



Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 44 of the Convention

Third and fourth periodic reports of States parties due in
2009

Germany* **

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** Annexes may be consulted at the secretariat.

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Introduction

1. The Federal Republic of Germany herewith submits to the Committee on the Rights of the Child its Third and Fourth State Party Reports in accordance with article 44 of the Convention on the Rights of the Child. In principle, it encompasses the period under report from April 1999 to April 2009. In individual cases, the current status is documented as per the time of the final report. Furthermore, the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict is reported on. The Optional Protocol came into force in the Federal Republic of Germany in 2004.

2. The Federal Republic of Germany has also adopted the second Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. It came into force as per 15 August 2009.

3. Concluding observations were given in November 1995 on the First Report on the Convention on the Rights of the Child from 1994. The Second German Report, submitted in 2003, was presented to the Committee in January 2004.

4. For the combined Third and Fourth Report, the Federal Republic of Germany has applied the principles of the new report procedure which was introduced for all international human rights agreements with the "Harmonized Guidelines" of 21 May 2007.

5. The report therefore consists of two parts for the first time: the Common Core Document (forwarded by the Federal Republic of Germany on 13 August 2009) and the Treaty-Specific Document (specialist report) submitted herewith. The Common Core Document and the Treaty-Specific Document are hence to be read in conjunction. The Treaty-Specific Document has been drawn up in accordance with Guidelines CRC/C/58/Rev.1 and with the Harmonized Guidelines HRI/MC/2006/3.

6. With this report, the Federal Government makes an enumerative statement on the Concluding observations of the Committee of 30 January 2004 (para. 22 CRC/C/15/Add.226) and on the Concluding observations of 1 February 2008 in accordance with article 8 of the Optional Protocol (CRC/C/OPAC/DEU/CO/1). Furthermore, the report provides information on the foci of German child and youth policy in implementation of the Convention on the Rights of the Child. Despite its shorter version in accordance with the Harmonized Guidelines, the report addresses all major topical issues. The Federal Government trusts that the Committee will provide indications in good time prior to the presentation if a discussion of further topics is desired.

I. General measures of implementation

7. Reference is made to the detailed information as to the acceptance and ratification of fundamental international human rights agreements contained in B.I.1. of the Common Core Document.

8. Germany is doing its utmost to see to it that an individual complaint procedure is created to enforce the Convention on the Rights of the Child. In December 2009, Germany joined the cross-regional core group made up of eight states which wish to particularly contribute to the establishment of the procedure.

9. The Federal Government views its child and youth policy as a cross-sectional, long-term and future task which influences all fields of policy in the interest of future generations. Demographic change also requires all political decisions to be measured by whether they do justice to the interests and the development of coming generations,

whether they serve the best interests of children and juveniles and enhance and strengthen the cohesion of the generations and therefore of society as a whole.

10. The actions of the Federal Government focus on “promotion from the beginning” and support of children and juveniles and their families. All children and juveniles should be enabled to develop their many skills and talents. A detailed portrayal of the principles of the rights of the child and children’s rights policy in Germany, as well as of the structures, bodies and institutions, can be found in the Second Report (paras. 13 et seq. CRC/C/83/Add.7).¹

A. On the implementation of the rights of the child (arts. 4 and 41)

11. Building on these guiding principles, the Federal Government has specifically implemented the following measures to enforce the rights of the child in the period under report:

- Act to Outlaw Violence in Education (*Gesetz zur Ächtung der Gewalt in der Erziehung*)
 - Came into force as per 2 November 2000
- Day-care Expansion Act (*Tagesbetreuungsbaugesetz – TAG*)
 - Came into force as per 1 January 2005
- Supplementary child allowance (Federal Child Benefit Act – *Bundeskindergeldgesetz*)
 - Came into force as per 1 January 2005
- Child and Youth Welfare Further Development Act (*Kinder- und Jugendhilfweiterentwicklungsgesetz – KICK*)
 - Came into force as per 1 October 2005
- Federal Parental Benefit and Parental Leave Act (*Bundeseltern- und Elternzeitgesetz*)
 - Came into force as per 1 January 2007
- Act to Facilitate Family Court Measures in case of Danger to the Best Interests of the Child (*Gesetz zur Erleichterung familiengerichtlicher Maßnahmen bei Gefährdung des Kindeswohls*)
 - Came into force as per 12 July 2008
- Child Promotion Act (*Kinderförderungsgesetz – KiföG*)
 - Came into force as per 16 December 2008
- Income Tax Act (*Einkommensteuergesetz*)/Federal Child Benefit Act (*Bundeskindergeldgesetz*): child benefit to be increased in stages
 - Increase came into force as per 1 January 2009

¹ See www.kinder-jugendhilfe.info on the structure of child and youth policy, as well as child and youth welfare in Germany.

- Renewed increase and rise in the child allowances as per 1 January 2010 by means of the Growth Acceleration Act (*Wachstumsbeschleunigungsgesetz*)
- Act Reforming Procedure in Parent and Child Cases and in Matters of Non-Contentious Jurisdiction (*Gesetz zur Reform des Verfahrens in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit – FGg-RG*)
 - Came into force as per 1 September 2009
- Protection of Young Persons Act (*Jugendschutzgesetz – JuSchG*) and Interstate Agreement on the Protection of Minors in the Media (*Jugendmedienschutz-Staatsvertrag der Länder – JMStV*) of 23 July 2002
 - Came into force as per 1 April 2003
- First Act Amending the Protection of Young Persons Act (*Erstes Gesetz zur Änderung des Jugendschutzgesetzes*) of 24 June 2008
 - Came into force as per 1 July 2008

12. The most important action plans to implement the rights of the child adopted in the period under report were:

- “*Aktionsplan zum Schutz von Kindern und Jugendlichen vor sexueller Gewalt und Ausbeutung*” (Action Plan to Protect Children and Juveniles Against Sexual Violence and Exploitation) (of 29 January 2003)
- “*Nationaler Aktionsplan für ein kindergerechtes Deutschland 2005–2010*” (National Action Plan for a Child-Friendly Germany 2005–2010) (of 16 February 2005)

1. General implementation measures

The National Action Plan for a Child-Friendly Germany (NAP)² (para. 14, CRC/C/15/Add.226)

13. The Plan of Action of the United Nations General Assembly Special Session of May 2002 entitled “A World Fit for Children” recommends amongst other things to put in place national action plans to implement its goals at national level. The United Nations Committee on the Rights of the Child also recommends such a National Action Plan for Germany. The Federal Government has complied with these recommendations, and on 16 February 2005 adopted a National Action Plan (NAP) entitled “*Für ein kindergerechtes Deutschland 2005–2010*” (For a Child-Friendly Germany 2005–2010). The NAP aims to bring about extensive change within society. To this end, it embraces various disciplines and fields of action which are significant to how children and juveniles grow up in all their spheres of life. The Plan was drawn up with contributions from the Federation, the *Länder* and municipalities, the Children’s Commission of the German *Bundestag*, non-governmental organizations, academia, as well as children and juveniles. Hence — also in fulfilment of international obligations — Germany presented a comprehensive bundle of measures to improve the situation of children and families. The NAP formulates strategies and objectives to strengthen the rights of the child in Germany, but also child-policy objectives at international level.

14. The NAP formulates six foci of action summarizing roughly 170 individual measures to improve the situation of children, juveniles and families in Germany:

² www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationen,did=95352.html; see on this also at Annex 2, No. 1a re I.

1. Equal opportunities through education;
2. Growing up without violence;
3. Promotion of a healthy life and a healthy environment;
4. Participation by children and juveniles;
5. Ensuring a suitable standard of living for all children; and
6. International obligations.

15. In addition to the political activities at federal level, the NAP is being implemented by a broad alliance of political and social powers. It requires cooperation between different stakeholders at federal, *Land* and local authority level. Hence, the associations, organizations and independent institutions also play a major role. Particular significance for the Federal Government is attached to the involvement of children and juveniles in the processes connected with the NAP, see on this the detailed information provided at III.D. In the Child and Youth Report to the NAP, several hundred juveniles formulated their ideas and suggestions on the NAP and its further development. The presentation of the Child and Youth Report to the Federal Cabinet in June 2006 shows that the Federal Government acknowledged the involvement of children and juveniles.

Coordination and monitoring mechanism of the NAP (para. 14, CRC/C/15/Add.226)

16. A steering group in which the political levels of the Federation, *Länder* and local authorities, as well as associations and stakeholders within society, are represented coordinates the implementation of the NAP. Researchers and professional experts from a wide variety of disciplines have already contributed towards the drawing up of the NAP and continue to be involved in the implementation process. Children and juveniles took and continue to take an active part in all events and on the Final Report.

17. The Interim Report on the Implementation of the National Action Plan “For a Child-Friendly Germany 2005–2010” was adopted by the Federal Cabinet on 3 December 2008. It provides information on the status of the implementation of the individual measures of the NAP. The Interim Report was discussed in Berlin on 4 December 2008 at the national specialist congress entitled “Protecting, promoting, involving – For a Child-Friendly Germany”. In order to strongly advance and promote child-friendliness in the six central fields of action of the NAP, corresponding working parties were established for each in the spring of 2007. The Final Report will be submitted at the end of 2010, and will present an overall conclusion and bundled results. A specialist congress to be held in December 2010 will draw up perspectives for refining the intentions of the NAP with a view to bringing about a child-friendly Germany.³

³ For information in German on the state of implementation of the NAP, see the Interim Report on the National Action Plan from 2008, retrievable at: www.bmfsfj.de/RedaktionBMFSFJ/Abteilung5/Pdf-Anlagen/nap-zwischenbericht,property=pdf,bereich=bmfsfj,sprache=de,rwb=true.pdf; cf. on this in Annex 2, No. Ib re I.

Withdrawal of the declaration on the Convention on the Rights of the Child⁴ (para. 8, CRC/C/15/Add. 226)

18. The Federal Republic of Germany unrestrictedly acknowledges the objectives of the Convention on the Rights of the Child. In order to send the important political signal that Germany unreservedly enforces the rights of the child, the Federal Government has appealed to the *Länder* repeatedly and at various political levels to withdraw the declaration. Since the Convention on the Rights of the Child also affects domestic areas for which the *Länder* have exclusive competence, however, their viewpoint is also particularly significant for the Federal Government. The *Länder* only consented to the ratification of the Convention subject to the proviso that the declaration was submitted in order to counter the risk of misinterpretations or overinterpretations of the Convention on the Rights of the Child. Since, however, the *Bundesrat*, in which all the *Länder* are represented and through which the *Länder* contribute towards the legislation of the Federation, welcomed the intention to withdraw the declarations in a resolution on 26 March 2010,⁵ the stage has been set for withdrawing the declarations soon.

Incorporating the Convention on the Rights of the Child in the Basic Law (Grundgesetz – GG) (para. 10, CRC/C/15/Add.226) and embodiment of the rights of the child in the Basic Law and in the primary law of the European Union

At Federal level

19. The German Basic Law provides comprehensive protection to children and juveniles. Just as adults, they are holders of fundamental rights. Child and youth protection has full constitutional status under the law as it stands.⁶ The Federal Constitutional Court has stated that the child is “a being with his/her own human dignity and an independent right to development of its personality within the meaning of article 1, paragraph 1 and article 2, paragraph 1 of the Basic Law”.⁷ What is more, article 6 of the Basic Law obliges parents to care for and bring up their children; the state supervises their activities. If parents are unable to fulfil their responsibility, the state community assumes parental responsibility on a subsidiary basis by virtue of its role of guardian. In doing so, the State may protect and promote parental responsibility and supervise its exercise, but may not suppress or curtail it. The role of guardian is orientated, as is the parental right, to the standard of the best interests of the child. The Federal Constitutional Court has found in its rulings⁸ that, in case of a clash of interests between children and parents, the “child’s best interests of the child” must “have the last word”, and that priority would be fundamentally attached to the interests of the child. The Federal Government endeavours to strengthen the rights of the child. These rights must be anchored more strongly in adults’ awareness. The Federal

⁴ An overview regarding all the points of the declaration is found in the Common Core Document at B.I. 1. b; of the five points of the declaration. Above all, what is known as the declaration on aliens (*Ausländervorbehalt*) has been relevant in the topical political discussion. The declaration IV of 5 April 1992 (submitted on ratification) reads as follows: “Nothing in the Convention may be interpreted as implying that unlawful entry by an alien into the territory of the Federal Republic of Germany or his unlawful stay there is permitted; nor may any provision be interpreted to mean that it restricts the right of the Federal Republic of Germany to pass laws and regulations concerning the entry of aliens and the conditions of their stay or to make a distinction between nationals and aliens.” See on this also the Common Core Document B. I. 1. b.

⁵ Printed paper 829/09.

⁶ See *Bundestag* printed paper (*BT-Drs.*) 12/6000, p. 60.

⁷ Decisions of the Federal Constitutional Court (*Entscheidungen des Bundesverfassungsgerichts – BVerfGE*) 24, 119, 144; see on this also, Annex 2, No. 2 re I.

⁸ BVerfGE 68, 176, 188; 75, 201, 218; see on this also, Annex 2, Nos. 3a and 3b re I.

Government intends to create child-friendly circumstances in all fields, in particular when it comes to protection, promotion and participation rights. It is however not necessary to amend the Constitution in order to do so.

20. With its ruling of 1 April 2008 (1 BvR 1620/04),⁹ the Federal Constitutional Court clearly emphasized that the fundamental parental right contained in article 6, paragraph 2, sentence 1 of the Basic Law also entails a fundamental right for children. The central asset protected by article 6 of the Basic Law is the best interests of the child. The Federal Constitutional Court hence explicitly ruled for the first time that the parental obligation to care for and bring up the child exists not only towards the State, but that parents also have a direct obligation towards the child. Hence, the Federal Constitutional Court considers the right of the child to the exercise of the parental bringing up responsibility to be anchored in article 6, paragraph 2, sentence 1, of the Basic Law. Accordingly, the child is not only the subject matter of the exercise of parental rights; he/she is the legal subject and the holder of fundamental rights.

At Land level

21. In the period to March 2010, the rights of the child in Germany have been explicitly included in all *Land* constitutions with the exception of Hamburg and Hesse.

At EU level

22. Article 24 of the Charter of Fundamental Rights of the European Union explicitly contains broad children's rights. This Charter became binding when the Treaty of Lisbon entered into force on 1 December 2009. Article 6, paragraph 1 of the Treaty on European Union now provides that the Union recognizes the rights, freedoms and principles set out in the Charter, and furthermore that the Charter and the Treaties have the same legal value. In accordance with Council Regulation (EC) No. 168/2007 of 15 February 2007 on the establishment of a European Union Agency for Fundamental Rights, the European Union Agency for Fundamental Rights is to provide assistance to the relevant institutions and authorities of the Community (now: European Union) and its member States when implementing Community law (now Union law) on fundamental rights.

Ensuring that all national and *Länder* laws fully conform with the Convention on the Rights of the Child (para. 10, CRC/C/15/Add.226)

23. In the view of the Federal Government, all federal laws conform to the Convention. This also applies to the German law on foreigners and asylum. The interpretative declaration concerning article 22 of the Convention on the Rights of the Child changes nothing in this respect¹⁰ (see on this also at VIII. A.).

Institution to monitor and evaluate progress in the implementation of the Convention on the Rights of the Child (para. 16, CRC/C/15/Add.226)

24. Germany has suitable structures to coordinate child, youth and family policy. The implementation of the Convention on the Rights of the Child is coordinated in many bodies. These are the Conference of Youth and Family Ministers and Senators of the Federal *Länder*, the Association of Supreme Land Youth and Family Authorities, as well as the Commission to Safeguard the Interests of Children in the German Bundestag¹¹

⁹ BVerfGE 121, 69–108; see on this also in Annex 2, No. 4 re I.

¹⁰ Declaration IV of 5 April 1992 (on ratification), see above, footnote 4.

¹¹ A detailed portrayal of the institution "Children's Commission" can be found in the Second Report (paras. 16 et seq. CRC/C/83/Add.7).

(Children's Commission) and the Committee on Human Rights and Humanitarian Aid of the German Bundestag.

25. The recommendation of the United Nations Committee on the Rights of the Child to establish an evaluation and monitoring system to cover all areas of the Convention on the Rights of the Child (para. 16, CRC/C/15/Add.226) has been tackled by the Federal Government in its National Action Plan "For a Child-Friendly Germany 2005–2010" (NAP). As is shown at I. A. 1. above, the NAP is coordinated by a steering group in which the political levels of the Federation, *Länder* and local authorities are represented, as well as associations and societal stakeholders. The Interim Report was submitted in December 2008. The Final Report will take stock at the end of 2010 (also on this see I.A.1. above).

Data collection system – indicators consistent with the Convention on the Rights of the Child (para. 18, CRC/C/15/Add.226)

26. The statistical data collected in Germany provide information on the status of the implementation of the Convention on the Rights of the Child. An overview of relevant statistics collected in Germany can be found in Annex.¹² A portrayal of the overall situation of young people and of child and youth welfare services is provided by the "Report on the situation of young people and the benefits of child and youth welfare services in Germany" (Child and Youth Report, section 84 of Book VIII of the Social Code [*SGB VIII*]¹³). This is submitted in each legislative period by an expert commission which is tasked by the Federal Government. The reports are supplemented by a statement on the part of the Federal Government. The current 13th Child and Youth Report is entitled "Enhanced opportunities for a healthy upbringing – health-related prevention and health promotion in child and youth services".¹⁴

27. The following should be named at this point as exemplary indicators covered by official child and youth welfare statistics:

- Utilization of child and youth welfare services (information on age and gender distribution is taken into account, if available)
- Number of children and juveniles with disability in facilities
- Staffing in the fields of child and youth welfare services
- Funding of child and youth welfare services

28. The Federal Government considers the collection of data nationally reflecting the circumstances and the development of the circumstances of girls and boys on a small-scale, detailed fashion to be necessary inter alia to effectively fight child poverty. The Federal Government already commissioned a data module system orientated towards the local authority level for this concerning the circumstances of families and children in 2003. First field trials for social reporting on the basis of the data module system have already taken place.

29. Various systems were additionally refined by the Federal Employment Agency in the period under report to collect data in the field of statistics on the labour market and on basic security benefits. These systems also make it possible to show differentiated indicators for children and juveniles aged up to 18 which are published on a regular basis. These statistics, which are regionally differentiated, provide information on age, gender and

¹² Annex 1, Overview.

¹³ Book VIII of the Social Code — Child and youth welfare —; see on this also, Annex 2 No. 4 re III.

¹⁴ Taken note of by the Federal Cabinet on 29 April 2009, retrievable at www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationen,did=128950.html; see on this also, Annex 2, No. 5 re I.

nationality, amongst other things. Indicators for minors aged up to 18 are particularly published on the topic of basic social security benefits.¹⁵ The Microcensus also collects data on an annual basis covering children and juveniles aged up to 18. It is also possible here to implement analyses which are differentiated by gender, age, region and nationality or migration background.

30. In accordance with a new format for the annual Interim Evaluation Reports, the Quantitative and Qualitative Developments of the Expansion of Childcare will be documented from 2010 onwards (section 24 subs. 3 of Book VIII of the Social Code). Central data sources for evaluation are the child and youth welfare statistics, as well as additional surveys on the youth welfare offices and the child day carers which are to depict aspects of both structural quality and process quality.

2. International cooperation

31. The Federal Government views the reduction of poverty as a priority national task and its most important international obligation (para. 22, CRC/C/15/Add.226). Fundamental statements on Germany's development cooperation can be found in the Common Core Document at A.I.5.c. and at B.II.10 (including a tabular overview of Germany's expenditure on public development cooperation, listed by promotion areas). The increase in public development payments from 0.28 per cent in 2004 to 0.38 per cent of Gross National Income in 2008 is a major success of German development policy. What is more, in the framework of the EU's ODA objectives¹⁶ the Federal Government has undertaken to increase spending on public development cooperation to 0.7 per cent by 2015. The Federal Government has already tackled this project, and has increased funding for development cooperation for 2009 by an additional €800 million.

32. Germany takes very seriously the performance of its international obligations to implement the Millennium Declaration and the Millennium Development Goals (MDG).¹⁷ Over and above this, it is a major concern for German development policy to increase fundamental social services (para. 22, CRC/C/15/Add.226). Four out of a total of eight MDGs aim to achieve this, two of the objectives (MDG 2: education and MDG 4: child mortality) exclusively target children; many further sub-goals and indicators tackle children and juveniles directly, in particular in the areas of health, food and employment.

33. With its engagement at international level, the Federal Republic of Germany makes a major contribution towards the implementation of the prohibition of child labour. German development cooperation has also been promoting the International Programme on the Elimination of Child Labour (IPEC) since the beginning of the 1990s. It is now active in over 80 countries and supports governments in the implementation of strategies to fight child labour. These include legal provisions, training, the deployment of labour inspectors, public relations and assistance for the children concerned and their families. For instance, Germany is supporting:

- With its project entitled "Combat against Child Trafficking and the worst forms of child labour in Côte d'Ivoire" in Côte d'Ivoire, the Ivorian Government in achieving

¹⁵ Statistics from the Federal Employment Agency.

¹⁶ The EU's ODA objectives to increase public spending for development projects (Official Development Assistance); adopted in Brussels in May 2005 at the meeting of the EU's General Affairs and External Relations Council.

¹⁷ Millennium Development Goals: Eight quantified objectives in the fields of poverty, education, health, gender, environment and development partnerships; derived from the Millennium Declaration, which was adopted in September 2000 at the up to then largest summit of the United Nations in New York of 189 Heads of State and Government.

further progress in the implementation of the Convention on the Rights of the Child. The project, which closed in December 2009, made a major contribution to the Ivorian Government ceasing to deny the problems involved with child trafficking and exploitative work. A National Action Plan against slavery and child labour 2007 and a National Action Programme against child trafficking and child labour have been adopted. The total promotional funding was €2 million.

- On behalf of the Federal Ministry for Economic Cooperation and Development, the *Deutsche Gesellschaft für Technische Zusammenarbeit* (GTZ) is currently guiding and developing several projects in Western Africa which, inter alia, promote the implementation of the Core Labour Standards of the International Labour Organization (ILO), which prohibit the worst manifestations of child labour as a part of the implementation of voluntary sustainability standards in farming.

34. Germany is committed in many different fields in its cooperation countries towards enabling more children to undergo basic schooling to achieve the goal of “education for all” by 2015. For instance, funded by the *Kreditanstalt für Wiederaufbau*, 830 classrooms with equipment have been built in the Kaolack and Fatick Regions of Senegal. The rooms have been built by local small- and medium-sized enterprises. Parents have contributed 10 per cent of the overall cost of the project in the shape of work. This community participation is intended to increase the identification and engender a feeling of responsibility for the maintenance of the classrooms.

35. For advice on child and youth policy, Germany has for instance engaged in a broad-based project in Uganda from 1994 to 2006, in particular in the fields of capacity development, youth participation, building of youth centres, youth employment, HIV prevention and mobile youth work. Total funding amounted to EUR 5,488,585.

36. In its scheme to promote measures for humanitarian assistance,¹⁸ the Federal Government stresses children as an especially vulnerable group whose needs are particularly taken into consideration in the assistance measures funded by Germany. In view of international children’s health policy, Germany is supporting the WHO’s “Children’s Environment and Health Action Plan for Europe” (CEHAPE). Germany drew up an extensive report in 2007¹⁹ on the national implementation of the action plan.

Support for the rights of children involved in armed conflict (para. 20, CRC/C/OPAC/DEU/CO/1)

37. Germany is addressing the protection of children involved in armed conflict both at United Nations level and in the European framework:

- The Optional Protocol to the Convention on the Rights of the Child of 25 May 2000 on the involvement of children in armed conflict came into force for Germany on 13 December 2004.
- Since the publication of the so-called Machel Study, which was the first to draw broad attention to the topic of children involved in armed conflict in the United Nations Members, Germany has been playing an active part in the protection of

¹⁸ As of 1 January 2008; draft retrievable in German at <http://www.auswaertiges-amt.de/diplo/de/Aussenpolitik/Themen/HumanitaereHilfe/downloads/FoerderkonzeptProjekteHH.pdf>.

¹⁹ Published by the Federal Ministry of Health and the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, 2007; Retrievable at: www.bmg.bund.de/clin_169/nm_1168258/SharedDocs/Downloads/DE/Gesundheit/Umwelt-und-Gesundheit/who-d-bericht.html?_nnn=true; see on this also, Annex 2, No. 6 re I.

children involved in armed conflict. Germany was among the first countries to provide funding towards the revision of the Machel Study in 2006.

- Germany cooperates closely with the Special Representative of the United Nations Secretary-General for Children and Armed Conflict. Germany also provided financial support to the Office of the Special Representative when she took up her work. Germany will be funding the post of a consultative expert in the Office in 2010.

- *EU Guidelines for the Promotion and Protection of the Rights of the Child*²⁰

The EU Guidelines for the Promotion and Protection of the Rights of the Child were drafted under the German EU Council Presidency in the first half of 2007 which were accepted by the European Council in December 2007. The Guidelines aim to bring about an increased commitment to the implementation of the rights of the child in the EU's foreign relations.

- *EU Guidelines on Children and Armed Conflict*²¹

The EU had already adopted Guidelines on Children and Armed Conflict in December 2003. Under the German EU Council Presidency in the first half of 2007, action strategies were drafted for the implementation of the Guidelines for 13 focus countries, as well as an overview of the projects implemented worldwide by the EU States and the European Commission in the field of children and armed conflict. The number of focus countries has now been increased to 19. The Guidelines were updated in 2008.

- *EU Strategy on the Rights of the Child*²²

A "Communication from the Commission Towards an EU Strategy on the Rights of the Child" was adopted on 4 July 2006. It explains how a comprehensive long-term strategy of the EU to promote and protect the rights of the child can be developed, coordination between relevant stakeholders improved and the consideration of the rights of the child in EU policy made more systematic. In the Communication, the EU undertakes to promote networking and the representation of children in the EU and worldwide and to gradually include them on a formal basis in all consultations and measures impacting their rights and needs. Moreover, indicators are proposed for children's rights and greater supervision of the impact of ongoing measures on children.

38. As projects to support children involved in armed conflict, Germany is currently promoting roughly 20 projects with the target group "child soldiers", especially in the African Great Lakes area. The projects in Africa receiving support from the Federal Government to reintegrate child soldiers are promoted by much more than €100 million, the following being named as examples:

- The Federal Ministry for Economic Cooperation and Development is providing support via the GTZ for instance with the project entitled "Promotion of Employment for Marginalised Youths" for the return and reintegration of young war refugees to their homes in Sierra Leone. The goal of the project, which is to run until

²⁰ EU Guidelines for the Promotion and Protection of the Rights of the Child (16031/07 LIMITE COHOM 121).

²¹ EU Guidelines on Children and Armed Conflict (15634/03 COHOM 47, PESC 762, CIVCOM 201, COSDP 731).

²² EU Strategy on the Rights of the Child (COM(2006) 367 final).

2013, is for disadvantaged juveniles and young adults to participate actively in their communities' social, economic and political activities.

- With the project running until 2011 entitled “Integration of child soldiers (Phase I) and economic reintegration of disadvantaged juveniles and young adults in Maniema (Phase II)”, the Federal Ministry for Economic Cooperation and Development is promoting via the GTZ the social and economic reintegration of child soldiers in the Congo. The focus here is on catching up on primary schooling, training in preparation for taking up work, the creation of infrastructure, as well as support in establishing small businesses. The total German promotion of the project is €5.5 million.

39. Other projects of the Federal Government in the field of “Disarmament, Demobilisation and Reintegration” (DDR), such as in Burundi, Rwanda and Sudan, contain components of the reintegration of child soldiers or consciously contain support for children affected by conflicts – such as in Liberia or Nepal. Finally, the Federal Government promotes projects whose focus is not exclusively on child soldiers, but which at least also benefit them.²³

40. Germany traditionally contributes a resolution on the rights of the child both in the General Assembly and in the United Nations Human Rights Council once per year together with European and Latin American partners which also contains a passage on the topic of children and armed conflict. The General Assembly most recently reached a consensus to accept such a resolution on 18 December 2009.

