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Addendum

GERMAN DEMOCRATIC REPUBLIC

[28 June 1977]

Introduction

Indispensable prerequisites for the realization of human rights are the maintenance and strengthening of peace, respect for the right of peoples to self-determination, peaceful co-operation among States, respect for the sovereignty of States, and non-intervention in their internal affairs. Aiming at these objectives, the policy of the German Democratic Republic serves to implement the Charter and other instruments of the United Nations, including international conventions in the field of human rights.

The safeguarding and implementation of human rights is an inseparable element of State policy in the German Democratic Republic. This is reflected, *inter alia*, in the fact that all fundamental rights under the International Covenant on Civil and Political Rights and of the International Covenant on Economic, Social and Cultural Rights are embodied in the country's Constitution and really assured in social practice. This unity of constitutional principles and constitutional practice is rooted in the socialist system of society, which is characterized by the political power of the working class and its allies and by social ownership of the means of production, by the free development of the human personality and the participation of citizens in decision-making on all social policy matters.

Civil and political rights combined with economic, social and cultural rights form a coherent whole. Basic social and economic rights such as the right to work and the right to social security, which are guaranteed by the Constitution and really assured in society, are the decisive precondition for the full implementation of civil and political rights.

The political, social and economic foundations of the socialist society and State order are laid down in Part I, Articles 1 to 18 of the German Democratic Republic Constitution. They underly the basic rights and basic duties of citizens as provided for in Part II, Articles 19 to 40. This Part makes concrete provision for comprehensive participation of citizens in shaping the entire political, economic, social and cultural life of the socialist society and the socialist State, which is the decisive basic right in the German Democratic Republic. Article 20, paragraph 1, gives all citizens of the German Democratic Republic equal constitutional rights and duties, irrespective of nationality, race, philosophy or religious confession, social origin or position.

1. Protection of the right to life, liberty and security of person  
(Articles 6 and 20 of the Covenant)

The afore-mentioned principles are constitutional principles and are placed under penal protection (cf. in particular Articles 4, 7, 19, 30, 86 ff. of the Constitution and Articles 85 to 140 of the Penal Code). This corresponds to the close interconnexion between the need to protect the country's sovereignty and world peace and the need to respect human rights. In accordance with the terms of Article 20 of the Covenant, the Penal Code of the German Democratic Republic provides for the protection of peace and human life and defines the planning and waging of aggressive wars (Article 85), the preparation and carrying out of aggressive acts (Article 86), enlistment for imperialist military service (Article 87), complicity in acts of oppression (Article 88), incitement to and propaganda for war (Article 89), crimes against humanity (Article 91), fascist propaganda, the incitement of national or racial hatred (Article 92) and war crimes (Article 93) as liable to punishment.

The physical and social existence of man is protected by the Penal Code, which lists murder (Article 112) and homicide (Article 113) as punishable acts to protect human life, in accordance with Article 6 of the Covenant. By listing deliberate or negligent infliction of bodily harm (Articles 115 to 118), rape, sexual coercion and abuse (Articles 121 and 122), robbery, blackmail, coercion and threat (Articles 126 to 130), neglect of the duty to render aid (Article 119) and neglect of the obligation to look after another person (Article 120) as punishable offences the Penal Code protects the health, liberty, dignity and security of people.

2. Prohibition of cruelties, inhuman and humiliating treatment  
and punishment (Article 7 of the Covenant)

The Penal Code and Code of Criminal Procedure contain legal norms which guarantee the dignity of and respect for the human personality in conformity with the constitutional principles and international conventions. A whole system of measures of criminal liability, based on progressive and modern findings and methods, serves to protect citizens and society against criminal offences and to apply the concept of educating and re-educating offenders and reintegrating them in social life. There are the following forms of punishment to this effect: sentence on probation, duty of probation at the place of work, public reprimand, reference to social courts for consideration and decision, sentences to compensate damages (Articles 23 ff., 28, 30 ff., 33, 36, 37).

The organization and substance of the execution of sentences involving imprisonment are determined by the humane character of the socialist State. The execution of such sentences is regulated by the Law on the execution of penalties. It provides, inter alia, for an obligation to abide by justice, respect for the human dignity and personality and by legality (Articles 2 and 3) also during the execution of prison sentences.

