



**Convention on the
Rights of the Child**

Distr.
GENERAL

CRC/C/83/Add.7
24 July 2003

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD
CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Second periodic reports of States parties due in 1999

GERMANY* **

[23 July 2001]

* For the initial report submitted by the Government of Germany, see CRC/C/11/Add.5, for its consideration by the Committee, see documents CRC/C/SR.243-245 and CRC/C/15/Add.43.

** The annexes submitted by the Government of Germany along with the report are available, in German, from the secretariat.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 32	6
A. Children's rights and childhood policy in Germany: structures, bodies, institutions	13 - 24	7
B. General developments 1994-1999	25 - 32	10
I. GENERAL IMPLEMENTATION MEASURES	33 - 117	13
A. Implementation of children's rights (arts. 4 and 41)	33 - 80	13
B. Concerning the declarations on the Convention	81 - 85	24
C. Promulgation of the Convention (art. 42)	86 - 113	24
D. Dissemination of the reports on implementation of the Convention (art. 44, para. 6)	114 - 117	30
II. DEFINITION OF THE CHILD (art. 1)	118 - 120	31
III. GENERAL PRINCIPLES	121 - 346	31
A. Non-discrimination (art. 2)	121 - 203	31
1. Foreign children	125 - 148	32
2. Combating of racism and xenophobia among young people	149 - 167	36
3. Combating discrimination against girls	168 - 184	39
4. Non-discrimination in other areas	185 - 203	42
B. Well-being of the child (art. 3)	204 - 231	45
C. Right to life, survival and development (art. 6)	232 - 252	50
D. Respect for the views of the child (art. 12)	253 - 346	54
1. Participation of children in the family	259 - 263	54
2. Participation of children at the level of local communities	264 - 316	55
3. Participation of children at educational institutions	317 - 329	67

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
4. Participation of children in organizations and associations	330 - 331	70
5. Other rights of participation	332 - 343	70
6. Summary	344 - 346	72
IV. CIVIL RIGHTS AND LIBERTIES	347 - 389	73
A. Name and nationality (art. 7)	347 - 348	73
B. Preservation of identity (art. 8)	349 - 350	73
C. Freedom of expression (art. 13)	351 - 353	73
D. Freedom of thought, conscience and religion (art. 14)	354 - 355	74
E. Freedom of association and peaceful assembly (art. 15)	356 - 366	74
F. Protection of privacy (art. 16)	367	76
G. Access to appropriate information (art. 17)	368 - 387	76
H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))	388 - 389	79
V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE	390 - 504	80
A. Parental guidance (art. 5)	390 - 392	80
B. Parental responsibility (art. 18, paras. 1 and 2)	393 - 436	81
1. Revision of the law on parental custody	393 - 411	81
2. Measures to support parents	412 - 436	84
C. Separation from parents (art. 9)	437 - 447	89
D. Family reunification (art. 10)	448 - 453	91
E. Illicit transfer and non-return (art. 11)	454 - 462	92
F. Recovery of maintenance for the child (art. 27, para. 4)	463 - 467	94

CONTENTS (continued)

	<i>Paragraphs</i>	<i>Page</i>
G. Children who have been deprived of their family environment (art. 20)	468 - 469	94
H. Adoption (art. 21)	470 - 479	95
I. Periodic review of placement (art. 25)	480	96
J. Abuse and neglect (art. 19), physical and psychological recovery and social reintegration (art. 39)	481 -504	96
VI. BASIC HEALTH CARE AND WELL-BEING	505 - 612	100
A. Disabled children (art. 23)	505 - 526	100
1. New legal framework	505 - 506	100
2. Disabled children in the family	507 - 508	101
3. Education, upbringing and care of disabled children	509 - 526	102
B. Health and health care (art. 24)	527 - 578	105
C. Social security, services and facilities (arts. 26 and 18, para. 3)	579 - 590	114
D. Standard of living (art. 27, paras. 1-3)	591 - 612	116
VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES	613 - 789	119
A. Education (art. 28)	613 - 742	119
1. General information	613 - 620	119
2. Day care for children	621 - 655	120
3. Schools	656 - 689	127
4. On cooperation between youth welfare and schools	690 - 704	133
5. Vocational education	705 - 737	135
6. International cooperation in the education system	738 - 742	141

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
B. Educational objectives (art. 29)	743 - 766	142
1. Day care for children	744 - 747	143
2. Schools	748 - 757	143
3. Social education for respect of the natural environment ..	758 - 766	145
C. Education, leisure and cultural activities (art. 31)	767 - 789	147
VIII. SPECIAL PROTECTIVE MEASURES	790 - 914	151
A. Children in emergency situations	790 - 818	151
1. Refugee children (art. 22)	790 - 806	151
2. Children in armed conflicts (art. 38), their physical and psychological recovery and social reintegration (art. 39)	807 - 818	154
B. Children in contact with the juvenile justice system	819 - 848	156
1. Youth jurisdiction (art. 40)	819 - 844	156
2. Children in custody (art. 37 (b)-(d))	845 - 848	161
C. Child victims of exploitation, their physical and mental recovery and social reintegration	849 - 906	162
1. Economic exploitation of children, including child labour (art. 32)	849 - 864	162
2. Drug abuse (art. 33)	865 - 876	164
3. Sexual exploitation and sexual abuse (art. 34)	877 - 903	167
4. Sale of children, trafficking and abduction (art. 35)	904 - 905	171
5. Other forms of exploitation (art. 36)	906	172
D. Children belonging to a minority or indigenous group (art. 30)	907 - 914	172

Introduction

1. Article 44, paragraph 1, of the United Nations Convention on the Rights of the Child obliges the States parties to submit reports to the United Nations Committee on the Rights of the Child on the measures which they have adopted to give effect to the rights recognized in this Convention and to present the progress made in this context. Paragraph 2 requires the reports to present any factors and difficulties affecting implementation of the measures. The reports must be drafted in such a manner as to provide a comprehensive picture of the implementation of the Convention in the country concerned.

2. Five years after submitting the first report, the Federal Government has drawn up the present, second report in fulfilment of this obligation in accordance with article 44, paragraph 1 (b). The report presents the positive developments in connection with implementation of the Convention, but also specifies problems which have yet to be resolved.

3. The deadline for submission of the report was 5 April 1999. Owing to the change of Government and an intensive debate on revocation of the German declaration on the Convention (cf. chap. I.B), the report is being submitted late. The report is nevertheless restricted to the period under review ending in April 1999. More recent developments have thus generally been omitted, and will be included in the next report. Measures referred to in the report which have taken place after the period under review are expressly indicated as such.

4. In accordance with article 44, paragraph 3, of the Convention, the report focuses on the changes which have occurred in the period under review and avoids repeating information provided in the first report. The reader is referred to the first report at certain points, in order to provide a clear overall understanding.

5. In this context, the first and second reports are to be regarded as mutually complementary. This also applies to the general orientation of the reports' respective contents. The first report was essentially a comprehensive presentation of the legal framework within which the rights of the child are given effect in Germany. In contrast, the second report focuses on actual implementation of the Convention in Germany. In adopting this focus, the Federal Government is also responding to a wish on the part of the Committee on the Rights of the Child, which, having examined it, criticized the fact that the first report did not contain adequate information on actual implementation of the principles and provisions of the Convention.

6. This report does not purport to provide a comprehensive presentation of the situation of children in Germany, however. Apart from the fact that a restriction to exemplary information is unavoidable with regard to the practical examples, the tenth Youth Report can be referred to for an overall presentation of the situation of children. As noted during the examination of the first report at the tenth session of the Committee in November 1993, this "Report on the Situation of Children and Children's Benefits in Germany", which was submitted in 1998, is concerned exclusively with the situation of children. The present report thus frequently draws on the materials compiled in that report and the ideas and requirements stated in the report.

7. The concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.43) provide a further key point of reference for the report. The Committee identified positive factors, but also “principle subjects of concern”, as well as formulating “proposals and recommendations”. The present report will detail at the appropriate points the extent to which the ideas provided in paragraphs 21 to 36 have been taken up in Germany.
8. It is further of relevance to understanding the present report that the report’s contents, form and structure are based closely on the “General guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention”.
9. Corresponding to Germany’s federal structure, the contents of the report have been drawn from various sources. The report primarily summarizes the measures undertaken by the various levels of State authority in Germany in order to uphold children’s rights. In this way, due account is accorded to the States parties’ obligation, as stipulated in article 4 of the Convention, to undertake appropriate measures to implement children’s rights.
10. Contributions from the supreme federal authorities have thus been incorporated into the report, while at the same time the states (Länder) have been requested to specify activities and problems pertaining to the Convention. Almost all of the Länder utilized this opportunity.
11. The report additionally outlines the role of non-governmental organizations (NGOs) in implementing the Convention between 1994 and 1999. A living democracy is reliant on NGOs assuming a share in responsibility for the State. Attending to the welfare of the young generation and its future is thus the responsibility not only of the State, but also of a plethora of associations and societies. Child and youth welfare play a special role here. Against this background, the present report would be incomplete if it failed to cover the activities of voluntary youth welfare organizations and other organizations - including the media - which support implementation of the Convention on the Rights of the Child in Germany. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth thus requested associations and organizations to contribute to the report and has incorporated their information as far as possible.
12. To facilitate an understanding of the interaction between Government and non-government bodies in connection with the efforts to implement the Convention, the following chapter presents the relevant structures, bodies and institutions in Germany.

**A. Children’s rights and childhood policy in Germany:
structures, bodies, institutions**

13. Children do not live on an island, but are part of society. Developments affecting society as a whole thus also impact on children. Such developments include political decisions concerning the interests of children. Such decisions are made in many areas of policy, such as transport, environmental and urban development policy. Economic and employment policies also affect children with regard to the opportunities for fathers or mothers to secure gainful employment, for example.

14. Childhood policy is thus always of a global nature. This means that it must address all areas in which the interests of the young generation are affected either currently or in the long term. This fundamental principle is to be considered when childhood policy structures in their narrower sense are presented below. Reference is made only to bodies and institutions whose primary remit is in the area of childhood policy. All other areas in which policies of relevance to children are carried out have been excluded from this report, although they nevertheless continue to be involved.

15. At Federal Government level, primary responsibility for the realization of children's rights and childhood policy lies with the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. Within the Federal Government, this ministry is charged with articulating and representing the interests of children. In accordance with the Social Code - Book Eight - in the area of child and youth welfare the Ministry has a remit to initiate and promote youth welfare activities which are of supraregional importance and which, by their nature, cannot be promoted effectively by a federal State on its own. The Ministry is provided with an instrument for the granting of financial assistance in the form of the Federal Government's Child and Youth Plan, which was funded in the amount of DM 180 and 192 million in 1998 and 1999 respectively. Overall responsibility for the present report lies with the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

16. In the area of parliament, the Commission to safeguard the interests of children in the German Bundestag (Children's Commission) is the most prominent body. This commission, which has been in existence since 1988, is a subcommittee of the Bundestag Committee for Family Affairs, Senior Citizens, Women and Youth. Each of the parties represented in the Bundestag appoints one member with voting rights to the Commission. The chair of the Children's Commission rotates between the parties. As the Commission operates according to the principle of consensus, resolutions and public statements are only possible when unanimity prevails. To enable it to work more effectively, the Commission, which has no right of motion, for example, is pushing for an expansion of its powers in parliament.

17. The Children's Commission sees itself as a lobby for children; as a parliamentary body which provides ideas and initiatives both inside and outside of parliament to improve the situation of children. In this connection, the Commission pursues a broad range of different activities, such as hearings, discussions with experts, statements, fact-finding trips and public relations. During the period under review, for example, the Commission was concerned with bolstering the rights of children, improving their living conditions, preventing violence during the upbringing of children and the subject of sexual abuse/child pornography.

18. At the state (Land) level, primary responsibility for childhood policy lies with the supreme Land youth authorities. These all belong to the Association of Supreme Land Youth Authorities (Arbeitsgemeinschaft der Obersten Landesjugendbehörden), which meets for consultations on a biannual basis. The conference of youth ministers and senators of the (Länder) (Conference of Land Youth Ministers) is held once annually, and is attended by the Federal Government in a guest capacity. The Conference of Land Youth Ministers expressly emphasized the co-responsibility of the Länder for implementing the Convention in its resolution of 26 June 1999. The Land youth welfare offices represent a further organizational unit at regional level. These work together in the Federal Association of Land Youth Welfare Offices.

19. The municipal, district and local authorities are of special importance to childhood policy. It is generally agreed that the question as to how child-orientated a Land is and whether it respects children's rights is decided first and foremost in the direct environment in which the children live. Notwithstanding the fact that the Basic Law accords the Länder primary responsibility for implementing federal legislation, many tasks affecting children fall within the ambit of local self-government. At Land and national level, the interests of the municipal, district and local authorities are represented by three umbrella associations for local authorities. In many local communities, child welfare officers or child welfare offices have been commissioned/set up to represent children's interests.

20. Numerous associations and organizations, including many voluntary youth welfare organizations, focus all or part of their work on protecting children's interests. They thus represent an important part of the infrastructure to implement the Convention on the Rights of the Child.

21. The National Coalition for Implementation of the Convention on the Rights of the Child in Germany (NC) plays a key role in developing an awareness of children's rights in Germany. The NC arose in connection with the first report submitted by the Federal Government. With financial backing from the Deutsche Jugendmarke foundation and later from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, around 90 non-governmental organizations had joined forces in the NC by 1999.

22. One of the NC's primary tasks is to organize a broad-ranging dialogue on technical aspects pertaining to implementation of the Convention in Germany. The NC sees itself as a critical filter, in particular with regard to possible legal and political deficits in implementing the Convention, while at the same time also seeking out positive models. The NC's activities focus in particular on events which address specific topics and are thus aimed at different target groups, together with publications and task forces on specific topics.

23. Other important elements of the infrastructure for childhood policy are:

- The Federal Youth Panel (Bundesjugendkuratorium), which advises the Federal Government on fundamental matters of child and youth welfare;
- The commissions responsible for drawing up the child and youth reports;
- The Working Party for Youth Welfare (Arbeitsgemeinschaft für Jugendhilfe), a discussion forum for the Federal Government, Land governments, voluntary welfare organizations, youth associations and specialist organizations;
- The Federal German Youth Ring (Bundesjugendring), in which a large number of child and youth associations are organized.

24. The above outline clearly shows that there is a very dense network of institutions and bodies which see themselves as the guardians of children's interests in Germany.

B. General developments 1994-1999

25. It is virtually impossible to make any sweeping statements about the general course of political developments in the period under review. The trends are too divergent to enable them to be condensed into any general direction regarding the interests of children. For the purposes of this report, therefore, it is only possible to point out a number of trends:

- Most children in Germany live in good conditions. There are nevertheless children affected by poverty, chronically ill children, mistreated and abused children, neglected children and children living in good material circumstances who are emotionally stunted;
- Never before have children in families received so much attention. This is due primarily to a reduction in the average number of children in a family. On the other hand, there is a not insubstantial number of children who suffer neglect and are left to rely on themselves;
- The legal entitlement to a place at a nursery school is a historic achievement in the area of childhood policy. The attendant costs have led to cost-cutting in other areas of child and youth welfare, however, together with a general decline in conditions at the day-care facilities in the western Länder;
- The media and advertising regard children as important target groups. The consumption of both media and goods is thus acquiring disproportionate importance and threatens to induce a shift in central ethical values;
- Children's rights are attracting ever more attention in Germany. An attitude which accords children lower priority in society nevertheless persists. It should also be considered that what children need most urgently - love, affection and security - cannot be obtained through lawsuits or prescribed by law. At best, appropriate basic conditions conducive to fulfilling needs can be established.

26. Basic conditions pertaining to childhood focus above all on foundations for the family. The family's economic situation is the primary factor to be considered here. This, in turn, is dependent on whether the parents are in work. The current level of unemployment plays its part in depriving the affected families of the necessary cash resources for their children. The resultant problems for parents and children must not be underestimated.

27. The increasing levels of social benefits to be paid out in this context and the difficult economic situation have restricted the financial scope available at the various levels of State authority, which again tends to have negative consequences for families and children.

28. Despite the stated negative aspects, a childhood in Germany can justifiably be described as a good childhood in the overwhelming majority of cases. This was also the finding of the commission which operated independently of the Government to draw up the tenth Youth Report. For the first time, this report (Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 1998) presents a comprehensive picture of the situation of children in Germany.

29. The report has led to an intensive debate on children and their rights in the political sphere and among the general public. Initially, this debate focused on the question of child poverty in Germany. All aspects of the report have meanwhile been debated in the German Bundestag, as proposed in paragraph 35 of the concluding observations of the Committee.

30. In carrying out its work, the commission endeavoured to take the child's point of view. The way adults view a situation is generally only one side of the coin, while children's viewpoints are quite a different matter. This means that childhood policy must always ask the questions: how do children see their lives, do they see their rights realized, what are their hopes, what makes them afraid? The children's answers thus constitute a means of active participation (cf. chap. III.D) while at the same time serving as an important corrective for the frequently overpessimistic and sometimes overoptimistic assessments of adults.

31. The results of the children's rights ballots (cf. chap. I.C) provide an idea of how children view their situation. A further source of revealing information is a survey conducted as a "barometer of children's views" over a three-year period by the State Building Societies' "Young Family" initiative in cooperation with the Land of North Rhine-Westphalia's child welfare officer. A total of 1,800 children aged between 9 and 14 are being surveyed on the areas of life which are of importance to them - family, school, friends, residential environment and politics. Although the survey cannot be considered representative of the whole of Germany, its results may at least be regarded as typical for this age group in western Germany:

- Most children feel generally good. Five per cent assess their general state of well-being in negative terms, however. Virtually no differences apply here between German and foreign families. Family and school are particularly important to the children's well-being;
- Children's sense of well-being within the family is dependent first and foremost on the following factors: "Control by the mother", "warmth and affection", sufficient space to play in the home, sufficient privacy, no feelings of loneliness. Quarrels are the predominant factor to have an adverse effect on children's feelings;
- Girls appear to have a degree of appreciation of the new opportunities resulting from the awareness and understanding of topics relating to women;
- The age at which children begin to adapt to traditional, handed-down roles is falling;
- Children prior to adolescent age are aware of crises affecting the whole of society. The older the children are, the more important topics such as "public finances" and "unemployment" become. For younger children, the topics "environmental protection" and "peace" are more important;
- Children are concerned above all with their future jobs, accidents/death and war/disasters;
- Children of unemployed parents feel worse in all areas of life than children whose parents are in work;

- Co-determination at school is the prime factor influencing whether children feel good at school;
- Children have very realistic expectations for the future. Almost one third of all surveyed children look forward most of all to having a family of their own or a relationship. As they become older, independence is more important. Children who do not look forward to anything in the future feel worse than children who look forward to everything with positive expectations;
- Almost three quarters of all children would like to have children of their own when they grow up. Those whose family experiences tend towards the negative are less likely to want children of their own;
- More than two thirds of children believe in God. Children who believe in the existence of God generally feel happier in the family and at school than those who do not believe in God;
- Two thirds of children would like to have a say in decisions at local government level and almost half of 13-year-olds consider themselves old enough to vote;
- With regard to their residential environment, children wish above all for more nature, more play areas and good social coexistence;
- Seventy-two per cent of children have a room of their own, 32 per cent a television of their own.

32. An insight into the interests and wishes of older children is provided by the “Youth Survey”. This study examining the situation of young people has been conducted every five years since the end of the 1980s by the German Youth Institute (Deutsches Jugendinstitut) as part of its social reporting, and is funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. The study examines the living conditions and the social and political orientation of 16- to 29-year-olds. These empirical investigations are organized so as to ensure that their results are representative. The results cited here are restricted to the 16- to 17-year-olds from the 1997 survey and relate above all to the political views of this age group:

(a) Only around 1 in 10 youths from the age group 16 to 17 professes a keen interest in politics. A marked increase in this percentage is not observable until young people are in their twenties. Politics thus ranks far below other areas of life in importance to young people, just above art and culture and religion. The overwhelming majority clearly consider friends, parents, brothers and sisters, leisure, school, training and careers more important;

(b) The 16- to 17-year-olds, who are inevitably privileged or disadvantaged as a result of political decisions, nevertheless have concrete ideas on what “politics” should do for them. In this context, they are concerned primarily with their material living conditions: in each instance, three quarters or more of those surveyed wish for policies which will create sufficient trainee places and jobs, which will provide security for the distant future in the form

of pensions and which - again looking towards the future - are committed to protecting nature and the environment. Politics is also called on to apply more vigorous efforts to ensuring adequate leisure amenities and to curbing crime and violence, however. In all these points, the 16- to 17-year-olds from the eastern Länder see a distinctly greater need for action;

(c) In contrast, views on how democracy functions, i.e. on the daily workings of the political system, are reserved and sceptical. Only around one in two of the 16- to 17-year-olds from the western Länder is satisfied, or even very satisfied, in this respect, while in the eastern Länder this figure drops to as low as one in four. There is no change in this situation among adolescents and young adults up to 29 years of age;

(d) This tallies with the fact that, with regard to the aspect of relative deprivation, only two thirds in the west and a mere one third in the east believe they have a fair share of society's wealth. With regard to the future of society, however, only a good one third of 16- to 17-year-olds in eastern and western Germany alike fear that they will be worse off than their parents at some point in the future. Two thirds are confident that their situation will be as good as, or even better than that of their parents;

(e) The assessment of the political system's daily work does not affect the fundamental attitude towards the nature of the political system in the Federal Republic of Germany, however. Three out of four 16- to 17-year-olds in western Germany and almost two thirds in eastern Germany firmly support the idea of democracy. This level of support, furthermore, increases with age;

(f) According to the degree of satisfaction or dissatisfaction, around three quarters, and in some instances more of 16- to 17-year-olds wish for a better financial situation, more political rights and liberties, more extensive rights of co-determination at school and work and greater scope to influence politics. Each of these wishes is voiced more vigorously in the eastern Länder than in the western Länder. A majority of around two thirds are satisfied with their housing situation, and there is virtually no difference between eastern and western Germany on this point. The highest level of satisfaction in both east and west is accorded to relations with friends and parents, however.

I. GENERAL IMPLEMENTATION MEASURES

A. Implementation of children's rights (arts. 4 and 41)

General information

33. On ratifying the Convention on the Rights of the Child, the Federal Republic of Germany has undertaken to implement the rights recognized in the Convention within the German State by means of "all appropriate legislative, administrative and other measures".

34. The Federal Government reiterates the previously expressed view that a high standard applies in Germany with regard to according due consideration to children's rights in the Constitution and legislation.

35. Further improvements with regard to children's rights have ensued in the period under review. It will suffice to state only a number of key measures in concise terms here, as these are presented in detail in the report:

- Reform of the law of parents and child (chap. V.B.1);
- Introduction of the legal entitlement to a nursery school place (VII.A.2);
- Improvements to the family allowance (V.B.2);
- Reform of the Youth Health and Safety at Work Act (VIII.C.1);
- Adoption into the Basic Law of an express ban on discriminating against disabled persons (VI.A.1);
- Work programme to combat child abuse, child pornography and sex tourism (VIII.C.3);
- Promulgation of the Convention on the Rights of the Child (I.C);
- Emergency programme (VII.A.5) and the programme "Development and opportunities for young people in critical social environments" to combat youth unemployment.

36. Legislative, administrative and other measures to implement children's rights remain an ongoing task to which the Federal Government intends to apply itself with full vigour. In this context, it is broadly in agreement with the Conference of Youth Ministers. In a resolution from 1998 (1998 Conference of Youth Ministers), the latter asserted that, in a country such as the Federal Republic of Germany, implementation of the Convention is "not primarily a matter of legal enforcement, but first and foremost a task of political implementation, along with the administrative and judicial aspects. In Germany, fundamental children's rights are endangered not by a general animosity towards children or general discrimination against young people in society, but by concrete adverse living conditions for individual children or at least disadvantages for children in certain situations as a result of the prevailing structures".

37. Notwithstanding necessary legal reforms, the Conference of Youth Ministers concurs with the Federal Government in seeing diverse scope for application of the Convention within the framework of the existing law. "Substantial measures conducive to implementing the rights of children are attainable in accordance with the spirit and the objectives of the Convention on the Rights of the Child, in particular through child-orientated family and social policy, school and education policy, environmental and transport policy, housing and urban development policy, leisure, culture and media policy."

38. The Conference of Youth Ministers sees "implementation mechanisms organized on a political level and through dialogue" as adequate means of realizing the defined objectives, as the Convention, like many international agreements, is couched in general terms. "The fundamental need for a change of approach, to focus on the needs and interests of the young generation in all areas of society, calls for broad, ongoing debate in society."

39. This debate, the need for which is also recognized by the Federal Government, is in progress. It involves first and foremost the bodies and institutions mentioned in the introduction, as well as many members of the public. The Federal Government is making its contribution to an intensive dialogue which is asserting children's rights ever more vehemently. In this context, article 3 of the Convention, which requires the best interests of the child to be a primary consideration, may be regarded as the defining principle for political action. Pursuing this approach is one of the fundamental concerns championed by the Conference of Youth Ministers.

40. In accordance with paragraph 23 of the Committee's concluding observations, the dialogue should also address the matter of a more effective procedure in monitoring implementation of the Convention in Germany. It is true that the network of bodies and institutions presented in section A of the Introduction is in place. More effective coordination and structuring of the available instruments nevertheless appears expedient and feasible.

41. The continuing discussion on the appointment of a federal child welfare officer is also to be seen in this context. The Committee proposed that this matter should be considered in paragraph 23 of its concluding observations. The Federal Government does not consider the establishment of such an institution at federal level to be expedient. Germany's federal structure and the fact that the individual Länder are responsible for child and youth welfare alone reveal a federal child welfare officer to be an inadequate solution. The majority of decisions in the area of childhood policy in Germany are made at local government level. A contact at federal level would arouse false expectations among children and those with an interest in policies affecting children; as such a federal officer would repeatedly have to refer inquiries to the lower-level government authorities, explaining that the matter concerned did not fall within his or her remit. Furthermore, there are already institutions at federal level which are concerned with children's interests, such as the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the Children's Commission of the German Bundestag and the National Coalition. The Federal Government thus holds the view that it would be more expedient to use the existing capacities more effectively than to create a new institution, which past experience reveals to be a source of friction and impaired effectiveness, rather than of synergistic effects.

Activities of the Federal Government in the area of childhood policy

42. The Convention on the Rights of the Child has been instrumental to the development and implementation of programmes in Germany which address policies for children and with children by means of a comprehensive approach, thereby targeting many aspects of the Convention. Before discussing the activities by the individual Länder in this connection, it is appropriate to mention a number of measures undertaken by the Federal Government.

43. The new Federal Government, which has been in office since 1998, is planning to extend children's rights. In so doing, it is taking up a proposal contained in paragraph 35 of the concluding observations. Examples of activities in this connection are:

- Promulgation of the Convention. In 2002, a symposium in Germany to mark the Convention's tenth anniversary will take stock of the situation with regard to children's rights in Germany. A "children's rights kit" provides multipliers with suitable materials to help ensure that children obtain their rights (cf. chapter I.C);

- Participation. The project “Models for the participation of children and young people in society” is giving rise to implementation tools to facilitate participation on the part of children (cf. chapter III.D.2);
- Legal improvements. The most important improvement pursued in the period under review, and which has since been implemented, is the enshrinement in law of the child’s right to an upbringing free of violence (cf. chapter V.J);
- Equal treatment of boys and girls. The study “Girls 2000” is intended to provide comprehensive, up-to-date statistics on the situation for girls in Germany;
- Childcare. A “National quality initiative in the system of day-care facilities for children” serves to assess and develop quality in this area (cf. chapter VII.A.2).

44. The Federal Government intends to address the area of “Development and opportunities for young people in critical social environments” more vigorously in future. Although the key focus of the programme is on juveniles, possible measures to prevent social exclusion for application at nursery schools, schools and in youth work will also be examined and tested.

Activities and programmes by the Länder in the area of childhood policy

45. The Länder are developing an extraordinarily broad spectrum of concepts for child-related policies, of which only a number of examples can be stated here. They range from legislative measures through reports on children and young people and reports on children at local level to specific action plans of the Land governments or the local authorities.

46. In North Rhine-Westphalia, an extensive network of political activities relating to children has been developed through specific cooperation between the Land government and the local authorities. The Conference of Child Welfare Officers in North Rhine-Westphalia convenes regularly under the leadership of the Land’s child welfare officer. Thirty-five local authorities and non-political organizations discuss and coordinate their political activities at this conference and incorporate these activities into the Land’s overarching concepts. This cooperation is manifested in the annual “Congresses on policies for children”, for example. These offer a Land-wide forum for the discussion of topical matters relating to child-oriented policies and have been instrumental in establishing a broad public awareness of children’s interests. The results of the congresses are documented in reports for practical application.

47. The implementation of policy initiatives relating to children is supported by the ProKids planning and organization office which was established in Herten in 1997 with Land funding. ProKids advises local authorities and other organizations on the development of child-related policy concepts and provides support in the planning and implementation of childhood policy measures.

48. Important contributions also come from non-political organizations in North Rhine-Westphalia. The Land Youth Ring (Landesjugendring) for North Rhine-Westphalia and the Land Sports Association (Landessportbund) have evolved special programmes on

policies for children, for example. The Protestant Church of Westphalia has developed a comprehensive model for work in the parishes, entitled “*Ohne uns sieht die Kirche alt aus*” (“Championing the young face of the church”).

49. The Conference of Child Welfare Officers in North Rhine-Westphalia belongs to the National Coalition for Implementation of the Convention on the Rights of the Child. The first German congress on children’s rights was held in 1997 under the auspices of the then minister-president of the Land of North Rhine-Westphalia. A second congress has since taken place in Baden-Württemberg.

50. In Lower Saxony, the following key measures have been defined in implementing an independent and comprehensive concept for children in pursuit of a broad-ranging policy to assert children’s rights:

- Implementation, promotion and development of means of participating in society which arise in day-to-day life in the form in which it is actually experienced by children, with due regard to the respective social environment; and
- Greater consideration of children, their interests, abilities and needs in all matters pertaining to the local community.

51. As a fundamental principle, particular importance is attached in Lower Saxony to cooperating with various partners and involving the most diverse fields of activity. Following a current “Report on the situation of children in Lower Saxony”, further presentations relating to specific situations for children are planned.

52. In Rhineland-Palatinate, the participation of children in society and ensuring conditions conducive to the proper development of children are key aspects which inform the entire scope of the Land government’s political activity in relation to children. The focus on these themes is clearly manifested in the long-term action programme “A child-orientated Rhineland-Palatinate - Politics for and with children” (“*Kinderfreundliches Rheinland-Pfalz - Politik für und mit Kindern*”), which was adopted in 1995 (Rhineland-Palatinate Ministry for Culture, Youth Family Affairs and Women). This programme ties in with a host of themes of relevance to children and young people and constitutes a central instrument for implementation of the Convention in Rhineland-Palatinate.

53. The action programme addresses child-related policy as a global policy. Substantial funds for measures are thus available to all departments of the Land government. For implementation of the action programme “A child-orientated Rhineland-Palatinate” in particular, an additional DM 1 million were budgeted in 1998, as in the two preceding financial years. Grants are provided for pilot projects from the areas of childhood policy, youth work, measures for girls, the prevention of drug addiction and cultural work in the area of children and young people.

54. In Schleswig-Holstein, the rights of children and young people to participate in planning measures at local government level were enshrined in law back in 1992, in the form of the law on the advancement of young people (*Jugendförderunsaesetz*). Schleswig-Holstein played a pioneering role both here and in extending these rights in the local by-laws in 1996. The voting age for local elections has also been lowered (cf. chapter III.D.2).

55. The year 1994 saw the start of the so-called campaign for democracy in Schleswig-Holstein. This campaign is based on the idea that it is not sufficient to lament individualization processes and the loss of local identity, family and neighbourly traditions. Rather, the loss of community needs to be recognized with the appropriate sensitivity and a new local democracy is required. The campaign thus seeks “places of learning for democracy”, for increased civic involvement and responsibility on the part of the local community.

56. The campaign for democracy consists of a large number of practical experiments, with the central focus on changing the environment in which children and young people live their day-to-day lives. In particular, the campaign is to be seen as an attempt to reclaim part of the public landscape, i.e. roads, venues, residential environments, and to shape these areas according to the wishes and needs of children and young people.

57. The campaign for democracy was initiated in Schleswig-Holstein by the action “Schleswig-Holstein - A Land for children” (*“Schleswig-Holstein - Land für Kinder”*), a joint project of the Land government and the German Children’s Fund (Deutsches Kinderhilfswerk). Rather than being the control instrument for the democracy campaign, this action serves as a coordination point for local government bodies, schools, youth organizations and youth centres of the most diverse sizes, which also frequently collaborate with one another. Up to 1999, around 200 projects focusing on the involvement of children and young people in shaping their daily lives were registered in Schleswig-Holstein.

58. In Saxony-Anhalt the draft of a “Programme on child- and youth-related policy in Saxony-Anhalt” is currently the subject of broad debate. This programme represents the first attempt at a holistic presentation of the implementation of children’s rights in all key areas of life for the young generation - e.g. the family, the residential environment, the local community, nurseries, schools and youth organizations - thereby incorporating demographic trends and other social aspects.

59. In Thuringia - as in other Länder - child welfare officers have been appointed and child welfare offices set up with the aim of championing the rights of children and young people directly at interdepartmental level within the municipal authorities and at a political level.

60. With personnel and material support from the municipal authorities, children have been enabled to participate in the shaping of their daily lives and the environments in which they live through child-oriented planning groups and in campaigns focusing on specific projects and districts. A loose-leaf notebook entitled “Taking the initiative” (*“Anstoß”*) has been compiled in the course of a joint three-year project conducted by the Weimar child welfare office and the Land Youth Ring of Thuringia with financial support from the Land government. The children involved have discussed and assessed the rights to which they are entitled under the Convention on the Rights of the Child and illustrated children’s rights by reference to practical examples. The loose-leaf notebook is to be used in teaching social studies at schools in the future.

61. In addition to the drafting of the first Land-wide plan for the advancement of young people, all administrative districts and autonomous towns in Thuringia have also been required to draw up plans for the advancement of young people since 1997. Both the Land plans and the local plans for the advancement of young people are to focus on the interests of children and young people. They thus constitute an important basis for the implementation of children's rights.

Children's rights and the Constitution

62. In Germany, and particularly among the organizations concerned specifically with children, there is an ongoing debate on the adoption of children's rights into the Constitution. The Children's Commission of the German Bundestag and the Conference of Youth Ministers are also calling for children's rights to be included in the Constitution. The Committee on the Rights of the Child suggested such a measure in paragraph 21 of its concluding observations.

63. The present Federal Government shares the preceding Government's view that such a step is not necessary. In its statement on the tenth Youth Report, which was drawn up by an independent commission, the then Federal Government declared: "The Federal Government shares the commission's view that children's rights are enshrined sufficiently firmly in the Constitution. ... It does not support the view that the scope of the Basic Law should be extended to include the right of children to receive support and the means to develop." Amendments to the Constitution - particularly in the area of basic rights - are to be carried out with due caution and are only to be considered when a legal necessity applies. No such legal necessity applies here - as the commission concedes. The Federal Government does not consider it appropriate to repeat the in-depth discussions in the Common Constitutional Commission (Gemeinsame Verfassungskommission) and subsequently in the parliamentary committees. This view is further reinforced by the fact that integrating a basic right for children to education and support into the existing system of basic rights, which are first and foremost rights of defence against State interference, would be problematic.

Children's rights in international cooperation

64. The Federal Government has developed a series of activities to promote the rights enshrined in the Convention in the area of bilateral and multilateral cooperation. Activities in this context that are not discussed in the comments on the individual articles are presented below.

65. The Federal Government agreed to the amendment to article 43 (2) of the Convention - to increase the number of members of the Committee on the Rights of the Child from 10 to 18 - upon accepting the instrument of ratification on 25 June 1997.

66. The Federal Government also played an active role in the negotiations on the two Optional Protocols to the Convention and in the negotiations on the United Nations Convention against Transnational Organized Crime and the supplementary protocols thereto, above all the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

67. In the context of the first World Congress against the Commercial Sexual Exploitation of Children (Stockholm, 1996), the Federal Government initiated a follow-up conference at European level, which was held two years later within the framework of the Council of Europe to implement the Plan for Action adopted at Stockholm. Germany's comprehensive national response to the Stockholm Conference, the "Work programme of the Federal Government to combat child abuse, child pornography and sex tourism" was also presented at this follow-up conference (cf. chapter VIII.C.3).

68. The Federal Government also participates in the dialogue between the members of the Asia-Europe Meeting on matters of sexual exploitation. It is additionally involved in practical cooperation projects in the context of its cooperation with the Baltic Council.

69. In the negotiations on the Optional Protocol to the Convention on children in armed conflict, the Federal Republic supported the stipulation of a minimum age of 18 for direct participation in combat (cf. chapter VIII.A.2).

70. Women and children are the primary victims of anti-personnel mines. The Ottawa Convention to establish a worldwide ban on anti-personnel mines sets new standards from the point of view of both disarmament and international humanitarian law, with its comprehensive ban and its provisions on mine clearing and care for victims. The Federal Government played a major role in securing this success. It took early action at the international level to push for the drafting and the swiftest possible conclusion of a worldwide treaty to impose a complete ban on anti-personnel mines. It supported Canada's initiative at the strategic conference in Ottawa in 1996 for a structured negotiation process within a fixed time-scale and was subsequently instrumental in shaping this so-called Ottawa process. The Federal Government has attached special importance to an effective verification mechanism. An international meeting of experts organized by the Federal Government which was attended by participants from 120 countries in April 1997 laid the foundations for the verification system which has since been enshrined in the Convention. Germany was one of the first States to sign the Convention on 3 December 1997, its subsequent rapid ratification contributing to swift enactment of the Convention on 1 March 1999.

71. The excessive and uncontrolled accumulation and circulation of small-scale military weapons has become a problem on a global scale, heightening the threat to peace and security in many regions of the world. The Federal Government thus undertook the initiative for a Common Action by the European Union, covering comprehensive preventive and reactive measures, which was adopted by the EU Council at the end of 1998. Through this action, the EU first intends to contribute towards establishing a consensus in the relevant international forums, e.g. the United Nations and the Organization for Security and Cooperation in Europe (OSCE), so as to eventually achieve a worldwide regime on small-scale weapons through regional measures. Second, through concrete measures, the EU intends to help prevent the accumulation of destabilizing arsenals of small-scale weapons and to limit such arsenals to a scale commensurate with the legitimate security interests of the individual States concerned. The Common Action was successfully presented in a worldwide *démarche* during Germany's presidency of the EU. The States associated with the EU, the States of the European Free Trade Association/European

Economic Area (EFTA/EEA), Canada and South Africa have endorsed the objectives and principles of the Common Action. Constructive cooperation has been initiated with the United States of America and important regional organizations. An initial concrete project to promote the collection and destruction of weapons in Albania was also agreed under the German presidency. In response to an initiative by the Federal Government, the objectives and principles of the Common Action have furthermore been applied to the EU policy on development cooperation, by virtue of a resolution to this effect by the EU Council.

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

72. The Federal Government has played an active role in the drafting and negotiation of Convention No. 182 of the International Labour Organization (ILO) on the prohibition of the worst forms of child labour, which was adopted by the International Labour Conference on 17 June 1999. The “Worldwide protest march against child labour” organized in connection with the first debate on this Convention in 1998 received considerable attention among politicians and the general public in Germany.

Other activities by the Federal Government

73. The Federal Government was also involved in the Council of Europe’s “Childhood Policies Project”. Government representatives and experts from all over Europe discussed matters of childhood policy and children’s rights over a period of four years. The discussions centred on the participation of children in the family and society, day care for children and care for children in homes. The project ended with a three-day conference in Leipzig which was organized by the Federal Government. A total of 350 participants from 38 countries belonging to the Council of Europe discussed key aspects of childhood policy under the heading “Children’s rights and childhood policy in Europe: new departures?” The Federal Government is also actively supporting the Council of Europe’s follow-up activity to the “Childhood Policies Project” - the “Programme for Children”.

International development cooperation

74. Within the German Government’s development cooperation, children and young people receive aid in the area of both financial cooperation (FC) and technical cooperation (TC), above all in projects relating to basic education and vocational training. Projects to promote small-scale industry, health, food aid, emergency aid, refugee relief, family planning, water supply, sewage disposal, basic housebuilding and allocated social funds focus to a high degree on children and young people. Trans-sectoral approaches have recently been developed in TC pilot projects which provide support in particular for street children, working children and juveniles, young people in danger of falling prey to drug addiction, AIDS orphans, boys and girls affected by armed conflicts and the demobilization of child soldiers, for example. Special attention is accorded to the problems of working girls, e.g. in the world of prostitution. Advising relevant institutions on the implementation of childhood and youth policy at national and local level plays an important role.

75. Appropriate means of providing support and assistance include:

(a) Advising of Governments, in order to formulate and implement effective policies and programmes to protect the rights of young people and to improve the situation of children and young people in poverty areas with regard to living environments, work conditions, education and health. A link with the area of judicial and legal reform is also necessary here, e.g. in the area of the law relating to young people and criminal law with regard to young offenders. In the work with problem groups it is particularly important that government agencies should be prepared to abandon methods based on repression or public assistance;

(b) Cooperation with and advisory services for government and non-government organizations in networking programmes in the area of children and young people. Such services are vital in order to improve the effectiveness of the systems and the efficient use of resources for the appurtenant measures. The close coordination of bi- and multinational measures is a further prerequisite here;

(c) The strengthening of intermediary organizations, and further training of the staff at aid institutions and of educational personnel, in order to improve the work with children and young people at local and municipal level in particular;

(d) The development and testing of integrated activities in the areas of street social work, basic education in and out of school, vocational training geared to helping young people find employment, community, family and social work, and support and assistance for drug addicts. Promoting cultural and sporting activities and addressing social topics represent important starting points here.

76. At the end of 1996, in the area of technical cooperation there were:

- 156 projects with child- and youth-oriented components; and
- 52 child- and youth-oriented projects, including 20 complete projects.

77. The number of projects relating specifically to children and young people has since grown substantially. By mid-1998, the following 128 projects - spread over Latin America, Africa, Asia, the Near East and supraregional projects - had been approved or were in progress:

- 21 projects with street children, working children and children and young people in particularly difficult situations, including AIDS orphans, drug addicts, former child soldiers, girl prostitutes, etc.;
- 33 projects in the field of basic education;
- 53 projects in the field of health and sex education, including family planning, basic health services and AIDS prevention;
- 10 projects in the field of vocational training and the promotion of employment for children and young people under 18 years of age;

- 6 projects in the field of policy development - including refugee relief - with a central focus on children and young people;
- 2 projects in the field of development work for municipal districts with components focusing specifically on the needs of young people;
- 9 rural development projects with components focusing specifically on young people's needs, including the protection of resources, forestry and livestock farming.

78. The Federal Ministry of Economic Cooperation and Development also supports youth projects by non-government organizations and political foundations by means of non-repayable grants. The projects concerned relate to basic education and vocational training. Approximately 700 projects have been financed.

79. Paragraph 25 of the concluding observations of the Committee includes a recommendation to examine the possibility of rescheduling and waiving debt in favour of programmes which improve the situation of children. The central aim of the extended heavily indebted poor country (HIPC) debt relief initiative adopted in 1999 in response to a German initiative is to make a substantial contribution towards combating poverty. In accordance with this initiative, 36 highly indebted poor countries qualify for debt relief to the amount of US\$ 70 billion. Germany is contributing to the HIPC initiative by waiving outstanding debts of around DM 10 billion and by a direct stake of DM 150 million in the World Bank fund. As children are particularly affected by poverty, this initiative also contributes to improving the situation of that segment of the population.

Activities of organizations in the field of international development cooperation

80. In Germany there are a large number of organizations and initiatives which address the subject of the third world and children's rights. The following are stated by way of example:

(a) Terre des hommes and Kindernothilfe support the work carried out by organizations which focus exclusively on providing aid for children in developing countries;

(b) In addition to providing financial and practical assistance for development projects, the relief organization Brot für die Welt, part of the social welfare organization of the Protestant Church in Germany, also supports such projects in the form of public relations work in Germany. Brot für die Welt is a member of the Campaign against child prostitution, the Anti-landmines campaign and the Campaign against child labour in the carpet industry, for example. The organization also supported and helped to organize the Global March against Child Labour;

(c) In its carol-singing campaigns, the Papal Children's Mission (Kindermissionswerk) collects funds for development aid projects aimed specifically at children. In 1998, for example, the campaigns focused on the situation of children in prisons, with the additional aim of promoting public awareness of this issue.

B. Concerning the declarations on the Convention

81. The Convention on the Rights of the Child came into force in Germany on 5 April 1992. On depositing the instrument of ratification, the Federal Republic of Germany made declarations. Like a large number of other countries - around 70 countries have made declarations upon ratification of the Convention - Germany considered it necessary to comment on the validity of individual provisions of the Convention in the Federal Republic of Germany.

82. In the light of the concluding observations of the Committee on Germany's first report and the demands of the World Conference on Human Rights, the Federal Government examined the possibility of revoking the German declarations, following the comprehensive reform of the law of parents and child. The German parliament also resolved that the Federal Government should withdraw the declaration made upon signing the Convention. This resolution resulted from an initiative on the part of the Children's Commission of the German Bundestag.

83. This examination revealed that, from today's standpoint, it would not have been necessary to make the declarations, which consist for the most part of explanations intended to prevent potential misinterpretations or overinterpretations in connection with the Convention. These interpretations of the Conventions would be equally valid if the declarations had not been made.

84. A withdrawal of the declarations is nevertheless out of the question at present, as the Länder, which signed the Convention only on condition that the Federal Government would make a corresponding declaration, have as yet failed to declare their support for a withdrawal with the necessary majority.

85. Irrespective of this, it is to be pointed out that substantial changes have occurred with regard to the points mentioned in the declarations since the submission of the initial report. These concern, firstly, as already mentioned, the law concerning parents and children referred to in the declaration. Explanations in this connection are to be found in chapter V.B.1. The second change pertains to the paragraph of the declaration concerning child soldiers. Firstly, it is to be noted that the declaration goes beyond the requirements of the Convention on this point. Secondly, progress has been made in this matter through the adoption of the Optional Protocol to the Convention concerning the involvement of children in armed conflict (cf. chapter VIII.A.2).

