



Economic and Social Council

Distr.
GENERAL

E/1982/3/Add.14
24 February 1982

ORIGINAL: ENGLISH

First regular session of 1982
13 April-7 May 1982

IMPLEMENTATION OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Reports submitted in accordance with Council resolution
1986 (LX) by States Parties to the Covenant, concerning
rights covered by articles 13 to 15

FEDERAL REPUBLIC OF GERMANY

[2 February 1982]

I. ARTICLE 13: RIGHT TO EDUCATION

A. Legal basis

1. In the Federal Republic of Germany, the right to education is guaranteed by the Basic Law and the Land constitutions. The following fundamental rights enshrined in the Basic Law are of particular relevance in the field of education:

- (a) The right of everyone to the free development of his personality;
- (b) The free choice of a trade, occupation or profession, a place of training and a place of work;
- (c) Freedom of faith and creed;
- (d) The right of parents to the upbringing of their children;
- (e) Equal rights for men and women;
- (f) Equality before the law;
- (g) Freedom of art, science, research and teaching.

Some of these fundamental rights are cast in more concrete terms in the Land Constitutions.

2. General compulsory schooling is also regulated by the constitution of each Land. A detailed specification of the tasks of the school system is contained in the Land school statutes.

B. Measures taken to promote the full realization of the right of everyone to education

3. The development of the human personality and the sense of its dignity are promoted by a fairly differentiated choice of educational opportunities, ranging from pre-school education to further education. The educational system thus enables persons of all age groups to learn and to acquire qualifications. It also offers the possibility for adults to catch up on school certificates - for example, during working life. Pupils and students, as a matter of principle, participate in the responsibilities and organization of the educational system. The principle of pupils' co-responsibility is applied at all schools in all the Länder of the Federal Republic of Germany through appropriate organizational arrangements (election of pupils' representatives), and by creating the necessary pre-conditions for an effective participation and co-responsibility.

4. The strengthening of respect for human rights and fundamental freedoms, the ability of the individual to exercise his rights and duties in a free society, the promotion of understanding, tolerance and friendship among the nations and among the racial, ethnic or religious groups, are objectives explicitly laid down in school curricula, particularly for social sciences and history.

5. In order to make sure that access to the manifold types of education offered is not barred by financial obstacles, education at all state schools and universities is free of charge.

C. Right to primary education

6. Not only German children, but also the 300,000 children of migrant workers, accounting for about 11.8 per cent of students in the scholastic year 1980/1981, have a right to primary education. The following measures have in particular been taken to integrate foreign children and adolescents into society and into the school system:

(a) Establishment of preparatory classes, with both the mother tongue and German as teaching languages, in order to prepare foreign children for their full integration into mixed German and foreign classes;

(b) Establishment of promotion classes and intensive courses;

(c) Supporting measures outside school such as homework assistance, play afternoons, etc.;

(d) Development of suitable teaching material for foreign pupils;

/...

(e) Recruitment of teachers from the countries of origin of migrant workers;

(f) Further training for German teachers which takes account of the special educational and didactic problems of teaching foreign children.

7. The realization of the right to primary education meets with difficulties only in the case of children of foreign workers who arrived in the Federal Republic of Germany at, or shortly before, reaching primary school age. Children who were born in the Federal Republic have the same educational opportunities as German children.

8. As mentioned above, education is free in all state schools and universities. Moreover, teaching material used in primary schools may be borrowed by the pupils or is given to them free of cost. Where villages in rural areas have no school of their own, school bus transport is provided.

D. Right to secondary education (secondary level II)

9. Provision has been made in the general secondary school system to enable pupils to change from one type of school to another without any loss of time and consequent misdevelopments (establishment of orientation levels and transfer possibilities in all grades).

10. All adolescents are, as a matter of principle, subject to compulsory vocational schooling up to the age of 18, unless they attend general secondary schools or vocational full-time schools. Approximately two thirds of the fifteen- and sixteen-year-olds enter vocational training, which is a combination of training on the job and of instruction at a part-time vocational school. It is the aim of the Federal Government to ensure that all adolescents can find a suitable training place.

11. Difficulties in the realization of the right to education have again cropped up, mainly for children of foreign workers, due to the obstacles mentioned above which will only gradually be overcome.

E. Right to higher education

12. Every German national who has a general university entrance qualification (Abitur) or a qualification for special subjects is entitled to higher education. Holders of the general university entrance qualification may attend any university course, whereas those with a specific entrance qualification have access to certain subjects only. Qualification for entry to a technical university (Fachhochschulreife) entitles students to access to technical colleges and corresponding courses and comprehensive universities.

13. In order to qualify for access to a German university, foreigners must furnish proof of a school leaving certificate recognised as being equivalent to the German Abitur, and in some cases must pass an additional examination. Moreover, foreigners must have a reasonable knowledge of German. In order to be admitted to a technical university, foreigners must have a certificate at least equivalent to the German

/...

certificate qualifying for entry to a technical university, as well as a sufficient knowledge of German.

14. The percentage of pupils obtaining university entrance qualifications increased from 8 per cent of the age group in 1965, to about 23 per cent in 1980. This was due not only to intensified efforts aimed at expanding the educational system, but also to its greater permeability. Greater permeability has been achieved by offering courses to persons with vocational qualifications, in order to enable them to acquire the certificate qualifying for entry to a technical college.

15. Difficulties in the realization of the right to higher education are due to the fact that, on the one hand, there is an increasing number of applicants for places in a degree course and, on the other hand, places are still limited for some subjects, although higher education facilities have been expanded. The Länder of the Federal Republic of Germany concluded an inter-State agreement on the allocation of study places for subjects where capacities are limited (for example, medicine, dentistry, pharmacology, psychology), and at the same time decided on measures to ensure that there were no imbalances in the use of existing capacities.

F. Right to fundamental education

16. In the Federal Republic of Germany, compulsory schooling is more or less fully complied with. However, there are persons who because of poor educational achievements, and because there was little opportunity for supportive measures, have gaps in their basic education. For such persons, adult education courses are held at the adult education centres (Volkshochschulen), and sponsored by the Federal and Land Governments.

