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**APPLICATION DE LA RÉOLUTION 60/251 DE L'ASSEMBLÉE GÉNÉRALE
DU 15 MARS 2006 INTITULÉE «CONSEIL DES DROITS DE L'HOMME»**

Rapport du Rapporteur spécial sur le droit à l'éducation, M. Vernor Muñoz

Additif

MISSION EN ALLEMAGNE*

(13-21 février 2006)

* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport proprement dit, qui est joint en annexe au résumé, est distribué uniquement en anglais.

Résumé

Le Rapporteur spécial sur le droit à l'éducation, M. Vernor Muñoz, s'est rendu en Allemagne du 13 au 21 février 2006. Le Rapporteur spécial est reconnaissant au Gouvernement allemand de l'avoir invité et remercie tous ceux avec qui il s'est entretenu pendant sa visite.

Au cours de sa mission, le Rapporteur spécial a analysé la jouissance du droit à l'éducation en tenant compte de quatre thèmes transversaux: 1) l'incidence du système fédéral allemand; 2) la réforme du système éducatif entreprise au vu des résultats du Programme international de l'Organisation de coopération et de développement économiques (OCDE) pour le suivi des acquis des élèves (programme PISA); 3) la structure du système éducatif; et 4) la mutation dans la conception des migrations, alliée aux changements démographiques et aux facteurs socioéconomiques.

La Constitution de l'Allemagne reconnaît aux «Länder» (les États fédérés) une compétence quasi totale en matière d'éducation. Chaque Land jouit de pouvoirs étendus pour traiter les questions relatives à l'éducation, conformément aux lois adoptées par son Parlement. Par conséquent, le système éducatif allemand n'est pas unifié, les structures variant d'un Land à l'autre. Au niveau fédéral, différents organismes sont chargés de certaines tâches liées aux débats sur la politique générale et à la coordination nationale. L'un des plus importants est la Conférence permanente des ministres de l'éducation et des affaires culturelles des Länder, qui assure la coordination entre les Länder ainsi qu'entre ces derniers et les autorités fédérales, et qui est chargée des politiques sur l'éducation, la recherche et la culture et des formations spécialisées. L'administration de l'éducation est supervisée conjointement par le Gouvernement central et par les autorités locales autonomes, ce qui limite l'autonomie des établissements scolaires.

Par ailleurs, plusieurs études réalisées dans le cadre du programme PISA ont mis en lumière une forte corrélation entre les résultats scolaires et la situation sociale des élèves ou leur appartenance à une famille de migrants. C'est là une des raisons qui ont motivé la réforme du système éducatif, qui est axée principalement sur la nécessité de passer à un système qui permette de répondre davantage aux besoins spécifiques de chaque élève en matière d'apprentissage. À cet égard, le Rapporteur spécial invite instamment le Gouvernement à revoir le système des filières multiples, qui est extrêmement sélectif et risque d'entraîner dans la pratique une forme de discrimination. Le Rapporteur spécial pense d'ailleurs que la procédure de classement qui intervient au début du premier cycle de l'enseignement secondaire (l'âge moyen des élèves étant alors de 10 ans, compte tenu de la réglementation de chaque Land) ne permet pas d'évaluer convenablement les élèves et peut conduire à des exclusions au lieu de favoriser l'inclusion; le Rapporteur spécial a constaté en effet au cours de sa visite que ce système de classement désavantageait par exemple les enfants défavorisés et les enfants migrants, ainsi que les enfants handicapés.

Enfin, en ce qui concerne les enfants migrants et les enfants handicapés, le Rapporteur spécial estime qu'il est nécessaire de prendre des mesures pour résoudre les inégalités sociales et pour garantir à tous les enfants, en particulier à ceux qui appartiennent aux couches marginalisées de la population, l'accès à la même éducation sur un pied d'égalité.

Annexe

**REPORT OF THE SPECIAL RAPPORTEUR ON EDUCATION,
VERNOR MUÑOZ, ON HIS MISSION TO GERMANY
(13-21 FEBRUARY 2006)**

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Introduction

1. In this addendum to his report, the Special Rapporteur on the right to education reports on his mission to Germany, which took place from 13 to 21 February 2006. The Special Rapporteur expresses his sincere appreciation to the Government of Germany for the cooperation extended to him in preparation, and throughout the course of his mission. In particular, he is grateful to the Federal Foreign Office, the Federal Ministry of Education and Research (BMBF), and the Secretariat of the Standing Conference of Ministers of Education and Cultural Affairs (KMK). He also extends his thanks to the authorities of the various Länder he was able to visit. Special thanks are also extended to the German Institute of Human Rights, as well as to all the education authorities, teachers, students, teacher unions, parents, parents' organizations and researchers for their assistance and their time.
2. The objective of the mission was to understand, in the spirit of cooperation and dialogue, how Germany endeavours to implement the human right to education, the measures taken for its successful realization and the obstacles encountered.
3. Throughout his mission, the Special Rapporteur considered the enjoyment of the right to education in light of four cross-cutting themes, namely: (1) the impact of the German federal system, taking into account the effects of the reunification, on a coherent and uniform education policy, and in the context of the demands of European integration and globalization; (2) the reform of the education system initiated as an outcome of the results of the Organisation for Economic Co-operation and Development (OECD) programme for international student assessment (PISA); (3) the education system structure; and (4) the paradigm shift on migration, in conjunction with demographic changes and socio-economic factors.
4. The Special Rapporteur notes that it is impossible to address in depth all right-to-education issues in Germany or to do justice to the situation, in view of the wealth of experience and sophistication of the German education system, within the allocated word limit.
5. During his visit, the Special Rapporteur met with the Federal Minister of Education and Research and the Minister of State at the Federal Chancellery and Commissioner of the Federal Government for Migration, Refugees and Integration, as well as with senior officials of the Federal Ministries of Education, Science and Research; Family, Youth and Sports; Foreign Affairs and the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder. The Special Rapporteur met with members of the Federal Parliament. In the course of the visit, the Special Rapporteur also met with the Commissioner of the Land Brandenburg for National and International Affairs; and representatives of the Ministries of Education of Land Brandenburg and Land Berlin, as well as the Minister of Education and Senior Officials of the Ministries of Education of Land Bayern.
6. The Special Rapporteur held meetings with representatives of United Nations agencies and several non-governmental organizations (NGOs). He also met with teachers, parents and students; trade unions; journalists and academics. The Special Rapporteur visited preschool education facilities, Grundschule (primary schools), Hauptschule, Gesamtschule, Förderschule and Gymnasium, as well as a centre and school for children with cerebral palsy, in Berlin, Potsdam, Munich, Cologne and Bonn.