C. Promulgation of the Convention (art. 42)

86. Efforts to make the Convention more broadly known have been stepped up considerably in the period under review. This intensification of efforts also takes due account of a proposal to this effect in paragraph 26 of the concluding observations. A number of key examples of the many measures undertaken in this connection are presented below.

Promulgation of the text of the Convention

87. The Federal Government has published the text of the Convention in several formats:
- A brochure intended primarily for adults contains the text of the Convention together with the appurtenant memorandum, the Act pertaining to the Convention of 20 November 1989 and the notification of the entry into force of the Convention, including the declaration of the Federal Government; 115,000 copies of this brochure have been printed to date;
 - To tie in with the “Caravan for a more child-orientated society”, a brochure explaining the Convention in a form suitable for children was additionally printed in a run of 30,000 copies;
 - In 1999 the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth published a new child-oriented version of the Convention text, drafted by the editorial department of a children’s news programme at a public service television broadcasting company. A total of 200,000 copies of the brochure have been printed.
88. Other bodies in Germany have also contributed towards publicizing the text of the Convention in Germany. Examples include the following:
- The text of the Convention is contained in the National Coalition brochure “Results of the initial dialogue between the UN Committee on the Rights of the Child and the Federal Government concerning the first report on implementation of the Convention on the Rights of the Child”;
 - The German association for the protection of children (Deutscher Kinderschutzbund) has published extracts from the Convention tailored to various age groups;
 - Individual Länder have also published brochures containing the text of the Convention;
 - In order to inform all paediatricians about the Convention, an abridged version of the text has been published in the monthly journal *Kinderheilkunde*. The text of the Convention is also to be published on the Intranet of the Academy for Paediatrics and Children’s Medicine (Akademie für Kinderheilkunde und Jugendmedizin), thus making it accessible at all times. These publications fall within the context of paragraph 27 of the concluding observations, which calls for children’s rights to be communicated to professional groups which work with or for children;
 - The web pages of the information site on childhood policies, *Infostelle Kinderpolitik*, which is sponsored by the Deutsche Jugendmarke foundation, offers the text of the Convention for viewing and downloading.

Caravan for a more child-orientated society

89. In the summer of 1998, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth organized the “Caravan for a more child-orientated society” (“*Karawane für mehr Kinderfreundlichkeit*”) under the banner “Children have rights” in conjunction with the Deutsches Kinderhilfswerk, a non-political youth welfare organization, and with support from sponsors. The aim of the Caravan was to publicize the Convention on the Rights of the Child in an effective manner, to arouse public awareness of the interests of children and to promote a more child-orientated society.

90. The Caravan, the largest campaign for children’s rights and childhood policies to date, took place between the “International Children’s Day”, which is traditionally celebrated on 1 June in the eastern Länder and the “World Children’s Day”, which is held on 20 September. During this period the Caravan passed through 50 towns and communities which had successfully applied to participate in the campaign. Large children’s and family festivals were held at the respective stopping points on the itinerary. The programme was backed up by activities on the part of the local authorities, clubs and organizations.

91. One of the important measures in connection with the Caravan was an information tent on the subject of children’s rights. Teaching personnel were on hand at the tent, and a number of educational measures were on offer. For example, children were presented with a choice of 12 articles from the Convention worded so as to ensure that they were readily comprehensible to them, from which they had an opportunity to mark with a cross those articles which they considered to be of decisive importance (cf. chapter I.B.). At three computer workstations, a special programme enabled children to produce comics telling a story which related to their rights. Children interested in the Internet discovered what Internet addresses have been developed especially for children, found contacts and organizations offering them support with their rights and additional information. Informational literature on children’s rights published by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, such as books, brochures, magazines and information flyers, were distributed free or for a minimal charge.

92. The central events at each venue were discussions between children and local politicians. After preparing for these “children’s assemblies” with adult assistance, these discussions offered children an opportunity to state in public their views on child orientation in their towns, to express their concerns and to criticize the adults responsible. Together with the politicians, they discussed whether, how and when their local environment could be made more child friendly. The proceedings were recorded on notice boards and audio cassettes. The results of the discussions provided the basis for a review of implementation of the children’s proposals which was carried out several months later. This was part of the Caravan’s sustainability concept, which also included a long-term stimulating effect for local childhood policy. An information panel presenting extracts from the Convention on the Rights of the Child was presented to the town’s senior representative during the opening event and was subsequently placed in the foyer of the town hall concerned, reminding the politicians to accord priority to the well-being of children in their decisions. All in all it was encouraging how seriously the politicians took the children. Chapter III.D presents the matters which were of particular importance to the children.

93. Press and public relations work offers an important means of publicizing the Convention on the Rights of the Child. With this in mind, the Caravan was deliberately organized as a media campaign. Press conferences before and during the children's parties and a federal press conference with children were backed up by local coverage of the children's parties. The press often addressed the subject of children's rights in advance reporting extending over several weeks.

94. The statistics for the Caravan confirm the campaign's effectiveness: 253,000 visitors at 49 venues, over 200,000 visitors at the closing event in Berlin and 160 million media contacts. It should further be mentioned that around 100 local measures to improve the situation of children were carried out or initiated in the wake of the Caravan up to the end of January 1999 (cf. enclosure to the report on the Caravan and notes in chapter III.D). Most of these measures represent the implementation of proposals voiced by the children at the children's assemblies. The Caravan, which was funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in the amount of approximately DM 1 million, took place again in the summer of 1999.

Children's rights ballots

95. Balloting children on their rights is used as an important means of publicizing children's rights in many countries throughout the world. This process involves children selecting those rights from the Convention which are of particular importance to them. In analysing the text of the Convention, the children acquire a greater awareness of the Convention. An additional effect of the children's rights ballot is that its results provide an indication of the priorities set by those affected by the Convention, namely the children themselves.

96. Children's rights ballots in Saxony-Anhalt and in connection with the "Caravan for a more child-orientated society" represent examples of the application of this instrument in Germany. In Saxony-Anhalt, the ballot was carried out at schools providing general education (Saxony-Anhalt State Ministry for Labour, Women, Health and Social Affairs, 1998). The "turnout" was surprisingly high, at 89.2 per cent. Irrespective of age and sex, the pupils selected the following three rights as being of primary importance to them:

- The right to an upbringing free of violence;
- The right to live without being subject to economic or sexual exploitation;
- The right to information, to form their own opinions, to express themselves freely and to be heard.

97. The children's rights ballot in the course of the "Caravan for a more child-orientated society" led to similar results:

- Article 19: Protection from violence, maltreatment and neglect;
- Article 2: Protection from discrimination;
- Article 32: Protection from economic exploitation.

98. In 1998 and 1999 the Aktionsbündnis für Kinderrechte, an association of various organizations with a specific focus on children, including UNICEF, is staging a nationwide children's rights ballot. All children and young persons between the age of 8 and 18 were called upon to vote. Apart from revealing deficiencies in the implementation of children's rights - both in the children's direct environments and on a worldwide scale - the results of the ballot are also intended to initiate a public debate on possible ways of rectifying unsatisfactory situations and promoting child-oriented policies.

Activities in the Länder

99. The Länder are also striving to make the Convention widely known, in some instances applying large-scale initiatives to this end.

100. The further training programme for schools in Berlin includes courses on the Convention for both teachers and social education workers. In 1996, the social education workers employed at the comprehensive schools in the eastern part of the city were familiarized with the Convention by means of a special further training programme. The Convention is to be included in the curriculum when the syllabus for social studies is revised.

101. In Hamburg, the State Youth Ring (Landesjugendring) Land pupils' representative body and the youth information centre are drafting a manual which is intended to provide children and young people with comprehensive information on all their rights in a readily comprehensible and clear manner.

102. In North Rhine-Westphalia, the book *Die Rechte des Kindes (The Rights of the Child)*, which was published for the first time in 1991, has since attained a total print run of 125,000. A concise summary of the Convention is also to be published, in order to provide a practical means of ensuring that the Convention is known and duly considered in routine daily administrative work.

103. The publicly funded Lower Saxony Land association of the Kinderschutzbund informed members of the Land parliament and visitors about the Convention at a public exhibition entitled "Childhood is no child's play" which was staged at Lower Saxony's Land parliament in February 1999. The exhibition will be on show throughout the Land. The contents of the Convention will also be disseminated in connection with the annual children's song festival, the children's cinema festival organized in cooperation with cinema operators in connection with World Children's Day, and at numerous other public events. Measures intended to highlight the importance of children's rights in 2000 include a "coastal marathon", in which numerous well-known marathon runners will be participating.

104. The Land government of Rhineland-Palatinate has presented a brochure on the Convention entitled "*Kinder haben Rechte*" ("Children have rights") with the aim of publicizing the contents of the Convention (Rhineland-Palatinate State Ministry for Culture, Youth, Family Affairs and Women, 1995). The brochure is further intended to promote an awareness of the fact that realizing children's rights is a task for society as a whole and thus a matter of concern not

only for the Land, but for all forces in society. A family advisory guide which was published in 1997, offering information on financial benefits, assistance in special social situations, the home and building, holidays and leisure time, education and care, schooling and much more besides also contains numerous references to the Convention on the Rights of the Child.

105. The Saarland has published a brochure of its own to inform children, young people and adults about the Convention. In Thuringia the brochure *Die Rechte des Kindes (The Rights of the Child)* has been made available to all schools.

Other activities and events

106. The Schools Committee of the Standing Conference of Ministers of Education of the Länder of the Federal Republic of Germany has concerned itself with the Convention at the suggestion of the Federal Minister for Family Affairs, Senior Citizens, Women and Youth. The Schools Committee appreciates the importance of the Convention and has declared its support for publicizing the Convention by appropriate means. At the same time, it has pointed out that the content and aims of the Convention have already been incorporated into school curricula and a large number of school textbooks.

107. Children's rights as defined in the Convention receive particularly broad-ranging attention in connection with World Children's Day, which is celebrated in Germany on 20 September. Children's festivals are held in many communities to mark this occasion, and these also serve as a source of information on children's rights. A central event, organized by the Deutsches Kinderhilfswerk in Berlin and sponsored by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, attracts over 200,000 visitors every year. The event is staged under the banner "It's all about children".

108. The Deutsches Kinderhilfswerk also organizes the campaign "Ambassadors for a more child-oriented society". This campaign involves children visiting municipal and local authorities to promote child-oriented local government policies among politicians and the general public. For many years now, Terre des Hommes has been organizing the Tour des Hommes, a bicycle tour through Germany whose various stages are marked by children's festivals which are intended to draw the attention of children and adults alike to children's rights.

109. The media are also playing their part in publicizing the Convention. Examples here include the following:

- The second public service television broadcasting company (ZDF) has devoted a series of 20 programmes to children's rights;
- The Westdeutscher Rundfunk radio broadcasting company has organized a competition on children's rights;
- A host of books and magazines are concerned with the Convention and children's rights. These include guides for teachers and other multipliers. The folder "*Die weltweiten Kinderrechte*" ("Children's rights worldwide") from the youth division of the Red Cross serves as an example here.

Summary

110. A representative nationwide survey conducted by an opinion research institute in 1997 for the Deutsches Kinderhilfswerk revealed that 15 per cent of the German public were aware of the Convention on the Rights of the Child. Efforts to publicize and implement the Convention in Germany have since been stepped up considerably. These endeavours nevertheless require further strengthening in order to instil a greater awareness of the spirit and content of the Convention in people - adults and children alike - and in political practice.

111. To this end, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has since produced a "children's rights kit". This kit combines a wealth of different materials and media on the topic of "children's rights" and has been distributed free of charge to 1,200 libraries, Land photographic services, educational and vocational training institutions, Land youth authorities, organizations focusing on children and youth associations. It is to be expected that this campaign will have a multiplier effect for the promulgation of children's rights. The children's rights kit is part of the Federal Government's efforts to increase the awareness of children's rights in schools, in response to a proposal contained in paragraph 27 of the concluding observations of the Committee on the Rights of the Child.

112. It is also planned to acquaint foreign parents who have a poor knowledge of German with children's rights. The immediate priority is on producing a brochure for Turkish parents.

113. Further efforts are also required - in accordance with paragraph 27 of the concluding observations - in according due consideration to children's rights in the training of professional groups who work with or for children.

D. Dissemination of the reports on implementation of the Convention (art. 44, para. 6)

Dissemination of the initial report

114. The initial report of the Federal Republic of Germany to the United Nations in accordance with article 44, paragraph 1 (a), of the Convention on the Rights of the Child was submitted in 1994. Article 44, paragraph 6, obliges States parties to make their reports widely available to the public in their own countries.

115. The Federal Government has made its initial report available to the public in the form of a brochure. The report has also been published in the English language.

116. The initial report also forms part of the National Coalition's brochure "*Ergebnisse des ersten Dialogs zwischen dem UN-Ausschuss für die Rechte des Kindes und der Bundesregierung über den Erstbericht zur Umsetzung der UN-Kinderrechtskonvention*" ("Results of the initial dialogue between the UN Committee on the Rights of the Child and the Federal Government concerning the initial report on implementation of the UN Convention on the Rights of the Child"). As the title indicates, the brochure has made the critical comments on implementation of the Convention in Germany accessible above all to those responsible in the political sphere

and to organizations and associations. This is in line with a proposal contained in paragraph 36 of the concluding observations. This brochure has stimulated debate on implementation of the Convention considerably. Media coverage of the debates on the initial report in Geneva extended through the press, radio and television.

Dissemination of the second report

117. The Federal Government also plans to publish the second report on the implementation of the Convention in the form of a brochure. An English version will also be available. The report will be forwarded to the members of the German Bundestag, the Bundesrat, the Children's Commission of the German Bundestag, the supreme Land youth authorities, the Länder's children's welfare officers, the Land youth welfare departments, the local youth welfare offices, the associations within the National Commission and the media. Similarly to the initial report, the brochure will also be available to all members of the public free of charge, from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

II. DEFINITION OF THE CHILD (art. 1)

118. The definition of the term "child" in the German legal system was presented in the Federal Government's initial report. The remarks provided in the aforesaid report also explain the rights and obligations which ensue upon attaining different ages. In the period under review, changes have occurred in this connection only with regard to youth health and safety at work, as explained in chapter VIII.c.1.

Capacity to act in asylum proceedings

119. In Germany, majority is attained on reaching the age of 18. By way of derogation from this provision, section 12 of the law on asylum proceedings stipulates that foreigners of 16 years of age do, as a general principle, possess the capacity to act in asylum proceedings.

120. The legislature was of the view that 16-year-olds are capable of understanding the meaning of asylum law and assessing the situation ensuing for them and their dependants as a result of recourse to the right of asylum. The legal capacity to act prior to attaining majority is attributed to minors in various legal areas, e.g. with regard to the practising of a religion, when it can be assumed that minors possess the necessary maturity to assert their interests in a responsible manner. Such a differentiation has also been carried out in the law on asylum proceedings.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

121. As already stated in the initial report, article 2, paragraph 1, of the Convention corresponds in terms of its content to the principle of equality of treatment laid down in article 3 of the Basic Law of the Federal Republic of Germany.

122. Although the Constitution does not contain a "principle of non-discrimination specifically for children", it does prohibit discrimination - i.e. improper inequality of treatment - in general, and thus also with regard to children.

123. Express provisions on non-discrimination are contained in the laws of some of the Länder. In the Land of Berlin, for example, the implementing law on Book Eight of the Social Code (SGB VIII) stipulates that work by the youth welfare services is to serve to implement equality of treatment for men and women, and that the youth welfare services must promote tolerance towards people of a homosexual orientation.

124. Notwithstanding the fact that the principle of non-discrimination is laid down in German law, measures to prevent or eradicate discrimination continually require to be applied in practice. Specific groups of children who are at risk of discrimination are discussed in detail below.

1. Foreign children

General and legal background situation

125. Foreign children must not be discriminated against in Germany. A brief outline of the rights enjoyed by foreign children is appropriate here.

126. Foreign parents and their children are granted the necessary freedom to preserve their cultural identity. They are able to retain and practise aspects of their culture, provided that these are compatible with the fundamental democratic consensus and do not impede their participation in society. In particular, bilingualism may actually be conducive to integrating young foreigners into society.

127. In Germany, the right to live according to one's own culture, to use one's own language and to practise one's own religion enjoys constitutional protection under the Basic Law and/or is guaranteed by basic statutory law.

128. The law concerning assemblies and processions also grants non-Germans the right of assembly as stipulated in this law and in accordance with the provisions of the law concerning foreigners. Under constitutional law, the freedom of assembly for non-Germans is guaranteed by the freedom of action enshrined in article 2, paragraph 1, of the Basic Law.

129. Foreign persons, associations of foreigners and foreign clubs also possess freedom of association in accordance with basic laws, in particular the law concerning associations.

130. Freedom of faith, conscience and creed is guaranteed by article 4 of the Basic Law. This basic right applies to everyone, including foreigners and children. Article 4 of the Basic Law is thus an expression of the religious and ideological pluralism which applies in Germany and of the State's corresponding duty to ensure neutrality, equality of treatment and tolerance.

131. The freedom to practise religion as enshrined in article 4 of the Basic Law is guaranteed globally, and is not restricted to certain areas of freedom. This means that not only does freedom of faith and conscience, including freedom of creed, prevail, but also the freedom to practise religion privately and publicly and the right of religious assembly, i.e. the freedom to form a religious group on the basis of a common faith.

132. The freedom of faith, conscience and creed and the freedom to practise a religion is restricted solely by other provisions of the Basic Law, in particular provisions to protect the conflicting basic rights of third parties in individual cases or provisions to guarantee the

protection of collective goods defined in constitutional law. Conflicts with human dignity, parental rights, the freedom to teach, freedom of artistic expression, between the negative and positive freedom of religion, with the State's educational obligations and, in extreme cases, even with others' right to life are conceivable in the area of religious practice, including the right of the individual to orientate his or her entire behaviour towards his or her faith. When such conflicts arise, a careful balancing of interests is to be carried out, according due consideration to all the aspects involved.

Promotion of the identity of foreign segments of the population

133. The Federal Government has no provisions for any special promotional measures to maintain the identity of foreign segments of the population. Apart from the fact that this would be financially unfeasible on account of the large number of nationalities living in Germany, the Federal Government's stance is also based on the notion that, with regard to the future careers and personal lives of foreigners living in Germany, it is more important for them to have a good command of the German language than for them to receive support from the German State in preserving their mother tongue. As the observations in chapter VII.A.3 show, however, this applies less with regard to support for foreign children in schools.

134. At regional and local levels, support is provided for projects which serve to promote cultural activities by foreigners and thus indirectly to maintain their identity. The Berlin Senate's administrative authority for science, research and culture, for example, sponsors cultural projects by foreigners living in Berlin which focus on preserving and developing their cultural identity and stimulating intercultural dialogue, e.g. foreign theatre groups.

135. Such measures also benefit children. Measures to promote the identity of foreign children at school may be assumed to be of greater importance to these children, however. In this connection, reference is made to the observations in chapter VII.A.2.

On the situation of foreign children in Germany

136. A total of around 7.3 million foreigners were living in Germany on 28 February 1999. Approximately 1.7 million of these were children within the meaning of the Convention on the Rights of the Child. More than two thirds of the foreign children and young people were born in Germany and thus belong to the second and third generations of foreigners. In all probability, they will remain in Germany for the most part.

137. Full social and occupational integration of the young foreigners living legitimately in Germany is a key focus of the Federal Government's policy on aliens. Integration is promoted by a legal framework which clearly defines the aliens' status with regard to their right of residence and their right to participate in the labour market, thus helping them to plan their lives more effectively.

138. During the period under review, young foreigners of between 16 and 23 years of age were entitled to naturalization after lawfully and ordinarily residing in Germany for eight years and attending school in Germany for six years.

139. This arrangement was superseded by new provisions as of 1 January 2000. A modern law of nationality and citizenship was established by the law on the reform of the law of nationality and citizenship of 15 July 1999, thereby realizing a central objective of the new Federal Government's integration policy. In addition to general measures to facilitate naturalization, the existing *ius sanguinis* has been extended by the introduction of a new *ius soli*: children born on or after 1 January 2000 to foreign parents with a firmly established residence status now acquire German nationality at birth. This arrangement entails the so-called option model: in future, anyone born to foreign parents who acquires German nationality upon being born in Germany and also acquires a foreign nationality by virtue of their descent shall be required to choose between their German or foreign nationality on attaining majority. Should they decide in favour of German nationality, they shall be required to furnish evidence that they have given up or lost their foreign nationality by their twenty-third birthday. A transitional arrangement of limited duration entitles those aged under 10 on 1 January 2000 to naturalization, provided that their parents already possessed firmly established residence status at the time of their birth. These children are also subject to the provisions of the option model. In both cases here, the acquisition of German nationality signals the beginning of the process of social integration. In the course of modernizing the law on nationality and citizenship, the general naturalization periods have been reduced from the previous 15 years to 8 years; under the law on aliens, spouses and children who are not of age can be naturalized together with the main applicant for naturalization, even if they have not yet been lawfully resident in Germany for eight years.

140. Although the State's efforts to promote integration are taking effect, the situation of foreign children in Germany nevertheless differs from the situation for German children in many respects. They grow up in a family environment shaped by different underlying social and cultural conditions. Foreign children and young foreigners are often subject to additional strains in the course of their academic education and vocational training. In cities in particular, the degree of spatial segregation harbours a danger of social segregation and exclusion. On average, the material income of foreign families is lower than that of German families. The proportion of foreign children attaining higher levels of academic qualifications and entering into higher levels of career training is less than their proportion of the overall population, while the opposite applies with regard to the levels of young foreigners drawing social security. The social climate in which Germans live together with foreign people doubtless affects the conditions in which children and young people live and the prospects for their successful socialization.

Measures to promote integration

141. Against this background, the Federal Government, the Land governments and the local authorities offer diverse measures to support the integration of children and young people, with the aim of improving their equality of opportunity. The central focus here is on promoting the integration of foreign children and young foreigners in the school and education system, so as to improve their educational opportunities and to facilitate the transition from school to work (cf. chapter VII.A.3).

142. Child and youth welfare helps to ensure that the integration of foreign children is understood to be a task for society and not merely a requirement to be met by the individuals concerned, for example. Aspects of intercultural coexistence, i.e. the partial preservation of the foreigner's original culture, receive due consideration and the development of tolerance among

the German public is promoted. In the interest of integration in particular - in the form of a mutual learning process - it is vitally important for German and foreign children to play and learn together and to undertake leisure and cultural activities together.

143. In principle, child and youth welfare benefits are accessible to foreign children. Practical experience also shows that foreign children enjoy the benefits and functions in accordance with Book Eight of the Social Code (SGB VIII - law on child and youth welfare). Although they may be underrepresented in statistical terms when it comes to claiming education allowances - this applies to girls in particular - this is not accountable to a lack of willingness to provide such benefits on the part of the youth welfare offices. Rather, it must be assumed that an unawareness of the existing means of assistance is accompanied by misconceptions as to the extent to which families are required to solve their problems on their own initiative and the functions of a modern German youth welfare office. The sole justifiable criticism here is the possible need for more intensive educational work.

144. Nursery places for foreign children ensure that children are integrated into German society at an early age, thereby increasing their chances of success in the German school system.

145. Integration assistance in the school system in the form of additional teaching for foreign children is intended primarily to eradicate deficiencies in the language area and thus to enable the foreigners to participate in normal lessons (cf. also chapter VII.A.2).

146. A further area which requires special consideration in connection with the integration of foreign children and young foreigners is the transition from school to work. The measures undertaken in this context are described in chapter VII.A.5.

Problems

147. As outlined above, foreigners also fall within the ambit of Book Eight of the Social Code. The legal positions of foreign persons are restricted, however, in that their residence in Germany must have a legal status. Although most foreigners do reside lawfully in Germany, there is nevertheless a not insubstantial group of children and young people who are excluded from youth welfare benefits in accordance with Book Eight of the Social Code. This is problematic in that illegal residence is often transformed into legal residence and, from a professional point of view, youth welfare measures must be undertaken in good time.

148. It should also be pointed out that, in accordance with section 46 of the law on aliens, claiming youth welfare benefits in accordance with Book Eight of the Social Code may constitute a basis for deportation by the authority responsible for aliens. In this connection it should be pointed out that a discretionary standard is involved here, however, whereby other aspects are considered, in addition to the claiming of youth welfare benefits. The potential for the claiming of such benefits to constitute an offence which may lead to deportation is further severely restricted by the fact that minors whose parents or whose parent with sole right of custody and care of the child are/is resident in the territory of the Federal Republic of Germany are exempted. It should further be noted that the provision contained in section 46 of the law on aliens is rarely applied in practice.

2. Combating of racism and xenophobia among young people

149. Notwithstanding the prohibition of discrimination, racist and xenophobic attacks and offences have occurred in the period under review. In many cases, young people are among the offenders.

150. Effective action to combat racism and xenophobia among young people is thus necessary. This represents one of the key tasks for youth-oriented policy in the Federal Republic of Germany, in order to meet the requirements stipulated in article 2 of the Convention.

151. Offences with a right-wing extremist and racist background focus primarily on types of offences which are typically committed by young people, such as assault, damage to property and the dissemination of propaganda. The majority of these offences emanate from groups, whereby the boundaries between politically motivated crime and general juvenile delinquency are fluid. There is an ongoing potential for delinquent behaviour and violent attitudes to arise, develop and become firmly established in such scenes and cliques, due to group-dynamic effects. Young people are also particularly susceptible to ideological sloganeering due to the specific conditions of adolescence.

152. Prevention plays a major role in combating the stated problems. The various social institutions have a decisive influence on the attitudes and behaviour of young people. By carrying out their tasks in a responsible manner, families, schools, child and youth welfare institutions and the work environment also help to prevent crime and violence. In this context, childhood, youth and educational policy at both federal and Land level is based in particular on the following generally accepted guiding principles:

- Reinforcement of the personality and self-esteem of children and young people;
- The involvement and integration of young people in society;
- Social policies which ensure equality of opportunity for children and young people;
- Due regard to the interests of young people as an “investment for the future” throughout the business community and society.

153. In the period under review, the Federal Government carried out comprehensive measures specifically aimed to combat racism and xenophobia. In 1995, for example, the Federal Ministry of Justice published the results of a scientific study it had commissioned, entitled “*Fremdenfeindliche Gewalt junger Menschen*” (“Xenophobic violence by young people”) (Federal Ministry of Justice, 1995). On the basis of qualitative interviews in particular, the study illuminates the biographic, family and group-dynamic backgrounds of and other social aspects relating to xenophobic acts of violence and discusses the possibilities of exerting a positive influence on young people in the context of criminal proceedings.

154. In another research project by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the development of right-wing extremism among young people in Germany from 1994 to 1998 has been analysed.

155. In recent years, the Federal Ministry of Education and Research has sponsored projects to combat racism, anti-Semitism, violence and right-wing extremism. Development projects have also been carried out which are able to contribute indirectly to reducing xenophobia - in particular by improving the educational situation and social integration of the migrants living in Germany. An example here is the project entitled "Development of strategies for action to combat xenophobia and preparatory strategies for the implementation of concepts to prevent violence" ("*Entwicklung von Handlungsstrategien für die Bekämpfung von Fremdenfeindlichkeit und zur Vorbereitung der Umsetzung von Konzepten der Gewaltprävention*").

156. As an ongoing project, the youth study "Attitudes among adolescents and young adults" which is being conducted by the German Youth Institute (Deutsches Jugendinstitut) has been extended to include the specific subject area of "Extremism, xenophobia and violence". The aim here has been to establish a phenomenology and typology of young people with extremist and/or violent tendencies. Although the overwhelming majority of surveyed adolescents and young adults in Germany continue to vehemently reject xenophobic attitudes, the data collected in 1997 indicate that xenophobia among young people certainly requires to be regarded as a problem which must be addressed by society and the political system as a whole.

157. Comprehensive materials, findings, experience and recommendations arising from the "Action programme against aggression and violence" carried out in around 130 individual projects by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and the pilot programme on "Combating and preventing violence in the local social environment" have been published in a five-volume book series, thus making these results available to interested and responsible parties and experts. Several Länder have taken up initiatives and proposals from this programme for implementation in measures at Land level to combat xenophobia and racism.

158. In the wake of the European conference "Religions - Ethnic peoples - The State" which was held in Berlin in April 1999, the Federal Minister of the Interior and the Federal Minister of Justice set up the "Alliance for Democracy and Tolerance - against Extremism and Violence". This alliance is intended as a platform for cooperation between all the relevant social, governmental and non-governmental organizations in order to promote the peaceful coexistence of the native and foreign populations, the majority of the population and minorities, to curb prejudice and xenophobia and to suppress violence.

159. The Federal Government promotes specific measures to combat discrimination against ethnic minorities and xenophobia through the information, documentation and action centre against xenophobia which is operated for the youth associations and youth initiatives in Germany, and through action programmes to integrate young foreigners. Since 1995, projects which support young foreigners in finding employment and apprenticeships have been sponsored in these integration programmes. In this context, additional measures are provided which offer new approaches and initiatives to complement and reinforce the existing advisory services offered by the labour market authorities and the support benefits available in the area of social welfare for young people.

160. In the field of public relations actions, the Federal Republic has teamed up with the trades unions and employees to carry out an information programme for young apprentices entitled

“Living with foreigners - working together for success”, and has participated in the European youth campaign “all different, all the same” against racism, xenophobia, anti-Semitism and intolerance.

161. Media-related fact-finding projects are additionally intended to ensure the correct approach to xenophobic and extremist actions. The brochure “Rock from the right”, containing information on rock music with radical right-wing lyrics, how such music arose and developments and trends in this music sector, is regularly revised and published in subsequently updated editions by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

162. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth will be bringing out a multimedia training programme to help ensure that youth leaders, social workers and teachers adopt the appropriate behaviour when confronted with right-wing extremist activities and xenophobia among young people.

163. Since 1988 - and thus in the period under review, too - the Federal Government’s representative for matters concerning foreigners has awarded the annual CIVIS radio and television prize “*Leben in der Kulturellen Vielfalt - Achtung des anderen*” (Living in cultural diversity - Respecting others”), in conjunction with the Freudenberg Foundation and the public service TV broadcasting company Erstes Deutsches Fernsehen, represented by Westdeutscher Rundfunk. The work relating to the CIVIS prize, including the establishment of a special youth jury to judge contributions produced by young people, and the awards ceremony itself involves several hundred media producers and consumers each year. The CIVIS radio and media prize plays an important role in instilling an awareness among the media of the appropriate approach to problem areas such as discrimination, racism, xenophobia, themes relating to the social integration of migrants, cultural diversity in Germany and Europe and attitudes towards things foreign.

164. The Federal Government has provided a comprehensive and detailed factual account of its measures and activities to combat hostile attitudes and prejudices against foreigners in its thirteenth and fourteenth report in accordance with article 9 of the International Covenant on the Elimination of All Forms of Racial Discrimination (CERD/C/299/Add.5), to which the reader is referred for further information.

165. In many Länder, training programmes to teach offenders how to resolve conflicts without resorting to violence and to counter xenophobic and/or racial prejudice are offered or ordered by courts in connection with custodial or other sanctions imposed under criminal law.

166. The Länder of Brandenburg and Thuringia provide typical examples of the diverse efforts being undertaken in the Länder. In Brandenburg, the Land government has evolved a plan of action entitled “Tolerant Brandenburg”. The following measures apply on the basis of an “Active Alliance against Violence, Right-Wing Extremism and Xenophobia”:

- Local counselling services and integration structures are being set up for immigrants;
- Measures are being carried out to promote the co-existence of native and foreign citizens;

- The exchange measures for pupils and teachers are being expanded, together with school twinning arrangements;
- Further training and advisory services for teachers and multipliers are being promoted;
- Investigations are being carried out to ascertain the causes of violence, extremism and xenophobia;
- Measures to help and support victims are being established; and
- More intensive policing and recourse to the courts is being encouraged.

167. In Thuringia, projects and programmes by schools or in cooperation with schools and pupils which serve, among other things, to educate pupils on xenophobia and combating prejudice and to promote good relations with minorities living in Thuringia, have received support since 1994 by virtue of a directive on the “Provision of grants from funds of the Free State of Thuringia to promote measures to combat risks to children and young people”.

3. Combating discrimination against girls

168. Men and women are equal before the law in Germany. De facto inequalities nevertheless apply between boys and girls, and these require to be fought.

169. The Federal Government has committed itself to implementing the platform for action adopted at the Fourth World Conference on Women held in Beijing in 1995. One of the 12 main focuses, in accordance with the strategic objectives and measures in the Platform for Action, is on the subject of “Girls”. Due observance of the rights of girls and young women is integrated into all policy areas in accordance with the principle of “gender mainstreaming”.

170. The interests of girls are accorded high priority in child and youth policy. The Federal Government’s child and youth policy thus accords special priority to the emancipatory education of children and young people, and to the advancement of girls in particular. The obligation to take into consideration the different situations in life for girls and boys, to reduce disadvantages and to promote the equality of girls and boys has been enshrined in federal law for the first time in the course of revising the law on child and youth welfare.

171. This clearly shows that a differentiated approach according to sex is necessary and requires to be implemented in all areas of youth welfare. In the nationwide debate among specialists, the slogan “Girls’ affairs as a global task” has been coined. This emphasizes the fact that the advancement of girls cannot be regarded as a separate, special subject area or as a supplementary task area in the field of child and youth welfare, but is to be defined as an integrated element. Rather than measures aimed specifically at girls, therefore, the focus must be on establishing a clear perspective which permits a differentiated approach according to sex for all areas. This logically gives rise to the requirement for adequate forms of participation in order to ensure that girls’ interests actually receive due consideration.

172. The Federal Government addresses the stated tasks in the area of child and youth policy primarily by means of the Federal Child and Youth Plan. The advancement of girls must receive due consideration as a global task in all programmes of the Child and Youth Plan. This involves differentiating the youth welfare measures according to the specific situation and level of development in all situations in which special, differentiating measures are called for or offered.

173. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is applying a special emphasis with the pilot programme "Girls in youth welfare", which is currently running in its second phase. In the first phase of the programme, which ran from 1991 to 1996, various concepts - focusing in particular on socially disadvantaged girls - were developed and tested by means of central measures and pilot projects, providing a broad range of fresh ideas and insights for work in the area of girls, particularly in the eastern Länder.

174. The central focus of the second phase, which began in 1997, is on further developing the existing youth welfare structures. Various highly innovative concepts for social work relating to girls, political education, youth welfare planning and sex-specific work with boys are being tested in pursuit of the objectives "Participation in the form of active involvement" and "Integration in the form of participation on equal terms". The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth provided funding for this programme in the amount of almost DM 27 million in the period from 1994 to 1999.

175. Sex equality must also be ensured in educational policy. It is education and training which paves the way for entry into a career offering prospects for development. It is thus important to open up a broad spectrum of career opportunities for girls and young women at an early juncture. In the context of coeducation, special promotion measures for girls require to be implemented in the scientific and technical fields, so as to enable girls to evolve and develop their abilities in these subjects more effectively. Special measures are also necessary to achieve a larger proportion of young women in technically orientated apprenticeships and careers.

Activities by the Länder

176. The Länder are also active in the area of policy focusing on girls. "Land working parties on policies relating to girls" and/or study groups on policies relating to girls have been established in the majority of the Länder with the aim of policy-making in areas relating to girls, developing and networking work relating to girls and qualifying female specialists. The Länder are also applying the mandatory requirements at federal level as imposed by Book Eight of the Social Code (SGB VIII) in more specific terms in legal provisions of their own which are aimed at the advancement of girls.

177. The Bavarian Child and Youth Programme focuses on "... a qualitative change via the propagation and regular consolidation of working approaches geared specifically to girls in practical youth work." To this end, the special programme "Promotion of work with girls and young women" is a pilot programme which serves to initiate and qualify new approaches geared specifically to girls in youth work and to integrate such approaches into the existing infrastructure. The pilot programme, which began in 1998, is set to run for three years and is financed from the culture budget and federal funds.

178. In order to redress discrimination against girls and young women in facilities in the field of child and youth work, around one third of such facilities operated by the City of Hamburg offer measures aimed specifically at girls and young women.

179. In the course of evolving a programme to counter discrimination against homosexual women and men, the Land of Hessen is addressing the specific situation of lesbian girls. In particular, these efforts are aimed at establishing a more pronounced emphasis on the equal treatment of this target group in youth care and at school. To achieve this aim, comprehensive measures are planned in the area of the basic, further and advanced training of educational specialists, along with discussions in the Land youth welfare committee and the enshrinement of appropriate provisions in the guidelines on work relating to girls in Hessen and on the Hessian implementing law for SGB VIII - law on child and youth welfare.

180. Up to 1998, an important area of support in Lower Saxony was generally concerned with measures aimed specifically at girls to reconsider the traditional social role of women. A new promotion guideline now targets projects for promotion which serve to address new media and new technologies or which accord due consideration to movement-orientated approaches and career orientation measures. A further focus is on the promotion of participation projects and measures in rural areas.

181. The pilot project "Girls in youth work" was launched in Lower Saxony back in 1991. This project is set to run for 10 years, and is aimed at developing concepts for work and policies geared to girls in Lower Saxony, networking work structures relating to girls and providing advice and support for local government bodies and associations.

182. A pilot programme entitled "Wen-Do course as a self-assertion programme for girls at schools" has been in place in Lower Saxony since the beginning of the 1999/2000 school year. This programme is making an important contribution towards strengthening girls' self-confidence through measures to develop self-assertiveness and to address the problem of dealing with sex-specific differences in conflict situations. The programme targets female pupils at primary, secondary and special schools.

183. The objectives and content of the Land youth plan in North Rhine-Westphalia include the reinforcement of such measures as "... afford greater scope to work with a bias towards girls and work with boys which accords due consideration to reflection on sex-specific roles".

184. In Thuringia, numerous projects targeting girls have been established in recent years in the field of youth welfare. The Land youth welfare department is currently cooperating with the Institut für Sozialarbeit und Sozialpädagogik (Institute for Social Work and Social Education) in conducting a pilot programme to promote an awareness of girls' needs in youth welfare planning, with the support of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. This planning approach is important at local and supralocal levels, in particular to prevent the withdrawal of girls and young women from important areas of society.

4. Non-discrimination in other areas

Equality of legitimate and illegitimate children

185. Article 6, paragraph 5, of the Basic Law contains a special embodiment of the principle of equality before the law which is enshrined in the Constitution, stipulating that the legislature is to establish the same conditions for the physical and emotional development and the social status of illegitimate children as apply to legitimate children.

186. In accordance with this constitutional obligation, the legislature has redressed the legal differences between legitimate and illegitimate children as far as possible via several reforms in the area of the law of parent and child (cf. chapter V.B.1).

Disadvantaged youths

187. The young people in need of special attention from the State and society include youths whose integration into the labour market is subject to difficulties, foreign youths and youths living on the street.

188. To facilitate the commencement, continuation and successful conclusion of an apprenticeship and in obtaining and securing employment, following State-sponsored institutional training, for example, apprentices with educational deficits and social problems require special support via:

- Assistance during their apprenticeships in the form of back-up teaching and support by social education workers in the course of their on-the-job training;
- Vocational training at an institutional facility in conjunction with back-up teaching and support from social education workers;
- The continuation of assistance provided during their apprenticeships, on ending or breaking off their apprenticeships.

189. Measures for a total of 83,200 persons were sponsored in 1997 in the interests of promoting vocational training for disadvantaged apprentices and trainees. The financial expenditure totalled around DM 1.5 billion in 1997, for example. The Federal Ministry of Education and Research additionally funds research projects, pilot schemes and expert congresses aimed at achieving a qualitative improvement in support for the disadvantaged. Projects are currently being supported above all in the area of preparatory vocational training measures and the teaching of media skills.

190. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth also supports projects to integrate disadvantaged young people within its scope of authority.

191. In order to counter the growing problems encountered by disadvantaged young people in the areas of apprenticeship training and employment, 86 projects were sponsored between 1994 and 1997 under the pilot scheme "Youth social work relating to the world of work". Funds totalling approximately DM 56 million were provided from the Federal Child and Youth Plan for the pilot scheme, including scientific support. Key focuses of the pilot scheme were prevention

during school years, qualification and employment and accommodation for young people. Twenty-three projects including scientific support are to be funded in the amount of approximately DM 30 million from 1998 to 2001. The key focuses of the work are now on integration at school and vocational colleges, the shop floor as a learning environment and youth welfare facilities.

192. The action programme “Life on the street - children and young people living in special circumstances”, which ran from 1995 to 1998, served to test possible ways of improving the situation of young people living on the street. Four projects were sponsored in the amount of approximately DM 2.7 million. Key focuses of this programme were:

- Registration of measures available for the target group by means of a standardized ascertainment instrument;
- Analysis and appraisal of data and knowledge for the purpose of youth welfare planning;
- Development of network structures between the involved services, i.e. youth welfare departments, social services departments, police authorities, etc.;
- Development of measures to prevent “street careers”.

Homosexual children and youths

193. Homosexuals also require special protection from discrimination. A homosexual orientation generally begins to emerge during puberty, that is, in a phase of life which is defined in Germany as belonging to youth, rather than childhood. When reference is nevertheless made here to “homosexual children”, this is to be understood in the context of the definition of the child contained in article 1 of the Convention, according to which everyone under the age of 18 years is deemed to be a child.

194. Homosexual children and youths were long neglected in youth welfare and measures implemented at schools. Efforts for this group have been stepped up in recent years.

195. For many years now, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has been supporting the “Jugendnetzwerk Lambda” e.V. (youth network association) with funds from the Federal Child and Youth Plan. Youth groups and individuals who represent and support lesbian and gay young people have joined forces in this association. While retaining their autonomy, they work together in the association with the aim of facilitating the integration of lesbian and gay young people into society and, in particular, promoting youth policy and youth association structures. The association provides young people with the measures which are necessary in order to promote their development. These measures are intended to take up the interests of young people, who are to be involved in defining and shaping the measures. The measures aim to enable young people to determine their own lives, to provide them with a sense of social responsibility and to encourage them to become involved in society.

196. A brochure from the central government office for health education intended for mothers and fathers provides tips for parents on how to raise the subject of sexuality with their children, as this remains a difficult task for many parents. A special brochure entitled "Our child is different" provides information on sex roles and sexual orientations. Parents are enlightened as to the special aspects of homosexual development and how they can learn to understand and deal with homosexuality better. The brochure is intended to ensure that ignorance does not give rise to discrimination.

197. The Länder are addressing this subject in projects of their own. The objectives of the efforts by the Land of Hessen with regard to the concerns and interests of homosexual children and youths focus in particular on countering the tabooing of homosexuality and the attendant ignoring of homosexual children and youths. Adequate means of support and identification should be offered to these young people in particular in the phase of self-discovery and coming out.

198. The Land of Hessen also supports parents of children of a homosexual orientation or identity. Parents generally react negatively when confronted with their children's homosexuality, their responses ranging from feelings of guilt through self-doubt to alienation or violence. As parents are generally out of their depth when their children reveal their homosexuality and are thus frequently incapable of responding adequately, they require education, counselling and support. The Land of Hessen thus plans to instil an awareness of this task among public-sector and voluntary youth welfare organizations in the areas of family planning, educational counselling and support for families in the field of social education.

199. Hamburg is sponsoring several projects aimed at supporting young homosexual people, e.g. an advice centre for young lesbian women and a support and overnight accommodation project for young male prostitutes.

200. The Land of Schleswig-Holstein is attending to the interests of homosexual children and youths in endeavouring to ensure that the young people concerned assert rights which are inferable from SGB VIII and the appurtenant implementation law for the Land of Schleswig-Holstein. This is intended to counter negative conditions for this group and disadvantages resulting from prevailing structures. For the first time anywhere in Germany, the following mission has been formulated for the area of the protection of children and young people with regard to homosexually orientated young people: "Protection for young people means protection from homophobia and its consequences."

Prohibition of incitement to hatred and violence

201. In the area of criminal law, with regard to the prohibition of discrimination contained in the Convention special reference is to be made to the offence of incitement to hatred and violence which is defined in the German Penal Code. This provision protects all national, racial, religious or ethnic segments of the population in Germany from acts which incite hate against them or call for violence or arbitrary acts to be committed against them. The production and dissemination of corresponding literature is a punishable offence, as is making such literature accessible to persons under 18 years of age in particular. The Penal Code also expressly stipulates that denying, endorsing or trivializing the genocide committed under National Socialist rule is a punishable offence.

Children as asylum-seekers

202. The basic right of asylum as defined in article 16 a, paragraph 1, of the Basic Law of the Federal Republic of Germany and the provisions contained in the law on aliens (*AuslG*) to afford protection from deportation are provisions to protect all aliens who are subject to political persecution or other dangers in their States of origin. These provisions are not restricted to any specific age group and are thus applicable in full to every foreign child.

203. Upon the foreign persons concerned applying for asylum, the statutory regulations require asylum proceedings to be instituted, in the course of which it is established whether the preconditions for granting asylum in accordance with article 16 a, paragraph 1, of the Basic Law and/or the stipulations specified in the provisions to afford protection from deportation in sections 51 and 53 of the law on aliens are fulfilled. Unaccompanied minors under 16 years of age are provided with a caregiver or guardian during the asylum proceedings. Asylum proceedings for unaccompanied minors are dealt with by individual decision-makers who are specially trained and attuned to this category of asylum-seekers at the Federal Office for the Recognition of Foreign Refugees (Bundesamt für die Anerkennung ausländischer Flüchtlinge).

B. Well-being of the child (art. 3)

204. In accordance with article 3, paragraph 1, of the Convention, the States parties are obliged to ensure that the best interests of the child are a primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legal bodies. Paragraph 2 requires the States parties to ensure the child such protection and care as is necessary for his or her well-being and to take all appropriate legislative and administrative measures to this end. In accordance with paragraph 3, the States parties are to ensure that the services and facilities responsible for care conform to the standards established by competent authorities.

205. As presented in the initial report, the Federal Government is of the view that the principle of the well-being of the child and its importance as a primary consideration in all actions concerning children is observed in the Federal Republic of Germany.

206. It nevertheless remains an ongoing task to continually reassert the well-being of the child in the political and administrative spheres and at all institutions which work with and for children. The following observations concerning various areas of children's lives in which changes have occurred in the period under review are to be seen in this context.

Road safety

207. For some time now, the central focus of the road safety work carried out by the Federal Ministry of Transport has been on further improving road safety for children. These efforts are being undertaken in the light of the fact that the number of children injured and killed on the road continues to be too high.