Awareness creation among military contingents of the problem of “child soldiers” (para. 21, CRC/C/OPAC/DEU/CO/1)

41. Dealing with “child soldiers” requires appropriate training for *Bundeswehr* soldiers for special deployment abroad. This is provided in the pre-deployment training. Attendance at such training courses is obligatory; review of participation and enrolments in the courses takes place in the context of controlling. Thus, for instance, the *Bundeswehr* carried out additional training in the pre-deployment training for the German contribution to the EU-led operation in the Democratic Republic of the Congo on the topic of “Dealing with child soldiers”. Elements of the training programme were ethics and morals in dealing with child soldiers, the legal basis for the deployment, geographical information, as well as psychological aspects in dealing with child soldiers.

Prohibition with respect to the sale of arms when the final destination is a country where children are known to be — or may potentially be — recruited or used in hostilities (para. 23, CRC/C/OPAC/DEU/CO/1)

42. The Federal Government has complied with the suggestion to examine the possibility of such a prohibition. These aspects are taken into consideration as follows in the Federal Government's arms export control policy. The Federal Government's arms export control policy is based on the Federal Government's political principles for the export of arms and other military equipment in the version of 19 January 2000. The political principles distinguish between arms exports to NATO countries, EU member States and countries on an equal footing with NATO (Australia, New Zealand, Japan, Switzerland) which in principle are not to be restricted, and exports to all other States (so-called third-party countries). The export of arms and other military goods to these States is dealt with restrictively. All applications for export licences are decided on in the respective individual case after carefully weighing up above all the foreign, security and human rights

²³ E.g., Angola, Burundi, Democratic Republic of the Congo, Liberia, Rwanda and Sudan.

policy arguments. Major criteria of each decision here are inter alia conflict prevention and compliance with human rights in the recipient country. Export licences are not considered if the domestic situation in the recipient country is against this, such as in case of armed domestic or international conflicts.

B. Dissemination of information on the Convention on the Rights of the Child (art. 42)

Activities of the Federation on the dissemination of information on the Convention (para. 20, CRC/C/15/Add.226; para. 7, CRC/C/OPAC/DEU/CO/1)

43. General information on the dissemination of information on and distribution of Conventions, as well as publications on human rights, can be found in the Common Core Document at B.II.7 and in Part C.III. For instance, the Federation also provides information on the wording of the Convention on the Rights of the Child and publishes its State Party Reports. These are available both as a free printed version and on the Internet.²⁴ The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth releases a publication for children (print and online versions) which explains the Convention on the Rights of the Child and its content in a form that is appropriate for children.²⁵ Additionally, the Federation publishes the brochure “A world fit for children” as a print version and as a version that is retrievable on the Internet.²⁶

44. On a special website for children (www.kinder-ministerium.de), the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth presents the work of the Minister, informs children about their rights, about the Convention on the Rights of the Child and on currently policy areas. The site has also been available to children and their parents as an interactive website since 2010. Additionally, in cooperation with UNICEF, GEOLino and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in November 2009, a supplement to GEOLino appeared on the jubilee of the Convention on the Rights of the Child which provides children with appropriate information on the content of the Convention on the Rights of the Child.

45. Central to the Federal Government is also the implementation of the National Action Plan for a Child-Friendly Germany 2005–2010 presented in I.A.1. above, which links to the United Nations General Assembly on Children held in New York from 8 to 10 May 2002 (World Summit for Children 2002). This is also available in both printed and online versions.²⁷

46. The Optional Protocol to the Convention on the Rights of the Child, on the involvement of children in armed conflict is retrievable in German on the website of the Federal Foreign Office.²⁸ The Eighth Report of the Government of the Federal Republic of

²⁴ E.g., on the homepage of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth: <http://www.bmfsfj.bund.de/bmfsfj/generator/BMFSFJ/Service/Publikationen/publikationsliste,did=3836.html>; or on the Homepage of the Federal Foreign Office: <http://www.auswaertigesamt.de/diplo/de/Aussenpolitik/Themen/Menschenrechte/KinderrechteUebersicht.html>.

²⁵ <http://www.bmfsfj.bund.de/bmfsfj/generator/BMFSFJ/Service/Publikationen/publikationen,did=3844.html>; see on this also, Annex 2, No. 7 re I.

²⁶ <http://www.bmfsfj.bund.de/bmfsfj/generator/BMFSFJ/Service/Publikationen/publikationsliste,did=19168.html>; see on this also, Annex 2, No. 8 re I.

²⁷ <http://www.bmfsfj.bund.de/bmfsfj/generator/BMFSFJ/Service/Publikationen/publikationen,did=76550.html>.

²⁸ <http://www.auswaertiges-amt.de/diplo/de/Aussenpolitik/Themen/Menschenrechte/Download/>

Germany on its Human Rights Policy in the Context of Foreign Relations and Other Areas of National Policy contains an overview of the most important provisions of the Optional Protocol.²⁹ A child-friendly reference to the Optional Protocol is available at www.kinder.diplo.de.

Activities of the *Länder* and local authorities to disseminate information on the Convention on the Rights of the Child

47. Some *Länder* have launched programmes in order to create a greater awareness within society for the topic of the “rights of the child”. For instance, websites have been set up on this topic, only the examples from Rhineland-Palatinate and Berlin being mentioned here:

- www.kinderrechte.rlp.de
- www.jugendnetz-berlin.de

48. Information provided at local authority level on the content of the United Nations Convention on the Rights of the Child by various means, such as:

- Through the “Rights of the Child Year” campaigns such as in Munich (May 2009 to April 2010) in which a different right of the child was discussed every month
- Through working parties of child and youth welfare
- Through alliances (Welcome Alliance for Children, Alliance for the Family)
- At activities of institutions of independent youth welfare e.g., Girls Day
- In publications and through the public relations work of the respective local authorities
- Child caravans with events and information on the Convention on the Rights of the Child

Activities of the associations

49. There are many initiatives carried out by associations and the public-law media to publicize the rights of the child in Germany. The following are particularly to be stressed at this juncture:

- The “National Coalition” established in Germany in 1995 for the implementation of the United Nations Convention on the Rights of the Child. This is an alliance of almost 100 nationally-active organizations and initiatives aiming to publicize the United Nations Convention on the Rights of the Child in Germany. The legally-responsible entity of the National Coalition is the “Working party for child and youth welfare”. It stands, amongst other things, for organizing in various areas of society a broad dialogue on topics related to the implementation of the United Nations Convention on the Rights of the Child.
- Caritas Guideline on the Implementation of the United Nations Convention on the Rights of the Child, July 2008.
- Further information can be found on the Internet, for instance at:
 - www.kinderbuendnis.de

Fakultativprotokoll_Kinder-soldaten.pdf

²⁹ Retrievable at www.auswaertiges-amt.de/diplo/de/Infoservice/Broschueren/MRB8.pdf.

- www.kinderrechte.de
- www.kinderschutz-zentren.org
- www.dksb.de

Training programmes on human rights, including children’s rights (para. 20, CRC/C/15/Add.226)

50. A working party deployed by the Federal Ministry of Justice recommends in its Final Report of 17 November 2006 to expand the further training events offered to family court judges particularly to include human and social science aspects of child development, risks to the best interests of the child, as well as assistance for bringing up and its effectiveness. The working party once more dealt with the topic of further training in its Final Report of 14 July 2009.

51. These aspects have been more recently scaled up in the framework of further training for legal experts. The further training programme for educational experts entitled “A suitcase full of children’s rights” of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth should also be mentioned at this point, which portrays a mobile learning workshop with 25 selected media for children and their teachers and carers.³⁰

52. Varied opportunities for basic and further training for experts, in particular for teachers, educators and social workers, are offered at both *Land* and local authority level, such as:

- www.kinderrechte.rlp.de
- www.caritasnet.de

C. Reporting dissemination of reports on the implementation of the Convention available (art. 44)

53. The Common Core Document explains at B.II.7. how the Federal Government publishes its reports which it submits to the United Nations on the basis of its obligations from the respective Conventions.

54. For instance, the Federal Foreign Office has published on its website the texts of the United Nations Convention on the Rights of the Child, as well as of both Optional Protocols and of the Second State Party Report on the implementation of the United Nations Convention on the Rights of the Child of May 2001.³¹

55. What is more, the above-mentioned Eighth Report of the Government on its Human Rights Policy in the Context of Foreign Relations and Other Areas of National Policy³² under the title “Children and armed conflict” refers to the Concluding observations and contains a brief overview of their content.

56. The Federal Ministry of the Interior provided information on the Optional Protocol and on the implementation of the Concluding observations via the Federal Office for Migration and Refugees at the 2008 Conference of the Ministers of the Interior of the

³⁰ See on this: www.kiko.de/projekte or on the homepage at www.kiko.de.

³¹ <http://www.auswaertiges-amt.de/diplo/de/Aussenpolitik/Themen/Menschenrechte/KinderrechteUebersicht.html>.

³² As an online version loc. cit. and as a printed version; see on this Annex 2, No. 9 re I.

Länder. A resolution was thereupon adopted at the conference “that the awareness of the particular fate of ‘refugee children’ who have been involved in or have become victims of an armed conflict must be heightened”. The Federal Ministry of the Interior moreover pointed in 2009 to the Optional Protocol and the Concluding observations at a discussion between the experts of the *Länder* on immigration policy and asked the *Länder* to take note of the Optional Protocol, and to take up the Committee’s recommendations.

II. Definition of the child

57. Children and juveniles are independent personalities with many skills. They have their own rights. Amplifying the development of the personality and individual promotion is the goal of all child and youth policy measures of the Federal Government. These focus on the different circumstances of children and juveniles and their individual needs.

58. The term “child” as used in Germany is defined in the First and Second Reports.³³ In more recent national statutes, the age group of minors (people aged below 18) is subdivided into children (0 to under 14) and juveniles (14 to under 18), for instance in section 7, subs. 1, Nos. 1 and 2 of Book VIII of the Social Code. The definition of a minority on which article 1 of the Convention on the Rights of the Child is based corresponds to that in German law. Minors are children or juveniles, that is, persons who have not yet reached the age of 18.

59. Against the background of article 2 of the Convention on the Rights of the Child, and in order to do justice to the Optional Protocol on the sale of children, child prostitution and child pornography, amongst others, the age limit for “sexual abuse” of juveniles for a fee and/or by “exploiting a coercive situation” (section 182 subs. 1 and 2 of the Criminal Code [*StGB*]) was increase from 16 to 18.³⁴ The increase in the age limit from 16 to 18 in the provisions of the Code of Criminal Procedure (*Strafprozessordnung*) and of the Courts Constitution Act (*Gerichtsverfassungsgesetz*), which contain a protection function for child and juvenile victims, also does justice to article 2 of the Convention on the Rights of the Child.³⁵

60. For an introductory explanation of the legal situation of minor-age foreigners in Germany who have reached the age of 16, reference is made to the Second Report at VIII. A. 1. paragraph 790 et seq.; III. B. The special situation of unaccompanied minor-age foreigners who have reached the age of 16 has been unmistakably brought to the attention of political decision makers and of society in the period under report. Germany has increasingly taken measures to support and assist such minors, also in implementation of the recommendation contained in paragraph 54, CRC/C/15/Add.226. A detailed description of this can be found at VIII. A. (Special protection measures for refugee children and asylum-seeking minors).

³³ First Report, para. 8; Second Report, para. 118.

³⁴ With the “Act Transposing the Framework Decision of the Council of the European Union on combating the sexual exploitation of children and child pornography”, of 20 June 2008, which came into force on 5 November 2008, Federal Law Gazette (*BGBl.*) 2008, p. 2149, see on this the detailed description at V.H.

³⁵ By the 2nd Act Reforming the Law on Victims (*Opferrechtsreformgesetz*), Act of 29 July 2009, Federal Law Gazette I p. 2280, which came into force on 1 October 2009, see on this the detailed statement at III.B.

III. General principles

61. Detailed information on non-discrimination and equality — on statutory and institutional entrenchment, on educational programmes and information campaigns and on legal appeals — is contained at C in the Common Core Document. Equal opportunities for all children and juveniles are the express aim of the Federal Government's endeavours. Children and juveniles are to grow up free from poverty and to be able to develop their many skills and talents. The Federal Government considers equal opportunities and education to be the decisive foundation for a society that is equipped to face the future. Education, optimum promotion and equal opportunities to grow up healthily are tasks which are central to the creation of equal opportunities for all children and juveniles (see on this at VII. A. and B., as well as VI. B. and C.).

62. Special support is needed by children who grow up in difficult circumstances and are subject to dangers. The Federal Government relies here above all on the improvement of supporting structures for children and their parents. These include education and awareness-creation, advice, reliable networks and early assistance.

63. Equal participation opportunities, good education for all from the outset and fair opportunities for integration are the central aspects of a youth policy for a social, fair society. The youth policy of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth encourages young people to articulate their own concerns. It promotes the dialogue between the generations. It shows in which fields young people can become active, and gives them courage to use this opportunity. International experience and intercultural learning serve to enhance life skills and give many young people an impetus to take their lives into their own hands, to participate and to intervene.

A. Non-discrimination (art. 2)

64. A detailed description to introduce the topical area of "non-discrimination" can be found in the Second Report at paras. 351 et seq. CRC/C/83/Add.7.³⁶ Children with a migration background or children with a disability are for instance considered to potentially constitute particularly vulnerable groups which require assistance and support. Fundamental information with regard to the general legal basis for children with a migration background can be found in the Second Report at paras. 125 et seq. CRC/C/83/Add.7.

65. The Federal Government considers it to be necessary to take measures against discrimination at all political levels. The goal is to remedy both the structural causes of discrimination and to combat reservations, prejudices, xenophobia and racism among all individuals. The Federal Government wishes to protect all children and juveniles against discrimination. The Federal Government hence regards itself as being obliged to take the necessary steps to prevent discriminating unequal treatment of foreign children and juveniles and to facilitate access to education in order to improve their future outlook. The

³⁶ Further to the general principles of equality and non-discrimination in Germany, including their establishment in the German constitution, the Basic Law, see in the Common Core Document at C. I., where the non-constitutional expression of the principle is also presented, such as the *General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz – AGG)* in implementation of the EC's Anti-Discrimination Directives (2000/43/EC, 2000/78/EC, 2002/73/EC and 2004/113/EC) of 14 August 2006 (Federal Law Gazette I, p. 1897), amended by Article 8 of the Act of 2 December 2006 (Federal Law Gazette I, p. 2742). The institutional anchoring of protection against discrimination in Germany is also explained in the Common Core Document at C. II.

National Integration Plan³⁷ that was adopted in the summer of 2007 placed the integration initiatives of the Federation, *the Länder*, the local authorities and civil society on a joint footing for the first time. It was drawn up in a dialogue between representatives of all State levels, the most important non-governmental organizations and migrants. All the parties involved have undertaken in the National Integration Plan to adopt and implement suitable measures for better integration. German integration policy particularly emphasizes modern immigration law and an institutionalized dialogue with migrants. The Integration Plan entails 400 individual measures. It has led to a wide variety of initiatives, projects and discussions at all levels of the State and of civil life in Germany.

Individual measures against discrimination (para. 24, CRC/C/15/Add.226)

66. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth launched the initiative entitled Strengthening Juveniles on 15 June 2009. With this initiative, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth bundles and amplifies its activities on the societal integration of disadvantaged children and juveniles and young people with a migration background. The special situation of unaccompanied minor-age foreigners and the support measures for unaccompanied minor-age foreigners are described at VIII. A.³⁸

67. With a poster campaign aimed at awareness-creation and rethinking under the motto “Open-mindedness instead of single-mindedness”, the Anti-Discrimination Agency of the Federal Government drew attention nationwide in November and December 2009 to population groups which are affected by discrimination. A poster motif with the slogan “I’m in the thick of it – if I’m allowed” is intended to create an awareness of children (with disabilities).

68. The project promoted by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth “SELBST – Empowerment of disabled girls and women”³⁹ ran from October 2003 to December 2006. The outcome of the project was inter alia the drafting of a curriculum for practice to strengthen the self-awareness of girls and women affected by or at risk of disability and its evaluation using test exercises. The project drew up research-based quality standards which meet the demands of the girls and women concerned as to exercises and course contents, whilst at the same time satisfying the preconditions for rehabilitation sport within the meaning of the law on rehabilitation.

69. Under the motto “Learning together – with and without a disability” the “Jakob Muth Award for Inclusive Schooling” awarded prizes to schools which provide joint schooling in an exemplary manner for children with and without disabilities for the first time in 2009. The institutions funding the project were the former Federal Commissioner for Matters relating to Disabled Persons, Karin Evers-Meyer (MdB), the Bertelsmann Foundation and the German UNESCO Commission. Because of the major success of the project, the prize will be awarded again in November 2010.

70. The *Länder* and local authorities have also carried out a large number of measures in the period under report in order to prevent and fight discriminating inequalities, such as:

- Berlin adopted the Berlin Integration Concept entitled “Promoting diversity – strengthening cohesion” in 2007, which presents the measures of all administrations

³⁷ http://www.bmj.bund.de/enid/Themen/Nationaler_Integration_Plan_1d9.html.

³⁸ As to statistical data see the statistical overview, Annex 1, Tables 1–3.

³⁹ Implemented by the Friederike Fliedner Institute, Institute for Practice Research in the Health and Social Sector at the Rheinland-Westfalen-Lippe Protestant College and the German National Paralympic Committee as a cooperation partner.

to prevent and fight against discriminating inequalities of children and juveniles. Here, the Berlin Senate concentrates its efforts on 45 accompanying projects which are central to achieving integration policy objectives.

- The Land Lower Saxony has been promoting since the kindergarten year 2003/04 the acquisition of German among children whose language of origin is not German and children from disadvantaged population groups from the age of 3 in the child day-care centres by funding additional experts. An extensive further training programme supplements this promotion. In addition, in the last year prior to entering school, each child with regard to whom a need for linguistic promotion is ascertained has a right to one promotion lesson per week, which is also given by the primary schoolteachers.
- The 2009 specialist conference on the rights of the child initiated by Rhineland-Palatinate on the “right to protection against discrimination” in accordance with article 2 of the Convention on the Rights of the Child has created an awareness of existing differences and presented good practical examples of enhanced equal opportunities.
- The local authorities have stepped up their commitment against right-wing extremism in the period under report. The local authorities have increasingly established “Networks against the right wing”. For instance, the Upper Lausitz-Lower Silesia region is working closely with the Saxony “Network against the right wing” (“Cosmopolitan Saxony”). Events have for instance been carried out in cooperation with the “Network against the right wing”, in which important multipliers (e.g., teachers, mayors and youth welfare agencies) have passed on their knowledge regarding matters related to right-wing extremism and potential strategies to counter it.

Promotion of a culture of understanding and tolerance (paras. 25 and 31, CRC/C/15/Add.226)

71. The Federal Government has initiated various measures and projects in the period under report addressing children, parents and other individuals to develop a culture of understanding and tolerance. These include the following measures and federal programmes, amongst others:

- 1999–2000: The Action Programme “Youth Work in Eastern German Rural Areas” aimed to develop and test innovative forms of work in youth work in rural regions in the new Federal *Länder* (Mecklenburg-Western Pomerania, Brandenburg, Saxony-Anhalt, Saxony, Thuringia and Berlin). Here, amongst other things, confidence on the part of staff of child and youth welfare services in terms of their conduct towards racist activities and xenophobia among young people was increased. DM 115 million were contributed from the “Federal Child and Youth Plan” for this Action Programme.
- 2001–2006: The Action Programme “Youth for Tolerance and Democracy – Against Right-Wing Extremism, Xenophobia and Anti-Semitism” aimed to strengthen democratic conduct and civil commitment, above all among young people, as well as to promote tolerance and cosmopolitanism. The Action Programme encompassed three sections:
 - “ENTIMON – together against violence and right-wing extremism” promoted a wide variety of initiatives, competitions, work camps, sport and outdoor education activities, film and poster competitions and intercultural training courses to enable young people to take a stand for fairness and respect

- “CIVITAS – taking the initiative against right-wing extremism in the new Federal *Länder*” particularly supported the advice, training and support of grass-roots civil society democratic initiatives
- “XENOS – Living and Working in Diversity” promoted labour market-orientated measures to establish mutual understanding, as well as to help juveniles to learn and work together

A total of €310.44 million was provided for the Action Programme “Youth for Tolerance and Democracy – Against Right-Wing Extremism, Xenophobia and Anti-Semitism”.

- 2007–2013: The new Federal programme entitled “XENOS – Integration and Diversity”, which refines the original conception of the XENOS predecessor programme, focuses on the prevention concept to prevent discrimination, xenophobia and racism. This is to strengthen the vocational and intercultural action skills of disadvantaged juveniles and young adults with and without a migration background in order to support this target group when entering the labour market and in becoming integrated into society for the long term and sustainedly.
 - In the focus of the special XENOS programme entitled “Opt out to opt in”, initiatives and activities for opting out, which counter right-wing extremist tendencies at grass-roots level and develop new ideas to help people willing to opt out to find their way back into society, work and training
 - The special XENOS programme entitled ESF Federal programme for labour market support for persons with a right to remain and refugees promotes networks consisting of institutions funding the basic security benefits, migrants’ self-help organizations, institutions funding refugee assistance, education-providers and welfare funding institutions which support the integration of persons with a right to remain and refugees on the training and labour markets
- Since 2007: With the Federal programme entitled “Diversity Does You Good: Youth for Diversity, Tolerance and Democracy”, the Federal Government aims to develop an awareness of shared fundamental values and cultural diversity and to promote respect for human dignity in order thus to combat all forms of extremism, xenophobia and anti-Semitism. The goal is to establish diversity, tolerance and democracy as central values of society as a whole, and in particular to win children and juveniles over early for these fundamental rules of peaceful and democratic coexistence. The programme supports 90 local action plans under the responsibility of the local authorities in order to strengthen the development of grass-roots democratic development. Furthermore, 90 model projects are being promoted to develop and try new methods of strengthening diversity, tolerance and democracy (www.vielfalt-tut-gut.de). The current promotional phase of the federal programme ends in 2010. The Federal Government provides an annual promotional volume of €19 million for this programme.
- The federal programme entitled “Competent, for democracy – advice network against right-wing extremism” aims to help and support people in difficult situations at grass-roots level with an extremist, xenophobic or anti-Semitic local background by providing competent specialist advice. Advice networks have been created (www.kompetent-fuer-demokratie.de) in all 16 Federal *Länder*. The current promotional phase of this federal programme, for which the Federal Government is providing €5 million per year, ends in 2010.

- The “Alliance for Democracy and Tolerance – against Extremism and Violence”, established in May 2000, networks and bundles State and non-State initiatives to prevent and combat extremist, xenophobic and anti-Semitic violence, organizes an annual competition on this topic entitled “Active for Democracy and Tolerance” for civil society initiatives in which young people also participate. The alliance supports such initiatives with money prizes and awards particularly prominent initiatives with the title “Ambassador of Tolerance” in the context of an annual “Youth Congress” with roughly 400 juveniles taking part.

Germany’s activities at international level

72. Under the motto “All different – all alike”, the Council of Europe launched a Youth Campaign for Diversity, Human Rights and Participation in June 2006 under the patronage of Federal Family Minister, Dr. Ursula von der Leyen, which ended in September 2007. All 47 member States of the Council of Europe, as well as Belarus and the Vatican, took part. The main goal of the campaign was to encourage juveniles to enter into a joint commitment with others for diversity and against discrimination.

73. Together with the other EU States, Germany has agreed on promotion priorities for the EU’s Youth In Action 2007–2013 programme, which opens up to juveniles with increased needs, better access to European youth encounters and to the European Voluntary Service. In this context, Germany has been implementing since the beginning of 2009 a model project entitled “Juveniles with a migration background as European volunteers in social, ecological and cultural facilities”.

74. In drawing up the renewed framework of youth policy cooperation in Europe since the German EU Council Presidency in 2007, Germany has explicitly favoured the topics of equal participation and equal opportunities for all, and has hence made a major contribution to the renewed EU youth strategy.

75. Furthermore, the Federal Government is making efforts at bilateral level for the universality of human rights, together with its EU partners, in human rights bodies, in the Council of Europe’s Steering Committee for Equality between Women and Men and in the United Nations Committee on the Elimination of Discrimination against Women. Furthermore, the Federal Government is promoting concrete projects to enhance the rights of women and girls and their equality, and hence works to counteract any restrictions of their rights.⁴⁰ These projects focus in particular on measures against religiously-motivated restrictions of girls’ and women’s rights.

B. The best interests of the child (art. 3)

76. The best interests of the child are a guiding principle of the German legal order. They are authoritative both for the exercise of parental responsibility for upbringing and for the exercise of the State’s role of guardian to defend against dangers to the best interests of the child (para. 26, CRC/C/15/Add.226).

77. The Common Core Document also shows at B. I. 1. b. that the Federal Government takes the Convention on the Rights of the Child as a reason to engage in measures serving children’s best interests. As was already stated at III. A. 1., the constitutional status of children and of juveniles has been deliberately upgraded: The explicit interpretation of the Federal Constitutional Court in its above-quoted judgement of 1 April 2008⁴¹ makes it clear

⁴⁰ *Bundestag* printed paper 16/10009 (p. 6).

⁴¹ BVerfG 1 BvR 1620/04; see on this also, Annex 2, No. 4 re I.

that minors are not only subjects of the provision contained in article 6 of the Basic Law, but that they themselves are also holders of the fundamental rights of article 6, paragraph 2, sentence 1 of the Basic Law.⁴²

78. The situation in Germany has already been such since the reform of the law of parent and child of 1 July 1998 that the legal differences between children born in and out of wedlock have been considerably reduced by means of new provisions on custody. Divorce and custody no longer absolutely have to be clarified in one set of proceedings. Rather, joint parental custody is retained if no application for sole custody is lodged. This ensures that, first and foremost, parents themselves decide whether or not they wish to retain joint custody after separation or divorce.⁴³ Also, unmarried parents who have joint parental custody on the basis of a concurrent custody declaration made by both parents may retain joint custody should they separate.⁴⁴ With both married and with unmarried parents, this is conditional on both parents being willing to continue to assume joint responsibility for their child after separation or divorce. The statistics reveal that continuation of joint parental custody after separation or divorce has become the *de facto* rule where parents had joint parental custody prior to separation.

79. Against the background of the Convention on the Rights of the Child, in particular with regard to article 1 of the Convention, the 2nd Act Reforming the Law on Victims⁴⁵ to strengthen the rights of children and juveniles who have fallen victim of criminal offences or who have to testify as witnesses in criminal proceedings has now increased the age limit for this group of individuals in various provisions of the Code of Criminal Procedure (StPO) and of the Courts Constitution Act (GVG) from 16 to 18 (section 58a subs. 1, section 241a subs. 1, section 247 sentence 2 and section 255 subs. 2 Code of Criminal Procedure; section 172 of the Courts Constitution Act). This limit is better suited to the strain suffered as a result of age. It also corresponds to the age limit underlying many international agreements on the protection of children and juveniles. In order to take away young crime victims' fear of reporting the offence, the Federal Ministry of Justice also publishes the brochure entitled "I have rights – A guide through criminal proceedings for juvenile witnesses".⁴⁶ This brochure is to support girls and boys in effectively asserting their rights and in calling on help from others.

C. Right to life, survival and development (art. 6)

80. As to the manifestations of human rights in the German legal system, including the anchoring of the right to life in the Basic Law, reference is made to B. II. 1. a. aa. (p. 44) of the Common Core Document. The demographic characteristics of Germany, including the birth and death rates, are also described in A. I. 3. a., 3. b. of the Common Core Document. An overview of the infant and maternal mortality rates can be found in I. 4. b. of the Common Core Document.

⁴² Art. 6, para. 2, sentence 1 of the Basic Law: "Care and upbringing of children are the natural right of the parents and primarily their duty".

⁴³ BVerfGE 61, 258, 376, 377; see on this also, Annex 2, No. 1 re III.

⁴⁴ The Federal Constitutional Court had declared the introduction of the obligatory combination of divorce and sole custody, according to which sole custody must be allocated to one parent, as unconstitutional (BVerfGE 61, 358, 376 et seq.) as early as in 1982. Since this ruling, custody can be transferred both to one parent alone and to both jointly. However, there was no statutory basis until the law of parent and child had been reformed.