7. The Special Rapporteur expresses his sincere thanks to all those whom he met. He also expresses his deep appreciation for the warmth and frankness in the meetings he had and for the constructive self-criticism expressed by some of his interlocutors at the governmental level. The meetings allowed him to appreciate the unequivocal commitment of the Government to provide education to all.

I. THE RIGHT TO EDUCATION: PRINCIPLES, NORMS AND STANDARDS

A. International legal framework

8. In 1948, the Universal Declaration of Human Rights (UDHR) provided the foundation for the international legal framework regarding the right to education. Subsequently, the right to education was enshrined in a wide range of international and regional human rights instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC) and the European Social Charter.

9. The Government of Germany has ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (ICCPR), as well as other major human rights treaties including the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography, the European Convention on Human Rights and the European Social Charter. These treaties contain important provisions related to the right to education and provide a framework for legislation and policy at national level.

10. According to international human rights law, in particular the relevant provisions of ICESCR and CRC, together with general comments Nos. 11 and 13 of the Committee on Economic, Social and Cultural Rights on the right to education, that right includes, inter alia, non-discriminatory, economic and geographical access to schools; availability of quality schools services and infrastructures; appropriate, adequate and quality education provided to students and an education adapted to the social and cultural environment. Primary education should be compulsory and free, secondary education available to all and progressively free and higher education accessible to all on the basis of capacity and progressively free. In short, the right to education can be understood as a right to the enjoyment of a variety of facilities, goods and services necessary for the realization of that right. A State party to the relevant international treaties has an obligation to ensure the realization of the right to education, to the maximum of its available resources.

11. States parties to international human rights treaties have an obligation to give effect to the provisions contained in the treaties. This includes an obligation to respect, protect and fulfil human rights, including the right to education. In view of its ratification of international legal instruments such as ICESCR, CEDAW, CRC, the European Convention on Human Rights and the Human Rights European Social Charter, the Government of Germany has an obligation to respect, protect and fulfil the right to education for those within its jurisdiction.

12. In addition to its international legal obligations, Germany has committed to achieving various education-related goals through its participation in recent international and regional conferences including, inter alia, the Millennium Summit of the General Assembly, the International Conference on Population and Development, the Fourth World Conference on Women, the World Summit for Social Development, the United Nations General Assembly Special Session for Children, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the United Nations General Assembly Special Session on HIV/AIDS.

B. Domestic legal framework and national policies

13. Germany is a federal country and the constitution (the Basic Law) provides the 16 Länder (states) with nearly sole jurisdiction in educational matters. The Basic Law gives only limited power to the Federal State in order to ensure the unhindered movement of citizens throughout the country and their fundamental constitutional rights, such as parental rights, academic freedom or equality before the law. It is the Minister of Education and Research (Bundesminister für Bildung und Forschung, BMBF) that is responsible for some educational aspects at the federal level.

14. On culture and science related issues, the Basic Law contains some fundamental provisions: the entire school system is under State supervision (art. 7, sect. 1), and it guarantees freedom for art, science, research and teaching (art. 5, sect. 3), freedom of belief and creed (art. 4), religious instruction in accordance with the doctrines of the religious communities (art. 7, sects. 2 and 3), the right to establish private schools (art. 7, sect. 4), the freedom to choose one's profession and place of training (art. 12, sect. 1), equality before the law (art. 3, sect. 1) as well as parental rights (art. 6, sect. 2).

15. Through the legislation adopted by their parliaments, the Länder have extensive legislative authorities and powers in the field of education, especially in relation to schools, higher education and adult education. The ministries at the Land level have the authority to issue statutory and administrative decisions and exercise supervisory functions over all educational structures under their jurisdiction.

16. Since the establishment of the Federal Republic, the role of the federal authorities in education has often led to policy debates, while the need for national coordination resulted in the creation of various federal level bodies. The most relevant one for the mandate of the Special Rapporteur is the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder (KMK) which was founded in 1948, even before the establishment of the Federal Republic. The fact that all its resolutions should be adopted unanimously by the participating ministers is one of the most important features of the KMK. Once a resolution is adopted, it is implemented by the Länder through their own legislative and administrative acts and procedures. The KMK is able to ensure coordination between and among the different Länder and the Federal State. It also aims to provide a minimum common ground for the German education system. The KMK is responsible for education policies, higher education and research policies, further and advanced training, as well as cultural policies and provides a forum to express views and present common concerns.

17. The Basic Law provides for special forms of cooperation between the federal Government and the Länder with regard to specific issues, such as educational planning and the promotion of scientific research institutions and projects at supra-regional level. Another body established at the federal level in the early 1970s, the Commission for Education Planning and Research Promotion (BLK), is responsible for this cooperation. It is an intergovernmental body, which cooperates with the various sectoral conferences of ministers. The BLK enhances innovation through the promotion of pilot programmes. Following Germany's recent federalism reform, the joint Federation-Länder task "Educational Planning" has been redefined as "Assessment of the Effectiveness of the Education System by International Standards" (see new article 91 (b) of the German Basic Law).

18. Vocational education and training represent an exception to the generally limited role of federal institutions in the education field. The Federal Institute for Vocational Training (BIBB) has long been a key player in this field. There are several national institutes active in educational research, but no national agency is responsible for such policy relevant functions as standard-setting, performance evaluation or school development. In recent years, new demands have emerged for a greater federal role. This was demonstrated by the establishment and the success of the *Forum bildung* (led by BLK and BMBF) and a study commissioned by the federal Government "On the development of national educational standards", supported the Länder in establishing national standards in the education field. In this context, a national institute for monitoring the implementation of educational standards in the school system - Institute for Quality Development in the Education System - was created in 2004 with financial support from the Länder and the federal Government. National standards are indeed set in dual vocational training through training regulations and framework curricula in agreement between the federal Government, the Länder and the social parties. For vocational training in full-time schools, the process of developing competency-oriented ("national") educational standards across the Länder was initiated in the Standing Conference in mid-2005. First results are expected in mid-2007. The Institute for Quality Development in the Education System (IQB) was established by the Länder and is also financed by them without support from the federal Government.