208. Important legal measures to improve road safety for children were implemented in the period under review from 1994 to 1998. Firstly, rules to enhance safety for children using buses and other motor vehicles were incorporated into the highway code. Secondly, the age limit up to

which children are permitted to ride bicycles on pathways was raised. This provision is based on recognition of the fact that bicycle training at school does not end before children reach the age of 10, which means that only then are children able to cope with the demands of modern road traffic when cycling. The penalties for breaches of the existing obligation for children to wear seat belts in motor vehicles were increased in 1998 with the aim of increasing the proportion of children wearing seat belts.

209. Educational and publicity measures have also been stepped up, with the aim of encouraging drivers to give greater consideration to more vulnerable road users while at the same time instilling an awareness of the demands of road traffic in children by addressing them as directly as possible in suitable media.

210. TV spots with prominent figures have been broadcast in cooperation with a private television channel on the subjects of "Using car seat belts for children" and "Road safety for children", for example. The study group "Kavalier der Straße" supported these contributions with advertisements in its affiliated daily newspapers. The Federal Ministry of Transport has also been involved in the production of numerous road safety commercials and road safety tips for children's programmes on various television channels. More than 700 million contacts with readers and viewers have been calculated for the TV spots and newspaper advertisements alone.

211. A campaign to promote the wearing of crash helmets was aimed directly at children. The action under the motto "Cool and clever - something up top" took place in 1995 and was carried out jointly by the Federal Ministry of Transport, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the Federal German Youth Ring and the German Verkehrswacht traffic patrol organization.

212. For many years, the Federal Ministry of Transport has also been providing millions of Deutschemarks for implementation of target group programmes by the established associations for road safety work, Deutscher Verkehrssicherheitsrat e.V. und Deutsche Verkehrswacht e.V. especially the "Children and traffic" programme.

213. Finally, the municipal transport financing law (*Gemeindeverkehrsfinanzierungsgesetz*) and the local transport laws of the Länder contain requirements which accord due consideration to the interests of children with regard to their age-related restricted mobility. An investment measure qualifies for funding only if it accords due consideration to the interests of disabled people, old people and other people with restricted mobility, for example.

214. For rail transport, the ordinance on the construction and operation of railways (*Eisenbahn-Bau- und Betriebsordnung*) stipulates: "The provisions of this ordinance are to be applied such that the use of railway facilities and vehicles is facilitated for disabled and older people, children and other persons for whom use of the said facilities and vehicles poses difficulties."

215. The Länder are also active in the field of road safety. In North Rhine-Westphalia, for example, road safety work for children has been given a new slant via the extensive involvement of children, under the motto "Children see things differently". Children's special expert knowledge is tapped by means of the road safety prize 2000 "Children get involved - for a more child-orientated world of transport", for example, and is disseminated by pilot initiatives.

Limitation of the liability of minors

216. In the area of civil law, an easing of the situation regarding the liability of minors took place when the law to restrict the liability of minors (*Minderjährigenhaftungsbeschränkungsgesetz*) was enacted on 25 August 1998. Additional restrictions of liability under civil law are to follow, particularly with regard to road traffic.

217. The law to restrict the liability of minors has limited the previously unlimited responsibility of a child for liabilities which his or her parents have entered into through legal transactions or other actions carried out by virtue of their representative authority, and for liabilities which arise directly as a result of death in connection with an acquisition carried out while the child is a minor. Upon coming of age, the child has further been granted the possibility of limiting his or her responsibility for such liabilities to the level of assets available upon coming of age. This limitation also applies to liabilities entered into for the child by other persons authorized to represent the child.

218. Should the child cite the limitation of his or her liability upon coming of age, the law follows the model of the limitation of heirs' liability. By reference to section 1990 of the German Civil Code, the child who comes of age is granted the so-called plea of exhausted assets, i.e. he or she can refuse to satisfy an existing creditor insofar as the assets available upon coming of age are not sufficient.

219. When minors are sole traders or partners in certain companies - possibly with personal liability - substantial risks may arise only after coming of age, leading to enormous liabilities. Following the reform of the law, upon coming of age they are now entitled to leave the partnership or to give up their previous position in business, without this constituting a precondition for the limitation of liability.

Taking the well-being of the child into consideration in asylum proceedings

220. In paragraphs 19 and 33 of its concluding observations, the Committee on the Rights of the Child voiced concern with regard to application of the arrangements pertaining to third countries and airports to the aliens concerned, noting in this connection that the guarantees contained in article 3 of the Convention, for example, "do not appear to be complied with".

221. The Federal Government rejects these criticisms, referring to the following aspects:

(a) The wording of article 3 clearly establishes that this principle does not mean that the well-being of the child is to be granted priority over all other interests. The States parties deliberately opted for the current wording on the assumption that other aspects, e.g. the interests of other involved parties, may be of equal importance or even deserving of higher priority in certain cases. Article 3, paragraph 1, thus does not prevent a State party from according due consideration to other interests which it considers to merit protection, within a framework to be defined by the State party concerned. This consideration also forms the basis of section IV of the declaration on the Convention on the Rights of the Child which the Federal Government submitted upon depositing the instrument of ratification;

(b) The Federal Constitutional Court has found the arrangements pertaining to both third countries and airports with regard to the assertion of the basic right of asylum by all foreigners to be constitutional;

(c) The law as it stands in Germany and application of the law by the courts are in line with the resolution of the EU Council of 26/27 June 1997 regarding unaccompanied minor nationals of third countries;

(d) The EU resolution also covers unaccompanied minors who do not apply for asylum. This comprehensive approach enables the minors' need of protection to be highlighted while at the same time also emphasizing the legitimate interest of the States parties in preventing illegal entry and repatriating persons with no right of residence.

Development of child and youth welfare in the eastern Länder

222. As stated above, the rights stipulated in article 3, paragraph 3, of the Convention relate to the institutions, services and facilities responsible for the care or protection of children, to the appurtenant standards, to the number and suitability of the deployed staff and to competent supervision.

223. In this context, aligning the living conditions in the western Länder and the eastern Länder remains one of the pre-eminent tasks for German politics. In recent years, the Federal Government's child and youth policies have thus focused to a large extent on the problems and tasks arising in the eastern Länder in the wake of German unification. Efforts here have concentrated in particular on attaining comparable structures in the field of child and youth welfare. The need to achieve such harmonization became clear in the Committee's questions on the initial report and the Federal Government's replies of September 1995, and at the tenth session of the Committee on the Rights of the Child in November 1995.

224. The scope of the "*Materialien zur Deutschen Einheit und zum Aufbau in den neuen Bundesländern/Bericht der Bundesregierung*" ("Documentation on German unity and reconstruction and development in the eastern Länder/Report of the Federal Government") and in the "*Jahresbericht der Bundesregierung zum Stand der Deutschen Einheit 1997*" ("Annual report of the Federal Government on the state of German unity, 1997"), includes reports by the Federal Government on "Children and young people in social upheaval" and the "Development of child and youth welfare in the eastern Länder".

225. Notwithstanding regional and sectoral differences in the level of development, it can be assumed that the scope of child and youth welfare in the eastern Länder corresponds to the standard in western Germany, and even exceeds western German standards in some areas. This assessment is based on the study "Youth welfare and social change - An ongoing assessment of youth welfare", which has been conducted by the German Youth Institute (Deutsches Jugendinstitut e.V. (DJI)) on behalf of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. In the course of this study, the DJI observed, described and analysed the specific significance of developments in child and youth welfare on a supraregional, nationwide, interdisciplinary basis covering all the types of organizations concerned by reference to empirical investigative data.

226. Among its findings the study, which has been published under the title "Situation and perspectives for youth welfare. An empirical interim survey", establishes that the number of jobs subsidized by the public sector for the purposes of job creation at the east German youth welfare departments has fallen in comparison with the preceding years, and that the number of permanent employees has risen. This brings public-sector youth welfare in the eastern Länder more closely into line with the status of the youth welfare departments in the western Länder, where a highly stable personnel structure prevails. This overall assessment is also backed up by the quantitative data of the official statistics on child and youth welfare, according to which the expenditure of the five Länder - excluding Berlin - stood at DM 8,020,000,000 in 1995, corresponding to 24 per cent of total expenditure on child and youth welfare. As this is in excess of the proportion of Germany's total population resident in the east German Länder, the per capita expenditure is also higher in the eastern Länder than in western Germany.

227. In the wake of reunification, totally new plural structures had to be established in the field of child and youth welfare in the eastern Länder. Contrary to many pessimistic expectations, a wealth of voluntary organizations with a diversity surpassing that in the west German Länder has arisen in the area of voluntary youth welfare - in particular as a result of the promotion schemes implemented by the Federal Governments and Land governments and the support of the labour offices. The measures undertaken by the Federal Government include the programme to promote the establishment and development of voluntary youth welfare organizations, the youth welfare information and further training service and the action programme to combat aggression and violence.

228. According to the cited study, it can be concluded that the role of voluntary organizations in the eastern Länder is at least as great as that in the western Länder. This applies with regard to the promotion of voluntary organizations in the surveyed fields of work, the cooperation of the youth welfare offices with voluntary organizations in study groups, the involvement of all types of voluntary organizations in the planning of youth welfare and the activities of voluntary organizations carrying out mobile youth work, street work and social work at schools. In other fields, too, the scope of measures and services in the eastern Länder has largely attained the levels which prevail in western Germany, even surpassing these levels in some instances, such as social education work in the area of the family, for example.

229. The welfare associations which swiftly came into being in the eastern Länder following the fall of the German Democratic Republic have since developed into the largest providers of social services. New small-scale initiatives and organizations with a local focus and local roots play a more important role as providers of social services than in western Germany. In many cases, these organizations concern themselves with the needs of children, young people and their families which are not addressed adequately by the traditional welfare and youth associations.

230. A substantial proportion of the voluntary organizations in the eastern Länder nevertheless remains dependent on employment promotion funds. The continued existence of this diversity of organizations will thus depend greatly on the extent to which local authorities and Land governments manage to include the services provided by these voluntary organizations in the scope of their standard financial support programmes. The Land governments are therefore endeavouring to strengthen the financial capacities of the administrative districts and autonomous towns as local sponsors of youth welfare, thereby placing them in a position to discharge their tasks in accordance with Book Eight of the Social Code (SGB VIII). This takes

place in the form of so-called “general youth allowances”, for example, i.e. the specific allocation of Land funds according to the proportion of children and youths in the population as a whole.

231. In the coming years, the Federal Government will continue - within the bounds of budgetary constraints - to provide additional funding for special tasks in the eastern Länder, in addition to financing the work of the central government youth welfare organizations, under the Federal Child and Youth Plan and in accordance with the stipulations of SGB VIII. In addition, funds for the construction or renovation of youth welfare facilities will also remain available under the “Recovery East” investment promotion law.

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

Note on interpretation of article 6

232. Article 6 emphasizes every child’s right to life and development. This general wording clearly shows that article 6 is to be understood as a general principle of the Convention. This view is also held by the Committee on the Rights of the Child. Article 6 - and paragraph 2 in particular - thus stands for the “spirit of the Convention”, similarly to articles 2 and 3. In this sense, the article represents a challenge for the industrial States in particular to go beyond the “letter” of the Convention in their efforts to protect the life and support the development of children. Accordingly, the “General Guidelines” for the second reports to be submitted by the States parties include a requirement for specific measures “to create an environment conducive to ensuring to the maximum extent possible the survival and development of the child, including physical, mental, spiritual, moral, psychological and social development, in a manner compatible with human dignity, and to prepare the child for an individual life in a free society”.

233. The general requirements formulated in article 6 are stipulated explicitly in other articles of the Convention. In this connection, reference is made to the comments on articles 18, 24, 27, 28, 29, 31 and 37 (a) in particular.

234. As the above-stated comments show, the fundamental standards for the life and development of children are generally guaranteed in Germany. At the same time, it remains undisputed that in many respects the conditions in which children grow up are subject to restrictions which impair their development. Approaches and concepts to help remedy this situation are associated above all with a term which occupies a key position in the debate on child policy in Germany - “child orientation” - which, in turn is closely linked to the term “family orientation”. The question of child orientation applies to a large number of areas in life. The question focuses first and foremost on whether towns and villages are child orientated. However, homes and means of transport and even companies’ working hours can also be more or less child orientated.

235. Child and youth welfare plays a pre-eminent role in connection with child orientation. Book Eight of the Social Code (SGB VIII) obliges youth welfare “to contribute towards maintaining or creating positive conditions for young people and their families and a child- and family-orientated environment”. This means that youth welfare is required by law to take an active involvement wherever measures are undertaken to set the course for conditions under which children live. In their previously mentioned resolution (cf. chapter I.A), the youth

ministers have also referred to the key role played by youth welfare in the context of SGB VIII: “It is thus required to act as a counsel for children in all areas which can have a positive or adverse effect on children’s interests. ... Above all, this concerns fields such as urban development policy, housing supply and the residential environment, transport policy, leisure, cultural and media policy.”

236. The following observations, which do not purport to be exhaustive, are intended to outline some of the activities which specifically pursue the concept of “child orientation”.

Ensuring that children grow up in a child-orientated environment

237. The debate on living environments which are suitable for children centres on the child-orientated town or village. A large number of aspects are involved here, in particular transport, municipal development and the environment. The core question is always: What living conditions do children need, in order to enable optimum development of the children and their aptitudes? A number of factors, including dense road traffic, for example, have led to a situation whereby only limited public spaces are available for children to play in. In future, therefore, one key requirement will be to plan towns and villages in such a manner as to enable children to discover their environments and the areas in which they live by themselves.

238. Efforts are being undertaken to press ahead with the debate on child orientation at all government levels, with a strong involvement on the part of members of the public and organizations. The Federal Government has introduced a number of measures designed to promote the idea of child orientation.

239. In 1996/97, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth staged the nationwide competition “Child- and family-orientated communities” for the first time, in cooperation with the local umbrella organizations. The aim of this nationwide competition was to promote child- and family-orientated measures in towns and communities. Positive examples were to be collected, publicized and distinguished by awarding prizes. This was intended to increase awareness of the fact that families and children require consideration, understanding and support, and that meeting these needs is also beneficial to the development of the communities. Many towns and communities have already achieved considerable progress in this field. The intention was to encourage the emulation of good examples in areas in which deficiencies still exist with regard to child and family orientation. Some 370 local authorities took part in this nationwide competition. Good examples of child orientation were published in a brochure.

240. Village renewal programmes are in place at central government and Land government levels in Germany. In this context, it is the declared objective of the pilot project “Villages for children - villages for everyone. Child-orientated village renewal involving children” to direct attention to children’s interests. A special emphasis is on participation by the children themselves. Details of this project are to be found in chapter III.D.2.

241. Reference should also be made once again to the “Caravan for a more child-orientated society”, the declared objectives of which included the promotion of child orientation, as the title indicates (cf. chapter I.B).

Activities in the Länder

242. It is clearly down to the local authorities themselves and the Länder to focus special attention on the subject of child orientation in the local community.

243. In Berlin, the senate is drawing up “Guidelines for a child- and youth-orientated city”. To this end, a study group comprising representatives from virtually all senate authorities has been established. The aim is to carry out a more detailed examination of actions and decisions in all policy areas with regard to their possible effects on children, young people and their families, in implementation of the Convention. A 1997 interim report to the Berlin Chamber of Deputies (Berlin Chamber of Deputies, 1997) specifies participation, the reduction of pollution, social security and support for families and children, the safeguarding of existing resources and standards, the provision of facilities belonging to the social and health-related infrastructure and the improvement and safeguarding of the quality of life in public areas as prime objectives.

244. In North Rhine Westphalia, the Conference of Child Welfare Officers has developed “Guiding principles of child orientation” (“*Leitfragen zur Kinderfreundlichkeit*”), a leaflet providing a clear overview of criteria for living conditions in line with children’s needs. The concept of guiding principles has been broadly propagated, and has been adopted by the children’s lobby in Switzerland and the municipal advice centre in Graz, for example. Numerous local authorities have linked the child-orientation criteria with binding approval procedures which are intended to promote children’s interests in all administrative areas.

245. Lower Saxony is focusing on the development of local concepts geared to the specific living conditions of children in a competition entitled “Child-orientated communities for a sustainable future”. Various key topics, e.g. health, environment, housing construction, relations between the generations, are defined as areas of action for “child orientation”. Existing statutory provisions in Lower Saxony, e.g. the possibility for residents to submit proposals and requests from the age of 14, are to be publicized and utilized to greater effect, with the aim of integrating the younger generation into local community affairs.

246. Saxony-Anhalt attaches importance to ensuring child-orientated residential environments. This applies in particular with regard to children’s play areas and green spaces on prefabricated high-rise estates. The Land allocates specific grants for this purpose in the urban development promotion programmes. In order to improve the quality of children’s rooms, a stipulation to the effect that a child’s room must be at least 10 m² in size and must not be a room which is passed through to attain access to other rooms has been incorporated into the “Technical regulations for social housing construction”.

247. The international network “Cities of tomorrow” focuses on making the administration of cities more efficient. Essen, which has a department dedicated to children’s interests, is the sole German city to assert the idea of the child-orientated city in this context. In November 1998, the city’s council unanimously resolved to promote child and family orientation as an objective to be pursued for the city as a whole. Beyond the level of international cooperation, the city of Essen is currently developing a national network of cities which are working on the same topic, with support from the Bertelsmann Foundation.

Child and family orientation in the world of work

248. Many parents of children go out to work. The manner in which working hours are organized has a particularly pronounced influence on when and to what extent parents are able to devote time to their children. From the point of view of child policy, questions thus arise in the world of work as to the flexibility of working hours, as well as other services which benefit families.

249. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has examined these questions by means of a nationwide competition entitled "Family-orientated business enterprises". Three hundred enterprises have participated in the two competitions held to date in 1993 and 1996. The fact that twice as many enterprises submitted entries in 1996 as in 1993 shows that the topic is gaining importance in Germany. The nationwide competition is establishing new key topics in the form of "Father orientation" and "Telework".

250. The child- and family-orientated measures undertaken by enterprises include, for example:

- Diverse forms of arrangements for working times;
- Corporate commitment to childcare (cf. chapter VII.A.2);
- Corporate leisure facilities;
- Support for fathers bringing up children;
- Sports equipment, libraries, etc. which can also be used by children;
- Services such as cars available for private use, technical equipment, etc.

251. A survey conducted by the Institut der Deutschen Wirtschaft (German Business Institute) in 1991 shows that family orientation is indeed a current topic at business enterprises. Thirty-five per cent of the surveyed enterprises stated that they were implementing family-orientated measures. According to the study, a company's commitment in this area is dependent solely on the management's attitude to these matters. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth intends to have this information updated in the near future.

Summary and outlook

252. Progress has certainly been achieved with regard to child orientation in Germany in recent years. It nevertheless remains an ongoing task to examine how the conditions in which children live can be geared more effectively to the needs and interests of children. The objection that such a course of procedure constitutes preferential treatment for a single segment of the population is not valid. Firstly, considerable progress requires to be made with regard to child orientation, as this is an area which has been neglected in the past. Secondly, policies geared to

children's interests benefit not only children, but society as a whole, and particularly segments of the population who fall short of the prevailing standards in physical or mental terms, such as disabled or old people.

D. Respect for the views of the child (art. 12)

253. Article 12, paragraph 1, of the Convention stipulates that children who are capable of forming their own views are to have the right to express such views freely in all matters affecting them. Their views are, further, to be given due weight in accordance with their age and maturity.

254. This approach is consistent with the fundamental principle of a democratic society, according to which those affected must have an opportunity to represent their own interests. The notion that children should have an involvement in shaping their lives and the environments in which they live also corresponds to the prevailing precept of bringing up children to become "personalities capable of acting on their own responsibility and living in a community" which is enshrined in Book Eight of the Social Code (SGB VIII). The fundamental acceptance of the idea of participation is not the least of the manifestation of a course of development which sees children more and more as subjects rather than objects of decisions by parents and society.

255. This agreement in principle with article 12 of the Convention does not mean that the children actually participate in all areas of life as a matter of course, however. Rather, a need for action exists to varying degrees in various areas. This view is also held by the commission entrusted with drafting the tenth Youth Report, which devotes considerable attention to the question of the participation of children. The commission criticizes the fact that children are often not consulted and that decisions are too frequently made over their heads. It thus calls for children to be granted more opportunities to participate.

256. The Federal Government which was in office up to the autumn of 1998 spoke in positive terms of participation by children in its response to a written question from the German Bundestag (German Bundestag, 1997). The new Federal Government has committed itself to expanding participation on the part of children and young people as a matter of priority.

257. The Youth Ministers of the Länder have also voiced positive views on participation. In their resolution of 1998 (1998 Conference of Youth Ministers), they attribute a key function to participation in solving social problems, integrating young people into society and developing democracy. The Conference of Youth Ministers thus called for participation to be expanded at all levels, at the same time specifying the conditions necessary in order to attain this objective.

258. The growing importance of the participation of young people is accorded due consideration by a detailed presentation which serves to supplement and update the initial report.

1. Participation of children in the family

259. Right from a young age in the family, children can learn that their voice is heard and taken into account. As paragraph 29 of the concluding observations by the Committee indicates, the right to be heard in the family is a subject area which requires to be taken seriously, not least of all from the point of view of children's rights.

260. Whether children are granted a right to be heard in the family is dependent on the parents' attitude and behaviour. In Germany, as in other countries, there is a broad range of parenting styles. Studies show that the principle of open discussion has become established in the majority of families, i.e. most children are able to influence and question their parents' decisions. Discussion is even regarded as a positive principle in authoritarian households, where children are more the objects of parental actions.

261. The higher the parents' social status and level of education, the more likely a discussion-based culture is likely to prevail among the family members. There are also discussion-based households in families with parents of low social status, though to a lesser extent.

262. Overall, it can be stated that the relationship between parents and children has become less restrictive and more partnership based. This is manifested, for example, by the increased importance which is attached to educational objectives such as independence and autonomy for the child, by the opportunities which children now have to become involved in decisions and have their own say, by the reduction in punitive practices and by the way in which parents prepare in depth for their parental roles and birth. In smaller families in which the number of children is in decline, parents do not wish to and are unable to rigorously enforce rules, preferring to enter into individual, ad hoc discussions.

263. The relationship between parents and young people is not characterized by a pronounced conflict between the generations. Harmony and conflict are fundamental elements of interactive relations within the family. In positive terms, conflict is about young people being able to talk to their parents about areas of life which are important to them, and about their outlooks on life. Parents are also important partners for discussion and decision-making in comparison to other children and young people.

2. Participation of children at the level of local communities

Fundamental positions

264. Participation on the part of children is receiving increasing consideration at local community level, though it has yet to become established as a constituent principle of local government policy in particular.

265. Participation in social and political processes and decisions should be an inherent part of a democracy, however. Those affected - including children - should always have an opportunity to speak up for their own interests.

266. Participation at the level of local communities fulfils a whole range of functions and objectives. It

“takes children seriously as fellow citizens,

“ensures that children's interests are not overlooked,

“thus serves as a quality assurance mechanism for political decisions, e.g. in the fields of municipal planning, housing construction, traffic planning or environmental matters,

“challenges adults to address the wishes of children,

“provides a means of acquiring basic democratic skills and practising democratic modes of behaviour, by encouraging children to express their own opinions, to endeavour to persuade others, and by teaching them to respect others’ opinions, to weather conflicts and to negotiate compromises,

“promotes the development of solidarity and a public spirit in children and young people, thereby helping to counteract the frequently lamented erosion of solidarity,

“enables children to assume responsibility on a gradual basis - corresponding to their rights - through to the assumption of duties,

“means elementary political education in day-to-day life, which may lead to an interest in politics” (German Bundestag, 1997).

267. However, participation will only be successful and perceived in positive terms by all those involved if

“it concerns topics which are important to children,

“the forms of participation are chosen prudently, are appropriate in particular to children’s ages and levels of development and are transparent,

“participation is understood to be a process and the appropriateness of the selected is subject to continual review,

“children are involved from various social strata,

“participation by girls and boys on equal terms is ensured,

“adults listen to children and are receptive to the children’s language,

“it has concrete results within a reasonable period; firmly established procedures for incorporating children’s opinions into administrative processes are required to this end,

“it is not used by adults as an alibi for asserting their own interests,

“adults do not use participation to pass responsibility on to children”
(German Bundestag, 1997).

Legal requirements and practical implementation

268. Ultimately, the participation of children in social processes and decisions can only be established on a comprehensive basis if it is enshrined in law and thus becomes mandatory. Although a considerable need for action remains in this respect, the position of children has been strengthened substantially in recent years.

269. The statutory basis for child and youth welfare in federal law, Book Eight of the Social Code (SGB VIII), already contains participatory elements:

- Section 8 states that children are to be involved in all decisions affecting them in the area of public youth welfare, according to their level of development;
- According to section 11, those affected are to have a say in determining and shaping measures relating to youth work;
- In accordance with section 17, paragraph 2, children are entitled to be involved in an appropriate manner when parents receive counselling on the development of a mutually agreed concept for parental care in cases of separation and divorce;
- Section 36 stipulates provisions on the participation of children, among other parties, in the planning and implementation of measures to assist in the education and upbringing of children;
- Section 80, paragraph 1, item 3, stipulates that the wishes, needs and interests of young people must be taken into account by the public-sector youth welfare institutions when assessing the requirements for facilities and services.

270. Ever more Länder are incorporating participatory elements into their implementing laws on SGB VIII and other appropriate laws. The involvement of young people and their families in youth welfare planning is thus largely enshrined in law. A further instrument within the local by-laws is involving citizens in planning procedures. This instrument already enables the involvement of children, and above all youths, in planning procedures. Participation by citizens in accordance with the building code also offers scope for involvement on the part of children, particularly as the local authorities have diverse scope for action here. Section 1, paragraph 5, sentence 2, expressly states that the social and cultural needs of the population, and the needs of families, young and old people and disabled people in particular, are to be taken into account in town and country development planning.

271. Examples of further arrangements which grant children their right to be heard are stated below.

272. In Baden-Württemberg, local government law enables local authorities to set up a local council for youth affairs. The law also provides for a right of nomination and application to the local council.

273. In Berlin, the implementing law on Book Eight of the Social Code (SGB VIII) contains provisions beyond the scope of federal law on the involvement of children and young people in decisions and measures relating to youth welfare. Young people's representations are to be set up at the youth welfare facilities, for example, guaranteeing an involvement on the part of young people.

274. A report on the practical implementation of child participation has been submitted to the Berlin Chamber of Deputies (Berlin Chamber of Deputies, 1996). According to this report, there is a broad spectrum of child participation in Berlin. In addition to the supraregional

“Drehscheibe Kinderpolitik - Berlin Office for the Interests of Children and Young People”, there are diverse activities in the individual districts, such as offices for children’s affairs, children’s forums and children’s parliaments. Diverse forms of self-organization and participation prevail at the leisure facilities for children and young people. A similar situation applies at the youth organizations.

275. In contrast, the participation of children and young people in matters which affect them outside of the youth area remains inadequately developed, despite many initial efforts in this direction. Political decision-making structures and the forms of child and youth cultures are barely compatible and are frequently at odds with one another. In addition, young people’s interest in participating is directed to an ever declining degree towards a general and binding, long-term involvement in major social organizations and the corresponding structures, tending rather towards specific topics and actions.

276. The question of child orientation is particularly acute in Berlin, in view of the way in which this city, which was divided until 10 years ago, has grown together and undergone expansion as Germany’s capital and seat of Government. The sixty-fourth municipal forum on the subject “City youth - freedom or frustration” showed that many young people are interested in becoming involved in discussions and voicing their own requirements with regard to the municipal environment. In this connection, various subprojects geared to children and young people on topics and areas relating to inner city planning are being carried out under the title “City 2001”.

277. In Brandenburg, both the State constitution and the Land constitution contain provisions on the participation of children and young people. The Land constitution stipulates: “Children and young people are to be granted a legal status by act of law which accords due consideration to their growing understanding and insight by recognizing their increasing independence.” The constitution of the Land of Brandenburg includes provisions for intervention on the part of children and young people and youths aged 16 and over in the form of the residents’ question time, the residents’ right of application and the right of petition. The obligation to inform residents and to promote their involvement in evolving solutions for local tasks by the local council and the mayor or by the district council and the district administrator ties in with these rights of intervention. The youth welfare committee is further required to involve in its discussions young people who will be affected by its decisions. The same applies to discussions in the area of youth welfare planning.

278. In Hamburg, the law on implementation of Book Eight of the Social Code (SGB VIII) stipulates that the youth welfare committees are to be involved at an early juncture in all regional planning which affects the living conditions of children and young people and their families. The youth welfare committees are, in turn, obliged to involve the young people who will be affected by the appurtenant decisions in their discussions in an adequate manner. The youth welfare organizations are obliged to ensure that children and young people are involved in forms appropriate to their ages in evolving the contents and organizational aspects of youth welfare measures.

279. In Hessen, a provision on the participation of children and young people in local government planning and projects has been introduced in the course of a reform of the Hessian local by-laws and rural district regulations.

280. In Lower Saxony, the participation of children and young people is enshrined in law in the area of both youth work and day facilities for children. Further scope for participation by children and young people is also provided in the law on schools and the rural district regulations.

281. In Rhineland-Palatinate, the local by-laws and rural district regulations were amended in 1998 to grant children and young people better opportunities to become appropriately involved in arrangements pertaining to local matters which are of relevance to them. The local authorities are now required to involve children and young people in an appropriate manner in planning measures and projects which affect their interests. The local authorities are to develop and implement suitable procedures to this end.

282. Further statutory provisions concern the establishment of representations for young people. Within their remits, the members of such representations are able to participate in meetings of the local councils and their committees.

283. The representation of children's and young people's interests has been enshrined in the law on local self-government in the Saarland since 1997. The attendant provisions require the local authorities to accord special weight to the representation of children's and young people's interests. Newly adopted paragraphs enable children and young people to ask questions or voice ideas and suggestions on the local council and to be consulted on important matters. Also new are provisions governing the establishment of bodies to enable young people to have a direct say in pertinent matters and the appointment of agents to represent children's interests, i.e. child welfare officers and similar.

284. Schleswig-Holstein is the first Land to have adopted rights of participation for children into the local by-laws. The appurtenant provisions stipulate that local authorities are to involve children and young people in an adequate manner in planning measures and projects which affect the interests of children and young people. The local authorities are to develop suitable procedures to this end. The local by-laws further stipulate that in carrying out planning measures and projects which affect the interests of children and young people, the local authorities are to outline in an appropriate manner how it has taken these interests into account and how it has involved children and young people in planning measures and projects.

Forms of participation

285. A large number of different forms of participation have become established in Germany. By reference to a study conducted by the German Youth Institute (Deutsches Jugendinstitut), they can be categorized and described as follows:

- (a) Representative forms of participation:
 - (i) Local youth councils, youth town councils, youth advisory councils, district youth councils, children's and youth parliaments;
 - (ii) The members are elected or delegated by their own age group;

- (b) Open forms of participation:
 - (i) Child and youth forum, young citizens' assembly, children's conference, youth hearing;
 - (ii) Children have free access to these forms and can participate spontaneously;
- (c) Project-oriented forms of participation: solutions to concrete problems are sought in projects of limited duration focusing on specific topics often applying creative methods, e.g. with regard to the planning of play and leisure areas;
- (d) Representation of children in adult bodies: children, and above all youths, are able to participate directly in existing adult planning groups, such as urban district study groups, round tables and civic action groups; in some instances they even have voting rights;
- (e) Contact with politicians:
 - (i) Visits to town halls and politician's offices by school classes, "grumble boxes";
 - (ii) Politicians offer children an opportunity for discussion.

Activities by the Federal Government

286. Until recently, little knowledge was available on the extent of opportunities for participation by children and young people in Germany. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has thus commissioned the German Youth Institute to survey, categorize and evaluate the various forms of participation by children and young people in local government activities, in day facilities for children, in schools, organizations and associations. The project is entitled "Models of participation in society by children and young people". The aim of the project is to ascertain which forms of participation prove effective under which conditions. One special aspect of the project is that the emphasis is on the children's perspective, that is, the question of how they themselves assess their participation. The results of the project are intended to provide those responsible in this area with concrete assistance in planning and implementing participation measures.

287. In the course of the project, a representative survey of 1,003 local authorities has been carried out. Initial results, based on responses from 400 local authorities, reveal the following trends, which may be assumed to provide an approximate picture of the general situation with regard to participation throughout Germany:

- (a) Thirty-eight per cent of the local authorities had participation measures in place in the summer of 1998;
- (b) Participation measures are available above all from the larger local authorities: 79 per cent of the medium-sized towns with a population of between 20,000 and 100,000 and 93 per cent of large towns with over 100,000 inhabitants offer such measures. Even if one were

to assume that all the local authorities which have not responded do not offer participation measures, forms of participation for children and young people are nevertheless available in more than half of the medium-sized towns and a good two thirds of the large towns;

(c) In the smaller communities with up to 5,000 inhabitants, on the other hand, children and young people only rarely find organized participation measures. Only 4 per cent of all surveyed local authorities here supplied a positive response;

(d) Fewer participation measures are available in the east. A key reason here is the predominantly rural structure of the eastern Länder;

(e) Project-oriented forms of participation, e.g. in the form of play area planning, are offered by 70 per cent of the active local authorities, making these the most widespread forms; 35 per cent of local authorities offer opportunities for young people to have their say in open bodies, such as youth forums, while 20 per cent of local authorities have introduced representative bodies, such as children's and youth parliaments;

(f) Eighty-one per cent of participation measures are aimed at older children between the ages of 10 and 13, 86 per cent at youths aged between 14 and 18. Younger children between 6 and 9 years of age are able to participate in almost half of the described models;

(g) Girls and boys are represented in equal numbers in 41 per cent of the participation models. In 40 per cent the proportion of girls is below 50 per cent, in 16 per cent the proportion of girls is higher, and 4 per cent of the described models are limited to girls. Equal representation of boys and girls is more common among the children than among the youths, where the proportion of girls is slightly lower;

(h) Foreign children avail themselves of opportunities to participate. The results from the large west German towns and cities, where foreigners make up a particularly large proportion of the population, show that only 7 per cent of the offered measures remain without participation on the part of foreign children and young people. They are involved above all in participation projects relating to specific urban districts, as well as in representative bodies;

(i) Suggestions from the children had been implemented in 68 per cent of 290 described measures, while in a further 21 per cent the suggestions were still passing through the decision-making process;

(j) Participation on the part of children and young people is also practised at open youth facilities: 12 per cent of the local authorities actively pursuing participation policies reported that forms of participation were firmly established at youth meeting places and youth centres.

288. A further project entitled "Villages for children - villages for everyone" is aimed at involving children in village renewal processes. A broad range of possibilities and procedures are available for the child-orientated redevelopment of urban areas. Corresponding procedures are lacking for rural areas, however. It is intended to develop strategies in the project which are suited to ensuring that the interests and opinions of children themselves receive due consideration in village renewal measures. At the end of the project, the experience acquired in

the pilot villages will be published in the form of a media package with concrete implementation aids for greater child orientation in villages. It is also intended to extend the range of criteria for the granting of funds for village renewal projects to include the aspects of child orientation and child participation.

289. In the project, ways in which rural regions can identify and develop their child orientation potential are being examined in four pilot villages. Self-help potential is to be strengthened and available resources used more effectively. A whole range of instruments is being applied to this end: excursions and fact-finding tours, future-orientated workshops and planning circles, decision-making workshops, study groups accompanying the course of the project, village festivals, public actions, model-making projects, discussions with mayors and consultations with experts.

290. The Caravan for a more child-orientated society (cf. chapter I.B) contains participatory elements, above all in the form of the children's assembly. The review of measures called for at the children's assembly and subsequently implemented measures (cf. Deutsches Kinderhilfswerk, annex to chapter I.B) provides an impression of children's wishes for their local communities. These may be assumed to be a reflection of the topics which determine how child-orientated the community is from the children's own point of view. Important topics raised by the children and corresponding measures were:

- (a) Play areas - e.g. planning of new play areas, examination of existing areas, skateboard rinks;
- (b) Transport - e.g. roads, pathways, speed restrictions, signposts and safety zones;
- (c) Leisure - e.g. establishment of meeting places for young people, more leisure events;
- (d) School - e.g. renovation or modification of schools and school playgrounds, opening school premises for leisure activities;
- (e) Co-determination - e.g. discussions involving children and politicians, establishment of a children's and youth parliament;
- (f) Environment - e.g. refuse disposal, disposal of dog dirt, environmental initiatives;
- (g) Drugs - e.g. drug advice facilities;
- (h) Violence - e.g. measures to combat violence in schools.

291. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth will be contributing the experience acquired in the two nationwide pilot participation projects and the "Caravan for a more child-orientated society" to the UNICEF project "What Do You Think", which was launched in December 1998. Germany is one of 12 States involved in this project which have set out to promote participation in their own countries and to assert children's views of children's rights in their reports on implementation of the Convention.

292. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has also acquired experience of its own in the area of participation. The concluding conference on the Council of Europe's "Childhood Policies Project" (cf. chapter I.A) was attended by approximately 300 adults from 38 European States, along with approximately 50 young people from 13 nations. The latter had an opportunity to discuss the conference topics among themselves, as well as entering into discussion with the adults in study groups.

Activities by the local authorities and Länder

293. Social participation relates first and foremost to the direct environments in which children live. Virtually all examples of participation consequently take place at local level. For the purposes of this report, the examples below are restricted to activities by the Länder and a small selection of exemplary schemes and projects.

294. In order to provide children and young people with a greater say and a greater scope of participation, measures in Hamburg include efforts to involve children and young people in an appropriate manner in the development of local facilities and plans which directly affect them. This takes place, for example, in the form of children's and young people's advisory councils for facilities and children's parliaments at urban district level, in children's urban planning projects, in the planning of various green spaces and play areas, in the modification of school playgrounds or the further urbanization of residential areas.

295. The inter-authority study group "Children's living conditions in Hamburg" has been in place in Hamburg since 1992. In a work programme covering the areas of urban development, green spaces, youth welfare, schools and transport, this study group pursues the objective of developing and implementing projects which are intended to improve day-to-day living conditions for children and young people in the city. The projects are carried out with direct participation on the part of children and young people.

296. In addition to the counselling services and numerous departments at the regional offices for social services and special child guidance centres, there are also parental education establishments, including special centres for mothers, and diverse advice centres to promote competent parenting and the day-to-day handling of children.

297. In Hessen there are youth parliaments, child welfare officers and child support centres. The Land supports initiatives through events, recommendations and publications. It has also published the document "Children have their say", detailing experience with participation, as a set of practical recommendations. The Land youth welfare committee has adopted recommendations on youth welfare planning in which the principle of participation plays an important role.

298. In Lower Saxony, the Land parliament has called for improved scope for participation on the part of children and young people in a unanimously approved resolution. The Lower Saxony Ministry of Culture is preparing a brochure on different means of participation for children, including a summary of existing participation projects. From 2000, participation projects and concepts at local level which relate to children's daily lives are to be targeted for special funding and support in a joint action with partners throughout the Land, entitled "Lower Saxony - A Land for children".

299. Since 1998, a course of training has been available for moderators on the subject of the organization and implementation of comprehensive participation processes for children and young people at local level. Key aspects of this training include moderation techniques, presentation training, future-orientated workshops, planning circles, child orientation and democracy in daily life. The 24 specialists trained to date have evolved pilot projects and subsequently carried these projects out under supervision. Examples include an analysis of the residential environment in an urban district, the conversion of a car park into a playground, modification of a school playground, child orientation assessment and the "Village check-up for children". Further participation projects are in their preparatory stages.

300. In North Rhine-Westphalia, participation by children is a widespread practice, particularly in 35 local communities in which child welfare officers are employed. A new form of participation has been developed in a pilot project centred on "work experience". On "work experience day", handicraft businesses, administrative authorities, companies, hospitals, medical practices, artists' studios and many other local workplaces offer children aged between 9 and 14 an opportunity to acquaint themselves with the adult world by joining in at the bakery, the metalworking shop, the hospital, the fire station, etc.

301. The "Children have their say" information centre has been set up at the ProKids office in Herten. This centre promotes the exchange of experience between the children's and young people's representative bodies in North Rhine-Westphalia. A newspaper is produced together with these bodies, the contents of which are edited for dissemination via the Internet.

302. To date, the practice of child participation has subjected the Land to a critical examination, revealed weak points and given rise to recommendations for improved practices.

303. In implementing the action programme "A child-orientated Rhineland-Palatinate" (cf. chapter I.B), the aspect of participation in the form of politics with children - and not merely for children - is a general key focus of work which is promoted with special emphasis.

304. The Ministry for Culture, Youth, Family Affairs and Women in Rhineland-Palatinate has commissioned a review of participation projects in the Land. A "child orientation map" which was published in 1999 shows which regions actively support participation and where improvements are still required. The brochure "Democracy needs children - Children need democracy" contains ideas on how to achieve participation, also drawing on experience from other Länder and from abroad.

305. Rhineland-Palatinate has also taken action to counter the situation whereby although participation is frequently desired at a political level, those responsible for its implementation lack the necessary know-how. The Ministry is thus arranging for 20 persons to be trained as participation specialists, as in Lower Saxony.

306. Representative bodies for children's interests have been set up in a continually growing number of towns and communities in the Saarland in recent years. Since 1996, these bodies' representatives have been meeting in the "Children's interests network" study group, coordinated and managed by the Ministry of Social Affairs.

307. The Land of Saxony-Anhalt sponsors participation projects in which children are actively involved in shaping their environments using funding available to the Land child welfare officers. Pilot projects were carried out in connection with EXPO 2000. A “Children’s town plan for Wolfen North” has been drawn up, together with children under expert supervision, on the basis of an analysis. A town council resolution obliges the local authority to eradicate the deficiencies identified in the children’s town plan.

308. Further forms of participation, such as children’s parliaments, children’s advisory councils and the like, and child support centres are to be established in order to ascertain how children themselves perceive the world in which they live and the recreational facilities which are available to them, and to implement the findings in purposeful and effective planning.

309. The Land of Schleswig-Holstein places the participation of children in the broader context of a “Democracy campaign” (cf. “The democracy campaign in Schleswig-Holstein” (no specific date)). The right to vote in local elections for 16- and 17-year-olds, which was introduced in 1998, and the previously mentioned establishment of rights of participation in the local by-laws are central elements of the campaign. Special emphasis is placed on the educational dimension of participation in Schleswig-Holstein.

310. Similarly to Book Eight of the Social Code (SGB VIII) at federal level, the youth promotion law of the Land of Schleswig-Holstein expressly requires children and young people to be involved directly in all decisions and measures which directly affect them. This entitlement of children and young people to participation has received special treatment and consolidation in the Land’s central training programme for the qualification of youth welfare planners. In 1998, the Ministry of Youth carried out a pilot project entitled “Girls get involved”, in order to identify and develop scope for participation relating specifically to girls in the area of youth welfare planning and to gather experience at selected pilot locations.

311. In Thuringia, every child has the right to approach his or her youth welfare committee, the Land youth welfare committee and the youth welfare office on all matters relating to education and development. This promotes children’s status as subjects, rather than objects.

312. Diverse forms of participation have become established in the Land. One special example is the Land study group for children’s and youth parliaments in Thuringia, which has been established with the aim of pooling experience and providing expert advice for the existing participation projects.

313. The Land nevertheless sees a need for further action throughout the area of youth welfare planning with regard to the direct involvement of young people. The Land government intends to sponsor pilot projects aimed at developing methods to improve participation by children and young people in such planning processes. The Land has commissioned a research institute to examine ways in which children and young people can be involved in political decision-making at local level.

Activities by organizations

314. Organizations have been instrumental in helping to establish participation on a broad basis in Germany.

315. The Deutsches Kinderhilfswerk focuses particular efforts on the subject of “children parliaments”, for example. Apart from publishing the brochure “Children’s parliament”, its activities also include the organization of federal meetings for children’s parliaments. Four such meetings have been held to date. In 1997, children from parliaments in Germany met with counterparts from six other countries. The particular value of these events is that children pool their ideas on participation in the context of specific topics.

316. From the point of view of children with experience of participation, the family and the environment in which they live are the key focuses of their participation:

- (a) In the family, children wish
- their opinions to be taken equally as seriously as those of adults;
 - to be involved in decisions, e.g. in connection with moving house, purchases and holidays;
 - to have a say in matters relating to education and vocational training;
 - to be granted the necessary freedom to acquire experience of their own and to determine their own lives.

The children consider fulfilment of these requirements to be contingent on

- having more time for each other within the family;
 - talking to one another more in a language which is comprehensible to children;
 - parents stating reasons for their decisions;
 - protection from violence.
- (b) With regard to the environment in which they live, children would like to see
- children being involved in decisions, e.g. on class trips and changes to the urban landscape;
 - less ignorance above all on the part of local authorities and politicians;
 - more participation by children in government, parliamentary and administrative bodies;
 - the children’s parliaments’ submitting more proposals to competent bodies;
 - the same rights in all homes throughout Germany;
 - children being granted a say in the selection of resources/personnel at homes.

These means of participation are to be achieved by

- the direct exchange of opinions and thoughts among children;
- protection from violence;
- the use of comprehensible language by authorities;
- the appointment of an unbiased person of trust to represent their interests, e.g. for children's parliaments;
- reduced turnover of personnel at homes.

(c) On the basis of their experience with participation, the children also identify their own difficulties in becoming involved. Contributory factors which they mention are:

- excessive respect for adults;
- insufficient or total lack of self-confidence;
- insufficient discussion among children;
- inadequate or total lack of knowledge of children's rights, and participation in particular.

3. Participation of children at educational institutions

317. Educational institutions are among the most important areas in which children can acquire experience and proficiency in participation. They are natural places for practising participation, above all because they are attended by children from all social strata, and the educational specialists and teachers provide essential guidance.

Day facilities for children

318. After the family, day facilities for children provide the second socializing environment in which participation can be learned. The most widespread educational concept at these facilities - the situational approach - offers a suitable basis for putting participation into practice, as it explicitly addresses children's interests and needs. In endeavouring to turn children's concrete situations in daily life into learning situations, the educational staff are reliant on their observations of the children in their care and on the responses of parents to questions put to them, which have a key influence on the staff's work. The way in which the children live together on a day-to-day basis is also geared to fostering self-determination in the children, commensurate with their ages. Not least, according to the situational approach rules for living together as a group are to be evolved jointly, rather than simply being imposed by the educational staff.

