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SOCIAL AND CULTURAL RIGHTS

SUGGESTED TOPICS FOR THE LIST OF ISSUES

7TH PERIODIC REPORT OF GERMANY

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I. SUBMITTING ORGANISATIONS

ADAS – Anlaufstelle für Diskriminierungsschutz an Schulen is a school-specific anti-discrimination office in Berlin, which is based at the educational organisation LIFE Bildung Umwelt Chancengleichheit e. V. and is funded by the state of Berlin. ADAS advises and supports people – pupils, parents, teachers and educational staff – who have experienced or observed discrimination in a Berlin school and want to take action against it. Building on this expertise, the **Fachstelle für Diskriminierungsschutz an Schulen (FaDaS)** was opened in 2023 and offers cross-state networking, knowledge transfer and further training on school-specific anti-discrimination counselling. FaDaS is funded by the Federal Anti-Discrimination Agency.

The **Berlin Alliance for School Inclusion** is a civil society, voluntary organisation in Berlin that campaigns for the right to inclusive education in the general school system in accordance with the UN Convention on the Rights of Persons with Disabilities. Self-advocates, parents, educators, academics and representatives from disability organisations, education initiatives and human rights-oriented networks work together in the alliance. The Berlin alliance conducts political discussions, publishes statements, organises events and protests and supports advice centres that help families enforce the right to inclusive education. The goal is a barrier-free, inclusive school system in Berlin in which all children – with and without disabilities – learn together from the very beginning.

The **Gesellschaft für Freiheitsrechte e.V. (GFF)** defends fundamental and human rights by legal means. The organisation promotes democracy and civil society, protects against disproportionate surveillance and digital screening and campaigns for equal rights and social participation for all people. To this end, the GFF conducts strategic court proceedings, lodges constitutional complaints against laws that violate fundamental rights and contributes its legal expertise to social debates. The non-profit organisation based in Berlin was founded in 2015 and is primarily financed by individual donations and the contributions of its supporting members.

With over 30,000 members from state and private educational institutions, **the Berlin state association of the German Education and Science Union (GEW)** is by far the largest interest organisation in the Berlin education sector. The GEW represents the interests of employees in all areas of education: students, teachers, educators, social pedagogues, university lecturers, scientists, etc. The GEW is committed to good working conditions, good, inclusive, non-discriminatory education and a democratic, open and united society.

Lebenshilfe Berlin e.V. is committed to people with disabilities and their right to a self-determined life and advocates for a society in which everyone belongs – young and old, people with different abilities, regardless of their background. As a self-help organization, Lebenshilfe Berlin e.V. has been representing the interests of people with disabilities and impairments in politics and the public sphere since 1960. The aim of its work is to secure individual rights and implement inclusion in all areas of life.

II SUGGESTED ISSUES

1. ACCESS TO INCLUSIVE EDUCATION FOR CHILDREN WITH DISABILITIES

Question:

- Can the Federal Government explain why the number of pupils who are excluded from the inclusive education system is still so high?
- How does the federal government ensure a high-quality, inclusive education system?

Explanation:

In the 7th State Report (No. 53), the Federal Government states that the joint schooling of children with and without disabilities has continued to increase since the ratification of the UN CRPD. For example, the proportion of pupils with special educational needs taught at mainstream schools in the 2021/22 school year was 44 per cent, while the rate of special school attendance remained almost constant.

However, these figures do not show a development towards more inclusive schooling for pupils with disabilities. The higher proportion of pupils with special educational needs taught at mainstream schools is due to more diagnostics and, as a result, more recognised needs for special educational support. Many federal states also incentivise this, as general schools receive additional resources for additionally diagnosed pupils. On the other hand, the exclusion rate, i.e. the proportion of pupils who are taught in special schools in relation to the total number of pupils, is decisive for assessing how inclusive a school system is. At an average of 4.5 %, this is consistently high, although it varies considerably in the individual federal states.