17. In order to give German and foreign adolescents who do not have a leaving certificate from an upper primary school (Hauptschulabschluss) an opportunity to catch up on their education, the Volkshochschulen - municipal institutions of adult education now existing throughout the Federal Republic - developed, with the financial assistance of the Federal Ministry of Education and Science, intensive courses where participants could acquire a school leaving certificate of upper primary education.

18. Compliance with compulsory education is difficult in the case of itinerant families and the families of recently arrived foreign workers. Often those groups evade all the measures taken to enforce compulsory schooling. The percentage of those groups in the total population is, however, so small, that statistically they are hardly relevant.

19. As concerns statistical data on the realization of the right to fundamental education, it can be stated that that right is fully realized in so far as it is reasonably practicable.

G. The development of a system of schools

20. School development planning is primarily carried out by the Länder and the municipalities. All Länder have therefore established their own school development

/...

plans in order to continuously adapt the school system to changing circumstances and to achieve, at the same time, a permanent improvement of the existing structures. Such school development plans provide for an improvement of existing schools as well as for the building of new schools, and they ensure that differentiated educational facilities are offered by different types of schools, account being taken of the number of pupils in a given region.

21. School development plans are established also with a view to gradually introducing certain innovations and continuously improving the pupil-teacher ratio.

22. In 1969, educational planning, including the school system, was incorporated into the Basic Law as a joint task of the Federal and Land Governments. Joint educational planning is carried out by the Commission of the Federal and Land Governments for Educational Planning and Research Promotion, which has the task of establishing a national framework for the medium- and long-term development of the educational system in the Federal Republic of Germany.

23. So far, the major results of the educational planning process have been:

(a) The 1973 General Plan for Education provides for the extensions, structural adjustments, teaching staff requirements, financial framework, etc., necessary for the further development of the education system, ranging from kindergartens to universities and further training facilities;

(b) Planning of the priorities of vocational education, to be realized in several stages (1975);

(c) A programme of urgent measures to reduce the employment risks of young people (1976-1978).

24. Statistical data on the development of the number of pupils in the primary level and in secondary levels I and II are listed below.

25. Primary education (primary school pupils (Grundschüler)):

	<u>1965</u>	<u>1970</u>	<u>1975</u>	<u>1979</u>
Pupils a/	3,453,200	3,977,300	3,927,100	2,987,100
Teachers		121,500 b/	126,900	118,600
Pupils per teacher		34 b/	31	25

Source: Grund- und Strukturdaten (Basic and structural data), published by the Federal Ministry of Education and Science.

a/ Including pupils of grades 5 and 6 in Bremen and Berlin.

b/ 1972.

26. Secondary level I (upper primary school pupils (Hauptschüler), intermediate school pupils (Realschüler), grammar school pupils, comprehensive school pupils):

	<u>1965</u>	<u>1970</u>	<u>1975</u>	<u>1979</u>
Total number of pupils	3,444,100	4,295,800	5,231,300	5,228,300
Pupils in upper primary schools	2,112,500	2,370,200	2,512,800	2,020,500
Pupils in intermediate schools	570,900	863,500	1,179,900	1,370,300
Pupils in grammar schools	760,000	1,062,100	1,394,800	1,523,600
Pupils in comprehensive schools	-	-	143,800	313,900
Teachers	-	205,000 <u>a/</u>	234,400	247,600
Pupils per teacher at:				
Upper primary schools	-	24 <u>a/</u>	23	21
Intermediate schools	-	23	23	22
Grammar schools	-	21 <u>a/</u>	22	21
Comprehensive schools <u>b/</u>	-	-	16	21

Source: Grund- und Strukturdaten (Basic and structural data), published by the Federal Ministry of Education and Science.

a/ 1972.

b/ The pupils per teacher ratio for comprehensive schools is due to the fact that one third of comprehensive schools are all-day schools.

27. Secondary level II (grammar school and comprehensive school pupils in grades 11 to 13):

	<u>1965</u>	<u>1970</u>	<u>1975</u>	<u>1979</u>
Pupils	197,200	317,400	475,900	654,400
Pupils in general schools of secondary level II as a percentage of the sixteen- to under nineteen-year olds	9	13	17	21
Teachers	-	29,000 <u>a/</u>	34,000	50,400
Pupils per teacher	-	13 <u>a/</u>	14	13

Source: Grund- und Strukturdaten (Basic and structural data), published by the Federal Ministry of Education and Science.

a/ 1972.

H. Establishment of an adequate scholarship system

28. In the Federal Republic of Germany, there is a comprehensive system of training and educational assistance for pupils and university students on the basis of the Federal Training Assistance Act (Bundesausbildungsförderungsgesetz - BAföG). Assistance under BAföG is granted to pupils in general secondary schools from grade 11 onwards, and to pupils in vocational schools from grade 10 onwards. Assistance is also granted to students at advanced technical and commercial schools, colleges and universities. In 1980, about 830,000 pupils and students received assistance. The monthly amount payable depends on the type of institution attended, and on whether the pupil or student lives at home or elsewhere. At present, the maximum amount of assistance for a pupil living at home is DM 260, whereas for a student living outside of his home a maximum of DM 620 may be paid. Assistance is, as a matter of principle, granted by taking account, firstly, of the income and property of the student or pupil himself, secondly, that of his spouse, and thirdly, that of his parents. When the amounts of assistance payable are established on the basis of the existing income and property, a differentiated scale of exempted amounts, which may be deducted, is applied. Assistance to pupils is granted only in the form of scholarships, whereas for students it is a combination of both scholarships and loans.

29. Sixty-five per cent of training assistance is financed by the Federal Government; the remaining 35 per cent is financed by the Länder. Between 1972 and 1980, total training assistance expenditures of the Federal and Land Governments was

/...

well above DM 22 billion. In 1980, it amounted to about DM 3.6 billion, with DM 2.9 billion payable as scholarships and about DM 0.7 billion as loans.

I. Improvement of the material conditions of the teaching staff

30. Teachers in the Federal Republic of Germany are, as a rule, civil servants of the Land administration. Their salaries and pensions are determined by the relevant civil service legislation.