319. The fundamental concept of participation at facilities which operate according to the situational approach as described here cannot be assumed to be standard practice everywhere. Rather, it represents an ongoing challenge for the educational staff and the teachers'

understanding of their role. In this connection, it might be useful and productive to combine the ideas of the situational approach with the principles of the Convention - and with article 12 in particular.

320. Provisions in several Länder show that the concept of participation is taking on an increasingly concrete form at day facilities for children. For example, the law on the support and care of children at day facilities and in day care in Berlin states: "The children are to be involved in organizing day-to-day life at the children's day nursery according to their level of development." Participation by children in the area of children's day facilities is also enshrined in law in Lower Saxony. And in North Rhine-Westphalia the law on day facilities for children states: "The children are to be involved in organizing day-to-day life at the day nursery in accordance with their ages and needs. They may appoint a spokesperson ... for the group concerned."

Schools

321. Bringing up children to act as independent individuals and instilling democratic behaviour are among the pre-eminent objectives pursued by the school system. Independence and democratic behaviour cannot be "imparted" on a cognitive level, but must be practised and lived. This means that school should be the place where children learn to have their say and to assume responsibility. Results from the "Barometer of children's views in North Rhine-Westphalia" (cf. Introduction, sect. B) further show that "co-determination at school" is the predominant factor influencing children's sense of well-being at school. In turn, well-being has a substantial influence on academic performance.

322. The Länder's laws on schools fundamentally recognize pupils' rights of participation and stipulate the composition and tasks of the pupil's representative bodies. The pupils elect persons to represent their interests at class or year level according to the representation principle. The elected representatives together form the pupils' representative body at the school, which is known as the pupils' council or pupils' committee. This body elects one or several pupils' spokesperson(s). At municipal or district level, the pupils' spokespersons are organized in municipal or district pupils' councils, while at Land level they are organized in the Land pupils' council. Schools and school authorities are not normally permitted to influence the choice of pupils' representatives.

323. In addition to the pupils' representative bodies, the laws on schools and school constitutions in most of the Länder also provide for general assemblies of all pupils at a school or school level, which are intended as a platform for the exchange of ideas, debate or discussion between all the pupils.

324. Schleswig-Holstein pursues co-determination at schools with particular vigour. The Land-wide representative body for pupils of high schools and comprehensive schools launched the first part of its "Exercise your right" campaign in 1998. The ideas and plans for the campaign were developed at a workshop sponsored as part of the action "Schleswig-Holstein - A Land for children" in 1997. The objective of this action, sponsored by the Ministry of Youth, was to motivate as many 16- and 17-year-old pupils as possible to vote in the local elections in March (cf. section on "Voting age for local elections").

325. In the second part of the campaign, a manual was produced in which numerous examples from day-to-day life at school demonstrate how pupils' extended rights of co-determination can be implemented in practice under the new law on schools. The manual was distributed to all schools in Schleswig-Holstein in the spring of 1999. The third part of the campaign involved the publication of a manual for pupils' representatives by the Land-wide pupils' representative body in cooperation with the Association for Political Action. This constitutes practical application of the democracy campaign's precept that it is not sufficient merely to grant children and young people rights. Rather, they must also be provided with the means of acquiring the necessary competence to exercise these rights in an effective manner, e.g. by training class spokespersons in rhetoric and communication skills.

326. Despite the existing provisions and the efforts undertaken to date, the scope for co-determination on the part of pupils in Germany still falls short of the requirements which are applicable to schools as the fundamental places of learning for democratic practice. This is all the more lamentable in view of the fact that direct participation appears to be one of the key factors influencing children's sense of well-being at school (cf. chapter I.B). From the point of view of the Federal Government, a central focus of future efforts to implement children's rights will therefore have to be on schools.

Extracurricular ("open") youth work

327. In the field of open youth work, the participation of children and young people is to a certain extent inherent in the existing structures. As the children and young people engage voluntarily in such participation, it is always necessary to decide jointly in discussion with them what is to happen at the youth centre. No youth centre can function without responding to the interests and needs of the children and young people.

328. It is in this context that individual responses from the practical field which show that participation by children and young people is also practised or should be practised at the institutions of open youth work are to be considered. In the course of the project "Models of participation in society by children and young people", 9 per cent of the responding local authorities stated that visitors to youth centres in their areas were consulted in accordance with the principle of participation, for example. And in the global directive on child and youth work/youth social work in Hamburg the facilities in the field of open child and youth work are obliged to involve children and young people in organizing and designing the premises, the programme and the opening hours.

329. Despite this basic participatory structure, however, the participation of children and young people in decisions at youth centres is seldom based on any detailed concept, as a result of which it is rarely planned methodically and carried out in a well-considered manner from an educational point of view in day-to-day work. Participation tends rather to take place on an ad hoc basis and not in any forms - including formal procedures - which children and young people might recognize and apply as democratic practice. When open youth work pursues participation, this frequently focuses on participation in the local community or the world in which the children and young people live, rather than the actual institution concerned. To date, a conceptual debate which might provide a basis for practical implementation has been lacking in the field of open youth work, although the sector continues to aspire to such a concept.

4. Participation of children in organizations and associations

330. Children's and youth associations are by definition bodies in which children and young people have their say.

331. Many institutions and organizations have thus addressed the subject of participation. This has taken place in the form of:

(a) Fundamental statements on the subject of "participation"; examples here are the brochure "Young and (un)involved" from the Federal German Youth Ring (Deutscher Bundesjugendring) and the position paper "Participation by children and young people" from the federal study group of Land youth welfare offices;

(b) Recommendations for practical approaches to co-determination; the youth division of the Red Cross has drafted the brochure "Adopting new paths. Taking an active role in discussions, decisions and actions. A practical guide to co-determination for children", for example;

(c) Participation in practice; the German Scouts Association of St. Georg has organized an action in which children examined the degree of child orientation in their local communities, for example.

5. Other rights of participation

332. There are a number of other areas of society in which the question of participation by children arises.

Respect for the views of the child in asylum proceedings

333. As a general principle, minors seeking asylum, who acquire the legal capacity to act in asylum proceedings according to the law on asylum proceedings, are asked the same questions as adult asylum-seekers by the individual decision-makers in asylum proceedings. Due consideration is expressly accorded to the mental maturity and the psychological situation of the persons concerned, however.

334. Minors under 16 years of age seeking asylum are represented by their parents in applying for asylum. With regard to the statement of grounds for seeking asylum, it remains at their discretion whether they wish to make a statement of their own or to concur with the grounds submitted by their parents. In justified isolated cases, the individual decision-maker questions minors under 16 years of age about their reasons for seeking asylum independently of the grounds presented by the parents. This practice corresponds to the procedure before the administrative courts.

Voting age for local elections

335. In Germany, the principle has long prevailed that the right to vote is acquired only upon coming of age. Consequently, the right to vote in elections to the German Bundestag and the Land parliaments is acquired on reaching the age of 18. Voting in local elections is also only possible from this age in most of the 16 Länder.

336. However, the public debate on the stronger involvement of young people in politics has also extended to the question of voting ages. Six Länder subsequently reduced the voting age for local elections to 16 in the period between 1996 and 1999.

337. In this connection, it is of interest what the children themselves think about the possibility of voting. In the LBS study (cf. chapter I.A), no less than 47 per cent of 13-year-olds stated that they felt old enough to vote in political elections. In the Youth Survey (cf. chapter I.A), the 16 to 17 age group was surveyed, which is of particular interest with regard to the discussion on the voting age. These young people show a varying degree of interest in a reduction in the voting age to 16, according to the level of representation concerned. Fifty-eight per cent in the western Länder and 45 per cent in the eastern Länder are in favour of lowering the minimum voting age. A smaller proportion of young people from this age group are interested in Land parliament and Bundestag elections, while the European elections attract the lowest levels of interest, at 34 per cent in the western Länder and 28 per cent in the eastern Länder.

Respect for the views of the child in judicial proceedings

338. In order to ensure that the child's wishes also receive due consideration in judicial proceedings in accordance with article 12, paragraph 2, of the Convention, in the course of the reform of the law of parent and child, provision has been made for the appointment of a guardian for proceedings relating directly to the child's person, insofar as this is necessary in order to represent the child's interests. In the course of judicial proceedings it is further possible to hear the children themselves on the matter of parental care, including access to their parents. Chapter V.C contains explanations on the matters referred to here.

Supporting measures to ensure respect for the views of the child in judicial proceedings

339. Since 1994, a number of measures have been undertaken to enjoin people who work professionally with children to encourage and support children in exercising their right to express their opinions.

340. The aims of further training at events organized by the German Academy of Judges (Deutsche Richterakademie) for judges and public prosecutors throughout Germany include according due recognition to the views of children. This is also in line with the requirement stated in paragraph 27 of the concluding observations of the Committee for training orientated towards children's rights for persons who work with or for children.

341. Numerous events have been taking place for some years now in the field of family law with a special focus on matters relating to the law of parent and child, and these measures are to be continued. The same applies to the field of criminal law relating to young offenders and specialist events concerning the role of parties involved in legal proceedings. Such conferences focus on language and psychological barriers in court and on communication between those involved, for example. Corresponding topics also form part of numerous further training programmes organized by the Land judicial departments for judges and public prosecutors.

Respect for the views of the child in changing the name of the child

342. In accordance with the German Civil Code, the determination of a new name for a child requires the child's consent in certain cases, when the child is 5 years of age or older:

(a) If the parents do not bear a common name and only one parent is entitled to parental custody, the child is to take the name borne by this parent at the time of the child's birth. The parent with the sole right of parental custody for an unmarried child can give the child the other parent's name, however, by means of a corresponding declaration to the registrar. The conferral of this name requires the consent of the other parent and of the child;

(b) If joint custody by the parents is established only after the child already bears a name, the name can be changed within three months of establishing joint custody. This provision applies only if the child consents to the new name;

(c) If the parents adopt a common name after the child has reached the age of 5, the common name shall replace the child's name at birth only if the child consents to this naming;

(d) The parent with sole right of parental custody for an unmarried child and his or her spouse who is not the child's parent can confer their common name on the child by means of a corresponding declaration to the registrar. This naming requires the child's consent.

343. It should additionally be pointed out that a child can apply to bear the name which its mother bore at the time of his or her birth, if it is established via a non-appealable declaratory judgement that a man whose family name has become the child's name at birth is not the child's father.

6. Summary

344. In its treatment of Germany's initial report on implementation of the Convention on the Rights of the Child, the Committee on the Rights of the Child criticized in paragraph 17 of the concluding observations that participation by children received too little attention in Germany and stated that children must be granted more scope for co-determination. To this end, the Committee stipulated that concrete changes were necessary, together with information and public education campaigns.

345. The observations in the present report show that considerable progress has been made with regard to participation in Germany in the period under review. However, this cannot disguise the fact that the participation of children in society requires further development - and not only in Germany. The idea that adults know best what is good for children is too firmly entrenched in many people. Children are still frequently not taken seriously and not even consulted or listened to. This is particularly true in the political sphere, which is considered to be beyond the faculties of children from the outset. It remains a central task and challenge to induce a change of attitude among adults, as participation is unfeasible without adults who are willing to listen to children.

346. Awakening parents and other adults to the needs of children is one of the paths to be adopted here, and a course of action which must be in the forefront of the campaigns and initiatives.

IV. CIVIL RIGHTS AND LIBERTIES

A. Name and nationality (art. 7)

347. The requirements stipulated in article 7 of the Convention are met in full in Germany. The attendant legal basis was presented in detail in the initial report.

348. Changes apply for foreign children as of 1 January 2000 as a result of the law to reform the law of nationality (*Staatsangehörigkeitsrecht*) (cf. chapter III.A.1).

B. Preservation of identity (art. 8)

349. With regard to the preservation of identity, reference is made to chapter 3 (b) of the initial report. The following information is also relevant.

350. Every birth of a child within Germany is to be notified to the competent registrar and recorded in the register of births; if the registrar doubts the correctness of the information supplied by the person providing notification of the birth, he or she is to verify the information. The registrar is to require submission of the documents necessary for entry in the register of civil status. The child's first name and family name, the place, date and time of birth, the child's sex and details of the parents are entered in the register of births. The registrar is only permitted to correct obvious writing errors in a completed entry. In the register of births, only the information pertaining to the parents' occupation and place of residence and the information on the first name and family name, occupation and place of residence of the person providing notification of the birth can be corrected by reference to official documents or on the basis of investigations carried out by the registrar. Any other corrections are possible only when the correct or complete details are verified by German certificates of birth, marriage and death. A completed entry can otherwise only be corrected by order of the court.

C. Freedom of expression (art. 13)

351. As presented in the initial report, the right to freedom of expression is guaranteed in Germany's Basic Law. The following examples illustrate what this means in concrete terms for children in the area of schools.

352. There is a lively school magazine culture in Germany. A case in point is the situation in Rhineland-Palatinate. According to the most recent survey, there were around 600 school magazines in this Land, together with a number of free "magazines for pupils". In order to further propagate this school magazine culture and further enhance the quality of the magazines, the Land parliament passed a reform of the law on pupils' publications in 1993 and undertook preparations for a manual to assist the editors of school magazines, which has since been published. The new law on pupils' publications came into force with the amendment to the law on schools in 1996, broadening the scope within which the editors of school magazines are able to act on their own responsibility.

353. In Hamburg there are not only the school magazines, which are common to all Länder, but also a youth information centre, which operates as a municipal information service for children and young people. Here the children have free and immediate access to all information which is of importance to them.

D. Freedom of thought, conscience and religion (art. 14)

354. The legal basis for the implementation of article 14 was presented in the initial report. It additionally requires to be pointed out that the State is obliged to provide religious instruction within the State school system. The parents have the right to decide whether the child is to take part in religious instruction until he or she reaches “religious majority” at the age of 14.

355. It is further of interest that the Churches and religious communities carry out tasks in the field of child and youth welfare on a substantial scale in Germany. In accordance with the Basic Law, every religious community organizes and administers its affairs independently within the bounds of the law, which is applicable to everyone. This does not preclude cooperation between the State and the religious communities in this field on a partnership basis. Numerous facilities in the field of child and youth welfare - particularly nursery schools - are thus Church-run. Insofar as the Churches and religious communities impart religious views and convictions in the course of their work with children and young people, these activities are constitutionally guaranteed by the basic right to freedom of faith and conscience and the freedom of religious and ideological creed.

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

356. The freedom of assembly and the freedom of association are guaranteed by the Basic Law of the Federal Republic of Germany.

Freedom of assembly

357. According to article 8 of the Basic Law, all Germans have the right to assemble peacefully and unarmed without prior notice or permission. For assemblies in the open air, this right can be restricted by law or on the basis of a law. The basic right to freedom of assembly also applies to minors.

358. Beyond this, the law concerning processions and assemblies (*VersammLG*) stipulates that everyone has the right to organize public assemblies and processions. The law concerning processions and assemblies goes further than the Basic Law in that it also guarantees the freedom of assembly for foreign citizens. On the other hand, the law concerning processions and assemblies also restricts the basic right contained in article 8 of the Basic Law. It contains stipulations relating to compulsory notification, police bans and the general prohibition of public assemblies and processions within the so-called no-go areas set up for the legislative organs of the federal and Land governments and the Federal Constitutional Court.

Children’s and youth organizations

359. Associations of children within the meaning of the Convention are above all the children’s and youth organizations. These organizations form part of the wide-ranging and socially supported system of child and youth welfare.

360. It is not possible to provide a comprehensive picture of the entire spectrum of children’s and youth organizations, as they pursue diverse objectives and orientations. The scope of organizations ranges from denominational, scouting and humanitarian ones through sports

or culturally or politically orientated variants to forms organized along trade union lines or organizations dedicated to environmental protection. The publication "Child and youth welfare - Organizations and institutions in the Federal Republic of Germany" provides an overview.

361. The youth organizations carry out their work on their own responsibility and without any influence on the part of the State. They are supported with public funding, however. The work carried out by the children's and youth organizations is educational work which, in contrast to school education, takes place on a voluntary basis, without any pressure to achieve specific results and grades. The children's and youth organizations offer young people a means to learn democratic modes of behaviour and how to act in a politically responsible manner and to represent their interests in interacting with others. They participate in addressing the tasks of children's and youth work and represent the interests and common concerns of young people in the public arena, particularly vis-à-vis parliament and government.

Activities by the Federal Government

362. In accordance with the Basic Law and Book Eight of the Social Code (SGB VIII) - law on child and youth welfare - the governments of the Länder and local authorities bear the primary responsibility for financing child and youth welfare. The Federal Government has responsibilities for certain fields of work, however, particularly at the national and international levels.

363. The Federal Government's youth promotion measures aim to provide support for the tasks pertaining to the area of youth welfare. Within its sphere of responsibility, the Federal Government sponsors organizations and measures in the field of youth welfare which are of supraregional significance and which by their nature cannot be sponsored effectively by one Land alone, in addition to which it also provides financial support for models designed to obtain new, transferable knowledge.

364. The legal basis for the promotion of child and youth welfare is provided by Book Eight of the Social Code (SGB VIII) and the guidelines for the Federal Government's Child and Youth Plan, which are based on SGB VIII.

365. Funding in the amount of DM 180 million was available in the Federal Government's Child and Youth Plan (CYP) in 1998, for example. Of this figure, DM 27.2 million were allocated specifically to the children's and youth organizations, in order to ensure the essential conditions to enable the organizations to carry out their work. A total of approximately DM 137 million was appropriated for this purpose between 1994 and 1998. In 1999, DM 192 million were available in the CYP, i.e. funding from the CYP budget is not being reduced, despite all the financial constraints on the federal budget.

Activities in the Länder

366. The Land of Schleswig-Holstein is conducting an "Action to promote honorary functions in youth work". This joint action by the Ministry of Youth and the Schleswig-Holstein Land Youth Ring has been initiated in order to improve the underlying conditions for the considerable

scope of honorary work which is carried out by the organizations, associations and initiatives. In the area of youth organization work in particular, work carried out by young people and adults on an honorary basis represents an essential mainstay without which the diverse range of activities would be inconceivable.

F. Protection of privacy (art. 16)

367. With regard to the implementation of article 16, reference is again made to the initial report, which clearly illustrates that the protection of privacy is fundamentally ensured in Germany.

G. Access to appropriate information (art. 17)

General information

368. Details were presented in chapter III.D of the Federal Government's initial report in substantiation of the fact that the Federal Republic of Germany is in compliance with article 17 of the Convention.

369. In practice, access to the media is ensured in diverse ways. Public and independent libraries are available with an inexhaustible stock of media. Children receive schoolbooks free of charge. School libraries also serve to provide access to media. Some schools possess Internet access.

370. The Youth Survey (cf. chapter I.A) reveals which media are used by older children for political information. According to this survey, television serves as a source of information on political events and processes for around two thirds of 16- to 17-year-olds, while around half also use radio and the print media. To date, only a negligibly small proportion of this age group obtains political information from the Internet. Attending political events plays an even more negligible role for the purposes of obtaining information.

Dissemination of children's books

371. Article 17 (c) requires the States parties to produce and disseminate children's books.

372. A number of publishing companies publish children's books in Germany; these also include publishers which specialize exclusively in children's books. Special institutions and specialist organizations are concerned with the dissemination of children's books and promoting reading in Germany, e.g. the Arbeitskreis für Jugendliteratur (Study Group on Literature for Young Readers), the Arbeitsgemeinschaft der Jugendbuchverleger (Association of Publishers of Literature for Young Readers), the Federal Association of the German Book Trade, the Federal Association of Friedrich-Bödeker Groups, the Deutsche Akademie für Kinder- und Jugendliteratur (German Academy of Literature for Children and Young Readers), the Stiftung Lesen (Foundation to Promote Reading), the Deutsches Jugendmedienwerk (German Youth Media Organization) and the Internationale Jugendbibliothek (International Youth Library).

373. The “German youth literature prize”, which is sponsored by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and which has been organized annually since 1956, is of particular importance to literature for young readers. The prize is awarded for the categories of picture book, children’s book, youth book and factual book, and pursues the three objectives of:

- (a) Helping to promote the quality of literature for children and young readers;
- (b) Educating young people outside of the school environment; and
- (c) Guiding children, young people and parents in their search for suitable reading materials, above all through the list of nominated books which is published in connection with the prize.

374. The Internationale Jugendbibliothek (International Youth Library) at Schloss Blutenberg near Munich receives institutional funding from the Federal Government, the Land of Bavaria and the city of Munich. It is the world’s largest library for international children’s and youth literature. Around 460,000 books are available in more than 100 languages. Over 1,000 publishing companies from all over the world send their new publications to the library each year. The annual input amounts to around 10,000 books. The International Youth Library promotes an understanding of the importance of books for children and young readers among parents and educational specialists. In particular, it collects, opens up and provides access to literature for children and young readers from Germany and abroad, in order to help disseminate such literature and to promote its use as a means of cultural education for young people and intercultural understanding.

Protection from unsuitable and harmful information

375. The establishment and ongoing development of appropriate guidelines to protect children from information and materials which might be injurious to their well-being and from harmful representations in the mass media in the context of articles 13 and 18 of the Convention are supported in Germany by a large variety of measures.

376. The provisions of the law on the dissemination of publications harmful to young persons (*GjS*) have been supplemented by the law on information and communications services (*IuKDG*) which came into force in 1997, with the aim of combating materials harmful to young people on data networks more effectively. The law on information and communications services contains a clarification of the term “publication” as defined in the German Penal Code, for example, which is also to be taken into consideration in pursuing criminal prosecutions for child pornography. Section 184 of the German Penal Code, which relates to the commercial or ring-based dissemination and the possession or acquisition of child pornography publications which describe or depict actual occurrences, now also covers all cases in which the possibility that such publications are fictitious representations cannot be excluded, although they appear to depict an actual occurrence. Virtual sequences, such as are disseminated via the Internet, now fall within this ambit.

377. The law on information and communications services also takes the special aspects of data transmission into account by according due consideration to the possibility of restricting the dissemination of publications which have been placed on the index to adults, with the aid of technical and other measures. As a supporting measure, the law on the dissemination of publications harmful to young persons includes an obligation for the service providers to appoint a youth protection officer.

378. In conjunction with the law on the dissemination of publications harmful to young persons, the German Penal Code offers an adequate basis to guarantee statutory protection for young people in the area of the media. In its report on the evaluation of the law on the dissemination of publications harmful to young persons, the Federal Government has presented the technical and legal developments pertaining to the new services and specified whether and in which areas adaptations and supplementary measures are required.

379. The associations from the media sector established a voluntary self-regulation centre by the name of "Multimedia" to coincide with the introduction of the law on information and communications services on 1 August 1997. This is a central coordinating unit for complaints relating to the Internet.

380. The home pages of the Federal Office of Criminal Investigation and of various Länder have long been available for the purpose of submitting relevant information on suspect Internet service providers. The home pages of the various police agencies have also proven to be important points of contact for tip-offs and information from users.

381. The law on the protection of young people in public additionally stipulates when the presence of children and young people is permissible at public film presentations. This law also regulates the sale and supply of video films to children and young people.

382. The individual Länder are also active in providing protection for young people in the area of the media. Activities here include information brochures and seminars. In implementation of the treaty on media services which came into force on 1 August 1997, the Länder have jointly set up a central service entitled "jugendschutz.net" for enforcement of the provisions to protect young people in the media services. Since 1998, a software system has been available to enable the independent identification and segregation of services which are critical in terms of the protection of young people.

383. In Lower Saxony, the youth protection department has set up a youth protection service on the Dutch education server NIBIS, with the involvement of interested staff from the fields of youth work and youth protection.

384. In Thuringia, the design, production and dissemination of media products and their use in extracurricular youth education, political education for young people and other areas of youth work represent only a selection of the relevant areas of experience and activity in the youth welfare sector. These measures are offered and implemented by various voluntary and public youth welfare organizations. At Land level, measures have been coordinated through the Land association for the protection of children and young people, Landesarbeitsgemeinschaft Kinder-und Jugendschutz Thüringen e. V. This Land association cooperates closely with the Thuringian Ministry of Social Affairs and Health, the Thuringian Ministry of Education, the

Thüringer Institut für Lehrplanentwicklung, Lehrerfortbildung und Medien (Thuringian Institute for Syllabus Development, Advanced Teacher Training and Media), the Land office of criminal investigation, the police headquarters and numerous public and voluntary youth welfare organizations to carry out diverse projects, specialist conferences, further training measures and exhibitions and to publish informational materials. New partnerships to implement children's and young people's right to protection arise on an ongoing basis through the platform of the Thüringer Kinder- und Jugendschutztagen (Thuringian Convention on Protection for Children and Young People). This applies in particular to the family organizations and work with parents and parents' representative bodies.

Acquisition of media competence

385. In order to ensure a responsible approach to the media which accords adequate consideration to the protection of children and young people, the Federal Government has furthermore set out to promote the teaching and learning of media competence by means of appropriate materials, e.g. brochures and documentation. Along with the statutory provisions and the voluntary self-regulation measures, media competence is a key prerequisite to guaranteeing effective protection for young people in the area of the media. The aim must be to enable young people to handle the media on their own initiative and to observe a critical distance from problematic content.

386. The Länder have also addressed this topic, both inside and outside of schools - for children, parents, educational specialists and teachers. Workshops, seminars and further training events are organized by the Land youth departments, for example, conventions are held on the protection of children and young people and counselling and qualification measures are offered for multipliers, parents and legal guardians. The terms of reference for the efforts by the Länder are provided by a declaration by the Conference of Education Ministers on media education and the statement "Media education in schools" from the federal/Land governments' commission for education planning and research promotion.

387. The Land of North Rhine-Westphalia serves as an example of the considerable efforts undertaken by the Länder with regard to the acquisition of media competence. Here, outstanding importance is attached to the acquisition of media competence from nursery school age. The Land rejects the call for all nursery schools to be equipped with electronic media, however, focusing rather on the rich, direct experience of reality in day-to-day life as a means of enabling young people to put media content in the right context. Special emphasis is applied to the area of further training for nursery schoolteachers. A pilot project is being carried out in this connection on the basis of a comprehensive study by the Land broadcasting institution. Media education is supported in schools by numerous practical projects.

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

388. Article 37 (a) of the Convention prohibits the subjection of children to torture and the imposition on children of capital punishment or life imprisonment without possibility of release. The Federal Government's initial report detailed in chapter III.H how the Federal Republic of

Germany complies with the full scope of these stipulations. In supplementation of these details, it is appropriate to refer to a number of provisions in the German Penal Code which comprehensively ensure the prohibition of torture:

389. Sections 223 ff. of the German Penal Code stipulate that it is a punishable offence to physically maltreat a person and to endanger a person's health. In particular, reference is to be made to the fact that grievous bodily harm and serious bodily harm constitute punishable offences. In cases in which bodily harm is inflicted by a public official in the course of carrying out his or her duties, the provision governing bodily injury on duty applies. It should further be pointed out that extorting statements is also a punishable offence. In this context, it is a criminal offence for a public official involved in certain proceedings on behalf of the State to subject another person to physical maltreatment or psychological torture in order to extort statements. With regard to the initiation or tolerance of torture measures, reference is to be made to the provision whereby it is a punishable offence to instruct subordinates to commit unlawful acts or for a subordinate to tolerate unlawful acts by his or her superior. The offences of unlawful detention, coercion and threat may also be of relevance in connection with torture. It is also a punishable offence to inflict serious physical or psychological injury on members of a national, racial, religious or ethnic group with the aim of partially or completely destroying such a group.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

General information

390. With regard to article 5 of the Convention, reference is made to chapter IV.A of the initial report. A new aspect is that in the wake of the reform of the law of parent and child, which came into force on 1 July 1998, the altruistic nature of the parental rights and the attendant obligations towards the child are emphasized more clearly by the fact that parents are assigned the "obligation and right" to care for the person and the property of the child.

391. By virtue of a resolution by the German Bundestag of 10 December 1982, the Federal Government is obliged to submit a report on the situation of the family in every other legislative period, whereby overall reports are to alternate with reports on special topics. The family reports provide a basis on which to prepare necessary decisions in the area of family policy.

392. Following the fifth report, "Families and family policy in unified Germany - the future of human assets" of 1994, which was an overall report on the situation of families, according special consideration to the situation of the families in the eastern Länder, the sixth family report, which has now been published, is once again a special report. It focuses on the topic of "The situation of families of foreign origin in Germany". The aim of this report is to present a differentiated description of the situation of these families, to analyse the conditions pertaining to family life and to identify ways in which the integration of these families into our society can be promoted.

B. Parental responsibility (art. 18, paras. 1 and 2)

1. Revision of the law on parental custody

393. The revision of the law on parental custody which was announced in the initial report was carried out in 1998. In so doing, the Federal Government has responded to the recommendation contained in paragraph 28 of the concluding observations of the Committee.

394. In this context, the Federal Government has complied with the principle affirmed in article 18, paragraph 1, of the Convention whereby both parents possess common responsibility for the upbringing and development of the child. However, this principle cannot be realized outside a marriage without due consideration of the best interests of the child, as stipulated in article 3, paragraph 1, of the Convention.

395. The law of the Federal Republic of Germany therefore now also enables parents who are not married to establish common parental custody for their child and thus to assume common responsibility for the care and upbringing of the child. This arrangement is contingent upon both parents submitting corresponding declarations, known as custody declarations, or marrying each other.

396. At the time of birth, the mother who is not married to the father of the child is notified of the possibility of establishing common custody. If no custody declarations are submitted and the parents do not marry, the mother acquires parental custody. In this case, it is also possible for parental custody to be assigned to the father in the event of separation, subject to the mother's consent. Should it serve the child's well-being, the father can also acquire parental custody if parental custody is withdrawn from the mother, or if the mother dies or is permanently unable to carry out her parental care.

397. The establishment of common parental custody is thus dependent solely on submission of the custody declarations; the establishment of common parental custody is not subject to any further preconditions. If the parents fail to submit custody declarations, it is to be assumed that the minimum degree of willingness and ability to cooperate which is necessary for common care and upbringing of the child is lacking. In this case, it may be expected that the child would find itself at the centre of any conflicts which may arise, and that a different arrangement would do the child more harm than good. According to a fact-finding study, only 25 per cent of children aged up to 12 in Germany live with their father and mother when the latter were not married prior to or after the birth of the child.

398. The fact that the mother has a better position than the father in this area stems from findings from the field of child psychiatry and child psychology which show that the child develops close ties to its mother very soon after birth. A change of custody against the mother's will would erode these ties, and is thus restricted to exceptional cases.

399. Following the reform of the law of parent and child, parents with common parental custody are encouraged, but not forced, to continue their common parental custody after their separation and divorce. The previously compulsory decision on parental custody by the family

court in divorce cases no longer applies. As with other matters pertaining to a divorce case, custody proceedings are initiated only in those cases in which a parent applies for sole custody. When no such application is filed, common parental custody is maintained, as was previously the case for parents who had separated but not yet divorced. The possibility of instituting legal proceedings on parental custody because the well-being of the child is at risk remains unaffected. In the event of separation or divorce, married parents can apply to the court for the assignment of sole custody at any time, i.e. also at a later juncture. The court will assign sole custody to one parent if the other parent consents or if it is to be expected that such an assignment is in the best interests of the child.

400. This new concept is based on two considerations. Firstly, there is no doubt that it is the best solution for the affected children if the parents can continue to attend to the care of the child by mutual agreement after their divorce. Common custody offers an appropriate framework for such an understanding between the parents. When common custody continues, the child is least likely to feel it has lost one of its parents. On the other hand, communality cannot be imposed by order. If parents continually argue about the matters relating to the child during the continuation of common custody, this may result in strains which are detrimental to the child's well-being. In these cases, awarding sole custody to one parent is to be preferred.

401. The feasibility of common custody after the separation of the parents has been improved substantially by the fact that the parent with whom the child lives is authorized to make decisions on his or her own on all matters of daily life.

Voluntary guardianship

402. In the course of the reform of the law of parent and child, the assistance available to parents or other persons entitled to custody in discharging their responsibility for the child has been reinforced.

403. Voluntary guardianship has been introduced, for example. This replaces the statutory guardianship for illegitimate children whose mothers are of age. Tasks in the area of voluntary guardianship include the determination of paternity and the assertion of maintenance claims. Every parent with sole right of custody for the child is eligible. In particular, this includes mothers who are not married to the father of the child, when no custody declarations have been submitted, and parents who acquire the sole right of custody after separation or divorce by virtue of a court decision.

404. In deciding to introduce voluntary guardianship, the legislature has assigned responsibility for asserting the child's right to know its parentage to the mother. In order to ensure that the mother exercises this right in a responsible manner, Book Eight of the Social Code (SGB VIII) obliges the youth welfare department to offer the mother advice and support in securing acknowledgement of paternity and asserting maintenance claims promptly after the birth of the child.

Youth welfare counselling services in divorce cases

405. The legislature has devoted special attention to counselling of the parents. This also pursues the aim of promoting solutions to conflicts through mutual agreement between the parents. At an early stage of custody and access proceedings, the court is to point out the counselling services available at the youth welfare department, in particular in the interest of development of a mutually acceptable concept for parental care and parental responsibility.

406. Divorce does not affect common custody by the parents, unless one of the parents applies for sole custody. In order to counter the danger of the child's interests being ignored in the course of the parents' divorce, the Code of Civil Procedure requires the parent petitioning for divorce to state in the petition whether there are any common under-age children. Confirmation in the petition for divorce that there are such children gives rise to further obligations on the part of the authorities to provide information and hear the parties concerned, even if no petition for parental custody is filed and consequently no parental custody proceedings ensue. In this case, the courts are obliged to notify the youth welfare department of the pending divorce cases and the names and addresses of the parties concerned. The youth welfare department is then obliged to inform the parents about the available possibilities for counselling on separation and divorce in the local area. The parents' extensive counselling requirements have been taken into account by entitling parents to partnership counselling as well as counselling on separation and divorce. The affected children are to be involved in an appropriate manner in this counselling.

407. As a further link between divorce proceedings and counselling services in the area of child and youth welfare, the Code of Civil Procedure obliges the family court judges to notify the spouses of the existing possibilities for counselling by the advice centres and counselling services of the youth welfare organizations. This obligation also applies when the parents do not file an application for custody.

408. A link to the youth welfare counselling services has now also been established in proceedings to assign the sole right of custody to one parent. The legal basis here is provided by section 52 of the law on matters of non-contentious jurisdiction. This provision requires the court to refer to existing possibilities for counselling from the advice centres and counselling services of youth welfare organizations, in particular for the development of a mutually acceptable concept for parental care and parental responsibility. The court is also able to suspend corresponding proceedings, if the parties concerned are prepared to avail themselves of extrajudicial counselling.

409. The same applies to the court's referral obligations in access proceedings. Here too, the court points out the existing possibilities for counselling from the advice centres and counselling services of youth welfare organizations.

Activities by welfare organizations in the context of the new law of parent and child

410. The voluntary welfare organizations deploy their facilities and services to provide a supporting role in the area of the law of parent and child. The social welfare organization of the Protestant Church in Germany, for example, sees it as an important task to help ensure the most widespread possible knowledge of the new statutory provisions of the law of parent and child through activities and services of its own. These take the form of further and advanced training

courses, articles in specialist publications and the free distribution of information brochures. In addition, numerous Church welfare advice centres, facilities and services in the field of youth and family welfare also offer information and concrete services to support and enable relations between children and relatives.

Further development of the law of parent and child

411. After taking office, the new Federal Government resolved to undertake further development of the law of parent and child, by establishing the right of the child to an upbringing free of violence (cf. chapter V.J), a clear definition of the range and scope of day-to-day care, the need for a mutual agreement on custody and, finally, the legal requirements pertaining to social parenthood. An initial step in this further development of the law of parent and child has since been undertaken with the introduction of the law to prohibit violence in the upbringing of children on 2 November 2000, which grants children the right to an upbringing free of violence.

2. Measures to support parents

Measures by the Federal Government

412. The task of family policy at Federal Government level is to ensure the most favourable possible underlying conditions for establishing and living in families. Appurtenant measures here include relieving the financial strain on families and providing them with financial assistance, establishing a child- and family-orientated living environment, providing educational, informational and advisory services in various areas and promoting self-organization, self-help and the interests of families.

413. The following observations outline the activities at Federal Government level. For the sake of an overall representation, certain items of information from the initial report are reiterated here.

414. Important regulatory aspects in the area of the “compatibility of family and working life” are the implementation of the legal entitlement to a place at a day nursery (cf. chapters VI.C and VII.A.2) and the protection against dismissal during leave to bring up a child which was introduced more than 10 years ago as “child-rearing leave”. Mothers and fathers are initially to be able to devote themselves to bringing up their child either by foregoing work completely or by working part time for up to 19 hours per week - now 30 hours per week - without having to risk losing their job. Child-rearing leave - now known as “parental leave” - is supported by the child benefit, the level of which is dependent on the parents’ income.

415. The new Federal Government is committed to improving the regulatory framework for child benefit and parental leave. In this connection, the third law to amend the federal law on child benefits, which came into force on 1 January 2001, raises the income limits pertaining to eligibility for child benefit and provides for considerable flexibility with regard to possibilities for combining family work and gainful employment. Both parents are now able to take parental leave, for example. Parental leave can be combined with part-time work. Depending on certain underlying factors such as the size of the company, parents are entitled to reduced working hours during the parental leave period, enabling each parent to carry out part-time work for up

to 30 hours per week. Subject to the employer's consent, the third year of the parent's leave period can be deferred until the child concerned reaches the age of 8, upon which the leave can be taken when the child begins school or in the ensuing phase. In addition to EU/EEA citizens and other foreigners in possession of a residence permit or residence authorization, persons with recognized rights of asylum and refugees are now also entitled to child benefit. It is further possible to limit the period during which child benefit is drawn to one year, so as to receive up to DM 900 per month up to the child's first birthday, instead of up to DM 600 per month up to the child's second birthday. This measure represents a further step towards according due consideration to families' individual needs and situations.

416. Section 126, paragraph 2, of the Third Book of the Social Code and section 45 of the Fifth Book of the Social Code establish provisions under federal law to assist parents in supporting and caring for an ill child. Unemployed persons affected are entitled to continued payment of unemployment benefit for 10 days per child and calendar year, while for single parents this entitlement extends to 20 days per child and calendar year. Persons in employment are entitled to leave in the same manner. Preconditions, however, are that no other person living in the household is able to care for the child and that the child has not yet reached 12 years of age. When several children are involved, the entitlements are limited to 25 days per parent and calendar year, or 50 days per year for single parents.

417. Efforts by the State to improve the economic situation of families have been stepped up in recent years. The volume of the family benefit, which covers the child benefit and the child allowance (cf. chapter VI.D), stood at around DM 56.4 billion in 1999. In 1999, the monthly child benefit rates stood at DM 250 for first and second children, DM 300 for third children and DM 350 for fourth and additional children. The child allowance, which represents the specific minimum subsistence level for a child and for which the child benefit is to be taken into account when calculating its effect on the tax burden, stands at DM 6,912.

418. The benefits for families are to be further extended in the coming years.

419. Other areas in which financial consideration is accorded to the fact that parents are required by law to support children include in particular the advance maintenance payment for children of single parents (cf. chapter VI.D), the maternity benefits provided by the statutory health insurance agencies and free insurance for dependants. Other measures worthy of mention are tax relief on childcare costs for single parents and educational tax allowances for the parents of children in school education or vocational training. In future, child benefit and child allowance are also to take account of care and educational requirements.

420. The wish to own one's own home has high priority among the population - particularly among families with children. The Federal Government thus aims to support as many citizens as possible in acquiring home ownership. The 1996 reform of the tax relief arrangements to promote home ownership in the law on home ownership allowance established benefits which have been claimed on a broad front throughout the population. The home ownership benefit is paid over a subsidy period of eight years, irrespective of the tax liability. In addition to the basic grant, a child allowance of DM 1,500 per child is paid in each year of the subsidy period. The positive impact of these subsidies is demonstrated by the 27 per cent rise in the number of single-family homes completed in 1998 in comparison with the comparable period in 1996.

421. In accordance with the law on rent allowances, rent allowances are granted as a contribution to the costs of accommodation, in order to ensure the necessary economic basis for adequate accommodation in accordance with the needs of a family. The factors determining whether a family is eligible for a rent allowance and, if so, to what amount include the number of family members belonging to the household, that is, in particular the number of children, including adopted and stepchildren.

422. Families with a large number of children are to receive consideration as a matter of priority with regard to the promotion of housing construction in the area of social housing. The income limits determining eligibility for grants are raised according to the number of family members, i.e. including the children living in the household. When public funds are approved for the construction of a family home, supplementary loans are to be granted for families with children, the levels of these loans depending on the number of children.

423. More affordable homes and an enhanced quality of life are to be realized in our towns and communities in the future. The new Federal Government intends to interlink housing construction and urban development more effectively, to reinforce sustainable settlement trends, to promote job creation in the building industry and to establish new key focuses: the promotion of home ownership is to maintain its high status and undergo further development. A reform of rent allowances is to introduce rent allowance arrangements which reflect rent and income trends more accurately and which are more in line with the requirements of families.

424. In view of the many requirements to which families are subject, situations continually arise in which families seek support, advice or help. In providing support for families, family policy must therefore help to ensure that families receive advice and support when under strain, in addition to material benefits. A highly diversified and differentiated range of family-orientated counselling services is available in Germany to take due account of the importance of family help and advice.

425. Since 1991, the legal basis for these services has been provided by Book Eight of the Social Code (SGB VIII), which obliges public youth welfare organizations - i.e. the administrative districts and autonomous towns - to provide services aimed at preventing problems. This supports parents in their task of bringing up children and helps young people in growing up and establishing their place in society. Through central government bodies, the Federal Government also promotes ongoing concept development for marital, family and life counselling and the supra-state qualification of counsellors and multipliers. Printed materials, such as information letters for parents, e.g. on the subject of violence, an advisory guide and practical aids are also developed and updated.

426. Families also receive support in Germany through a dense family education network comprising more than 500 facilities nationwide. Alongside the State and private child and youth welfare facilities mentioned in the initial report in connection with article 18, these facilities focus on the interests of the entire family. They are operated primarily by Church organizations and other voluntary organizations, and in some instances they receive funding from the respective Länder. Through informational events, courses and seminars which address the diverse phases and situations of families, the facilities aim to support the family in fulfilling its tasks and to help it meet the challenges of a changing society. Strengthening parents' upbringing skills is the most important focus of family education. The aim is to enable parents to bring up

their children to become independent and responsible citizens, according due consideration to the children's well-being, needs, rights and duties. The Länder and the local authorities which are responsible for child and youth welfare cooperate with the family education facilities. These authorities are also responsible for decisions on the financing of the facilities.

427. Within the framework of the allocation of responsibilities and areas of authorization for sponsorship and promotion measures between the Federal Government and the governments of the Länder as set out in the Constitution, the Federal Government supports family education through financial grants to the relevant organizations and by sponsoring pilot projects and supra-state measures and events. The Federal Government sees family education as a mainstay of family policy.

428. With regard to the future course of development, the new Federal Government is committed to noticeably improving the economic and social situation of families. In pursuing this aim, it will attach importance to successful interaction between family, employment, social, fiscal, housing, women's and youth policy. Family policy at central government, Land and local authority level is to be integrated more effectively, in order to increase the efficiency of family policy measures. In the interests of children, the new Federal Government also intends to ensure family education and family, life and educational counselling as a means of coping with everyday conflicts.

Measures in the Länder

429. The Länder support parents in assuming responsibility for their children through numerous measures. Examples here include the promotion of:

- (a) Recreational facilities for families and holiday-time allowances for families on low incomes;
- (b) Family education measures;
- (c) Family centres and father/mother-child facilities as places in which families can meet, communicate and pursue leisure activities;
- (d) Day-care facilities for children (cf. chapter VII.A);
- (e) Counselling centres on matters relating to marriage and the family, for problems concerning the way family members lead their lives, and for advice in case of separation and divorce, conflicts resulting from pregnancies and excessive debt; and
- (f) The granting of child benefits from Land funds.

430. As a further measure to support parents in bringing up their children and to promote their parenting abilities, the range of preventive educational assistance services, which are also intended to prevent children being placed in welfare facilities, has also been expanded:

- (a) Family activation management is a method whereby specially trained staff work intensively in and with the family for six weeks, in order to improve parenting abilities. The necessary assistance for the families outside of welfare institutions is determined and applied.

This method is based on the conviction that children can generally be helped more effectively by keeping the family and the familiar social environment intact than by removing them from their family and placing them in a home outside of the family;

(b) Home video training is a home-based form of help for families with children who display behavioural problems. Video recordings are used to demonstrate problematic behaviour and communications problems within the family to parents. Work towards improving the situation is carried out together with the home video trainer. Marked changes in behaviour are usually to be observed after only a few visits by the home video trainer in cases concerning hyperactive children, children with problems at school or children with psychosomatic disorders;

(c) Social education foster families are professional foster families in which at least one parent possesses educational or psychological training. The social education foster family is a form of help for children with particularly retarded development who do not remain in their family of origin and cannot be placed in a conventional foster family on account of their behavioural problems.

431. The following observations highlight examples of the special measures pursued by individual Länder in supporting families beyond the previously mentioned assistance.

432. The Land of Hessen focuses in particular on supporting parents of children of a homosexual orientation or identity (cf. chapter III.A.4).

433. In Lower Saxony, the Land grants family relaxation and recreation allowances and offers counselling centres covering various specific topics for families, girls and boys who have been affected by violence. The "Families in need" ("*Familie in Not*") foundation set up by the Land of Lower Saxony helps families with a large number of children, single parents and pregnant women who are in financial difficulty largely through no fault of their own, e.g. as a result of illness, divorce or unemployment.

434. In North Rhine-Westphalia, promotion of the 170 family education centres throughout the Land is based on appurtenant provisions in the Land's law which ensure the facilities' long-term work. The facilities are supported in their quality and organizational optimization efforts by innovative projects. In the context of the ongoing changes in society and the family, the project "Family education 2010" ("*Familienbildung 2010*") aims to interlink measures and services in the areas of support, education and counselling for families more effectively.

435. In Rhineland-Palatinate, a research project has revealed that, in addition to demographic causes, drastic processes of change in society and in the family also represent potential causes for a continual rise in the number of young people placed in homes. In this connection, methods developed in other Länder, such as the previously mentioned methods of family activation management or home video training, have been tested and introduced - in some cases as federal pilot projects.