Disciplinary or security measures other than those provided for by this Law may not be applied (Article 4). The duties and rights of prisoners are laid down in a separate chapter (Chapter IV).

3. Protection against arbitrary or unlawful interference with privacy  
(Article 17 of the Covenant)

By making the breach of domicile, violation of the secrecy of mail, insult and defamation, and insult on national or racial grounds (Articles 133 to 140) punishable offences, the Penal Code ensures legal protection of privacy, family, home, correspondence, honour and reputation.

Moreover, civil law offers further legal protection. Noteworthy in this connexion are Articles 16 and 7 of the Civil Code which establish the right of every citizen to respect for his personality and honour, image, standing, name, his copyright and patent rights etc. and provide legal protection as stipulated in Article 327. Legal protection granted by courts in accordance with Article 2 of the Code of Civil Procedure also embraces citizens of other States and stateless persons under Article 181.

Labour law, labour safety law and social insurance law specify the basic right to work embodied in the Constitution.

4. Protection of ethnic and linguistic minorities  
(Article 27 of the Covenant)

In the German Democratic Republic the Sorbs are the only national minority. They constitute an ethnic and linguistic minority. There are no religious minorities.

Since the inception of the German Democratic Republic the workers' and farmers' State has deemed it its foremost task vis-à-vis the Sorbs to ensure the full equality of this minority. This concern finds concrete expression in the Constitution and the laws of the German Democratic Republic. Here again applies the principle contained in Article 20 of the Constitution which establishes the full equality of all citizens. An elaboration of this basic right is embodied in Article 40:

"Citizens of the German Democratic Republic of Sorb nationality have the right to cultivate their mother tongue and culture. The exercise of this right is encouraged by the State."

5. Equality before the law and equal legal protection without  
any discrimination (Article 26 of the Covenant)

According to Article 19, paragraph 1, of the Constitution the State guarantees to all citizens the exercise of their rights and consequently the implementation of the principle of equality before the law and of equal legal protection. "The State", the Article continues, "guarantees socialist legality and legal security". The principle of equality before the law and of equal legal protection without any discrimination is embodied in Article 20.

This principle is elaborated in the Law on the Constitution of the Courts, in the Penal Code and in the Code of Criminal Procedure; moreover in the Civil Code, the Labour Code, the Family Code, in the Code of Civil Procedure, and in other laws.

Article 8 of the Law on the Constitution of the Courts stipulates that:

"The equality of citizens before the law and before the courts is guaranteed, irrespective of their nationality, race, philosophy or religious confession, or their social position."

The Penal Code adds another principle in Article 5:

"Penal law and jurisdiction safeguard equality before the law as a basic principle of socialist justice. No one may be criminally prosecuted or put at a disadvantage because of his nationality, race, creed, ideology or on account of his belonging to a class or social stratum."

Article 5 of the Code of Criminal Procedure states under the heading "Equality of citizens before the law":

"The provisions of this law are equally valid for every citizen and independently of the charges made."

6. Guarantee of legal protection by competent authorities  
(Article 2, paragraph 3, of the Covenant)

The socialist system and the socialist State are the basis for strict respect for and full application of legality. This lies in the very nature and character of the socialist system, because democracy and social justice are immanent in it. The guarantees are of a political, economic, ideological and judicial nature.

The group of statutory guarantees of legality comprises numerous and manifold forms:

1. State and social control of the observance of law (Article 87 of the Constitution). It is implemented by means of control within State authorities, enterprises and executive organs of social organizations and by means of special control organs, in particular the Workers' and Farmers' Inspection;
2. Administration of justice, especially jurisdiction of courts, and supervision of legality by the public procurators' office (Articles 90 to 102 of the Constitution);
3. Legal redress for citizens in case of infringement of their rights, no matter whether by other citizens, State organs or enterprises (petitions, action before a court, legal remedies).

The Public Petitions Law, the State Liability Law as well as means for the enforcement of legal protection contained in other legal instruments (e.g. Penal Code) serve to implement these statutory guarantees.