19. The administration of education is rather centralized in the different Länder, even if small differences can be detected. Most Länder administers education in line with common European models characterized by shared responsibility between the central administration headed by the Minister of Education and self-governing local authorities. In the education sector, regional and district authorities operate under the direct supervision of the Minister of Education. These authorities are responsible for legal and professional supervision and inspection. Schools operate in a highly regulated environment: operational rules are defined by higher authorities and schools themselves have relatively little impact on teaching programmes, personnel or material resources. Measured by the PISA index of school autonomy, German schools are less autonomous than the OECD average.

20. The structure of local government consists of 445 district governments, 313 of which are town municipalities. In addition, the three city states of Berlin, Bremen and Hamburg have the status of a Land. The role of local governments differs among the Länder. While in most of the Länder, the local government is confined to assuring the physical infrastructure of schools, in other Länder it is increasing. For instance, in North-Rhine-Westphalia, the 150 municipal self-governments have played a noticeable role in shaping the school system. In Baden-Württemberg, the government has transferred many administrative services from the

ministry of education to the local governments. Municipal authorities may play a role in personnel policy as well, as the employers of auxiliary personnel, kindergarten teachers or, in some cases, replacement of teachers.

21. Germany has established mechanisms to ensure teacher participation in the development of teaching policies. Their involvement is ensured not only through teachers' organizations but also by their direct participation in different consultative bodies, such as councils at the school, regional and land levels. Teachers are represented by trade unions and professional associations. Most teachers are organized into two main groups of unions: the Trade Union of Education and Science that belongs to the German Trade Union Confederation and then several unions which form part of the German Federation of Civil Servants.

22. Trade unions and teachers' organizations are consulted regarding most of the matters that affect them. They also represent the interest of their corporation at the federal level with regard to initiatives developed by the KMK.

II. KEY FEATURES OF THE GERMAN EDUCATION SYSTEM

23. Germany - together with Belgium and the Netherlands - is one of the three OECD countries that have increased the age of compulsory education to 18. The school system is characterized by relatively high enrolment rates at all school levels. In 2001, for example, 89 per cent of the 15-19 years of age were enrolled in schools, which was well above the OECD average (78 per cent). It has to be stressed, however, that at upper secondary level more than half the students attend school on a part-time basis as part of their vocational education, and the proportion of upper secondary students enrolled in programmes that provide qualifications to enter university (Abitur) is lower (37 per cent) than the OECD country average of 49 per cent.

24. The structure of the German school system is complex and diverse. Although Germany does not have a unified school structure there is, in practice, a recognizable common framework across the different Länder. It is interesting to note that despite general acknowledgement of the importance of preschool education, preschool is not yet seen as a fully integrated part of the school system in its narrower sense. It comprises facilities (largely kindergartens) for children from age 3 to 6, which is the age for obligatory entry in school. Children of 6 who have not yet attained a sufficient level of development to attend primary school have further options such as Schulkindergartens or Vorklassen. These institutions are either assigned to the preschool or the primary sector depending on the particular Land. Attendance is usually voluntary, although in most Länder the authorities are entitled to make it compulsory for children who have reached school age (6 years) but are not yet ready for school.

25. Once children reach the age of 6, they are, as a rule - except for the above-mentioned example - obliged to attend primary school. All children integrate the Grundschule which covers four years, except for Berlin and Brandenburg where the Grundschule covers six years. The transition from primary school to one of the different lower secondary schools where pupils should remain until the completion of their full-time compulsory school attendance is dealt with differently according to the Land. The lower secondary level, which starts relatively early (at the age of 10 in most Länder), is highly fragmented. At that lower secondary level, there is a greater variety of programmes and school types than in most European countries: Hauptschule (lower level secondary school programme, is in most cases integrated with primary schools and

normally covers grade 5 to 9, and provides access to vocational education and training), Realschule (intermediate level general secondary school; it normally covers grade 5 to 10, and provides access to upper secondary education); Gymnasium (academic school that combines lower and upper secondary levels and lasts 8 to 9 years); integrated schools (Gesamtschule) and multi-track schools (comprehensive schools providing a unified programme or various programmes in a single institution; Special education schools (Sonderschulen/Forderschulen) for children with special needs; and finally, alternative schools (typically private schools, especially religious affiliated schools). It should be noted that not all Länder have all existing school types. In some Länder there are no Hauptschule or integrated schools. Moreover, private schools are not necessarily organized according to the main format of the lower secondary level in most Länder.

III. EDUCATION REFORM IN LIGHT OF THE OECD PROGRAMME FOR INTERNATIONAL STUDENT ASSESSMENT (PISA)

26. In 1997, OECD member countries launched the programme for international student assessment (PISA) with the aim of monitoring the extent to which students near the end of compulsory schooling have acquired the knowledge and skills essential for full participation in society. PISA assessments began comparing students' knowledge and skills in the areas of reading, mathematics, science and problem solving. The assessment of student performance in selected schools took place with the understanding, though, that students' success in life depends on a much wider range of competencies (which have also been developed and used by the OECD).

27. In Germany, the issue of pupil performance has for some time been the subject of public policy debate. The Standing Conference has actively taken up the issue with its resolution of October 1997 (called "Constance" resolution) and its participation in international and national comparative surveys. The Standing Conference has also expressed its intention to use competition between the Länder as a means to improve education quality.

28. In that regard, and in order to be able to introduce targeted quality improvement measures, regular assessments of educational outcomes to benchmark strengths and weaknesses in the education system are a key requirement. Therefore, the Standing Conference is involved in various simultaneous surveys, such as PISA, PISA-E, thematic reviews on PISA and PISA-E, PIRLS/IGLU; IGLU-E, TIMSS-study and DESI.

29. As mentioned above, PISA is a programme undertaken by the OECD and is part of a longer term and broadly based quality assurance strategy. It comprises a periodic review with a different focus each time (PISA 2000 focused on reading literacy; PISA 2003 on mathematical literacy and PISA 2006 on scientific literacy). PISA-E is the extension of the international survey to a comparative study between the Länder. In the framework of the thematic reviews on PISA and PISA-E, the Standing Conference commissioned additional thematic reviews on social background and school performance; reading literacy; the role of school, family and peers with regard to subject and trans-disciplinary learning; mathematical literacy, scientific literacy and problem-solving competencies. Besides the above national reports, the federal Government in consultation with the Länder also very much supported the preparation of international thematic PISA reports, thus in particular the report on the performance of students with a migration background in an international comparison.

30. The international study PIRLS/IGLU (Progress in International Reading Literacy Study/International Grundschul-Lese-Untersuchung) is carried out by the international association for the evaluation of educational achievement. This study allows to assess the level of understanding of texts by pupils in the 4th grade. IGLU-E is the extension of the IGLU study at the national level with a comparison between the Länder.