31. The material conditions of the teaching staff were repeatedly adjusted, most recently by a federal harmonization law (Second law to harmonize and amend legislation governing the salaries of federal and land civil servants (2. BesVNG), dated 23 May 1975, BGBl. I, p. 1173). The general salary increases for public servants also led to a continuous improvement in the material conditions of the teaching staff.

32. In view of the current economic and budgetary problems, further structural improvements for a specific category of civil servants have now become much more difficult - so much more so that account has to be taken of the material conditions of all other categories of civil servants.

33. The comments made above apply, mutatis mutandis, to teachers who are salaried employees, and whose salaries are fixed by collective agreement.

34. In all the Länder, special institutions were set up offering a wide range of continuing education for teaching staff. There is a general obligation for teachers to participate in the continuing education courses thus provided and they may be granted leave of absence, with continued payment of their salary.

35. Teachers and their associations participate, in many ways, in the formulation of educational plans and the preparation of curricula and teaching materials. New educational plans are normally formulated by commissions, set up by the Land Educational Ministries and composed mainly of teachers. Draft curricula are generally tested at the schools for a certain period, so that all teachers have the possibility of reporting on their experience during the test run, which allows them to have a say in finalizing curricula.

36. Moreover, teachers and their associations have the possibility to participate in school administration through their representation in the school advisory councils of the Länder (Landesschulbeiräte), and similar bodies. Participation of teachers in the decision-making process of the educational establishment in which they are employed is also provided for by staff meeting regulations.

37. Within the limits of existing educational plans, teachers are, in principle, free to apply their own teaching concepts (educational freedom).

J. Right to choice of school

38. In the Federal Republic of Germany, the right to establish private schools is guaranteed by the Basic Law. Where, however, private schools are established as a

/...

substitute for State or municipal schools, the approval of the State is required. Recognition by the State is meant to ensure that only qualified teaching staff are employed, and that the educational objectives laid down for State schools are observed.

39. Private schools are granted substantial financial assistance by the State. Assistance is granted on condition that the school accepts children from all classes of society, irrespective of the income of their parents.

40. In some of the Länder it is not only possible to establish private schools, but it is also possible to run State schools as denominational schools, provided that this is requested by a sufficiently large number of parents. This applies, however, only to primary schools, which are compulsory for all children, and to upper primary schools (Hauptschulen), which are compulsory for those children who do not attend any other type of secondary school.

K. Liberty to establish and direct educational institutions

41. As set out above, the right to establish private schools is guaranteed by the Basic Law and the Land constitutions. The constitutional provisions are implemented by detailed private school legislation of the Länder.

II. ARTICLE 14: PRINCIPLE OF COMPULSORY EDUCATION, FREE OF CHARGE FOR ALL

42. In all the Länder of the Federal Republic of Germany, school and university education is free of charge.

III. ARTICLE 15: RIGHT TO TAKE PART IN CULTURAL LIFE AND TO ENJOY THE BENEFITS OF SCIENTIFIC PROGRESS AND THE PROTECTION OF THE INTERESTS OF AUTHORS 1/

A. Right to take part in cultural life

B. Right to enjoy the benefits of scientific progress and its applications

43. The very liberal structure of the German State and society guarantees the realization of the right of everyone to take part in cultural life and to enjoy the

1/ "East German", as used throughout subsection A and B of the present section refers to the areas of expulsion within the meaning of the Act governing matters relating to expellees and refugees of 19 May 1953, as amended by the Act of 3 September 1971 (Federal Law Gazette 1971, part I, pp. 1565 ff.).

benefits of scientific progress and its applications. The German Basic Law declares the dignity of man to be inviolable, and guarantees everyone the right to the free development of his personality. Moreover, everyone has the right to freely inform himself, from generally accessible sources.

44. Provision is made in the federal budget for funds to promote the cultural independence of alien ethnic groups. Those funds are used to assist the central institutions and nation-wide activities of ethnic minority groups in Germany, who originated mainly after the Second World War and comprise former stateless aliens and recognized foreign refugees. Assistance is aimed at helping them preserve their cultural identity and fostering their culture of origin, including their traditions, in terms of religion and language.

45. Financial assistance is granted on the condition that ethnic groups show their interest in the development and preservation of their cultural independence by an appropriate moral, as well as material, commitment. The groups are thereby protected from pressure to assimilate, and their integration is facilitated by preserving their cultural roots, which, at the same time, also enriches cultural life in the Federal Republic of Germany. The financial resources mentioned above are also used to support a series of educational institutions of ethnic minorities. These include the Lettish Grammar School (Lettische Gymnasium) in Münster, the Lithuanian Grammar School (Litauische Gymnasium) in Lampertheim-Hüttenfeld, the Hungarian Grammar School in Kastl, and the Ukrainian Boarding School (Ridna Schkola) and Ukrainian Free University in Munich. Moreover, there is a Danish Grammar School in Flensburg, as well as a number of bilingual secondary schools throughout the Federal Republic of Germany.

46. Financial assistance to the cultural institutions and activities of ethnic groups is also provided by the Länder and municipalities. They also support the cultural institutions and activities of foreigners who entered the country as refugees.

47. Under section 96 of the Act governing matters relating to expellees and refugees, the Federal and Land Governments are called upon to ensure that in the German population there is a general awareness of the cultural heritage of German cultural regions in Eastern Europe, and to promote the cultural activities of expellees and refugees.

48. In order to honour that obligation, support is given to the work of artists committed to the East German cultural heritage. Assistance is granted above all to the Artists' Guild (Künstlergilde) of Esslingen, whose manifold cultural activities are of a high quality. Assistance to the East German Gallery (Ostdeutsche Galerie) in Regensburg is another priority. The East German Gallery is an art museum which is increasingly known and respected abroad.

49. In the field of education, science and research, assistance is primarily granted to publications giving a comprehensive survey of the history and culture of the regions from which Germans were expelled. Moreover, assistance is given, inter alia, to the publication of written and audio-visual documentation, and to a large number of periodicals of different orientations. That kind of assistance is

considered a contribution to the preservation and systematic evaluation of the cultural heritage of German cultural regions in Eastern Europe, with the aim of making that cultural heritage accessible to the German population as a whole.

