

Universal Periodic Review (30th session, Apr-May 2018)
Contribution of UNESCO
Contribution of UNESCO to Compilation of UN information
(to Part I. A. and to Part III - F, J, K, and P)

[Germany](#)

I. Background and framework

Title	Date of ratification, accession or succession	Declarations /reservations	Recognition of specific competences of treaty bodies	Reference to the rights within UNESCO's fields of competence
Convention against Discrimination in Education 1960	State Party to this Convention (17/07/1968)	Reservation to this Convention shall not be permitted		Right to education
Convention on Technical and Vocational Education 1989	Not a State Party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	23/08/1976 Ratification	<i>Germany declared not to be bound by the provisions of Article 16, paragraph 1.</i>		Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage 2003	10/04/2013 Acceptance	<i>The instrument of acceptance was accompanied by the following declaration: "The Federal Republic of Germany declares, in accordance with Article 26, paragraph 2, of the Convention, that it shall not be bound by the provisions of paragraph 1 of that Article." [Original: English]</i>		Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural	12/03/2007 Ratification	<i>Declaration of the European Community in application of Article 27(3) (c) of the Convention indicating the competences transferred to the Community by the</i>		Right to take part in cultural life

Expressions 2005		<i>Member States under the Treaties, in the areas covered by the Convention.</i>		
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Right to education

II. Promotion and protection of human rights on the ground

1. The **German Constitution of 1949** (last amended in October 2010),¹ known as the Basic Law (*Grundgesetz*) does not spell out an explicit right to education. This is due to the fact that Germany is a federal state and therefore, legislation on education falls within the competence of the *Länder* (Federal States). This applies to the school sector, the higher education sector, adult education and continuing education. Early childhood education is regulated on the federal level. Some basic considerations regarding the school system, especially regarding religious instruction, are laid down in Article 7 of the Basic Law and the freedom of teaching is spelled out in Article 5 (3).
2. In terms of reporting to UNESCO, Germany has submitted a report within the framework of the **9th (2016-2017) Consultation of Member States** on the measures taken to implement the UNESCO Convention against Discrimination in Education as well as within the framework of the **8th (2011-2013) Consultation**. Germany also reported on the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms within the framework of the **5th (2012-2013)** and the **6th (2016-2017) Consultations of Member States**.

Freedom of opinion and expression

➤ Constitutional and Legislative Framework:

3. The Basic Law for the Federal Republic of Germany² guarantees freedom of expression in Article 5: “Every person shall have the right freely to express and disseminate his opinions in speech, writing, and pictures and to inform himself without hindrance from generally accessible sources. Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship.”
4. The Freedom of Information Law³ created a legal right of access to official information held by public authorities.

¹ Accessible on UNESCO’s Global Database on the Right to Education:

<http://www.unesco.org/education/edurights/media/docs/42b9fedc477cb207354da3e197fad78b8a61694c.pdf>

² https://www.gesetze-im-internet.de/englisch_gg/

³ http://www.gesetze-im-internet.de/englisch_ifg/index.html

5. Art. 103 of the Criminal Code on insult to foreign officials was repealed to take effect on 1 January 2018,⁴ but defamation is still a criminal offense under the sections 186-188 of the Criminal Code;⁵ the liabilities depend on the offence with the maximum sentence an imprisonment of up to five years.
6. In July 2017, the Federal Parliament passed a law⁶ to combat hate speech in social networks. The law aims to protect network users against hate speech and misinformation online by putting pressure on social media companies to respond to user complaints and delete criminal content from their websites. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression assesses that this law could have drastic consequences for freedom of expression on the Internet.
7. In particular the Rapporteur cites concerns regarding short deadlines for takedowns, severe penalties for social media, the lack of judicial oversight with respect to the responsibility placed upon private social networks to remove and delete content, the protection of anonymity, including protection against unlawful and arbitrary interference by state, etc.⁷

➤ Implementation of Legislation

8. Broadcasting is regulated on the level of the federal states (Länder). Independent broadcast councils, whose representatives reflect the “socially relevant groups” of society, govern public broadcasting companies in the states. The traditional public service broadcaster is set up as an independent and non-commercial organisation, financed primarily by licence fees. The organisational and legal structure of broadcasting corporations is defined in Länder laws.
9. The regulatory bodies on the level of federal states regulate private broadcasters, including issuance of licences to both terrestrial and cable operators. Each state has its own legislation to implement the above-mentioned regulatory activities.

➤ Safety of journalists

10. UNESCO recorded no killing of journalists and media workers in Germany since 2008.

III. Recommendations

⁴ <http://legaldb.freemedia.at/legal-database/germany/>

⁵ http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#StGBengl_000G52

⁶ https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/RegE_NetzDG.pdf?__blob=publicationFile&v=2

⁷ <http://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL-DEU-1-2017.pdf>

11. Below are the recommendations made within the framework of the 2nd cycle of the Working Group (13th session) on the Universal Periodic Review (July 2013):⁸

124.40. *Review the existing legislation that prohibited the wearing of religious symbols by public school teachers.*

124.58. *Continue enhancing and promoting human rights through expanding and broadening human rights education and awareness-raising programmes in the country.*

124.59. *Continue to develop comprehensive human rights training and education programmes for various sectors of society, including assessment measures.*

124.120. *Adopt immediate and positive measures to combat all forms of discrimination, xenophobia and related intolerance against the Sinti and Roma communities, regarding their access to housing, education, employment and healthcare.*