7. Legal guarantee in ordering custody on remand and executing terms of imprisonment (Articles 9 and 10 of the Covenant)

The ordering of custody on remand is conditional upon facts which indicate that there is justified strong suspicion against a suspect or an accused of having committed an offence and that legal ground for arrest is given (Article 122 of the Code of Criminal Procedure). Custody on remand may only be ordered by a court which is required to specify the reason for arrest (Article 100, paragraph 1, of the Constitution; Article 6, paragraph 3, and Article 124 of the Code of Criminal Procedure). After hearing the arrested person the public procurator and the

investigating bodies are also obliged to take the necessary measures to take proper care of minors and persons in need of care and to protect the arrested person's property and domicile (Article 129 of the Code of Criminal Procedure). Article 126 of the Code of Criminal Procedure stipulates that an arrested person must immediately be brought before a judge for investigation, that he has to be notified of the warrant of arrest and to be advised on the right of appeal. Every arrested person has the right to lodge a complaint against the issue of the warrant of arrest. Also in the absence of such complaint by the arrested person, the public procurator and, after submission of the bill of indictment, the court have to examine ex officio at any time whether the conditions for custody on remand still prevail (Article 100, paragraph 2, of the Constitution; Articles 131 to 133 of the Code of Criminal Procedure).

According to Article 130 of the Code of Criminal Procedure an arrested person is to be kept separate from convicts and, if he is a juvenile, also from adult persons.

The Law on the Execution of Penalties defines the purpose and procedure of the execution of penalties involving imprisonment. Emphasis is laid on reforming prisoners by means of socially useful work. Thus the right to work as guaranteed by the Constitution is also assured while a prison sentence is being served (Article 2).

Such reform comprises also civic education, the enforcement of order and discipline, general and vocational education and training, as well as cultural and sports activities (Article 5).

It is of special importance that the execution of sentences involving imprisonment is closely connected with the aim of re-integrating prisoners in social life (cf. e.g. Articles 2, 12, 20, 23, 30 and 56).

Sentences depriving juveniles of liberty are executed in special penal institutions, the purpose being that the juvenile's personality will develop in a favourable way, and that they will be encouraged to behave responsibly in the future and actively to participate in social life. This is in keeping with the objectives of the country's youth policy.

In penal institutions for youths, the right to vocational training, compliance with compulsory vocational education and the continuation of general education are ensured (Articles 8, 18, 39 and 40 of the Penalty Execution Law).

8. Equality of citizens before the courts; right to public hearing,  
presumption of innocence; right to defence  
(Article 14 of the Covenant)

The principle of equality of citizens before the courts as well as equality before the law are embodied in Article 8 of the Court Constitution Act in pursuance of Article 20 of the Constitution of the German Democratic Republic.

Administration of justice is exclusively exercised by the courts determined by the law (Article 1 of the Court Constitution Act). Special courts are inadmissible (Article 101 of the Constitution). The judges, lay judges and members of social courts are elected and are independent in their administration of justice. They are bound only by the Constitution, the laws and other statutory regulations (Article 96 of the Constitution and Article 5 of the Court Constitution Act).

The Court Constitution Act lays down that court proceedings are public (Article 10). Other legal regulations insist on and guarantee the right to be heard in court and the right to defence (Article 102 of the Constitution, Article 13 of the Court Constitution Act, Article 4 of the Penal Code, Articles 61 to 68 of the Code of Criminal Procedure).

The principle of presumption of innocence, which prohibits that a citizen be considered guilty, before his criminal responsibility is proved and established beyond any doubt by a valid decision in lawfully conducted court proceedings, is an important principle of penal administration in the German Democratic Republic (Article 4 of the Penal Code, Article 6 of the Code of Criminal Procedure). The courts, public procurators and investigating bodies have to prove the charge. It is their task to establish all the incriminating or exonerating facts necessary for taking a decision on criminal responsibility (Article 22 of the Code of Criminal Procedure).

9. Right to liberty of movement and freedom of leaving or entering the country (Article 12 of the Covenant)

Freedom of movement is guaranteed by Article 32 of the Constitution. It ensures to every citizen of the German Democratic Republic the right to move freely within the State territory of the German Democratic Republic. The Constitution expressly underlines that this right may only be restricted by laws binding upon all citizens. The freedom of movement guaranteed to every citizen comprises, in particular, the right freely to choose one's permanent or temporary residence and abode. The freedom of movement guaranteed within the framework of the laws under Article 32 of the Constitution may be restricted by law in certain legally specified circumstances in the interests of society and the citizens, especially in order to ensure the security and to protect the health of citizens. For instance, a limitation of residence may be imposed by decision of a court as an additional sentence in cases specified by law (Article 51 of the Penal Code).