50. Moreover, financial assistance is granted to the activities of the associations of expellees (Vertriebenenverbände) as well as of the associations of expellees and refugees from particular regions (Landsmannschaften der Vertriebenen und Flüchtlinge). Assistance is given with the aim of alleviating the psychological consequences of loss of home experienced by expellees and refugees and of facilitating their integration.

51. Assistance is also given to regional and supra-regional cultural institutions. The granting of assistance depends on the effectiveness of the institution and the quality of its work. Care is taken to ensure, as far as possible, that all cultural regions benefit from Government assistance.

52. The problem is that there is not yet a general awareness of how important it is, for German culture in general, that East German cultural wealth is cultivated and further developed. Nor is there yet a general awareness of the fact that the generation who actually experienced flight and expulsion gradually disappear, which means that we lose persons who voluntarily engage in this kind of work, who pass on their own living traditions, and who, intellectually and emotionally, are closely attached to the German cultural regions in Eastern Europe.

53. The Federal Government, therefore, is working out a policy concept for the continuation of East German cultural activities. The basic principles were unanimously approved by the German Bundestag on 4 July 1980.

C. Protection of moral and material interests of authors

54. The obligation under article 15, paragraph 1 (c) of the Covenant - to recognize the right of everyone to benefit from the protection of moral and material interests resulting from any scientific, literary or artistic work of which he or she is the author - is fulfilled by the Federal Republic of Germany in the ways set out below.

Constitutional protection

55. According to the decisions of the Federal Constitutional Court, which is the supreme constitutional authority in the Federal Republic, copyright enjoys the same protection as the basic right to property, guaranteed by article 14 of the Basic Law. This means, on the one hand, that the work of an author is his intellectual property, and as such is protected against any interference in its contents or its form. On the other hand, this also means that the author has the right of exploitation and that it has to be ensured, as a matter of principle, that he financially benefits from the economic use of his intellectual property by third persons.

56. The legislator has to comply with this guarantee as with all other basic rights; the same applies to the German courts and authorities implementing copyright regulations. An author who thinks his basic right was violated may, when all other legal remedies have been exhausted, lodge a constitutional complaint with the Federal Constitutional Court. This ensures highly effective copyright protection in the Federal Republic of Germany.

57. Detailed provisions relating to copyright are contained in the Copyright Act of 9 September 1965 (Bundesgesetzbl. I, p. 1273). The Act protects the author of literary, scientific or artistic productions "in terms of his intellectual and personal relationship with his work and its exploitation" (Copyright Act, sect. 11).

58. Jurisprudence relating to the personality rights of the author (Urheberpersönlichkeitsrecht), that is, to the intellectual and personal relationship of the author to his work, has been developed in Germany. Among the major individual rights thus guaranteed to the author are: the right to decide upon publication of his work, the right to claim authorship, the right to object to its distortion and mutilation, the right to object to any modification, the right of access to existing copies, the right to claim that the source is indicated in the case of quotation, the right to recall his work because of changed convictions, and the right to claim exemption from execution of enforceable judgements, etc.

59. The Act reserves for the author the exclusive right to exploit his production materially (for example, by reproduction and dissemination), or to reproduce it non-materially (for example, by lectures, performances, or by radio and television broadcasts). The author may transfer the right to exploit his production to a third person. Section 36 of the Copyright Act provides that in cases where such a right of exploitation was granted under conditions "conducive to a situation where, considering the totality of relations between the author and the other party, there is a gross imbalance in the consideration agreed upon", the other party, at the request of the author, is obliged "to agree to a change of contract so that the author receives an appropriate share of the profit made".

60. Additional measures to realise the rights laid down in the Copyright Act are, however, necessary, since, in relation to the companies, organizations or other bodies interested in the exploitation of productions, the author is in an economically weaker position. In the Federal Republic of Germany, the rights of authors are, therefore, to a considerable extent, safeguarded by marketing companies acting on behalf of authors. The legal status of such companies, which require the approval of the authorities, is defined by law.

Limits to copyright

61. The Copyright Act sets out certain limits to copyright in order to take account of legitimate public interests. For, like any other absolute right, copyright gives rise to certain social obligations and is subject to limits in the interest of the community.

62. Such limits are exclusively listed in the Copyright Act. The limits to copyright must, as a matter of principle, be narrowly interpreted, and the

underlying principle of social obligation may not be used as an argument for a more liberal interpretation. Apart from provisions to guarantee the liberty of quotation in the interest of cultural life in general, and from provisions allowing the use of works for the purpose of legal proceedings and public security, copyright is mainly limited by provisions related to reproductions for private use and public performances of musical works. All those provisions provide that copyrighted work may, to a certain extent, be exploited without the consent of the author. In some cases, such as the private reproduction of copyrighted music, a fee is payable to the author. It is envisaged that the obligation to pay fees will be considerably extended, in order to make sure that, for authors, the limitation of copyright involves as little financial disadvantage as possible. The legal limitation of copyright does not, as a matter of principle, affect the personality rights of the author.

Protection in the case of copyright infringements

63. Sections 97 and following of the Copyright Act stipulate that where copyright is infringed upon, the author may claim under civil law that such infringements be refrained from and that damages be paid; moreover, he may claim the destruction or surrender of reproductions produced illegally. Where the author has obtained a court decision to that effect, he may, under section 103 of the Act, publish the court decision at the cost of the defeated party. Furthermore, persons infringing upon copyright may be criminally prosecuted under sections 106 and following of the Copyright Act. Copyright is hereditary, and lapses only after 70 years following the death of the author.

64. In the light of the foregoing, it can be said that with the German Copyright Act, which in international comparison is among the legislations offering the best possible copyright protection, a particularly far-reaching fulfilment of article 15, paragraph 1 (c) has been achieved in the Federal Republic of Germany.