According to the Standing Conference of the Ministers of Education and Cultural Affairs a positive trend is not to be expected in the coming years. In some federal states, a downward trend can even be observed: In Berlin, for example, special schools and classes are being expanded and only a few inclusive special schools are being set up. According to a recent parliamentary enquiry, a total of 2,300 to 2,800 children in Berlin are receiving reduced, irregular or little to no schooling. This primarily affects children with special educational needs "intellectual development" and/or a specialist diagnosis of "autism spectrum disorder". The main reasons cited are a lack of qualified staff and inadequate facilities. Inclusive schooling is also often not possible for children in wheelchairs: only very few schools are barrier-free.

Maintaining the dual structure of mainstream schools and special schools is cost-intensive and makes it difficult to deploy special education teachers for inclusive programmes at mainstream schools, as the staff remain predominantly tied to special schools. Segregated schooling has significant consequences: As of 2024, over 73.1% of pupils with special educational needs leave special schools without a Hauptschule certificate. Pupils with a special educational needs focus on "intellectual development" are already excluded from taking examinations and graduating (see, for example, Section 37 (2) and (3) and Section 58 (4) of the Berlin School Act). The transition to vocational training or higher education and into the labour market is very rare.

Finally, it should be emphasised that pupils from poor families, families not reached by the education system and migrant families are particularly affected by the mechanisms of exclusion, as they are overrepresented at special schools.

2. SHORTAGE OF TEACHERS

Question:

- How does the Federal Government intend to ensure a sufficient number of trained and qualified teachers nationwide?
- To what extent have the proposals of the Standing Scientific Commission mentioned in the state report been implemented, such as relieving teachers of organisational and administrative tasks, facilitating the recognition of qualifications obtained abroad and expanding the potential of qualified teachers through further training?
- How is the federal government tackling declining numbers of graduates in teaching subjects and ensuring the long-term attractiveness of the teaching profession in all types of schools and subject areas?
- Is there a binding nationwide standard for the training, support, integration and certification of career changers or should such a standard be established?
- Are there nationwide empirical surveys on the number, drop-out rate and qualification reality of career changers to the teaching profession?

Explanation:

A shortage of 66,000 to 177,500 teachers is expected in Germany by 2035. At least 12,000 teaching positions at schools are already vacant, which has serious consequences for the quality and supply of teaching. In North Rhine-Westphalia, almost every fifth lesson in the 2023/24 school year did not take place. In Brandenburg, 14.5% of lessons were cancelled in the 2021/2022 school year or were taught by substitute teachers. The actual number of cancelled lessons is likely to be even higher. This is because lessons that cannot take place in the foreseeable future due to a lack of staffing may not even be included in the timetable, meaning that they do not appear in statistics as cancelled lessons.

The shortage of teachers is likely to worsen in the foreseeable future. This is because the number of graduates from teacher training programmes is declining and both the number of teachers over the age of 50 and the part-time ratio are high. In addition, factors such as inclusion, the expansion of all-day schools and language support measures are tying up additional staff because there is a shortage of (specialised) staff. This leads to overwork and makes the teaching profession increasingly unattractive, which results in an exodus to other professions.

There are still high barriers to entry for foreign teachers, although the potential would be great given the high level of immigration. In 2021 alone, around 36,000 trained specialists immigrated to Germany. However, a study by the Education and Science Union (Gewerkschaft für Erziehung und Wissenschaft) found that in four out of five cases, the German education and labour market system is unable to employ people who have completed their teacher training abroad, partly due to complicated recognition procedures or insufficient integration support. The exact requirements also vary from state to state.

The committee's last concluding observations already recommended that career changers receive sufficient training and certification in order to alleviate the shortage of teachers (No. 60a).

To date, the Federal Government has not taken any generally applicable measures to combat the shortage of teachers (No. 52 of the 7th State Report), but each federal state has adopted its own packages of measures, such as salary increases, secondment of teachers, retraining programmes, which are often ineffective or lead to an exodus of teachers from other federal states.