⁴⁵ Act of 29 July 2009, Federal Law Gazette I, p. 2280, came into force on 1 October 2009.

⁴⁶ http://www.bmj.de/enid/7ca0aa833c21488823cb5b2264f45a99,0/Publikationen/Ich_habe_Rechte_qb.html; see on this also, Annex 2, No. 2 re III.

D. Taking account of the opinions of the child (art. 12)

81. A picture of how children in Germany think, feel and live is drawn by a large number of governmental and civil society studies and reports. These publications lend a voice to the youngest generation in Germany. A portrayal of the overall situation of young people and of child and youth welfare is provided by the “Report on the circumstances of young people and the child and youth welfare services in Germany” (Child and Youth Report, section 84 of Book VIII of the Social Code),⁴⁷ already described at I. A. 1. The First World Vision child study from 2007, for instance, collected data from children aged up to 11 in a national representative survey. A further example is the “LBS child barometer”, a biannual, representative, national cross-sectional study.⁴⁸ In this study, developed under the patronage of the then Federal Family Minister, commissioned by the Federal Office of the Land Savings Banks in cooperation with the German Society for the Protection of Children, children as subjects themselves provide information on their circumstances.

Participation by children and juveniles as a focus of policy in Germany

82. Offering children a possibility and encouraging them to actively participate in shaping their environment and the society in which they live is a major concern for the State and for society.⁴⁹ The participation of children in the decisions concerning them has a major significance for the Federal Government. The Federal Government has explicitly declared the further expansion of the participation of children and juveniles to be a major goal. The Federation, the *Länder*, local authorities and associations have developed new approaches in order to successfully shape the participation of children and juveniles (para. 29, CRC/C/15/Add.226). The Federal Government regards the participation of young people as a major element of society and of the political arena and as a priority tool to promote democratic convictions.

83. Accordingly, in its statement⁵⁰ on 30 June 2009 on the topic of the participation of children and juveniles, the Federal Youth Board also favoured developing a coordinated overall strategy between educational, care and bringing up facilities (in particular at school and in the facilities of child and youth welfare), as well as the political levels of the local authorities, the *Länder*, the Federation and the European Union. The Federal Youth Board considered it to be particularly important that the opportunity to participate may not be reserved for children and juveniles with a higher formal level of education.⁵¹

⁴⁷ Book VIII of the Social Code (*SGB VIII*) – Child and youth welfare; retrievable at: www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationsliste,did=3578.html; the current 13th Child and Youth Report is from June 2009, retrievable at: www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationen,did=128950.html; see Annex 2 No. 4 re III; see on this also, Annex 2, No. 5 re I.

⁴⁸ Retrievable at: www.lbs.de/bw/die-lbs/initiative-junge-familie/lbs-kinderbarometer/daten-fakten-aussichten; see on this also, Annex 2, No. 8 re III, the current one is from 2009.

⁴⁹ An overview of participation rights of children and juveniles is provided for instance by the publication promoted by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth entitled “Participation rights of children and juveniles in Germany”, published by DKHW e.V., Berlin 2009; retrievable at: www.kinderpolitik.de/aktuell/beteiligungsbrochure.php; see on this also, Annex 2, No. 10 re III.

⁵⁰ Retrievable at: www.bundesjugendkuratorium.de/; see on this also, Annex 2, No. 3 re III.

⁵¹ <http://www.bundesjugendkuratorium.de>, press releases.

The right of children and juveniles to vote

84. The consideration of participation by children and juveniles at all levels in decisions which are relevant to them is anchored in many federal, land and local authority statutes. Participation in elections is the clearest form of political participation here.⁵² The right to vote for children and juveniles has been intensively discussed in Germany in the period under report; statutory amendments have taken place at *Land* level and at local authority level.

- The right to vote in the *Länder* is so far fundamentally linked to reaching the age of 18. As an outlook it should be pointed out that Bremen was the first Federal *Land* to adopt the right to vote from the age of 16 on 29 October 2009. The amended Electoral Act (*Wahlgesetz*) is to be applied for the first time in the Parliament (*Bürgerschaft*) elections in 2011.
- With regard to the right to vote at local level, the possibilities open to juveniles to participate by exercising the right to vote have been considerably strengthened in the period under report: for instance, Lower Saxony, Berlin, Mecklenburg-Western Pomerania, North Rhine-Westphalia, Saxony-Anhalt and Schleswig-Holstein have reduced the minimum age for the active right to vote to 16.⁵³

Participation in political processes

85. A particular focus of the Federal Government's child and youth participation policy is to familiarize children and juveniles with political processes as early as possible and to engage their enthusiasm for this. It was hence highly significant for the Federal Government to have a Child and Youth Report drawn up on the Third and Fourth State Party Reports by the National Coalition. Children and juveniles are hence directly involved in the State party report procedure on the Convention on the Rights of the Child.⁵⁴ The Child and Youth Report sets a social and youth policy signal for the political participation of young people. The report is to promote the relevance of young people's views of as a policymaking tool. The Child and Youth Report is also to encourage the children, juveniles and adults involved to further strengthen the rights of the child at local, *Land* and federal level. In the report children and juveniles evaluate the state of the implementation of the rights of the child from their point of view. There were roughly 3,000 children and juveniles involved in drawing up the report (by sending in questionnaires, attending working meetings and taking part in projects).

86. A particularly important element to supplement the NAP for the Federal Government was hence also the Child and Youth Report, already described here at I. A. 1., which the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth had arranged to be drafted. Several hundred juveniles took part in this "Child and Youth Report to the National Action Plan For a Child-Friendly Germany" in 2006 and in addition to suggestions for the refinement of the National Action Plan formulated their own visions and paths towards a child-friendly Germany. Since April 2008, additionally, a broad-based project has been ongoing on the participation of children and juveniles in the implementation of the NAP, which is being implemented by the German Federal Youth Council (DBJR) in cooperation with the Youth Participation Service Agency. Children and

⁵² Report by the Federal Republic of Germany to the Commission of the European Union – Participation by juveniles 2005, ed. Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Berlin 2006, p. 5.

⁵³ In Bremen juveniles from the age of 16 have so far been able to participate in the district parliament elections, from November 2009 also in the Bremen and Bremerhaven local parliament elections.

⁵⁴ www.national-coalition.de.

juveniles are being encouraged to discuss topics and action foci of the National Action Plan, to launch their own activities and formulate concrete demands.

87. The structured dialogue between juveniles and the political arena, which was agreed in 2006 as a part of youth policy cooperation in Europe, has been implemented in Germany since 2009 with a concept which has been developed jointly by the German Federal Youth Council and Youth for Europe, the national agency for the implementation of the EU's Youth In Action 2007–2013 programme. The goal is to make clear the realities faced by juveniles to political decision-makers “at eye level”, to make European policy clear and active at local and regional levels and ensure the sustainability of the processes which have been launched.

88. Two youth delegates have been accompanying the German governmental delegation to the United Nations General Assembly in New York each year since 2005, where they speak up for the concerns of juveniles together with youth delegates from other States. In the run-up to the General Assembly, the youth delegates discuss youth policy topics and the United Nations with juveniles in youth clubs and schools in the framework of a tour of Germany.

89. The German *Bundestag* is already teaching the youngest about Parliament's tasks and modus operandi in a child-friendly manner. It organizes so-called child days on this subject four times per year, on which guided tours are offered through the parliament buildings which are tailored to the target group of 6- to 14-year-olds. Additionally, the German *Bundestag* established an online portal in 2007 entitled “*Kuppelkucker*” (glassdome gawkers) which explains parliamentary procedures to children in an easy-to-understand manner (www.kuppelkucker.de). It also offers young users the opportunity to establish e-mail contact with their representative in Parliament, the Children's Commission.

Statutory anchoring of the participation of children and juveniles

90. Statutory provisions on child and youth participation exist in Germany in a wide variety of fields, such as in child and youth welfare law (Book VIII of the Social Code⁵⁵) or construction law. They regulate participation in highly diverse manners. Book VIII of the Social Code calls on child and youth welfare to play an active role in the design of child- and youth-friendly living environments and to create varied participation perspectives for young people.

- For instance, section 1 of Book VIII of the Social Code calls for “positive living conditions for young people and their families, as well as the creation and maintenance of a child- and family-friendly environment”.
- Participation by children and juveniles is expressly ordered in federal law in section 8 subs. 1 of Book VIII of the Social Code; accordingly, “children and juveniles [...] are to play a role in all decisions concerning them taken by public youth welfare services, according to their state of development”. Section 9 No. 2 of Book VIII of the Social Code also provides that, when designing the services and the carrying out of the tasks, “the growing ability and the growing need of children or of the juvenile for independent, responsible action, as well as the respective special social and cultural needs and particularities of young people and their families are to be taken into account”. Section 11 subs. 1 of Book VIII of the Social Code goes on to state that “young people are to be provided with the offers necessary to promote their development by the youth work services. They are to borrow from the interests of

⁵⁵ <http://www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationsliste,did=3578.html>; see on this also, Annex 2, No. 4 re III.

young people and be determined and shaped by them, to empower them to engage in self-determination and to encourage and guide them to shoulder shared social responsibility and social commitment”.

- At the level of national law, there are also for instance regulations in construction law providing in particular to take into account the interests of children and juveniles, such as section 1 subs. 5 of the Construction Code (*Baugesetzbuch – BauGB*), which states “in responsibility towards future generations” or section 1 subs. 6 No. 2 of the Construction Code, which provides that the needs of “young and old people and persons with disabilities” are to be particularly taken into account.
- The Guidelines to the Federal Child and Youth Plan⁵⁶ order as follows, for instance in I No. 2 subs. 4: “With the programme-specific tasks, the participation of children and juveniles is to be promoted, and it should be endeavoured to ensure that offers made to them differentiate according to the age of the children and juveniles.”
- The participation rights of children and juveniles have been considerably increased in the individual Municipal Codes of the *Länder* in the period under report. Only a small number of Municipal Codes are singled out below by way of example:
 - For instance, provisions are found at *Land* level such as section 47 et seq. of the Schleswig-Holstein Municipal Code (*Gemeindeordnung Schleswig-Holstein - GO SH*). In accordance with section 47 f subs. 1 sentence 1 of the Schleswig-Holstein Municipal Code, the municipality must “suitably involve children and juveniles in plans and projects affecting their interests”. Over and above this, subs. 2 orders: “In the implementation of plans and projects affecting the interests of children and juveniles, the municipality must suitably explain how it has taken these interests into consideration and implemented participation in accordance with section 1 of the Schleswig-Holstein Municipal Code.”
 - Also Rhineland-Palatinate has a fundamental provision in section 16 c of its Municipal Code: “The municipality shall suitably involve children and juveniles in plans and projects affecting their interests. On this the municipality should develop and implement suitable procedures over and above the participation of residents provided in this statute.” Furthermore, the Municipal Code provides for the establishment of a youth representation. Section 56 b reads: “A youth representation may be established in a municipality on the basis of statutes.” Such a youth representation may deliberate on all matters impacting the concerns of the juveniles which it represents.
 - With regard to the participation of children and juveniles on the questions affecting them, for instance section 5 subs. 4 sentence of the Act Implementing the Child and Youth Welfare Act (*Gesetz zur Ausführung des Kinder - und Jugendhilfegesetzes – AGKJHG*)⁵⁷ of the *Land* Brandenburg has ordered as follows since July 2007: “In addition to members of the district council or the city council meeting, the representative body may elect to the youth welfare committee women and men who are experienced in youth welfare, as well as juveniles who have reached the age of 14 at the time of the election.”

⁵⁶ Dated 28 August 2009.

⁵⁷ First Act Implementing Book VIII of the Social Code – Child and youth welfare of the *Land* Brandenburg.

- In Lower Saxony, section 22 e of the Municipal Code provides: “The municipality should suitably involve children and juveniles in plans and projects affecting their interests. To this end, the municipality should develop and implement suitable procedures over and above the participation of residents provided in this statute.”

91. Participation by children and juveniles in court procedure is codified in differentiated regulations in Germany:

- In accordance with section 159 of the Act on Proceedings in Family Cases and in Matters of non-contentious litigation (*Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit – FamFG*), the family judge is obliged to personally hear the child in family-law proceedings if the inclinations, the ties or the will of the child may be significant to the ruling or a personal hearing is indicated for other reasons. A detailed statement on the Act on Proceedings in Family Cases and in Matters of non-contentious litigation can be found at V. A.
- In family court proceedings, each child who has reached the age of 14 may exercise a right of complaint in all matters affecting his/her person without the participation of his/her legal representative (section 60 of the Act on Proceedings in Family Cases and in Matters of non-contentious litigation).
- The case law of the Federal Constitutional Court, of the Federal Court of Justice and of the Higher Regional Courts presumes that the courts are obliged to hear children in person from an age of 3 to 4 onwards.⁵⁸ The Federal Constitutional Court has also not only established this judicial obligation to also hear small children under non-constitutional law, but has also derived it from the child’s right to personality (from article 2, paragraph 1 in conjunction with article 1, paragraph 1 of the Basic Law), according to which children as holders of their own fundamental rights, in particular in custody and access proceedings, must be enabled to make clear their personal relationships with their parents and siblings to the court which is to hand down the ruling.⁵⁹ This is very broadly in line with article 12 of the Convention on the Rights of the Child. Hence, Germany has taken on a “pioneering role” worldwide, both with regard to the hearing of the child by the judge in person, and with regard to the fact that the child is already to be heard by the judge in preschool age.

Participation in educational facilities

92. The education plans of the *Länder* for child day care facilities weight “participation” differently. Some *Länder* place considerable weight on participation as a key variable and a quality criterion for education and upbringing. Individual *Länder* underline participation as a right of the child and derive from it requirements to be made of the experts. In other *Länder*, the experts are called upon to facilitate the participation of all children and develop democratic structures. Some Federal *Länder* suggest possibilities of participation in order to contribute improvement suggestions and exert an influence on the daily procedures or the design of the premises.

⁵⁸ BVerfG, 1st Chamber of the 1st Senate, ruling of 23 March 2007 – 1 BvR 156/07; FamRZ 2007, 1078f; see on this also, Annex 2, No. 5 re III.

⁵⁹ Fundamentally BVerfGE 55, 191 et seq. = NJW 1981, 217; FamRZ 1981, 126; since then established case law; see on this also, Annex 2, No. 6 re III.

93. There are also pronounced differences across Germany between the *Länder* with regard to co-determination rights at schools.⁶⁰ In some Federal *Länder*, for instance, the election of a class spokesperson is obligatory from 1st grade (**Bremen, Hamburg, Mecklenburg-Western Pomerania and Schleswig-Holstein**), but in others only from 3rd, 4th or 5th grade. Participation in class and school conferences is also dealt with very differently.

94. The model programme entitled “Learning and implementing democracy” of the Federal Government-Länder Commission for Educational Planning and the Promotion of Research, which was jointly funded by the Federation and the *Länder*, pursued the goal of comprehensively establishing democracy as a form of life in schools: at institutional level by the development of a democratic school culture, and at individual level by the development of democratic skills. One hundred and seventy five general-education and vocational schools from 13 *Länder* took part during the term of the programme from 2002 to 2007. All in all, broad-based support was shown for the programme, as well as a large number and diversity of measures at schools. School culture and school atmosphere proved to be strong indicators of the development of democracy-relevant skills. The *Länder* decided to use the experience gathered in the model programme in future joint projects of the Conference of Ministers of Education and Culture.

Projects and individual measures to promote participation by children and juveniles

95. There are a large number of participation projects in Germany in which children and juveniles influence their future through participation and help to make decisions on tomorrow’s circumstances.⁶¹

96. Under the motto “Only if you do something can you change something”, the “Action Programme for Greater Youth Participation” promoted initiatives and projects in which young people aged between 6 and 27 played a major role in decision-making processes (in the promotion period from autumn 2006 to June 2009). The Action Programme was launched jointly by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the Federal Agency for Civic Education (bpj) and the German Federal Youth Council. Focal points of promotion were “The value of the young generation in society”, “Children and juveniles from disadvantaged families”, “Children and juveniles with a migration background”, “Demographic change”, as well as “Multi-generational compensation.” Roughly 500,000 children and juveniles have been reached through 895 individual projects, as well as via the website and public relations work. One of the highlights of the Action Programme was the festival for youth policy “Berlin 08”. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth promoted the Action Programme to the tune of €5 million. Individual sections of the project are being continued by the partners of the Action Programme beyond the promotion period.

97. Diverse measures for the participation of children and juveniles can also be found at *Länder* and local authority level, such as:

- Rhineland-Palatinate established the “Central participation office” in 1999. The objective of this facility is to structurally anchor in the entire *Land* the participation

⁶⁰ See on this also the study promoted by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth entitled “Participation rights of children and juveniles in Germany”, ed. DKHW e.V., Berlin 2009; retrievable at: www.kinderpolitik.de/aktuel/beteiligungsbrochure.php; see on this also, Annex 2, No. 10 re III.

⁶¹ An overview of selected participation projects in Germany can be retrieved at www.bildungserver.de/zeigen.html?seite=4427; see on this also, Annex 2, No. 7 re III.

by juveniles in all concerns relating to their real lives and to secure it in a sustainable manner.⁶²

- Munich: In addition to the “Office of the child commissioners” contact office, the social work division, as well as the municipal youth welfare office/management have volunteer representatives of the interests of children in all 25 Munich city districts, as there are in the municipal departments, in individual institutions, as well as in enterprises.

What is more, tasked by the municipal child commissioners, the set of methods for participation “It’s a matter of perspective! Munich’s children have a say” was developed which contains the two elements: the Child-Action Suitcase and the Plan-and-Build Mobile Unit. The concept plans inter alia for concerns and applications to be implemented quickly and as extensively as possible and that this process is to be well managed and documented.

- Information on further initiatives can be found at:
 - Baden-Württemberg: www.gelingende-beteiligung.de and www.kinderland.de
 - Rhineland-Palatinate: www.spielleitplanung.de

Institutional anchoring of the participation of children and juveniles, in particular child contact points

98. Considerable significance attaches to facilities with this task for the defence of child and youth interests. In order to help children’s interests to develop in a world dominated by adults, points of call and an organ giving children a voice are important instruments. Child contact points, which are offered at *Land* and local authority level, are highly varied. The most common models of child contact points are child commissioners, child offices and child and youth bodies.

99. The former Federal Family Minister lobbied the Children’s Commission to emphatically push forward to achieve participation rights of children and juveniles in decisions affecting their concrete circumstances. She discussed the question of the structure and quality of child contact points at the meeting of the Association of Supreme Land Youth and Family Authorities in March 2009. The “General Quality Standards for the Participation of Children and Juveniles” developed in the NAP are to contribute in all institutional participation contexts towards uniform service quality.

100. Examples of the institutional anchoring of possibilities for children and juveniles to participate in Germany at *Land* level are, for instance, the Children’s Commission established in the Bavarian *Landtag* on 24 November 2009 or child and youth parliaments such as in North Rhine-Westphalia. Also at local authority level there are child and youth parliaments in many towns and municipalities (for instance in the Erzgebirge District or in the Prignitz district administration).

Activities of civil society for participation by children and juveniles

101. A special role is played by the youth associations in the question of participation. Their special role is anchored by section 12 subs. 1 and 2 of Book VIII of the Social Code: “The activity of the youth associations and youth groups on their own responsibility is to be promoted, respecting their statutory autonomy in accordance with section 74 of Book VIII

⁶² See www.net-part.rlp.de.

of the Social Code. In youth associations and youth groups, young people shall organize youth work themselves, shaping it jointly and taking joint responsibility. Their work is established on a long-term basis, and as a rule aims towards their own members, but can also target young people who are not members. The concerns and interests of young people shall be expressed and represented through youth associations and their amalgamations.”

102. The youth associations have joined at national level to form the above-mentioned German Federal Youth Council (DBJR). The work focuses on the interests of children and juveniles in Germany. The German Federal Youth Council is a strong network of the youth associations in Germany. According to its own information, roughly 5.5 million juveniles are members of its 24 member associations, 5 associated associations and the 16 *Land* youth councils.

103. The following are mentioned as merely individual examples of the broad association activities in Germany:

- The Children’s Charity of Germany (DKHW) carried out in 2009 the project entitled “Building blocks for a child-friendly Germany geared to children’s needs” funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. The project is to amplify the local participation opportunities for children and juveniles. The project is composed from the starting point of the “Rights of the child in Germany, workshop for democracy, child-friendly local communities and school of democracy”.
- The National Coalition offers a complaint schedule to the United Nations Convention on the Rights of the Child as a flyer. It describes to children and juveniles how they can seek help if they consider their rights to have been violated.⁶³
- The interests of unaccompanied minor-age foreigners are defended in Germany particularly by associations such as the Specialist Federal Organisation on Unaccompanied Minor Refugees. Since 2008, the Organization has been maintaining amongst other things a project on social participation and networking of this group of individuals. What is more, networking between associations’ facilities and refugee-specific agencies has also been advanced in Germany, as is carried out for instance by the *Arbeiterwohlfahrt* (AWO) Berlin.

IV. Civil rights and freedoms

104. The Common Core Document contains in B. II, a detailed description of the constitutionally-guaranteed fundamental rights, including civil rights and freedom rights, to which both children and adults are entitled.

A. Name and nationality (art. 7)

105. When it comes to the acquisition of nationality by immigrants, the German political arena has taken a further step towards modernizing its nationality law with the reform of nationality law from 2000. Germany made it clear with the reform of nationality law that people with a migration background are not only “temporary guests” in Germany. Children of foreign parents now automatically receive German nationality by virtue of being born in Germany if at least one parent has been in Germany lawfully for at least eight years. The

⁶³ <http://www.national-coalition.de/pdf/Beschwerdefahrplan.pdf>; see on this also in Annex 2, No. 9 re III.

birthright citizenship (*ius soli*) is hence linked with the “Right of blood” (*ius sanguinis*), which had characterized German nationality law up to then. This arrangement prevents people from having to live in Germany for generations without German nationality. Foreigners have a right to naturalization as a rule after eight years’ lawful residence. More than 1 million immigrants have been naturalized since the reform of the nationality law in 2000. Germany is extending a hand so that a major part of the population does not remain marginalized from the State community from one generation to the next.

106. The uniform national law now applicable ensures that birth certificates are issued for all children of refugees and asylum seekers who are born in the territory of the Federal Republic of Germany, (para. 55 d CRC/C/15/Add.226), a portrayal of the Civil Status Act (*Personenstandgesetz*) is provided at VIII. A., New developments in the law on refugees and immigrants, Civil Status Act.

B. Maintenance of identity

107. As was shown in the Common Core Document at B. II. 1. a., the maintenance of minors’ identity is protected inter alia by the list of fundamental rights contained in the Basic Law.

108. Most recently, the protection of the right of the child to preserve his or her identity (article 8, paragraph 1 of the Convention on the Rights of the Child) and protection against arbitrary or unlawful interference with his or her privacy and family (article 16 of the Convention on the Rights of the Child) has been strengthened. With the Act on the Clarification of Paternity Outside the Challenge Procedure (*Gesetz zur Klärung der Vaterschaft unabhängig vom Anfechtungsverfahren*), a right of father, mother and child against one another to consent to a DNA paternity report has been created since 1 April 2008. It was already possible previously to challenge paternity under certain preconditions. In accordance with the old law, the legal relations between the father and the child were terminated if the challenge was successful. The new procedure makes it possible to clarify paternity without the legal tie between father and child being cut immediately. Father, mother and child now always have a right to clarify biological origin as against the other two family members. This means that those concerned must consent to the DNA paternity test and allow the necessary samples to be taken. The right is not linked to any further prerequisites. There are also no deadline periods. If the other family members do not consent to the DNA paternity test, their consent is in principle substituted by the family court. The procedure is to be suspended if the clarification of origin would constitute a considerable detriment to the best interests of the child. This new right, as well as an administrative fine provision contained in the Genetic Diagnosis Act (*Gendiagnostikgesetz*), is intended to eliminate secret paternity tests.

C. Right to freedom of expression (art. 13)

109. As was already described in the First Report, the right to freedom of expression is constitutionally guaranteed in Germany (article 5, paragraph 1 of the Basic Law). The concrete significance of children’s right to freedom of expression is described in detail in the Second Report (paras. 351 et seq. CRC/C/83/Add.7).

D. Right to freedom of thought, conscience and religion (art. 14)

110. Defence of religious freedom as a universal human right and of religious tolerance worldwide is an established element of the human rights policy of the Federal Government

and of its partners in the European Union, the right to religious freedom applying to members of every faith. For this reason, the Federal Government defends the guarantee and protection of this individual right, as well as the protection of religious minorities. The general principles on freedom of conscience and religion are described in the Common Core Document at A. II. No. 11. Over and above this, the First and Second Reports contain further information (Second Report paras. 354 et seq. CRC/C/83/Add.7).

111. Moreover, the Federal Government is campaigning in the OSCE together with its EU partners for respect for the freedom of religion and faith in the OSCE area and supporting it by voluntary contributions towards projects to promote freedom of religion and faith.

112. The institutional structures of out-of-school youth education are continually promoted with funds from the Federal Child and Youth Plan of the Federation. Through learning together with peers, youth education services make it possible to give children access to a culture of understanding and tolerance, for instance through making music together, in drama or playing football. Youth education services are supported on an ongoing basis. A next step is closer cooperation with schools in order to reach more children with a migration background and from socially-disadvantaged environments.

113. Maintaining the State's obligation of neutrality and the parental educational mandate, respect for freedom of religion or world view in schools is entrenched in the system. Through the schooling and guidance which they receive, school pupils are to be particularly enabled to encounter people of other religions and beliefs without prejudices. No school pupil may be unilaterally influenced.

E. Freedom of association and freedom of peaceful assembly (art. 15)

114. Regulations and measures for freedom of association and freedom of peaceful assembly are described in detail in the Second Report (paras. 356 et seq. CRC/C/83/Add.7).

F. Protection of privacy (art. 16)

115. Regulations and measures for protection of privacy are described in the First Report (para. 35, CRC/C/II/Add.5).

G. Access to appropriate information (art. 17)

116. Children and juveniles have a fundamental right to obtain information from generally-accessible sources without hindrance (article 5, paragraph 1, sentence 1, of the Basic Law). At the same time, in particular when using electronic media, children and juveniles are however also exposed to risks for their development. It is hence the job of the State and of parents to enable children and juveniles to use this information in a manner which is beneficial to their development and which protects them against influences which pose a risk.

Media skills and strengthening parental responsibility (para. 33, CRC/C/15/Add.226)

117. The promotion and strengthening of the media skills of children and juveniles is a major concern for the Federal Government. This applies in particular against the background of the increasing complexity of the media landscape and the fact that the use of new media requires more and more knowledge. Here, the Federal Government also takes very seriously the specific dangers emanating for children and juveniles from problematic

media content caused by the new media. The goal must be to enable young people to deal with the media, as well as with media content, in an understanding, responsible manner and to maintain a critical distance from problematic content. The Federal Government's aim is to help young people to make the best possible use of the opportunities provided by the diverse media content for their personal, social and vocational development.⁶⁴

118. Considerable reforms on youth protection came into force on 1 April 2003. With the Protection of Young Persons Act⁶⁵ of the Federation, the Act on the Protection of Young Persons in Public (*Gesetz zum Schutze der Jugend in der Öffentlichkeit*) and the Act on the Dissemination of Documents and Media Contents Harmful to Young Persons (*Gesetz über die Verbreitung jugendgefährdender Schriften und Medieninhalte*) were combined to form one Act (para. 33, CRC/C/15/Add.226). The Act now regulates as one single statute the sale and consumption of tobacco, alcohol, films and computer games, visiting discotheques and pubs, as well as the listing procedure at the Federal Department for Media Harmful to Young Persons (BPJM). In addition to films and videos, computer games on media must also carry an age label if they are made accessible to children and juveniles. In particular, protection against portrayals of violence has also been improved. For instance, prohibitions of media posing a considerable risk to juveniles, specifically those with portrayals of violence, have been expanded and tightened up. Furthermore, also without listing by the Federal Department for Media Harmful to Young Persons media are imposed with far-reaching sale, distribution and advertising restrictions. The Interstate Agreement on the Protection of Minors in the Media regulates the distribution prohibitions on this for telemedia with this type of content.⁶⁶

119. The Interstate Agreement on the Protection of Minors in the Media, which creates a uniform legal basis for youth protection in electronic media (Internet, broadcasting), also came into force on 1 April 2003. The reason for this two-tiered approach is the different legislative competence of the *Länder* and of the Federation. Interlinking provisions in the two Acts ensure that federal and *Länder* facilities decide in accordance with uniform protection standards. A core of the reform of youth media protection is the establishment of the concept of regulated self-regulation.