436. The Land of Schleswig-Holstein is promoting social service structures to improve living conditions in the residential environment by reference to the example of a focus of social problems via the extensive integration of different services, institutions and measures. For many years now, voluntary benefits from the Land have also supported needy families in fulfilling

their wish for a holiday. An amendment to the relevant directive in 1998 noticeably improved the scope for the support of families. One focus of counselling by voluntary welfare associations is on counselling for parents with disabled children.

C. Separation from parents (art. 9)

General information

437. The guiding principles of German policy with regard to article 9 of the Convention and the corresponding statutory provisions were explained in detail in the initial report. Changes concern firstly the fact that the family court has taken the place of the guardianship court since the reform of the law of parent and child came into force. This does away with the previous, sometimes complicated distinction between custody cases which fall within the family court's jurisdiction and those to be heard in the guardianship court. This corresponds to the objective of establishing equal treatment for legitimate and illegitimate children which was pursued through the reform of the law of parent and child. The establishment of the family courts as the standard place of jurisdiction for all custody cases is intended to prevent the enshrinement of unequal status for legitimate and illegitimate children in the law and subsequent prejudicing of the status of the illegitimate child in society.

438. Secondly, procedural changes have been introduced in connection with personal custody cases concerning under-age children. In such cases, the court is required:

(a) In accordance with the law on matters of non-contentious jurisdiction to appoint a representative for the child for the proceedings concerned, insofar as this is necessary in order to defend the child's interests, particularly when the subject of the proceedings is measures relating to a risk to the child's well-being which are related to the separation of the child from its family or to the complete withdrawal of care and custody of the child; this is intended to strengthen the child's position in relation to its parents or guardians;

(b) To grant the parents a personal hearing, in order to clarify how the risk to the child's well-being can be averted, particularly in cases before the family court.

Involvement of the affected parties in legal proceedings

439. A whole range of measures to assert the interests of children in legal proceedings more effectively were already in place previously. In court proceedings relating to parental custody, the principle of official investigation has always applied, i.e. the court has always clarified the facts of the case on its own initiative, without being bound to the submissions by the parties involved. It has always been required to hear the child, as well as the youth welfare department.

440. In order to take up and assert the child's position and interests more effectively in court proceedings concerning the separation of a child from its parents against its will or its parents' will, the institution of a case guardian - a "counsel for the child" - has been established and developed in the new law of parent and child. In this way, it is intended to ensure that the child's own interests are included in the proceedings and that the child thus does not become a mere object of the proceedings when serious conflicts of interest apply between parents and child. The case guardian is not necessarily a lawyer; specialists from the areas of social education and

child psychology and persons working in a voluntary capacity in the field of youth work are equally eligible according to the special aspects of the case concerned, and in certain circumstances relatives may also take on the role. Case guardians are offered further and advanced training courses to prepare them for their role, e.g. by the Church's social welfare academy.

441. The newly established standard jurisdiction of the family court for all matters relating to the law of parent and child is closely associated with these reforms. The family court was previously responsible for certain areas only, along with the guardianship court and the local court's civil division. The jurisdiction of the family court now also extends to disputes over maintenance. This eliminates the previous confusion among the parties involved as to which areas of jurisdiction apply to which courts. At the same time, the same conditions are also established for legitimate and illegitimate children.

Contact of the child with the parents

442. In accordance with article 9, paragraph 3, of the Convention, the German Civil Code now includes a right of the child to maintain contact with both of its parents. Each parent is entitled and obliged to maintain contact with the child. In contrast to the previous provisions, the law now makes no distinction between married parents, divorced parents and parents who have never been married to one another. The right of the child and the parents to maintain contact can only be restricted or excluded if this is necessary in the interests of the child's well-being. A family court ruling which restricts the right of contact for a prolonged period or excludes the right entirely can be pronounced only if the child's well-being would otherwise be at risk.

443. In establishing the child's own right of contact, the legislature has made it clear that contact with the parents essentially serves the child's needs and that the child is not merely an object of the parents' rights. At the same time, this development also accords higher priority to the child's right of personality, which requires the child's wishes to receive increasing consideration as it becomes more mature.

444. The establishment of the child's own right of contact is intended to provide a signal both for the parent with whom the child lives and who obstructs contact with the other parent and for the parent who withdraws from contact and no longer concerns himself or herself with the child. The law further emphasizes that contact with both parents generally serves the well-being of the child.

445. In exercising its right to contact with its parents, the child is entitled to advice and support from the youth welfare department. The youth welfare department is also to act as a mediator in arranging contact with the parents and in the implementation of agreed contact arrangements or of court orders pertaining to contact arrangements, providing assistance in suitable cases.

446. In a court case concerning parental custody, including parental contact, a child of 14 years of age or older will always be granted a personal hearing by the judge. Younger children are granted a hearing in accordance with the law on matters of non-contentious jurisdiction when the child's inclinations, ties or wishes are of importance to the court's decision or for the purpose of establishing the facts of the case. Adjudication to date has regarded the children's wishes as a key factor influencing court decisions in the context of parental contact.

447. Beyond article 9, paragraph 3, of the Convention, the legislature has also established a right of contact for grandparents, brothers and sisters, step parents and foster parents, insofar as this serves the child's well-being. Children are to receive support from the youth welfare department in ensuring that the stated persons exercise their right of contact for the good of the child.

D. Family reunification (art. 10)

448. German law on entry into and residence in Germany distinguishes between the statutory right of foreign spouses and children to enter the country in order to join their families and the possibility of family reunification on humanitarian grounds. Special consideration is given to the child's well-being in this context.

449. Under-age children have a fundamental right to enter Germany to join their parents living in the federal territory, provided that the parents possess a residence permit, residence authorization or residence approval, adequate living space is available for the family and the parents are in an economic position to maintain the child. The statutory right of children to enter the country in order to join their parents is to be asserted by the age of 16. Under-age unmarried children of a person who has been granted asylum and is living in the federal territory have a right to enter the country in order to join this parent without the above restriction as to age and exceptions to the above-stated arrangements are possible.

450. Beyond this, it is also possible for children to enter Germany in order to join their parents up to the age of 18, however, if the under-age child is able to speak the German language or if it otherwise appears that the child will be able to integrate into life in Germany, or if it is necessary for the child to join its parents in Germany in order to avoid special hardship. There is also a special clause for cases of hardship, which may apply for married or adult children who are in need of care, for example.

451. In the case of aliens who are granted residence in Germany for compelling reasons under international law and who possess residence authorization, family reunification of the spouses and the under-age, unmarried children in Germany is possible when there is no possibility of the family being reunified abroad in the foreseeable future. This also applies to refugees in accordance with the Convention relating to the Status of Refugees, who normally possess residence authorization in cases in which they have not been recognized as being entitled to asylum. In principle, maintenance of the family without recourse to public funds is also a prerequisite in such cases. This requirement can be waived for refugees in particular, however. Very substantial problems apply in some cases, because the family members have no safe access to a German diplomatic mission in their country of origin, or because it is difficult for them to obtain valid passport documents. Family reunification is not possible for aliens who have been granted short-term residence permits only, that is, a temporary deferment of deportation. These persons can obtain residence authorization, however, if deportation is not possible for a prolonged period for reasons for which the alien is not responsible. This ensures that spouses and children can enter Germany for the purpose of family reunification. This also applies to refugees, for example, who cannot be deported to their home country under the terms of the European Convention on the Protection of Human Rights and Fundamental Freedoms.

452. Following an amendment to the law on aliens, permission can now also be granted for the parent without right of custody to enter Germany in order to join his or her under-age, unmarried German child, if the family household already lives in Germany as a matter of fact. Notwithstanding this provision, the foreign parent of an under-age unmarried German child has a legal entitlement to residence authorization in order to care for the person of the child.

453. German asylum law contains no provisions for the family reunification of asylum-seekers. In principle, asylum law determines that only persons who have a justified fear of political persecution and who have not entered Germany via a third country can be recognized as being entitled to asylum. By way of derogation from this principle, under-age unmarried children of persons entitled to asylum are to be recognized as being entitled to asylum without any grounds of their own for asylum in the context of family asylum, provided that the conditions of section 26, paragraph 2, of the law on asylum proceedings (*AsylVfG*) are fulfilled. Subject to the provisions of article 4 of the Dublin Convention, an EU member State can be responsible for conducting asylum proceedings for an unmarried child seeking asylum, if the child wishes its asylum proceedings to be conducted in the member State concerned and the member State has already recognized the child's father or mother as a refugee in accordance with the Geneva Convention.

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

The removal of children in the context of criminal law

454. The obligation to combat the illicit transfer and non-return of children abroad which is inferable from article 11, paragraph 1, of the Convention is fulfilled by the Federal Republic of Germany in terms of criminal law by section 235 of the German Criminal Code.

455. Previously, removing a child was a punishable offence only if a person under the age of 18 was removed from his or her parents, guardian or legal representative by means of guile, threats or force. The sixth law to reform the criminal law of 26 January 1998, which came into force on 1 April 1998, has closed gaps in criminal liability which previously applied with regard to the covert removal of infants and small children without guile, threats or force, for example.

456. The existing regulations have been extended to include the following provisions: Anyone who removes a child - that is, within the meaning of Book Eight of the Social Code (SGB VIII), a person under 14 years of age - of whom he or she is not a relative from the child's guardian can be punished with five years' imprisonment, even if neither force nor guile nor threats have been applied. It is punishable to attempt such an offence. Removing a child from a guardian in order to transfer it abroad or withholding the child from the guardian abroad is also punishable with up to five years' imprisonment. It is punishable to attempt to transfer a child abroad. The minimum prison sentence for serious cases has been raised from six months to one year. Prison sentences of between 1 year and 10 years are to be imposed when the offender exposes the victim to a risk of death, serious harm or severe damage to the victim's physical or emotional development as a result of the offence, or commits the offence for payment or with the intention of enriching himself or herself or a third party. If the offender recklessly causes the victim's death as a result of the offence, a prison sentence of no less than three years is to be imposed.

The removal of children in the context of civil law

457. Under civil law, a parent who holds or jointly holds the right of custody and care of a child can require anyone withholding the child from him/her to surrender the child.

458. The Federal Republic of Germany has been a signatory to the Hague Convention on the Civil Aspects of International Child Abduction since 1 December 1990 and to the European Convention on the Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children since 1 February 1991. Both conventions expressly regulate the return of the child in the event of cross-border abduction by a parent. National provisions on implementation, above all in the area of procedural law, are contained in the implementing law for the conventions on custody.

459. The Federal Republic of Germany has appointed the Federal Public Prosecutor at the Federal Court of Justice as the central authority for both conventions, responsible for cooperation with other States parties and for acting in an intermediary capacity in connection with applications of the conventions' provisions at national level. The Federal Public Prosecutor's remit includes, for example, locating abducted children with the aid of police agencies and local youth welfare offices, representing in domestic judicial and extrajudicial proceedings petitioners who are resident in foreign countries - whereby a lawyer is appointed as a subagent in many such cases - and requesting judicial assistance from the central authorities of other States parties.

460. Application of the exceptional provisions stipulated in the conventions has proven problematic to date. On the one hand, a key objective of both conventions is to enable the swift return of a child who has been illicitly transferred abroad or withheld abroad, so as to restore the violated relationship between the child and his or her rightful guardian and to uphold the international jurisdiction of the courts in the State in which the child has had its usual place of residence. On the other hand, under certain circumstances it may be in the child's best interests to forego a return; appurtenant exceptional provisions in both conventions take due account of this fact. Assessing whether such an exceptional case applies is no easy matter, and can prove a difficult tightrope walk for the courts in both factual and legal terms. In order to standardize application of the Hague Convention and the European Convention in German adjudication and to speed up court proceedings, the Federal Government has submitted a draft bill which proposes assigning original jurisdiction for proceedings in accordance with the implementing law for the conventions on custody to around 20 courts. This is intended to promote specialization of the judges at these courts and the local legal practitioners.

461. The Federal Public Prosecutor attends to around 200 incoming and outgoing petitions annually. These cases general involve one parent having removed the child from the State in which he or she is usually resident or withholding the child in another State. A slight increase in the number of cases handled by the Federal Public Prosecutor can be attributed to an increasing awareness of the conventions on custody and, above all, to the growing importance of binational marriages and families. In view of these circumstances, the number of cross-border child abduction cases may be considered to be low. The Hague Convention and the European Convention have thus had a considerably successful impact, including in preventive terms.

Traffic in children

462. The illicit transfer of children abroad also plays a role in conjunction with adoptions. In this connection, reference is made to chapter V.H.

F. Recovery of maintenance for the child (art. 27, para. 4)

463. In accordance with the German Civil Code, persons related in direct line are obliged to grant one another maintenance. The parent with whom under-age, unmarried children live generally fulfils his or her maintenance obligation by caring for and bringing up the children, while the other parent is obliged to contribute to child maintenance by money payments, which are referred to as cash maintenance. Maintenance covers all the child's needs in life, including the costs of an adequate education and upbringing.

464. Anyone evading a statutory obligation to provide maintenance for a child as a result of which the child's necessities of life are at risk or would be at risk without the help of others is liable to prosecution for breach of the obligation to provide maintenance.

465. The assertion and judicial enforcement of maintenance claims for children has been further facilitated by the law on child maintenance which came into force on 1 July 1998. This law now provides a simplified procedure for assessing maintenance. Swift judicial assessment of the maintenance to be paid by a person liable to pay cash maintenance for an under-age child who does not live in his or her household is possible in these proceedings. When disputes arise, the courts are now further able to submit inquiries to employers, insurance agencies, social service establishments and the tax office on the income situation of the person liable to pay maintenance.

466. The new law on child maintenance also includes a possibility for a dynamic form of child maintenance. When the child avails himself or herself of this possibility, the due maintenance is automatically adjusted in accordance with the course of development of net income every two years. The previous distinction in law between maintenance claims for legitimate and illegitimate children has been abolished and the right to maintenance has been standardized for all children.

467. With regard to the ensurance of maintenance via payments in accordance with the law on advance maintenance payments and on the subject of the international obligations which the Federal Republic of Germany has assumed, reference is made to the explanations in chapter IV.E of the initial report and chapter VI.D of the present report.

G. Children who have been deprived of their family environment (art. 20)

468. As already explained in chapter IV.F of the initial report, the entitlement of the child to special protection and assistance provided by the State in the event that he or she cannot or can no longer grow up in his or her family environment, as stipulated in article 20, paragraph 1, is ensured in the Federal Republic of Germany by the fact that public authorities and the courts intervene when the special need for protection of a child deprived of his or her family environment so requires.

469. A further important aspect is that the law relating to child and youth welfare aims to avoid children being placed in homes outside of the family wherever possible, and preventive measures may be applied to this end (cf. chapter V.B.2).

H. Adoption (art. 21)

Adoption within Germany

470. The minimum requirements laid down in article 21 of the Convention to be observed by the States parties in the case of adoption of children are fulfilled in the Federal Republic of Germany, as explained in chapter IV.G of the Federal Government's initial report.

International adoptions

471. The requirement stipulated in article 21 (c) for the child concerned by intercountry adoption to enjoy safeguards equivalent to those existing in the case of national adoption is fulfilled in the national law of the Federal Republic of Germany.

472. When prospective German adoptive parents adopt a foreign child and the adoption is carried out in Germany, the same strict provisions of substantive law come into effect as apply when a German child is adopted within Germany. The procedure involving an official examination of the eligibility of the parents for adoption by the guardianship court, which is particularly conducive to protecting the child to be adopted, also applies in Germany for international adoptions.

473. A prerequisite for adoption is that it must serve the child's well-being and best interests. The principle of the subsidiarity of international adoption which is alluded to in article 21, (b) of the Convention is observed in assessing whether this precondition is met.

474. When adoption is carried out in Germany, official acceptance of the adoption is not generally to take place until the child has been in the adoptive parent's care for an appropriate period of time. The child is also generally subject to the guardianship of the youth welfare office, when his or her parents have consented to the adoption. In this way it is ensured that the child's situation remains under observation after he or she has been placed with the prospective adoptive parents, and that official acceptance of the adoption takes place only if it is in the child's best long-term interests.

475. Germany has undertaken measures in the area of both civil law and criminal law in order to combat traffic in children and other mediation practices contrary to the well-being of the child.

476. In cases in which adoptions have been mediated by inadmissible means, the practice to date once the child has been placed with the prospective adoptive parents has been to declare official acceptance of the adoption without consideration to the circumstances pertaining to the adoption arrangements. Prospective adoptive parents who resorted to inadmissible means to realize their wish of adopting a child were thus able to count on achieving their aim and even obtaining a statutory safeguard, through official acceptance of the adoption. In order to make adoption more difficult in such cases, section 1741, paragraph 1, sentence 2, of the Federal Civil Code now stipulates: "Anyone participating in the illegal or unethical mediation or transfer of a child for the purpose of adoption or anyone commissioning and paying a third party to this end is

to adopt a child only when this is necessary in the child's best interests." The German legislature has endeavoured to establish a carefully balanced provision here which is designed to act as a general preventive measure to combat inadmissible mediation practices while at the same time according due consideration to the well-being of the individual child concerned, who may already have established a parent-child relationship with the prospective adoptive parents.

477. With regard to further measures in connection with traffic in children, reference is made to chapter VIII.C.4.

Intercountry arrangements

478. Article 21 (e) of the Convention obliges the States parties to conclude bi- or multilateral agreements in order to promote the objectives of article 21. Fully in line with the Convention, the Federal Republic of Germany also vigorously champions the establishment of reliable legal foundations and the prevention of abuse in the area of intercountry adoption.

479. The Federal Republic of Germany signed the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption on 7 November 1997. The Federal Cabinet adopted the draft bills to ratify the Hague Convention and to adapt German law to the provisions of the Convention on 20 December 2000. It is planned to ratify the Convention by the end of 2001. On 6 February 1998, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth additionally concluded an agreement with the Romanian Adoption Committee, setting out the terms of reference for cooperation in connection with the adoption of Romanian children by prospective German adoptive parents. This agreement represents an interim solution until the Federal Republic of Germany has ratified the Hague Convention.

I. Periodic review of placement (art. 25)

480. The provisions which apply in Germany with regard to the periodic reviewing of the placement of a child outside of the family as required in article 25 of the Convention were presented in chapter IV.J of the Federal Government's initial report.

J. Abuse and neglect (art. 19), physical and psychological recovery and social reintegration (art. 39)

481. Article 19 of the Convention requires children to be protected from all forms of physical or mental violence while in the care of their guardians, i.e. generally their parents.

482. In Germany it is broadly agreed that personal integrity is an essential part of a person's dignity. Any form of physical or mental violence harms a person's integrity and consequently his/her dignity. This is particularly true in the case of children. Violence seriously and lastingly impairs the development of their personality. Children who experience violence in the family often tend to resort to violence themselves and in later life, as adults. An upbringing in a family free of violence thus represents an important contribution to the prevention of violence within society.

483. In Germany, too, violence against children in all its guises is a serious problem taking place on a considerable scale, with large numbers of cases presumably going unreported. Not least of all, even when interpreted with all due care, the results of the children's rights

ballots (cf. chapter I.B) indicate that the number of children who experience violence in the family themselves or are aware of other children who are affected by violence is not small. This assumption is placed in context by the “Barometer of children’s views in North Rhine-Westphalia”, however (cf. Introduction, sect. B), where the surveyed children stated that their parents responded to misbehaviour first and foremost by talking to the children or verbally chastising them. Being beaten ranks well below “being sent to their room” or “being banned from something”.

484. Children can be confronted with violence in the most diverse areas of life, such as schools or educational establishments. A key focus of violence, however, is the family environment, which can have a particularly severe and damaging effect on children’s development prospects.

485. Prevention is to be accorded special importance in combating violence in the family environment. Basic conditions conducive to family life which are beneficial to the overall environment in which children and families live, with regard to economic security, employment, housing, health, social relations, education, vocational training and cultural involvement, are a key factor. A further tool is prevention activities which aim to promote the educational and upbringing skills of parents, as well as other persons, facilities and institutions which have dealings with children and families.

486. Not least of all, comprehensive public education is required, in order to explain the dangers and consequences of violence to adults and children, to inform them of the available support services and to help sharpen public awareness of violence against children. This is a task and challenge to be addressed by politics at federal, Land and local levels, as well as by all social forces.

487. The background, extent and consequences of violence against children are the subject of numerous scientific studies initiated by the Federal Government and will continue to be researched in this manner in the future. Measures aimed at prevention, crisis intervention and providing concrete assistance for parents and children have been and will continue to be developed and tested in pilot projects, the results of which are incorporated in numerous statutory provisions to protect children.

Statutory measures

488. The legal framework in the area of abuse and neglect, physical and social recovery and social reintegration was presented in detail in the Federal Government’s initial report. This framework has been further expanded in the period under review.

489. An initial legislative measure undertaken in accordance with article 19 in order to protect the child from all forms of physical or psychological violence is the improved protection for children and young people from dangers of violence and neglect in the family resulting from the sixth law on the reform of German criminal law, which came into force on 1 April 1998. Relevant provisions include: breach of the obligation to provide care or education; sexual abuse or maltreatment of charges; sexual abuse of children, young people or persons unable to defend

themselves; sexual coercion and rape; the promotion of sexual acts by minors or prostitution; traffic in human beings; the dissemination of pornographic publications, particularly child pornography; the abduction of minors; traffic in children.

490. An initial step in improving the protection of children from physical and psychological violence was the amended version of section 1631, paragraph 2, of the German Civil Code resulting from the law to reform the law of parent and child, of 16 December 1997. This amended law prohibits demeaning educational and upbringing measures, in particular physical and psychological maltreatment.

491. The new Federal Government which has been in office since October 1998 intends to further extend the protection of children from violence. One of its objectives was to provide children with a statutory right to an upbringing free of violence. This objective has since been realized. The law to prohibit violence in the upbringing of children of 2 November 2000 grants children the right to an upbringing free of violence and prohibits all forms of violence against children, including the application of physical punishment for the purposes of upbringing. This law makes an important contribution towards implementing the proposals of the Committee on the Rights of the Child stated in paragraph 30 of the concluding observations.

492. In the area of the prevention of violence during the upbringing of children, supporting measures are as important as statutory provisions. In parallel with the introduction of the new law, the Federal Government has launched a campaign entitled "More respect for children". The primary aim is to promote parents' upbringing skills, to encourage them to adopt an approach to upbringing which is orientated towards the rights and needs of the child, to provide parents with help and support in matters of upbringing and to demonstrate ways in which conflicts can be resolved without resorting to violence. The measures are aimed at parents, but also extend to the establishments concerned with upbringing and educational matters.

Other measures by the Federal Government

493. A work programme to combat the abuse of children, child pornography and sex tourism, which also covers violence in the family, has been developed under the overall direction of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (cf. chapter VIII.C.3).

494. In addition to this programme, a concrete measure to assist parents in bringing up children is the leaflet for parents entitled "Preparing children for life - preventing sexual abuse", which has been produced on behalf of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth; 500,000 copies of the leaflet are being distributed to parents throughout Germany via youth welfare offices and other multipliers.

495. With regard to the abuse of children abroad, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has commissioned the production of an "In-flight spot against child prostitution in tourism" in a joint project with Terre des hommes and the European Commission. A short information film on the fight against child sex tourism which is shown to passengers on intercontinental flights by various airlines highlights the problem of child sex tourism and appeals to individuals' sense of responsibility. The spot is also intended to deter potential offenders.

496. Support has been requested from the European youth ministers so as to disseminate the film in other European countries, thereby reinforcing the preventive and educational measures in this area. The public service and private television broadcasting companies have also been approached on the subject of showing a German version of the in-flight spot.

Measures by the Länder

497. Numerous measures to protect children from all forms of violence have also been undertaken at Land level:

(a) In various pilot projects by the Länder, preventive training materials have been developed on the subject of “sexualized violence”, for application in the area of voluntary youth work, at day nurseries and in schools;

(b) Emergency services are available for children and young people suffering abuse and neglect, in the form of advice centres and a children’s telephone hotline, for example. Self-help groups are also available;

(c) The promotion of child protection centres and services, which offer help for victims in the area of violence against children and young people and child neglect in the area of sexual abuse, has been expanded. The available services cover diagnosis, counselling, therapy and rapid help in crisis situations.

498. The work carried out in North Rhine-Westphalia and Thuringia serves to exemplify the activities of child protection services.

499. The Land of North Rhine-Westphalia promotes numerous types of support facilities in conjunction with public education and information. These include “safe houses” as refuges for sexually abused girls, medical contact and advice centres, child protection ambulances, girls’ advice centres, child protection centres, educational counselling centres with a special focus on protection from abuse and neglect, around 200 advice centres operated by public and voluntary youth welfare organizations which offer help against sexual violence, abuse and neglect as part of their overall remit, 63 women’s refuges for maltreated women and their children and 50 general advice centres for women.

500. In Thuringia, the child protection services pursue a child-centred approach which focuses their work on protecting children. Their remit includes serving as points of contact for severely neglected, maltreated or sexually abused girls and boys and for girls and boys who are suspected victims of such neglect or abuse, affording protection from further risks and providing help in civil and criminal proceedings. The specialists deployed in this area possess basic training in education or psychology and attend specific further and advanced training measures to qualify them for work with children and young people who are the victims of violence and, in particular, sexual abuse. It is emphasized that the success of this work is contingent on interaction between various specialists whose skills cover the areas of social work, psychology, education and therapy, medicine and legal aspects. The need for cooperation and the interlinking of different types of support services is also emphasized.

501. The promotion and technical qualification of educational specialists in the field of sex education also contributes to the primary prevention of sexual abuse. The diverse forms of violence against children and young people and possible signals from victims have also been highlighted at day nurseries and schools and on further training courses for teachers. This is intended to instil an awareness of this problem area in all persons involved with children and young people, so as to enable an appropriate and timely response which will provide the child in such a situation with the necessary help.

502. The child protection services have made efforts to establish local task forces, so as to improve cooperation between various specialists from the fields of social work, psychology, education, medicine and jurisprudence and to integrate the various forms of help more effectively.

503. Violence against children in Germany is also addressed on a medical level. The seventieth conference of ministers and senators responsible for health in the Länder adopted a resolution on violence against children in November 1997. The resolution particularly welcomes the fact that the medical associations attach great importance to the problem and carry out further training measures in this connection. The medical associations at Land level are to seek cooperation with other professional groups and institutions, in order to optimize multiprofessional care for psychologically and physically maltreated children.

Physical and psychological recovery and social reintegration

504. With regard to the rehabilitation of children and young people who have fallen victim to sexual abuse, it is significant that the Federal Ministry of Labour and Social Affairs addressed a circular to the Länder implementing the crime victims compensation law (*Opferentschädigungsgesetz*) on 28 November 1996. In this circular, the Federal Ministry of Labour and Social Affairs makes it clear that victims of sexual abuse, even when no physical violence has been inflicted, are entitled to benefits under the crime victims compensation law for the harm which they have incurred.

VI. BASIC HEALTH CARE AND WELL-BEING

A. Disabled children (art. 23)

1. New legal framework

505. In the course of the constitutional reform which came into force in November 1994, an express ban on discrimination against disabled persons was incorporated into the Basic Law. The Basic Law now stipulates: "No person shall be disfavoured because of disability." This also represents a considerable reinforcement of the rights of disabled children and affirms the diverse efforts within Germany to ensure that disabled children are able to participate to the full in social life.

506. Improvements also apply to disabled foreign children aged over 16. The law on aliens was amended in 1997 to the effect that aliens suffering from a physical, mental or psychological illness or disability who have been living in Germany for a substantial period can acquire permanent right of residence on reaching the age of 16, even if they are unable to fulfil certain requirements on account of their illness or disablement.

2. Disabled children in the family

507. The new Federal Government which has been in office since the autumn of 1998 has stipulated in the coalition agreement the improvement of the underlying conditions for families with disabled children as an objective of its family policy. The current family-related initiatives of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth focus on supplementing the existing differentiated system of integrative and rehabilitative measures in Germany, with its classic institutions such as schools, workshops for disabled persons, early support offices, housing facilities, social welfare offices and services to support and facilitate family life, via the introduction of additional open services and day-to-day assistance measures, so as to offer families with disabled children new scope for planning an independent life.

508. The initiatives take into account the expert knowledge of the families concerned, the experience of welfare and disabled persons' organizations involved in local voluntary and social work and experience from other European countries:

(a) The future-orientated workshop "Perspective for holistic work with parents and families in the area of families with disabled children" has received sponsorship for a series of measures, beginning with the "Family workshop". In this workshop, the latest knowledge on current approaches pursued by voluntary and self-help support measures are discussed by interested parents and relatives and experts from the fields of services for the disabled, family support and volunteer pools, and prospective courses of action have been developed for associations, local authorities and voluntary organizations;

(b) An Internet information system entitled "Family advisory guide" ("*Familienratgeber*") has also been developed to provide information on the services available for families with disabled children. This system enables municipal, rural and local authorities to assist people with disabilities and their families in gaining access to information and advice on their rights and the support services which are available in their local communities;

(c) A three-year pilot project entitled "Ways of supporting families with a disabled child" is examining the present situation for families with disabled members under the prevailing conditions with regard to family policy, social welfare legislation and educational opportunities for disabled persons in Germany on the basis of the specific provisions which apply in the 16 Länder. Necessary and possible measures for improving the support system are established, tested and evaluated in cooperation with relevant organizations responsible for applying the appurtenant measures;

(d) In the period under review, the Federal Government also supported the integration of disabled children and young people within its scope of responsibility via the allocation of funds from the Federal Child and Youth Plan. The activities concerned focused on the promotion of project-related and primarily integrative work subject to limited time scales by

central government youth welfare bodies, the youth organizations and amalgamated initiatives active throughout Germany. In this way, the Federal Government has made an important contribution towards establishing and ensuring an effective infrastructural framework for child and youth work. A total of DM 15 million was allocated from the Federal Child and Youth Plan in the period under review for the diverse types of work by organizations aimed at promoting the integration of young disabled persons. The sponsored measures have made it possible to motivate young disabled persons to free themselves from the confines of the situations in which they often find themselves. Their integration in work carried out by associations and organizations has provided them with personal and social recognition. The federal funding has provided young disabled persons with an opportunity to play their own part in overcoming the social barriers which still persist, thereby asserting and highlighting their basic rights in relation to society.

3. Education, upbringing and care of disabled children

Statutory basis

509. Disabled children are entitled to early support measures. Early support is a holistic, interdisciplinary service, the costs of which are borne primarily by the health insurance agencies, with smaller contributions from the social welfare institutions. Some Länder additionally grant various voluntary benefits.

510. In accordance with the regulations on integration assistance for disabled persons as stipulated in the federal law on social welfare assistance, a child of pre-school age who is seriously mentally, physically or psychologically disabled on a non-temporary basis is entitled, when necessary, to medical pedagogical measures from the competent social welfare body. These measures do not fall within the scope of services to be covered by the health insurance agencies. The federal law on social welfare assistance is implemented by the Länder.

511. According to the federal law on social welfare assistance, disabled children are also entitled to assistance to enable them to receive an appropriate school education, including the appurtenant preparatory measures. The Länder have developed various activities to this end.

General information

512. For decades, assistance for disabled children was provided primarily at special nursery schools and special schools. Since the end of the 1970s, assistance for disabled children in Germany has shifted towards increasingly integrative forms of care and support, i.e. disabled and non-disabled children are cared for together in many areas.

513. The concept of integration pursues two objectives. On the one hand, the disabled children are to become an intrinsic part of society and social institutions as early as possible. This is intended to counter the risk of their becoming isolated. At the same time, the special assistance required by disabled children is also to be taken into account, and importance is attached to embedding this special assistance in the integrative process. On the other hand, non-disabled children are to be acquainted with disabled children from early childhood.

Early support

514. The Länder have established a dense network of early support centres, in order to exploit the children's opportunities for development from an early age. The following example illustrates the efforts undertaken by the Länder in the area of early support.

515. In Hessen, the interdisciplinary approach to early support in the professional fields of psychology, education, medicine, logopaedics, physiotherapy, ergotherapy, motology, etc. was successfully applied as a guiding principle during the period under review. The introduction of a computer-based documentation system in the form of a software programme developed especially for early support has ensured the financing of the social paediatric centres on the basis of the appurtenant cost units as an integral element of the Hessian early support system. By providing a transparent picture of services and costs, the documentation system will constitute the basis for quality assurance and quality optimization of the entire early support system in accordance with article 23, paragraph 2, of the Convention. Following the trial phase, all 60 Hessian early support offices are expected to participate in the services and costs of the documentation system. Apart from the benefit of clarity with regard to services and appurtenant costs, the quality of individual care will also be improved as a result of an improvement in the interchange of information on specific cases among all involved institutions and services. The results of this development work will also be available to the other Länder.

Promotion of disabled children at day-care facilities

516. The day-care facilities are of particular importance with regard to the joint education, upbringing and care of disabled and non-disabled children in that the day nursery is generally the institution at which the integration process begins. Efforts undertaken in selected Länder are presented below as examples of recent developments.

517. In Hessen, which traditionally plays a pioneering role in the field of integration, the integration process based on the joint care of children with and without disablements has recently attained a level of development which enabled the last special day nursery to be closed in 1999. In the context of a "double legal entitlement" for disabled children - through section 24 of Book Eight of the Social Security Code (SGB VIII) and through sections 39 ff. of the Federal Law on Social Welfare Assistance (*Bundessozialhilfegesetz*) - integration places have been financed through the competent bodies responsible for social welfare and a grant from the Land government since 1 August 1999. The integration places can be offered in the vicinity of the child's place of residence in every group at a day-care facility for children, which fulfils the conditions of the basic agreement. This establishes the necessary basis to ensure the extensive integration of children with disabilities and their families in their local environments and thus in society.

518. Hessen is currently conducting a project to examine the "Quality standards of individual integration measures from the users' point of view", ending in December 1999 after running for two and a half years. The purpose of the project is to ascertain the expectations and assessments of the recipients of integration measures conducted at nurseries close to the children's places of residence by means of questionnaires, interviews, theatre- and art-based pedagogical methods

and children's conferences. The focus is also on essential quality characteristics of successful integration measures and processes, and reviews of the usefulness of individual integration measures, in particular with regard to school.

519. An exemplary survey of educational specialists forms an important supplementary element of the survey's design. In the course of the project, the Land government expects to obtain information on factors which are conducive and obstructive to the integration process for children with disablements. This will have technical consequences for the development and assurance of the quality of the child- and family-orientated integration places at standard nursery schools.

520. Saxony-Anhalt has enshrined in its law on childcare a statutory entitlement to care for children who require special support and care because they are disabled or disadvantaged.

Promotion of disabled children at school

521. The right of disabled children to an education and vocational training which is adequate to their needs is laid down in the constitutions of the Länder and implemented in specific terms in the Länder school laws. The development and organization of the special schools system in the Länder has been harmonized by various resolutions adopted by the Conference of Education Ministers (*Kultusministerkonferenz*), in particular the recommendation on organization of the special schools system of 1972 and the recommendations for all types of special schools. The current situation is documented in the "Recommendations on the promotion of special educational needs at schools in the Federal Republic of Germany" from 1994 and in recommendations on the specific promotion areas, some of which have been adopted. According to the special educational requirements, children are taught either at general schools together with non-disabled pupils, or at special schools.

522. For a long time, disabled children received assistance at special schools only. While special schools remain indispensable today, they are no longer intended as the sole possible place of learning for disabled pupils. The following forms of organization for special educational assistance exist alongside one another today:

- Special educational assistance through preventive measures;
- Special educational assistance in joint teaching with non-disabled pupils, also known as integrative teaching;
- Special educational assistance at special schools;
- Special educational assistance in cooperative forms;
- Special educational assistance at special educational support centres;
- Special educational assistance in the vocational field and in the transition from schooling to the world of work.

523. The integration of disabled pupils at general schools was tested in pilot schemes conducted primarily in the primary school sector from the beginning of the 1980s. Since the 1990s, some of these trials have given rise to standard integration measures. In the field of educational science, integrative educational approaches were developed. The institution-based approach gave way to an approach focusing on the individual. The concept of “special schooling needs” in deciding the choice of schooling system for a child - i.e. the decision between a general school or a special school - was replaced by the question as to the child’s need for special educational assistance, i.e. the required measures in the areas of education, teaching, therapy and care according to the individual’s organic deficiencies and social disadvantages, in the context of the available institutional possibilities. This course of development was influenced by a revised understanding of disability and educational assistance, through improved diagnostic possibilities and the widespread establishment of early diagnosis and prevention, through better underlying conditions at general schools, e.g. better teacher/pupil ratios, through more open concepts for teaching and education and, finally, through the greater importance attached to providing care and support at a school in the vicinity of the child’s place of residence.

524. Independently of the above-mentioned more recent integrative educational approaches, diverse forms of institutional and educational cooperation between general schools and special schools have developed in recent times, in some instances as part of school experiments or action programmes conducted by the Länder. The measures involved range from joint extra-curricular activities through joint teaching to the teaching of classes in the same room. The aim is to promote the integration of disabled people, to afford disabled and non-disabled persons an opportunity to get to know one another more closely and to behave more naturally in one another’s company.

525. A critical point, however, is that children of foreign origin are to be found in special schools more frequently than their German counterparts. The number of foreign children attending special schools amounts to 6.2 per cent of all foreign children, while the corresponding figure for German children stands at 3.8 per cent.

Vocational training

526. The provisions pertaining to the competent bodies in the business sector in accordance with the law on vocational training serve to benefit disabled persons in vocational training in line with article 23, paragraph 3, of the Convention.

B. Health and health care (art. 24)

527. Germany possesses a comprehensive health system. This system provides the appropriate basis for fulfilment of the requirements stipulated in article 24 of the Convention. At the same time, in view of the medical possibilities available in the industrial nations, the child’s right to “the highest attainable standard of health” represents a major challenge which must be met. The following observations outline what measures are being undertaken in this respect in Germany and what problems are involved, by reference to a number of areas of health which are of relevance to children, where the main focus is on the areas specified in article 24, paragraph 2.

Maternity aid

528. Persons insured with the statutory health insurance agencies are entitled to medical care and midwife assistance during pregnancy and after childbirth. Medical care measures during pregnancy include in particular examinations to confirm pregnancy and check-ups, including laboratory examinations. These measures are intended to diagnose and treat in good time any pathological changes which might impair the health of the mother or the child. Pregnant women receive a pregnancy record from their doctor, which contains a precise timetable for the 10 pregnancy examinations which are currently carried out and in which all important results of the check-ups are to be entered. The documented findings indicate whether the pregnancy involves a risk which necessitates special obstetric measures. It is a proven fact that risks to mother and child during birth can be reduced by undergoing the entire series of check-ups, thus also reducing the incidence of maternal and infant mortality.

Infant mortality

529. Infant mortality has fallen continuously in recent years: 4.9 infants per 1,000 live births died in 1997, as compared to 12.4 infants in 1980.

Premature babies

530. As a result of advances in the field of intensive medical treatment, premature babies with a weight at birth of less than 1,000 g or with a gestation period of less than 28 weeks are able to survive. The chances of survival for highly premature babies have risen substantially as a result of an improvement in the oxygen supply facilities for such infants. This has been made possible by innovative pharmacotherapy and enhanced respiratory equipment, among other developments. The mortality rate for premature babies with a weight at birth of between 1,000 g and 1,500 g has fallen in the past 15 years from 37.4 per cent in 1980 to 6.9 per cent in 1995.

Children in hospital

531. Admission to hospital frequently entails considerable psychological stress for children. The parents' presence can provide children with comfort and security in this situation. For many years now, the practice of admitting parents to hospital in order to accompany their children has proven an effective means of facilitating stays in hospital for children and reducing fear. The "Action committee on children in hospital" ("*Aktionskomitee Kind im Krankenhaus*") has carried out a pilot project on behalf of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in order to investigate the conditions for the integration of parents.

532. The Conference of Health Ministers also recently addressed the treatment of ill children in hospital. The starting point for the debate was the observation that a substantial proportion of children and young people admitted to hospital are treated not on paediatric wards, but together with adult patients, particularly in the case of departments specializing in specific organs. The ministers pointed out in a resolution that hospital treatment must accord the greatest possible consideration to the special needs of children and that paediatric care in accordance with requirements must remain ensured. In particular, the Conference of Health Ministers recommended that children should be treated primarily in children's departments, even if the cause of treatment has led to the child being admitted to another department.

Early diagnosis of illness during infancy, childhood and adolescence

533. Medical check-ups for children insured under the statutory health insurance scheme serve to diagnose congenital and acquired illnesses at the earliest possible juncture in childhood and to provide the affected children with treatment as swiftly as possible. Apart from treating the illness, the aim is also to enable the child to develop without any adverse effects.

534. Measures also include the build-up of basic immunity during infancy and babyhood to ine dangerous infectious diseases by means of protective inoculations. The diseases concerned are diphtheria, whooping cough, mumps, measles, German measles and hepatitis B. Neonatal tetanus and domestic cases of diphtheria and polio no longer occur in Germany. General hepatitis B inoculation for all children and young people was introduced in 1995.

535. The early diagnosis programme comprises nine medical check-ups from birth to the age of 6, at specific intervals. The programme is intended to identify a whole range of pathological developments, including metabolic diseases, developmental and behavioural disorders, diseases of the nervous system and the sensory organs and abnormalities or diseases of the other organs. The findings are documented in an examination record which is issued to every mother at childbirth.

536. A tenth early diagnosis check-up to be carried out after the child reaches the age of 10, aimed at diagnosing health problems in adolescence, was adopted into the law in 1997. The scope of check-up services has also been extended in the area of preventive dental care.

537. The gap between so-called check-up U9 at the age of 5 and the adolescent check-up is the subject of some criticism, however. Efforts by specialist associations to establish an additional check-up are being hampered by the school legislation in some Länder which stipulates that the school entry check-up is no longer compulsory on submission of the U9 check-up certificate.

538. A further problem is the fact that although the initial early diagnosis check-ups include the diagnosis of metabolic diseases, only the test for early diagnosis of hypothyrosis is financed by the statutory health insurance agencies. Certain metabolic diseases are as fatal as hypothyrosis if diagnosed too late - and respond equally well to timely treatment. Standard, comprehensive financing by the statutory health insurance agencies would be appropriate here.

Early diagnosis of cancer in infancy

539. In connection with a six-year pilot project which began in 1995, it is being examined whether it would be expedient to introduce screening for neuroblastomas in children aged between 10 and 15 months. The neuroblastoma is the second most common type of malignant tumour in infancy.

Social psychiatric care

540. Since 1996, a federal pilot project has been in progress at the child and youth psychiatry service of Magdeburg health department on the "Improvement of social psychiatric care for children and young people of the city of Magdeburg through cooperation between child and youth psychiatry". In the long term, the knowledge gained from this project is to be made available to other regions, too.

Health reporting

541. On the basis of a research project, a health reporting system has been developed at federal level, involving the submission of reports on a regular basis since 1998. The contents of the first health report, which appeared in the autumn of 1998, included the use of available check-ups and early diagnosis measures for children, illnesses such as allergies which occur on a wide scale in childhood, and ways of life which are injurious to health and how these are manifested in childhood and adolescence. In the course of updating the federal health reports, children's health is to receive increased attention, insofar as the available data allow.

Health education - Prevention

542. In order to further improve the development of health and health education in childhood, the remit of the Federal Office for Health Education (*Bundeszentrale für gesundheitliche Aufklärung*), a department which falls within the portfolio of the Federal Ministry of Health, is focused on the target group of children and young people. The Federal Medical Association has placed children and young people at the centre of its prevention campaign. The Federal Ministry of Health has initiated activities to prevent accidents in the home and during leisure pursuits, and is coordinating the set-up of a federal study group on "Child safety" through the Federal Health Association (*Bundesvereinigung für Gesundheit*).

543. The following activities represent examples of how key target groups, in particular parents, are provided with a basic understanding of child health and nutrition, the advantages of breastfeeding and hygiene in preparing food:

- The EU campaign "Talking Food - What's on your plate" on the subject of food quality and food safety has been carried out with great success;
- The "In good form" campaign of the Federal Office for Health Education addresses young people in a language suitable for their age group with information and tips for a balanced, healthy diet;
- In order to further improve iodine intake, the Federal Office for Health Education has continued the iodized salt campaign, which explains the health benefits of iodized salt;
- The national breastfeeding commission (*Nationale Stillkommission*) continued its efforts to promote breastfeeding in the period under review. Among other measures, it has adopted recommendations on breastfeeding for mothers, doctors and hospitals and published recommendations on the qualification of breastfeeding specialists at hospitals;
- A research project is currently being conducted to improve dietary education at school.

544. New information brochures and other media are being developed and updated on an ongoing basis, in particular by the Federal Office for Health Education and the *Deutsche Gesellschaft für Ernährung* (German Dietary Association), together with teaching materials for schools, children, young people and parents.

545. The Land of Saxony-Anhalt is focusing on schools in a programme entitled “Healthy schools”. The aim is to establish a “feel-good school”. As a place where children spend a large part of the day, school can help pupils to live and learn in a healthy manner, both through their interior design and atmosphere and by implementing the learning objective of “strengthening pupils’ life skills”. The Land aims to establish a Land-wide “Healthy Schools” network to be served by a regional support centre.

Health and environmental policy

546. Policy in the area of “the environment and health” is orientated towards the guiding principle of sustainable development, which brings business practices and ways of life into line with natural resources, thereby establishing a vital prerequisite for good health for everyone. In the context of this objective, the Federal Ministry of the Environment and the Federal Ministry of Health developed the action programme “Health and the environment” in 1999, thereby establishing the basis for a comprehensive assessment of the health consequences of effects on the environment.

547. A core element of this action programme is to address environmental hazards more effectively. The aim is to attain a realistic assessment of existing and putative environmental hazards on a broad social basis and in conjunction with other activities by the Federal Government. To this end, it is intended to improve risk evaluation and risk management as well as risk communication. In this context, the involvement of the general public in the debate on environmental hazards is also of particular importance with regard to the health of children.

548. The “Health and the environment” action programme also covers subjects relating to the area of “Children, the environment and health” as a key focus of research. This focus is in line with the proposal contained in paragraph 32 of the concluding observations of the Committee.

549. The conservation of natural resources - in accordance with the guiding principle of sustainable development - also constitutes an objective of government actions at all levels in the Federal Republic of Germany. Appurtenant measures here include a systematic policy of prevention pursued by the Federal Government, in order to reduce health risks from pollutants, radiation and noise. A comprehensive presentation of German environmental policy is contained in the 1998 Environmental Report (Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, 1998).