International protection

65. According to section 7 of the Copyright Act, copyright is guaranteed to the "author of the work". Therefore, the author enjoys legal protection, without discrimination of any kind as to race, colour or the other criteria mentioned in article 2, paragraph 2, of the Covenant. The Copyright Act does not make a difference between nationalities; protection is granted to German and other nationals alike. However, international copyright protection gave rise to specific problems, which have been solved, *inter alia*, by the Berne Convention of 9 September 1886 for the Protection of Literary and Artistic Works, the Universal Copyright Convention of 6 September 1952, and the Stockholm Convention of 14 July 1967 establishing the World Intellectual Property Organisation. The Federal Republic of Germany ratified those and numerous other international copyright protection instruments, and played an active part in endeavours to guarantee the protection of the moral and material interests of authors of scientific, literary or artistic productions, beyond national borders.

D. Steps taken for the conservation, development and diffusion of science and culture

66. In the Federal Republic of Germany, the necessary pre-conditions for participation in cultural life and for the enjoyment of the benefits of scientific progress and its applications are created by a large number of specific measures taken by the Federal and Land Governments, the municipalities and other corporate bodies under public and private law.

67. Financial assistance to promote art and culture has been granted, not only with the traditional objective of preserving the major testimonies of human culture and of supporting creative and artistic work, but also, to an increasing extent, in order to enable the citizen to take part in cultural life. The idea is that participation in cultural life, which relates to the basic right of everyone to the free development of his personality, can only be realized if art and culture, and their relevant institutions, are given assistance from public funds. It was in pursuance of that objective of cultural policy, which is closely linked to educational policy, that, for example, the number and capacities of museums were increased, new buildings for large State collections were set up (for example, in Düsseldorf and Munich), and a massive increase in the number of visitors, in particular of big exhibitions, was achieved (for example, the Staufer exhibition, the Council of Europe exhibition in Berlin: the art of the 1920s). That endeavour is also illustrated by the broad and diversified programmes of many theatres and orchestras, as well as by the measures to promote artistic and cultural education, provided for by the Federal and Land Governments Commission for Educational Planning and Research Promotion. The funds spent for that purpose, by the Federal and Land Governments and the municipalities, were increased from about DM 2 billion in 1970 to approximately DM 3.6 billion in 1976.

68. In the Federal Republic, cultural pluralism (that is, a broad and varied offering of cultural activities) is facilitated by the decentralized structure of the country, which makes it possible for a large number of cultural institutions and bodies to work side by side, independent of each other. This has resulted in a great cultural diversity, which is illustrated by the fact that there are a large number of different regional theatres (257), museums (760) and libraries (approximately 8,000).

69. Mention should also be made of efforts to improve the situation of artists, irrespective of the guarantee of the freedom of art. Thus, the Copyright Act was amended, and now provides that an author's fee is payable by public libraries (that is, from public funds) to marketing companies for the benefit of authors (in 1980 about DM 13 million). Moreover, numerous incentives for the motivation and creativity of artists are given in the form of private and public awards.

70. The fact that new legislation for the protection of monuments was introduced in all the Länder of the Federal Republic of Germany shows that there is greater awareness of the value of our architectural heritage and the need for its protection. The funds directly allocated for the protection of monuments were increased from about DM 190 million in 1974 to some DM 315 million in 1978. In addition, several billion marks are spent, partly for the preservation and

reconstruction of nationally important monuments, and partly for the redevelopment of buildings under special programmes of the Federal and Land Governments and the municipalities. That additional amount does not include the financial efforts of churches and individuals.

E. Right to the freedom of scientific research and creative activity

71. In a system of free democracy as in the Federal Republic of Germany, the freedom indispensable for scientific research and creative activity is evidently respected. That freedom is guaranteed by the Constitution, and more particularly by the right of everyone to the free development of his personality, freedom of art and science, research and teaching, the right to choose a trade, occupation or profession, as well as by freedom of expression. A densely knit social security network is the material safeguard for those fields of human activity. The social security network, which was the subject of a report on article 9 of the Covenant, has recently been complemented by legislation related to the social security of self-employed artists.

F. Encouragement and development of international contacts and co-operation in the scientific and cultural fields

72. The Federal Republic has manifold international contacts in the scientific and cultural fields. A detailed description of those contacts would, however, go beyond the scope of this report. Such contacts are maintained by authorities, corporate bodies and institutions under public law, universities and private associations. As an illustration, a more detailed description of the cultural policy of the Federal Foreign Office is given below.

1. Principles of German cultural policy abroad

73. The cultural policy pursued abroad by the Federal Government is characterized by its openness towards foreign cultures and its desire to encourage contacts between foreign and German representatives in all scientific and cultural fields, in order to achieve a fruitful exchange of views and experience. The work of the United Nations Educational, Scientific and Cultural Organization and the Council of Europe are among the priorities of the Government's multilateral cultural policy. The Federal Republic is participating in as many subordinate bodies and projects of those organizations as possible, and will continue to do so despite world-wide economic difficulties.

74. This attitude is reflected in the financial and organizational participation of the Federal Government in cultural and scientific events, on a national and international level, as well as in the financial assistance granted for study tours under programmes for cultural exchange with other countries.

75. The Basic Law guarantees freedom for everyone to take part in a free cultural exchange, individually or jointly with others.

76. The Federal Government also created legal pre-conditions for the successful work of the organizations for cultural exchange. In the school skeleton plan of 1978, the Federal Government laid down binding objectives which encourage German schools abroad to become places of communication between different cultures. The rights of the staff employed in that field are safeguarded by administrative regulations and collective agreements.

2. Cultural institutions and societies

(a) Activities of the Goethe Institute

77. The Goethe Institute for the maintenance of the German language abroad and the promotion of international cultural co-operation concluded a so-called "skeleton" agreement with the Federal Republic of Germany, represented by the Federal Minister of Foreign Affairs. The skeleton agreement, dated 31 July 1969, was amended on 30 June 1976. Article 1, paragraph 1, defines the "contractual tasks" assigned to the Goethe Institute by the Federal Government, within the framework of its constitutional responsibility for cultural policy abroad:

- (a) Maintenance of the German language abroad by:
 - (i) The provision and promotion of German language teaching abroad, particularly for adult persons;
 - (ii) Co-operation with school administrations, institutions and teaching staff abroad;
 - (iii) Offering further training possibilities to language teachers and Germanists abroad;
 - (iv) Developing and improving teaching methods and material, or by assisting other bodies in that task;
 - (v) Distributing scholarships to German language students.
- (b) Promotion of international cultural co-operation by:
 - (i) Organizing cultural events abroad, or by arranging for such events to be held;
 - (ii) Ensuring that information on cultural life in the Federal Republic is available abroad;
 - (iii) Giving guidance to foreign visitors, before and after their stay in the Federal Republic;

- (iv) Other forms of participation in cultural co-operation and cultural exchanges with foreign institutions, in consultation with the Foreign Office.