120. Furthermore, the First Act Amending the Protection of Young Persons Act (*Erstes Gesetz zur Änderung des Jugendschutzgesetzes*) of 24 June 2008 introduced into the law major criteria of effective youth media protection against portrayals of violence in the

⁶⁴ In this respect, a large number of individual measures have been launched, ranging from newspapers and periodicals, through films and the Internet to interactive screen games. An overall portrayal of these measures can be found in Chapter D. IV. 2, pp. 99–118 of the Federal Government's Report on Communication and Media 2008, retrievable at: <http://www.bundesregierung.de/Webs/Breg/DE/Bundesregierung/BeauftragterfuerKulturundMedien/Medienpolitik/Medienbericht/medienbericht.html>. See also Annex 2, No. 1 re IV.

⁶⁵ Protection of Young Persons Act and Interstate Agreement on the Protection of Minors in the Media of 23 July 2002.

⁶⁶ Content which is subject to a ban on distribution for instance includes that which:

- Glorifies war (section 15 subs. 2 No. 2 of the Protection of Young Persons Act, section 4 subs. 1 No. 7 of the Interstate Agreement on the Protection of Minors in the Media)
- Portrays children and juveniles in unnatural, sexual physical positions (section 15 subs. 2 No. 4 of the Protection of Young Persons Act, section 4 subs. 1 No. 9 of the Interstate Agreement on the Protection of Minors in the Media)
- Is pornographic and contains violent acts, the sexual abuse of children and juveniles or sexual acts by people with animals (section 4 subs. 1 No. 10 of the Interstate Agreement on the Protection of Minors in the Media)

media, in particular computer games that are dominated by violence. Also, the provision was tightened up to make age ratings more visible. This leads to the following changes:

- The list of media causing a serious risk to juveniles which are listed by force of law was expanded to include portrayals of violence
- The listing criteria of the portrayals of violence named in the Act were expanded and made more precise with regard to media
- The minimum size and visibility of the age rating symbol of the Voluntary self-regulation of the film industry (FSK) and entertainment software self-regulation (USK) have now been prescribed by law

121. On the basis of the evaluation results⁶⁷ which have been available since 2007, the Federation and the *Länder* are debating the further need for a reform of the Protection of Young Persons Act and of the Interstate Agreement on the Protection of Minors in the Media. A focus of the coming reform will be related to the Internet. This is for instance a matter of the statutory age rating of online films and online games, as already regulated in the offline area in the Protection of Young Persons Act. Over and above this, the Commissioner of the Federal Government for culture and media together with the *Länder* in February 2009 initiated a round table “Youth protection programme” (see section 11 of the Interstate Agreement on the Protection of Minors in the Media) with participation by relevant enterprises whose work is to be continued in working parties. The outcome of the deliberation is to be integrated into the reform of the statutory provisions.

122. With the round table “Protection of Young Persons Act – improvements in statutory implementation”, established in 2007 together with representatives of the Federation, the *Länder*, local authorities and associations, concrete measures were launched in the second quarter of 2009 to promote law-abiding conduct and to improve execution and implementation:

- With a new Internet portal “Protection of young persons active” of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, information is provided about the topic of youth protection, and citizens’ most important questions are answered, as well as those of retail staff. The focus here is on the Protection of Young Persons Act and its application in everyday situations with children and juveniles in order to protect them against risks, in particular, in public.
- Under the motto “Consistently implementing protection of young persons”, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has developed a DVD training film and a flyer with practical tips and suggestions for the distribution of products that are relevant to youth protection (alcoholic products, tobacco goods, films and electronic games) and on the provisions contained in the Protection of Young Persons Act on places to which juveniles may have access which can be used for training purposes, in particular for employees in retail outlets, restaurants and petrol stations.

123. In addition to the provisions of statutory youth media protection and the measures of voluntary self-regulation, media skills are a further major precondition towards guaranteeing effective youth media protection. In order to strengthen the media skills of children, juveniles and the adults with whom they have contact, as well as to protect children and juveniles against harmful media content which entails risks for them, the

⁶⁷ Evaluation Report of the Hans Bredow Institute for Media Research Hamburg.

Federal Government has launched the following projects, in addition to publishing a large number of guides and brochures⁶⁸ (para. 33, CRC/C/15/Add.226):⁶⁹

- The initiative entitled “Look what your children are doing!”, which the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has been implementing since 2003 together with the media partners ARD, ZDF, TV-Spielfilm and Vodafone, offers extensive information and recommendations for action for parents on their children’s (3–13 years old) use of the new media.⁷⁰
- The “Emergency programme to effectively protect children and juveniles from violence-dominated computer games” launched in February 2007 by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and the North Rhine-Westphalia Family Ministry contains measures for a pro-active information, education and advice strategy for youth media protection, quality assurance of youth protection decisions, to tighten up statutory youth protection regulations in the field of “portrayals of violence” and to better monitor respect for the statutory regulations.
- With the project “A network for children”, 19 founding members have taken up the challenge to create a secure surfing area for children and officially launched on 29 November 2007 the children’s Internet site www.fragFINN.de. By drawing up a “Whitelist”, the project aims to create an area on the Internet which is harmless for children. “FragFinn” encompasses a comprehensive, interesting and varied range of websites. At the same time, children are to obtain media skills with the aid of the positive offers by being enabled to use the Internet in its breadth and diversity in line with their interests and needs.
- In addition to creating and refining the “Whitelist”, this pan-societal initiative from the political arena and industry is based on a second pillar which consists of the financial promotion of high-quality services for children on the Internet by the State. With the help of this support, at least 15 new services for children are created each year, www.a-netz-fuer-kinder.de.
- The “klicksafe” project (www.klicksafe.de) is the German Safer Internet Centre in the European Union’s Safer Internet Programme. Klicksafe is implemented jointly by the State Media Authority of Rhineland-Palatinate and the Media Authority of North Rhine-Westphalia. Thus, young online users are now also to learn online to use the Internet in a safe and competent manner. The *Dienstleistungsgesellschaft für Informatik GmbH (DLGI)* makes learning modules on safe Internet use available free of charge on the www.ecdl-moodle.de platform in cooperation with the EU’s klicksafe initiative. These learning modules have been developed for use in lessons. The site offers its users material and tips on the most important youth media protection topics, as well as up-to-date information on the opportunities and risks of Internet use.

124. A large number of measures have also been implemented at *Land* level for child and youth media protection.

- One example that can be mentioned is for instance the Bavarian Overall Concept on Youth Protection,⁷¹ which intends to educate towards youth media protection. The

⁶⁸ See also Annex 2, Nos. 2–4 re IV.

⁶⁹ A detailed description of the Federation’s youth media protection measures is contained in the Federal Government’s Report on Communication and Media 2008 (see there Chapters D. IV. 1, pp. 89–99 and D. IV. 2, pp. 111–120). See also footnote 64.

⁷⁰ More information at www.schau-hin.info; (see also Annex 2, No. 5 re IV).

⁷¹ www.jugendschutz.bayern.de.

concept tackles risks emanating from the media, for instance by training multipliers or by developing projects and information material. Furthermore, in Bavaria, advice is provided for parents by the *ELTERNTALK* project on the topics of the Internet, computer games, mobile phones and consumption. Discussion rounds are chaired in a private atmosphere by mothers and fathers who have been trained for this task (www.elterntalk.net).

H. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

125. Reference is made in this regard to the information contained in the Second Report (paras. 388 et seq. CRC/C/83/Add.7).

V. Family structure and alternative care

126. The family is the primary place where children find support, attention and protection. It is the place where the fundamental values of our society are created and lived out.⁷² Modern family law must find answers to the diversity of new living arrangements and lifestyles. A family law that is able to face the future must ensure an equitable balance in conflict situations, whilst at the same time protecting the weakest — that is children — as well as possible against maltreatment and neglect.⁷³ The protection of children against violence and sexual exploitation is therefore a central concern of the Federal Government. The portrayal of the data on “Family patterns and alternative care” can be found in the statistical overview.⁷⁴

A. Parental guidance (art. 5), parental responsibility (art. 18, paras. 1–2), separation from parents (art. 9)

127. Germany has reformed the child and youth welfare law and the family court procedure, aiming inter alia to emphasize parental responsibility with child protection. The new law – in particular section 8a of Book VIII of the Social Code which came into force in 2005 as an element of the Child and Youth Welfare Further Development Act, and the provisions enacted by the Act Facilitating Family-Court Measures in Cases of Danger to the Best Interests of the Child (*Gesetz zur Erleichterung familiengerichtlicher Maßnahmen bei Gefährdung des Kindeswohls*) in 2008⁷⁵ such as the reform of section 1666 of the Civil Code (*Bürgerliches Gesetzbuch*) and the obligation incumbent on the family court to discuss the risks to the best interests of the child (section 157 of the Act on Proceedings in Family Cases and in Matters of non-contentious litigation) – encourage the youth welfare offices and family courts to act early, in cases of a risk to the best interests of the child, in order to explore together with the parents all ways to prevent a risk to the child.

128. The further development of the law on child and youth welfare and the reform of the family court procedure also served to satisfy the obligation from article 19 of the Convention on the Rights of the Child. By linking the expert competences of the youth

⁷² An overview of family policy in Germany is provided by the Family Report 2009 – Benefits Effects Trends of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth; (see Annex 2, No. 1 re V).

⁷³ On the custody situation in Germany see at III. B.

⁷⁴ See Annex 1, Table 4 et seqq.

⁷⁵ Of 4 July 2008, Federal Law Gazette I, p. 1188.

welfare office with the authority of the family courts, it is possible to effectively prevent or avert the use of violence, maltreatment or neglect by parents. The reform of section 1666 of the Civil Code also explicitly made it clear that the family court may hand down local banishments and contact bans which are typical for protection against violence – for instance against a violent father. The principles of priority and acceleration in family court procedures serve the purpose of rapid clarification, for instance by imposing a ban on contact or by implementing accompanied access by means of an interim order.

129. The legal position of the child in Germany has been considerably improved by the reform of the law of parent and child of 1998, enacted in the shape of the Act to Outlaw Violence in Education⁷⁶ (see on this at V. H.) and the Act to Further Improve the Rights of the Child (*Gesetz zur weiteren Verbesserung der Kinderrechte*).⁷⁷

Reform of the law on maintenance

130. The best interests of the child were also the focus of the reform of the law on maintenance, which came into force on 1 January 2008. The reform ensured that all maintenance claims of minor-age children take priority over other maintenance claims.

Child and Youth Welfare Further Development Act

131. The framework of the Child and Youth Welfare Further Development Act lent concrete form and structure to the mandate of the youth welfare office to protect children against dangers to their best interests. In particular, the Child and Youth Welfare Further Development Act obliges the youth welfare office to carry out a risk evaluation in conjunction with experts as soon as it receives major indications of a risk to the best interests of the child. Children, juveniles and parents are as a rule to be involved in the risk assessment. The (independent) funders of facilities and services in which children and juveniles are cared for or brought up are also obliged to carry out a risk assessment and, if necessary, to consult the youth welfare office.

Act Facilitating Family-Court Measures in Cases of Danger to the Best Interests of the Child⁷⁸

132. The goal of the Act Facilitating Family-Court Measures in Cases of Danger to the Best Interests of the Child is in future to provide for the family court to be called on earlier in order thus to be able to avoid more grievous encroachments on parental custody. This is to be achieved by reducing legal barriers to assistance, by listing low-threshold measures (in section 1666 of the Civil Code), as well as by obliging the family court to discuss the risks to the best interests of the child (until 31 August 2009 section 50 f of the Act on Matters concerned with Non-contentious Litigation (FGG), since then section 157 of the Act on Proceedings in Family Cases and in Matters of non-contentious litigation). The family court is to discuss orally with the parents and the youth welfare office how a risk to the best interests of the child can be averted. The discussion hearing is to take place at the latest one month after the beginning of the proceedings. Where necessary, the family court can oblige the parents to avail themselves of child and youth welfare services – such as advice on upbringing or anti-violence training. It may however also instruct parents to enrol their child in a kindergarten or to ensure that he/she regularly attends school. Thus, the Act serves to implement article 5, as well as article 18 paragraphs 1 and 2 of the Convention on the Rights of the Child.

⁷⁶ Dated 2 November 2000, Federal Law Gazette I p. 1479.

⁷⁷ Act to Improve Children's Rights (*KinderrechtsverbesserungsG*) of 2002.

⁷⁸ Dated 4 July 2008, Federal Law Gazette I, p. 1188, in force since 12 July 2008.

Reform of family court procedure⁷⁹

133. The comprehensive reform of family court procedure aims to overcome conflicts within families, where possible by mediating an amicable solution between parents and to avoid contentious court rulings if this does not counter the best interests of the child. The Act particularly takes account of the interests of children. They receive improved protection and more rights in the procedure: the court is to generally rule quickly on access rights so that the contact between the child and a parent with a right of access is maintained and the relationship is not damaged. Just as in proceedings relating to the whereabouts or surrender of the child, a first hearing is to take place within one month of the beginning of the proceedings in these proceedings too.

134. The enforcement of custody and access rulings is made more effective in order to implement article 9, paragraph 3, of the Convention on the Rights of the Child. If violations take place, the court may impose administrative measures. These may also be handed down and enforced after the obligation has run out because of the passage of time. This takes account of the fact that breaches of agreements — such as contact between the child and the father on his/her birthday — were frequently unpunished in the past because it was no longer possible to enforce coercive means after the passage of time.

135. The participation and contribution rights of the child in question are strengthened within the meaning of article 9, paragraph 3, and article 12, paragraph 2, of the Convention on the Rights of the Child. The tasks of the procedural adviser (previously *curator ad litem*) in family court proceedings are determined in greater detail in the law. His/her task is to determine and assert the interests of the child in the court proceedings, as well as to inform the child of the course of the proceedings and of the possibilities to influence them. A child who is over 14 is to be deemed able to be a party to the proceedings if he/she asserts his/her own claim in the proceedings. The appointment of a guardian for the purposes of access was also regulated by law. In case of serious conflicts on access, the latter is to ensure that contact between the child and the person entitled to access does not cease.

B. Family reunification (art. 10)

136. As to family reunification, reference is made to the information at VIII. A.

C. Illicit transfer and non-return (art. 11)

137. With the increasing number of marriages and living arrangements between partners of different nationalities, disputes about parental custody for children from such relationships have also increased in number in Germany. The legal situation in the case of child abduction is portrayed in detail in the Second Report (paras. 454 et seqq. CRC/C/83/Add.7). The Federal Republic of Germany is a signatory to several international conventions⁸⁰ providing regulations for resolving international parent-and-child conflicts.

⁷⁹ Came into force on 1 September 2009.

⁸⁰ The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (Federal Law Gazette 1990 II p. 207) – hereafter Hague Child Abduction Convention; the Luxembourg European Convention of 20 May 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (Federal Law Gazette 1990 II p. 220); Council Regulation (EC) No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No. 1347/2000 (OJ EU No. L 338 p. 1) – hereafter Brussels II a Regulation.

There are also European legal provisions on this; in particular the European Community's Brussels II a Regulation, which has been in force since 1 March 2005,⁸¹ makes things considerably easier for the parents and children in question.

138. The Common Core Document states in B. I. 3. c. that Germany is a signatory to the Hague Convention of 1980 on the Civil Aspects of International Child Abduction (Hague Child Abduction Convention).⁸² The Federal Government has been making a major effort for years to optimize the application of the Hague Child Abduction Convention in Germany and to raise awareness about these difficult cases among professional groups dealing with child abduction cases. For several years, the Federal Ministry of Justice and the Federal Office of Justice have been organizing regular seminars for judges dealing with the Hague Child Abduction Convention, as well as bi-national specialist conferences for judges, mediators and representatives of other professional groups from the member States of the EU, as well as from the USA and Canada, and other States signatory to the Hague Child Abduction Convention. The International Symposium on Child Abduction organized by the Federal Foreign Office on 4 December 2009 also aimed in this direction, albeit it also focused on the treatment of child abduction cases with non-signatories to the Hague Child Abduction Convention.

139. Over and above this, the Federal Government is contributing towards endeavours to create a central contact point for all persons affected by child abduction with an international connection. To this end, discussions are currently being held with various specialist organizations. The central authority in Germany for the implementation of certain legal instruments in the field of international family law has been the Federal Office of Justice since 1 January 2007.⁸³

140. A Federation/*Länder* working party was set up in the spring of 2009 by the Standing Conference of the Ministers and Senators of the *Länder* for the Interior on the topic of child abduction abroad. In its report, the working party listed amongst other things recommended action in order to optimize coordination between the Federation and the *Länder* and to improve the ways in which family members of the abducted children are looked after. The Standing Conference of the Ministers and Senators of the *Länder* for the Interior recommends the *Länder* to examine the recommended action and — where necessary — to implement it.

141. The International Social Service (ISS) with the participation of the competent Federal departments (the Federal Foreign Office, the Federal Ministry of Justice and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth), the central authority (the Federal Office of Justice) and other specialist associations are currently drawing up a compendium on the topic of child abduction abroad. This is intended to provide authorities at all levels with a guideline when they are asked for help by parents concerned.

142. The websites of the Federal Foreign Office, of the Federal Ministry of Justice and of the Federal Office of Justice⁸⁴ provide information for parents affected by child abduction

⁸¹ See footnote 80.

⁸² See footnote 80.

⁸³ In accordance with section 3 subs. 1 of the Act on the Implementation and Enforcement of Certain Legal Instruments in the Field of International Family Law (*Gesetz zur Aus- und Durchführung bestimmter Rechtsinstrumente auf dem Gebiet des internationalen Familienrechts*) (German International Family Procedure Act) (*Internationales Familienverfahrensgesetz – IntFamRVG*) of 26 January 2005 (Federal Law Gazette I p. 162), most recently amended on 1 September 2009 (Federal Law Gazette I p. 2474).

⁸⁴ See www.bundesjustizamt.de (in German and English).

on the steps to be taken in the event of cross-border child abduction. Concrete assistance for parents in Germany is also provided above all by the youth welfare offices. Parents affected by child abduction are supported abroad by the German representations abroad in the context of the Act on Consular Services (*Konsulargesetz*). The ISS has published a working aid⁸⁵ for the specialists of youth welfare promoted by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth which names the action that can be taken by the experts and which is currently being revised. In order to actually reach all youth welfare offices, the ISS offers information and advice in situ and makes available information material and contact addresses.

D. Securing the recovery of maintenance claims for the child (art. 27, para. 4)

143. The deliberations on the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (23 November 2007) were completed in the period under report. This Convention is supplemented by the Hague Protocol of the same date on the Law Applicable to Maintenance Obligations. On Germany as a State signatory to the Convention of the Hague Conference on Private International Law in general, see the information contained in the Common Core Document at B. I. 3. c. within the European Union, cross-border securing of the recovery of child maintenance has been simplified and improved by Regulation (EC) 4/2009 (EC Maintenance Regulation) of 18 December 2008. This Regulation will come into force from 18 June 2011.

144. Securing the recovery and enforcement of child maintenance was improved once more in the period under report, in particular by the reform of the law on maintenance, which came into force as per 1 January 2008. With the reform, which serves to prioritize the promotion of the best interests of the child, a statutory definition of the minimum maintenance of minor-age children was introduced and the offsetting of child benefit was simplified in order to improve by way of clear and comprehensible regulations the acceptance of paying minimum maintenance. Furthermore, the sequence of persons entitled to maintenance was changed in favour of child maintenance in the event of the payer of maintenance not being able to meet the maintenance claims of all beneficiaries (default). The claims of minor-age child maintenance beneficiaries now take absolute priority in the case of a default. Since the entry into force of the Act on Proceedings in Family Cases and in Matters of non-contentious litigation⁸⁶ as per 1 September 2009, an injunction can also be handed down without a main case being pending. This further improves and accelerates the court implementation of maintenance claims.

E. Children deprived of their family environment (art. 20)

145. As to the obligations to protect children who are deprived of their family environment, reference is made to the information contained in the First Report⁸⁷ and in the Second Report.⁸⁸ To promote the development of these children, Book VIII of the Social Code (child and youth welfare) contains a broad spectrum of up-bringing assistance.⁸⁹ This

⁸⁵ "Advice and intervention in cases of cross-border child abduction", a working aid for specialists of youth welfare, Berlin 2005.

⁸⁶ See on further aspects of the Act on Proceedings in Family Cases and in Matters of non-contentious litigation V. A. above.

⁸⁷ Para. 52 CRC/C/11/Add.5.

⁸⁸ Paras. 468 et seq. CRC/C/83/Add.7.

⁸⁹ See Annex 1, Table 4, Figs. 1 and 2.

includes in particular assistance for upbringing in full-time foster care, as well as assistance for upbringing in facilities and assisted living arrangements. These are forms of assistance with which the child or the juvenile no longer lives in the family of origin, but — in the case of full-time foster care — with another family or — in the case of placement in a home and the assisted living arrangements — in an institution.

146. The claiming of family-replacing assistance has developed diversely in recent years. Whilst the numbers of cases, as well as the claiming rate for full-time foster care, have increased, falling numbers are recorded for placement in a home and assisted living arrangements. Between 1995 and 2005, the number of cases of assistance for upbringing, outside families, has fallen from almost 152,500 to not quite 145,400. Nonetheless, the claiming rate, that is the number of cases per 10,000 of the population under 21, increased slightly in the same period. This is caused by a reduction in the size of the age group of under 21s for the period in question. A portrayal of the data on full-time foster care and placement in a home, including assisted living arrangements, can be found in the statistical overview.⁹⁰

F. Adoption (art. 21)

147. The Common Core Document states in B. I. 3. c. that Germany is a State signatory of the Convention of the Hague Conference on Private International Law and is bound by the Convention of 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption.

148. Adoption by relatives and step-parents is the most common form in Germany. One child adoption in two falls in this category. Nonetheless, the case numbers here have been falling since the mid-nineties. Thus, the total volume of adoptions in Germany has fallen from 7,420 to 4,201 cases in the period from 1996 to 2008, thus reaching a relatively low level.⁹¹ The fall in this form of adoption can be explained, firstly, by the partly improved status of step-parents as a result of the reform of the law of parent and child, for instance as to the access right of step-parents to their step-children (section 1685 subs. 2 of the Civil Code), or indeed the possibility for the family court to order children to remain with a step-parent (section 1682 of the Civil Code), not making adoption absolutely necessary. Secondly, an increasingly critical attitude on the part of the German adoption agencies towards this form of adoption is likely to play a role, given the assumption that it does not always absolutely focus on the best interests of the child, but on documenting the new relationship between adults.

149. The number of child adoptions in the field of intercountry adoptions had continually increased until the beginning of the 2000s, before falling for the first time between 2002 and 2006. This development is due to the changed legal basis for intercountry adoptions. Since the entry into force of the 1993 Hague Adoption Convention in Germany, the reform of the law on adoption which this entailed has imposed a stricter adoption regime. Adoption agencies must now investigate in detail parents' suitability for adoption from abroad. The number of intercountry adoptions has remained constant since 2007 after a slight increase. This may be an indication that the adjustment process necessitated among adoption agency

⁹⁰ See Annex 1, Table 5, Fig. 3.

⁹¹ Source: Federal Statistical Office: *Statistiken der Kinder- und Jugendhilfe*, various years – *Adoptionen; Zusammenstellung und Berechnung Arbeitsstelle Kinder- und Jugendhilfestatistik*; see Annex 1, Table 6.

staff as a result of the change in the law, as well as the concomitant procedures, has been largely concluded.⁹²

G. Periodic review of placement (art. 25)

150. A mentally-ill child in Germany can be placed and treated in a psychiatric hospital to protect his/her health. Such placement requires a court order. The prerequisites for placement are in line with provisions of the *Länder*. Placement is to be terminated if it has ceased to be necessary. To this end, a continuous review of the treatment given to the child must be carried out, as well as of all circumstances that are relevant to his/her placement. This review is part of the customary practice of placement in treatment.

151. Children and juveniles are accommodated in homes on the basis of Book VIII of the Social Code for educational reasons. Placement is contingent on the consent of parents or of the guardian. In the context of the regular updating of the assistance plan, the youth welfare office examines whether placement is still necessary or if out-patient, family-supporting assistance may be sufficient (section 36 of Book VIII of the Social Code). If placement in the individual case is linked with deprivation of liberty, it additionally requires the approval of the family court. The court must withdraw its approval if the best interests of the child no longer require closed placement.

152. Each facility in which children and juveniles are cared for requires the permission of the competent *Land* authority (sections 45 et seq. of Book VIII of the Social Code). The latter must regularly examine in situ whether the preconditions to grant permission continue to apply and where appropriate impose conditions or withdraw approval.

H. Maltreatment and neglect (art. 19), physical and psychological recovery and social reintegration (art. 39)

Growing up without violence as a focus of German policy

153. The goal of the Federal Government is to protect children against neglect and maltreatment and to strengthen parents' responsibility for upbringing. On the basis of the experience gathered in local authorities, the Federal *Länder* and abroad, one focus of political action lies in "early assistance" networks. These systems aim to improve coordination and interlinking in particular of health and youth welfare services. Information on the measures against sexual exploitation of minors at international level can be found at VIII. C. At national level, the "Federal Government action plan to protect children and juveniles against sexual violence and exploitation" from 2003 is being refined as an overall concept coordinated amongst non-governmental organizations, the private sector and the associations.

Active child protection, development and perspectives (para. 41 (a) and (b) CRC/C/15/Add.226)

154. Effective assistance and support for children with social and health risks is contingent on assistance mechanisms for socially-disadvantaged and affected families being anchored early and reliably in well-functioning networks, both in their environments and in their local communities. The goal of the Federal Government is to strengthen the role of

⁹² See Annex I, Table 6. *Source*: Research initiative in association between the German Youth Institute and the University of Dortmund, Research Centre for Child and Youth Service Statistics, July 2009, at 4. p. 23.

guardian and the protection mandate of the state Community and to develop networks of “early assistance”. Child and youth welfare services, the health-care system, the pregnancy advice centres, the women’s support facilities, the education system, the social benefit institutions, the judiciary and the administrative and police authorities, as well as civil society, are to be interlinked to create a new quality of early support for families.

155. In their efforts to improve child protection, the Federal legislature lent concrete form and structure to the tasks of the youth welfare office to avert risks to the best interests of the child in 2005 in the framework of the reform of Book VIII of the Social Code by the “Child and Youth Welfare Further Development Act”. To this end, section 8a of Book VIII of the Social Code (protection mandate in case of a risk to the best interests of the child) was inserted into the Act. Reference is made to the portrayal at V. A. with regard to the details.

156. What is more, at the Child Protection Summits held in 2007 and 2008 the heads of government of the Federation and the *Länder* consistently favoured the establishment of social early warning and promotional systems to improve the protection of children against neglect and maltreatment and decided on concrete statutory provisions to improve child protection. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth initiated the Action Programme “Early assistance for parents and children and social early warning systems” together with the *Länder* and local authorities. The programme aims to interlink the health system, child and youth welfare services, pregnancy advice centres, women’s support facilities and many other institutions for parents and children. Thus, families are already to be reached prior to the birth of a child. The Federation promotes model projects in the scope of this Action Programme in all 16 *Länder* and research studies on these projects aiming to test and evaluate early assistance networks.

157. To coordinate and bundle the results, the Federation has established the “National Early Assistance Centre” under the patronage of the German Youth Institute (DJI) and the Federal Centre for Health Education. The goal is to reach families in strained circumstances early and to launch coordinated assistance in situ and in good time. The double patronage is to ensure that a sound structure is established in both systems that are central to early assistance (in the child and youth welfare services and in the health-care system). €11 million are to be provided by 2010 to initiate and evaluate model projects and to accompany these activities with the National Early Assistance Centre.