A sustainable solution must also include measures to increase the numbers of teachers, such as increasing the number of places on teacher training programmes, changing the content of training, promoting the success rate of students, making it easier for teachers to switch careers and providing schools with constant and reliable resources for staff planning. It would be desirable to have a nationally harmonised package of measures that is subject to a holistic impact assessment and consists of both demand-reducing and supply-increasing measures.

3. DISCRIMINATORY IMPACT OF TEACHER SHORTAGE

Question:

- How does the Federal Government monitor the discriminatory effects of the teacher shortage and what countermeasures is it taking?

Explanation:

Pupils from structurally weak regions and pupils at non-grammar schools are disproportionately affected by the shortage of teachers. Schools in structurally weak rural regions and in eastern Germany are significantly more affected by the shortage of teachers. On the other hand, there is not yet a serious shortage of teachers at upper secondary level (state report, No. 52). This means that the effects are much less noticeable at grammar schools in particular, which provide higher education. The proportion of teachers who change careers to fill the gaps is also unevenly distributed according to region, school type and social situation. In Berlin, for example, career changers disproportionately often teach in primary schools with a high number of socially disadvantaged students. In April 2024, a study found that at primary schools with a lot of pupils with a migrant background, more teachers without a teaching qualification are employed. In eastern Germany, the proportion of teachers without a teachers qualification exceeds the national average by far.

4. EQUAL OPPORTUNITIES IN THE EDUCATION SYSTEM

Question:

- What measures is the Federal Government taking to reduce the existing inequality in education and to enable pupils from all backgrounds to achieve a level of education commensurate with their abilities and achievements?
- What mechanisms does national legislation offer to protect children from socially disadvantaged families from disadvantages, especially regarding their school career?

Explanation:

In Germany, there is a strong and persistent correlation between a child's social background and educational success. The German education system is much less successful than others in international comparison at equalising disadvantages and ensuring equal opportunities for all children. Children from families with low incomes and parents with a low level of education, as well as children from migrant backgrounds, are particularly affected by this.

As early as 2007, the UN Special Rapporteur on the right to education, Vernor Muñoz, criticised the multi-tier German school system as it was selective and discriminatory and therefore disadvantaged socially disadvantaged families. This strong selection could be avoided through longer joint learning. For many years, the GEW and representatives of educational science have been calling for the abolition of the multi-tier school system in favour of an inclusive school for all pupils (up to year 10).

The importance of social background for educational opportunities becomes clear when it comes to access to grammar schools. A study conducted by the ifo Institute in May 2024 shows that 26.7% of children from families across Germany in which neither parent has A-levels (Abitur – i.e. the highest school-leaving qualification – attend grammar school. By contrast, in families where at least one parent has A-levels/Abitur, 59.8%, i.e. more than twice as many make it to grammar school. As a rule, the school career recommendation points the way. Based on academic performance and the teachers' assessment, the school career recommendation indicates which type of secondary school is most suitable for the child after primary school, i.e. whether they should pursue a higher, intermediate or lower level of education. IGLU studies (international primary school reading test) have repeatedly come to the conclusion that children from working-class families have a much lower chance of being recommended for secondary school than children from academic families, even if their performance is the same. The school career recommendation is therefore very prone to error. This has lasting consequences, as people with A-levels end up earning an average of 42% more than those without.

Although the problem has been known for a long time, no radical attempts have been made to improve it. A longer period of joint schooling could reduce inequalities. In Germany, for example, equal opportunities are highest in Berlin and Brandenburg, where children don't switch to grammar school until the seventh grade.

Countries such as Spain, Ireland and the Netherlands, where social inequalities are considered to be lower, also have a primary school period of at least six years.