78. In order to fulfil the tasks assigned to it, the Goethe Institute has 140 institutes in 63 countries as well as 12 branch offices and 2 liaison offices, so that it is represented in 66 countries. It is, however, represented in only 17 communist countries: in Romania (cultural institute in Bucharest) and Yugoslavia (cultural institutes in Belgrade and Zagreb). The 17 German institutes also contribute to the tasks the Goethe Institute has to fulfil by providing intensive German language courses for scholarship-holders and paying course participants. Another contribution is made by the scientific facilities of the Goethe Institute headquarters in Munich, where teaching methods and material for the teaching of German as a foreign language are developed.

79. The activities of the 17 German institutes are limited to the two major fields of action of the Goethe Institute, that is, German language teaching and information about Germany. The institutes abroad, in addition, organise their own cultural programmes (for example, lectures, exhibitions, musical performances, dancing, theatre performances, films, libraries and media) and their cultural activities are addressed to the general public of the host country. Moreover, intensive efforts are made to reach particular target groups: technical and managerial staff, university students, persons passing on information in their own work (multipliers), women, young people and other social groups such as trade unions, employers, etc. It is the aim of the Goethe Institute not to limit its activities to the presentation of German culture, but rather to bring about a cultural dialogue with the host country. That is why particular importance is attached to events where foreign participants are actively involved (colloquia, symposia, concerts with artists of the host country, performances of theatre plays written by playwrights of the host country and/or performed by actors of the host country, exhibitions of works of local artists, etc.).

80. In the financial year 1981, some DM 150 million have been granted to the Goethe Institute by the Federal Government in order to ensure that it can live up to its contractual tasks. That amount is intended to finance its programmes as well as administrative costs, including staff costs. The institutes are self-financing, from fees payable by course participants (the so-called "own resources sector" of the Goethe Institute).

(b) Activities of the approximately 120 German-foreign cultural societies

81. Assistance is also granted to activities of the 120 German-foreign cultural societies (for example, concerts, exhibitions, lectures and presentation of films). Some societies also have their own libraries. A number of those societies not only have a programme of cultural activities, but also offer German language courses. Their work is supported by German diplomatic or consular offices abroad, as well as by the Goethe Institute.

82. In 1981, total assistance granted to German-foreign cultural societies abroad reached DM 5 million. In that context, it should be pointed out that the size and effectiveness of the societies differ considerably.

3. Special remarks on section F, paragraph (3) of the guide-lines

83. The development of international co-operation in scientific and cultural fields meets with difficulties in cases where partner States see the cultural and scientific exchange mainly from a political and ideological angle, subjecting the amount and content of the cultural and scientific activities offered to strict control so as not to jeopardize their monopoly over information and cultural policy in their own country. On the other hand, those States use all the possibilities which exist in a country with a free and decentralized structure, like that of the Federal Republic of Germany, for an extensive presentation of their own activities. The result is a clear imbalance, to our disadvantage, in the exchange of cultural events (guest performances, exhibitions, etc.), and a restriction of scientific exchange both ways.

IV. ADDITIONAL COMMENTS ON ARTICLES 1 TO 5 OF THE COVENANT

A. The right of self-determination (article 1)

84. The Federal Government considers the right of self-determination a central legal and regulatory principle in a community of nations. It is applicable to everyone, without distinction of any kind as to colour, race, religion or regional origin. The right of self-determination, as laid down in the United Nations Charter, has been given particular emphasis, both in the International Covenant on Civil and Political Rights and in the International Covenant on Economic, Social and Cultural Rights, since it figures as part I - ahead of all the other rights guaranteed by the Covenants. The Federal Government welcomes the clear emphasis which is placed on the internationally binding principle of self-determination.

85. At the national level, it is a principle enshrined in the Basic Law that the State must respect the right of self-determination in all its political action. Therefore, it has been, and will continue to be, the declared political aim of the Federal Republic of Germany to work for a state of peace in Europe in which the German nation will regain its unity through free self-determination.

86. In the life of nations and individuals, the exercise of the right of self-determination is a permanent process of renewal. The right of self-determination pertains to all peoples as a right to determine their own domestic and foreign policies, as well as economic, social and cultural policies. According to paragraph 1 of article 1 and article 55 of the United Nations Charter, article 1 of the two human rights Covenants, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, and the Final Act of the Conference on Security and Co-operation in Europe, that right is of universal application. Therefore, every nation must have the opportunity to express its will

through the ballot box at regular intervals. The right of self-determination of all peoples can be fully realized only if everyone participates in the process, in community with others. Therefore, it is indispensable that every citizen enjoy human rights and fundamental freedoms, such as freedom of expression, freedom of information and freedom of assembly. This is the only way to create the necessary prerequisites for the full realization and exercise of the right of self-determination of all peoples. On the other hand, the Federal Government thinks that sound economic development is an essential element to safeguard a people's right of self-determination. That is why we attach great importance to a dialogue between industrialized and developing countries, on the basis of equal partnership.

B. Ban on discrimination (article 2)

87. Some aspects of non-discrimination have been dealt with above. The following additional and summarizing remarks can be made:

1. The treatment of foreigners in general

88. In the Federal Republic of Germany, German and foreign nationals are, as a matter of principle, granted equal treatment in the educational field. However, foreigners are in a less favourable starting position when it comes to training or integration in professional life (for example, language difficulties, different educational systems and a lack of familiarity with the situation in a host country). Therefore, additional measures such as language courses, assistance to students, training measures, etc., are necessary, in order to take account of the special situation of foreigners:

(a) Guidelines for measures to improve educational opportunities, in particular for foreign children and adolescents, are set out in the Federal Government Decisions on the Further Development of the Policy towards Foreigners, of 19 March 1980.