158. The new statutory basis already presented in detail at V. A. for family courts also serves to bring about more effective child protection. It makes it possible for the courts to intervene earlier and opens up greater latitude. The court can, for instance, order kindergarten attendance, a visit to a physician employed by a public authority or enforce obligatory school attendance. Additionally, the Federal Government’s strategy to promote children’s health portrayed at VI. B. bundles and focuses the measures to promote children’s health.

159. As a further measure, reference should also be particularly made at this point to the introduction of a new screening examination for toddlers “U 7 a”. It closes the gap in checkups for children aged between two and four.

160. Almost all the *Länder* have developed legislative activities since 2007 to improve child protection:⁹³

⁹³ See also Annex 2, No. 2 re V. All the *Länder* apart from Lower Saxony, Saxony-Anhalt and Hamburg have now also adopted statutes.

- Some *Länder* have adopted comprehensive Child Protection Acts, and hence anchored interdisciplinary cooperation and networking of the assistance approaches in law
- Some *Länder* have introduced regulations on reports and on the transmission of data to youth welfare offices by the health system if there are major indications of a risk to the best interests of the child
- A binding system to invite parents to avail themselves of preventive care services for children is regulated in many *Länder*

161. The protection of children and juveniles is a task for society as a whole that is carried out in joint responsibility by the Federation, the *Länder* and local authorities. Assistance which reaches children where they live is provided in situ. The local authorities therefore have a central role to play in building up and expanding structural networks. The Federation and the *Länder* work closely with the local authorities and take on regulatory, suggesting, support, and coordination functions. Early assistance projects have already been implemented in all the *Länder*, for instance:

- The project entitled “Pro child – We guide young families” in Bremen, Lower Saxony and Saxony accompanies young families intensively through house visits.
- In the project “Successful parenting” in Hamburg and Brandenburg, video recordings are studied to improve parent-child interaction.
- In the project “No one falls through the net/Early intervention for families” in Hesse and in the Saarland a parents’ school, as well as family midwives are used to support families. The deployment of family midwives is also being investigated by the projects entitled “Family midwives: Early support – early strengthening” in Lower Saxony, as well as “Early start: Family midwives in the Land Saxony-Anhalt”.
- The development and evaluation of local networking processes form the subject of the projects “A good start to a child’s life” in Baden-Württemberg, Bavaria, Rhineland-Palatinate and Thuringia, as well as “Evaluation and coaching on the social early warning system” in Berlin.
- A total of 13 project locations are being investigated by the “Evaluation of early assistance and social early warning systems” in North Rhine-Westphalia and Schleswig-Holstein.
- In Mecklenburg-Western Pomerania the project entitled “Opportunities for children of mentally ill and/or addicted parents” is a low-threshold service offered to this special target group.

162. The Federal Government submitted the draft of a Child Protection Act on 21 January 2009. The draft Bill supported by the *Bundesrat* (*Bundestag* printed paper 16/12429) has not been finally deliberated in the German *Bundestag*. A goal that is entrenched in the Coalition Agreement is to launch a Child Protection Act. This Act is to expand preventive measures and qualify the protection mandate in case of a risk to the best interests of the child.

Violence-free upbringing

163. The Federal Government regards the protection of children against violence, maltreatment and exploitation and the provision of a violence-free upbringing to be a central goal of State activity. In order to help children who have been maltreated and neglected, it considers consistent action on the part of all State agencies involved to be necessary. Children and juveniles have a statutory right to a violence-free upbringing. The right of the child to violence-free bringing up has been entrenched in the Civil Code since

2000 by the Act to Outlaw Violence in Education.⁹⁴ Violence-free upbringing means: no emotional and physical punishment of children – from verbal degradation and minor corporal punishment through to serious child maltreatment.

164. The legal amendment was accompanied from September 2000 to the end of 2001 by the national campaign “More respect for children”. This aimed to publicize the new regulation, to make the public aware of the detrimental consequences of violence and to promote a change of awareness among the population towards the new paradigm of violence-free upbringing that is characterized by respect and care for the child. It was particularly a matter of supporting parents in exercising their parental responsibility and of showing them that there are alternatives to physical punishment, even in difficult upbringing situations. The legal amendment has already led to the hoped-for change in awareness amongst the population. Back in 2005, a study commissioned by the Federal Ministry of Justice reached the conclusion that 95 per cent of parents who are aware of the ban on violence consider violence-free upbringing to be a desirable ideal.⁹⁵ They are increasingly convinced that, by way of physical punishment, they teach their children incorrect conduct and fail to respect the personality of the child. Moreover, the ban on violence has changed attitudes among the population as a whole. Those who know about the ban on violence have much fewer doubts today about intervening. At the same time, parents’ willingness to accept help has increased. This change in the legal awareness permits one to anticipate further positive developments which will then also be shown even more clearly in parents’ actual conduct in bringing up their children.

Protection against maltreatment and sexual exploitation (paras. 41 (b) and (c), CRC/C/15/Add.226)

165. As has already been stated, the protection of children and juveniles against sexual violence and exploitation is a major pillar of the Federal Government’s policy on children. Hence, Germany has ratified the Optional Protocol of 25 May 2000 on the sale of children, child prostitution and child pornography (para. 24, CRC/C/OPAC/DEU/CO/1; para. 62, CRC/C/15/Add.226). It came into force in the Federal Republic of Germany on 15 August 2009.

166. A further pillar of the Federal Government’s commitment against sexual exploitation of minors was the further development of the protection of children and juveniles under criminal law. By the “Act Amending the Provisions on Criminal Offences against Sexual Self-Determination and Amending other Provisions” (*Gesetz zur Änderung der Vorschriften über die Straftaten gegen die sexuelle Selbstbestimmung und zur Änderung anderer Vorschriften*),⁹⁶ criminal law protection — in particular of children against sexual abuse — was improved by closing gaps in criminal law and tightening up threatened punishments. With the “Act Transposing the Framework Decision of the Council of the European Union on combating the sexual exploitation of children and child pornography” (*Gesetz zur Umsetzung des Rahmenbeschlusses des Rates der Europäischen Union zur Bekämpfung der sexuellen Ausbeutung von Kindern und Kinderpornografie*)⁹⁷ already mentioned at II., the Federal Government is transposing the EU Framework Decision and satisfying the requirements of the Optional Protocol on the United Nations Convention on the Rights of the Child regarding the sale of children, child prostitution and child

⁹⁴ Of 2 November 2000 (Federal Law Gazette I p. 1479).

⁹⁵ See: www.bmj.bund.de/media/archive/1375.pdf; see also Annex 2, No. 3 re V.

⁹⁶ Federal Law Gazette 2003, p. 3007.

⁹⁷ “Act Transposing the Framework Decision of the Council of the European Union on combating the sexual exploitation of children and child pornography” of 20 June 2008, came into force on 5 November 2008, Federal Law Gazette 2008, p. 2149.

pornography. The age limit for “sexual abuse” of juveniles for a fee and for “exploiting a coercive situation” (section 182 subs. 1 and 2 of the Criminal Code) was increased from 16 to 18. In view of the requirements contained on the Optional Protocol, in addition to the criminal provisions against child pornography already available, the punishability of the dissemination, acquisition and possession of youth pornography, that is of pornographic writings portraying sexual acts on the part of juveniles (persons between 14 and 18) was introduced (§184c of the Criminal Code).

167. With its “Action plan to protect children and juveniles against sexual violence and exploitation” in 2003, the Federal Government also established a comprehensive overall strategy in order to target the protection of children and juveniles against sexual violence and exploitation. With the action plan, the Federal Government has taken up major demands of the Second World Congress Against Commercial Sexual Exploitation of Children held in Yokohama in 2001. The Action Plan 2003 aimed primarily to refine criminal protection, strengthen prevention and victim protection, as well as to promote the networking of assistance and advice services and of international cooperation with the aim of protecting children and juveniles. This Action Plan is currently being refined by the Federal Government. The Action Plan was one of the major steps towards improving the protection of children and juveniles against sexual violence and exploitation which contains an overall concept coordinated with non-governmental organizations, associations and institutions to protect children and juveniles. The implementation of the Action Plan is accompanied by a working party comprised of representatives of the federation and of the *Länder* as a monitoring tool. It steers, coordinates and refines the measures of the Action Plan. Additionally, the *Bundestag* and the public have been informed by the situation report on the Action Plan in November 2008.⁹⁸

168. Measures were carried out in Germany in the period under report to strengthen prevention and victim protection, in particular by:

- www.hinsehen-handeln-helfen.de Internet site, which was set up in the national “*Hinsehen.Handeln.Helfen*” (Look, Act, Help) prevention campaign
- The database (since 2004), in which advice facilities are listed in the entire national area, as well as
- Parents’ guide “*Mutig fragen – besonnen handeln*” (Ask with courage – act with consideration), containing information and practical tips on prevention and on the advice services that are available
- Promotion of awareness-creation measures and mobilization of the tourism sector to protect children against sexual exploitation in tourism and implementation of the code of conduct

169. The following should be named as examples of the expansion of assistance, advice and intervention services, as well as the specialist infrastructure:

- Medical advice agencies with Internet platforms⁹⁹
- The “*Nummer gegen Kummer*” (Problem Line) association as a nationwide network for the free, anonymous child and youth telephone hotline (0800-1110333) including Internet advice www.nummergegenkummer.de and a telephone hotline for parents

⁹⁸ See www.bmfsfj.de/bmfsfj/generator/Kategorien/Publikationen/Publikationen,did=114248.html; see also Annex 2, No. 4 re V.

⁹⁹ See www.youngavenue.de.

- The online advice project of the Federal Conference for Child Guidance Counselling (Bke), which offers individual advice, individual chats, fora and scheduled group chats on the Internet nationwide for children and juveniles, as well as parents. The project is financially promoted by all 16 Federal *Länder*¹⁰⁰
- The Information Centre Child Abuse/Child Neglect (*IzKK*) at the German Youth Institute is active as an interface between research, practice and policy nationwide. This important networking instrument is promoted on an ongoing basis by the Federal Government, as is the Federation of Child Protection Centres in Germany

170. The following measures were taken in order to counter commercial sexual exploitation and violence against children and juveniles in the tourism sector:

- Promotion of awareness-creation measures and mobilization of the tourism sector
- Launching, updating and maintaining an Internet platform www.child-hood.com as a supplement to the campaign entitled “Please Disturb – Against the Sexual Exploitation of Children in Tourism Worldwide”
- International marketing of an in-flight spot entitled “Witness”
- Sustained implementation of the “Code of conduct”

171. In order to strengthen the rights of the child and of juveniles who have been victims of crime or who have to testify as witnesses in criminal proceedings, the 2nd Act Reforming the Law on Victims¹⁰¹ of 2009 (already mentioned at II. and III. B) has increased the age limit for this group of individuals in various provisions of the Code of Criminal Procedure and of the Courts Constitution Act from its current age of 16 to now 18.

172. The refinement of German policy in the field of improving the protection of children and juveniles against sexual violence and exploitation is taking place against the background of World Congress III Against Sexual Exploitation of Children and Adolescents which took place in Rio de Janeiro, Brazil, from 25 to 28 November 2008: a national and an international follow-up conference took place from 25 to 26 March 2009 and on 30 June 2009, both in Berlin. The results of the conferences are being incorporated into the further development of the action plan. New challenges, such as sexual violence, in and by the new media are being tackled here. Hence, Germany is the first country to have tackled the implementation of the Rio Congress and established cornerstones for national strategies for those fields. Further steps at international level were decided at the European Rio follow-up conference entitled “Protecting Children and Juveniles against Sexual Violence with a Focus on the New Media: Perspectives for Europe” on 30 June 2009 in Berlin. In a Final Declaration, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, four non-governmental organizations, Europol, the Federal Criminal Police Office and national and international experts agreed on 16 points of action, above all to fight child pornography.

Funds expended

173. The total sum of all projects in the context of the “Action plan to protect children and juveniles against violence and exploitation” is €4,172,000.00 for the period 2007–2009.

¹⁰⁰ See www.bke-jugendberatung.de; www.bke-elternberatung.de.

¹⁰¹ Act of 29 July 2009, Federal Law Gazette I p. 2280, which came into force on 1 October 2009.

Statistical data

174. A portrayal of the data on maltreatment and neglect, physical and emotional recovery and social reintegration can be found in the statistical overview.¹⁰² In terms of perspective, the German policy for a further qualification of child protection in Germany considers an improved database to be indispensable. It appears to be a major task for the future to collect tenable data on the extent of child neglect and maltreatment in Germany. Also considered to be urgently needed are statistical results of the manner of the implementation of the protection mandate regulated in section 8 a of Book VIII of the Social Code and the cooperation with the other institutions concerned with child protection. The statistical data on criminal offences in connection with physical as well as emotional maltreatment and neglect of children are presented in table form in A. I. 6. b. of the Common Core Document, see on this also the portrayal in the Annex.¹⁰³ The topic of “children and juveniles as victims of violence” was dealt with in detail in the two periodic security reports drawn up by the Federal Government.¹⁰⁴

175. The police crime statistics include amongst other things reported cases of violence against children in families, so-called “maltreatment of those under one’s care in accordance with section 225 of the Criminal Code”. The information collected on the cases relates to the offenders and corresponding victims. The number of victims of maltreatment of charges in relation to the under-6s increased to 1,819 in 2008. This is twice as many as in 1999. In relation to the age-specific population, an increase in the rate from 3.2 to most recently 4.3 victim cases per 10,000 under-6s has therefore been recorded between 2004 and 2008. These data do not however permit one to conclude a real-terms increase in the number of cases. This development makes clear above all a change in the reporting conduct in the population. The public has become more sensitive to violence in the family against children. In the criminal prosecution statistics inter alia the number of convicts who have committed criminal offences against children below 14 is shown separately. Accordingly, the number of those convicted of such criminal offences has fallen from 4,896 in 2007 to 4,692 in 2008.¹⁰⁵ In the former Federal territory, including all of Berlin, 3,892 persons were convicted of such criminal offences in 2002 and 4,042 in 2006.¹⁰⁶

176. A number of research studies have been carried out regarding the problem of sexual violence against children and juveniles (para. 41 (a), CRC/C/15/Add.226), including:

- An evaluation of official judicial administration statistics, empirical studies and investigations on the topic of “sexually-deviant juveniles and adolescents” was carried out in the context of the development of quality standards for professionally dealing with minor-age sexually-deviant offenders.¹⁰⁷

¹⁰² See Annex 1, Tables 7 and 8.

¹⁰³ See Annex 1, Table 7.

¹⁰⁴ Federal Ministry of the Interior and Federal Ministry of Justice (eds.), First Periodical Report on Crime and Crime Control in Germany, Berlin 2001, pp. 78–104.

¹⁰⁵ Federal Statistical Office (ed.), *Fachserie 10 Rechtspflege Reihe 3 Strafverfolgung 2007 and 2008*, in each case Table 9; a separate record of persons who were convicted of criminal offences with children as victims only takes place with selected criminal offences, in particular with violent and sexual offences.

¹⁰⁶ Federal Statistical Office (ed.), *Fachserie 10 Rechtspflege Reihe 3 Strafverfolgung 2002 and 2006*, in each case Table 9; the information for 1999 was taken from a special table drawn up by the Federal Statistical Office.

¹⁰⁷ Elz, Jutta (2003): *Sexuell deviante Jugendliche und Heranwachsende*. Wiesbaden: Centre for Criminology.

- Data were collected on the situation and development of child and youth welfare services which also covered the institutional structures on the protection of children and juveniles against sexual violence and exploitation. The reaction of the youth welfare offices to specific problems such as that of sexual abuse was for instance investigated over a period of 15 years.¹⁰⁸
- In 2001 to 2003, a research project on quality assurance aiming to develop uniform standards relevant in practice in the member organizations of the Federal Feminist Organizations against Sexual Aggression (BAG FORSA).¹⁰⁹

VI. Basic health and welfare

177. A basic description of social security in Germany is provided in the Common Core Document at B. I. 4. h. A portrayal of statutory health insurance in Germany, with its solidarity-based funding system, and of the situation of children and juveniles can be found particularly also in the First¹¹⁰ and Second Reports.¹¹¹ New developments in long-term care insurance are described at VI. B. - Long-term care insurance.

Promotion of a healthy life and a healthy environment as political foci of German policy

178. The Federal Government considers disease prevention and health promotion to be one of the major responses to the new health challenges facing us in the 21st Century. Successful prevention and health promotion starts in early childhood. As a State party to the Convention on the Rights of the Child, Germany recognizes the right of the child to the highest attainable standard of health (article 24 of the Convention on the Rights of the Child). Accordingly, the Federal Government also intends to offer equal health opportunities for all children from the outset.

179. The Federal Government's children's health policy focuses on support for healthy physical and mental development, on the creation of spaces for movement and incentive to activity, an unmistakable rejection of drugs and a constant affirmation of a balanced diet and adequate exercise, as well as the integration of children with a disability.

180. The Federal Government adopted in 2002 the National Sustainability Strategy "Perspectives for Germany". The drafting of the strategy was accompanied by a broad dialogue and consultation process with the social groups. This strategy particularly also endeavours to improve the situation for children. The four motifs of the strategy, namely "intergenerational equity, quality of life, social cohesion and international responsibility", aim to create a future worth living in for today's children and for future generations. Particular significance in this context attaches to the strategy areas of education, childcare, integration and health.

¹⁰⁸ Pluto, Liane; Gragert, Nicola; Santen, Eric van; Seckinger, Mike (2007): *Kinder- und Jugendhilfe im Wandel. Eine empirische Strukturanalyse*. Munich: German Youth Institute.

¹⁰⁹ Nicolai, Eva-Maria; Derr, Regine (2004): *Qualitätsstandards für die Arbeit in den feministischen Fachberatungsstellen gegen sexualisierte Gewalt an Mädchen und Frauen*. Berlin: BAG FORSA.

¹¹⁰ See CRC/C/11/Add.5, paras. 64 et seq. in particular 68 et seqq.

¹¹¹ See CRC/C/83/Add.7, paras. 527 et seqq.

A. Disabled children (art. 23)

181. Within the meaning of article 24 of the Convention on the Rights of the Child, all children in Germany, regardless of their legal status, have a right “to the enjoyment of the highest attainable standard of health and to claim the services of facilities for the treatment of illness and rehabilitation of health”. In this respect, all measures of State promotion and assistance are to be orientated towards an inclusive perspective which does not accept any marginalization. Gender, linguistic, status and segregation barriers are to be removed, and the circumstances of children and juveniles with a disability are to be taken into account in all planning and decision-making processes (disability mainstreaming). On proviso of section 53 of Book XII of the Social Code, disabled children and juveniles in Germany receive benefits for integration assistance in order to promote their self-determination and equal participation in life within society, and to avoid or counter disadvantages.¹¹²

182. The present political discussion is focused on a fundamental reorganization of the social assistance systems for children and juveniles in Germany. In order to achieve child-friendly, optimum promotion of and care for children and juveniles, the German assistance system is also to be readjusted in the context of this reform with regard to children and juveniles with a disability. Here, in particular the current splitting of responsibility for the promotion of emotionally disabled children and juveniles (youth welfare) and mentally or physically disabled children and juveniles (social assistance) is to be reassessed, and it is to be examined whether and how this splitting of responsibility can be overcome and where appropriate replaced by a uniform assistance system which is responsible for all disabled children and juveniles. The requirements of the United Nations Convention on the Rights of Persons with Disabilities for inclusion are also to be taken into account here.

183. Germany deposited the ratification document to the United Nations Convention on the Rights of Persons with Disabilities with the United Nations on 24 February 2009. The Convention has been binding on Germany since 26 March 2009. The United Nations Convention on the Rights of Persons with Disabilities constitutes a major step towards enhancing the rights of persons with disabilities worldwide. It acknowledges disability as a part of the diversity of human life, and thus overcomes the outdated principle of welfare which still applies in many countries. The German Institute for Human Rights was designated as an independent agency to supervise the implementation of the United Nations Convention on the Rights of Persons with Disabilities. The Federal Government’s Commissioner for matters relating to disabled persons was designated as the State coordination mechanism (article 33, paragraph 1 of the United Nations Convention on the Rights of Persons with Disabilities). An overall strategy is being prepared for the implementation of the Convention on the Rights of Persons with Disabilities in the shape of a National Action Plan. In implementation of articles 23 and 25 of the United Nations

¹¹² Excerpt from section 54 of Book VIII of the Social Code, subs. 1: “Persons who as a result of a disability within the meaning of section 2 subs. 1 sentence 1 of the Ninth Book are significantly restricted in their ability to participate in society or who are at risk from such a major disability, shall receive benefits of integration assistance if and as long as in accordance with the particularity of the individual case, especially with the nature or severity of the disability, there are prospects that the task of integration assistance can be met. Persons with another physical, mental or emotional disability may receive benefits of integration assistance.”

Section 54 of Book VIII of the Social Code, subs. 2.: “Persons at risk from a disability shall be deemed to be persons with regard to whom one may anticipate with a high degree of probability the occurrence of a disability in a professional opinion. This shall only apply to persons for whom preventive health assistance and assistance because of illness is required in accordance with sections 47 and 48 if even a disability also threatens to occur if these benefits are implemented.”

Convention on the Rights of Persons with Disabilities, social work institutions offer special staff communication measures. In the context of section 1 of the Pregnancy Conflicts Act (*Schwangerschaftskonfliktgesetz*), the information and education of young people with a disability is implemented on an integrated basis. Over and above this, it is examined which additional national information and measures may be necessary.

184. Detailed information on the state of ratification of the international Conventions from this complex of topics, as well as on protection mechanisms for persons with disabilities inter alia by the discrimination prohibition in article 3, paragraph 3 of the Basic Law, and also information on the area of activity of the Commissioner of the Federal Government for matters relating to disabled people, can be found in the Common Core Document in B. I. 1. a., B. II. 1. a. cc, B. II. 3. h. (para. 168), C. I. 2., C. II., (para. 197) C. III. (in particular paras. 201, 202).

Early promotion of disabled children and promotion in child day-care facilities

185. Various service institutions are responsible for medical therapy and for remedial services in the context of interdisciplinary early intervention: firstly, the social and youth welfare services and; secondly, the statutory health insurance funds. Until the entry into force of Book IX of the Social Code in 2001 there was no statutory basis for services to be rendered on an interdisciplinary basis from one provider. This was changed with Book IX of the Social Code and the Early Promotion Ordinance (*Frühförderungsverordnung*) of 2003. Through these provisions, the legislature created the basis for social and youth welfare services and statutory health insurance fund services being providable as a “service package” by interdisciplinary early intervention agencies and social paediatric centres. The blanket establishment of early intervention as a service package is to ensure that children who have a disability or are threatened with one are given access to this interdisciplinary service rendered by one provider.

186. Children with a disability also receive support in Germany in particular in inclusive child day-care facilities and in special facilities. The number of children with a disability in child day-care facilities increased by roughly 8,000 in the period between 2006 and 2008 (0.2 percentage points of all children in child day-care facilities). The number of children with a disability is increasing, both in special facilities and in child day-care facilities working on an inclusive basis. Roughly 77 per cent of children with a disability were cared for in inclusive facilities in 2008; the share of children cared for in special facilities has been falling since 2006. A portrayal of the figures on children with a disability in child day-care facilities, special facilities and inclusive facilities can be found in the statistical overview.¹¹³

Children with and without a disability learn together

187. Schooling in Germany is within the mandate of the *Länder*. A total of roughly 485,088 school pupils with special educational needs were taught in Germany in 2007, corresponding to a share of 5.9 per cent of all school pupils in the age groups subject to obligatory full-time school attendance (“special needs rate” 2004: 5.6 per cent). Of the total of 485,088 school pupils with special educational needs, in Germany roughly 400,399 (82.5 per cent) were taught in special needs schools in 2007. This shows that the rate of attendance at special needs schools has fallen slightly since 2006 (84.3 per cent). Further improving the situation of joint learning is the declared goal of the Federation and the *Länder*. With more than 38,127 school-leavers in 2007 in the federal average, roughly 76.7

¹¹³ Annex 1, Tables 9 and 10.

per cent of all special needs school pupils left school without a lower secondary or higher school-leaving qualification (2004: 79 per cent).

188. Article 24 of the United Nations Convention on the Rights of Persons with Disabilities demands that the States parties ensure that persons with disabilities have access to an inclusive, quality education on an equal basis with others. The Federal Government confirms against this background the need for individual support for all children and juveniles. In view of the described assessment of the need to implement article 24, the Federal Government recognizes that the *Länder*, which have sole responsibility here, are gradually developing their policy. In the view of the Federal Government, the process which has been initiated by the Conference of Ministers of Education and Culture to update the recommendations on special educational needs appears to be expedient to promote the gradual implementation of the Convention. For years now, the Federal Government has always supported the work of the “European Agency for Development in Special Needs Education” in this context.

Promotion for disabled children through the project work of the *Länder* and local authorities

189. The *Länder* and local authorities also defend the interests of children with a disability through project work. Hence, for instance, the city of Munich has created an Internet portal which provides information, contact points and an exchange of experience for parents of children with a disability (www.intakt.info, www.eine-schule-fuer-alle.info).

Statistical data

190. 161,555 children with a serious disability lived in Germany at the end of 2005. 13,829 integration assistances were reported to have been commenced by the youth welfare offices for young people with an emotional disability in 2007.¹¹⁴ A portrayal of the data on children with a disability can be found in the statistical overview.¹¹⁵

B. Health and welfare (art. 24)

Fundamentals

191. To enable children to grow up in the highest attainable standard of health is the goal of the “Strategy of the Federal Government to promote the children’s health”, which was adopted by Cabinet on 27 May 2008. In particular it is to:

- Promote equal opportunities for health for all children and juveniles
- Improve the general situation for a healthy lifestyle, provide a motivation for living a healthy lifestyle and integrating it into children’s everyday lives
- Reduce health risks
- Support the healthy physical and mental development of children and juveniles
- Create a sustained public awareness of the topic of children’s health

192. To achieve this, the strategy encompasses inter alia measures and projects in the following fields of action:

- Expanding prevention and health promotion

¹¹⁴ See Annex 1, Table 8.

¹¹⁵ See Annex 1, Table 8 et seq.

- Promoting equal opportunities for health
- Reducing health risks
- Observing the situation, doing basic research and ascertaining risk and protection factors

193. On behalf of the Federal Government, the Robert Koch Institute submitted for the first time in May 2007 comprehensive, nationally-representative information on the state of health and the lifestyle of children and juveniles aged from birth to the age of 17 in Germany (“Health Interview and Examination Survey for Children and Adolescents” (KiGGS)).¹¹⁶ A shift is shown from acute to chronic diseases¹¹⁷ and from somatic to mental diseases. Children from socially-disadvantaged families are particularly frequently affected by disease, excess weight and mental disturbances and more rarely attend preventive care examinations.

194. The comprehensive results of the Health Interview and Examination Survey for Children and Adolescents form the basis for the interdisciplinary list of measures it contains. The strategy aims to improve the conditions for a healthy lifestyle, to integrate it into children’s everyday lives and to promote equal opportunities for health. Further initiatives are intended to reduce existing health risks to children and juveniles.

195. With the National Action Plan “IN FORM – Germany’s Initiative for a healthy diet and more exercise”, which was adopted by the Federal Cabinet on 25 June 2008 and is being implemented jointly by the Federal Ministry of Food, Agriculture and Consumer Protection and the Federal Ministry of Health, people are to live more healthily, children to grow up more healthily and enjoy a higher quality of life and perform better in education, at work and in their private lives. The incidence of diseases which are exacerbated by an unhealthy lifestyle with an unbalanced diet and a lack of exercise is to be considerably reduced. The *Länder*, local authorities and civil society are involved in the implementation of the action plan. The action plan runs until 2020.