31. In the DESI (Deutsch-English-Schülerleistungen-International/German-English International Student Performance) national comparative survey, basic information about the performance level of pupils in 9th grade was collected with regard to English as well as to the command of the German language. The objective of the study was to develop explanatory approaches with regard to education and school policy international, the revision of curricula, textbooks and teaching materials, as well as with regard to teacher training.

32. The results of the various cycles of PISA and PISA-E show that school performance in Germany was partly below the OECD average (PISA 2000), at the average (PISA 2003), and partly a little above the average (problem solving skills in PISA 2006). Weaknesses were identified particularly with regard to tasks which require a qualitative understanding of the context and which cannot be solved by resorting to routine knowledge. Moreover, the study established a correlation between the social background and the acquisition of competencies. Young people from families with a migrant background - especially families which speak a language other than German at home remain on average clearly below the competence level achieved by 15-year-old students whose parents were born in Germany. Support for pupils from a migrant background seems more successful in other countries than in Germany.

33. The PISA shock has been a trigger for a new education reform. The poor results scored by German students in the PISA study caused a great shock in the country. The main finding of PISA shows that Germany has the highest co-relation between social background and educational achievement compared to other industrialized countries.

34. After a first evaluation of the results reported for Germany, the Standing Conference agreed on seven priority fields of action: (1) improvement of language competence as early as preschool education especially for children with a migration background; (2) strengthening of the link between the preschool sector and primary school with the aim of an early school entry; (3) improvement of primary education and the continuous improvement of reading literacy and basic understanding of mathematical and scientific concepts; (4) efficient support of educationally disadvantaged children with particular regard to children and youths with a migrant background; (5) thorough development and assurance of the quality of teaching and schools on the basis of binding educational standards and result-oriented evaluation; (6) improvement of professionalism in teaching with particular regard to diagnostic and methodical competence as an element of systematic school development; (7) expansion of the provision of school and non-school activities for the whole day with the aim of increasing opportunities for education and support with particular regard to pupils with educational deficits and especially gifted pupils.

35. The first measure of language support at preschool level was considered as a key measure by the German authorities. It is felt that this support should be anchored even more strongly in the educational work of children's day facilities and preschool classes and parents are to be more strongly involved. The use and further development of a methodological set of instruments for

the expansion of diagnosis and the support of language competencies are of particular importance in this respect. In this connection, important instruments are the determination of language level prior to compulsory education and, building on that, language support courses by which the Länder want to assure adequate competencies for all children entering primary school.

36. Parents are now involved in the educational process of their children through German courses and increased information and availability of advice about preschool opportunities. The improvement of the qualification of educators is also planned through training reforms and intensive in-service training on intercultural education and language support. In order to optimize the transition of children to primary schools, educators are to cooperate to a greater extent with primary school teaching staff. Some Länder are even providing joint- in-service training for those involved in preschool and school education.

37. At the primary level, German authorities are aiming at reducing the number of school deferments and at encouraging early enrolment in primary school. In view of the PISA results, the majority of Länder decided to intensify cooperation between preschool facilities and primary school by allowing flexible school enrolment phases. This flexible phases offer the opportunity to complete the first two years in one to three years depending on individual abilities. The other objective is to enrol all children in primary school on schedule in order to avoid deferment in school entry. This would also allow mixing various age groups allowing for targeted specific support for faster and slower learners.

38. The skills areas defined in PISA were included in the revision of the curricula for schools at the lower secondary level, which focused on: (1) the acquisition of basic competencies in German and mathematics, as well as the promotion of social competencies; (2) the drawing up of binding standards and evaluation criteria related to different age groups. The requirements lay down the abilities, competencies and knowledge which pupils should have at each step of their school career; (3) alongside a clearer definition of the compulsory elements, scope will be provided or expanded for teaching methods to encourage pupils and strengthen problem-solving thinking. The KMK considers that the mastering of the German language is key to school success and full integration in the German society. In that regard, language learning classes are offered to children whose mother tongue is not German and/or who have insufficient knowledge of German. In addition to those intensified classes, additional care for all pupils in the afternoons helps intensify language learning.

39. Among the priorities identified by the KMK, measures for the effective support of educationally disadvantaged children with and without migrant background are implemented. Besides language support classes, mechanisms of cooperation between schools and child welfare centres were established in order to develop networking and cooperative structures, support and advice on support initiatives. Furthermore, special contingents of teachers of German as a second language, as well as the recruitment of teachers with migrant background are intended to support the success at school of pupils with migrant background. At the lower secondary level, a number of Länder are initiating or supporting programmes or pilot projects in schools aiming at reducing the number of children leaving school without qualification. Their objective is to strengthen the motivation and individual responsibility of pupils in the transition into the labour market. This includes practical learning classes at Hauptschulen, the combination of formal learning at school and work experience, vocational orientation days as well as pilot projects for vocational orientation and preparation. There are programmes to promote the integration in the

labour market of young adults threatened by unemployment, in particular migrants and pupils with German language deficits. These measures are carried out, for example, by vocational schools in cooperation with youth and community work organizations.

40. Among the many measures identified, teacher training and full day schools are to be implemented also as a matter of priority. The reform of teacher training implies making teaching methods and counselling more professional. In that regard, teachers should be trained to reinforce their didactical and methodological competencies as well as their competencies in diagnoses of student performance. Training is particularly important for German language teachers who would have to teach German to children for whom German is not their mother tongue. As a result of the resolution “Standards for teacher training: education studies” (resolution of the Standing Conference of 16 December 2004) - the Länder implemented training and further training modules in teacher training for the increased further training of teaching staff with regard to teaching theory and methodological competencies. In that regard, the Special Rapporteur noted that despite governmental efforts to reinforce and strengthen language teaching, the results seem to be below expectations. In his view the problem lies with the fact that German is taught as a second language to children who speak another language at home but teachers often use the same methodology they use to teach German speaking students. Existing methodologies teaching German as a second or target language should be expanded and used when required.

41. Moreover, efforts are being implemented by more and more Länder to set up whole-day provisions and full-time schools. This includes the combination of teaching for all pupils, distributed in a compulsory manner across morning and afternoon with extra-curricular activities, as well as schools offering additional educational and care facilities on, at least, three days per week. In some Länder, the above measures are supplemented by afternoon activities carried out by partners outside school premises, such as music classes, sports associations, etc.