550. Lively discussion is in progress in Germany on the consequences for environmental policy of the Convention on the Rights of the Child. The term “ecological children’s rights” has arisen from the debate on articles 6 and 24 in particular. Associations and organizations such as Mobil Spiel and Naturfreunde have taken the initiative in this matter, developing recommendations in some areas. The evolved positions are summarized in the National Coalition’s brochure “Ecological children’s rights - Obligations from the Convention on the Rights of the Child” (National Coalition, no year reference).

551. In recognition of the fact that for children the term “environment” refers first and foremost to the direct environment in which they lead their daily lives, Länder and local authorities are also active. The Saarland promotes the establishment of creative play areas close to nature with brochures, further training measures and seminars, for example. In Thuringia, the principles for action stipulated in Agenda 21 have been taken up by the Land and local authorities for implementation at local level and projects have been initiated and implemented in several towns of the Free State. The Thuringian Ministry of Agriculture, Nature Conservation and the Environment has supported numerous projects, also providing financial assistance in individual cases.

Medical care and services for children seeking asylum

552. Information on medical care and services for children seeking asylum is to be found in chapter VIII.A.1.

Sex education and family planning

553. The Federal Government attaches great importance to sex education and information on family planning. Corresponding measures are intended to enable young people to adopt a responsible attitude towards their sexuality. They are to be provided with the necessary knowledge to enable them to decide if and when they wish to have a child.

554. Rather than being restricted to preventing unwanted pregnancies, family planning is often about finding the appropriate way in which to fulfil a wish for children in the context of one’s overall plans for life. Central topics here are pregnancy and birth, unwanted childlessness, possibilities available in the field of reproductive medicine and contraception geared to the various phases of life.

555. The law on assistance for pregnant women and families (*Schwangeren- und Familienhilfegesetz*) of 1992 and the law to amend the law on assistance for pregnant women and families (*Schwangeren- und Familienhilfeänderungsgesetz*) of 1995 establish the following key provisions in this area:

(a) Every woman and every man has the right of recourse to a corresponding advice centre on matters of sex education, contraception, family planning and pregnancy;

(b) Persons up to the age of 20 who are insured through the statutory health insurance agencies are entitled to contraceptives prescribed by a doctor;

(c) In accordance with its statutory mandate, the Federal Office for Health Education has drawn up a concept paper for sex education. Comprehensive measures in the field of sex education are being applied in accordance with this concept. These measures are aimed first and foremost at children and young people, adults and persons involved in education. Sex education is being conducted as a nationwide and cooperative campaign in accordance with the objectives defined in section 1 of the law on conflicts in pregnancies (*Schwangerschaftskonfliktgesetz*). The aim is to enable the population and specific target groups to adopt a responsible, partnership-based and healthy approach to sexuality in its broadest sense. The measures are

aimed in particular at preventing unwanted pregnancies and promoting responsible parenthood. Apart from comprehensive information on contraceptives and methods of contraception, a further key aspect of the preventive work is information on the protection of unborn life;

(d) Youths and young adults are the central target groups for the educational work which is carried out by means of brochures, a CD-ROM and cooperation with the Länder and public service broadcasting establishments;

(e) Additional aspects are covered by the work for children of pre-school age. General sex education in early childhood is intended to support children and in particular the persons accompanying them - above all at nursery school - in their resistance to sexual violence. The subject of "sexuality and violence" is additionally addressed in measures for older target groups and qualification measures for multipliers.

HIV/AIDS among children

556. The number of HIV-infected children aged under 13 in Germany can only be roughly estimated, and probably lies between 300 and 500. The number of positive confirmatory tests reported in accordance with the statutory laboratory reporting regulations provides no reliable indication as a basis for this estimate. Apart from the general problem that multiple registrations cannot be identified as such, it is to be assumed that only a small proportion of the infants who have tested HIV-positive are actually infected, as a result of transfer of the mother's antibodies.

557. On the basis of the data obtained from anonymous unlinked tests on newborn babies in Berlin, Lower Saxony and Bavaria, it can be assumed that around 80-100 children are born to HIV-infected mothers each year in Germany, which means that the number of HIV-infected newborn babies must be put at around 15-20 per year up to the end of 1994, on the basis of a mother-child transfer rate of 15-20 per cent. A further reduction in the mother-child transfer rate has been achieved since the introduction of additional preventive measures during pregnancy and childbirth. The present transfer rate in Germany is estimated at below 2 per cent. It is thus to be assumed that only a very small number of HIV-infected children are currently born in Germany each year.

558. A total of 118 children under the age of 13 suffering from AIDS were included in the case register up to 30 June 1999, 68 of whom have already died. Twenty-two of the AIDS cases among children, including nine haemophiliacs are attributable to the administration of blood, blood products or coagulation factors. The 13 cases involving infection from transfusion include 6 foreign children who were infected in their countries of origin. With the exception of two children from Romania and one child from Zaire, all the children were infected before 1986. More than three quarters of the children who contracted AIDS incurred pre- or perinatal infection by their mothers. Over half of the women concerned had infected themselves via intravenous drug use.

559. AIDS cases among children resulting from HIV transmission from mother to child - so-called pre- or perinatal infection - represent only a negligibly small proportion of the total number of AIDS cases in Germany - less than 1 per cent - and have remained virtually constant at this low level over the course of time.

560. Special care and support measures established in the field of antenatal care and obstetrics have contributed to this favourable epidemiological situation. These include improvements in the medical and gynaecological diagnosis and care of infected women and the ongoing development of support structures for women with HIV and AIDS in various situations. Treatment and care are provided not only in accordance with the latest medical standards; it is also endeavoured to alleviate the psychological and social consequences of the HIV infection for the entire family.

561. An efficient health system which ensures treatment and care is one side of the successful fight against AIDS. Also of special importance are the diverse educational measures, including those aimed specifically at young people. Young people are the target of poster campaigns, brochures, educational magazines, video and film productions, exhibitions, teaching materials and seminars, for example, which address the subject of AIDS prevention without taking the moral high ground and without instilling fear, attaching importance to embedding this information in the themes of sexuality and partnership. Special materials are provided to support the multipliers who are active inside and outside of the school system.

562. Schools are an important part of the information structure on AIDS today. This is confirmed by the fact that 90 per cent of 16- to 20-year-olds state that the subject of AIDS has been covered in school classes. Among pupils from earlier years, i.e. today's 25- to 29-year-olds, only 51 per cent can remember the subject of AIDS being covered at school.

563. Studies show that public interest in information on means of protection and protective behaviour is great, particularly among young people. Virtually the entire population over 16 years of age now possess the necessary basic knowledge on protection from AIDS, as well as a knowledge of what does not constitute a risk. The figures on condom usage show the increase in protective behaviour over the past decade: In 1988, 59 per cent of 16- to 20-year-olds used condoms always, frequently or occasionally, while in 1998 the proportion of condom users among young people stood at 84 per cent. Condom usage has remained largely constant at a level of over 80 per cent since 1995.

564. The prevailing attitudes towards HIV/AIDS victims have remained characterized by solidarity for many years. Children and young people who are infected themselves or whose parents or brothers or sisters are infected receive counselling and support. School classes and youth groups also support these victims by organizing benefit actions - and not only in connection with World AIDS Day.

Customs injurious to the health of children

565. Traditional customs which are harmful to children's health, such as genital mutilation via the circumcision of girls, are foreign to central European culture. The problem nevertheless arises in Germany, because of the increasing incidence of ethnic groups living in Germany who originate from countries in which such practices are customary.

566. Such customs which are injurious to children's health constitute criminal offences in Germany. The relevant penal provisions have been further improved by the sixth law to reform German criminal law, which came into force in 1998, and now accord due consideration to the

need to provide protection against such drastic forms of attack on a person's physical integrity. Of specific relevance here are the provisions of the Penal Code on bodily injury, very serious bodily harm, maltreatment of charges, grievous bodily harm and manslaughter.

Health and international cooperation

567. The section on children's rights in international cooperation in chapter I.A contains a comprehensive listing of development aid projects. A substantial number of these projects focus on health matters.

568. In particular, activities by the Federal Government in connection with AIDS and customs injurious to the health require to be highlighted.

569. The fight against the spread of AIDS has very high priority in the health area of development cooperation. The supraregional sectoral project "Controlling HIV/AIDS in developing countries" has been in place since 1987. Work in the area of AIDS is focusing to an increasing extent on the implementation of preventive measures for young people, differentiated by sex, whereby great importance is attached to the active involvement of young people in planning and carrying out the attendant measures.

570. Sexual health is of particular importance to young people. Sexuality plays a key role in the development of all young people and should lead to positive and enriching experiences. It is in the area of initial sexual contact that many dangers and negative experiences apply, however, including abuse, violence and the transmission of HIV/AIDS. Over half of all HIV infections take place among young people under 25 years of age: 30 per cent of all persons suffering from AIDS belong to the 10-24 age group. This situation has prompted the German Association for Technical Cooperation to develop numerous new projects focusing on the sexual and reproductive health of girls and boys and AIDS prevention. Eleven of these projects are based in Latin America, 12 in Africa and 3 in Asia.

571. The predominant problem among the customs which are harmful to children's health is the circumcision of girls. The sexual organs of around 2 million girls are circumcised each year. It is estimated that 130 million women and girls bear the consequences of this practice in 28 countries of Africa and in several countries of Asia and the Middle East.

572. Circumcision constitutes mutilation of the sexual organs. Girls are generally circumcised between the ages of 4 and 8. As a rule, the procedure is carried out without the use of anaesthetics and under unhygienic conditions. As a consequence, girls often suffer from serious psychological disturbances, bleeding and life-threatening infections. Childbirth is problematic and subject to high medical risks.

573. In 1997, the Federal Republic of Germany provided UNICEF with a contribution of up to DM 2.9 million to combat genital mutilation among girls in Egypt.

574. According to the Maternal and Child Health Survey of 1991, 95 per cent of women and girls in rural areas of Egypt and 80 per cent in urban areas are circumcised, despite the fact that circumcision is prohibited by law. Educational and informational work in conjunction with

providing fundamental reading and writing skills are central starting points to induce a change of attitude. As both the Egyptian Government and parts of the clergy reject genital mutilation, the prospects of bringing about a change in behaviour through a joint approach are favourable.

575. This project is in keeping with the political objective of ending genital mutilation of girls in Egypt by 2010. The project aims to establish an organizational structure for a national programme in which the emerging task force of relevant active non-government organizations and the department for reproductive health at the Ministry of Health can cooperate effectively.

576. The most important targets are to make 20,000 women in the administrative regions of Asyut, Sawhaj, Qena, Minya, Cairo and Alexandria literate and to reduce the incidence of circumcision among girls aged between 5 and 10 from 95 per cent to 70 per cent.

577. The project is active both at a political level, where the Government is being lobbied, and at grass-roots level. The most important activities are measures to establish structures at non-government organizations, the development and dissemination of learning and teaching materials, the organization of literacy courses, work to persuade local leaders, especially religious leaders, teachers and doctors, and a national media campaign.

578. The project is making a contribution towards implementing the human right to physical integrity.

C. Social security, services and facilities (art. 26 and art. 18, para. 3)

Day-care services for children in the interests of enhancing the compatibility of family life and working life

579. Childcare facilities are of decisive importance in the context of the compatibility of family life and working life. The new Federal Government has taken due account of the cross-party consensus on this matter by defining the improvement of childcare as a key area of work, including in the context of the policy of promoting equal rights.

580. A detailed presentation of the structure and relevant aspects of childcare is provided in chapter VII.A. The following observations thus focus exclusively on the stipulations contained in article 18, paragraph 3, of the Convention, which guarantees the children of working parents the right to benefit from childcare services and facilities for which they are eligible.

581. The provisions on child and youth welfare under federal law fundamentally accommodate the demand for childcare places in accordance with requirements. Book Eight of the Social Code (SGB VIII) stipulates a fundamental obligation for the area of youth welfare to cover the requirements for facilities and services, according due consideration to the needs and interests of young people and their guardians. It is expressly stipulated, for example, that facilities and services are to be planned so as to enable mothers and fathers to reconcile their responsibilities in the family more effectively with their occupations outside the family.

582. Parents are fundamentally entitled to express their wishes and make appropriate choices with regard to the available childcare services. This entitlement relates to facilities and services offered by different organizations and the parents' wishes with regard to the form of support. The parents' wishes are to be accommodated, insofar as this does not entail disproportionately higher costs.

583. There are also specific provisions on the supply of care places. Of primary significance here is the statutory entitlement to a nursery school place, which is of overriding importance to the compatibility of family life and working life (cf. chapter VII.A.2). The statutory regulations with regard to the qualifying ages for play groups and crèches have been relaxed substantially. Book Eight of the Social Code (SGB VIII) stipulates that places in day-care facilities are to be made available for children under 3 years of age and for children of school age according to requirements. A sufficient scope of all-day places is also to be provided to cover requirements.

584. As outlined in chapter VII.A.1, the statutory provisions have yet to lead to a sufficient supply of places to cover the prevailing requirements for all age groups. While requirements are fully met in the eastern Länder, in the west there is a considerable shortfall of places for children under 3 and over 6 years of age and of all-day places. This lack is least pronounced in the city Länder of Berlin, Hamburg and Bremen and in other cities.

585. However, the existence of a care place alone provides little indication of whether the care requirements of the child of working parents are actually covered. As federal law does not define the scope of care in detail, the requirements pertaining to nursery school places are determined by the laws of the individual Länder. These commonly only guarantee four hours of care on five days, with only a small number of Länder offering longer opening hours or all-day care places. This imposes varying degrees of restrictions on parents seeking to take up gainful employment. Some facilities endeavour to offer flexible opening hours within their scope of possibilities, in order to accommodate parents' needs.

586. Day care, that is, the care of children by childminders, is also unable to offset the existing deficiencies, as for a number of reasons it plays only a minor role in quantitative terms. At the same time, day care offers a valuable means of support for families with working parents in particular, as the care time can be adapted individually to the family's needs.

Care at school

587. The different attendance times at primary schools in particular constitute a major problem with regard to the compatibility of family life and working life. Efforts are thus under way in many Länder to arrive at reliable attendance times.

588. In Hamburg, the "reliable half-day primary school" covers the period from 8 a.m. to 1 p.m. By the 1999/2000 school year, all primary schools in Hamburg will be operating as reliable half-day primary schools. More than 500 additional teaching posts are to be provided for this project alone. One in three primary schools in Hamburg offers a school lunch or a school crèche, which represents the equivalent of care at a day-care facility for the pupils of a school.

589. In North Rhine-Westphalia, the programme “Reliable primary schooling from eight until one” is making a major contribution towards improving the compatibility of family life and working life. Projects which enable reliable afternoon care after school has finished are also being promoted. Considerable efforts are still required, however, in order to cover all the prevailing requirements throughout the Land.

590. The Land government of Rhineland-Palatinate is preparing to develop the primary school into a full half-day school. The Land government also promotes the establishment of all-day schools in open form. So-called pupils’ assistants or parents’ assistants are also being trained at Rhineland-Palatinate schools of secondary school level I, as part of a Land-wide youth sports initiative. These assistants learn to plan, organize and implement leisure programmes for fellow pupils, both in collaboration with members of staff and on their own responsibility.

D. Standard of living (art. 27, paras. 1-3)

Children and young people in low-income households in Germany

591. As stated in the Introduction, the Tenth Youth Report presented an investigation by an independent commission of experts into the situation of children and the services available in the area of child welfare in Germany. Among other aspects, the report drew attention to the situation of low-income households and the children living in such households, and highlighted fundamental action which is necessary in order to ensure basic living conditions and prospects for children.

592. In its statement, the then Federal Government shared the overall view expressed in the report that poverty rarely poses a threat to physical survival in Germany today. It also shared the commission’s assessment that a long-running trend towards improved living conditions and a generally enhanced standard of living applies in Germany.

593. Despite a diverse range of support measures to counter economic problems, there are nevertheless families which find themselves in social difficulties. These include parents who would be entitled to claim supplementary social welfare benefits, for example, but who fail to do so, for whatever reason.

594. Problems also arise in families who emigrate to Germany from abroad. Such families usually begin their life in Germany at a low level of prosperity. It is thus no surprise that the high net immigration figures for the past decade - around 5 million people in the eight years from 1988 to 1995 alone - involving a disproportionately high level of minors, have led to a lowering of the average level of income and increased the proportion of low-income families with children.

595. Finally, it is also evident that children and young people have been adversely affected by the difficult economic situation of recent years. Unemployment, particularly of a long-term nature, inevitably imposes strains on the family, and on children in particular. The separation and divorce of parents is another key cause of social strain for children.

596. Effectively combating poverty is thus one of the key tasks facing the new Federal Government. Reducing and preventing child poverty is accorded particular importance. In this respect, the Federal Government is in line with paragraph 31 of the concluding observations of the Committee.

597. In the view of the Federal Government, reducing unemployment and creating jobs are the primary prerequisites to preventing poverty and improving the social situation of families with children. The Federal Government thus attaches maximum priority to this objective. To this end, the Federal Government has also established diverse possibilities in the area of public welfare law to assist those seeking help in finding gainful employment in line with the concept of “job-finding assistance” as defined in the federal law on public welfare (*Bundessozialhilfegesetz*). Among its relevant provisions is that local authorities can create jobs for persons drawing social security in their capacity as the local authorities responsible for providing social welfare, or they can promote the placement of such persons in employment by means of grants to the persons on social security themselves or to employers.

598. The Alliance for Jobs, Training and Competitiveness established by the Federal Government provides the basis for social dialogue and a platform for the identification and application of reforms and job-creation potential. Employment for young people is promoted as part of an emergency programme. More detailed information on both measures is to be found in chapter VII.A.5.

599. At the same time, the Federal Government is also taking due account of the need to improve the material situation of children and families as highlighted by the Youth Report commission by means of comprehensive measures to develop and expand services and assistance in the field of family policy. Important measures here include, in particular:

- (a) Reducing tax rates via a progressive increase in the basic tax-free allowance and a progressive lowering of the threshold tax rate;
- (b) Raising the child benefit (cf. following section);
- (c) Further developing the area of educational allowances and child-rearing leave (cf. chapter V.B.2).

600. The existing social network for people on low incomes should not be overlooked in these efforts. In Germany, everyone who is unable or not fully able to ensure their subsistence on the basis of their own means and resources, above all their own income and assets, receives assistance to meet the costs of living under the federal law on public welfare. This means that every child in need is also entitled to social security benefits.

601. The range of requirements to be covered by the assistance to meet the costs of living outside of facilities includes in particular food, accommodation, clothing, personal hygiene, household effects, heating and personal necessities of everyday life. The last also include “relations with the person’s environment and participation in cultural life on a reasonable scale”. This definition clearly shows that social security provides much more than ensuring the minimum needs pertaining to physical existence; rather, the level of benefits is orientated towards a minimum sociocultural standard which includes active participation in society.

602. Assistance to meet the costs of living outside of facilities is granted primarily in the form of payments based on standard rates, so-called one-off benefits, allowances to meet additional requirements and assumption of the costs of accommodation. The average sum required for a child on social security currently stands at DM 640 per month. As a rule, this ensures a standard of living which will largely prevent the social isolation of children.

Child benefit

603. Child benefit is an essential part of the family allowance (cf. chapter V.A.2). With regard to the child benefit arrangements which applied up to 31 December 1995, reference is made to the information provided in the initial report and the Federal Government's replies to the Committee's questions on the initial report.

604. The arrangements for family allowances and the equalization of burdens for families which are presented below are based most recently on the findings of the Federal Constitutional Court on the taxation of families of 10 November 1998, which were published in January 1999. The Court found that it was unconstitutional for the costs of childcare to be tax-deductible and for a household allowance to be granted solely to single parents with children, that is, also to unmarried partners with children, in contrast to the tax arrangements for families in which the parents are married. The Court further found that the general care and educational requirements for children should also be taken into account for tax purposes. Following the reform phase 2000 on family allowances, which is presented below and which accords due consideration to care requirements in particular, reform phase 2002 is now in the planning stage.

605. Following the 1996 annual taxation law, the previous equalization of burdens for families has been developed into a family allowance system and a fundamental change of system has been carried out. With effect from the 1996 calendar year, the possibility of claiming a child allowance or child family income supplement and child benefit for the same child, which existed under the previous dual system, has been replaced by an arrangement whereby only a child allowance or child benefit is applicable for a child, which led to the introduction of marked increases.

606. To this end, with effect from 1996 the child allowance was increased to DM 6,264 per annum and child benefit to DM 200/DM 300/DM 350 per month for the first child and second/third/fourth and additional children. Since 1997, the child allowance has stood at DM 6,912 per annum. The child benefit for the first and second children was raised on 1 January 1997 to DM 220 per month. On 1 January 1999 the child benefit for the first and second children was increased once again, this time to DM 250. A further increase in the child benefit for the first and second children to DM 270 takes effect on 1 January 2000. A care allowance of DM 3,024 for each child up to the age of 16 is to be introduced at the same time.

607. The concrete procedure provides for only child benefit to be paid in the current year - in the form of a tax rebate. In carrying out the assessment for income tax, the tax office conducts an official examination of whether taxation - in the context of income tax exemption to guarantee the minimum standard of living for a child - is constitutional. When this is not the case, the child allowance and, where appropriate, the care allowance also (as of 2000) is deducted and the child benefit is offset. In certain cases, parents who are not subject to unlimited tax liability receive the child benefit on a monthly basis as a social security benefit in accordance with the amended federal law on child benefits.

608. Child benefit is available for all children up to 18 years of age. Unemployed children up to the age of 21, children in vocational training, children seeking a traineeship and children performing certain voluntary services are also eligible up to the age of 27. Beyond these age limits, a child is also eligible if he or she has carried out basic military service or community service or a service in lieu of the compulsory period of service for a period corresponding to the compulsory service, insofar as their vocational training has been interrupted by such service. Children who are unable to support themselves owing to a disability are eligible without any restrictions as to age.

609. Child benefit is paid irrespective of the parents' income. For children over the age of 18, the entitlement to child benefit or the child allowance ceases to apply when the child's calendar-year income and earnings amount to more than DM 12,000 in 1996 and 1997, more than DM 12,360 in 1998, more than DM 13,020 in 1999, more than DM 13,500 in 2000 and more than DM 14,040 in 2001.

610. The Federal Government bears 74 per cent of the costs of child benefit, while the remaining 26 per cent is borne by the Länder.

Advance maintenance payments

611. The advance maintenance fund helps single mothers and fathers for a maximum period of 72 months, when maintenance payments for children aged under 12 are not forthcoming from the other parent. Since the initial report was submitted, in the wake of a reform of the law on child maintenance the standard amounts for child maintenance, which also provide the basis for the granting of advance maintenance payments, have been restructured, increased and index-linked.

612. On the basis of the increase in child benefit on 1 January 1999, half of which is offset against the parental cash maintenance and thus also against the advance maintenance payment from the State, the following rates of payment applied as of 1 January 1999:

	Children under 6 years of age	Children between 6 and 12 years of age
In the western Länder	DM 224	DM 299
In the eastern Länder	DM 189	DM 255

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education (art. 28)

1. General information

613. The initial report gives an overview of legislative and administrative measures that safeguard a child's right to education. These continue to apply.

614. Above and beyond the initial report, this chapter will outline practice in the field of education, above all. It will start with information about expenditure on education as well as about the Bund-Länder-Kommission für Bildungsplanung und Forschungsförderung - BLK - (Federal Government-Länder Commission for Educational Planning and the Promotion of Research) as an institution with a major influence on the educational sector.

615. With regard to statements about encouragement for girls in educational institutions and for disabled children, reference is made to chapters III.A and VI.A.

Expenditure on education

616. The educational system in Germany comprises the nursery schools as well as extra-curricular youth education, schools, universities, further training, promotional measures and joint research promotion by the Federal Government and the Länder. An overview (Federal Ministry for Education, Science, Research and Technology 1998) shows that the educational expenditure from 1994 to 1997 rose from DM 162 to 172 billion.

Educational planning and the promotion of research

617. In order to adapt to the changing needs in the education system there is a permanent need for a review of the existing structures as well as appropriate improvements. Pursuant to article 91b of the Basic Law, the Federal Government and the Länder cooperate in educational planning and in the promotion of research institutions and projects of supraregional importance, pursuant to agreements. The competent body, in which the Federal Government and the governments of all 16 Länder are represented, is the BLK, which was founded in 1970 by an administrative agreement as a permanent discussion forum for all issues relating to the education system and the promotion of research affecting the Federal Government and the Länder jointly.

618. The BLK draws up recommendations to submit to the heads of government of the Federal Government and the Länder. In the field of innovations in the school and university sphere and in vocational education, the work is primarily aimed at the promotion of pilot projects. The innovative costs of trials are usually borne by the Federal Government and the Land making the application on the basis of 50 per cent each.

619. In 1997 the BLK decided on a new concept for promoting model trials; since then pilot projects have been promoted within the framework of focus programmes. In 1998 two programmes were started that aim at increasing the efficiency of maths and science teaching and the systematic incorporation of media, information and communications technologies in teaching and learning processes. Two other programmes started in 1999 deal with education for sustainable development and improving quality in schools and the school system.

620. This makes it clear that the Federal Government and the Länder are clearly dedicated to modernizing the education system and increasing its efficiency and the quality of educational processes, including in connection with discussions within the framework of the OECD.

2. Day care for children

General information

621. A well-developed childcare system is indispensable for a modern society. On the one hand, it provides socialization services for the children that are a practical supplement to upbringing in a family. On the other hand, great importance is attached to day-care facilities for children with respect to how a family and a career can be combined (cf. chapter VI.C).

622. To do justice to the needs of children and parents, childcare facilities must:

- Be available in sufficient number;
- Be flexible in terms of time to react to the needs of parents and children;
- Remain affordable for the parents; and
- Be characterized by good quality.

623. Available childcare in Germany is primarily day-care facilities and childminders; in addition there are also a large variety of related forms, such as playgroups and parent and toddler groups. Day-care facilities and childminders supplement upbringing in the family and support parents in exercising their responsibility for bringing up children. The day-care facilities include:

- Nurseries: for children under 3 years of age;
- Nursery schools: for children from 3 years of age until they start school; and
- After-school establishments: for children of school age; as well as
- Mixed-age forms of these types of childcare.

Day-care facilities

The statutory framework

624. Day care for children is part of child and youth welfare and is regulated in the Social Code Book VIII at federal level; the Länder have adopted implementing acts in this respect. Pursuant to Social Code Book VIII, day-care facilities have an independent upbringing and educational mission in addition to caring for the children. Education, upbringing and childcare are inseparable tasks of day-care facilities, with a different weighting being given to these tasks depending on the age group. By contrast, child minding is more characterized by the nature of the care.

625. The responsibility for building and operating day-care facilities for children and for child minding laid down in the Basic Law lies with the Länder as well as the town councils and district and local authorities. Voluntary organizations also make a major contribution to childcare supplementing the family.

626. The costs for day-care facilities for children are usually divided between the State, the local authority, the operators and the parents. The level of the parental contribution varies greatly. The parental contribution can rise to as high as approximately DM 600 per month. The average parental contribution is, however, much lower. The youth welfare offices can completely or partially pay the contribution for parents on low incomes.

627. In the period under review, the most important measure at federal level was the creation of a legal entitlement to a nursery school place. According to Social Code Book VIII, "from the age of three, all children are entitled to attend a nursery school until they enter school". The child has the entitlement, represented by his parents. After a transitional arrangement was in force between 1996 and 1998, the legal entitlement entered into force without any reservations on 1 January 1999. There is only one Land, Bavaria, where this legal entitlement does not apply.

628. Furthermore, town councils and district and local authorities have the legal obligation to keep places available for children of other age groups as needed. Individual Länder have also adopted further-reaching regulations for these age groups. For example, in Brandenburg in the period under review, 90 per cent of children have a legal entitlement to a nursery school place until they are of primary school-leaving age. In Saxony there is a reservation right for taking 1-to 3-year-olds and for school-age children until the end of class 4, i.e. all parents and guardians who want their child to be cared for in a day-care centre and register this need will receive a place for their child. Saxony-Anhalt has an entitlement to care in day-care centres for children aged from 0 to 14 years. In Thuringia children are entitled to a place in a nursery school from 2½ years of age as well as a place in an after-school establishment.

On the situation in childcare in Germany

629. The legal entitlement to a nursery school place has clearly improved the situation of childcare outside the family. It has led to a considerable expansion of nursery school provision, meaning that today practically every child is given a nursery school place if its parents want one.

630. By way of contrast, there is a serious lack of childcare places for children under 3 and of school age. In 1998 there were places in nurseries and after-school establishments for only 7.0 per cent of children under 3 and for 12.6 per cent of schoolchildren from 6 to under 10. The opening hours of nursery schools are also problematic: if they close over lunch, which is still often the case, a parent looking after a child cannot take on even a part-time job (cf. chapter VI.C). However, in this context it should be noted that the deficits described above concern only the west - with the exception of Berlin and the city Länder of Hamburg and Bremen. By way of contrast, the eastern Länder have provision according to need for all age groups and full-day places (Deutsches Jugendinstitut 1998).

631. Against this background, and especially in the interests of combining family and work, the new Federal Government considers the expansion of childcare in the west and safeguarding the status quo in the east to be a priority task. Because of the distribution of responsibility described above, the Federal Government is seeking dialogue with the Länder, local authorities and the voluntary youth welfare organizations in order to discover possible improvements together, for example, converting nursery school places that become free into care places for children under 3 and over 6.

632. In these contacts, current developments in some Länder may also be debated. For some years now, efforts have been made to reduce the standards for the staffing and equipment of child day-care centres and to transfer supervision of the facilities from the supraregional level to the municipal level.

Measures by the Federal Government

633. In the period under review the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth promoted a number of important model trials.

634. For example, the project “Further Development of Educational Work in Day Care Facilities for Children in the Länder” was about developing educational perspectives for the nursery schoolteachers who, after the accession of the former GDR, were faced with the challenge of practising a form of education oriented to democratic principles. The projects, with the abbreviated title “Children’s Situations”, lasted from 1993 to 1997, incorporated hundreds of nursery schools and received approximately DM 4.6 million in funding from the Federal Government. The tangible result was the “Practical Series on the Situational Approach” for nursery schoolteachers.

635. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth uses funding from the Federal Government’s Child and Youth Budget for other centralized measures:

(a) The pilot project “On the Educational Mission of Child Day Care Facilities” is concerned with precisely defining the educational mission of day-care facilities (cf. chapter VII.B.1);

(b) Between 1993 and 1997 the project “Multiplier Further Training for Day Care Facilities” was aimed at multipliers in the new Länder. They were familiarized with fundamental aspects of their field of work in courses;

(c) Two projects by the Deutsches Jugendinstitut deal with “Multicultural Children’s Lives in Different Regional Contexts” and with “Conflict Conduct among Children in Day Care Facilities”;

(d) In 1997 the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth created a travelling exhibition on the history of the nursery school in order to give nursery schoolteachers in east and west the opportunity to get to grips with nursery school education in the former GDR;

(e) With the support of the Federal Government, in 1995 the first major congress was held that was addressed to specialist advisers for day-care facilities. The specialist advisers based with the voluntary organizations, youth welfare offices and Land youth welfare offices are an important component in the efforts for quality assurance;

(f) The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth gives ongoing grants to the Pestalozzi-Fröbel Association, an important specialist association.

636. For several years now the discussion about the quality of care for children in day-care facilities has been getting louder in Germany. Because as yet there are no instruments to measure and develop quality, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth initiated a “National Quality Initiative in the System of Day Care Facilities for Children”. The project is made up of a combination of a total of six projects. In each project,

instruments for the internal and external evaluation of work in and around day-care facilities are to be developed that represent a nationwide standard for measuring quality and can be used to develop quality. The project is aimed at the following areas:

- Facilities for children of nursery school age;
- Facilities for children of after-school establishment age;
- Work according to the “Situational Approach”;
- Work by the sponsor of the facility;
- Further training.

637. The project takes place in close cooperation with and with the financial participation of the Länder and sponsors and is supported by an advisory council.

638. The Federal Ministry for Education and Research has also funded research projects to improve the educational quality of the care in day-care facilities for children:

(a) The project “From a Nursery School Pupil to a Schoolchild”, which took place from 1995 to 1999, is an empirical study of the continuity of education and socialization in the transition from the nursery school to primary school. Using a multiperspective research approach, the importance of central educational quality aspects of the nursery school, primary school and family upbringing for a smooth transition and for a successful start at primary school are studied;

(b) The study “A Child’s Perception of Self-Effectiveness and Social Participation in the Family and Childhood” conducted, between 1997 and 1998, discusses the child’s development of autonomy and self-effectiveness as well as social skills in solving problems and overcoming interpersonal conflicts;

(c) This subject is expanded in the project “Conflict as an Opportunity - A Research and Intervention Programme to Promote Social Participation at the Nursery School and School”, which started in 1997 and will end in 2001. A vertical section study is used to study what options children have for expressing their opinions and co-determination at nursery school and primary school and what effect these have on the development of the children’s personality. Above all, the research programme is supposed to expand the children’s development and psychological knowledge for the development of negotiating and conflict-resolving skills.

Model measures by the Länder

639. Because the Länder bear the main responsibility for child day-care facilities - alongside the districts and the town councils - they work intensively on further developing the range of care on offer. In this connection, model trials are a preferred means, with different emphases being set appropriate to the situation in the Land. Some of their activities are cited here as examples.

640. After the project “Places for Children” sponsored by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and a number of Länder was completed at federal level in 1994, the Land of Hessen continued the *Hessischer Projektring* until the end of 1995. Twelve facilities in four model locations were involved. The model locations took on the function of innovation centres, which helped local and innovative processes to have a wide impact due to interlinking across the whole Land. The continuation of the *Hessischer Projektring* was a major factor in the interlinking of the institutions and for the specialist advice, placing an emphasis on organizational development and social management for its work. Consequently, the group of specialist advisers developed the need to articulate fundamental requirements for organizational development and quality management in their field of work. As a result of this demand the group of specialist advisers developed a dialogue form of quality development, in an expanded circle initially supported and funded by the Land. The work was reflected in the publication “Developing Quality in Dialogue” of the Kronberger Kreis für Qualitätsentwicklung in Kindertageseinrichtungen (Kronberg Group for Quality Development in Child Day Care Facilities).

641. In Lower Saxony, Brandenburg, Bremen and Mecklenburg-Western Pomerania, a research and pilot project involving all of these Länder for promoting social skills and participation among 5- to 8-year-olds in nursery schools and primary schools is being carried out between 1998 and 2001 by the Institute for Applied Family, Childhood and Youth Research at Potsdam University. This project, entitled “Conflict as an Opportunity”, is concerned with analysing what options children have to assume social responsibility and to overcome social conflicts in school independently and how to promote their abilities to articulate their own interests with reference to others and to assert them with socially accepted means. An intervention programme interlinked with this research project is to offer nursery school and primary schoolteachers substantial and methodological impetus to promote children’s negotiating skills and co-determination. An empirical study is planned to gain an insight into the development of negotiating and conflict-resolving skills among children in the transitional phase from nursery school to school.

642. North Rhine-Westphalia places an emphasis on “Intercultural Education in the Elementary Area”. The project of the same name, in cooperation with day-care facilities for children and vocational schools for socioeducational science, makes reference to the following project objectives that follow on from each other:

- (a) Linking intercultural education to the so-called situational approach, which is the most widespread educational concept for day-care facilities in Germany;
- (b) Promoting children’s bilingual development - including identity development;
- (c) Building up network structures along the lines of a “Lobby for Children”;
- (d) Compiling a reader on intercultural education in training.

643. The result of this project will be an overall concept on intercultural education in the elementary school area.

Corporate childcare

644. In addition to the voluntary and public youth welfare organizations, companies are also involved in childcare in Germany - but only to a limited extent. They either run facilities themselves or they fund places in facilities run by other organizations.

645. Expenditure on childcare reduces taxes for business. Because this is not very well known, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth published the brochure "Child Care is Worthwhile - Tax Tips for Companies". This uses specific examples to illustrate how the tax burden can be lowered with a commitment to childcare. Another brochure - "Looking for Child Care" - is a guide for companies for funding childcare.

646. In 1996 and 1997 the Federal Government and the Land of Hessen jointly carried out the pilot project "Company Funding of Child Care". One important goal of the project was to study company-funded childcare with respect to the socioeducational requirements, the effects for the company and the sociopolitical consequences. Within the context of practice-oriented accompanying research, development processes from various regional joint models between companies and public and voluntary youth welfare organizations were researched, analysed and evaluated in a way that is manageable for practice. Above and beyond this, exemplary initiatives were developed that see company participation in childcare as an integral element in combining family and career. The project was rounded off by a nationwide stocktaking of childcare funded by companies.

Accident insurance for children in day-care facilities

647. Precisely because of their age and behaviour, children are exposed to the risk of becoming the victims of an accident. It is therefore the responsibility of the responsible bodies to insure against the risk of accidents.

648. In conjunction with the Accident Insurance Classification Act of 1996, accident insurance protection for children in nursery schools was extended to children in all day-care facilities; this regulation entered into force on 1 January 1997. This means that children who attend a nursery or an after-school establishment are now insured against accidents in the facility, on the way there and on the way home.

Family day care

649. Family day care is also regulated in Social Code Book VIII. In addition, a large number of Länder have adopted more precise regulation in the Land laws. Day care refers to care for children in the parental home or - more frequently - the childminder's home. Around half of the children in day care are under 3 years old. In the context of combining family and careers day care is especially important because care hours can be negotiated individually between parents and childminders and can be arranged flexibly according to the parents' working times. Furthermore, day care has the advantage that it can be tailored to the needs of individual children because of the small number of children and it is mostly close to home.

650. According to Social Code Book VIII parents and childminders should work together; furthermore, they are entitled to advice in matters of day care.

651. Although day care is regulated like day-care facilities in Social Code Book VIII there are no statutory provisions on the extent to which day-care places should be made available. Furthermore, it should be remembered that in addition to the childminders recommended by the voluntary and public youth welfare organizations, there are also a large number of day-care situations that come about without the participation of youth welfare organizations.

652. Day care is a task for the district authorities and town councils. In some places day care is intensive, while other local authorities ignore it by stating that it is a voluntary task. Often, the youth welfare offices do not operate the day care themselves; they delegate it to voluntary organizations, especially associations of childminders. The activity of these organizations comprises both recommending and training childminders as well as advising childminders and parents.

653. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth promotes day care in many ways within the framework of its power to make suggestions. On the one hand, it supports a nationwide infrastructure in this field by funding the Tagesmütter Bundesverband für Kinderbetreuung in Tagespflege (Child Minders' Federal Association for Child Care in Day Care). The Federal Government also allows the Association to conduct federal congresses, which were held in 1994 and 1998. In cooperation with the Association, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth publishes an extensive handbook on childminding.

654. On the other hand, the Federal Government pays special attention to training childminders because this plays a key role for quality assurance in day care. In the pilot project "Training in Day Care" the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is developing and trying out curricular elements for training childminders. The results should set a standard for training childminders.

655. Another model trial, which the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth carried out together with the Land Rhineland-Palatinate, is concerned with developing ways of recommending childminders in rural areas.

3. Schools

General information

656. With reference to the observations in the initial report on measures to realize the rights recognized in the Convention on the Rights of the Child and the guidelines on compiling the second periodic report, the following should be added in connection with the representation and development of the primary and secondary sector.

657. The general education schools in secondary stage I build upon the common primary school. In the majority of Länder these are secondary general schools, intermediate schools, grammar schools and comprehensive schools. In individual Länder for several years now there have been new types of school with names varying from Land to Land in which several courses of education are brought together in educational and organizational terms; they include middle

schools, standard schools, secondary schools, integrated secondary general and intermediate schools, combined secondary general and intermediate schools, regional schools and extended intermediate schools.

658. The design of the types of school and courses of education in secondary stage I assumes a principle of general basic education, individual setting of emphases and promotion on the basis of performance. In line with a 1996 agreement by the Conference of Education Ministers about types of schools and courses of education in secondary stage I, this is aimed at by:

(a) Promoting the overall intellectual, spiritual and physical development of the pupils, education to be independent and capable of making decisions as well as education for personal, social and political responsibility;

(b) Safeguarding teaching orientated to the level of knowledge in science and whose design and requirements take account of the ability of the pupils to understand in line with their age;

(c) Gradually increasing the placing of emphases that correspond to the pupils' individual skills and aptitudes;

(d) Securing a permeability that also opens up opportunities for changing the course of education after an orientation phase.

Financial support

659. In 1998 the Federal Government and the Länder spent approximately DM 356 on Land support for pupils at the secondary stage in general and in the vocational sector; approximately 119,000 apprentices benefited from these funds.

Teacher provision

660. The 1995 Report of the Permanent Conference of the Education Ministers of the Länder entitled "Securing the Efficiency of Schools in a Phase of Continuing Tight Budgets" cites measures that are used as a basis for concepts to maintain and improve the quality of schools. In particular, it is concerned with improving the professional standard or the standing and the social position of teachers. On this basis, the various Länder have drawn up separate concepts and programmes with respect to developing a modern profession and improving the professional situation of teachers.

661. Modern educational and teaching objectives demand special commitment and specific skills from teachers, which should be developed in basic, continued and further teacher training. Currently, the Conference of Education Ministers is drawing up multi-Land orientations on the further development of teacher training in the light of the reform discussions in many Länder. In several Länder changes in teacher training are already a component of the university laws. The demand for teachers is calculated on the basis of regularly updated pupil forecasts and the relevant number of teachers is recalculated regularly. Numerous measures by the Länder, including working-time accounts, reduced hours for new teachers and equalization measures between Länder, balance out short-term fluctuations.

662. With respect to quality assurance in schools, evaluation instruments should be developed and relevant exchanges of experience carried out. Carrying out regular comparative studies on pupils' levels of learning and performance is an important supplement to other quality assurance measures in this connection and allows conclusions to be drawn with respect to the methods chosen in each case and quality assurance measures.

Literacy

663. To date there is no reliable, empirical information on the number of illiterate people in Germany - as in other countries.

664. A statistical record presupposes a clear definition of the term "illiterate person", in other words precise criteria on linguistic qualifications and skills that differentiate an illiterate person from a literate person. As yet, there is no such definition.

665. Because of the lack of data, estimates are used. According to estimates from UNESCO, allegedly 0.75-3 per cent of the adult population over 15 in industrialized countries are illiterate. The adult German population over 15 years old in 1996 was approximately 62.8 million. According to the estimates from UNESCO, we can therefore talk about approximately 0.5-1.9 million people affected. Some of them are children within the meaning of the Convention.

666. The school and training system in place in Germany as well as the many opportunities presented by adult education have for a long time complied with the goals propagated by UNESCO: ensuring or enabling a primary education for all children of school age; combating/remedying functional illiteracy among adults by offering relevant educational opportunities. The guidelines for Germany are the "World Declaration on Education for All" and the "Action Framework to Satisfy Fundamental Learning Requirements", which were signed by all the countries in the world on the occasion of the international conference "Education for All" in Jomtien, Thailand in 1990.

667. That is why no national action plan for eradicating or massively reducing illiteracy within the meaning of UNESCO has been specified by the offices responsible for education in Germany. Rather, a large number of funding measures are being carried out in schools and outside schools. In schools these include remedial teaching for pupils with special difficulties in learning to read and write in years 1 to 6.

668. For Germany there is generally an obligation to use and expand the existing educational offers even better in order to prevent illiteracy as early as possible and even more consistently to combat adult illiteracy. In this connection, the main responsibility for safeguarding nationwide offers and the required preventive measures in nursery schools and schools lies with the Länder. For example, in North Rhine-Westphalia, the Land Institute for Schools and Further Education in cooperation with the Land Association of Adult Education Centres regularly conducts seminars that deal with the issue of illiteracy. The Federal Government contributes to developing the required educational offers by funding pilot projects.

Measures to encourage pupils with reading and spelling weaknesses

669. In the primary and secondary sector, special measures are carried out to encourage pupils who have difficulties in learning reading and spelling. For this group of pupils the schools offer general measures of encouragement within the context of the curriculum or additional measures that go beyond the curriculum.

670. Pupils with disrupted learning processes and where there is a risk that they will not achieve the learning objectives of a school year are given appropriate encouragement within the context of general teaching. Teaching is usually shaped by measures of differentiation so that it takes account of the performance, stress-bearing capabilities and interests of the pupils. In addition to class teaching, some affected pupils are encouraged individually in small groups. The encouragement measures affect the subjects German and mathematics as well as modern languages. Other offers can incorporate all subjects in the curriculum. The measures are usually offered in the afternoons and are of limited duration.

School social work

671. Family situations often mean that schools have to take on socialization tasks that used to be done in the family. Added to this are the problems of the school system in integrating "difficult" pupils and guiding them to success at school. Offers supplementing teaching are therefore increasing in significance.

672. Viewed structurally, social work in schools is the anchoring of youth welfare offers both at school and in the school environment. Viewed in terms of substance, social work at schools is the attempt to overcome the more or less complete - due to the structures that have developed - separation of the world in which children and young people live into different areas of life. Social work at schools sees itself as an offer of help and support that accompanies development and that is not just addressed to the children and young people themselves with reference to the holistic approach, but also incorporates the entire social surroundings. Conceptually, social work at schools is therefore aimed at low-threshold socio-educational help for schoolchildren, usually in the form of open leisure offers, as well as at special help for children, young people and their families in individual cases.

Measures to promote foreign pupils

673. Children of foreign descent are entitled to development. Individual realization fundamentally depends on the improvement of the legal status of children from migrant families and on guaranteeing the resources that are important for their development.

674. Education and linguistic skills are central prerequisites for secure future prospects and are acquired above all at school. All children who live in Germany are entitled to attend State schools, regardless of their nationality. The schools carry out various measures of encouragement to integrate foreign children and young people so that foreign schoolchildren can learn the German language and acquire German qualifications. Moreover, there are also offers

to keep up their knowledge of their mother tongues and their cultural identity. Depending on the Land, various measures in different organizational forms are used to integrate foreign pupils into German schools:

- Preparatory classes for foreign children to teach them the German language;
- Bilingual education with the mother tongue and German as teaching languages;
- Intensive courses in German as a second language;
- Additional remedial lessons outside the curriculum for foreign children who are already being taught in standard classes and need to improve their knowledge of German;
- Encouragement of natural bilingual and intercultural skills.

675. In addition, foreign pupils are offered supplementary lessons in their mother tongues with teaching content about the home country for up to five lessons a week in order to maintain their cultural identity.

