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To: Ms. Mama Fatima Singhatheh, Special Rapporteur on the sale, sexual exploitation and sexual abuse of children; hrc-sr-saleofchildren@un.org
Ms. Alice Jill Edwards, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; hrc-sr-torture@un.org
Ms. Margaret Satterthwaite, Special Rapporteur on the independence of judges and lawyers; hrc-sr-independencejl@un.org

08 September 2023

Dear Special Procedures Mandates Holders,

Associations "Justice for All International / Justice pour Tous Internationale" and "Global Gaze Network" extend their deepest concerns to the Special Rapporteur on the sale, sexual exploitation and sexual abuse of children, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and Special Rapporteur on the independence of judges and lawyers. We jointly submit this urgent complaint on behalf of the [REDACTED] **family**, representing so-called Russian German community, particularly the children, who have suffered grave violations of their human rights in Germany.

Due to the current legal settings of the German child protection system, the children were removed from their parents by the administrative decision of the Youth Welfare Office without a court decision. The court proceedings have been protracted, and the court denied the parents their appeal for reunification with their children. Disturbingly, the children were not only removed from their parents but were also separated from each other. They are in dire mental and physical conditions, with reports of them developing allergies. The younger child has been running away from both the foster house and kindergarten, indicating the severe distress they are experiencing.

Since May 2023, the [REDACTED] family has faced a series of serious human rights violations. The children were forcibly separated from their beloved family and placed in two different foster homes, leading to their illicit exploitation. This separation, coupled with the protracted proceedings, has resulted in a gross violation of the principle of the best interest of the child, as well as proportionality, necessity, and legitimacy. The children's deprivation of contact with their parents is a clear violation of Article 7 of the International Covenant on Civil and Political Rights (ICCPR), which prohibits "Torture or Cruel, Inhuman or Degrading Treatment or Punishment."

Despite reports of trauma and suffering of the children due to this separation and lack of contact with their parents and grandparents, the family court has ordered an evaluation of the family and children by the end of November. This makes it imperative to engage urgently with the Government of Germany on this exemplary case.

Please note that we have identified a systematic, gross, and mass violation of international law in Germany, suggesting a potential pattern of abuse that bears striking similarities to the experiences of the [REDACTED] family. However, only Mr. [REDACTED] and Ms. [REDACTED] have provided written consent to communicate their names and full identities to the German Government. They have also consented to have their names published in the Special Procedures' communications report to the Human Rights Council.

We urge the Special Rapporteurs to engage with the Government of Germany to halt and prevent the recurrence of these alleged interventions and associated severe human rights violations. We also call for prompt and effective investigations into these allegations, as mandated by Articles 12 and 13 of the CAT. Those found responsible for these grave violations should be brought to justice, and measures must be taken to guarantee the right to family unity, liberty, and security in accordance with international human rights standards.

Furthermore, we request the Special Rapporteurs to urge the German government to provide appropriate redress and compensation to the [REDACTED] family for the damages they have suffered due to the arbitrary intervention with their rights and freedoms.

Should the Special Rapporteurs find it agreeable, we are open to engaging deeper into these matters. We would greatly appreciate the opportunity for the [REDACTED] family and ourselves to meet with you at a time of your choosing.

We thank you for your attention to this pressing matter and make ourselves available to provide any additional information or assistance on the issues raised in this complaint.

Sincerely,

Sharof Azizov

Founder and Secretary of the Board
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EXECUTIVE SUMMARY OF THE URGENT COMPLAINT AGAINST GERMANY:

On 8 September 2023, two Swiss human rights associations, "Justice for All International / Justice pour Tous Internationale" and "Global Gaze Network," took a critical step to address a dire child rights situation in Germany. They submitted an urgent complaint to the Special Rapporteur on the sale, sexual exploitation, and sexual abuse of children; the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment; and the Special Rapporteur on the independence of judges and lawyers. The complaint was a plea for immediate intervention, aimed at halting and preventing the recurrence of severe human rights violations perpetrated by the German child protection system against a family from Siegen, Germany.

The legal proceedings in this case have been fraught with issues that raise serious questions about the German child protection system's compliance with both domestic and international law. The Youth Welfare Office's initial decision to remove the children from their family was disproportionate and was followed by placement in a foster home with inadequate living conditions. The children were reportedly sleeping on mattresses on the floor, sharing room space with three other children. Despite the absence of any material evidence of abuse by the parents, the court deprived them of custody without due consideration of the children's best interests or the application of less severe measures. The court also denied the parents' appeal for reunification with their children and imposed severely restricted visitation rights, limiting them to just one hour per week. Adding to the family's ordeal, the court made the highly questionable decision to separate the siblings, causing them even greater distress. All these actions have had a profound impact on the family, accounting for a significant percentage of the young children's lives and continuing to cause them suffering.