- (i) If foreign children are to be integrated smoothly into German society, it is essential for more of them to pass German school leaving examinations. Improved educational opportunities for foreign children, young persons and adults require:

At the pre-school stage: the adaptation of kindergarten activities to the needs of foreign children, more places in crèches and kindergartens - especially all-day kindergartens - in residential areas with a large proportion of foreigners, and a gradual reduction of kindergarten fees for foreign and German children.

At the school stage: the inclusion of foreign children in ordinary German school classes as soon as they know enough German, a limit (for example, one or two years) on the time spent by recently arrived foreign children in preparatory classes, instruction in the mother tongue under German school supervision, the provision of all-day schools for foreign

and German pupils in residential areas with a high proportion of foreigners, and better staff and equipment for schools with a high proportion of foreigners.

At the part-time vocational school stage: the provision of special promotional courses, the development of suitable curricula and teaching aids, better qualified teachers, better equipment and staffing, more attention to the special situation of young foreigners in organizing preparatory training schemes along school lines, especially the pre-vocational year, and enough full-time school courses to give occupational qualifications to young foreigners without leaving certificates.

At the further education stage: the conversion and extension of capacities so as to give the foreign population better access to further education facilities.

Advice and information for young persons and their parents on compulsory schooling and educational and training facilities in the Federal Republic of Germany.

As part of the joint federal and land planning of education under article 91 (b) of the Basic Law, the Federal Government also supports the introduction of such measures in the form of pilot projects.

- (ii) Extension of vocational preparation schemes for young foreigners without a school leaving certificate:

If young foreigners who have stopped their general education without a leaving certificate are to find jobs more easily, they must take part in schemes leading to vocational qualifications (for further details see section 2 below). The aim is to place as many young foreigners without school leaving certificates as possible in recognized vocational training courses.

- (iii) Development of intensive language courses for newly arrived foreign adolescents:

At present, intensive language courses of three to four months' duration are being developed for the problem group of newly arrived foreign adolescents. By this means, complete beginners are to be enabled to acquire a first grounding in German (see also section 2 below).

- (iv) Improved vocational guidance for young foreigners:

Vocational guidance will play a key part in the success of the proposed schemes, and especially in increasing the readiness to learn and in finding training places for young foreigners. It is indispensable that the scope of vocational guidance be extended so that as many young foreigners as possible, and their parents, can be reached.

- (v) Improved vocational training opportunities for young foreigners:

/...

Vocational training in a recognized trade is one of the most important requirements for occupational and social integration, so young foreigners must be given the same opportunities as their German peers for obtaining training places. Accordingly, a new programme launched by the Federal Minister of Education and Science, to promote the vocational training of disadvantaged young persons, is to include better training opportunities for young foreigners for whom training places cannot be found without further help, even after they have taken part in vocational training schemes, especially schemes for the vocational preparation and social integration of young foreigners.

(b) Persons eligible for asylum may avail themselves of various forms of assistance for their integration. Under the Federal Government's programme for foreign refugees, of 29 August 1979, refugees admitted within the scope of humanitarian action (quota refugees) are assimilated with persons eligible for asylum. Persons eligible for asylum and quota refugees are entitled to work permits, language courses and assistance in basic or advanced vocational training or retraining, and in secondary or higher education.

- (i) Foreign refugees intending to take up employment receive maintenance during their attendance at a free German language course (normally of nine months' duration). The labour authorities also assume their travelling expenses, health and accident insurance, and the cost of their accommodation. Foreign refugees not intending to take up employment (housewives, senior citizens, etc.), may also attend free German language courses.
- (ii) Foreign refugees may attend basic or advanced vocational training or retraining courses, under the Federal Training Assistance Act. During attendance at the courses, the Federal Labour Agency pays them, inter alia, training allowances or maintenance.
- (iii) Foreign refugees undergoing further or higher education are assimilated with Germans under the Federal Training Assistance Act. Under the general administrative regulations of the Federal Ministry for Youth, Family Affairs and Health, relating to the granting of allowances for the integration of young immigrants (the so-called guarantee fund), additional allowances are granted for training purposes.

(c) While asylum proceedings are pending, asylum seekers are not granted any assistance facilitating their integration. The vast majority of applications have to be rejected at present on the grounds that the applicants are not politically persecuted; this means that they are not likely to stay in the Federal Republic in the long run.

(d) While asylum proceedings are pending, asylum seekers receive social counsel and care by churches and free welfare organizations, which are granted budgetary appropriations for this purpose. The voluntary return of asylum seekers to their home country, or their departure to a third country, is facilitated by financial means.

/...

2. The integration of the second and third generations of foreigners

89. The essential element of the Federal Government's policy towards foreigners is the integration, in particular, of the second and third generations of foreigners into society and occupations. The aim must be to enable as many foreign adolescents as possible to take part in recognized training courses. In the case of foreign adolescents who did not attend a German school and did not acquire a school certificate, that aim cannot be achieved without additional assistance. Accordingly, a scheme jointly financed by the Federal Government and the Federal Institute of Employment, aiming at vocational preparation and social integration, are offered for those adolescents throughout the Federal Republic in order to prepare them for recognized vocational training. The scheme consists of a one-year full-time course, comprising a total of about 1,850 hours of instruction. It includes practical pre-vocational training, language courses, instruction to fill educational gaps as well as socio-educational care.

90. Currently, about 15,000 foreign adolescents attend such courses. Ninety-five per cent of participants are Turkish nationals, and 70 per cent of them are complete beginners in German. The scheme is to be made more effective and also more attractive for other nationalities by accepting only participants with a minimum knowledge of German and by creating, within each course, different groups with different educational standards.

91. Foreign adolescents who regularly and actively take part in the scheme are afterwards legally entitled to a work permit. Moreover, they are granted a vocational training allowance.

92. The Federal Government has provided for a national programme of intensive language courses for foreign adolescents who do not know enough German to be able to take part in the above-mentioned scheme. Intensive language courses have a duration of three to four months. Currently, about 10,000 places are available under the programme.

93. Foreign workers who take part in further training and have a work permit are granted assistance under the Employment Promotion Act, under the same conditions as Germans.