As long as there are selection mechanisms, the chosen selection instruments should be designed to be sensitive to discrimination. For example, teachers could be trained accordingly before making a school career recommendation in order to avoid discriminatory thought patterns and ensure a merit-based decision. Targeted support for parents and schools in challenging situations, data-based language support and mentoring programmes could also provide valuable support for disadvantaged children.

5. DISCRIMINATION IN SCHOOLS

Question:

- Is there data on direct and indirect discrimination against pupils by the schools they attend?
- Why are there no nationwide best practices for a non-discriminatory approach to religion, language, gender, origin and other known discriminatory characteristics in schools?

Explanation:

Pupils are often exposed to the risk of discrimination at school. In an international comparative study of OECD countries in 2018, 12-15% of pupils in Germany stated that their teachers have negative attitudes towards certain groups of people. In this comparison, Germany performs worse than many other countries in Europe and worldwide. Moreover, there is hardly any other country where the perception of discrimination differs so greatly between pupils from immigrant families and their classmates without a family history of immigration.

Numerous studies and discrimination data show that experiencing discrimination and racism is part of everyday school life for many children and young people in Germany. At the Federal Anti-Discrimination Agency the education sector is, consistently among the areas of life from which the most cases of discrimination are reported, despite the high threshold of the counselling services for affected children and young people. Enquiries from general education schools made up the largest proportion of these enquiries at 45%. Among the lower-threshold civil society counselling services, experiences of discrimination in the field of education account for the second largest proportion of counselling enquiries. The reports of the anti-discrimination centres point to the particularly high proportion of racist discrimination, especially anti-Muslim and anti-Black racism.

There are also a large number of cases in which schools have issued house rules that contain discriminatory regulations. In Berlin, more than 20 Berlin school regulations have been published which, under threat of educational and disciplinary measures, include, for example, a requirement to speak German in the school playground or a ban on religious head coverings and Islamic prayer. Individual case reports to the anti-discrimination centres make it clear that similar discriminatory bans on the practice of religion or German language requirements are often also implemented through verbal communication and regulations by school staff.

Despite the available reports on experiences of discrimination at school, there is still a great deal of uncertainty. It is difficult for pupils affected by discrimination to speak openly about their experiences without fearing disadvantages. There are hardly any complaints structures. In rural areas in particular, there are also few qualified contact and counselling options in the event of discrimination. Children and young people affected by discrimination at school therefore have little access to information and counselling regarding their rights. For this reason, civil society and the education trade union are calling for the establishment and expansion of institutionally independent, qualified complaints centres that are accessible and reliable for all those affected and deal with cases of discrimination professionally. In addition, existing civil society advice centres must be secured through sustainable funding.

In order to develop schools into safe places with low levels of discrimination in the medium and short term, the topic of discrimination/anti-racism must also be integrated as a mandatory element in the basic and further training of school management and teaching staff.

6. ACCESS TO EDUCATION FOR REFUGEE CHILDREN

Question:

- How does the Federal Government ensure that all refugee children, regardless of their residence status or country of origin, receive prompt access to school education and what strategies is the Federal Government pursuing to avoid segregation through preparatory classes and schools and to promote the integration of refugee children into mainstream classes?

Explanation:

Refugee children in Germany often have to wait months for a school place because the start of their compulsory schooling and their right to access school is not standardised. In many federal states, the children are taught in so-called preparatory or welcome classes. In some cases, there are long waiting times for access to the preparatory class and also for the transition to the regular class, so that children often have to wait for two years to be taught in a regular school. There are no standardised and binding educational standards for the preparatory classes or for the transition to the mainstream class and the teaching is often inadequate. The segregated schooling of refugee children leads to poorer educational success and impaired psychosocial development. Nevertheless, due to staff and space shortages, segregated welcome schools are now even being set up in the reception centres. This segregation means that the children no longer come into contact with other children outside their accommodation centre. Unaccompanied minor refugees in temporary custody are often not enrolled at all at school.