Long-term care insurance

196. The Act to Further Develop Long-Term Care Insurance – Long-term Care Development Act (*Gesetz zur strukturellen Weiterentwicklung der Pflegeversicherung – Pflege-Weiterentwicklungsgesetz*)¹¹⁸ of 28 May 2008 improves the orientation towards the needs and wishes of those in need of long-term care, as well as their family members. The vast majority of the restructuring carried out in benefit law that is provided for in the Act also benefits children in need of long-term care and their family members. Special differentiation by age groups was and is not provided for by the Long-Term Care Act (*Pflege-Versicherungsgesetz*) (Book XI of the Social Code). At the end of 2008, roughly 93,000 persons in need of long-term care in social long-term care insurance were below the age of 20. These account for 4.4 per cent of those drawing benefits from social long-term care insurance.

197. The Long-term Care Development Act — as well as the generally-applicable benefit improvements and other novelties – particularly improves respite care and the assessment procedure for children and juveniles, such as:

- The annual benefits in respite care will be increased in 2012.

¹¹⁶ All important information and results on the KiGGS are retrievable at: www.kiggs.de.

¹¹⁷ Such as bronchitis, neurodermitis and hay fever.

¹¹⁸ Federal Law Gazette I, p. 874.

- Children in need of long-term care under 18 can now also claim respite care in suitable facilities of assistance for persons with disabilities and other appropriate facilities. The expanded benefit claim that is justified in legitimate individual cases is to exclusively serve the interest of children in need of long-term care and their families.
- The assessment practice of the Medical Review Board of the health insurance (MDK) has been orientated more clearly and better to the special situation and the needs of children in need of long-term care. Thus, the revision in section 18, subs. 7, sentence 2 of Book XI of the Social Code now provides by law that examination of children who are in need of long-term care is as a rule to be carried out only by specially-trained assessors who are qualified as (paediatric) nurses or as paediatricians.

Preventive care (examinations of children and juveniles)

198. The Federal Government helps to inform parents, children and juveniles of conduct which is beneficial to health of and a healthy lifestyle, and carries out appropriate information campaigns. The focus here is placed on prevention of eating disorders such as obesity, anorexia and bulimia. A central contribution towards this is therefore also made by the childcare facilities. Also the “Diet and Physical Activity Platform” (peb) initiated by the Federal Government favours a health-friendly lifestyle with children and juveniles, focusing on a balanced diet and plenty of movement.¹¹⁹

199. The preventive care services for children and juveniles are being continually refined by the Joint Federal Committee (G-BA). Since April 2005, expanded screening of newborns has included an examination for 12 target diseases. Screening for hearing disturbances with newborns has been introduced as an obligatory benefit of statutory health insurance since 1 January 2009. An additional examination for children aged 3 was introduced in July 2008.

Measures against abuse of drugs and alcohol by children and parents (para. 43, CRC/C/15/Add.226)

200. The Federal Government takes the dangers to children and juveniles posed by consumption of tobacco and alcohol very seriously. In order to counter the worrying new developments in the problems of addiction among children and juveniles, German policymakers are devising means and measures to recognize new addictive substances and new forms of consumption early and to develop and make available prevention measures. Thus, the political arena counters the multifaceted problems faced by children and juveniles who are at particular risk with a broad range of prevention, advice, support and treatment opportunities. The Federal Centre for Health Education regularly implements ongoing campaigns to reduce the abuse of drugs and alcohol. The provision of rehabilitation measures lies within the responsibility of the local authorities and the *Länder*, whilst funding is provided by pensions insurance. As a statutory measure for the effective protection of children and juveniles against tobacco and alcohol consumption, the Protection of Young Persons Act provides for clear provisions on prohibition of sale and consumption.¹²⁰

¹¹⁹ Source: NAP 2005–2010, pp. 41 et seq.

¹²⁰ In pubs, points of sale or other public places, spirits and beverages containing spirits or foodstuffs containing spirits not only in insignificant quantities may not be sold to children and juveniles under 18; other alcoholic beverages, such as wine and beer, may not be sold to children and juveniles under 16, nor may they be permitted to consume them (section 9 of the Protection of Young Persons Act).

201. The federal model project “*HaLT* – Close to the Limit” has proven itself to be a particularly effective measure in the field of alcohol prevention. This project, which was developed in 2003, consists of two elements. Firstly, excessive alcohol consumption by children and juveniles is to be countered by prevention of detrimental conduct by targetedly creating contact with children and juveniles who have come to notice. Secondly, a broad approach is pursued in order to promote responsible alcohol consumption at local authority level.

202. The campaign entitled “Empowering children stark” of the Federal Centre for Health Education is based on the realization that sport can help to keep children away from drugs. The campaign also aims to use the support of sports associations to strengthen adolescents’ self-confidence and self-worth and to promote their ability to engage in conflicts and communication, so that they are able to live their lives without addictive substances. Sport is a particularly important partner here, given that it reaches almost all levels of society.

203. Since the summer of 2005, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has been implementing the campaign entitled “Youth protection: We’re not letting go!” with posters, flyers and stickers to improve compliance with the youth protection regulations together with the Federal Union for Protection of Young Persons (BAJ), the German Retail Federation (HDE), the German Hotel and Catering Association (DEHOGA) and the Federal Association of Filling Station and Commercial Vehicle Washing Plants in Germany (BTG).

204. In November 2007, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth issued an invitation to a *round table* entitled “Protection of Young Persons Act – Improving law enforcement” and inter alia agreed with the competent federal and *Land* Ministries, members of the *Bundestag*, the local authority central associations, representatives of the Federation, youth and youth protection associations, the churches, as well as of retail, petrol station and video library operators, the Hotel and Catering Association on better enforcement measures in youth protection – aiming in particular to promote the implementation of the provisions of the Protection of Young Persons Act and to pursue breaches consistently.

205. With the Act to Improve the Protection of Young People against the Dangers of Alcohol and Tobacco Consumption (*Gesetz zur Verbesserung des Schutzes junger Menschen vor Gefahren des Alkohol- und Tabakkonsums*)¹²¹ on soft drinks containing spirits — in addition to the tax on spirits — a special tax (so-called alcopop tax) was introduced (article 1 of the Alcopop Tax Act [*Alkopopsteuergesetz*]). The objective was to increase the prices of soft drinks containing alcohol (so-called alcopops) so that young people no longer buy them. With article 2 of this Act, the Protection of Young Persons Act was supplemented to include obligatory labelling of alcopops. Since 31 December 2004, alcopops may only be sold commercially if they are labelled: “Not for sale to persons under 18, section 9 of the Protection of Young Persons Act”.

In pubs, points of sale or other public places, tobacco goods may not be sold to children and juveniles under 18, nor may they be permitted to smoke (section 10 of the Protection of Young Persons Act). Through article 3 of the Act on Protection against the Dangers of Passive Smoking (*Gesetz zum Schutz vor den Gefahren des Passivrauchens*) of 20 July 2007, with effect as per 1 September 2007 the prohibition of the sale of tobacco goods, as well as of their consumption, was expanded to cover all children and juveniles under 18 (previous age limit: 16). Since 1 January 2009, cigarette vending machines must also be technically equipped to prevent children and juveniles under 18 removing cigarettes. Breaches of the Protection of Young Persons Act are administrative offences and can be sanctioned with an administrative fine of up to €50,000 (section 28 of the Protection of Young Persons Act).

¹²¹ Dated 23 July 2004.

206. A major role in the reduction of abuse of drugs and alcohol¹²² in Germany is played by the associations, such as the German Centre for Addiction Issues (DHS). They recognized at an early stage the topicality of the new development in the problems of addiction among children and juveniles, and put considerable effort into specific offers for this target group in the period from 1999 to 2009. They carry out programmes such as “FreD” and “Realize it”. “FreD” was the first project in Germany opening up new access paths to cannabis-consuming juveniles. It provides advice agencies with a cohesive advice concept. Juveniles’ attention is brought to this concept when first being interrogated by the police, 150 advice locations have taken on the concept in Germany. “Realize it” is an advice programme for 15- to 30-year-old cannabis consumers. It is implemented by a large number of advice agencies in Switzerland and in Germany.

Child and youth psychiatry (para. 45, CRC/C/15/Add.226)

207. In accordance with the disciplinary specialization and care-structure delimitation which applies in Germany between adult psychiatry and child and youth psychiatry, children and juveniles in psychiatric facilities are as a rule also accommodated separately from adults in special facilities or special wards within facilities. The joint placement of children or juveniles is a rare exception as far as can be seen at present. Internationally-recognized ethical principles are fully taken into account in the psychiatric care of children and juveniles. Thus, when children and juveniles are placed in psychiatric care, as a rule the particular situation and the specific needs of juvenile and adolescent patients are taken into account. This relates to the differentiated therapies that are on offer such as psychotherapy in individual and group form, ergotherapy, music and art therapy, sport, leisure projects complying with today’s psychiatric treatment standards and considerable possibilities for schooling and vocational training with individual promotion. Over and above this, the discussion which is going on in Germany regarding child protection also has further positive knock-on effects in (adult) psychiatry and child and youth psychiatry.

208. The Federal Association of Chief Physicians for Child and Youth Psychiatry and Psychotherapy published a guideline in 2000 to deal with measures entailing restrictions on and deprivation of liberty to ensure the objective of the treatment in child and youth psychiatry and psychotherapy, which aims to increase skills in these treatment measures. The guideline follows the principle that diagnostics and therapy in the child and youth psychiatry and psychotherapy always take place with respect for dignity and self-determination, as well as for the rights of sick children and juveniles and their custodians. This applies also and particularly to crisis situations in which measures must be applied for therapeutic reasons which temporarily restrict the freedom of the child or of the juvenile.

209. The Federal Government supports all efforts to strengthen the networking of the above advice services with professional services, such as inpatient facilities of child and youth psychiatry, facilities of child and youth welfare, as well as physicians and psychotherapists. Targeted primary prevention is to be achieved by creating binding cooperation mechanisms between those who are involved in all the relevant areas of children’s lives, juveniles and young adults both in families and at school, as well as in vocational training, and in social encounters in leisure activities and peer groups.

210. Comprehensive advice services, in particular from the field of “lay care” or advice hotlines, are available in Germany. For instance, the psychological advice agencies provided everywhere and funded by local authorities and independent institutions are available free of charge to provide advice in life and family crises.

¹²² For an overview of advice agencies for alcohol abuse see at: <http://www.alkoholhilfe.de/beratungsstellen/beratungsstellen.htm>.

211. The number of suicides and attempted suicides on the part of young people in Germany is in the medium field in an international comparison (para. 44, CRC/C/15/Add.226). The rates have not increased for several years. Regional crisis management for young people with suicidal tendencies is being tried out in *Baden-Württemberg* with support of the *Land*. The frequently complex need for assistance of young people in suicidal life crises and the person having custody of them is to be catered for in the interdisciplinary care model by means of obligatory, qualified networking of medical and psychosocial services, as well as semi-professional helpers. The model project is accompanied by advice from the “Children and juveniles” working party in the National Suicide Prevention Programme (NaSPro) for Germany.

HIV/AIDS among children in Germany

212. To successfully fight AIDS, the Federal Government relies, firstly, on a high-performance health-care system which ensures treatment and care. Secondly, particular significance attaches over and above this to the many measures of education, including measures particularly targeting juveniles, such as target group-specific poster and advertising campaigns, as well as online portals. Sex education and information on HIV and other sexually-transmitted diseases is an element of the school curriculum. Special materials are provided to support the multipliers working in the school and non-school sectors. School is regarded today as a major element of the AIDS information infrastructure. Thus, 94 per cent of 16- to 20-year-olds say today that the topic of AIDS has been dealt with in school lessons. Among former school pupils, that is today’s 25- to 29-year-olds, 86 per cent can remember AIDS having been covered in lessons.

Statistical data

213. Between 20 and 30 HIV infections were diagnosed per year among children in Germany in recent years – the cumulated total of HIV infections diagnosed in Germany among children aged up to 13 is estimated at between 500 and 600. Three hundred first HIV diagnoses have been reported among children aged up to 13 since 1993. Roughly half of the cases reported since 1993 relate to children who were born outside Germany and whose HIV infection was diagnosed in Germany.

Harmful traditional practices (para. 47, CRC/C/15/Add.226)

214. Against the background of migration from certain cultural areas, women are also affected by female genital mutilation in Germany. Genital mutilation is a grievous breach of human rights. It is prohibited under German law and can be punished with severe custodial sentences. The Federal Government will continue to regularly update its information policy on the topic of “Genital mutilation of girls”, including the publications, and to adjust them to current needs. In the context of development cooperation it will also continue to promote measures to fight female genital mutilation politically and financially, in particular in Western Africa. Germany guarantees protection for girls who seek refuge from threatened genital mutilation in Germany. The following measures, amongst others, have been carried out in the period under report in implementation of the fields of action that have been described:

- In the context of development cooperation, the Federal Government has been participating in international efforts to overcome female genital mutilation since 1999 via the supraregional project entitled “Overcoming female genital mutilation”. The project has been extended to 2011. It is planned inter alia to link the instrument of financial cooperation more closely in future with demands to combat FGM. What is more, updated information and recommendations for action are being made available.

- The Federal Ministry of Health regards its task in the field of genital mutilation as lying in the awareness-creation of professional groups working in the health-care system. “Recommendations for physicians on dealing with patients after female genital mutilation” have been drawn up at the suggestion of the Federal Ministry of Health and at the initiative of the German Medical Association. The Federal Ministry of Health has dealt with the topic of female genital mutilation at a joint specialist symposium with the WHO and the German Medical Association focusing on this topic. The Federal Government has also taken up the topic and established a Federal/*Länder*/non-governmental organization working party (B-L-NRO-AG) to overcome female genital mutilation.
- In its public relations work, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has published an information document for physicians and advisors providing information on female genital mutilation (types of circumcision, motives, incidence and consequences). What is more, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has taken part in funding measures of German NGOs for comprehensive information on circumcision of the genitals of women and girls.

Improving the data situation in the field of health and welfare

215. See A. I. 4. b., A. I. 4. h., A. I. 5. c. of the Common Core Document as to the data situation on the topical area of health and welfare.¹²³ Infant mortality has continued to fall constantly, as has perinatal mortality. 3.9 infants per 1,000 live births died in 2007, as against 4.5 infants in 1999. The Health Interview and Examination Survey for Children and Adolescents described above serve to develop an ongoing national health monitoring system.

C. Standard of living (art. 27, paras. 1–3)

216. Reference is made to the Common Core Document, A. I. 4, with regard to general information on the standard of living in Germany, including social and cultural characteristics.

Ensuring a suitable standard of living for all children as a focus of policy in Germany

217. The declared aim of the Federal Government is to counter social marginalization, reduce poverty risks, ensure the minimum income and promote the personal development and participation of children and juveniles in society. If one takes a look at income, which defines circumstances along with other aspects, in a European comparison Germany is also among those countries with a relatively low poverty risk rate¹²⁴ among children. Child poverty in the sense of relative income poverty is a matter of parental and family income. Children are particularly at risk of poverty if their parents are unemployed or on a low income. The Federal Government’s 3rd Report on Poverty and Wealth of June 2008 has demonstrated that in Germany above all children of lone parents, children with a migration background and families with three and more children (para. 51, CRC/C/15/Add.226) have a high risk of growing up in a family with an income below the poverty risk threshold.¹²⁵ It

¹²³ Including the infant mortality rate, protection of mothers by the social security system and public development cooperation.

¹²⁴ The poverty risk rate reflects the share of the population whose net income is less than 60 per cent of the median net equivalent income.

¹²⁵ Annex 2, No. 1 re VI.

is hence the express goal of the efforts of the Federal Government to create equal opportunities for all children so that they can grow up free of poverty and develop their many skills and talents. One focus here is on the children of single parents (roughly 800,000 children), on children from families with many children (roughly 550,000) and on children with a migration background (approximately 430,000).

218. Social and family policy transfer benefits also stabilize family incomes in difficult phases and pronouncedly reduce families' relative income poverty. The payment of these State transfer payments reduced the poverty risk rate of children according to the data of the 2008 EU-SILC survey with the income information of 2007 by roughly one-half from 31 per cent to 15 per cent. The poverty risk rate of children aged up to 18 was 15 per cent, and hence equal to the value for the population as a whole.¹²⁶ Hence, Germany has a very low poverty risk rate of children in a European comparison.

219. The Federal Government has set new priorities in family policy in recent years in order to improve the economic and social stability of families and children and to sustainably improve parents' personal responsibility. Targeted financial assistance, greater family orientation at work, as well as a good infrastructure of care and promotion for children of all age groups, form a coordinated group of three here, and place children at the centre of a family policy for poverty prevention. Against this background, the Federal Government has implemented or launched a large number of measures and improvements in benefits serving to ensure families' economic stability, and hence to also reduce the poverty risks of families and children – this in particular for families on a low income, for lone parents and for families in the first year of a child's life. This complies with paragraph 51 of the concluding observations of the Committee for the Rights of the Child (CRC/C/15/Add.226).

220. The following should be particularly emphasized among the provisions and measures of the Federal Government to improve the economic and social stability of families and children:

- The introduction of a tax-free relief amount for lone parents from 2004 onwards
- The introduction and further development of a supplementary child allowance from 2005 onwards
- The clear improvement of the tax deductibility of childcare costs from 2006 onwards
- The introduction of parental benefit in 2007
- The increase and more detailed stratification of child benefit from 2009 onwards; further increase as per 1 January 2010
- The introduction of an additional benefit for school for children in basic security benefits for job-seekers or in social assistance or in supplementary child allowance in accordance with the Federal Child Benefit Act from 2009
- The expansion of child day care for small children on the basis of the legal amendments in Book VIII of the Social Code (most recently by the Child Promotion Act in 2008), as well as in a broader sense:
 - The improvements in housing benefits from October 2008
 - The increase in the requirement rates with individual training promotion in 2001 and 2008

¹²⁶ Source: Press release No. 457 of the Federal Statistical Office of 27 November 2009, Poverty Risk in Germany: Results from LEBEN IN EUROPA 2008.

221. In particular the introduction of the parental benefit 2007 has led to a fundamentally changed awareness in society in Germany. It creates a buffer for parents in the first year of their children's lives with time to care for and foster the youngest members of society. It grants benefits the amount of which is in principle in line with the previous income, and which hence also help to ensure the previous standard of living. It opens new freedom of choice for mothers and for the first time also for fathers in the reconciliation of family and work. As to the acceptance of parental benefit, 77 per cent of the population from age 16 stated that they considered parental benefit to be a good arrangement. The approval of industry for parental benefit has also continued to increase: in March 2009, 84 per cent of managing directors and HR managers considered parental benefit to be a good arrangement. This attitude is shared by the representatives of all sectors of industry, regardless of the size of the company. Only 61 per cent of decision makers in companies approved of the Act in 2006, whilst one year after its introduction 81 per cent of respondents already considered parental benefit to be a good thing.¹²⁷ More than two-thirds of those responsible in companies consider it to be a good thing if fathers devote themselves to their newborn children and interrupt their work for this for at least two months or reduce their working hours. Seventy-one per cent are positive towards fathers reducing their working hours in 2009 – as against 65 per cent in the last year and 59 per cent in 2006.¹²⁸

222. A major contribution towards the reduction of poverty is also made by the family policy components of the Act to Safeguard Employment and Stability in Germany (*Gesetz zur Sicherung von Beschäftigung und Stabilität in Deutschland – Konjunkturpakt II*), which have been in force since mid-2009, such as the payment of a one-off amount of €100 for the calendar year 2009 (“child bonus”) for each child registered for child benefit in 2009 or the increase in the basic security benefit payments for children aged between 6 and 13, as well as the expansion of the school material bonus to cover beneficiaries of supplementary child allowance.

223. With the “Fourth Act for Modern Services on the Labour Market” (*Viertes Gesetz für moderne Dienstleistungen am Arbeitsmarkt*),¹²⁹ the provisions of unemployment assistance and social assistance applicable up to that time for employable needy persons were combined to form a new uniform, tax-funded basic security benefit for job-seekers in Book Two of the Social Code. By virtue of the new labour market policy approach of support and empowerment, the need of assistance of the persons in question is to be reduced or eliminated through intensive, varied support for rapid integration into the labour market. Employable needy persons receive equal access to necessary advice, placement and integration services (para. 51, CRC/C/15/Add.226).

224. The introduction of basic security benefits for job-seekers has brought about a major improvement in the social security of women. Since 1 January 2005, employable women who previously relied on social assistance have received a needs-oriented and needs-based welfare benefit through unemployment benefit II regardless of their previous work. Social benefit is granted in case of need for non-employable persons living in a joint household with the employable needy person – these are as a rule the minor-age children. This household-related approach particularly improves the financial situation of lone parents. Unlike the situation with the former social assistance, drawing of basic security benefits for job-seekers no longer produces gaps in social insurance security, given that the contributions to pension, health and long-term care insurance are assumed when unemployment benefit II is drawn. This above all benefits lone mothers who previously

¹²⁷ Source: Allensbach 2009.

¹²⁸ Source: Allensbach 2009.

¹²⁹ Of 24 December 2003 (largely came into force on 1 January 2005).

bore a considerable risk of becoming dependent on social assistance with no security in social insurance (para. 51, CRC/C/15/Add.226).

225. In the context of basic security benefits for job-seekers, the special interests of those who bring up children or who care for family members are taken into account of by the design of the regulations relating to the reasonableness to accept job offers. When placing in childcare, the competent local authority institutions should endeavour to ensure that employable persons bringing up a child are given priority when it comes to granting a place for day care of the child (para. 51, CRC/C/15/Add.226).

226. As per 1 July 2006, the determination of the standard benefits which were differentiated at this time for Eastern and Western Germany were rescinded and a national standard benefit for lone parents of €345 was determined (para. 51, CRC/C/15/Add.226). As provided for by the legislature, the standard benefits are adjusted in accordance with Book II of the Social Code in accordance with developments in the pension values. They increased for lone parents from the previous level of €351 to €359 per month as per 1 July 2009 (para. 51, CRC/C/15/Add.226). At the same time, the standard benefit level was increased from 60 per cent to 70 per cent of the standard benefit for lone parents for children aged from 6 to 13, and is now €251 per month. Furthermore, school pupils in need of assistance have been granted an additional benefit for school of €100 once per year at the beginning of the school year since the school year 2009/10.

227. The poverty risk of households of lone parents, at 36 per cent, is more than twice as high as the average of all households or couple households with children. Lone parents hence need comprehensive support and assistance measures in order to be able to terminate their own need for assistance and that of their children, or at least to reduce it through integration into work or stabilization of their employment. Against this background, in the context of the “perspectives for lone parents” cooperation mechanism (cooperation between the Federal Ministry of Labour and Social Affairs, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and the Federal Employment Agency) the Federal Ministry of Labour and Social Affairs has initiated the ideas competition “Good work for lone parents”. The national competition aims to develop and disseminate action concepts for labour market integration of needy lone parents. The projects are to help enable lone parents in need of assistance, to integrate them into employment and to stabilize them in terms of employment and in social terms, as well as to transfer good action concepts. A total of up to €60 million have been provided for the ideas competition from funds of the European Social Fund (ESF) and from federal funds. This will help to promote at least 79 projects at local and regional level. Also in the context of this cooperation, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is carrying out a pilot project entitled “Reconciliation of family and work for lone parents” to support lone parents. Its idea is to develop cooperative structures between the facilities under Book II of the Social Code and other local family policy providers to support lone parents as set out in Book II of the Social Code. At 12 selected venues, information is to be collected until 2010 on possibilities for and obstacles to network building, with the assistance of which a sustainable steering structure can be built. The information obtained is to help to create in the long term a global, well-functioning integration culture in order to improve reconciliation for lone parents by creating needs-orientated service chains and central contact points.

228. Measures to fight child poverty are also being carried out in Germany at *Land* level and at the level of local authorities. To this end, for instance, the *Land* Thuringia has adopted a list of measures to fight child poverty by providing support for poor children and their parents in education policy, health and labour market policy fields. This includes amongst other things the introduction of a social fund in child day-care facilities and general schools, as well as the establishment of integration projects for joint households in

accordance with Book II of the Social Code with children in cooperation with the funding institutions of the basic security benefits (Thuringian initiative on integration and anti-poverty measures). The implementation process has advanced differently in the various areas.

229. The basic provision of “street children” (para. 59 c CRC/C/15/Add.226) for instance with food, clothing and health care is guaranteed in Germany by Book VIII of the Social Code. It provides for measures which ensure care for and support of so-called “street children”. Assistance and care for street children takes place as a rule in the context of Book VIII of the Social Code through upbringing assistance (section 27–35), by integration assistance for emotionally disabled children and juveniles (section 35 a), by assistance for young adults (section 41), as well as by taking children and juveniles into care (section 42). In the context of youth social work (section 13), above all outreach offers, as well as contact points for basic supply (food, washing, showers, sleeping), also including medical and psychosocial advice, have proven their worth. Since these children and juveniles largely come from highly-strained families, street social work endeavours to integrate them into assisted residential groups in order to remove them from the detrimental environment of the street, to prevent them returning there and to offer them alternative modes of conduct. In addition to local youth welfare offices and the independent institutions which are responsible for these children and juveniles “on the street” and make corresponding help offers, there are also supraregional assistance organizations working in this field in Germany, such as Off-Road-Kids e.V., Bad Dürkheim.

230. A career on the street frequently begins with being absent from school. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has therefore been promoting since 2006 the programme entitled “Absenteeism – A Second Chance”, roughly 200 project locations have been created nationally in the context of the programme which catch frequently-absent juveniles in cooperation with schools, youth welfare offices and other stakeholders and reintegrate them into the standard school system through individual case management.

231. The Bavarian “Youth and violence” programme should be described in this context. The establishment of regional crisis assistance networks in cities has been encouraged in the context of this programme. Youth welfare offices work with independent youth welfare institutions in the regional network in order to improve care for children and juveniles in crisis situations. One sub-area is the operation of the “Sleep” emergency sleeping unit in Nuremberg, a special, low-threshold offer for street children which has been very well accepted by children and juveniles. Furthermore, concrete projects in Bavarian cities range from emergency sleeping units to advice and support, and to individual offers to provide assistance to opt out. Accompanying this, support is also offered to families.

Statistical data on the securing of a suitable standard of living

232. According to the OECD’s delimitation, Germany spends 3.1 per cent of its gross domestic product on family-related benefits (2005), and hence is above the OECD average. The stocktake of marriage- and family-related benefits showed for 2007 148 marriage- and family-related benefits. The family-related benefits here account for €111.5 billion, €46.5 billion of which can be understood as family promotion in the strict sense of the word. This includes, for instance, child benefit with its share of promotion of €16 billion. In comparison to the previous years, in 2007 in particular higher expenditure on childcare, as well as the introduction of parental benefit in the financial volume, was noticeable. The

average amount of all family-related benefits per child qualifying for child benefit increased from roughly €5,900 in 2005 to €6,050 in 2007.¹³⁰

VII. Education, leisure and cultural activities

233. Education and optimum promotion of all children from the beginning create equal opportunities. Children and juveniles learn in all areas of their environment: in school and in their families, among their friends, in leisure, through the media. Central significance for attaining equal opportunities attaches to preschool education in day-care facilities.

A. Education

Equal opportunities through education as a focus of policy in Germany

234. Children and juveniles are being encouraged at an early stage more than ever. Increasing responsibility for running one's life, multicultural living and learning environments, growing choices and information opportunities require skills to gain an overview, distinguish and decide. The more complex the societal contexts become, the more urgent it becomes to equip the upcoming generation with skills to act in a self-determined, responsible, democratic manner and to take sustainable decisions for the future, and in doing so to also look beyond the borders of one's own country. The goal is to shape education processes such that children and juveniles are reached in very different ways and in as broad a form as possible. General information on the German training and education system is contained in the Common Core Document in A. I. 4. f. and g., B. II. 1. c. Education programmes and information campaigns at federal level are presented in the Common Core Document in C. III. (in particular marginal No. 198).

235. The PISA Study¹³¹ shows in concurring findings of previous scientific studies that the basic ability and willingness to perform at school, as well as for life-long learning processes of the upcoming generation, are created in families. The promotion of children's education by parents takes on central significance against this background. Skills for social, cultural and political participation are learned above all in non-formal and informal contexts beyond formal curriculums, for instance also in the group of one's peers and in dealing with one's own interests, needs and dreams. In order to deal with many development tasks in child and youth age, the Federal Government considers it to be necessary for formal, non-formal and informal learning to intertwine, that the various institutions and stakeholders of education and guidance of children and juveniles cooperate and that local authorities take on a steering responsibility in the development of educational and upbringing landscapes. All institutions involved in the upbringing and education of

¹³⁰ Source: Federal Ministry for Family Affairs, Senior Citizens, Women and Youth: Family report 2009.