94. According to new draft legislation, foreigners, who for at least eight years have legally had their permanent residence in the Federal Republic of Germany, will in future normally acquire an entitlement to naturalization at the age of 18.

3. The Danish minority

95. The rights of the Danish minority to have their own schools for their children and to claim that education take account of their national interests, are guaranteed by the legislation of Schleswig-Holstein (for example, article 6, paragraph 4 of the Land Constitution; article 50, paragraph 6 of the school statutes). The Danish minority has the right to establish its own educational institutions and the freedom to have its own cultural life and activities; in doing so it is supported by the Land of Schleswig-Holstein.

/...

96. The central organization of the Danish minority is the South Schleswig Association (Südschleswiger Verein (SSV)), comprising 25 clubs and affiliations. To co-ordinate its work, the Association set up committees for specific cultural activities. The cultural activities of the Danish minority include, inter alia, theatre performances, concerts, lectures, social evenings, excursions, meetings for elderly people as well as the annual Danish gathering.

97. The Association is also active in social work, and runs several sheltered apartments for old-age pensioners in Flensburg and Schleswig and assembly houses and hotels at several places in Schleswig, as well as the cultural centre "Busumhus" in Husum.

98. The responsibility for the Danish educational system in Schleswig lies with the Danish School Association (Dänischer Schulverein), which operates 57 schools and 62 kindergartens, including one grammar school and two intermediate schools (Realschulen), in Flensburg, one intermediate school in Schleswig, and one in Husum. The Danish School Association is granted a subsidy by the Land of Schleswig-Holstein towards the operational costs for schools; the operation of its kindergartens is subsidised by the Land of Schleswig-Holstein, the district administrations and municipalities. There is nine years' compulsory schooling, with the possibility of attending a tenth year on a voluntary basis. That structure corresponds to the school legislation of the Land of Schleswig-Holstein. The teaching language is Danish, except for the subject of German. School leaving certificates of Danish schools are equivalent to corresponding German school leaving certificates.

C. Equal treatment of men and women (article 3)

99. In the Federal Republic of Germany, the legal equality of men and women in the educational field is guaranteed by article 3 of the Basic Law. There are no legal obstacles barring women and girls from public educational institutions on the grounds of their sex.

100. Over the past 15 years, the percentage of girls and women in schools and universities has increased. In general schools, women or girls are equally represented as men or boys. In 1980, girls in primary schools accounted for 49 per cent of enrolments, in upper primary schools 47 per cent, in intermediate schools just under 54 per cent, in grammar schools (including secondary level II) more than 49 per cent, and in comprehensive schools more than 48 per cent.

101. In evening schools and colleges where adults may acquire general school leaving certificates within the framework of adult education, women accounted for more than 46 per cent of enrolments in 1978. The situation of girls in the general school system appears favourable also, in terms of their educational success. Fewer girls than boys - in some classes only half as many - have to repeat the same class. More girls than boys acquire leaving certificates of upper primary and intermediate schools - often, their average marks in school leaving certificates are better. As far as the choice of subjects and courses is concerned, girls still tend to opt for languages, whereas scientific and technical subjects are mainly chosen by boys.

/...

102. Women account for more than 55 per cent of the full-time teaching staff in general schools. Their proportion varies, however, according to the type of school: at primary and upper primary schools women account for about 64 per cent and at intermediate schools for 52 per cent, whereas at grammar schools their proportion is only 36 per cent. In kindergartens, pre-schools and primary schools, teaching is however clearly a "female domain".

103. At universities, women now account for approximately one third of all students, whereas among first year students the proportion has even increased to more than 40 per cent. However, despite the increase in the proportion of women globally, there is a clear under-representation in particular faculties and subjects. Engineering, economics, mathematics, natural sciences and medicine, that is, subjects which are thought to offer particularly promising and secure careers, are still clearly dominated by men. Women are more strongly represented in educational science, teaching and social work.

104. Therefore, the aim of full equality of women in higher education must still be pursued. We must not only aim at increasing their proportion among university graduates, but at improving their representation in disciplines predominated by men; women must be motivated and encouraged to choose atypical training and careers. Moreover, it is important to encourage women to participate in further scientific training, because their under-representation is even more significant in post graduate degrees, such as a Ph.D.

105. Women are under-represented, in particular, among the scientific university staff, that is, the non-professorial teaching staff (scientific staff, assistants), and among lecturers and professors. Women account for less than 25 per cent of the non-professorial staff of universities, and in many departments (for example, sciences), their proportion is considerably lower. Women account for only about 5 per cent of lecturers, and less than 1 per cent of life professors who receive the highest salaries.

106. Women scientists at universities and research institutes, students, and women's liberation groups have rightly criticized the fact that research and teaching universities take too little account of the interests of women and of subjects relevant to them. They have been calling for an institutionalization of subjects and research related to women, by setting up university chairs and by giving priority to those subjects in research. Important pioneering work in this field has so far been done by women's groups and individual women scientists, who took their own initiatives without any institutional support. Such first beginnings of studies and research relating to women have, in the meantime, developed at numerous universities, in women's seminars and working groups, and also in the first self-organized centres for women's studies, education and information.

107. It can be said, quite generally, that despite progress made in recent years, there are still differences between the situation of boys and girls in the family, at school and in vocational training, both in terms of educational objectives and opportunities. Girls and women are particularly disadvantaged when it comes to preparation for their occupational choice at school, access to vocational training

and further training in working life. Even with better school leaving certificates, girls find it more difficult to get a training place and they have a chance to find a training place mainly in the limited field of typical "female occupations" (shop assistant, hair dresser, etc.) and in commercial occupations.

108. Women in employment usually have lower occupational qualifications than men. Despite the fact that, de jure, adult women workers have equal further training rights, they, de facto, have often less opportunities than men. A particularly difficult problem is the occupational re-integration of women who for some years stopped working in order to look after their family. Even though structural improvements in the general school system - for example, for girls and women from disadvantaged social classes - will be necessary also in future, it is currently particularly urgent to increase and improve educational and occupational opportunities for women so that the proportion of women in certain disciplines can be increased.