676. Above and beyond this, there are a large number of individual measures for the integration of foreign schoolchildren. For example, Lower Saxony offers targeted further training for teachers, multilingual information about the Lower Saxony school system for parents, as well as advice for schools by approximately 40 specialist counsellors for “Intercultural Education and Teaching for Foreign and Immigrant¹ Children”. Furthermore, school social work is currently being practised at 26 schools in socially disadvantaged regions with a high proportion of children who do not have German as a mother tongue; they are helped by social educationalists deployed in the schools for this purpose.

677. Rhineland-Palatinate is one of the Länder in which new guidelines for teaching children with mother tongues other than German have been drawn up. The teachers are supported by trained multipliers. Furthermore, there are measures that address integration problems in the field of the basic and further training of specialists in education and further training.

678. What is important for foreign children learning German is being together with children who can speak German. Learning German is therefore much more difficult when the children in a school are largely of foreign descent - as is often the case in cities.

Choice of school in the primary and secondary sectors

679. In the choice of the school facility, a distinction should be made between a type of school and acceptance in a specific school.

¹ Translator’s Note: Immigrant is being used throughout for people of German descent who have returned to their ancestral homeland of Germany from Eastern Europe.

680. In the primary sector, the school-age children attend the primary school that is common to all pupils, which comprises years 1 to 4 - and 1 to 6 in Berlin and Brandenburg. After primary school, the pupils move to other courses of education that are organized into different types of school.

681. The form of transition is governed differently in the Länder. A binding decision on the choice of a type of school or the course of education in secondary stage I is sometimes made in year 4, sometimes during years 5 and 6 and sometimes at the end of year 6.

682. During year 4 or 6 of primary school a pupil analysis is usually compiled by the school that the pupil is leaving and detailed discussions held with the parents. Depending on the law in the respective Land, the pupil analysis is the basis for or an aid to the decision on the further course of education of the pupil; the decision is either made by the parents or by the school or the school supervisors. School law and educational policy development to date have taken increasing account of the parents' right to bring up their child in the choice of a school career.

683. There is no legal entitlement to be accepted at a specific school. Pupils who want to exercise their right to attend school at the primary, general secondary or vocational level must attend the local school. This also applies to pupils at higher schools if there are school districts for the type of school they have chosen. But the parents have the opportunity to choose a school other than the local school for their children and to apply to the school authority, which makes the decision after hearing the parents and the sponsors of the school, although the prime factor is the well-being of the pupil concerned.

Encouragement of young immigrants, young quota refugees and asylum-seekers

684. Children and young people from new immigrant families, young quota refugees and asylum-seekers usually come to Germany with insufficient knowledge of German. In order to remedy the resulting problems in integrating into the German education system they are given additional remedial teaching in schools. For cases where this is not enough, the Federal Government's so-called "guarantee fund" is available. The guarantee fund is used to finance remedial teaching outside school. The aim is to help these young people integrate into standard classes, give them access to higher schools and give them the opportunity to gain university entrance qualifications at school if they are able. Between 1994 and 1999, funding of approximately DM 56 million per year benefited a total of approximately 257,705 children and young people.

685. Special measures are used to give young new immigrants as well as quota refugees and asylum-seekers who have gained school-leaving qualifications equivalent to the intermediate school certificate in their countries of origin the opportunity to attend university. For this reason, language courses funded by the guarantee fund are available. There are also special courses organized by the Länder according to the Federal Training Assistance Act or also financed by the guarantee fund.

686. The schools do most of the integration work. Accordingly, there are a large number of support measures in the individual Länder. Frequently, decrees regulate the special features of acceptance, remedial measures, assessment of performance, teaching of modern languages and mother tongues, and the acquisition of qualifications by children and young people whose

mother tongue is not German or who were not able to acquire sufficient knowledge of German before starting school as entitled parties under the Federal Refugee Act. Furthermore, multilingual information for parents has been developed.

Participation rights of pupils

687. Reference is made to chapter III.D with respect to the participation rights of pupils.

School and leisure

688. Many schools - especially in cities - are redesigning their schoolyards to become areas for games and exercise. As a result, not only the pupils at the school but also other children from the local area gain additional opportunities for playing. The pupils show a great deal of initiative and commitment in the redesign of schoolyards. It has been seen that their identification with the school rises and damage from careless behaviour and vandalism declines. In some cases, special attention is paid to redesigning schoolyards in a manner that is closer to nature; in urban areas in particular, this helps to give children an awareness of the importance and value of nature.

689. An example of further activities in the field of school and leisure is the youth sport initiative "Kids and Sport Strong Together" in Rhineland-Palatinate. In this process, so-called pupil assistants and parent assistants are trained at secondary schools. They learn how to plan, organize and carry out free-time activities for fellow pupils, sharing responsibility and on their own responsibility. The trained pupils first of all supervise exercises and games at break time, but also lead appropriate activities in free periods and after school.

4. On cooperation between youth welfare and schools

690. In the past, youth welfare and schools often followed separate paths. The reasons for this included differences with regard to content, employee training and departmental responsibilities within the administration.

691. But cooperation and agreement between the two areas is in the interest of children and families, especially in order to make a smooth transition from youth welfare institutions to school easier for children. In this respect, "Recommendations of the Conference of Education Ministers and the Working Party for Youth Welfare for Cooperation between Schools and Youth Welfare", submitted as draft papers during the reporting period, should bring about some progress.

692. On the initiative of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the Working Party of the Supreme State Youth Authorities dealt with the subject of cooperation between youth welfare and schools at its April 1999 meeting and decided to propose this subject to the Conference of State Youth Ministers as a main issue for a future year.

693. Because of the responsibility of the Länder for education, the activities of the Länder with respect to cooperation between youth welfare and school are of key importance.

694. In order to intensify the cooperation between youth welfare and school a pilot project was carried out in four districts of Hamburg in 1998 and 1999, the aim of which was to bring about a qualitative and quantitative improvement in the structure of activities offered outside school by bundling the resources of the two sectors. The project was mainly concerned with the development of intercultural, girl-specific, experience-oriented and violence-prevention measures.

695. In Lower Saxony, a basis was created for the development of cooperation as early as 1994 within the framework of the decree "Cooperation between Schools, Youth Welfare Offices and Voluntary Organizations of Youth Welfare". The decree contains the "Recommendations of the Conference of Education Ministers and the Working Party for Youth Welfare for Cooperation between Schools and Youth Welfare". The appointment of a contact person in every school and every youth welfare office was made mandatory.

696. Following the amendment of the law on schools in Lower Saxony, the obligation to work "with the public and voluntary youth welfare organizations as well as with other offices and public facilities whose activities have a major impact on the lives of young people within the framework of their tasks" has also been accepted by schools, parallel to Social Code Book VIII.

697. In order to facilitate the transition from school to work, the law on schools in Lower Saxony opens up the opportunity of satisfying mandatory school attendance by participating in youth workshops organized by the youth welfare services. This offer is mainly addressed to young people who are tired of school and are from disadvantaged backgrounds.

698. A pilot project, "Lifestyle-Oriented Youth Welfare Units Cooperating with Schools", was carried out for three years since 1997.

699. After a broad-based study on the state of cooperation between youth welfare services and schools was carried out in Lower Saxony in 1998, public and free youth welfare services and other partners, in cooperation with the Education Ministry, have been working on intensifying cooperation at the local level.

700. In North Rhine-Westphalia cooperation between youth welfare services and schools has intensified greatly in recent years. In addition to the promotion of full day care for schoolchildren between 6 and 14, the Land government is trying to develop projects for school-based social work and to offer targeted projects for children and young people with weaknesses in the motivation to learn. Furthermore, there are projects for cooperation between schools and the youth welfare services in the context of the transition from nursery school to primary school, as well as in issues relating to the protection of children and young people.

701. In 1996 the government of Rhineland-Palatinate drew up and published recommendations for cooperation between schools and the youth welfare services. The recommendations are designed to encourage practitioners from schools and the youth welfare services to approach each other, inform each other about their duties, ways of acting and problem areas, develop shortcuts to clarify and overcome young people's problems in their best interest and agree on common activities or, where appropriate, launch joint projects.

702. In the reporting period in Schleswig-Holstein, 31 cooperation projects were promoted to compensate for deficits in family care and provision, to carry out additional promotional and leisure activities, to use preventive intervention to avert possible difficulties and developments in the wrong direction and to support the personality development of children and young people.

703. In the follow-up to a pilot project with the youth welfare services, Thuringia drew up "Recommendations for the Technical Standards of Projects for Youth Work/Youth Social Work at and with Thuringian Schools". The recommendations accommodate social group and counselling work oriented towards needs and individual case assistance for socially disadvantaged and foreign children, as well as children from immigrant families.

704. In addition, the Working Party for Youth Welfare has submitted a recommendation on cooperation between youth welfare services and schools.

5. Vocational education

705. In Germany, around two thirds of all young people in a school year complete an apprenticeship in the dual system, a combination of training on the job and in vocational schools. Young people who want to start training can turn to the careers advice service of the Federal Institute for Labour in order to test their aptitude, inform themselves about the requirements for specific jobs and to find a suitable trainee place. Every year over 2 million young people come to the careers advice service.

706. Vocational education policy in the Federal Republic between 1994 and 1999 mainly oriented itself towards supporting industry in providing an adequate number of training places and by encouraging dual vocational training. Furthermore, in view of the special situation in the new Länder in this period, every year joint programmes run by the Federal Government and the new Länder were organized in order to secure an adequate number of training places. The "Apprenticeship Developer" programme, financed by federal funds since July 1995, which is supposed to encourage additional company apprenticeships in the new Länder by specifically addressing companies and offering practical help, has been very successful to date.

707. At the end of 1998 the Federal Government adopted the "Emergency Programme to Cut Youth Unemployment - Training, Qualification and Employment of Young People". By the end of December 1999 around 197,000 young people had joined schemes run by the special programme. Around DM 1.9 billion have been spent on this programme, which has been readily accepted by the young people, DM 800 million of which were from the European Social Fund. However, it was foreseeable that the problems could not be solved with a one-off campaign. The Federal Government has therefore decided to extend the emergency programme.

708. In another stage at the end of 1998 the Federal Government started discussions with industry associations and trade unions on the "*Bündnis für Arbeit, Ausbildung und Wettbewerbsfähigkeit*" (Alliance for Jobs, Training and Competitiveness). Together with all relevant forces in society, employers and employees, agreements are to be made on the following issues in particular:

- Safeguarding high-quality training for all young people;
- Integrating unemployed young people into the labour market;

- Employment opportunities for people with few qualifications;
- Modernizing vocational education and further training.

709. One result of the discussions is that industry and the unions are making additional efforts to safeguard an adequate number of apprenticeships from 1999 onwards. These range from agreements in as many collective bargaining arrangements as possible to a joint “Apprenticeship Campaign” to gain additional apprenticeships and new companies to take on and train apprentices. Furthermore, in July 1999 the Alliance partners concluded a nationwide training consensus in July 1999. The core statement of the training consensus is that every young person who can and wants to receive training will receive training. In order to be able to meet these demands the Alliance partners have agreed on an extensive package of measures and activities.

710. In addition to an adequate number of apprenticeships being on offer, the best possible education for all also requires radical reforms in vocational education. The following fields of action have priority for the Federal Government:

- Better preparation of pupils in general education schools for the transition to vocational training;
- Reinforcement of the systematic activities for early detection of the need for skills;
- Rapid modernization, differentiation and adaptability of the apprenticeships as well as development of new apprenticeships in growing and innovative fields of employment;
- Individual assistance in acquiring additional qualifications by means of further training;
- Further development of the concepts for encouraging young people with poor starting opportunities; cutting the number of young adults without any vocational qualifications.

711. In early 1999 the Federal Government started negotiations with representatives of industry associations, trade unions and the Länder on these fields of action in a special working group of the Alliance. The first agreements on the structural renewal and modernization of vocational training have already been made.

712. In this connection, it should be stressed that the Alliance partners have agreed on a wide-ranging concept for the further development of vocational encouragement of young people with poor starting opportunities and that joint guidelines and implementation steps have been agreed for the first time. The training opportunities for young people without any school-leaving qualifications and often with considerable behavioural and learning problems are to be improved by measures that range from motivation, better career preparation and vocational training to subsequent qualification of young adults without vocational qualifications.

Measures in the Länder

713. Vocational training is one of the most important fields of action in child and youth policy for the Länder. The following examples are just a selection from a broad range of measures.

714. In the Hamburg Training Programme for Disadvantaged Young People, every year 250 apprenticeships leading to full qualifications are made available and in the programme of Youth Careers Assistance there are 400 apprenticeships. There are also subsidies for companies that make an apprenticeship possible for a disadvantaged young person or that offer apprenticeships for the first time.

715. In Lower Saxony matters relating to the apprenticeship situation are dealt with by consensus among those involved in vocational training, including the Alliance for Jobs and Training at Land level. At regional level, this can be seen in a more or less universal structure of local training conferences and initiatives in which all those responsible for vocational training also take part.

716. In order to develop new training resources, the Land of Lower Saxony encourages the merger of companies that are not authorized to train young staff with the objective of joint vocational training.

717. There is also a system of youth social work related to the world of work in which disadvantaged young people are given help in the transition from school to training and work. At 26 sites there are "Regional Offices for Vocational Integration in Lower Saxony" that offer individual help in the context of proactive social work and are interlinked with all the relevant regional players. They are sponsored by both industry and the public youth welfare services.

718. In 91 youth workshops, funded by the Land, disadvantaged young people can earn the qualifications for an apprenticeship or a job.

719. In North Rhine-Westphalia the government, industry, the unions, the labour administration and the local authorities set up the "North Rhine-Westphalia Training Consensus" in September 1996. In this context, all involved promised to make vocational training possible for all young people who want an apprenticeship and are capable of completing one. Since the start of the Training Consensus, the number of newly concluded apprenticeship contracts has increased by around 10 per cent. In May 1999 the promotional programme "Promoting Training: Information - Counselling - Acquisition" was started. The emphasis of the programme includes:

- Increased information and counselling of companies to develop new programmes to take on and train apprentices;
- Linking basic and further training by offering demand-based additional qualification in basic training;
- Intensifying counselling and information to applicants for apprenticeships and teaching staff and parents, especially to fill open apprenticeships;

- Advancing the implementation of new careers by establishing the corresponding apprenticeships;
- Improving young women's participation in training.

720. The Land initiative "Youth in Work" entered virgin territory in labour market policy. All long-term unemployed young people were given the opportunity of developing new careers for themselves by means of employment in a company. Together with industry, the labour and social authorities and counselling staff, the young people are approached, advised and guided towards jobs in companies within the context of individual development plans. Almost 80 per cent of a total of 11,000 young people had been approached after a year and they participated actively. Four thousand young people are taking part in the implementation of the development plan; over 3,000 young people have already been accepted into company employment.

721. In Saxony-Anhalt, as in other new Länder, the restructuring of the economy is still ongoing, meaning that accompanying measures are needed to encourage the willingness to offer apprenticeships. Therefore, for many years the State has made funds available to increase the number of apprenticeships in companies and to improve the opportunities of disadvantaged young people. For example, apprenticeships for girls, whose prospects on the training market are still worse than those of boys, are generally funded at a higher level. Furthermore, companies that offer apprenticeships for the first time or train more people than they need themselves are also encouraged.

722. Thuringia, in accordance with the stipulations of Social Code Book VIII on the removal or avoidance of disadvantages, requires the youth welfare offices to strive to overcome personal and social disadvantages and to offer all young people a chance at vocational integration.

723. Moreover, the Land Youth Welfare Office is to ensure that an advice centre is set up in every employment office district of the Land, ensuring that the existing institutions, services and events relating to youth career aid effectively complement each other and, if necessary, that new offers are developed for disadvantaged young people. Going further, these advice centres should inform the young people and their parents as well as specialist staff in youth welfare about the offers and opportunities of youth social work, especially youth career aid.

724. In spite of the difficult economic conditions, in recent years there has been broad success in building up and safeguarding adequate services for career preparation and training for disadvantaged young people, at least on the first threshold from school to training, including by means of funding from the Land and local authorities. However, a considerable and increasing problem - in Thuringia and the rest of the country - is integration in the world of work after completing an apprenticeship. Nevertheless, analyses of the advice centres have been able to help further develop technical and political awareness about this problem. This largely exhausts the possibilities for youth welfare services. In future they will not be capable on their own of compensating for discrimination against a specific group of young people caused by economic conditions.

Girls and vocational training

725. The participation of girls and women in education and their educational level has risen sharply in recent decades. Since the early 1990s young women have overtaken male school leavers in terms of qualifications. They are more likely to gain a university entrance qualification and are less likely to leave general schools with a general secondary school-leaving qualification or without any qualification. With regard to performance at school, and in a comparison of success rates in vocational training, women are often to the fore.

726. In spite of these positive developments in the school system, there are still disadvantages for women in vocational and university education as well as in the employment system. When starting work, and in the course of their careers, women cannot fully make use of their high qualifications. When deciding on their apprenticeship or university course, girls and women still have to cope with a training and labour market divided along gender lines. Of the 10 apprenticeship careers most frequently chosen by women, 9 are clerical or service careers and 1 is a skilled craft - hairdressing.

727. Activities to extend the career spectrum for women and to increase companies' willingness to train and employ women in jobs previously "untypical for women" and to open up career development opportunities to them are of prime importance. This is especially true for information technology (IT) careers, which offer secure prospects for the future. In the training year 1998 only 13.6 per cent of a total of 13,660 apprentices in the new IT core careers in Germany were female. The number of new undergraduates in IT courses in 1997/98 was 14.1 per cent, the proportion of IT students was 11.9 per cent. Women are underrepresented in apprenticeships in skilled crafts, with a share of 20 per cent.

728. The Federal Government pays special attention to the vocational training of girls:

(a) In 1997, in a response to a major parliamentary debate on policy towards girls, the Federal Government outlined the situation of girls in schools and vocational training. The response referred to successes, but also to continuing disadvantages. Furthermore, a large number of measures were cited that aim at bringing about actual equal treatment for girls and boys in Germany. These measures refer to youth welfare services, schools, apprenticeships and other social spheres;

(b) In June 1999 the Federal Government/Länder Commission on Educational Planning and the Promotion of Research adopted a report on "Improving the Opportunities of Women in Training and Work". The Federal Government, together with the Länder, will adopt targeted measures to improve the training and career opportunities of girls and young women and will follow the recommendations of the report in the process;

(c) In the "Innovation and Jobs in the Information Society of the 21st Century" action programme, the Federal Government has made the improvement of career opportunities for girls and women an ongoing priority. The targets specified here include the following: women's participation in the Internet should be raised to 50 per cent in the next five years; the proportion of women in IT vocational training should be raised to 40 per cent and in university IT courses to 25 per cent. The Federal Ministry for Education and Research is promoting the new focus "Women Teachers and Schoolgirls Online" within "Schools Online". Within the context of the

initiative “Germany 21 - the Dawn of the Information Age”, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth together with leading companies in the IT sector will develop measures for the greater involvement of girls and young women in IT careers;

(d) In the Federal Government’s “Women and Jobs” programme, starting in 1999, these and other measures will be bundled to improve opportunities for women in technical jobs and in the service sector and to encourage girls and women in skilled crafts. This aim is also served by the initiative “Women Give New Impetus to Technology” sponsored by the Federal Government, Deutsche Telekom AG and the Federal Institute for Labour, which is a platform for measures for improving the training, study and career opportunities of girls and women in technology and IT.

Foreign young people and vocational training

729. The situation of young foreigners in the transition from school to work should initially be explained with some statistics.

730. The number of school leavers of foreign nationality in 1998 was 98,035, both from general and vocational schools; this corresponds to 12 per cent of all school leavers. This figure had hardly changed in comparison to the previous year, which also corresponds to developments in the resident foreign population in these age groups.

731. The level of school leaving qualifications of young people of foreign descent has improved overall: 31.8 per cent had intermediate qualifications, while the proportion with university entrance qualifications remained roughly the same at 14.5 per cent. Whereas in the early 1980s, 30 per cent of young foreigners left general secondary school without any qualifications, in 1998 this figure was only 17.0 per cent.

732. In spite of this somewhat positive development, the gap between German and foreign children with respect to academic qualifications has not been reduced, especially as the trend towards higher academic qualifications among foreign children has slowed down considerably since 1993.

733. In 1998, the number of apprentices of foreign origin in the dual system fell in the old Länder by around 6,000, to 104,058, in comparison to the previous year. In the new Länder there are only a few foreign apprentices because there are few foreigners of this age group living there.

734. The aim of the measures that take effect at the transition from school to work is to greatly increase the still too low participation of foreign young people in training because the success of social integration is mainly dependent on successful integration in the process of work. Foreign young people are therefore offered a “promotional package” comprising the following measures:

(a) Foreigner-specific measures for preparation for work to promote linguistic and specialist language skills and basic school knowledge;

(b) Promotion of a scheme to prepare for work at the Akademie Klausenhof where foreign young people who came to Germany in late childhood are given the opportunity to complete the German general secondary school leaving certificate in a boarding school;

(c) Programme to promote vocational training for disadvantaged young people during vocational training using remedial teaching with socio-educational back-up to overcome the academic or linguistic deficits and social problems of apprentices that stand in the way of success in training and thus permanent integration in the world of work;

(d) Informing foreign young people and their parents about the advantages of vocational training, e.g. by a series of programmes initiated by the Federal Ministry for Labour and Social Affairs on the Turkish TV station EURO-Show, which addressed young Turkish people and their parents and informed them of the need for vocational training and specific career options;

(e) Binational training projects that include training in a recognized apprenticeship, a placement in the apprentice's home country as well as subject-related additional teaching in the mother tongue, thus increasing the mobility and flexibility of young foreign people on the labour market in Germany and the European Union.

735. The programme of action on the integration of foreign young people was carried out between 1995 and 1999. The six funded projects had the objective of preventing foreign children and young people from withdrawing into sometimes aggressive cliques and organizations of their own ethnic group and supporting their social and professional integration. At the heart of the projects, for which approximately DM 5.6 million were made available, were the development of new approaches and initiatives for integration, the development of a concept for acceptance in local authority youth welfare planning, a campaign to improve the image of young foreigners, as well as the deployment of two social workers at each of the project locations.

736. The action programme for young foreigners is being continued. The new project phase up to the end of 2002 is addressed to specific offers for young people of foreign origin in social flashpoints.

737. In spite of these promotional activities, which fall far short of requirements, the participation of foreign children and young people in education and training has even deteriorated somewhat since the mid-1990s. The Federal Government therefore considers it to be its task to achieve further improvements in this area so that the next generations of young foreigners can take advantage of equal opportunities in society.

6. International cooperation in the education system

738. Pursuant to article 28, paragraph 3, of the Convention, Germany is committed to elementary education in developing countries. Elementary education comprises both general education for children and young people in nursery schools, the primary stage and the lower secondary stage as well as extramural educational programmes for children, young people and adults who want to supplement or continue a missed school education.

739. In mid-1998 there were a total of 86 projects of educational cooperation with developing countries, 10 of which are in the planning phase:

(a) Thirty-three projects are targeted at direct improvement of elementary school education, with account being taken of mother tongue and multilingual teaching as well as environmental education in the primary sector;

(b) Sixteen projects support integrated approaches of extramural or non-formal education for especially disadvantaged target groups in the informal sector, for working children, for children and young people at risk of using drugs and prepared to use violence, as well as for young people in rural regions; employment and social encouragement also play an important role alongside elementary education;

(c) Twenty-nine projects concentrate on improving teacher training and the political and management structures in the educational sector;

(d) In addition, some projects are being carried out in the field of adult education.

740. All educational approaches take account of the special situation of girls and young women.

741. Projects for vocational training and the promotion of employment concentrate on further training in companies for older young people and young adults who are largely integrated in the formal system of vocational education. In this connection, three quarters of the total of 142 projects in technical cooperation serve the purposes of the structural promotion of political institutions and the technical support of institutions for professional qualification.

742. More recent projects in employment promotion attempt to react to the specific survival conditions of young people from poor areas and in the informal sector. Integrated programme approaches are being developed that combine elements of elementary education and basic and further vocational training, as well as the promotion of small-scale commerce. The following premises are paramount:

(a) Orientation to local requirements in order to develop relevant income-specific employment opportunities and to draw up adapted educational offers;

(b) Participation of the target group in planning and implementation in order to harmonize their opportunities, needs and potentials with the needs of the local market;

(c) Passing on clerical and entrepreneurial knowledge alongside craftsman-technical and/or agricultural skills as well as the promotion of access to start-ups and small loans.

B. Educational objectives (art. 29)

743. The principles laid down in article 29 of the Convention correspond to applicable law and practice in Germany. What this means for education is outlined below. Furthermore, the implementation of article 29, paragraph 1 (e), is also dealt with because environmental education in Germany has a high standing and the subject was not dealt with in the initial report.

1. Day care for children

744. Day-care facilities for children and child minding are part of child and youth welfare. Social Code Book VIII cites the following as fundamental objectives that also apply to childcare: “Every young person has a right to assistance in his or her development and to an appropriate upbringing so that he or she can become a responsible member of society Youth welfare services shall in particular further young persons in their individual and social development and help avoid or remove disadvantages.”

745. For day-care facilities Social Code Book VIII also specifies that above and beyond the general objectives: “Such functions shall compromise the care and the general and social education of the child. The programmes and services shall orient themselves educationally and organizationally towards the needs of the children and their families.”

746. With the troika of care, social education and general education, the system of day care represents the entire spectrum of what day-care establishments in particular are supposed to do. Whereas care and social education, viewed historically, have always been a central component of the work of day-care establishments, the educational aspect came into greater prominence for the first time in the 1970s. This discussion has been given new impetus in recent years. In this connection, the question is: What should or must children learn to meet the challenges of a new century?

747. Various projects are investigating precisely this question. The central model trial in this field is entitled “On the Educational Mission of Child Day-Care Establishments” and is supported by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and the Länder of Brandenburg, Saxony and Schleswig-Holstein. The project aims at developing and describing a proposal for an educational mission for child day-care establishments, testing its plausibility empirically, and drawing up and trying out a further training concept for teachers on this basis. In this connection, it is not just a matter of nursery schools; rather, nursery schools should be one component of the education system.

2. Schools

748. In the first report, it was shown that the educational objectives for the school sector applicable in Germany are in harmony with the objectives stated in article 29, paragraph 1. Reference is also made to the following recommendations of the Conference of Education Ministers.

Promotion of the child’s personal development

749. According to the “Recommendations for Work in the Primary School”, a resolution of the Conference of Education Ministers from 1970 in the version of 1994, one of the most important tasks of the primary school is to promote the personal development of the child and to set the decisive foundations for further learning. The primary school should make a contribution to its social education mission of fundamental value orientation by initiating knowledge of self and the world among the children, gradually leading them to an ability to judge and to take responsible action. The primary school should help pupils to develop their own viewpoints and values that are necessary for personal development and participation in life in society.

750. The recommendations of the Conference of Education Ministers have been implemented in the curricula in the individual Länder. As one example, reference can be made to the curriculum of Baden-Württemberg “Primary School Education Plan” which contains very similar ideas on personal development in primary schools in its “Central Pedagogical Ideas”.

Promotion of human rights education

751. As can be seen in a recommendation of the Conference of Education Ministers of 1980, familiarity with human rights should arouse and strengthen pupils’ willingness to stand up for their realization in their personal and political lives and to oppose their abuse and violation. Pupils should be prepared to use the question of the realization of human rights as an important yardstick for assessing the political conditions in their own and other countries. This also includes a willingness to stand up for the rights of others.

Intercultural general and social education

752. With the objective of promoting a mutual understanding of the situations of migrants and the native population, as early as 1985 the Conference of Education Ministers suggested a prejudice-free dialogue about cultural values and interests in its resolution “Culture and Foreign Fellow Citizens”. Respect for other cultures and responsibility for “One World” and for more understanding is also the subject of the “Declaration on Tolerance and Solidarity” which appeared in 1992. In order to bring together the various intercultural approaches and define the possibilities and requirements of intercultural education, the Education Ministers of the Länder adopted the recommendation “Intercultural Education and Social Education in Schools” in October 1996.

753. The recommendation starts from a common intercultural general and social education for all pupils and is aimed both at members of the majority and the minorities. Intercultural social education should initially be carried out in the conscientious observance of the general social education mission of the school, which should promote the development of attitudes and behaviour among all pupils that are based on the ethical principle of humanity and the principles of freedom and responsibility, solidarity and international understanding, democracy and tolerance. In the recommendation it is pointed out that intercultural skills can only be formed if a school climate is created that is characterized by social relations and attitudes of mutual respect and that offers pupils the opportunity for personal and emotional experiences. According to this recommendation, it is important that all pupils be involved in the development of a common school culture and live and act according to jointly developed rules.

754. Parents should also be integrated into school life so that mutual trust can be established by a constant exchange of ideas about general and social educational objectives.

Social education on the joint responsibility for “One World/Third World”

755. The Conference of Education Ministers adopted the recommendation “One World/Third World” for teaching and schools in 1997. As early as 1988 the Conference of Education Ministers had submitted a report on the “Situation of Teaching about the Third World”. The new version now takes account in particular of the fact that since then teaching has often expanded from concentration on to the developing countries’ problems to the global challenge of “One World”.

756. The core element of the recommendation is the representation of the objectives and educational principles for teaching; schools are required to represent the complexity of the problems to be solved and their existential relevance in social education for joint responsibility for “One World”. This social education mission is considered to be so important that it has to be an element of general education and needs special consideration in vocational training.

757. In addition to passing on knowledge, it presupposes a greater orientation towards action in teaching in order to develop pupils’ abilities to act for global responsibility alongside an awareness of the problems. The openness of many young people to cultural diversity in the world and the desire for international understanding and peace should be used and encouraged. Naturally, this also means that the pupils should be made aware of their own culture and values that brought this about.

3. Social education for respect of the natural environment

758. The social education to respect the natural environment mentioned in article 29, paragraph 1 (e), of the Convention starts at nursery school. In the last few years, model measures and brochures for nursery schoolteachers have brought together a large amount of information and ideas that are suitable for enriching environmental education in day-care establishments.

759. In addition, the woodland nursery schools, which place relationships with nature and life in nature at the heart of their efforts, are a care option that is always met with great interest. Following the Danish model, the children spend their days in the woods for weeks, months or years and investigate nature in many ways.

760. Special importance is attached to schools with respect to environmental education. Previous environmental education started in nature and biology lessons. Their focus was on passing on scientific and technical knowledge. Today, the acceptance of responsibility for the global environment and one’s own living environment are at the fore. This new environmental education concept is being discussed under the name “Education for Sustainable Development”. In addition to a relevant manner of teaching, this mainly requires the reorientation of school life and the implementation of projects. Increasingly, the school environment, the district of the town and the local authority are being studied together. The ecological redesign of schools requires the development of participatory concepts so that the material taught can be put to the test within a sustainable school environment. This means that the spectrum of environmental education extends into the field of normative-ethical and social issues. Above and beyond this, conveying knowledge is supplemented by “knowledge management” - how to access and process information, including the use of new electronic information technologies, must be learned.

761. The action programme “Health and the Environment” described in chapter VI.B also includes the development of school initiatives in cooperation with the Conference of Education Ministers for children and young people on the subject of “Health and the Environment”. In the period covered by this report, the Federal Ministry for Education and Research together with the Länder promoted a large number of pilot projects for environmental education within the context of the Federal Government/Länder Commission on Educational Planning and the Promotion of Research as well as research projects.

762. Environmental associations are pursuing many environmental education activities. Many of them are supported financially by the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety. In addition, some of them run environmental education centres promoted by the German Bundesstiftung Umwelt (Federal Environmental Foundation). Many of the environmental associations have their own youth associations, e.g. BUND, Naturfreunde, Greenpeace or NABU. Special importance is attached to these youth associations because this is where the young people organize themselves and acquire skills in order to be able to successfully assert their own objectives. It is not only friends of nature, nature conservationists, rambler's associations and scouts' organizations that are active, but also political, cultural and sport youth associations. They allow young people to get to grips with environmental problems outside school in the most varied forms and to practise practical ecological action.

763. Furthermore, special events have an environmental educational character, for example, the "Children's Nature Summit". Originally called into being by *Natur* magazine, in the reporting period children from all over Germany recently met to discuss ecological questions, most recently in 1995. In a so-called "Generations' Pact", entitled "We are *One World*", the children brought together demands such as "Save Fuel and Energy", "More Play Streets: fewer and more environmentally sound cars and better public transport" and "Stop the Exploitation of Animals and Animal Cruelty". Celebrities from politics and society signed the pact and undertook to stand up for the implementation of selected demands in their environment. A publication of the event promoted by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth served to disseminate the ideas developed by the children.

764. The involvement of children and young people in the "Local Agenda 21" deserves attention. These campaigns, following chapter 28 of Agenda 21 adopted at the Rio Earth Summit in 1992, discuss local ecological issues with the involvement of the administration and the public as well as organizations and develop approaches for action.

765. Not least, the media play an important role in connection with environmental education because they reach very many children. An outstanding example is "*Sendung mit der Maus*" on a public service TV channel. Among other things, it provides information about ecological issues in a way that children can understand.

766. Rhineland-Palatinate can serve as an example for the activities of the Länder. There, the assumption is that children can only learn to understand their own lives by experiencing nature; that experiencing nature promotes imagination and creativity as well as community with others; and that an intensive experience of nature in childhood also creates the basis for subsequently standing up for the protection and conservation of the natural foundations of life. The Land therefore promotes the project "Child-Friendly Environment". This includes a study, the "Action Scope of Children in Rural Areas", which shows that the scope of action available to children is frequently limited to very limited, not only in the towns, but also in the country. The brochure "Experiencing Water and Nature - ecologically oriented spaces for play and experience" and an associated travelling exhibition give ideas of semi-natural habitats. In 1997 the budgetary prerequisites were created to give financial support to local authorities and voluntary organizations carrying out activities in this field.

C. Education, leisure and cultural activities (art. 31)

Peace, leisure, play

767. Special significance is attached to play in the lives of children in Germany. Play is recognized as a natural form of expression for children. An indication of the importance of play is the fact that in Germany there is an association, *Das Recht des Kindes auf Spiel* (A Child's Right to Play), which deals with this issue.

768. From an educational point of view, too, great importance is attached to play. This is expressed in learning in school and - even more - in nursery schools. The younger the children are, the more time they spend playing without a purpose and in educational play. Curricula for schools tie in with the importance of play for children's development. An example of this may be the volume entitled *Hier spielt sich das Leben ab. Wie Kinder im Spiel die Welt begreifen* (*This is Where Life Happens. How Children at Play Understand the World*) from the *Praxisreihe Situationsansatz*, commissioned by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth for day-care establishments.

769. The State can create important framework conditions that allow children to play in public areas in their free time. Laws and standards as well as recommendations contribute to there being a large number of public play areas. Increasingly, children themselves are involved in planning play areas so that they meet the needs of children (cf. chapter III.D). In recent years the number of skating tracks, which address older children in particular, has greatly increased.

On the importance of sport

770. In Germany there is no other leisure activity in childhood that has gained in importance in recent years and reached more children than sport. This is especially true for sport in clubs as well as for informal leisure sport and for private and commercial activities and amenities. This is also reflected in the positive assessment of school sport in relation to other subjects by both boys and girls.

Cultural education for children

771. Cultural education has a high standing in Germany. Young people extend their means of expression by taking part in relevant activities, get to grips with their own situations and the situations of other people and develop ways of shaping their lives sensibly.

772. Cultural education is a fixed component of work in educational institutions. In the nursery school sector a separate educational focus has developed with a reference to Reggio educational science in recent years.

773. In the cultural sphere, the entire spectrum of culture is open to children with music, drama, art, dance, media, literature, film and rhythmic. The umbrella organization *Bundesvereinigung Kulturelle Jugendbildung e.V.* alone brings together 48 associations and institutions that address themselves to children and young people. Multipliers can prepare for work with children at events, competitions, conferences, workshops, courses and festivals.

774. In the field of music alone there is a variety of extramural measures in the form of music schools, rock/pop music workshops, ensembles, choirs, children's and youth art schools, amateur music groups and orchestras, supplemented by Churches, associations and private youth organizations. Music schools in Germany, with almost 1,000 facilities used by approximately 1 million pupils, are very popular.

775. There are a large number of cultural activities for children. Some areas are listed here as examples:

- Public libraries;
- The Stiftung Lesen (Reading Foundation) encourages children to read. Its activities include "reading out loud competitions" and encouraging reading at school;
- The Youth Book Prize aims at disseminating good books;
- Many museums have an educational department aimed at bringing children to the visual arts in particular;
- In recent years, a strong movement towards children's museums has come about. The "Children's and Young People's Museum as a New Concept of Children's and Young People's Education" project funded by the Federal Government has created the basis for the work of children's museums.

776. The educational orientation of parents plays an important role in children's cultural leisure activities. Relevant studies indicate links between social origin and children's education-oriented leisure patterns. Parents with a higher social status are obviously more open to cultural values and make it easier to children to take part in the arts and musical instruments, drama and dancing, etc.

Promoting cultural education for children and young people

777. Within the context of the Federal Government's Child and Youth Plan, for about 15 years the Federal Government has been observing a constantly increasing demand for cultural education opportunities for children and young people. The importance of enabling children actively to take part in culture was emphasized by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in its "Guidelines for the Federal Government's Child and Youth Plan", which states: "Cultural education should enable children and young people to cope with culture and everyday life imaginatively. It should encourage creative-aesthetic action in the fields of the visual arts, film, photography, literature, electronic media, music, rhythmic, play, dance, theatre, video, etc. Cultural education should develop the ability to perceive complex social connections, strengthen young people's ability to judge and encourage them in the active and responsible shaping of society. At federal level this task is performed by central specialized organizations and institutions with qualified professional staff."

778. In the period between 1994 and 1998 the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth made some DM 75 million available for the federal measures. The Länder and the local authorities provided this amount many times over for cultural education. For example, the Land of Lower Saxony funded cultural education for children and young people in the amount of over DM 23 million in 1999 alone.

779. Competitions initiated by the Federal Government are especially effective forms of cultural encouragement for children and young people. They range from “*Jugend musiziert*” (Young People Making Music), “*Schüler schreiben - Treffen Junger Autoren*” (Schoolchildren Writing - Meeting for Young Authors), the “*Deutscher Jugendfotopreis*” (German Youth Photo Prize) to “*Jugend und Video*” (Youth and Video). The Federal Government intends to continue promoting these competitions at the high level already achieved.

780. The promotion of cultural education is largely a task for the Länder and local authorities. The Federal Ministry for Education and Research can make proposals as a result of research and pilot projects and try out and support new concepts. The Federal Government and the Länder are currently drawing up the programme “*Kulturelle Bildung im Medienzeitalter*” (Cultural Education in the Media Age) for the period 2000-2004 within the framework of the Federal Government/Länder Commission on Educational Planning and the Promotion of Research. It also comprises a series of innovative model trials that deal with new developments in incorporating art and new media in school lessons and in children’s leisure activities.

Leisure opportunities for the disadvantaged

781. In many spheres the participation of children in cultural and artistic life depends on the financial possibilities of the interested children and their families. The same applies to large numbers of leisure opportunities that, even more than in the cultural and artistic sphere, are operated commercially or have a commercial nature. Children from families that are living on or even under the poverty threshold are excluded from many cultural opportunities and large sections of the leisure market because they or their parents often cannot afford the fees.

782. As support for families with several children and for low-income families there are reductions on fees and entry charges in many areas. An example of the diverse support for children and families is the “Grants for Youth Holiday Measures in the Districts and Towns” awarded by the Land of Schleswig-Holstein within the framework of youth work. In Hamburg there is the “Hamburg Holiday Pass”, which gives information about the holiday programme and contains discounts for children and young people from low-income families.

783. Nevertheless, children affected by poverty remain excluded from many activities which would have been an important medium for developing their personality and encouraging their interests, solely for financial reasons. This leads to a structural disadvantage for these children vis-à-vis children from families in a better financial position, with far-reaching consequences for their school careers and the training and career opportunities that depend on this. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is aware of the importance of this problem and, as a first stage, will organize a conference on the subject of “Cultural Work and Poverty”. It hopes that this will give some indications of what may need to be done next.

International child and youth policy, child and youth work

784. In view of increasing globalization and the exchange of ideas and people across borders, with regard to the young generation it is increasingly insufficient to restrict a policy for children and young people to one's own country.

785. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth therefore promotes and supports programmes for meeting and cooperation between young people over 12 and specialized youth workers within the context of international youth policy. International youth policy thus contributes to getting to know other countries and cultures. The aim is to improve mutual understanding, remove prejudices and reflect critically on one's own viewpoint as well as to exchange experiences and cooperate across borders in the field of youth welfare.

786. The Federal Government's central promotion instrument for national and international youth policy in this field is, again, the Federal Government's Child and Youth Plan. Federal sponsors of youth work are given global instructions for international meeting programmes and they decide autonomously on their use, taking account of the guidelines in the Federal Government's Child and Youth Plan. In addition, a number of exchanges with countries within the context of special programmes have been carried out on the basis of bilateral governmental agreements.

787. International youth policy is embedded in foreign cultural policy, from which governmental agreements and arrangements with a total of 26 countries have resulted. Binational bodies, composed of government representatives and representatives of voluntary organizations, specify the funding modalities as well as the nature and extent of the exchange with the country in question. The German-French Youth Association and the German-Polish Youth occupy a special role in bilateral youth policy cooperation. The youth associations are autonomous and are financed by the Governments involved by contributions according to the principle of parity. Another youth policy emphasis is in German-Czech cooperation, for the purposes of which coordination offices were established in Pilsen and Regensburg in April 1997. Other regional emphases of bilateral cooperation include the countries of Central and Eastern Europe, including Russia, the countries of the European Union, Israel, Turkey and Japan and youth policy cooperation with some developing countries, e.g. Chile, Argentina and Colombia. Within the context of the "Southeast Europe Stability Pact" bilateral cooperation is to be established with some of the countries in this region.

788. Including the two youth associations, international youth work is funded from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth budget in the amount of DM 60 million. Exchanges with a total of over 300,000 participants are funded every year from funds of the Child and Youth Plan, the German-French Youth Association and the German-Polish Youth Association.

789. International youth policy is gaining increasing importance and assistance from programmes and activities of the European Union, such as the EU "Youth" action programme, which from 2000 onwards will integrate the previous programmes "Youth for Europe" and the "European Voluntary Service" project tried on the basis of the German model. Whereas the "European Voluntary Service" addresses young people between 18 and 25, the age range in the

“Youth for Europe” programme is 15 to 25. It is a programme of extramural youth education and aims in particular at increasing youth mobility. In addition to the bilateral and multilateral youth exchange, measures for specialist youth workers, cooperation between youth and specialist structures, youth initiatives with a European slant and youth information are also promoted.

VIII. SPECIAL PROTECTIVE MEASURES

A. Children in emergency situations

1. Refugee children (art. 22)

790. As already outlined in chapter III.B in the section “Taking the well-being of the child into consideration in asylum proceedings”, in its concluding observations on the initial report, the Committee on the Rights of the Child expressed its concern that a number of articles of the Convention that concerned foreign children “[did] not appear to be complied with”.

791. The Federal Government does not consider these allegations to be correct, and refers above all to the justification stated in chapter III.B. The Federal Government therefore also does not support any efforts that would suspend large sections of applicable law, especially with regard to the right of entry and of residence, as well as key provisions of asylum and asylum procedural law.

792. The Federal Government has variously outlined its position in this respect to parliament and the public and rejected demands to allow all minors under 18 travelling alone - regardless of whether they are seeking asylum or not - to enter Germany without applying either the third country ruling or the airport procedure so that a so-called clearing procedure can be carried out to determine their circumstances and whether an application for asylum should be made for them.

793. In principle, the same regulations about entry and the implementation of asylum proceedings apply to children travelling alone and seeking asylum as to adults. If they apply for asylum, an asylum procedure should be carried out in line with the statutory regulations - as for other foreigners - in which it is determined whether the conditions for granting asylum or for protection against deportation apply.

794. That is why the “airport procedure” introduced by the revision of asylum law in 1993 to speed up the asylum process should in principle be used with this group of people. The airport procedure should be carried out before a decision is made whether to approve entry for asylum-seekers who cannot identify themselves with a valid passport or alternative to a passport, as well as for foreigners from a safe country of origin within the meaning of article 29 (a) of the procedural law on asylum. An exception applies if, in individual cases, it is not possible to accommodate the asylum-seekers on the airport premises during the procedure. In practice, the airport procedure is irrelevant for unaccompanied minors under 16 because of the small number of cases. Furthermore, it should also be pointed out that for the protection of unaccompanied minor asylum-seekers under 16 particular attention is paid to their not suffering disadvantages in the asylum process because they cannot express themselves as well as adults. They are therefore cared for by specially trained staff. Their interests are represented by a carer during the asylum process who takes the place of the absent parent or other guardian.

795. The Länder are responsible for accommodating and providing for foreigners at the airport, as well as for accommodating and providing for asylum-seekers after entry into Germany. It is also their task to make the necessary arrangements for the accommodation and care of minors. There will be further improvements to the premises of Frankfurt/Main Airport by the Federal Government with the creation of new accommodation - including with respect to the special needs of unaccompanied children and families with children. The new accommodation will be ready for occupancy at the end of 2001 at the earliest.

796. All children and young people who have entered the country unaccompanied - regardless of their residency status under aliens law - have the same entitlements as German children and young people to the required social education assistance according to Social Code Book VIII - Child and Youth Welfare. If unaccompanied minors enter the Federal Republic of Germany, the youth welfare office checks whether and, where appropriate, which measures are appropriate and necessary to protect the minor. This check is carried out at the place of entry as soon as the youth welfare office has been consulted by the competent border authorities or at the place where the minor reports to the youth welfare office.

797. Generally, unaccompanied minor foreigners are initially provided shelter pursuant to article 42 of Social Code Book VIII. Furthermore, unaccompanied asylum-seekers under 16 are usually cared for in foster families, homes or residential groups with social worker support depending on individual needs - after an application for assistance has been submitted to the youth welfare office by the appointed guardian/carer.

798. Assistance with upbringing within the meaning of Social Code Book VIII is generally given by the youth welfare office if, in accordance with article 27 of Social Code Book VIII, the parent or guardian "is unable to ensure proper education and upbringing for the good of the child or young person". In this individual determination of need the youth welfare offices act within the framework of local authority self-administration, and are therefore subject only to the legal supervision of the competent State authorities. The local and supraregional offices in the Länder support the implementation of article 22, paragraph 1, of the Convention and refugee children in Germany are given appropriate protection and humanitarian assistance. In order to ensure the preservation of the rights of an unaccompanied or otherwise lone refugee child, in some Länder there are special initial acceptance facilities, so-called clearing offices, for unaccompanied minor refugees. In principle, all unaccompanied minor refugees are housed in these facilities until they are 16. In individual cases, young people between 16 and 18 are also accepted.

