausberechnungBevoelkerung/BevoelkerungDeutschland2060Presse5124204159004.pdf?\\_\\_blob=publicationFile](https://www.destatis.de/DE/Publikationen/Thematisch/Bevoelkerung/VorausberechnungBevoelkerung/BevoelkerungDeutschland2060Presse5124204159004.pdf?__blob=publicationFile)

<sup>21</sup> Jugendstrategie: <https://www.bmfsfj.de/blob/115544/e5d2bcd8918db3e0d8384058cbd09906/handeln-fuer-eine-jugendgerechte-gesellschaft-die-jugendstrategie-2015-2018-data.pdf>

the interests of people aged 60+ above average.<sup>22</sup> But politics should not lose sight of youth because young people who are interested in political and social issues will not develop an attitude to the democratic process only as a first-time voter but already before that. At this point, they are not in the focus of campaign strategies from most parties. As exclusion can enhance tendencies to radicalism, this has to change.<sup>23</sup>

Young people have the right to defend their own interests and to speak for themselves.

The principle of a general and equal election, states for a voting right without age limit. In more and more aspects of life young people assume greater responsibilities. This tendency is even rising after changes in the education system (e.g. Decreasing numbers of years spent in school), which means that young people have to make important decisions earlier than before. Furthermore, young people already have civic duties such as paying taxes for apprentices.

Therefore politics enable young people to be independently responsible. The logical consequence is to lower the voting age. All ages up to 0 are arbitrary, nevertheless 14 seems to be a limit where rights and obligations towards society starts.<sup>24</sup> At the age of 14, young people can join a political party, can choose their religion and have restricted criminal responsibility.

## Recommendations

- A. Lower the voting age to the age of 14 (according to the position of the German Federal Youth Council), to ensure a stable and continuous political participation of young people. The lowering should apply to all voting processes, including the municipal elections, federal state elections, federal elections, referenda and citizens' initiatives.**
- B. Continue to promote youth participation in political processes by actively supporting the work of youth organisations and including them as a partner in the process.**

### III. Continue promoting diversity among young people and emphasize the rights for young queer people

Each human is an individual. However we all learn social norms, roles and capability through education and socialization, leading to the basis on which we categorize and evaluate

<sup>22</sup> Studie: „Jugendstudie von BRAVO und YouGov“ [https://yougov.de/news/2017/07/18/politische-jugendstudie-von-bravo-und-yougov-teena/?utm\\_content=buffer513f0&utm\\_medium=social&utm\\_source=twitter.com&utm\\_campaign=buffer](https://yougov.de/news/2017/07/18/politische-jugendstudie-von-bravo-und-yougov-teena/?utm_content=buffer513f0&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer)

<sup>23</sup> <http://www.fluter.de/ich-bin-unter-18-und-ich-will-waehlen>

<sup>24</sup> Beschluss DBJR 28./29. Oktober 2016 Berlin

others. Especially what it means to be “feminine” or “masculine” is strongly defined by society. The different attribution can entail possibilities but also limitations. These limitations prevent a self-defined life.

The DNK expresses concerns about binary gender-logic and stands for a free and self-defined development of young people, despite their origin, social standing, appearance, gender or sexual orientation.

## *Developments*

The social recognition and the legal equality of LGBTQI people in Germany are in constant progress. A study regarding the attitude towards lesbian, gay and bisexual people proved that 95% of those interviewed support the anti-discrimination law for LGBTQI people and over 80% are in favor of same-sex marriage.<sup>25</sup> The German Antidiscrimination Institute tries to raise awareness about the discrimination against LGBTQI people towards a “Theme Year” on sexual diversity.<sup>26</sup>

The Situation of LGBTQI\* Youth is slowly taken into consideration in the German youth policy. Since 2009 research efforts were made to collect data about the situation of young queer people. The largest study regarding the topic of “coming- out” was undertaken by the German Youth Institute in cooperation with the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and was published in 2015.<sup>27</sup> In the last year especially civil society initiatives promoted projects and good practices towards improving the situation for queer youth, which was supported by some federal states.