The family's ordeal began on 8 May 2023, when their children were forcibly removed from their home. Initially, both children were placed in a single foster home. However, they were later separated and placed in different foster homes, exacerbating their emotional and psychological distress. All these actions were taken by the Youth Welfare Office, Kreisjugendamt Siegen, without any court decision. The family court proceedings that followed were protracted, not due to the complexity of the case but because of the court's failure to act expeditiously. The court's sluggishness was further highlighted when it ordered a psychological evaluation of the parents to be completed by the end of November, a decision made at the beginning of June. Despite repeated requests from the parents to expedite this evaluation, the court remained unresponsive.

This delay in court proceedings and the court's failure to prioritize the best interests of the child are symptomatic of a larger issue within the German legal system. Unlike international standards, which prioritize the child's best interests, the German system operates under a different principle known as 'Wohl des Kindes,' or 'Wellbeing of the Child.' The principle of the best interests of the child has never been implemented in the German legal system. The existing term 'Wellbeing of the Child', while seemingly innocuous, can dilute the essence of what should be the guiding principle in child welfare cases. It creates confusion and can foster paternalistic attitudes that sideline the child's own perspective and needs.

The situation is further complicated by the German Constitution, the Grundgesetz, which does not explicitly prioritize the child's best interests. This legal hierarchy allows the Grundgesetz to potentially override international conventions like the UNCRC, especially in broader federal laws concerning migration and family matters. This lack of clarity often results in the child's best interests being relegated to a mere component of deliberations, rather than serving as an overarching principle guiding decisions.

Upon verification of the information at hand, we express profound concerns over the alleged illicit exploitation and suffering endured by the [REDACTED] family, especially the children, in their ongoing custody dispute with the Youth Welfare Office. This situation raises alarming questions about the recurrent and disproportionate interventions that particularly affect vulnerable families like the [REDACTED].

Our concerns extend to the conditions and emotional well-being of the [REDACTED] children, who have been forcibly separated from their parents. Their immediate, unconditional, and safe reunification with their family is of paramount importance. Furthermore, these children are reportedly at risk of exploitation and undue influence while under the care of administrative bodies, constituting a violation of Article 7 of the International Covenant on Civil and Political Rights (ICCPR), which prohibits "Torture or Cruel, Inhuman or Degrading Treatment or Punishment."

We urgently call upon the Special Rapporteurs to engage with the Government of Germany to halt and prevent the recurrence of these alleged interventions and associated severe human rights violations. We also urge the initiation of prompt and effective investigations into these allegations, as mandated by Articles 12 and 13 of the CAT, which require the government to ex-officio investigate instances of torture and ill-treatment. Those found responsible for these grave violations should be brought to justice, and measures must be taken to guarantee the right to family unity, liberty, and security in accordance with international human rights standards.

Additionally, in light of the emotional and psychological trauma inflicted upon the [REDACTED] family, we call for immediate action to ensure access to justice and effective remedies for the victims, in compliance with international human rights norms.

Article 37 of the Convention on the Rights of the Child (CRC) explicitly states that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment." The current situation not only violates this provision but also undermines the essence of the CRC, which is to protect the inherent dignity and worth of the child.

We also draw attention to Article 3 of the Universal Declaration of Human Rights (UDHR) and General Comment No. 31 by the Human Rights Committee, emphasizing the responsibility of State parties to exercise due diligence in preventing, punishing, and investigating human rights abuses.

The [REDACTED] children's situation is a tragic example of the systemic failures within the German child welfare system. Removed from their family, separated, and placed in two different foster families, these children have become victims of a system that seems more interested in financial gain than their well-being. The foster families, allegedly profiting significantly from the children's placement, are a testament to the illicit exploitation that can occur when oversight is lax and motivations are misaligned. The separation of children from their parents is a matter of grave concern, especially when it involves potential illicit exploitation. The cases of [REDACTED] highlight this issue, raising serious questions about the financial motivations of foster families and the complete disregard for the wishes, rights, and best interests of the children.

Given the severity and systematic nature of these violations, the associations are planning further steps. We intend to submit a joint complaint under the Committee on the Rights of the Child (CRC)'s inquiry procedure. Over the next three months, provided availability of funds, they will engage in intensive research to build a robust case against Germany, aiming to persuade the CRC to initiate an inquiry procedure concerning Germany under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography (OPSC).

The implementation of this quick impact initiative will involve two or three prominent human rights lawyers and an advocacy officer based in Switzerland. A budget for two lawyers and advocacy officer of 45,000 CHF has been allocated for this collaboration, with each lawyer receiving 5,000 CHF per month and a fee for the advocacy officer of 5,000 CHF per month.

The urgent complaint and the follow up complaint to the CRC to initiate inquiry procedure must serve as a wake-up call for Germany to align its domestic practices with its international commitments. The protracted court proceedings, the court's failure to expedite the psychological evaluation, and the systemic confusion between the principles of the child's best interests and wellbeing highlight the urgent need for systemic reform. Immediate action is required to ensure that the best interests of the child are genuinely prioritized in both law and practice, fulfilling Germany's legally binding obligations under the CRC.