799. During a stay in the clearing office the individual circumstances of the unaccompanied minor's life and flight as well as the help required are clarified in order to be able to decide on the further measures and procedure with regard to aliens law, asylum procedural law, youth welfare law and medical care. Experienced specialist staff, frequently men and women from the same country as the children, are available as mentors.

800. These services, especially the help in upbringing, are always addressed to the specific individual circumstances of the children and young people to be supported. Any threat to the well-being of the minors is countered here, e.g. if specific quantifiable damage would probably arise as a result of the social, psychosocial or individual socialization situation in which the minors find themselves. Accordingly, there is special and appropriate assistance for girls who

are exposed to particular persecution, torture and oppression because of their sex. For example, specific offers within the framework of crisis intervention are made available and special promotion programmes in favour of girls are developed in gender-specific conflict situations.

801. For example, unaccompanied minors live in young people's flats with up to eight places and are cared for by educational specialists, including many fellow countrymen and countrywomen of the young refugees. These facilities are intended for older, independent young people. Younger, unaccompanied refugees are housed in facilities for assistance with upbringing and are cared for by socio-educationalists. In these facilities they are usually cared for together with German children and young people.

802. Some Länder have adopted special regulations for the care of unaccompanied minor refugees in order to do justice to the requirements within the meaning of article 22 of the Convention.

803. The Federal Government believes that the Federal Republic of Germany fundamentally meets the obligations resulting from article 22 of the Convention. The obligations of the States parties resulting from article 22 of the Convention do not, however, include making entry into Germany easier or possible for children who want to enter the country unaccompanied because the Convention does not affect the internal provisions on entry into a country and the residence of foreigners. When depositing the ratification instrument, the Federal Republic of Germany made a clarification with regard to the interpretation of the Convention in this respect in a declaration (cf. chapter I.B). Among other things, it wanted to emphasize that illegal entry or illegal residence by foreign minors cannot be viewed as permissible.

804. Furthermore, the Federal Government does not share the view of the Committee, expressed in the last sentence of paragraph 19 of the concluding observations, that the right to the provision of medical treatment and services for children seeking asylum does not appear to be interpreted in the light of the principles and provisions of articles 2 and 3 of the Convention.

805. Children seeking asylum, provided that there is no claim from a health insurance policy - have a legal entitlement to medical and dental treatment for acute illnesses and pain - just like adults, including the provision of medicines and dressings as well as other services needed for convalescence, recovery or relief from illnesses or the consequences of illnesses. Added to this are officially recommended immunizations and medically required preventive examinations. This means that the medical treatment and the services that are typically necessary in the (usually short) period of asylum are ensured.

806. Any services going beyond this may be granted if they are essential for safeguarding health in individual cases or are needed to meet the special requirements of children. The legal basis for this is found in articles 4 and 6 of the Asylum-Seekers Services Act. The competent authorities are required by law to officially ensure these services. If minor refugees are granted services by child and youth welfare, there is also an entitlement to assistance during sickness that covers all required medical services.

2. Children in armed conflicts (art. 38), their physical and psychological recovery and social reintegration (art. 39)

Statutory regulations

807. The protection of children in armed conflicts is guaranteed by article 77 of the Protocol Additional to the Geneva Conventions of 1949, and relating to the Protection of Victims of International Armed Conflicts and article 4 of the Additional Protocol relating to the Protection of Victims of Non-International Armed Conflicts. Both of these protocols were ratified by the Federal Republic of Germany in 1990 and thus became national law. The Federal Government contributes to spreading knowledge about the rules of international humanitarian law in armed conflicts, especially by relevant training in the armed forces. Above and beyond this, it provides general information that is mainly used in training staff and helpers in the medical and other aid organizations.

International efforts of the Federal Government

808. In its declaration made upon depositing the ratification certificate instrument for the Convention, the Federal Government stated that it regretted that according to article 38, paragraph 2, of the Convention children as young as 15 may take part in hostilities as soldiers. It was and is of the opinion that this age limit is not compatible with the well-being of the child within the meaning of article 3, paragraph 1, of the Convention. Furthermore, it declared that it would not make use of the opportunity of setting this age limit at 15 opened up by the Convention.

809. Accordingly, in the period under review the Federal Government advocated for raising the age limit to 18 with reluctant countries, both in bilateral talks and together with EU partners.

810. Against the background of the Machel report and on the recommendation of the United Nations General Assembly, the Secretary-General of the United Nations appointed Olara Otunnu as his Special Representative for Children and Armed Conflict on 1 September 1997. The Federal Government promised the Special Representative its full support during his visits to Germany in autumn 1997 and autumn 1998. It had already supported the work of the Special Representative with a special contribution as early as 1997. In principle, the Federal Government is prepared to help fund this work in future. In 1998 the Federal Government called for the establishment of a group of interested countries and organizations at United Nations Headquarters which would give special support to the Special Representative in his work.

811. In the negotiations on the Optional Protocol to the Convention on children in armed conflict, the Federal Government advocated the minimum age of 18 for direct participation in fighting. From the point of view of the Federal Government it was also desirable to establish the minimum age of 18 also for indirect participation in action.

812. On 21 January 2000 the working group of the Commission on Human Rights in Geneva adopted the draft of the Optional Protocol by consensus. The agreement on the draft should be welcomed from the point of view of the Federal Government because it represents clear progress over the original provisions of the Convention. The draft meets the demand of the German

Bundestag that the Federal Government support the minimum age of 18 for participation in fighting. The Optional Protocol specifies the minimum age for direct participation in fighting, for State and non-governmental forces, at 18.

813. Within the context of the negotiations on the ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, an application for amendment submitted by Germany led to the inclusion of child soldiers in the agreement.

814. The Federal Government has given practical help for the reintegration of child soldiers in an exemplary fashion by supporting the reintegration fund in Mozambique. There, 2,000 former child soldiers have found employment and new perspectives. In Angola and Uganda, too, the Federal Ministry for Economic Cooperation and Development supports projects for the reintegration of ex-combatants, including many children and young people.

815. Combating the phenomenon of “child soldiers” in the long term is only possible if its causes are also combated. This includes eradicating poverty and social disparities as well as preventing the supply of small-scale weapons and anti-personnel mines. German development cooperation supports mine clearance projects. Children, in particular, are often the victims of mine explosions. In the last five years the Federal Ministry for Economic Cooperation and Development has spent some DM 31 million on bilateral projects in the countries most affected by landmines. With the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction that entered into force in early March 1999 (cf. chapter I.A), victim welfare and the social reintegration of mine victims are gaining in importance.

816. Furthermore, the psychosocial situation of former child soldiers also has to be considered. For example, in cooperation with Medico International the Federal Government is sponsoring a project for the psychological rehabilitation of children and young people traumatized by war, especially former child soldiers and militias, in conjunction with their families and village communities.

Military training and international humanitarian law

817. Since the establishment of the Federal Armed Forces, military training in the Federal Republic of Germany has been based on the needs of international humanitarian law. Passing on knowledge in international humanitarian law is a permanent component of the basic and further training of soldiers of all ranks. For officers and non-commissioned officers it is part of the core area. The focus of the training of Federal Armed Forces soldiers in international law is on a practice-related representation. The soldiers are taught about dealing with issues relating to international law using specific examples. The purpose of international law teaching is not just to pass on knowledge, but above all to develop an awareness of right and wrong even in crises and war and to gear the individual soldier’s behaviour to the requirements of international humanitarian law in every situation. The legal advisers, law teachers and law lecturers of the Federal Armed Forces who teach international humanitarian law take part in an international scientific exchange of opinion about international humanitarian law.

Measures for the recovery and rehabilitation of children who have become victims of armed conflicts

818. The recuperation of children and youths is a task within youth work, according to Social Code Book VIII. The activities include visits by children and young people to holiday camps. The target groups also include children and young people from crisis regions, especially children and young people from the Commonwealth of Independent States affected by radiation. These measures are carried out especially intensively in some Länder, e.g. Thuringia, and are a contribution within the meaning of article 39 to ensure that the recovery and reintegration of the affected children takes place in an environment that promotes health.

B. Children in contact with the juvenile justice system

1. Youth jurisdiction (art. 40)

General information

819. The foundations of policy with regard to children who come into conflict with the law were described in detail in the initial report. The following observations therefore mainly cover developments in the last few years and accompanying measures to combat crime among children and young people.

820. Combating the increased child and youth crime recorded in the period of the report is a duty of all groups in society as well as the State. In particular, parents, families, schools as well as socialization bodies such as Churches and associations, State and private youth welfare and, not least, the media and the public have the task and duty to bring up children and young people to lead law-abiding lives in society.

821. Against the background of clearly increasing pluralization and differentiation of society since the 1980s, with simultaneous globalization, growing up into the adult world is becoming more difficult for children and young people. A convincing passing on of values, a balanced upbringing that avoids violence and reacts to socially harmful conduct at an early stage, as well as sound training that ensures sufficient career perspectives can give help and teach social skills.

822. In Germany there are statutory regulations and specialist socio-educational instruments for dealing specifically with crime and violence among children and young people. Social Code Book VIII, revised in 1990, and the Youth Court Act, revised in the same year, pursue the goal of increasingly replacing punishment by diversion, intervention by prevention and repression by social education and help.

823. The action of the Federal Government is based on the finding that child and youth crime cannot be effectively countered with the means of criminal law and repression. Although it is indispensable to react quickly and consistently to youth perpetrators and thus ensure that they will be apprehended, it is undisputed that the approach developed in the 1980s of applying the principle of “education ahead of punishment” in youth penal law and youth sentencing should be continued.

824. For delinquent children who are not of the age of criminal responsibility, help in social education can be ordered according to Social Code Book VIII; this can also take place against the parents' wishes on the basis of a judge's decision. The purpose of the assistance is to make up the educational deficit that the crime has revealed. The law provides for a broad range of assistance measures in such cases, from social education advice to placement in a home. However, the commission of a crime is only the excuse for granting youth assistance; the real reason for granting help is the need for help expressed by the crime. The youth assistance measures are therefore not an alternative to punishment for children not of the age of criminal responsibility.

825. According to the organization of areas of responsibility in the Basic Law, the performance of the tasks of child and youth welfare, and thus implementation of Social Code Book VIII, lies with the youth authorities in the Länder. The districts, the towns and the local authorities that are part of a district but have their own youth welfare office perform this task within the framework of local authority self-administration. Crime prevention measures within the context of child and youth welfare are therefore primarily local authority tasks.

826. There is consensus among the Federal Government and the Länder that there should be better and more effective cooperation between schools, youth welfare services, the police and the justice system and other institutions to counteract child and youth delinquency in the long term. At this point in particular, there is still considerable potential for improvements. Initial trials have produced promising results in terms of better cooperation.

827. In June 1997 a conference of all Youth Ministers of the Länder confirmed the intention of the Länder to combat delinquency and crime more effectively. Their decision on "Child and Youth Delinquency - a Challenge for Youth Policy" contains various youth policy recommendations which can stop the spread of crime and violence if they are implemented universally by the Länder and the local authorities. Several Länder have now adopted programmes against crime and violence among young people.

828. In the last few years the Federal Government has carried out a number of model measures to research the causes and background to the rising crime among children and young people and to try out new ways and approaches for countering this trend. In its response to the SPD parliamentary party's "Youth Penal Law and Prevention Strategies" (German Bundestag, 1997), the Federal Government outlined in detail its level of knowledge on and its assessment of the scope and need for action. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is currently conducting a number of further studies and projects as well as research projects concentrating on children and young people at risk of delinquency and violence. They include:

- A project on children's conflict behaviour in child day-care facilities;
- A multi-part model programme "The Street Habitat - Adolescents and Young Adults in Special Problem Situations";
- Integration programmes for adolescent immigrants in the form of proactive social work to prevent alcohol and drug abuse as well as violence;

- A national campaign on “Sport and Safety”;
- Support for youth commissions at police stations;
- Research projects on the causes and family backgrounds of delinquency among children below the age of criminal responsibility and the reasons for the increase in the number of girls prepared to use violence and at risk of committing crimes.

829. Media educational material in the form of handouts and letters to parents on the subject of “Preventing Violence” is available to advise parents and families in bringing up a child or adolescent with a tendency towards violence.

830. Upon the suggestion of the Federal Government, pilot projects are currently being carried out in several Länder that are studying the dividing line between episodic delinquency and a criminal career among children and young people. They are also studying whether there was any special need for counselling and help between coming to the attention of law enforcement at an early age and recidivism. The Federal Government promotes the specialist back-up and evaluation of the State programmes on the prevention of child and youth crime with the objective of using the results all over the country.

831. In order to make appropriate approaches for prevention available across the country, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has set up a Centre for the Prevention of Crime and Violence Among Children and Young People at the Deutsches Jugendinstitut. By collecting available information and approaches and by the precise evaluation of experience in crime prevention, in debate and together with practitioners, the Centre should develop and disseminate suggestions that allow an early and targeted prevention of crime among children and young people. The Deutsches Jugendinstitut provides advice and support as a galvanizing, communicating and publicizing function by bringing together and interlinking the information, experience and ideas in the various fields of politics and practice.

Reintegration

832. In order to promote social reintegration and the acceptance of a constructive role in society by the child, and also to prevent custodial measures, lawyers and judges in the juvenile court system are increasingly using social education measures, such as those provided for in the Juvenile Court Act:

(a) Social training courses are supposed to teach young people strategies for action and ways of behaving to guide them towards improved social skills, a greater ability to deal with conflicts, a higher tolerance of frustration, more self-confidence and an ability to criticize, and thus have a positive influence on the further development of the young person. Participation is on the basis of a decision taken in the youth penal process;

(b) A care order is a means of social education that requires a young person to submit him- or herself to the supervision of a care assistant. This individual care aims at supporting young people in coping with development problems and becoming independent;

(c) Ordering perpetrators to try to come to an agreement with the wronged party, the so-called perpetrator-victim agreement, is supposed to arouse a feeling of responsibility for the victim in the perpetrators, to create a social and personal balance between the perpetrator on the one hand and the victim on the other, and to promote conciliation. The perpetrator-victim agreement is supposed to make good the damage caused by the crime by, especially, non-financial compensation, i.e. apology and conciliation;

(d) Charitable work by the young person is supervised by social educationalists. Areas of work include parks and green areas, homes for the elderly and the disabled, youth clubs and institutions of the sponsors of non-custodial measures.

833. One of the aims of the establishment of non-custodial measures for young criminals is to avoid sentencing young criminals. The family and the social environment should be kept, and its own strengths and social resources strengthened.

The Federal Government's reservation upon depositing the instrument of ratification

834. The Federal Government, upon depositing the instrument of ratification, made a reservation in respect of article 40, paragraph 2 (b) (ii) and (v) of the Convention. Specifically, it is about the areas of regulation cited in the reservation.

835. The German Juvenile Court Act contains the following provisions on the areas of regulation cited in the reservation.

(a) *Right to have "legal or other appropriate assistance" in the preparation and presentation of the defence*

836. Pursuant to article 137 of the German Code of Criminal Procedure, which also applies in the youth penal process according to article 2 of the German Juvenile Court Act, the accused can use the services of a defender in any part of the proceedings. The legal representative, too, can also independently choose a defender for the accused young person. A defender may be a lawyer approved at a German court or a law teacher at a German university. Furthermore, according to article 69 of the Juvenile Court Act, the chairman of the court can order counsel for the accused young person at any stage of the process if there is no case for necessary defence, i.e. if a lawyer does not need to be ordered officially. Furthermore, according to article 38 of the Act representatives of the juvenile court welfare service also play a part in trials in juvenile courts; they draw the attention of the court to educational, social and welfare aspects in trials. For this purpose, they support the authorities concerned by researching the character, the development and the environment of the accused young person and express an opinion on the measures to be taken.

837. Even if the accused young person does not avail him- or herself of these statutory guarantees, he or she is automatically given a defender

(a) If the accused is charged with a crime or if the main trial is taking place in the Regional Court, which is responsible for judging serious offences and crimes;

(b) If the involvement of a defender appears to be appropriate because of the seriousness of the act or because of the complexity of the state of affairs or the legal situation;

(c) If it is obvious that the accused cannot defend him- or herself;

(d) If the accused has been remanded in custody.

838. In cases of statutory so-called “counsel for the defence appointed by the court” jurisdiction has been extended to the youth penal process in cases where

(a) There is a possibility that a juvenile sentence will be imposed; this means at least six months’ custody in a youth custody centre;

(b) The charge is to be brought before the local criminal court.

839. Although this jurisdiction has not yet fully established itself, it will be legally anchored in the planned reform of the Juvenile Court Act.

840. In practice, the assignment of automatic mandatory defence of this kind is not required only in cases where the accusation is for a minor offence, where the state of affairs or the legal situation does not appear complex, or where the accused can adequately defend him- or herself and the charge is not brought before the Regional Court or the Youth Criminal Court; however, the accused can use the services of a defender at any time.

841. This provision in the Juvenile Court Act thus corresponds to the guarantees of article 14, paragraph 3, of the International Convention on Civil and Political Rights and article 6, paragraph 3, of the European Convention on Human Rights.

(b) *Obligation to have a sentence not calling for imprisonment reviewed by a “higher competent authority or judicial body”*

842. With respect to the opportunity to appeal against a judgement of the juvenile court, there is a special provision in the Juvenile Court Act that guarantees the speeding up of the process. Article 55 of the Act states that juveniles do not have two rights of appeal - an appeal on questions of fact and law and an appeal on questions of law only - but only one option for requesting a review of the judgement by a higher court, i.e. either an appeal on questions of fact and law or an appeal on questions of law only. However, this means that the requirement of the Convention under (v) is completely met, i.e. that it has to be possible for a decision to be reviewed by an independent and impartial higher court.

843. Decisions in which only educational measures or disciplinary measures are ordered cannot be challenged because of the extent of the measures or because other or further educational measures or disciplinary measures should have been ordered; however, educational and disciplinary measures do not have the quality or the character of sentences. However, if in such a case the judgement per se is not accepted, an appeal can be lodged with a higher court to assess the judgement.

844. The explanations given above clearly show that the reservation submitted by the Federal Government was submitted purely for precautionary reasons so that no confusing interpretations can arise because of corresponding declarations/reservations of the Federal Government on the International Covenant on Civil and Political Rights. Objectively, a reservation of this kind was not necessary.

2. Children in custody (art. 37 (b)-(d))

845. There are to be changes to the law in the field of remand custody in Germany. Specifically, a wide-ranging regulation is to be created in the form of a Remand Custody Act, which includes the structure of execution of remand custody for juveniles - in this case the age group of 14- to 18-year-olds. Special provisions are planned for these young remand prisoners in the light of the Convention which take account of the not-yet-completed development process of these inmates and the typical needs for their age. This should guarantee optimal, youth-specific remand custody.

Statistics

846. According to the most recent nationwide statistics, as of 31 March 1999 a total of 837 juveniles between 14 and 18 years of age were in remand custody - of a total population of approximately 82 million. The most recent nationwide data on the execution of youth custody also refer to 31 March 1999. At that time 899 juveniles were in youth custody. Their age structure was as follows:

Age	No. of juveniles
From 14 to under 15 years	11
From 15 to under 16 years	68
From 16 to under 17 years	248
From 17 to under 18 years	572

847. No official statistics are kept on the actual length of sentences served. The statistics on the execution of sentences contain only data concerning the so-called probable length of sentence served. This states the length of the sentence handed out minus the remand custody served. However, early releases, e.g. after the rest of the punishment has been suspended or a pardon has been granted, are not taken into account. This results in the following numbers of prisoners for the probable length of sentences served as of 31 March 1999:

Probable length of sentence served	No. of juveniles
Less than one month	2
One month to less than three months	2
Three months to less than six months	26
Six months up to and including nine months	98
Over nine months up to and including one year	130
Over one year up to and including two years	408
Over two years up to and including five years	222
Over 5 years up to and including 10 years	11

848. The main groups of offences were as follows:

Groups of offences	No. of juveniles
Theft and embezzlement	352
of which burglary including housebreaking	120
Robbery and extortion, violent attacks on drivers	316
Personal injury (not including road traffic offences)	89
Offences against life (not including road traffic offences)	20
Offences against sexual self-determination	40
Violations of the Narcotics Act	25

C. Child victims of exploitation, their physical and mental recovery and social reintegration

1. Economic exploitation of children, including child labour (art. 32)

The situation in Germany

849. Within Germany, the requirements of article 32, paragraph 2, of the Convention continue to be met primarily by the Youth Health and Safety at Work Act of 1976, which was considerably amended by the Second Act to Amend the Youth Health and Safety at Work Act of 1997. Above and beyond this, protection against child labour is defined by the new Ordinance on Protection Against Child Labour of 23 June 1998. These new statutory regulations have led to a number of changes in comparison to the Federal Government's initial report.

850. Since the 1997 amendment to the Act, a young person within the meaning of this Act is someone over 15 but not yet 18. The provisions that apply to children also apply to young people who are subject to full-time mandatory schooling.

851. The employment of children continues to be prohibited by the law. This prohibition does not apply to work for the purposes of occupational therapy, within the context of a school work experience programme or in fulfilling instructions from a judge.

852. Children under 13 may be employed only with an express exemption by the authorities and with parental permission, but only at certain events in the cultural and media spheres if the necessary protective measures are guaranteed. Once a child is over 4 years old it can be allowed to participate in musical events and similar events as well as the associated rehearsals for up to a total of two hours per day. Once a child is over 7 years old it can be allowed to participate in theatrical performances for up to four hours per day and in musical performances, etc. for up to three hours per day.

853. Once children are over 14 years old they may be employed without official permission if permission has been given by their guardian and the work is light and suitable for them. According to the legal definition only work that has no negative impact on the safety, health or development of the children, nor on their school attendance, their involvement in measures for choosing a future career or vocational training and their ability to follow lessons with benefit, shall be considered "light". Jobs that correspond to the physical and intellectual development level of the children or young people in mandatory full-time schooling are suitable. Time spent

on jobs of this kind must not exceed two hours per day or three hours on family farms. The children may be employed only in the time from 8 a.m. to 6 p.m., not before and not during school hours, for no more than five days in the week; they may not be given hazardous work, e.g. with dangerous substances and biological materials, and they may not be given piecework or work depending on speed. Deviating from these regulations, young people in mandatory full-time schooling may work for a maximum of four weeks per calendar year in the school holidays.

854. The Federal Government passed the Ordinance on Protection Against Child Labour of 23 June 1998 to define the light work that is suitable for children. According to this, the usual and socially recognized activities are allowed, such as delivering newspapers and magazines, help in private households, taking messages and going shopping, babysitting, giving private lessons, helping with sport and help in agriculture. Employment in the commercial sector, in manufacturing or in trade will still not be allowed in the future. Work of this kind is not reasonable for children and young people of this age.

855. In order to achieve better implementation of these protective provisions for children and young people, in the Second Act to Amend the Youth Work Protection Act the penalty for violations of the Act has been raised from DM 20,000 to DM 30,000.

856. On the occasion of the adoption of the Second Act to Amend the Youth Work Protection Act, the Bundestag called on the Federal Government to submit a report on child labour in Germany to it three years after the Act had come into force. The report, which was submitted in the year 2000, talks about the impact of the amended regulations on child labour and especially about experience with the Ordinance on Protection Against Child Labour.

857. Practice in Saxony-Anhalt and Thuringia provides an insight into specific protection against youth labour. In Saxony-Anhalt, the provisions of the Youth Work Protection Act are monitored by the competent Land trade supervision offices, mainly within the framework of company reviews. In addition, in the summer months more checks are carried out in plants where holiday jobs are offered. Furthermore, preventive measures are used to make employers, parents, training staff and the public keenly aware of the problems of youth work protection. In addition to the publication of information brochures and leaflets, these measures include cooperation with the youth welfare services, school supervision authorities, associations of skilled crafts and the chambers of commerce and industry.

858. In Thuringia an extensive check carried out in 1995 revealed 23 cases of illegal child labour, of which 19 were in commercial facilities. Where there were cases of illegal employment it was stopped immediately. Rulings were made according to the severity of the violations and two proceedings for the imposition of administrative fines were started. In addition, the work protection authorities checked over 700 reports of income tax cards issued to children.

859. An information document on child labour for parents, teachers and the schoolchildren themselves has been published for the purposes of advice and explanation. Furthermore, the Thuringian Ministry for Social Affairs and Health started an extensive survey among 4,800 schoolchildren with the aim of objectively recording the extent and nature of child labour in Thuringia. The results were published in a brochure. There are plans to repeat the survey of schoolchildren in 1999.

860. In December 1997 the offices for labour protection carried out an unannounced special control of illegal child labour in commercial facilities, such as branches of chain stores and in supermarkets. Illegal child labour was not detected in a single case. It can be assumed that the campaigns to inform schoolchildren, parents and teachers as well as the advice and instructions for employers by the offices for labour protection are already bearing fruit.

861. The Land Committee for Youth Work Protection, which meets regularly, advises the Land authority, especially in matters relating to the legislative process, calls on experience gained from investigations and studies on complying with the Youth Work Protection Act, and publishes relevant information material for use in schools, vocational training, commercial operations and associations of skilled crafts.

International cooperation

862. According to estimates by the International Labour Organization (ILO), 250 million children between 5 and 14 years old around the world are working to safeguard their own and their families' survival.

863. The active involvement of the Federal Government in developing and negotiating the Worst Forms of Child Labour Convention, 1999 (No. 182) adopted at the International Labour Conference has already been mentioned elsewhere (cf. chapter I.A).

864. Within the framework of technical cooperation with the ILO, the Federal Ministry for Economic Cooperation and Development promotes the International Programme for the Elimination of Child Labour that has been ongoing since 1991. The aim of the Programme, which now comprises over 20 national programmes, is to raise international awareness of the problems of child labour and to put the Governments concerned in a position to implement policies and programmes to combat child labour which, in particular, contain measures for working children with especially dangerous jobs. A total of DM 100 million have been made available so far.

2. Drug abuse (art. 33)

Statutory measures

865. The abuse of narcotics does not affect only children, but children need special protection in this sphere. In order to meet the requirements of article 33 of the Convention, the Narcotics Act of 1991, in the version promulgated in 1994 and most recently amended by an act of 28 March 2000, contains special penal provisions to protect young people. According to the Narcotics Act, there shall be a custodial sentence of no less than 1 year up to 15 years if a person over 21 years of age illegally sells, administers or hands over narcotics for direct use to a person under 18 years of age. If a person commits this offence on a commercial basis, he/she shall be punished with a custodial sentence of no less than two years. There is a custodial sentence for people over 21 years of age who incite a person under 18 years of age to illegally trade in narcotics, to import, export, sell, give away or otherwise bring them into circulation without engaging in the narcotics trade, or to encourage one of these actions.

866. Article 33 also requires measures in the social sphere and in education. These are provided in many ways in Germany, for example in school, by public education, by special educational assistance for young people at risk and addicts, by educational and protection activities carried out pursuant to Social Code Book VIII, by so-called “low-threshold” assistance, and by offers of outpatient, partial inpatient and inpatient care, follow-up care and rehabilitation. The basis for the measures is the national Plan to Combat Drugs of 1990.

Measures by the Federal Government

867. The Federal Government’s Child and Youth Plan funds pilot projects to give impetus to the further development and improvement of addiction prevention.

868. Thus, for example, an addiction prevention project organized by the Protestant Church in Württemberg was completed in 1996; its main focus was on working with young people at risk of addiction.

869. In the “RÄMMI DÄMMI” project, implemented by the Caritas Association of Münster diocese between 1995 and 1998, young people at 18 locations throughout North Rhine-Westphalia practised self-confidence and social learning through the medium of the “Have-A-Go Circus”. This was mainly concerned with learning self-confidence through play with instruction from experienced educationalists. The project was supposed to take effect at and prevent the roots of possible addictions; 150 children were able to practise acrobatic feats for a performance; their entire environment of parents, teachers and clubs was to be made aware of the subject of addiction in the process.

870. The “JUMP - Youth Pilot Project for Prevention” project carried out in the city of Nuremberg between 1992 and 1995 proved to be an especially effective measure that covered all areas of child and youth welfare, schools and the regional public from nursery school to youth, work with scientific back-up.

871. A pilot project to prevent eating disorders was promoted that, in two project phases, addressed girls aged between 12 and 15 and young women from 16 to 20 who were at high risk of addiction. Under the motto “How slim do I have to be to be loved”, approaches to gender-related addiction prevention were tried out with the aim of preventing anorexia nervosa. Under the title “On Preventing Eating Disorders”, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has published a document that describes the project and summarizes the results of the scientific back-up.

Measures in the Länder

872. The Länder, too, are active in combating drug abuse. The measures can be broken down into the fields of counselling and help, addiction-related proactive work, addiction prevention, and targeted educational assistance in individual cases. Measures along these lines that can usually be found in all of the Länder include:

- Drug counselling, alcohol and addiction counselling centres for young people;
- Land drugs commissioners;

- Counselling teachers on drug and addiction prevention;
- Campaigns, information events, seminars and specialist conferences on the subject of drugs and addiction;
- Publication of information brochures.

873. Above and beyond these measures, the Land of Berlin, for example, has undertaken to implement article 33 of the Convention on the Rights of the Child with the “Stockholm Resolution” of European Cities against Drugs. In the field of addiction prevention in Berlin there is a central “Office for Addiction Prevention” under the auspices of the Land Drugs Commissioner. Addiction prevention in schools is also regulated by a circular. Furthermore, there are 10 walk-in care centres for children and young people in social flashpoints in the city, a shared flat for minors at risk of addiction and various facilities for drug-using children and young people who live on the streets. There are also four mobile teams that can be requested from the city districts for a limited time.

874. In Hamburg the counselling centre for drug and addiction prevention of the Institute for the Further Training of Teachers gives teachers the qualifications to implement educational and teaching concepts to prevent addiction. Moreover, the curriculum for the training of teachers of “Health” makes dealing with the subjects of drug consumption and drug abuse mandatory. The counselling available includes help specific to girls and assistance to support care and families.

875. In the last few years the focus of addiction prevention in Lower Saxony has mainly been on the problem of “synthetic drugs”, but the multiplier training courses are now turning to the areas of “young people and alcohol”, “eating disorders” and “children from families with addiction problems”. Within the context of the campaign in Lower Saxony against alcohol abuse, an “Alliance for Responsibility - Less Alcohol, More Pleasure” was founded in Lower Saxony in which many organizations and institutions are to be involved in order to be able to act and conduct campaigns on the basis of a broad consensus in society. In 1999 in Hanover a ward was opened in a children’s hospital that intends to have close links between the clinical area and youth welfare in an integrated concept of detoxification, medical therapy and subsequent rehabilitation for drug-dependent children and young people. Furthermore, in the city of Hanover various voluntary youth welfare organizations are opening three shared flats for children and young people at risk from drugs with three to four places each.

876. In Thuringia the youth protection commissioners of the districts and towns have already established numerous projects aiming to prevent addiction, either on their own or together with voluntary youth welfare organizations. The youth protection commissioners of the districts and towns have the task of monitoring adherence to statutory youth protection with regard to the abuse of addictive material. The “Kids for Kids” project was carried out by the Landesvereinigung für Gesundheitsförderung Thüringen e.V. (State Association for Health Promotion in Thuringia) together with the public health and youth welfare offices, counselling teachers from the schools and various addiction counselling centres. The aim of the project was to promote a feeling of self-worth and to avoid conflicts. Furthermore, a great deal of importance is attached to the subject of “addiction prevention in schools”.

3. Sexual exploitation and sexual abuse (art. 34)

877. According to article 34 of the Convention, the States parties are obliged to take measures to protect children against all forms of sexual exploitation and sexual abuse. In Germany penalties have been made more stringent within the context of the efforts to protect the public as far as possible and also in the wake of the World Congress against the Commercial Sexual Exploitation of Children held in Stockholm.

Statutory measures

878. As early as 30 June 1994 an amendment to the statute of limitations for sex crimes perpetrated on children or young people entered into force that was not mentioned in the initial report. The regulation takes account of the fact that the victims of sexual abuse often need a long time to put enough distance between themselves and the crime or to recall suppressed memories. Many people who were abused as children do not feel ready to face up to a trial until much later. In order to prevent a situation where the victim finally decides to report a crime but the crime is already statute-barred, the regulation makes provision for the statute of limitations to be deferred until the victim is 18 in cases of sexual abuse of children, sexual coercion, rape and sexual abuse of people incapable of resistance. In practical terms this means that the sexual abuse of children can be reported with a statute of limitations until the victim is 28 and sexual coercion/rape - where the statute of limitations is 20 years - until the victim is 38.

879. The “Law to Combat Sexual Offences and Other Dangerous Offences”, which entered into force on 31 January 1998, also improves the protection of children against sexual abuse under penal law. Among other things, it lowers the requirement for a decree of preventive detention which is now imposed indefinitely in principle, even for the first time. In addition, it is made clear that the security interests of the general public should be taken into account when deciding on whether to place someone on probation. The basis for the court’s decision has been improved in that an expert opinion must be obtained and usually presented orally and discussed in court in the case of perpetrators at particular risk of recidivism. Furthermore, the law contains improvements in the area of supervision of conduct and makes provision for the mandatory admission of perpetrators capable of being treated to special socio-therapeutic institutions.

880. The sixth law to reform the penal law that entered into force took account of the concern for more stringent criminal penalties and much stricter sentences for the sexual abuse of children and the dissemination of child pornography: serious cases of sexual abuse of children are no longer classified as non-indictable offences, but as crimes. The reform has also introduced a new criminal offence of sexual abuse for the purposes of creating and disseminating child pornography.

881. In addition, the reform law has now extended the penal provisions against child abduction - now the abduction of minors - and introduced a new penal provision against the illegal trade in children so that the sexual abuse of children can be combated better with these provisions. Reference is also made to the comments in chapters V.E and V.H.

882. After the twenty-seventh law to amend the penal law of 1993 made the possession of child pornography showing an actual event - exempt from punishment at the time - subject to penalties, the Information and Communications Service Law, which entered into force on

1 August 1997, also made the possession and the commercial or mass dissemination of child pornography depicting events that could be construed as real subject to penalties (cf. chapter IV.G).

883. The relevant penal provisions that have applied in this problem area since the 1998 reform of the penal law have already been outlined in chapter V.J.

884. In order to ensure comprehensive protection of victims and witnesses, the Law on Protecting Witnesses when Questioning in Criminal Proceedings to Improve Victim Protection, the Witness Protection Law - was adopted and entered into force on 1 December 1998. This measure responded to a comment in paragraph 34 of the concluding observations of the Committee. Among other things, the law, unlike the earlier legislation, provides that in the case of civil action incidental to criminal proceedings a lawyer is provided upon application as counsel for victims of sexual offences and attempted murder as well as child victims of sexual offences, without income and assets being considered. It also allows the use of video technology in criminal proceedings for the first time. As a result, the showing of an earlier questioning often means that further questioning of the witness in the main trial is dispensed with or that the witness can at least be spared the often oppressive atmosphere of the courtroom and the confrontation with the perpetrators by means of questioning via a video link, which is especially important for the child victims of sexual crimes.

885. In addition, the Federal Government, under the auspices of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, has drawn up a work plan against child abuse, child pornography and sex tourism. It serves the purposes of the national implementation of the Declaration and Action Plan of the 1996 Stockholm Congress. The work plan contains a package of measures from the fields of education and prevention, legislation, as well as international criminal prosecution and victim protection, to combat the sexual abuse of children (Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, undated). An intermediate report on the further implementation measures of the work plan as of March 1998 has been published (Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 1998).

The principle of extraterritoriality in legislation

886. Finally, the penal law reform law extended a regulation with regard to so-called child sex tourism in order to improve criminal prosecution of Germans who sexually abuse children and young people under the age of 16 abroad.

887. In Germany those responsible are aware that investigations abroad are needed in addition to the criminal law regulations in order to protect children against German sex tourists. Therefore, in March 1998, 47 liaison officials from the Federal Office of Criminal Investigation were seconded to 35 locations in 32 countries. Since May 1998 the responsibility of these liaison officials has no longer been limited to certain crimes such as combating drugs and combating organized crime; the officials are therefore also responsible for combating the trade in children and the sexual abuse of children.

Technical cooperation and international support

888. A number of measures have been taken in Germany to facilitate investigations in cases of child pornography and child abuse.

889. To this end, a computer programme called PERKEO has been developed to recognize what are clearly examples of child pornography. PERKEO draws up checksums of picture computer files that are classified as clear child or animal pornography and puts them in a file as a basis for comparison. Within a short time PERKEO can search through large quantities of data and currently recognizes approximately 14,000 clearly child pornographic picture files and approximately 4,000 animal pornographic picture files. The programme is made available to police stations free of charge. Abroad, the programme is now used in 115 versions in 27 countries; Norway and Austria are currently examining whether PERKEO can be used nationwide by their police.

890. Upon the initiative of the Federal Office for Criminal Investigation, in 1997 the developer presented his programmes to the plenary of the tenth meeting of the International Criminal Police (INTERPOL) Standing Working Party on Offences Against Minors held in Budapest. Moreover, he was invited to the United States to try out the programme by America On Line, the world's biggest Internet service provider.

891. In order to set up a comparative collection of child pornography videos and picture sequences, work is continuing on the development of a child pornography picture database at the Federal Office for Criminal Investigation. It is hoped that the creation of a video library with digital images or still pictures made from films will make it possible to recognize child pornographic videos and picture sequences or already known manufacturers and distributors, as well as to classify and archive new material. The objective is to be able to evaluate child pornographic material as proof of the sexual abuse of children as well as centralize information about already known perpetrators and victims. The project, originally a bilateral endeavour with the Swedish police, is now being promoted by the European Union with the participation of several other countries.

892. In October 1998 the responsibility for the central conduct of research into data networks, regardless of the purpose, was transferred to the Federal Office for Criminal Investigations. In the first half of 1999 the responsible unit compiled 465 reports of suspected child pornography.

Cooperation with the target countries of sex tourism/international cooperation with foreign criminal prosecution measures

893. In order to speed up the proceedings on the German side, the Federal Ministry of Justice and the Federal Foreign Office agreed that in relations with the Philippines and Sri Lanka it will be possible to submit in advance judicial assistance documents from the competent German criminal prosecution authorities to the relevant German foreign representation, with the Federal Foreign Office and the Federal Ministry of Justice still having to be involved.

894. In autumn 1997 the then Federal Minister for Family Affairs, Senior Citizens, Women and Youth conducted talks with the Brazilian Justice Minister and representatives of the tourist

industry there on more effective action against child sex tourism. The Brazilian authorities have verbally promised to inform the German authorities more quickly in future if specific cases of child sexual abuse perpetrated by Germans become known.

895. Furthermore, Germany is actively working on drawing up an optional protocol to the Convention on the Rights of the Child. The Federal Government is also participating in “action for children” within the Asia-Europe Meeting (ASEM) process and will also participate actively in it because of the practical significance of this initiative.

Activities of the Länder

896. In the individual Länder pilot projects and specialist conferences are carried out on the subject of sexual abuse, differentiated prevention and training material are developed and counselling, therapy and rapid response in crisis situations are offered in child protection centres and services, for example. Children’s and youth counselling hotlines supplement these measures. The following examples present special emphases that are placed by individual Länder.

897. In Brandenburg, the Land parliament resolution “Measures to Combat the Sexual Abuse of and Sexual Violence towards Children and Young People” is a comprehensive catalogue of measures encompassing the fields of youth welfare, schools, basic and further training institutions, the police, the justice system, and health and social affairs, promoting their cooperation and mutual agreement and dealing with many measures in the field of prevention.

898. Two of four counselling centres in Hamburg are addressed only to girls and their adult female carers. The counselling centre on sexual abuse of the Institute for the Further Training of Teachers trains teachers how to deal with pupils affected by sexual abuse and explains what help is available for them.

899. In Lower Saxony the interests and needs of the girls and boys affected are to the fore in counselling in two child protection centres and 25 counselling centres. This includes family-related counselling. It is ensured that counselling for victims and perpetrators is not conducted by the same person and that specialists of both sexes are available for counselling. In the child protection centres there is still the opportunity to accommodate the affected children in a child protection flat or foster families in an unbureaucratic way. Furthermore, many individual prevention projects are promoted and interdisciplinary further training events initiated.

900. In Saxony-Anhalt the prevention of sexual abuse is emphasized in sex education. At the same time, pupils become familiar in an interdisciplinary way with alternatives to violence in the form of stress-reduction activities and conflict-resolution skills, as well as active school social work.

901. In Schleswig-Holstein emphasis in the promotion of pilot projects was placed on the complex of sexualized violence. In two different pilot projects prevention and training materials are being developed for use in voluntary youth work and schools. A third project develops concepts and carries out further training courses on the subject of sexualized violence against boys.

902. The Land of Thuringia refers to the need for interaction between different disciplines. The 41 educational, marriage, family and lifestyle counselling centres, the socio-paediatric centres, the school psychological services, child psychologists, therapists and doctors, children's and young people's homes or other shelter facilities as well as the specialist departments in the youth welfare offices in the districts and autonomous towns work together effectively as partners.

Summary

903. The Federal Government feels that Germany is on the right path with regard to combating sexual abuse and child prostitution. It feels that it has been confirmed in this by the former Special Rapporteur of the Commission on Human Rights, Vitat Muntarhorn, who in a 1998 UNICEF study comparing the legal situations in this field in various European countries, stated that the national German legislation and its implementation were exemplary.

4. Sale of children, trafficking and abduction (art. 35)

904. Article 236 of the German Penal Code aims to combat child trafficking in penal law. The relevant penal provision, formerly part of the Adoption Arrangement Act, has been considerably extended with the sixth law to reform the penal law and now offers far-reaching protection against all manifestations of an illegal trade in children:

(a) Parents who with gross negligence permanently transfer the care or upbringing of their child who is under 14 to another person and act for a fee or with the intention of enriching themselves or a third party in the process, are punished with a custodial sentence of up to five years. In these cases, the person who takes the child in permanently and charges a fee for this is also punished;

(b) A person who arranges the adoption of a person under 18 or carries out a mediating activity with the aim of a third party permanently taking in a person under 18 without authorization and for a fee or with the intention of enriching him/herself or a third party, is punished with a custodial sentence of up to three years;

(c) A custodial sentence of up to five years can be imposed if the perpetrator participates in the unauthorized arrangement of adoptions where the person being adopted is moved over the German borders in either direction;

(d) In serious cases the range of punishment is a custodial sentence from six months up to 10 years. This is for commercial or mass trade in children as well as offences where the physical or mental development of the child or the person being adopted is seriously endangered.

905. The trade in children must also be combated internationally. As already outlined in chapter VIII.C.3, the liaison officials of the Federal Office of Criminal Investigation also support investigations in the field of trafficking in children.

5. Other forms of exploitation (art. 36)

906. Under certain circumstances, one form of exploitation can be the removal of organs for transplants. The Transplant Law that entered into force in 1997 transfers authorization for organ removal from the deceased and living people to a special statutory foundation. This protects the physical integrity of children because the living donation of organs and tissue subject to the area of application of the law is not permitted for minors and people unable to give consent. Furthermore, the Transplant Law contains regulations on respecting children's post-mortem rights of self-determination. An objection to post-mortem organ donation can be declared over the age of 14, permission granted over the age of 16. Post-mortem organ donation is permitted only if the deceased had consented to organ donation when alive or - if there is no declaration - the next of kin agree.

D. Children belonging to a minority or indigenous group (art. 30)

907. Germany attaches great importance to the protection of minorities and extensively fulfils the obligations laid down in article 30.

908. The Council of Europe Framework Convention for the Protection of National Minorities entered into force for Germany on 1 February 1998. The instrument applies to the Danish minority, the Sorbian people and the Friesians in Germany as well as the German Sinti and Romanies. The members of these four groups are German nationals. The European Charter for Regional or Minority Languages entered into force for Germany on 1 January 1999. The minority languages within the meaning of the Charter that are protected and promoted in Germany by means of specific undertakings are Danish, Upper and Lower Sorbian and North and Sater Friesian, as well as the Romany spoken by the German Sinti and Romanies.

909. Declaring oneself a member of the national minorities and the other groups of people traditionally native to Germany is at the initiative of the individual. Belonging to these groups is the personal decision of every individual and is not registered, checked or disputed by the State. There are no statistics based on ethnic characteristics. That is why there are only estimates of the numbers of members of these groups.

910. The rights cited in article 30 are already completely guaranteed in Germany for the members of the protected groups by the Basic Law. Equality before the law and the prohibition of unequal treatment that is not objectively justified are the cornerstones of a democratic State and, at the same time, the protection of national minorities, the aim of which is the peaceful coexistence of different national groups in a State characterized by tolerance. The principle of equality before the law and the prohibition on discrimination are laid down both in the Basic Law of the Federal Republic of Germany and in the constitutions of the Länder and in various laws for specific areas.

911. The central provisions in the Basic Law are article 3, paragraph 1, according to which all people are equal before the law and article 3, paragraph 3, first sentence, which prohibits favour or prejudice because of sex, birth, race, language, national or social origin, faith, religion or political opinions.

912. In addition, of special importance are the general right of personal freedom contained in article 2, paragraph 1, of the Basic Law, which - among other things - makes the use of one's own language, maintaining an independent culture and preserving one's own identity the decision of each individual, and article 4, paragraphs 1 and 2, of the Basic Law, in which the freedom of religion, conscience and creed as well as the undisturbed practice of religion are guaranteed.

913. The rights contained in article 30 are realized by the State, above and beyond the guarantees of the Basic Law, through the implementation of the international obligations of the Council of Europe conventions cited above. There are separate schools and libraries devoted to preserving the identity of the protected groups and their children. Where this cannot be realized appropriately because of the settlement density and the cultural traditions of the protected groups, the special cultural features of the groups are accommodated within the framework of the State schools. In particular as a result of the implementation of the obligations of the European Charter for Regional or Minority Languages, the conditions are increasingly being established that further facilitate the use of their own language by members of the protected groups and their children, not just in private, but also with government agencies.

914. Germany submits extensive and detailed national reports to the Council of Europe about the measures taken to implement the obligations of the Framework Convention for the Protection of National Minorities and the Charter for Regional or Minority Languages.