## *Status Quo*

Being lesbian, gay, bisexual, or trans\* is still not considered natural in our society. The situation of young queer people is still complicated in Germany. These young people have to face daily discrimination at home, at school and in public.<sup>28</sup> 82 % of the participants of the study from the German Youth institute indicated that they suffer discrimination because of their sexual orientation or gender. On the playgrounds of German schools, "gay" is still one of the expressions

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<sup>25</sup> [http://www.antidiskriminierungsstelle.de/SharedDocs/Aktuelles/DE/2017/20170112\\_Umfrage\\_LSB.html](http://www.antidiskriminierungsstelle.de/SharedDocs/Aktuelles/DE/2017/20170112_Umfrage_LSB.html)

<sup>26</sup> European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association, 2017, [https://www.ilga-europe.org/conference/warsaw-2017/themehttp://www.antidiskriminierungsstelle.de/DE/ThemenUndForschung/Sexuelle\\_Identitaet/Themenjahr\\_2017/Themenjahr2017\\_node.html;jsessionid=8FD35494AE883A09F153E837CFEB1CA8.2\\_cid350](https://www.ilga-europe.org/conference/warsaw-2017/themehttp://www.antidiskriminierungsstelle.de/DE/ThemenUndForschung/Sexuelle_Identitaet/Themenjahr_2017/Themenjahr2017_node.html;jsessionid=8FD35494AE883A09F153E837CFEB1CA8.2_cid350)

<sup>27</sup> [https://www.dji.de/fileadmin/user\\_upload/bibs2015/DJI\\_Broschuere\\_ComingOut.pdf](https://www.dji.de/fileadmin/user_upload/bibs2015/DJI_Broschuere_ComingOut.pdf)

<sup>28</sup> BT-Drucksache: <http://dipbt.bundestag.de/doc/btd/18/088/1808874.pdf>;  
[https://www.dji.de/fileadmin/user\\_upload/bibs2015/DJI\\_Broschuere\\_ComingOut.pdf](https://www.dji.de/fileadmin/user_upload/bibs2015/DJI_Broschuere_ComingOut.pdf)

most commonly used in a pejorative context.<sup>29</sup> Lesbian girls and women are marginalized by society and to some extent also in the queer community where they stand in the shadow of extroverted men. This is also caused by the power structures in our society, which are still dominated by men.<sup>30</sup> There is a need for more structural empowerment for lesbian and bisexual girls.

Sexual Identity and sexual diversity are topics that are addressed in the curriculum far too rarely.<sup>31</sup> Acceptance and openness towards queer life plans must be supported through more education, promotion and information.

### Recommendations

**A. Revise Art 3 III of national Constitution to include sexual orientation and gender identity as grounds of discrimination.**

**B. Provide financial and social support for youth initiatives and associations from queer young people.**

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<sup>29</sup> [http://www.antidiskriminierungsstelle.de/EN/AdviceForIndividuals/GroundsForDiscrimination/Sexual\\_orientation/sexual\\_orientation\\_node.html](http://www.antidiskriminierungsstelle.de/EN/AdviceForIndividuals/GroundsForDiscrimination/Sexual_orientation/sexual_orientation_node.html); [https://www.dji.de/fileadmin/user\\_upload/bibs2015/DJI\\_Broschuere\\_ComingOut.pdf](https://www.dji.de/fileadmin/user_upload/bibs2015/DJI_Broschuere_ComingOut.pdf)

<sup>30</sup> BT-Drucksache: <http://dipbt.bundestag.de/doc/btd/18/088/1808874.pdf>;  
[https://www.dji.de/fileadmin/user\\_upload/bibs2015/DJI\\_Broschuere\\_ComingOut.pdf](https://www.dji.de/fileadmin/user_upload/bibs2015/DJI_Broschuere_ComingOut.pdf)

<sup>31</sup> [https://www.vielfalt-mediathek.de/data/klocke\\_2016\\_homophobie\\_und\\_transphobie\\_in\\_schulen\\_und\\_jugendeinrichtungen\\_1.pdf](https://www.vielfalt-mediathek.de/data/klocke_2016_homophobie_und_transphobie_in_schulen_und_jugendeinrichtungen_1.pdf)





The **German Federal Youth Council (DBJR)** was founded in 1949 as the working group of nation-wide working German youth councils and organisations. Currently 28 nation-wide youth organisations and 16 regional youth councils are members. The six affiliated organisations have an advisory vote in the DBJR's committees. The German Federal Youth Council is a registered non-profit organisation and is the strongest of the three pillars of the **German National committee for international youth work (DNK)**, which represents the German youth organizations in multilateral contexts and is the member of the **European Youth Forum (YFJ)**.

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The **European Youth Forum (YFJ)** is an independent platform of over 100 youth organizations in Europe, to which DNK is a full member. Founded in 1996 and bringing together National Youth Councils and International Non-Governmental Youth Organizations, YFJ represents the common interests of tens of millions of young people in Europe.

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