Frontier-crossing traffic, the exit and entry of persons as well as customs and foreign exchange formalities are regulated in accordance with principles of international law and international usage in specific provisions, notably the Passport Law and the Customs and Foreign Exchange Law of the German Democratic Republic.

10. Protection of the family by society and the State; equality of rights of spouses as to marriage, during marriage and at its dissolution (Article 23 of the Covenant)

Article 38 of the Constitution of the German Democratic Republic reads as follows:

"Marriage, family and motherhood are under the special protection of the State. Every citizen of the German Democratic Republic has the right to respect for and to protection and promotion of his marriage and family."

Equality of rights of man and woman in marriage is embodied in Articles 20 and 38 of the Constitution. Spouses have the same rights as regards the choice of their family name, the decision of marital affairs, mutual representation, the matrimonial regime, the keeping of the household, the mutual responsibility for the maintenance, upbringing and representation of children, and in case of dissolution of marriage. The Family Code contains detailed provisions concerning the right of

either spouse to sue for a divorce and to seek a sharing of conjugal property on a par, concerning possibilities of a mutual obligation to provide maintenance in case of need, and concerning equal opportunities for wife and husband to obtain the right to bring up the child or children after the divorce. The Code guarantees the protection of children in case of dissolution of the marriage. In accordance with Article 25 of the Family Code custody of minors is to be given to the parent who is best qualified to educate the children on account of the circumstances prevailing at the time of the divorce and of foreseeable future developments. Facts that have to be taken into account in this context are what educational influence the parents used to exercise on the children, the parents' abilities in educating their children, ties of the children to one parent, the prospective living conditions of the divorced couple, and the circumstances that led to the divorce.

11. Protection of children and of their status as minors  
(Article 24 of the Covenant)

Protection of minors is based on the provisions of the Constitution of the German Democratic Republic. Article 20, paragraph 3, for instance, stipulates that:

"Young people are especially promoted in their social and vocational development. They have every opportunity for responsible participation in the development of the socialist order of society."

Article 25, paragraph 4, specifies that general ten-year secondary schooling is compulsory and prescribes that all young people have the right and the duty to learn a vocation. There are no tuition fees. Training allowances and free textbooks and study material are granted according to social principles. The promotion and development, education and formation of young people are the substance of such basic laws as the Law on the Integrated Socialist Educational System and the Youth Law.

The Penal Code contains provisions which serve specifically to protect children and young people, and for the same purpose a Decree on the Protection of Children and Juveniles has been enacted. The Personal Status Law fulfils the requirement of Article 24, paragraph 2, of the Covenant that every child shall be registered immediately after birth (Articles 12 ff.) and shall have a name (Articles 40 ff.).

As a matter of course, every child has the right to acquire the citizenship of the German Democratic Republic in accordance with the legal regulations (Articles 4, 5 and 6 of the Citizenship Law).

12. Right to freedom of thought, conscience and religion  
(Article 18 of the Covenant)

Article 20 of the Constitution guarantees freedom of conscience and freedom of belief. The right to profess a religious creed, and to engage in religious activities is ensured as freedom of religion in Article 39.

From this constitutional principle follows that no citizen may claim privileges or suffer disadvantages on account of his religious belief. Supplementing these provisions, also penal law provides protection for the freedom of religion and the freedom to engage in religious activities (Article 133 of the Penal Code).

13. Right to freedom of opinion and expression  
(Article 19 of the Covenant)

Article 27, paragraph 1, of the Constitution grants every citizen the right to express his opinions freely and publicly, and it also contains basic provisions against any restriction or impairment of that right. The right to freedom of opinion and expression may not be restricted by any service or employment relationship. Nobody may be placed at a disadvantage for exercising this right. Thus, the Constitution gives every citizen the right to impart his opinions to the public in conformity with the principles of the Constitution. The Constitution and the legal order amply protect this basic right.