IV. EDUCATION CHALLENGES

Initial considerations

42. Germany has good public education coverage (approximately 90 per cent), an underlying factor in the country’s remarkable scientific and technological development. Besides the fact that the State provides funding for many of the educational needs under this coverage, it should be stressed that very extensive State coverage of educational needs helps forestall the emergence of private education businesses, which could hinder the development of a sense of social solidarity among the population. For this reason, efforts to strengthen public education should continue and should be extended to reach those population sectors which are currently at risk of being excluded.

43. As noted by the Special Rapporteur, it is in the German tradition to come up with institutional responses to meet any problems arising in the educational system, thereby ensuring that the country’s educational reforms respond to its economic, social and political challenges.

44. The reunification of Germany, for example, posed enormous challenges in virtually all development areas, including that of institution-building, entailing the need for efforts to mitigate poverty and to devise coherent and efficient educational management models, given that the wide disparities between the areas previously forming part of the former German Democratic Republic and the Federal Republic of Germany remained in place and required urgent attention.

45. Accordingly, the new political and territorial configuration of the Federation should respond to the educational needs of the country's more impoverished regions, which have been unable to resolve crucial problems relating to quality of education and to educational opportunities - or the lack thereof. Given the increasing autonomy exercised by the Länder in developing their educational systems, it would seem that, at the federal level, it is not always possible to ensure that these processes are egalitarian. For example, the per capita budgetary allocations for education vary significantly from Land to Land, and the federal Government is unable to intervene in any decisive manner to restore the balance between them.

46. The discrepancies between the educational systems operating in the different Länder (some of which follow a two-track, and others even a three-track, system) could be considered a matter of a range of choices. In practice, however, the lack of uniformity can cause difficulties for pupils whose families have to move home, for example. There would seem to be problems in ensuring that educational opportunities are provided in a uniform manner, given that the availability of education depends on the place where pupils and their families actually live.

47. Germany, like many other countries, is facing various challenges which impact education policies and reforms. Globalization means that education has a leading role in ensuring Germany's competitiveness at the international level. Even more rapid changes in the working world as a result of globalization are continuing to increase the need for highly qualified workers. Unskilled workers are less and less needed. The even more rapid increase in knowledge and in the availability of knowledge is creating great opportunities for personal, societal and economic progress, whilst at the same time increasing the risk of exclusion for those people who do not have adequate access to continuous further education in the course of their lives.

48. These changes and the increasing complexity of society require values which enable participation in the further development of society. Growing European and international integration are placing high demands on intercultural and language competencies as well as the willingness to be mobile. The demographic changes aggravate such challenges.

49. The Special Rapporteur notes that the successful reform of the German education system as a whole presupposes both reforms of content and structure. Seven priorities should be highlighted: (1) move from a selective education system to a system which supports the individual and focuses on the person's specific learning abilities; (2) schools should be more independent, meaning that schools should be flexible and autonomous in the use of fundings, recruitment of teachers and implementation of central objectives; (3) improve education contents and methods, especially through systematic language training for migrants, strengthening reading skills, and introduction of new media; (4) strengthen democratic school culture by giving the child more autonomy and the possibility for children to use their competencies; (5) structures should give anyone a chance to develop his and her own potential, through strengthened kindergarten opportunities, introduction of full-day schools, and abandoning the multi-track

school system. Regarding the latter, it should be noted that - despite successful foreign examples of one school system for all pupils which allows children to learn together for a longer period of time thus encouraging all children to reach better results - the discussion of the multi-track system, which appears extremely selective to the Special Rapporteur, seems to trigger great anxiety and resistance, especially anxiety over the loss of privilege for those who benefit most from the current system; (6) a different training for teachers who should not only be specialized in their teaching field but also at the pedagogical level; (7) greater investments and funds for early-childhood support, for which funds should be better invested and distributed. Many Länder are already extremely active in implementing various of the above priorities, such as priorities 1, 3, 6 and 7.

A. Social opportunities and education opportunities

50. As pointed out by the Special Rapporteur in his previous reports,¹ education serves purposes which are clearly specified in international human rights instruments and it cannot be reduced merely to tackling problems arising in the political and economic domains. It is accordingly clear that, judging by the inequalities affecting education, there is an overarching social inequality by which education is determined.

51. The relative inequalities persisting in the Federal Republic of Germany, for example, have been sufficiently documented both in social and economic studies and in educational literature. It is known, for example, that close on 1.5 million persons live in straitened social and economic circumstances and depend on State assistance to meet their domestic needs.

52. Social imbalances also affect the demographic make-up of the Länder, since some of these are experiencing heavy immigration flows and have higher poverty levels than others.

53. These social and economic restrictions come hand in hand with educational limitations which also impede the school performance and intellectual development of school pupils. The effects of this social inequality are reflected in the opportunities for educational advancement, as may be seen from the studies by PISA.

Fragmented and selective approach

54. The Special Rapporteur noted that the system of classifying schoolchildren in lower secondary education (which starts from age 10) includes an individual assessment of the pupil by teachers who have not always been properly trained in performing this kind of service. This process is governed by a statute which varies from Land to Land, another factor compounding the problems already identified. The Special Rapporteur believes that the education authorities might be attaching disproportionate weight to the linguistic competence of schoolchildren, given that one of the key elements of the classification assessment is their proficiency in German. This element has the effect of discriminating against schoolchildren of foreign origin whose mother tongue is not German.

¹ Documents E/CN.4/2005/50 and E/CN.4/2006/45.

55. It is clear that this early classification militates against the less advantaged children and teenagers, such as those living in poverty, of immigrant origin or with disabilities. This conclusion is supported by one incontrovertible fact: at the *Hauptschule*, poor children of immigrant origin are over-represented, while at the *Gymnasium* they are underrepresented. As a result, the system would appear to have a negative effect, since the disadvantaged end up being doubly disadvantaged.

56. The classification system tends to move the educational system away from an inclusive approach and to favour separation as an educational strategy, since it is based on the use of an educational structure which does not always categorize pupils appropriately. In this context, one of the IGLU studies has demonstrated, for example, that 44 per cent of classification decisions were out of step with the actual abilities of the children concerned. This fact is of legal relevance, since it impinges on the principle of the best interests of the child, as stipulated in the Convention on the Rights of the Child.

57. These considerations incline the Special Rapporteur to believe that there might be a connection between the structure of the educational system, the performance of the teachers (as those responsible for classifying the children) and the pupils themselves, since, in other countries, it is unusual to find children being classified from the age of 10.