7. INSUFFICIENT SCHOOL INFRASTRUCTURE

Question:

- What funding does the Federal Government plan for the construction, equipment and maintenance of schools and under what conditions does it make it available to the school authorities, i.e. primarily the local authorities?

- To what extent does the Federal Government support structurally weak local authorities, which can make little or no contribution of their own, in the maintenance and refurbishment of school buildings?
- What is the Federal Government doing to reduce bureaucracy and facilitate construction and modernisation measures relating to school infrastructure?
- To what extent have there already been and are there health hazards due to defects in school equipment such as mould, asbestos and falling building parts?

Explanation:

Although there is no standardised data on the condition of schools in Germany, there are increasing reports of dilapidated, ailing and, in some cases, unhealthy school buildings and equipment. The reports range from dilapidated windows and facades, mould and rodent infestation to broken heating systems and falling ceilings. For example, in the city of Augsburg there are 70 schools in need of refurbishment with an investment requirement of around 2 billion euros. A study commissioned by the German Trade Union Confederation (DGB) confirmed an investment backlog of 10 billion euros in schools in North Rhine-Westphalia and as much as 22.7 billion euros in the education sector in North Rhine-Westphalia as a whole.

Sanitary facilities are a particular problem area. Surveys show that many children and young people avoid going to the toilet at school. The toilets are often very dirty. In a survey conducted by the Senate Education Administration, Berlin schoolchildren rated the cleanliness of toilets as the worst compared to other school facilities. Yet school toilets are an indispensable part of the essential structural infrastructure for a good learning environment in every school.

Due to a lack of nationwide data collection, it is unclear to what extent the deficits have already led to acute health risks. However, it is clear that mould, cold and rodent infestation can be harmful and collapsing ceilings can even be fatal. Not to mention the impact on the quality of education. Educators in Berlin report that long-lasting problems are more likely to be found in schools where socially disadvantaged pupils learn. As a rule, the individual local authorities are responsible for the maintenance of school buildings. However, they often do not have the necessary financial resources.

In its coalition agreement, the new federal government writes: *"We are launching an investment programme to support the renovation and maintenance of schools and the creation of new capacities"*. However, it remains unclear how this programme is to be implemented and to what extent investments will be made. The wording that "new capacities" are to be created is also extremely vague. Another cause for concern is that all of the objectives contained in the coalition agreement are subject to a blanket funding proviso, meaning that it remains questionable whether the new government can and will provide sufficient funding for the extensive investment gap.

8. GENERAL INVESTMENT DEFICIT

Question:

- Why does Germany spend less money on education in relation to its gross domestic product than the OECD average and how will the existing investment deficit be remedied?
- In view of the obvious shortcomings and massive investment backlogs, why does Germany not set up a special fund for schools?

Explanation:

In view of the comprehensive and far-reaching shortcomings in the German education system (shortage of teachers, dilapidated infrastructure, social inequalities, consequences of the COVID-19 pandemic, inadequate inclusion and integration), it must be recognised that there is a considerable investment backlog.

This is surprising, as Germany is known to be one of the richest countries in the world. In 2023, Germany was the third most economically powerful country in the world with a GDP of around 4.6 billion US dollars.

Despite this, Germany only spends 4.6% of its gross domestic product on education, which is proportionally less than the average for countries in the OECD.

In terms of school infrastructure alone, the funding gap is estimated at 55 billion euros, not to mention the financial challenges that the massive teacher shortage, immigration and the legal entitlement to all-day schooling and inclusion will present the German state with in the future. The GEW is therefore calling for the adoption of a special education fund totalling 130 billion euros to repair the education system, which has been significantly underfunded for decades.