In accordance with Article 20 of the Covenant, any manifestation of religious, racial and national hatred or militarist propaganda and of any propaganda for war are crimes subject to penal law (Article 6, paragraph 5, of the Constitution, and Articles 89 and 92 of the Penal Code).

Closely related with the right to freedom of opinion and expression is the freedom of the press, radio and television which is guaranteed in Article 27, paragraph 2, of the Constitution.

14. Right of peaceful assembly (Article 21 of the Covenant)

Article 28 of the Constitution accords all citizens the right to assemble peacefully within the framework of the principles and aims of the Constitution. The Constitution promotes the realization of this basic right through paragraph 2 of Article 28 which states that the use of material prerequisites for the unhindered exercise of this right, of assembly buildings, streets and places for rallies and manifestations, of printing works and means of communication, is guaranteed.

15. Right to freedom of association (Article 22 of the Covenant)

Article 29 of the Constitution grants all citizens the right of association to pursue their interests in conformity with the principles and aims of the Constitution by joint action in political parties, social organizations, associations and collectives. Thus, the Constitution guarantees the freedom of association in very comprehensive terms.

There are five political parties and a great number of democratic and social organizations in the German Democratic Republic.

The trade unions, with a membership of eight million people, are the biggest organization of the working class enjoying extensive rights of co-determination in government, economy and society which are laid down in the Constitution.

With a view to promoting the right of citizens to pursue their interests by joint action in associations in conformity with the principles and aims of the Constitution, a Decree concerning the foundation and activity of associations was enacted in 1975.



16. The right to take part in the conduct of public affairs,  
directly or through freely chosen representatives  
(Article 25 of the Covenant)

Every citizen is entitled to participate and share in the conduct of the political, economic, social and cultural affairs of the socialist community and the socialist State (Article 21 of the Constitution). This comprehensive and important basic right elaborates and gives effect to the overriding constitutional principle that all political power is exercised by the working people. It is guaranteed by the fact that citizens democratically elect all organs of power and participate in their activities, that they take part in the planning and direction of political and economic life and may hold public offices. Citizens may demand elected representative bodies, deputies and heads of governmental and economic organs to give account of their work.

Citizens have the right to express their will through plebiscites (Article 21 of the Constitution).

Elected representative bodies are the supreme organs of power in the respective territorial unit (Article 5 of the Constitution).

Pursuant to Article 22 of the Constitution and to the Electoral Law, which is based on the respective provisions of the Constitution, citizens elect the People's Chamber and the local representative bodies for a term of five years in free and general elections and equal and secret ballot.

Candidates for the People's Chamber, the county assemblies, district assemblies, municipal assemblies, borough assemblies and village assemblies are nominated by the democratic parties and mass organizations. They may combine their proposals in a joint list of candidates of the National Front of the German Democratic Republic (Article 16 of the Electoral Law).

The members of the People's Chamber seek to enlist the participation of citizens in preparing and implementing laws, in co-operation with the committees of the National Front of the German Democratic Republic, mass organizations and governmental organs. They maintain close contact with their voters and are obligated to heed their proposals, suggestions and criticisms and to see to it that these receive due attention. Every deputy of the People's Chamber has the right to address questions to the Council of Ministers or to any of its members. All governmental and economic organs are obligated to assist deputies in the performance of their functions.

Active participation of citizens in the administration of justice and in jurisdiction is part of the fundamental right to participate in the democratic conduct of public affairs and in shaping political and social conditions. This is ensured by lay judges having the same status as professional judges, by members of social courts, social prosecutors and defenders, and by the participation of representatives of work-teams in court proceedings.

A great number of social institutions for citizens to co-operate in government also exist in the fields of education, culture and economy.

The basic constitutional right of every citizen to free and unrestricted exercise of his right to vote and to co-determination and participation in the conduct of public affairs is also protected by criminal law (Articles 210, 211, 214 of the Penal Code).