¹³¹ The studies are retrievable at: http://pisa.ipn.uni-kiel.de/fr_reload.html?download.html. PISA stands for Programme for International Student Assessment and was initiated by the Organization for Economic Cooperation and Development (OECD). The general goal of the PISA project is to provide to the member States of the OECD with indicators of skills, knowledge and abilities of 15-year-old school pupils in the areas of reading comprehension, mathematics and natural sciences in a time series. The surveys take place at 3-year intervals and in a total survey cycle of three collection waves, in each of which a main area is thoroughly tested. These main areas have so far been reading skills in 2000, basic mathematical education in 2003 and basic natural science education in 2006. Reading skills will once more be the focus in 2009. A consortium led by the German Institute for International Educational Research (DIPF) in Frankfurt am Main will implement national implementation of the PISA 2009 survey.

children and juveniles — above all also youth welfare services — are to be actively involved. A holistic understanding of education is to be taken as a foundation here, on the basis of the view that the future of society is essentially ensured by comprehensive education of young people. In the light of this, diverse research activities are being carried out. For instance, the Federal Ministry of Education and Research promotes extensive projects on the development of all-day schools and on questions of “participation and educational success”. In the context of its competence to make suggestions, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has therefore commissioned a three-year research project on the topic of “Parental participation and violence prevention in local educational and upbringing landscapes” which has been implemented jointly by three social science institutes since January 2009. The research project makes a contribution towards strengthening the interplay between all involved in upbringing and education. The focus will be on both the promotion of participation and the development of new forms of participation for parents who are difficult to reach, as well as on creating new forms of access to education. Furthermore, the Federal Ministry of Education and Research and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth are promoting two research projects on the topic of “Local education landscapes in cooperation between youth welfare services and school”. These work out success factors for local education landscapes.

236. The Federation and the *Länder* work together in determining the performance of the training and education system in an international comparison (article 91 b, paragraph 2 of the Basic Law). This is served by international school performance studies such as PIRLS, TIMSS, IGLU and PISA¹³² and by the national education reports. In the latter, experts have been periodically analysing the performance of the German training and education system on behalf of the Federation and the *Länder* since 2006. The Federation and the *Länder* derive joint educational policy recommendations from this. The reports analyse inter alia the educational and training participation of children and juveniles with a migration background or of non-German origin. The reports that have been presented contain comprehensive empirical stocktakes of the entire German training and education system and also take individual specific foci into account: in the 2006 report, these related to “education and migration”, and in the 2008 report to “educational and training transitions after completion of the secondary level”.

237. The Federation and the *Länder* have invested massively since 2003 in establishing and expanding all-day schools in order to promote educational equity and to guarantee pedagogical care of the children on afternoons. The expansion of all-day offers has considerably increased cooperation between schools, youth welfare services and formal and non-formal extra-curricular education. Additionally, the participation of children and juveniles in designing the services that are on offer has been stepped up.

1. General information

Measures for the unrestricted implementation of the right to education, without inequalities between the individual *Länder* (para. 53, CRC/C/15/Add.226)

238. The Conference of Ministers of Education and Culture in 2003 and 2004 agreed on uniform, nationally-applicable educational standards for schools in Germany. These uniform education standards exist at present:

¹³² PIRLS = Progress in International Reading Literacy Study; TIMSS = International Mathematics and Science Study; IGLU = *Internationale Grundschul-Lese-Untersuchung*; PISA = Programme for International Student Assessment.

- For the elementary level (year 4) for the subjects German and mathematics
- For the lower secondary level (year 9) for the subjects German, mathematics and first foreign language (English/French)
- For the intermediate school-leaving certificate (year 10) for the subjects German, mathematics, first foreign language (English/French), biology, chemistry and physics

239. In October 2007, the Conference of Ministers of Education and Culture also adopted the development of education standards and task pools for sixth-formers in grammar schools in the subjects German, mathematics, English, French, biology, chemistry and physics. These are currently being drawn up. Hence, quality development in the schools of all *Länder* in Germany can be tailored to a jointly-agreed standard for the first time, namely the “graduation-related education standards”.

240. In June 2006, the Conference of Ministers of Education and Culture also adopted an Overall Strategy on Education Monitoring. The strategy serves to track the results of the education system in a systematic, sound methodical way. On this basis, possible reasons for any unsatisfactory results are to be analysed and suitable reform measures are to be derived from this through education policy and administration. This is not only a matter of systematically acquiring information on the education system, but at the same time also of closely linking this information with measures on lesson and quality development which benefit the actual work at each individual school and can be used there. This overall strategy encompasses four areas which are interlinked in terms of their inherent conceptions:

- School performance assessments
- Central verification of the education standards attained in a *Länder* comparison
- Comparison work for national verification of the performance of individual schools
- Joint education reporting by the Federation and the *Länder*

Day care of children (para. 49, CRC/C/15/Add.226)

241. In accordance with section 22 subs. 3 of Book VIII of the Social Code, the promotion mandate of child day-care facilities and child day carers comprises the upbringing, education and care of the child. It relates to the social, emotional and mental development of the child, and includes imparting values and rules to provide an orientation. Each child from the age of 3 has had a legal right to day care since 1999. A focus of the policy of the Federal Government is to expand child day care for children aged under 3. Hence, the right to promotion of the child’s early development is to be done justice to and a major precondition for better reconciliation of work and the family is to be created. Over and above this, the development opportunities open to children from groups who are disinclined towards education and to children with a migration background are to be improved on a sustainable basis.

242. A first step towards expanding day care for children aged below 3 in line with needs has been taken by the Day-care Expansion Act of 1 January 2005. A next important step to further accelerate the expansion is the Child Promotion Act, which came into force on 16 December 2008. It sets milestones for improved reconciliation of family and work, for more education for all children and better future perspectives in Germany. The Federation, the *Länder* and the local authorities have agreed that nationally an average of one care place for every third child under the age of 3 is to be created by 2013, roughly one-third of the new places being created in child day care. The funding of the expansion is governed by the Childcare Funding Act (*Kinderbetreuungsfinanzierungsgesetz*). Of the total of €12 billion

that are needed for expansion, the Federation is contributing roughly one-third, at €4 billion. Of this amount, a total of €2.15 billion will be provided for investment by 2013, as well as €1.85 billion for funding the operating costs. This amendment to the Financial Equalisation Act (*Finanzausgleichsgesetz*) is regulated in the Child Promotion Act and will apply until 2013. The Federation will then make a permanent annual contribution of €770 million towards funding the operating costs from 2014 onwards.

243. One child in five under the age of 3 was already in child day care in Germany in March 2009. This by itself is a 15 per cent increase on a year-on-year basis. An important interim stage was reached with this care rate among the under-3s (20.4 per cent in March 2009; West: 14.6 per cent, East: 46.0 per cent – in each case not including Berlin; Germany 2006: 13.6 per cent). A total of 104,000 additional care places for the under-3s were created in Western German local authorities within three years. Roughly 242,000 children are now being cared for in child day-care facilities and by child day carers. The infrastructure has been sustainably improved in this field: The places offered in facilities in Western Germany increased in number by almost 31,000 between 2008 and 2009.¹³³ A detailed portrayal of the data on child day care can be found in the statistical overview.¹³⁴

244. Book VIII of the Social Code contains a duty to report on an annual basis for the Federal Government to the *Bundestag* on the state of the expansion of child day care which has been achieved. The central source of data on this is the child youth assistance statistics which were fundamentally revised by the Child and Youth Welfare Further Development Act. Moreover, the annual Interim Evaluation Report will include data from the additional surveys among youth welfare offices and day carers.

245. In addition to the quantitative expansion, the Federal Government is deliberately aiming to improve the quality of care. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is supporting the efforts of the *Länder*, local authorities and institutions with two programmes:

- Education and optimum promotion of all children from the outset to create equal opportunities. It is therefore necessary to develop benchmarks together with the *Länder* for preschool education in facilities and in child day care. The “Forum on early-childhood education” is to take on this task and hence support the expansion of childcare in relation to qualitative requirements.
- The “Action Programme on Child Day Care”, largely financed from the European Social Fund (ESF), accompanies and promotes the qualitative, quantitative expansion of child day care in the period from 1 April 2009 to the end of 2012, aiming to improve preschool promotion and to facilitate the reconciliation of family and work. The project promotes 162 model locations in order to build up a local infrastructure to recruit, build the skills of and provide advice to child carers. Furthermore, the global minimum qualification of day carers using the professionally-recognized curriculum of the German Youth Institute is anchored and promoted nationwide via a joint seal of quality of the Federation, the *Länder* and the Federal Employment Agency.

246. The Federal Government launched the Action Programme on multi-generation houses in 2006. With 500 multi-generation houses, 500 reliable contact points have been created nationally in which generations are actively involved in a life together and for one another. With a small number of exceptions, all rural districts and towns not belonging to a

¹³³ See on this: Homepage of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

¹³⁴ See Annex 1, Tables 11–15, Figures 4 and 5.

rural district in Germany have a multi-generation house. Since the Action Programme was launched, the multi-generation houses have developed to become service hubs around the family and the household. A major element of the family-friendly services is childcare offers. Eighty per cent of the 500 multi-generation houses either directly offer or arrange for childcare. Almost one-half (44 per cent) of the childcare offers in multi-generation houses target children under 3. The advantage of the multi-generation houses is that childcare is always offered at the same time as other offers which can also be taken up. Over a period of five years, each house receives €40,000 per year. Two hundred of the 500 houses are co-funded by the ESF. In total, the multi-generation houses have €100 million available.¹³⁵

247. What is more, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has been supporting alliances of stakeholders from various social groups since 2004 with the Federal initiative on local alliances for families,¹³⁶ pursuing the goal of working together to sustainably improve the environment for families in their regions. Local authorities, enterprises, churches, chambers, trade unions, associations, foundations, independent child and youth welfare institutions and many more are now undertaking a commitment in 600 alliances (as per 15 December 2009). In particular the reconciliation of family and work and the further expansion of the childcare offers form the focus in many places.

248. The programme entitled “Company-supported child care”, promoted by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and funded by the ESF, aims to win over enterprises for a commitment to childcare (term 2008–2012). Enterprises entitled to participate are, in addition to the industrial sector, also corporations, foundations and institutions under private and public law.

249. Furthermore, the Conference of Youth and Family Ministers and Senators of the Federal *Länder* dealt inter alia with the topic of child day care in Bremen on 4 and 5 June 2009. It decided on close cooperation between primary schools and day-care facilities for the important transition from day care to school.

250. In implementation of the national statutory mandate in section 22 a, subs. 4 of Book VIII of the Social Code, in accordance with which children with and without a disability are to be promoted together in groups, an increased expansion of offers of integrated childcare in standard day-care facilities is taking place at local authority level. The project “A Garden of Eden for Children” of the city of Hanover, for instance, is a model for this scheme. In the context of this project, the nation’s first child day-care centre is to be built by the end of 2011 which works inclusively all the way from toddlers to preschool groups, in which therefore non-disabled, as well as children with physical or mental disabilities, are taken care of together. However, more inclusive groups are also being created in day-care facilities in many other local authorities.

¹³⁵ An overview of all projects currently being promoted is offered by the website www.mehrgenerationenhaeuser.de.

¹³⁶ <http://www.lokale-buendnisse-fuer-familie.de>. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has set up a service office which coordinates and supports the establishment and development of the local alliances nationally. The service office is funded with money from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and the ESF.

2. School

251. The structure of the types of school and education careers in Germany are explored in detail in the Common Core Document at “Education system” (A. I. 4. et seq.),¹³⁷ see on this also the First and Second Reports.¹³⁸

Measures for human rights education and peace education — also in schools — (para. 13, CRC/C/OPAC/DEU/CO/1; para. 53 (b), CRC/C/15/Add.226) and to strengthen awareness of environmental protection and nature conservation

252. Human rights and peace education takes place in schools at different levels. Human rights are an element of the *Länder* curricula. The *Länder* also provide a wide range of further training for teachers in the field of human rights and peace education.¹³⁹ Violence-free conflict resolution is defined as a major element of the school culture in the policies of a very large number of schools, and is discussed and practiced in lessons. For instance, a large number of schools have introduced student peer mediation. Fundamental information on human rights education in Germany can be found in the Common Core Document at B. II. 8. A description of awareness-creation for human rights issues by the mass media in Germany can be found in the Common Core Document at B. II. 9.

253. The Federal Ministry of Education and Research is also supporting democracy education with projects such as the competition entitled “Democratic Action”. This has been open to all general schools in Germany since 1989. The competition intends to strengthen democratic attitudes and democratic culture in people’s everyday lives through school and youth work.

254. The efforts to provide all school children with human rights and peace education and to provide further training to teachers as to the portrayal of the topics in lessons take a high priority both at *Länder* and at local authority level. For instance, many information sites are provided on the Internet on this topic:

- www.km.Bavaria.de/km/aufgaben/werteerziehung/aktuelles/
- <http://bildungsserver.berlin-brandenburg.de/menschenrechteO.html>
- www.kinderrechte.rlp.de

255. Environmental protection and nature conservation provides the possibility to learn technical and natural science problem solution skills (scientific literacy). Also for this reason, the Federal Government considers that significance attaches to topics that are relevant to environmental protection for children and juveniles. The Federal Ministry for the Environment offers free teaching material on topics that are relevant to the environment for primary and secondary schools.¹⁴⁰ With the Action Programme entitled “Climate protection in Schools and Educational Facilities”, the Federal Ministry for the Environment launched at the end of 2008 the most extensive climate protection promotion programme for schools and educational facilities so far. The Federal Ministry for the Environment is providing more than €3.4 million from the National Climate Protection Initiative for the

¹³⁷ For detailed information on schools, classes, students, foreign pupils, leavers, teachers and lessons — nationally and in the *Länder* — annual results, also time series see the publication of the Federal Statistical Office: *Allgemeinbildende Schulen – Schuljahr 2008/09 – Fachserie 11 Reihe 1 – 2008/09* or www.destatis.de.

¹³⁸ CRC/C/11/Add.5, paras. 75 et seq., and CRC/C/83/Add.7, paras. 656 et seq.

¹³⁹ Exemplary further training events: offered for instance in Bavaria in the shape of Human rights today – a topical teaching subject (February 2003) or Ethics and policy (October 2010).

¹⁴⁰ www.bmu.de/bildungsservice.

promotion of ideas and projects at schools helping to reduce CO₂ emissions. Over and above this, the Federal Ministry for the Environment is promoting a large number of child and youth projects of associations working in environmental protection and nature conservation. These projects are increasing the commitment and awareness of children for the environment and for nature.

256. The *Länder* and the local authorities are committing themselves to human rights and peace education in a large number of projects:

- In Hesse, the Peace Research Institute Frankfurt (PRIF) is providing resources in its work field “peace education/conflict psychology” for accompanying research, evaluation, advice and initiation of projects, in which the ability to enter into conflicts is promoted and cooperative strategies are developed. Fields of work are for instance preschool education, school education, youth media protection, adult education, as well as conflict training and encounter programmes.¹⁴¹
- The specialist conference on the rights of the child has been taking place on an annual basis in Rhineland-Palatinate since 2007. This conference serves the further training of specialists from the field of child and youth welfare, schools and also — depending on the topical focus — from a broad spectrum of groups working with children and juveniles and bearing responsibility for the implementation of the rights of the child.
- Added to this is the “Rhineland-Palatinate Land Democracy Conference”, taking place annually in October. It serves as a central forum of exchange and further training for all interested schools, parents and non-school partners, moderators and support systems of the *Land*, as well as civil society organizations. The event targets school pupils, teachers, parents, non-school specialists, school supervisors and other cooperation partners.
- In Berlin the schools have at their disposal multipliers for human rights education, rights of the child et al. in the field of regionalized further training who offer further training for teachers.
- In North Rhine-Westphalia the framework guideline for political education grants a prominent status to peace and human rights education: various publications have appeared in the education portal and in the official “*Schule NRW*” gazette to support teachers in human rights education at school.
- What is more, there are institutes in Germany, such as the Institute for Peace Education in Tübingen, which concentrate on topics such as education focused on peace and critical dealing with interpersonal, societal and international conflicts in order to be able to make possibilities for civil conflict resolution visible. The field of “Global Learning” has been added in recent years as a further important topical area.¹⁴² In addition to project work, development of education media, implementation of model projects and seminars, the Institute hosts websites for children such as www.frieden-fragen.de, which educate children about backgrounds to war and peace.

3. Training

257. The topic of training is also explored in detail in the portrayal of the German education and training system in the Common Core Document at A. I. 4. f.; on measures

¹⁴¹ See on this: <http://www.hsfk.de/Friedenspaedagogik.11.0.html>.

¹⁴² See on this: <http://www.friedenspaedagogik.de/>.

countering dropping out from training see also the above information in this section and at VII.A.

258. Many training-promoting services of work promotion for the unemployed and those seeking training provide considerable assistance to young people in Germany to attain vocational integration. Several billion euros per year are spent on this, and more than 500,000 young people are promoted. The services are continually refined, most recently in particular by introducing a time-limited training bonus for employers who create additional training places for applicants who are already in the system and by modelling a back-to-work guidance in which counsellors assist weaker pupils from the pre-graduation year to training or, if no training place in a company can be found, into transitional measures in order to support the job selection process and to work against dropping out of school and training.

259. One focus of the Federal Government is to create life perspectives for disadvantaged children and juveniles through societal alliances and vocational integration. The aim is inter alia to show juveniles paths back to school. In a national model project in cooperation between independent institutions, youth welfare offices and schools, possibilities are tried out to reintegrate “hard-core absconders”. In parallel, the skills agencies promoted by the Federal Government improve the vocational integration of disadvantaged juveniles with tailor-made offers. Of the young people who have been taken care of by the skills agencies, almost one in two has been placed in training or work, and one in four has been placed in a promotional service or in continued schooling. The assistance offered for dropout “street children” is described at VI. C.

260. The Federal Ministry of Education and Research, together with the German Confederation of Skilled Crafts (ZDH), the German Chambers of Industry and Commerce (DIHK) and the German Association of Liberal Professions (BFB) in cooperation with the Senior Experts Service (SES) launched an Initiative to prevent Dropouts from Training at the end of 2008.

261. The Conference of Youth and Family Ministers and Senators of the Federal Länder in Bremen in June 2009 decided to standardize the recognition of the new Bachelor’s qualifications for teachers and childcare workers nationally.

Training age in military service (para. 11, CRC/C/OPAC/DEU/CO/1)

262. As was explained in the Common Core Document at B. I. 1. b., the Federal Republic of Germany declared when depositing the ratification document that the commencement of voluntary service as a soldier in the armed forces is permissible from the age of 17 onwards. Persons under the age of 18 are recruited into the armed forces solely for the purpose of commencing military training. Participation in hostilities is ruled out. The protection of under-18 volunteers on their decision to enter the armed forces is ensured inter alia by the need to obtain the consent of their legal guardian and the indispensable requirement that they present an identification card or passport as reliable proof of their age.

B. Educational goals (art. 29)

263. The educational goals and principles are presented in the Second Report at paragraph 743 CRC/C/83/Add.7. There are many facilities in Germany to impart educational goals. For instance, there are offers such as the education service of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety. This offers for instance free materials, current information, activities, as well as user- and service-orientated information and tips for schools and educational facilities on topics relevant to

the environment for schools and educational facilities,¹⁴³ and received credit as an official measure of the National Action Plan of the United Nations Decade of “Education for Sustainable Development”.

C. Leisure, recreation and cultural activities (art. 31)

264. The leisure activities pursued by children and juveniles are of considerable significance for the optimum development of their personalities, abilities and skills. General information on the German education system is contained in the Common Core Document in A. I. 4. f. and g., B. II. 1. c. Educational programmes and information campaigns at federal level are presented in the Common Core Document in C. III. (in particular marginal No. 198).

265. Children and juveniles take note of their environment especially in play. The life reality of children is the place where they live, their neighbourhood, their district and their town; it offers children the important function of a game, experience and living space. A research project entitled “Free space for children and juveniles” (2007–2010) has been initiated on this. The Federal Ministry of Transport, Building and Urban Affairs is pointing the way with this project: towns and municipalities are to be strengthened in their objectives to consistently implement child friendliness at all levels of town development and planning. Over and above this, the Federal Ministry of Transport, Building and Urban Affairs is promoting model projects such as “Young kids on the block”. The projects in the research field “Innovation for neighbourhoods fit for families and the elderly” of experimental home building and urban development are to involve juveniles in the development of their town district. The goal is that juveniles help to plan their town district, and hence make a positive difference to their living environment. In addition to this, the Federal Ministry of Transport, Building and Urban Affairs promotes a wide variety of measures to create greater transport safety for children in everyday, school and leisure transportation in the framework of the implementation of the National Cycle Transport Plan 2002–2012. “Safe cycling” for children also forms an element of the Federal Government’s current strategy to promote children’s health.

266. In order to provide optimum development opportunities for children and juveniles, it is important to also create places for their leisure activities which support and empower them in a highly-varied manner. Book VIII of the Social Code includes in the realization of the right to development and education both positive living conditions for young people and their families and also a child- and family-friendly environment. Child and youth work, which is carried out on the basis of Book VIII of the Social Code, encompasses extramural, primarily pedagogically-framed public, non-commercial educational, as well as activity- and experience-related areas for socialization. Child and youth work is hence also an agency for shaping leisure activities and recreation, but also for young people’s cultural activities.

267. The development of the personality takes place in proactive interaction processes between individuals and their environment. How children and juveniles develop depends on the degree to which and the quality at which they are enabled to take part in fundamental societal activities and processes – on both a small and a large scale. Such places have also been created with the “Action Programme multi-generation houses” described above. Multi-generation houses promote a life together and for one another and the exchange between the generations, and create neighbourly networks. Children and juveniles can take up sports and engage in cultural activities here or participate in cross-generational activities

¹⁴³ See www.bmu.de/bildungsservice.

such as cooking courses or chess tournaments. The sense of togetherness of the generations imparts fundamental values which are indispensable for a society able to face the future: Tolerance, respect for people, their dignity and personality, are lived and imparted here. Juveniles can have new experiences in the multi-generation houses, imparting knowledge to old and young.

268. The field of leisure, recreation and culture is above all characterized in Germany by activities at *Land*, as well as local authority level, such as:

- Rhineland-Palatinate initiated in 2007 the “Week of the rights of the child”, which was under the motto “Children’s right to participate in cultural and artistic life”. It was possible in many individual activities and measures to successfully support children and juveniles with a view to their potential for participation in cultural and artistic life.
- The project “Promoting youth culture and youth tourism” was developed in Schleswig-Holstein, and the “Initiative to enhance youth culture” was implemented. Important measures are constituted by the promotion of innovative cultural projects, as well as the free “MuseumsCard”. Additionally, the construction quality of leisure facilities was supported through investment, and Schleswig-Holstein has launched the “No child without a vacation” initiative.
- The holiday programme “On board” is organized in the city of Stuttgart for juveniles on an annual basis for the entire period of the summer holidays. The programme encompasses almost 100 offers such as “School’s Out Open Air Swimming Baths”, hip hop workshops or DJ training for beginners. As permanent offers, there are for example more than 20 adventure playgrounds and youth farms in cities such as Stuttgart and 44 child and youth houses of the Stuttgart Youth Centre Society are available to children and juveniles.

VIII. Special protection measures

269. The protection of children against sexual exploitation tops the Federal Government’s agenda because the consequences of this abuse for the children are frequently grievous and will haunt the children all their lives. The highest priority therefore attaches to combating violence, and to shaping child protection preventively and successfully. The goal is to avoid any form of violence, as well as to take care of the young victims who need effective assistance. Politicians are called on in particular in order to be able to effectively counter the new dimensions of sexual exploitation of children and violence against children – above all in and through the new media.

270. “Refugee children” also need special protection measures. Unaccompanied minors come to Germany because they flee from acts of war, breaches of human rights or economic need and are looking for protection or a better life. The Federal Government has paid particular attention to this group of individuals in recent years, and has launched a variety of initiatives at legislative and administrative level in order to improve the protection of these children.

A. Refugee children (art. 22) and asylum-seeking minors

271. Children and juveniles who seek refuge in a foreign country need more assistance and care than adult migrants. The authorities concerned must ensure treatment that suits children and juveniles, and with juveniles who apply for asylum, the competent agencies must proceed in a particularly careful, empathetic manner. Special conditions also apply to

any measures terminating residence. The relevant point of view in dealing with minor-age refugees is the best interests of the child.

272. Very particular support is required by minor-age migrants who enter Germany unaccompanied. There are many reasons why minors come to Germany: for instance because — just as adults — they are fleeing from and seeking protection against wars, civil wars, crises, unrest and conflicts, or indeed poverty and natural disasters. Over and above this, (risk of) political persecution or dangers caused by ethnic or religious affiliation may cause flight. Breaches of human rights resulting from war and civil war situations hit children particularly hard, given that they are particularly mentally and physically vulnerable given their age and state of development.

273. The protection of refugees and protection against other dangers to life, limb or personal freedom in the country of origin is guaranteed in Germany by the right to asylum in accordance with article 16a of the Basic Law, by the application of the Geneva Convention on Refugees, by the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, and by the bans on deportation that are provided for in the Residence Act (*Aufenthaltsgesetz*). Authorities, facilities and citizens are committed to ensuring that these children are supported as well as possible. The situation for “refugee children” has been fundamentally improved in the period under report. For instance, access to schooling and vocational education has been improved: apart from in Hesse, school attendance is now also obligatory in all Federal *Länder* for children whose deportation has been temporarily suspended and those who are still in the asylum procedure. The interests of unaccompanied minor-age foreigners in Germany are supported to a particular degree by associations such as the Specialist Federal Organisation on Unaccompanied Minor Refugees.

274. The procedures applied on entry of minors vary a great deal – depending on the *Land* and local authorities. Responsibility for the care of unaccompanied minors outside the asylum procedure lies with the *Länder*. These have largely delegated the individual tasks to the districts, cities and municipalities. Depending on the *Land* in which unaccompanied minors first come into contact with the authorities, the procedures, for instance with regard to “taking into care” and placement, may differ markedly (see below also on the implementation of section 42 of Book VIII of the Social Code). The “non-refoulement principle” under the law on refugees however always applies in Germany, and without restriction (para. 18 CRC/C/OPAC/DEU/CO/1).

275. Book VIII of the Social Code applies unrestrictedly to “refugee children”, including 16- and 17-year-olds (para. 55 a CRC/C/15/Add.226; para. 18 CRC/C/OPAC/DEU/CO/1). Book VIII of the Social Code distinguishes between “benefits” and “other tasks” of child and youth welfare services. Compliance with “other tasks” within the meaning of section 2 subs. 3 of Book VIII of the Social Code (e.g. taking into care, section 2 subs. 3 No. 1 of Book VIII of the Social Code) in any case applies equally to minor-age foreigners and to Germans. With regard to the “benefits” of child and youth welfare within the meaning of section 2 subs. 2 of Book VIII of the Social Code, foreign minors are initially placed on an equal footing if they have their “habitual residence” in Germany legally or on the basis of a temporary suspension of deportation under the law on immigration (section 6 subs. 2 of Book VIII of the Social Code). Section 6 subs. 4 of Book VIII of the Social Code explicitly orders that supra- and international law remains unaffected. If foreign minors do not already have their “habitual residence” by virtue of domestic law, they gain “habitual residence” in any event via the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children. The Convention modifies the definition of “habitual residence” that is relevant to the right of foreigners to avail themselves of youth

welfare services. In accordance with the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, the authorities of the State of residence of the (foreign) minors have to take the measures provided by their domestic law to protect the minor. These include measures of public youth welfare. As for all children and juveniles, also for the care of so-called “child soldiers” in Germany, it ensures that they receive benefits in case of illness and other benefits to secure their livelihood or health (sections 4 and 6 of the Asylum-Seekers Benefits Act (*Asyl-bewerberleistungsgesetz – AsylbLG*)).