58. The Special Rapporteur also learned that some 20 per cent of male pupils of immigrant origin attending the *Hauptschule* left before finishing school or were unable to find jobs even when they did have school-leaving certificates. These pupils have to compete with others, like them, who are unemployed, and also with job-seekers who have better educational qualifications, a situation which serves to exclude them even further.

59. Neither PISA nor PIRLS make any direct connection between the structure and the effectiveness of educational services, since they are not directly concerned with this relationship. The Special Rapporteur is fully aware that the three-track structure forms part of an extensive and strongly entrenched tradition in Germany, but he also notes a number of factors indicating that the educational structure does in fact have a decisive effect on the completeness and effectiveness of education and the quality of the teaching provided. Attention has been drawn to the existence of alternative structures, such as the *Gesamtschule*, which also replicate the classification system, however, even though they are held up as models of comprehensive education.

60. On the basis of his observations, the Special Rapporteur believes that the educational system should be structured in such a way as to render it more permeable - in other words, more responsive to the needs and rights of the pupils, bearing in mind that children develop in different ways and come from different cultural backgrounds and, most important, that any educational system should proceed from the principle of diversity as the cornerstone of its operation.

61. Mothers and fathers, together with the pupils themselves, should have a real possibility to participate in the adoption of decisions relating to classification and other essential aspects of the educational system. This possibility should be established in law.

62. According to reports received, it is possible that, in some Länder, education is understood exclusively to mean school attendance. Even though the Special Rapporteur is a strong advocate of public, free and compulsory education, it should be noted that education may not be reduced to mere school attendance and that educational processes should be strengthened to ensure that they always and primarily serve the best interests of the child. Distance learning methods and home schooling represent valid options which could be developed in certain circumstances, bearing in mind that parents have the right to choose the appropriate type of education for their children, as stipulated in article 13 of the International Covenant on Economic, Social and Cultural Rights. The promotion and development of a system of public, government-funded education should not entail the suppression of forms of education that do not require attendance at a school. In this context, the Special Rapporteur received complaints about threats to withdraw the parental rights of parents who chose home-schooling methods for their children.

B. Education of migrant children and children of migrant background

63. For many years, Germany never regarded itself as a country which takes in immigrants. People coming to Germany in search of work over the last few decades have not been seen as communities putting down roots in the country and, in the popular view, it was thought that they would eventually return to their countries of origin. Contrary to this view, communities originating from different countries, in particular Turkey, have made their lives in Germany and settled there permanently. Even though several decades have passed since these communities first arrived, thousands of German children of foreign origin still need to be better integrated in the country's educational systems and in society as a whole.

64. The educational debate in Germany revolves not only around the issue of quality of education and related aspirations, but also about the country's need to embrace other European integration processes, such as the agreements on the Schengen area, the common European asylum policy and the European Refugee Fund of the European Union, among others. The principle of unity in diversity goes beyond the mere adoption of international agreements and also involves extensive processes of research and practical action within the country, enabling it to respond to an increasingly intricate intercultural landscape.

65. The problem of language is a key element of this landscape and is also of crucial importance for meaningful progress in the educational system, since children, once they complete primary school, are assigned to different types of schools on the basis, among other considerations, of their competence in German. In many cases, lack of tuition in the children's mother tongue impedes their educational development.

66. Despite the specific features characterizing German communities of immigrant origin, the Special Rapporteur is of the view that this problem is more social than ethnic in nature, since these communities are generally to be found in the less advantaged strata of society. It is clear that the various disparities affecting immigrant populations which have accumulated over the years have not been properly addressed and that the principal educational need to be tackled at the current time relates accordingly to the issue of quality, if the social disparities between students and the lack of educational opportunities, which result in unemployment and social exclusion, are to be remedied. In the Government's view, providing equal educational opportunities and attending to the individual needs of each pupil are benchmarks for the quality of the educational system. From the outset, efforts to improve the quality of teaching cannot

succeed in the absence of equitable and egalitarian conditions in the school system, relating to the questions of access and regular attendance, and also the provision of support for and attention to basic social and educational needs. Unless education is viewed as a human right which must be upheld for every child, it will be difficult to meet the specific needs of German pupils whose parents or grandparents came from foreign countries.

67. As clearly demonstrated in studies conducted by PISA, there is a marked gap between school performance and actual employment opportunities, since educational qualifications are needed to enter the job market. For example, one of every three unemployed persons in Munich is of immigrant origin and unemployment among those who lack training, according to the Federal Employment Agency (2001), is at the level of 20 per cent in the west and 50 per cent in the east of the country.

68. Among the communities which are indisputably foreign, it is probably persons in an illegal immigration situation who encounter the greatest difficulties in the area of education and, as the Special Rapporteur was informed, the declaration by the German Government made at the time of ratifying the Convention on the Rights of the Child² has the effect of according precedence to consideration of a child's status as a refugee over recognition of that child's status as the holder of certain rights. Indeed, according to the information provided to the Special Rapporteur, children with a refugee background are not covered by the compulsory school system. Even after the implementation of a positive reform on this matter by several federal states, there are still three (Baden-Württemberg, Hessen and Saarland) that exclude children with an insecure law status from it. These federal states developed a system for refugee children, which is called "School right". The Special Rapporteur considers that this system has certain disadvantages, such as the School right is not compulsory, the fact that the school authorities receive no information from the registry office that a refugee child is in its area, there are problems to finance remedial teaching and extra tuition and the fact that the right to attend school depends on capacities and physical structures available. Furthermore, according to information provided with regard to the Land of Berlin, there is a discrepancy in legislation regarding obligation of education until 18 years and refugee legislation where the age of majority is 16 years and not 18. This discrepancy permits leaving out of education young refugees.

69. The situation described above shows that there is a discrepancy between immigration law and the right to education. There is in fact no evident connection between the status of refugee under law and the right to education enshrined in international human rights instruments.

² The declaration states that: 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.

70. During interviews conducted by the Special Rapporteur with refugee organizations, he was informed that many children and teenagers stay away from school for fear of being found out and possibly deported.

71. The Special Rapporteur also learnt that refugee reception centres often lie far from schools, another factor deterring refugee children from attending school. In addition, it was argued that refugee students have no opportunity to receive vocational training. The Special Rapporteur was informed after his visit that, in the field of educational funding law [Federal Training Assistance Act (BAföG) and Social Code (SGB III)], the federal Government intends to present an amendment which will contain improved conditions for migrants. Foreign students who already have a long-term residence entitlement or who have at least lived in Germany for a long time and can count on permanence under residency law will be funded without a previous minimum earnings period of their parents.