AnnexLaws referred to in the Report

1. Constitution of the German Democratic Republic of 6 April 1968 as modified by the Law amending the Constitution of the German Democratic Republic of 7 October 1974 (Gesetzblatt I, No. 47, p. 432)
2. Law on the Constitution of the Courts of the German Democratic Republic of 27 September 1974 - Court Constitution Law - (Gesetzblatt I, No. 48, p. 487) and Social Courts Law of 11 June 1968 (Gesetzblatt I, No. 11, p. 229)
3. Law on the Treatment of Public Petitions - Public Petitions Law - of 19 June 1975 (Gesetzblatt I, No. 26, p. 461)
4. Law on the Elections to Local Representative Bodies in the German Democratic Republic - Election Law - of 24 June 1976 (Gesetzblatt I, No. 22, p. 301)
5. Penal Code of the German Democratic Republic of 12 January 1968 (Gesetzblatt I, No. 1, p. 1) as amended on 19 December 1974 (Gesetzblatt I, 1975, No. 3, p. 14) and as modified by the Law amending the Penal Provisions and Provisions for Criminal Procedure (second Penal Modification Law) of 7 April 1977 (Gesetzblatt I, No. 10, p. 100)
6. Code of Criminal Procedure of the German Democratic Republic of 12 January 1968 (Gesetzblatt I, No. 2, p. 49) as amended on 19 December 1974 (Gesetzblatt I, 1975, No. 4, p. 62) and as modified by the Law amending Penal Provisions and Provisions for Criminal Procedure (second Penal Modification Law) of 7 April 1977 (Gesetzblatt I, No. 10, p. 100)
7. Law on the Re-integration of Prisoners into Society of 7 April 1977 - Re-integration Law - (Gesetzblatt I, No. 10, p. 98); Law on the Execution of Penalties Involving Imprisonment of 7 April 1977 - Penalty Execution Law - (Gesetzblatt I, No. 11, p. 109)
8. Family Code of the German Democratic Republic of 20 December 1965 (Gesetzblatt I, 1966, No. 1, p. 1)
9. Civil Code of the German Democratic Republic of 19 June 1975 (Gesetzblatt I, No. 27, p. 465)
10. Law on Court Procedure in Civil, Family and Labour Law Relations (Code of Civil Procedure) of 19 June 1975 (Gesetzblatt I, No. 29, p. 533)
11. Law on State Liability of 12 May 1969 (Gesetzblatt I, No. 5, p. 34)
12. Labour Code of the German Democratic Republic of 12 April 1961 (Gesetzblatt I, No. 5, p. 27) as amended on 23 November 1966 (Gesetzblatt I, No. 15, p. 127), and as modified by the Law amending Legal Regulations of 26 May 1967 (Gesetzblatt I, No. 9, p. 89), the Introductory Law to the Penal Code and to the Code of Criminal Procedure of the German Democratic Republic of 12 January 1968 (Gesetzblatt I, No. 4, p. 97),

the Law on Social Courts of the German Democratic Republic of 11 June 1968 (Gesetzblatt I, No. 11, p. 229) and the Youth Law of the German Democratic Republic of 28 January 1974 (Gesetzblatt I, No. 5, p. 45),

and the Draft Labour Code of 21 January 1977 (Newspaper "Tribuene", No. 15 of 21 January 1977, documentation)

13. Law on Personal Status Affairs (Personal Status Law) of 16 November 1956 (Gesetzblatt I, No. 105, p. 1283) as modified by the Law amending the Personal Status Law of 13 October 1966 (Gesetzblatt I, No. 13, p. 87)
14. Passport Law of the German Democratic Republic of 15 September 1954 (Gesetzblatt I, No. 81, p. 786)
15. Law on the Citizenship of the German Democratic Republic of 20 February 1967 - Citizenship Law - (Gesetzblatt I, No. 2, p. 3)
16. Law on the Integrated Socialist Educational System of 25 February 1965 (Gesetzblatt I, No. 6, p. 83)
17. Law on the Participation of Youth in the Shaping of the Advanced Socialist Society and on Their All-round Promotion in the German Democratic Republic (Youth Law) of 28 January 1974 (Gesetzblatt I, No. 5, p. 45 ff.)
18. Decree on the Founding and Activities of Associations of 6 November 1975 (Gesetzblatt I, No. 44, p. 723)
19. Decree on the Protection of Children and Juveniles (Gesetzblatt II, 1969, No. 32, p. 219)