In its national report, Germany refers to the investments made to make up for learning deficits as a result of the COVID-19 pandemic (No. 49) and the Digital Pact for Schools (No. 50). However, both only scratch the surface of the problem and only have a selective effect. Taken together, the funding amounts to less than 10 billion euros, a considerable proportion (more than 10%) of which had to be paid by the federal states. The last federal government launched the Starting Opportunities Programme. This programme is intended to benefit and support school locations that are particularly socially challenged. The funds have not yet been paid out to schools in all federal states. At the same time, funding from other state programmes has been partially reduced, which will significantly reduce the impact of the planned additional support.

It is not foreseeable how far-reaching the investments announced by the current federal government will be. However, given the scale of the problems, any investment that falls short of the 100 billion euros called for is likely to be inadequate.

9. DATA COLLECTION ON THE RIGHT TO EDUCATION IN ALL FEDERAL STATES

Question:

- How does the federal government ensure that it has sufficient information and data regarding the implementation of the right to education in the Federal states?

Explanation:

In its last concluding observations (No. 6), the Committee recommended that the Federal Government improve its data collection systems. However, as Germany is a federal republic and sole responsibility for education lies with the federal states, there is still insufficient data on the nationwide status of the implementation of the right to education. This is particularly evident in areas where there are shortcomings that cannot be reliably documented and analysed due to a lack of uniform data.

For example, there is no standardised nationwide data on the condition of school infrastructure such as school buildings and sanitary facilities. As the operation and maintenance of schools is the responsibility of the federal states and local authorities, there is no nationwide survey. It is often only possible to take a random look at individual local authorities, where sometimes considerable shortcomings come to light (see 7.).

This can be seen very clearly in the data on teacher shortages and the associated cancellations of lessons. This data is collected differently or not at all depending on the federal state. Although there are individual data sets on cancellations in North Rhine-Westphalia, Saxony and Brandenburg, for example, they are not collected as standard and are often only reported on request in parliament. As a result of this incomplete data situation, there is also a lack of nationwide impact analyses with regard to the above-mentioned shortcomings, although these often reinforce inequalities and discrimination. As a result, neither the extent nor the effects of the problems are standardised.

10. RELAXATION OF THE COOPERATION BAN

Question:

- What measures is the Federal Government taking to standardise the current patchwork of measures in the federal states in the area of education and why is the so-called cooperation ban not being abolished or further relaxed for this purpose?

Explanation:

Education policy in Germany is a matter for the federal states. In this context, there is often talk of the so-called cooperation ban. The ban on cooperation, which came about as a result of Federalism Reform I in 2006, prohibits any school policy initiatives by the federal government. Coordination between the federal states only takes place on a non-binding basis via the resolutions of the Conference of Education Ministers, which is merely a voluntary association of the education ministers of the individual federal states.

As a result, the right to education is significantly hindered due to the lack of standardised funding and regulations, for example in the areas of inclusion and integration, the renovation of school buildings and combating the shortage of teachers. In its last final recommendations (No. 61 (c)), the committee recommended, for example, the "nationwide" guarantee of equal educational opportunities for children of refugees and asylum seekers. In fact, access to education for these children continues to vary considerably from state to state. While a refugee child in Berlin usually attends school after one to two weeks, in Mecklenburg-Vorpommern they have to wait to be assigned to a local authority, which can take up to 18 months. In the meantime, only isolated schooling takes place in the refugee accommodation centre itself.

With regard to the existing shortage of teachers, the federal government already indicates in its current state report (No. 52) that "the federal states have launched various measures to cover the need for teachers". This means that no standardised measures have been taken, but rather a patchwork of individual measures by the federal states. It is not apparent that these measures have been sufficiently coordinated between the federal states and contribute to a sustainable improvement in the overall situation.

With the Digital Pact and Startchancen funding programmes of the previous governments and the new government's investment programme for social infrastructure, the ban on cooperation has been relaxed a little. This enables the federal government to finance important projects in the areas of education, school refurbishment, etc.

It would be necessary to abolish or further relax the cooperation ban in order to safeguard the right to education across the country. However, the coalition agreement of the new government states: "We are committed to education federalism" and will respect the responsibilities of the Federal States.

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