72. In the case of illegal immigrants living in Germany, the situation is rather less clear and, as the Special Rapporteur was informed, the response by the various Länder and the federal Government has been far from uniform. In many cases this response has been no more than a certain measure of tolerance (“Duldung”) which, although deportation is usually avoided, still leaves the persons concerned uncertain about their status and exacerbates their sense of insecurity. Illegal immigrant children usually do not know that they can still attend school and their families are also unaware that they can request a particular immigration status, in accordance with the laws in force in Germany. The German legal system differentiates between foreigners whose residency status is not secured and who are known to the authorities (e.g. people with exceptional leave to remain Duldung), asylum-seekers, and those who are not known to the authorities, so-called illegals. According to the information brought to the attention of the Special Rapporteur, illegal children are completely excluded from the compulsory school system in the majority of the federal states. This is worsened by the fact that headmasters have the duty to call the immigration office if they receive information about an illegal child, which has grave consequences on the right to education of the children, because families with an illegal residence status have to deal with the threat that a headmaster might call the immigration office if they try to send their children to school.³

73. At the invitation of the Government and the education authorities, the Special Rapporteur had the opportunity, during his mission, to visit the Amaro Kher school in Cologne, whose pupils are primarily Roma children of illegal immigrant families. “Amaro Kher” is a centre financed by the city of Cologne and by the State of North-Rhine-Westphalia, which aims to prepare a larger group of Roma children to attend at a later stage regular schools or kindergartens⁴. The programme is specially addressed to Roma and Sinti children who have so far had no experience of school education or have shown “anti-social” behaviour. While the Government is clearly providing educational services for this community, the fact remains that Roma children are subjected to harsh discrimination and suffer severe inequalities, in terms of both budgetary allocations and school facilities. It is also alleged that there are serious problems

³ Document provided during the visit. “School attendance of refugee children and children with no law status in Germany”, Terre des hommes, 15 February 2006.

⁴ There is another similar project in Frankfurt, “Schaworalle”.

in finding teachers qualified and willing to teach these children. The Amaro Kher school is a prominent example of the determination of this community and of a clear commitment by the Government, which must be further encouraged so as to transform this school and others like it into educational centres of the same level as other mainstream educational institutions.

74. Germany's commitment to its communities of immigrant origin has a sound foundation and must respond to the needs and challenges identified by international studies and by local analysts. The demographic make-up of the country is undergoing radical change and it is possible that, in some 20 or 30 years, more than one third of all schoolchildren will be of immigrant origin. Given this reality, the Special Rapporteur stresses the need for a decisive and creative response, since, if the inequality which currently prevails in the educational system is to persist, unemployment levels will rise, increasing the burden of State assistance for the unemployed with the resulting consequences. The creation of educational opportunities for all members of the population is therefore a fundamental political and economic need in Germany.

C. Education of children with disabilities

75. One of the major challenges facing the Federal Republic of Germany relates to the situation of the disabled. At the request of the Special Rapporteur, the German Government responded to a questionnaire on the situation regarding the right to education of these persons, which constituted one of the topics of its main report for this period.

76. In the case of Germany, a campaign has been mounted for the so-called "integration" of disabled persons in educational processes. The notion of "integration" is problematic and lacks any clear legal definition; it should, however, include the notion of "inclusion", underpinned by the adoption in December 2006 of the Convention on the Rights of Persons with Disabilities. Germany aims to ratify the Convention in March 2007.

77. Integration may be understood as a process in which people are obliged to adapt to a predetermined model. Seen in this way, it is a top-down process which gives no heed to the special educational needs and specific characteristics of each individual, including schoolchildren and students with disabilities. It is not the individuals who should adapt to the educational system but the reverse. Inclusion, on the other hand, responds to the needs and rights of individuals and renders it incumbent on the State to ensure that all children receive education together in the same school environment. There are signs that, in Germany's case, insufficient progress has been made towards the inclusion of the disabled in ordinary schools and, while it is clear that the country has excellent specialized centres for the disabled, these are primarily designed to offer medical attention.

78. One of the main difficulties in this area springs from the fact that the education authorities accord very limited opportunities to the parents of disabled children to choose the best options for their sons or daughters. Added to which, it seems that parents have no opportunity to choose the educational structure in which they would like their children to study and thus the system, from the very outset, falls short of the needs of families and of the disabled individuals themselves.

79. As noted by the Special Rapporteur, it is not the norm for disabled children to be included in ordinary schools. As a result, the policy of integration promoted by the Government could be

viewed as a form of segregation which has the result of placing most disabled schoolchildren in special schools. The actual level of inclusion in ordinary schools differs widely from one Land to another. In Berlin, for example, it appeared that 45 per cent of disabled children attend ordinary public schools, while in Bavaria there are between 50,000 and 60,000 disabled children, of whom only 17,000 are attending ordinary schools.

80. During his visit, the Special Rapporteur noted that most of the schools which he visited lacked the necessary structures and amenities for the admission and accommodation of children with motor disabilities. This should, however, be seen as an isolated observation, which does not necessarily reflect the situation countrywide.

81. In certain Länder, the so-called “active participation principle”, which constitutes one of the pillars of public education, seems to act as an obstacle to the inclusion in ordinary schools of children with intellectual disabilities, demonstrating the priority given to a results-based approach which is strongly quantitative in nature, as manifested by the tendency to focus on the shortcomings, rather than the potential, of such children.

82. In addition, the Special Rapporteur was unable to detect any rights-based approach in the German system which would help steer the country’s educational policies in the direction of including children with disabilities. In the absence of such a rights-based approach, the concerted efforts mounted by the Länder will have the end-result of further segregating such children, instead of placing them in ordinary educational settings which would enable them to enjoy at least the following conditions: early identification of special education needs and early childhood intervention; the promotion of curriculum development that is common to all learners and fosters human rights education and learning; the guarantee of mandatory pre-service and in-service training of teachers and school administrators; the provision of individualized student support where necessary; the linking of all areas of education reform to ensure consistency throughout with the right to education and inclusive education.⁵

D. Early childhood education and care

83. Without question, Germany has done a great deal to develop education from an early age. The Special Rapporteur heard a number of reports, however, indicating that this work has been primarily prompted by a concern to develop language skills and by the conviction that formal education should begin at the age of 3 or 4. The Special Rapporteur hopes that this situation will not entail the risk of over-institutionalizing preschool education and eliminating play as both a teaching resource and as a basic right.