276. In the context of the Child and Youth Welfare Further Development Act, the obligation to take into care was also expanded to cover unaccompanied refugees. The provisional protection measures for unaccompanied minor-age foreigners have been re-regulated with the Child and Youth Welfare Further Development Act. Accordingly, the youth welfare offices have been placed under an obligation since 1 October 2005 to take foreign children or juveniles who have entered the country unaccompanied into their care if no custodians or guardians are available in Germany (section 42 subs. 1 sentence 1 No. 3 of Book VIII of the Social Code) (para. 55 a CRC/C/15/Add.226; para. 18 CRC/C/OPAC/DEU/CO/1). Hence, the legislature has also statutorily recognised the special need for protection of unaccompanied refugees (para. 55 a CRC/C/15/Add.226; para. 18 CRC/C/OPAC/DEU/CO/1). Furthermore, the legislature has provided an obligation for the youth welfare office to act that is tailored to the situation of these minors under the law on custody: “A guardian or curator shall be appointed without delay in cases falling under subs. 1 sentence 1 No. 3.”, section 42 subs. 3 sentence 4 of Book VIII of the Social Code.

277. Whilst in accordance with the old law, unaccompanied minors were only taken into care subject to the proviso of an individual danger to the best interests of the child, in accordance with the new law, the unaccompanied entry of minors aged up to 18 is determined as a separate criterion for taking into care. An assessment of the individual danger is no longer necessary. In particular, no distinction is made between unaccompanied minors under 16 and 16- and 17-year-olds, which leads to a considerable improvement in the legal situation of 16- and 17-year-olds. Instead, as with all unaccompanied minors up to the age of 18 a situation triggering taking into care is presumed to exist per se. The legislature has hence recognised unaccompanied minors’ special need for protection (para. 55 a CRC/C/15/Add. 226; para. 18 CRC/C/OPAC/DEU/CO/1).

278. During taking into care, the youth welfare office, together with the child or juvenile, must implement a qualified clearing procedure with all unaccompanied minors (section 42 subs. 2 of Book VIII of the Social Code). This includes clarifying whether it is possible to return to the home country without causing considerable danger to the best interests of the child, whether family reunification in a third country can be considered, whether an asylum application is to be made or a right to remain is to be considered for humanitarian reasons. Additionally, it is examined whether services of educational assistance (sections 27 et seq. of Book VIII of the Social Code) are needed for the child or juvenile in the context of taking into care. Over and above this, the youth welfare office must have a guardian or custodian appointed for the child or the juvenile without delay (section 42 subs. 3, sentence 4 of Book VIII of the Social Code). The guardian or custodian is to play a major role in decisions on ongoing assistance. Taking into care can only be terminated if the further residence of the child or juvenile has been finally clarified.

279. In order to do justice to the special needs of minor-age asylum-seekers, “decision makers”¹⁴⁴ are deployed at the Federal Office for Migration and Refugees as specially-

¹⁴⁴ Current number: 51.

trained special commissioners for unaccompanied minors (also for 16- and 17-year-olds). In the context of the asylum procedure, and in particular when questioning children and juveniles on the causes of their flight, their tasks include identifying “refugee children” who are particularly in need of protection. Two further groups of special commissioners have been deployed for the care of minors who are traumatised or for victims of torture or who have been subject to gender-specific persecution: special commissioners for trauma-sufferers and victims of torture, as well as special commissioners for victims of gender-specific persecution (para. 18 (b), (c) and (d), CRC/C/OPAC/DEU/CO/1; para. 55 (a), CRC/C/15/Add.226).

280. The implementation of the provisions contained in section 42 of Book VIII of the Social Code imposes new challenges in terms of administrative practice. Section 42 of Book VIII of the Social Code requires cooperation on the part of federal and *Land* authorities, as well as the local authority administration, in particular between youth and immigration authorities. In principle, the introduction of the provision has led to noticeable positive changes in the *Länder*. The treatment of unaccompanied refugees differs from one *Land* and place to another, and takes different lengths of time (between a few days and three months). In some local authorities, the clearing procedure is carried out directly with the youth welfare office, whilst in others it is in special clearing houses. Once the procedure has been ended, the minors are accommodated with a suitable individual in a child and youth facility or in another form of accommodation. The spectrum of the various forms of placement for unaccompanied minors and the respectively available forms of sociopedagogical care is broad. There are differences between the individual Federal *Länder*, but also within the Federal *Länder* and cities.

- In Rhineland-Palatinate, for instance, the youth welfare office decides on the placement and care of all unaccompanied minors entering the country in a youth welfare home (as a rule all female juveniles under 18 and male juveniles under 16) or in the facility for taking into care, that is the Reception Centre for Asylum Seekers. This facility for taking into care was established to place and care for unaccompanied minor-age (16- and 17-year-old) male juveniles in the Reception Centre for Asylum-Seekers in Trier, and took up its work on 1 August 2008. These facilities also serve as a clearing agency in Rhineland-Palatinate. Qualified, trained staff are employed here in accordance with the standards of the Specialist Federal Organisation on Unaccompanied Minor Refugees.
- In the Aachen district, for instance, “refugee children” with their special needs are supported in the Café International *Imgenbroich*. Practical assistance is offered there, such as with regard to language or assistance in doing homework. The migrants’ respective ethnicity is taken into account in the advice given.

281. In order to standardize the procedure with unaccompanied minors, the Specialist Federal Organisation on Unaccompanied Minor Refugees has summarized standards in action guidelines and released them as a publication. They target local staff in the youth welfare offices, immigration authorities, welfare associations and youth welfare facilities who come into contact with the unaccompanied minors.

282. With asylum-seekers who enter via an airport and come from a safe country of origin or do not identify themselves with a valid passport or replacement passport, the asylum procedure may be implemented in the airport transit area prior to the decision being taken on entry. The point of this regulation is that foreigners whose asylum applications are devoid of prospects from the outset should already be refused entry. The asylum procedure, including any subsequent emergency court procedure, must be implemented within a deadline period of 19 days as a rule. If this is not possible, the foreigner is to be permitted to enter the Federal Republic of Germany for further implementation of his/her asylum procedure. Most asylum-seekers arriving by air use the airport in Frankfurt am Main. For

this reason, the Federal Office for Migration and Refugees has set up a constantly-occupied branch office there. The airport procedure is carried out both at Frankfurt and at the international airports in Munich, Düsseldorf, Hamburg and Berlin-Schönefeld. For unaccompanied minors, however, it is only deployed in Frankfurt and Düsseldorf. A total of 321 unaccompanied minors went through the airport procedure in Frankfurt from 2004 to 2008. One hundred and forty-seven of them were permitted to enter Germany. At Frankfurt a.M. Airport, which is where most unaccompanied minors arrive, an “early warning system” was implemented in the so-called “airport procedure” between the authorities involved (Federal Police, Federal Office for Migration and Refugees and the Darmstadt Regional Council, which runs the accommodation) to identify persons in particular need of protection. If an authority learns by virtue of its own information or from applications or information from external sources that a person in particular need of protection is in the airport procedure, the other authorities are informed by e-mail. Only “special commissioner decision-makers” for unaccompanied minors who have received special training work in the Frankfurt Airport branch. What is more, child and youth-friendly placement, age-friendly social care, as well as medical care for the unaccompanied minors, are guaranteed day and night by the *Land* Hesse at Frankfurt a.M. Airport. In the vast majority of cases, the minors are permitted to enter on the basis of a prognosis report of the Federal Office for Migration and Refugees that a decision cannot be made at short notice (section 18a subs. 6 No. 1 of the Asylum Procedure Act).

283. A conference took place in the *Bundestag* on 5 March 2007 on the special situation of Sinti and Roma children in Germany (para. 55 b CRC/C/15/Add. 226). With between 7 and 9 million members, the Roma are the largest minority on the European continent; almost half of them are children. Between 100,000 and 200,000 people from this population group now live in Germany alone. At the joint conference held by UNICEF and the Children’s Commission of the *Bundestag*, experts from Roma organizations, academia, authorities and the political arena discussed how Roma children can find a place in a united Europe. Young Roma from Germany and Bulgaria also reported on their situation, based on their own experience.

284. The *Länder* have also carried out activities in order to improve the living conditions of Sinti and Roma in Germany:

- For instance, Bavaria implemented a training course in teacher further training in December 2004 entitled “Dealing with minorities, taking the Sinti and Roma as an example – from the past to the present”

285. Over and above this, a lot has happened in Germany with regard to the civil society commitment for “refugee children” in the period under report: for instance, the associations’ facilities have become more closely networked with refugee-specific agencies. Also, further training services in this field have been taken up more intensively by staff.

Central system to collect data on “refugee children” (para. 9, CRC/C/OPAC/DEU/CO/1)

286. The Federal Office for Migration and Refugees has been evaluating the applications by all unaccompanied minor-age asylum seekers since 1 January 2008. The evaluation by hand particularly also takes into consideration the reasons for flight which have been put forward, such as that of having been a child soldier or having escaped recruitment. Statistics are also kept with regard to 16- and 17-year-old asylum seekers as to whether they are unaccompanied. According to research carried out by the Federal Office in cooperation with the UNHCR and the Specialist Federal Organisation on Unaccompanied Minor Refugees, the reason for flight as “child soldier” or “escape from recruitment” is only stated very rarely; in fact there were four cases in the period from 2005 to 2007.

287. According to the survey, 763 unaccompanied minors lodged asylum applications in 2008, 439 of the applications being from 16- and 17-year-olds. The number of unaccompanied minors lodging an asylum application in Germany had initially fallen. In 2002, 873 unaccompanied minors under 16 had applied for asylum with the Federal Office for Migration and Refugees; only 180 applications were registered in 2007; and 2008 saw the first increase to 324 unaccompanied minors under 16. If one also adds 16- and 17-year-old unaccompanied minors, who are able to act as a party under residence and asylum law, a total of 763 unaccompanied minors applied for asylum in Germany in 2008. The protection rate, that is the share of those who were recognized as being entitled to asylum or who were granted refugee status or subsidiary protection (determination of a ban on deportation), considerably increased in the same year, from 3.5 per cent in 2002 to 51 per cent in 2008 (the information relates to minors under 16). The most important countries of origin of unaccompanied minor-age asylum applicants in 2008 were Iraq, Viet Nam, Afghanistan, Guinea and Ethiopia. Another considerable increase has been recorded for 2009: 1,304 unaccompanied minors filed asylum applications (405 minors under 16, 899 16- and 17-year-olds). The various residence, asylum and social law measures and procedures used in connection with the entry, acceptance and possible return of unaccompanied minors are subject to special requirements because of national and international provisions on the protection of children and juveniles. As to entry into the country, it is highly significant that minors travelling alone are recognized as such by the border authorities, so that — if their rejection or expulsion is not indicated and they have no relatives in Germany — they can be handed to the competent youth welfare office which must then arrange for them to be taken into care, for the appointment of a guardian and for adequate placement. In 2008, 174 unaccompanied minors under age 16 were found at Germany's external borders. In 125 cases, the border authorities decided to hand the children and juveniles in question to a youth welfare office. Of the 24 unaccompanied minors handed over to collectors, 8 were rejected and 12 were expelled.¹⁴⁵

288. As per 31 December 2008, 13,209 persons were recorded in the Central Register of Foreigners who had received a residence permit for the purpose of a child/children joining a person entitled to asylum or a recognized refugee. In 2006, 8,056 such residence permits were issued, 5,640 in 2007 and 6,127 in 2008, these also including extensions for children who have already been in Germany for many years. Such titles were issued for the first time in 2006 in roughly 800 cases and in roughly 600 cases each in 2007 and 2008. No statistical data are available on whether the requirement of ensuring a livelihood or of adequate living space was waived in case of spouses joining persons entitled to asylum or recognized refugees.

Training of staff dealing with refugee children (paras. 7 and 18, CRC/C/OPAC/DEU/CO/1)

289. The Federal Office for Migration and Refugees deployed the above-mentioned “special commissioner decision-makers” in dealing with “refugee children”, specially trained for minors. All special commissioners receive comprehensive legally, cultural and psychological training on an ongoing basis in basic and advanced training courses (para. 7, CRC/C/OPAC/DEU/CO/1; para. 18 (d), CRC/C/OPAC/DEU/CO/1). The goal of the training courses is in particular to create awareness among the special commissioners of the concerns of particularly vulnerable persons in order to guarantee them optimum protection. External expertise is used at the training courses. Basic training courses for special commissioners are implemented by external specialists, such as training centres for victims

¹⁴⁵ See on this, *Unbegleitete minderjährige Migranten in Deutschland – Aufnahme Rückkehr und Integration*, ed. Federal Office for Migration and Refugees, 2008, p. 9; see Annex 2, No. 2 re VI.

of torture. As to unaccompanied minors, advanced training courses take place in agreement and cooperation with the Specialist Federal Organisation on Unaccompanied Minor Refugees. Here, staff of the Specialist Organisation contribute their own training topics and work as lecturers. In addition to the special training courses for special commissioners for unaccompanied minors, training courses take place on an ongoing basis which are linked to the problem area of unaccompanied minors (e.g. dealing with traumatized persons, plausibility, intercultural training and workshops on countries of origin). These “special commissioner decision-makers” have also been deployed for the 16- and 17-year-old group since 2008. The Federal Office for Migration and Refugees is currently working closely with the Specialist Federal Organisation on Unaccompanied Minor Refugees in the field of the basic and further training of experts (para. 18 (d), CRC/C/OPAC/DEU/CO/1). What is more, quarterly talks take place between the Federal Office for Migration and Refugees and the Specialist Federal Organisation on Unaccompanied Minor Refugees. Representatives of the Federal Office regularly attend seminars and conferences held by the Federal Specialist Organisation and actively contribute to the projects and workshops offered there. Furthermore, the Federal Office has been participating since October 2008 in the international UNHCR project entitled “Asylum Systems Quality Assurance and Evaluation Mechanism project” in the sub-area of “processing asylum applications of unaccompanied refugees”. Finally, the Federal Office is taking part in the European Union project entitled “European Asylum Curriculum”. The project aims to bring about a European training system in the field of asylum in order to promote the quality of the asylum procedures in Europe through practical cooperation between the member States and to improve it through uniform training modules. Since the beginning of 2009 five national trainers have successively been trained who can subsequently take on national further training (para. 7, CRC/C/OPAC/DEU/CO/1; para. 18 (d), CRC/C/OPAC/DEU/CO/1).

290. The *Länder* are also taking measures in order to create awareness among experts who come into contact with refugee children for the special situation in which this group finds itself. In North Rhine-Westphalia for instance, during their training, students in the police enforcement service learn about problems and particularities in dealing with minors, ethnic minorities and marginalized social groups, inter alia in the specialist areas of professional ethics and sociology. A broad range of further training is available for police enforcement officers who deal with asylum-seeking minors and refugee children who have been involved in an armed conflict, for instance on the following topical areas: the law on foreign nationals, measures of the guard service, trafficking in human beings, the field of tension related to ethnic German resettlers and East German migrants, conflict prevention, intercultural anti-conflict training, training on hearing and questioning minor-age victims and witnesses, intercultural skills in police work or police victim protection.

New developments in the law on refugees and immigrants

Asylum procedure law

291. There have been many new developments in the field of asylum procedure in the period under report:

- The Immigration Act (*Zuwanderungsgesetz*) (2005) has increased the probability of former child soldiers being recognized as refugees within the meaning of the Geneva Convention on Refugees or a deportation ban being found to apply: Firstly, the protection of refugees in accordance with section 60, subs. 1, of the Residence Act in conjunction with section 3 of the Asylum Procedure Act can now also be granted on the basis of non-state persecution. For instance, one may in principle presume considerable persecution to ensue from the following non-governmental players in accordance with the new law relevant in the context of section 60 subs. 1 of the Residence Act: members of ethnic and/or religious groups, warlords and local

commanders, rebels and parties involved in civil war. Secondly, the danger of being recruited by armed groups or deployed in hostilities is among the dangers which as a rule are taken into account in the context of the examination of deportation bans in accordance with section 60, subs. 2–7, of the Residence Act (para. 55 (c), CRC/C/15/Add.226). Above all, the deportation bans in accordance with subs. 2 (danger of torture or inhuman or degrading treatment) and paragraph 7 (danger to life, limb or freedom) come into question.

- To improve access to information and to strengthen the legal advice service (para. 9, CRC/C/OPAC/DEU/CO/1), in the context of the so-called Directive Transposition Act corresponding indicatory obligations were included in section 47, subs. 4, of the Asylum Procedure Act in 2007 (information obligations of the acceptance facility) and section 31, subs. 1, sentence 3, 2nd clause of the Asylum Procedure Act (information obligations of the Federal Office for Migration and Refugees).

Civil Status Act (Personenstandsgesetz)

292. It is ensured in accordance with the provisions of the Civil Status Act that the births of all German and foreign children in Germany are entered in the register of births and a birth certificate is issued for them (para. 55, CRC/C/15/Add.226). On acquisition of German nationality by birth, see also the remarks on the Nationality Act (StAG) at IV. A. At that place, reference has already been made to the uniform national legal situation which is now applicable, which ensures that birth certificates are issued for all children of refugees and asylum seekers who were born in the territory of the Federal Republic of Germany (para. 55 (d), CRC/C/15/Add.226).

Family reunification of refugee families (para. 55, CRC/C/15/Add.226)

293. Since 1 January 2005, when the spouse and the minor-age single child of a recognized refugee joins the latter, the prerequisites of ensuring a livelihood and adequate living space otherwise applicable to family reunification can be waived. Over and above this, since 28 August 2007 these prerequisites are to be waived without the authority being left with a margin of appreciation if the application which is necessary in the context of family reunification to grant a residence title is lodged within three months after non-appealable recognition of refugee status, and if the family community cannot be restored in a State which is not a member State of the European Union and to which the foreigner or his/her family members have a particular tie. Spouses of refugees joining the latter are released from the requirement to demonstrate a simple knowledge of German which has fundamentally applied since 28 August 2007 for spouses joining refugees if the marriage already existed when the refugee moved his/her focus to Germany. Children of refugees who are of minor age and single have received a residence permit since 1 January 2005 without the prerequisites of sole custody of the parent living in Germany or the positive integration prognosis with over 16s being required which otherwise apply to children joining their family.

B. Children involved in armed conflict (art. 38), their physical and emotional recovery and social reintegration (art. 39)

International cooperation¹⁴⁶

294. Germany works closely together with the Special Representative of the Secretary-General for Children and Armed Conflict (see paragraph 41 above). As was already presented at I.A.2., Germany was one of the first states to financially support the joint project of the Special Representative with UNICEF in 2006 to revise the so-called Machel Study. It was also already stated at I. A. 2. that, by means of the Machel Study, the topic “children involved in armed conflict” was for the first time brought to the attention of the United Nations at a high level in 1996.

295. In the context of its EU Council Presidency (first half of 2007), the Federal Government particularly campaigned for the implementation of the EU Guidelines on Children and Armed Conflict of December 2003. Above all measures were drafted which aim to place higher political emphasis on the topic at national level and on action strategies to implement the Guidelines in 13 focus countries. Furthermore, by drawing up an EU project list the Federal Government created the basis during its Council Presidency for systematic coverage of the projects being carried out by EU States and the European Commission in the field of children and armed conflict in focus countries in particular. The list encompassed roughly 180 projects at the end of 2007 with a total volume of roughly €287 million.

296. The Federal Government is committed to a large number of projects for children involved in armed conflict (art. 38), their physical and emotional recovery and social reintegration (art. 39) in the scope of development cooperation.

- On behalf of the Federal Ministry for Economic Cooperation and Development, the GTZ implemented a project on the “Rehabilitation of physically disabled persons” in Angola from 1995 to 2008 which inter alia founded initiatives for the social or vocational rehabilitation of children of ex-soldiers and fitted physically-disabled children with prostheses, thereby considerably improving their quality of life

C. Sexual abuse and trafficking in human beings (art. 34)

International cooperation¹⁴⁷

297. A detailed portrayal of the measures enacted by German policymakers to protect minors against sexual exploitation can be found at V. H. - Protection against maltreatment and sexual exploitation. The associated activities of the Federal Government at supranational level are listed there.

298. The Federal Government has played a proactive role in the negotiations on the drafting of a Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. The Convention was accepted on 12 July 2007 by the Committee of Ministers of the Council of Europe and opened for signing on 25 October 2007, at which time it was signed by Germany and others. It contains new criminal offences, provisions on jurisdiction and procedural provisions protecting victims. In the criminal law field, the provisions go beyond the commercial sexual exploitation of children

¹⁴⁶ On the national measures see V. H.

¹⁴⁷ On the national measures see V. H.

and into the field of sexual abuse of children (preventive provisions; provisions on the establishment of assistance and treatment offers for offenders and victims). In the Act Transposing the Framework Decision of the Council of the European on combating the sexual exploitation of children and child pornography¹⁴⁸ of 20 June 2008, Germany, transposed this Framework Decision where still necessary (see on this the portrayal at V. H. above). Germany already very much does justice to the requirements of the Council of Europe Convention.

299. To prevent sexual violence and exploitation of children in tourism, the Federal Government, as already described at V. H., has since 2001 accompanied the introduction and sustained implementation of a code of conduct in tourism enterprises and in national and international associations and structures of the tourist industry, and promoted awareness-creation measures and mobilization of the tourism sector.

300. International cooperation is inter alia improved by means of cooperation with governmental and non-governmental organizations and by the continuous cooperation since 2002 in the Working Group for Cooperation on Children at Risk (WGCC, now EGCC) at Baltic state level, as well as cooperation with the Task Force for the Protection of Children in Tourism of the World Tourism Organization (UNWTO).

301. The Federal Government is committed in a large number of projects for children and juveniles who are affected by sexual abuse and trafficking in human beings, such as:

- With the project entitled “Combat against Child Trafficking and the worst forms of child labour” – already described at I. A. 2 running from 2002 to the end of 2009, the Federal Ministry for Economic Cooperation and Development pursued the fight against child trafficking and the worst manifestations of child labour in Côte d’Ivoire.
- On behalf of the Federal Ministry for Economic Cooperation and Development, the GTZ supported the NGO Equal Access until 2007 in developing a radio programme on commercial sexual exploitation of children (ksAK) in Cambodia. Education programmes were produced and broadcast, above all in rural areas with the participation of young girls who had been victims of commercial sexual exploitation and trafficking in human beings.
- From 2004 to 2006, the Federal Ministry for Economic Cooperation and Development, with the support of the GTZ, also implemented the project “Fighting child trafficking and the worst forms of child labour” in Burkina Faso. By these means, women, juveniles and children were promoted in exercising their fundamental rights and their increasing acceptance by the village communities to protect them from discrimination, human rights-violating traditional practices, trafficking in children and the worst manifestations of child labour.

D. Youth court jurisdiction (art. 40)

302. The Common Core Document offers a detailed portrayal of the structure of the German court system and jurisdiction, as well as of the principle of the rule of law in sections A. II. 7, A. II. 8, B. II. 2 b.

303. The Federal Government presumes that the applicable German criminal law relating to juveniles and its handling in practice already comply with articles 37, 40 and 39 of the Convention on the Rights of the Child, as well as with other relevant United Nations

¹⁴⁸ Federal Law Gazette 2008, p. 2149, came into force on 5 November 2008.

standards for the treatment of juveniles who have come to the notice of the criminal justice system (para. 61, CRC/C/15/Add.226).¹⁴⁹ The Federal Government will also continue to carefully and continually observe developments in the delinquency of juveniles and the related measures. Additionally, new methods for optimizing dealing with young criminal offenders are continually being developed and tried in the *Länder*. Fundamental statutory amendments do not appear to be required at present and none are planned.

304. Those sentenced to a term of youth custody in Germany — also those aged between 18 and 24 — should in principle continue to serve their sentences in youth prisons which have an educational leaning, unless they are unsuited for this. Here, they are to be as a rule held in accommodation groups and kept in single cells during quiet times. Separation by age over and above this in school and vocational basic and further training, as well as in implementing treatment measures, is neither practically implementable nor conceptually expedient because of the small number of minor-age inmates (approximately 10 per cent), given that the decisive criterion for placing them together or for separation must be juveniles' degree of maturity.

305. The Federal Constitutional Court on 31 May 2006¹⁵⁰ set out strict, specific requirements for the treatment of young inmates appropriate to their age with which the Federal *Länder* have complied in different manifestations in creating their Youth Prison Acts.

306. For instance, strictly-separated placement of juvenile inmates and adults is guaranteed in North Rhine-Westphalia both in remand detention and in youth prison. The Hamburg judiciary makes efforts inter alia to restrict measures entailing deprivation of liberty to the degree that is absolutely necessary by the judicial authority in cooperation with the authority for social affairs, health, family and consumer protection, as well as the Land Agency for Education and Vocational Training, providing places in “youth court placement”. This is an open institution aiming to achieve a reduction in re-offending by intensively caring for young delinquents. Placement in this facility can frequently avert from the outset or at least considerably curtail the enforcement of remand detention, which imposes a strain on juveniles.

307. The principle of “deprivation of liberty as a last resort” is practiced in the *Land* Berlin, in particular by applying measures of youth welfare, such as anti-violence and anti-aggression training or settlement between offenders and victims. The Act on the Execution of Remand Detention (*Gesetz zum Vollzug der Untersuchungshaft*) in Berlin, which is to enter into force shortly, furthermore does greater justice to the development of modern youth prisons by guaranteeing the placement of juveniles and adolescents and young remand detainees (aged up to 24) separately from criminal inmates and older inmates by age.

308. The Rhineland-Palatinate Youth Prison Act, which came into force on 1 January 2008, explicitly took as an orientation the United Nations Standard Minimum Rules for the Treatment of Prisoners from 1955, on the Administration of Juvenile Justice of 29 November 1985 (so-called “Beijing Rules”) and on the Protection of Juveniles Deprived of their Liberty of 14 December 1990.

309. Partly, Germany has made a decisive contribution to the drafting of the relevant international standards, and in doing so has also used exemplary provisions from the German criminal law relating to juveniles as examples. Thus, the fundamental priority of

¹⁴⁹ As to the interpretative declaration of the Federal Government on the deposit of the ratification document on the Convention, reference is made to the Second Report, paras. 834–844.

¹⁵⁰ BVerfGE 116, pp. 69 et seq.; see on this also, Annex 2, No. 1 re VIII.

educational measures over custodial sentences has already applied since the first German Youth Courts Act of 1923. Since then, criminal law relating to juveniles has been refined on the basis of the criminological and empirical knowledge on which the United Nations standards are also based. One of the prominent objectives of the last major reform which took place in 1990 was the further suppression of deprivation of liberty (be it in the shape of remand detention, be it in the shape of youth custody or of youth detention) and the underlining of the fact that it is a last resort. The statutory system of legal consequences was expanded to include new non-custodial measures (e.g. “alternative sanctions”). This has explicitly also included settlements between offenders and victims, the significance of which was additionally strengthened by procedural provisions in 1999. German criminal law relating to juveniles moreover also facilitates to a considerable degree out-of-court (alternative) settlement with discontinuation of criminal proceedings on grounds of other adequate educational measures (e.g. by parents, school or youth welfare), if the case is negligible also discontinuation without other measures. Roughly two-thirds of all proceedings under criminal law relating to juveniles are dealt with in this way without a formal criminal conviction by means of what is known as “disposal of proceedings outside formal criminal proceedings” (Diversion) (sections 45 and 47 of the Youth Courts Act [*Jugendgerichtsgesetz – JGG*]). In order to make it possible to refrain from further criminal prosecution, it is possible here where necessary for the court to issue instructions to accused persons who have confessed their crimes to promote education or conditions to make clear the wrong that has been done. Of the convicts remaining without disposal of proceedings outside formal criminal proceedings who were under 18 years old at the time of committing the crime, roughly 11 per cent were sentenced to detention in a young offender institution, of whom, 4 per cent (2,400 convicts) received a sentence which was not suspended on probation.

Annexes

- Annex 1 Tables, figures and statistical overview
- Annex 2 Literature, judgements
- Annex 3 List of abbreviations

The annexes can be consulted at the secretariat.