84. The Special Rapporteur was informed that the creation of a needs-based and quality-oriented education and care provision for children, as set out most recently in the Day-care Expansion Act (Tagesbetreuungsausbaugesetz - TAG), represents the highest priority for the federal Government. The quality campaign is also being progressed in terms of content by the Länder. With the “Joint framework of the Länder for early-years education in kindergarten facilities”, the Länder have succeeded in reaching agreement on the principles of educational work in day-care facilities for children which is given concrete form through the

⁵ See the thematic report by the Special Rapporteur, A/HRC/4/29, p. 10.

curricula at Land level. The curricula of the Länder strengthen the educational remit of the child day-care facilities on a sustained basis. The core of these curricula are the so-called education or support areas. Here the subject of language support enjoys a certain priority status, although the curricula also focus on other educational areas such as mathematics, sciences and education in the arts.

85. PISA has demonstrated that it is not only the children of immigrants who experience language problems, but other children as well. As a result, the formal imposition of language standards is insufficient to ensure quality education, since the children's language skills are the product of the educational substance and skills which shape the entire learning process. Without any doubt, the issue of language skills as an entry requirement for preschool education (tested in an exam which children have to take at the age of 4) is one which should be more extensively discussed, since it undoubtedly promotes exclusion - or least delays - in the school attendance of certain children (both German and others) who, for a variety of reasons, are not proficient in German.

86. In any event, it is certain that early education is part of the continuous education to which all children are entitled. For this reason, it would be a good idea to make provision for its definitive inclusion in the ordinary education system and, clearly, for it to be provided free of charge.

87. According to book eight of the Social Code - Child and Youth Welfare, the system of day-care facilities for children is legally and organizationally linked to child and youth welfare, hence to public welfare (social services) and not to the field of education (school system). While the school system falls under the jurisdiction of the Länder, the legislative authority for public welfare lies with the Federation and the Länder and the burden of funding lies with the Länder and municipalities.

88. Early childhood care is not compulsory. There is therefore a need to encourage parents to send their children to kindergarten but also to ensure that it is free of charge and, of course, the need to support the professional training of staff. Kindergarten as a structure aiming at supporting inclusion, especially of children with a migrant background, was also highlighted in the course of the visit. The realization of the educational mission of the kindergarten is one of the priorities of the reform of the German education system. This involves the need to improve cooperation between kindergarten and primary schools. It involves the further development of cross-Länder coordination of education plans, a significant improvement in training, in particular of kindergarten teachers, and support for the introduction of new educational plans and the strengthening of research in this field.

V. Conclusions and recommendations

89. **Germany has extensive public education coverage and is one of the few countries which has raised the age of compulsory school attendance to 18. The country also has a high level of school attendance in all areas. There are, however, certain shortcomings, owing primarily to the complex structure of the educational system, mostly related to difficulties encountered by children in certain marginalized categories, such as children from lower social classes, of immigrant origin or with disabilities. This has the effect of making the educational system somewhat exclusive in nature.**

90. **One of the main causes of this exclusion is the system of classification, which is carried out at a very early age and following criteria that are neither clear nor uniform. The resulting evaluation depends to a large extent on the particular regulations in force in each Land and on the teachers, who are not always properly trained to carry out this task. Germany should reform its educational system in such a way that it preserves its current merits, such as the high level of school attendance, while overcoming its inequalities and the lack of opportunity for certain population sectors. A rights-based approach to education would make it possible to conduct the necessary reforms to meet the educational needs of all members of the population.**

91. **The Special Rapporteur recommends to the Government of the Federal Republic of Germany:**

(a) That it include uniform safeguards for the right to education in the constitutions of its Länder and in its Basic Law, which will also promote consistency with processes under way in the rest of Europe and ensure that due attention is given to the corresponding State obligations;

(b) That these safeguards should ensure the participation of the parents of schoolchildren, as appropriate, in all decisions relating to the placement of their children in educational centres and to the choice of the modes of education;

(c) That an extensive national debate should be launched on the relationship between the educational systems currently in operation and the phenomena of exclusion and marginalization of schoolchildren, in particular those of immigrant origin or with disabilities. This debate should also consider the appropriateness of maintaining a two or three-track system;

(d) That preschool education should form part of the ordinary education system, that it should be provided free of charge and accessible to all children, and that the arrangements for admission to preschool education should be reviewed to ensure that the right to education is not withheld from any child;

(e) That, working in association with universities and teacher-training colleges, the accent should be placed on educational theory, in particular, on methods of teaching human rights, rather than on specific subject areas;

(f) That a study should be conducted into ways of levelling out the salary and professional conditions applicable to teachers in the different school systems and levels;

(g) That it should review the policy and practice of classifying school pupils (at the age of 10) used to assess children for entry to the lower secondary level of education, with a view to determining whether classification at such an early age is appropriate to the rights, interests and needs of the children themselves;

(h) That it should step up the social, economic and educational support provided to schoolchildren whose mother tongue is not German;

(i) That human-rights-based studies should be conducted into ways of boosting the quality of education in the country.

92. Given the risk that, under the current system, children living in Germany might be denied the right to education, it is recommended that studies be carried out to clarify the actual school attendance situation of asylum-seeking children, refugee children or children without the proper papers; and also to appraise as a matter of urgency the legal framework for the protection and promotion of the human right of such children to education, including exploring the possibility of withdrawing Germany's reservations and declarations made to the Convention on the Rights of the Child.

93. It is also recommended:

(a) That arrangements be set in place to improve the compilation and processing of complaints relating to violations of the right to education of refugees, refugee applicants and asylum-seekers, and also of persons who do not have a legal immigration status;

(b) That consideration be given to the possibility of ratifying the Convention on the Rights of Persons with Disabilities;

(c) That Federal law and state law be reformed so as to ensure that they strengthen the obligation of the educational authorities to provide education to persons with disabilities;

(d) That efforts be made to promote the inclusion of schoolchildren with disabilities in the ordinary education system;

(e) That more persons with disabilities be trained as teachers;

(f) That, as a matter of urgency, a national inventory be compiled of the accessibility conditions of school buildings and plans drawn up for their reconstruction, so as to facilitate access by persons with disabilities;

(g) That the necessary measures should be adopted to ensure that the home schooling system is properly supervised by the State, thereby upholding the right of parents to employ this form of education when necessary and appropriate, bearing in mind the best interests of the child;

(h) That the level of implementation of the first phase of the World Human Rights Education Programme should be appraised, in accordance with General Assembly resolutions 59/113 A and B.