124.167. *Redouble efforts to ensure that girls and boys have an education with equal opportunities in terms of professional career, as well as to eliminate the difference in the remuneration of men and women.*

124.168. *Fully respect the choices of parents concerning the education of their children in accordance with arts. 14 and 18 of the Convention on the Rights of the Child.*

124.169. *Federal and State Governments, in consultation with civil society, broaden and intensify existing human rights training in schools as well as the routine training of police, security, prison and health personnel, and set up a monitoring and evaluation mechanism to assess progress.*

124.170. *Continue to adopt the necessary measures for the school enrolment of migrants' children to be mandatory in all federal states in accordance with national legislation and local commitments.*

124.171. *Include the promotion of multiculturalism in education curricula, including by sensitizing teachers to work in a multicultural environment.*

124.180. *Ensure equal access to employment, housing and education to ethnic minorities, especially women.*

124.184. *Continue improving the protection of human rights of migrants in the health, legal, social, education, economic and labour fields.*

124.193. *Take further steps to encourage migrant children in all federal states to strive for higher education or to complete professional training after leaving school.*

Review and specific recommendations

12. A number of the education-related recommendations addressed to Germany during the last UPR cycle focused on non-discrimination and equal opportunities, particularly of women, migrants and ethnic minorities. In this regard, several measures have been introduced.

13. Several recommendations concerned the rights of migrants in education, focusing notably on the protection of their human rights, their school enrolment and their access to higher education. In that respect, it should be noted that the Federal Training assistance Act (BAföG) was amended in 2014. Students from third countries with certain residence permits can now ask for assistance after 15 months in Germany

⁸ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/155/41/PDF/G1315541.pdf?OpenElement>

instead of previously four years, making it easier to financially cover their studies.⁹ Such measures should be particularly welcome.

14. The number of young people with a migration background dropping out during their bachelor studies is disproportionately high and migrant students face specific challenges since they are disadvantaged in two regards – due to their migration background and their economic situation.¹⁰ Therefore, Germany should be recommended to introduce measures to encourage young people with a migration background to continue their university studies, but also to support young people before university to lay the foundations for a successful pursuance of higher education.
15. In connection to education for refugees and migrants, it is worth noting that many German schools have introduced activities for refugee children coming to Germany, including German language lessons, homework tutoring or political education. Specific preparatory classes aim at integrating students with migration backgrounds have also been provided. In December 2014, the Federal Employment Agency, the Federal States, trade unions, trade associations and the Federal Government set up an Alliance for Vocational Training and Further Learning (*Allianz für Aus- und Weiterbildung*) to strengthen the dual and vocational training in order to support, among others, young people with a migration background. The alliance includes the introduction of a new support scheme (*Assistierte Ausbildung*) in the transition from school to vocational training, mentoring disadvantaged young people and supporting them in getting a certificate. In addition, more young people can now apply for assistance during their vocational training.¹¹
16. Although a recent report on education¹² shows that differences in education between persons with and without a migration background were reduced, it is important to keep in mind that differences in education are more often based on the socio-economic background of a person rather than their migration background.¹³ Therefore, Germany should also be encouraged to introduce additional measures to reduce socio-economic inequalities to reduce migration-specific differences and to protect migrants' right to education.

⁹ Bundesministerium für Bildung und Forschung, 2014, Beste Aussichten für Hochschulen und Studierende (Best prospects for universities and students). <https://www.bmbf.de/de/beste-aussichten-fuer-hochschulen-und-studierende-837.html> (accessed 02 June 2017)

¹⁰ Bundesministerium für Bildung und Forschung, 2017, Studienabbrecher beginnen häufig eine Berufsausbildung (university dropouts often start a vocational training) <https://www.bmbf.de/de/studienabbrecher-beginnen-haeufig-eine-berufsausbildung-4283.html> (accessed 06 June 2017)

¹¹ Bundesministerium für Arbeit und Soziales, 2016, Allianz für Aus- und Weiterbildung 2015-2018 (Alliance for Vocational Training and Further Learning 2016-2018). <http://www.bmas.de/DE/Themen/Aus-und-Weiterbildung/Allianz-fuer-Aus-und-Weiterbildung/allianz-fuer-aus-und-weiterbildung.html> (accessed 06 June 2017)

¹² Autorengruppe Bildungsberichterstattung, 2016, Bildung in Deutschland. Ein indikatorengestützter Bericht mit einer Analyse zu Bildung und Migration (Education in Germany. A report on the basis of specific indicators with an analysis of education and migration), <http://www.bildungsbericht.de/de/bildungsberichte-seit-2006/bildungsbericht-2016/pdf-bildungsbericht-2016/bildungsbericht-2016> (accessed 15 June 2017)

¹³ Bundesministerium für Bildung und Forschung, 2016, „Bildung in Deutschland 2016“ („Education in Germany 2016“). <https://www.bmbf.de/de/bildung-in-deutschland-2016-3010.html> (last accessed 06 June 2017)

17. Regarding access to education for ethnic minorities, especially Sinti and Roma, that the country was recommended to improve, Germany does not have a specific strategy as such, but rather general social inclusion policy measures promoting equal opportunities that also include Sinti and Roma. Several initiatives have been taken mostly at the local level, such as the Berlin Action Plan for the Inclusion of Foreign Roma of 2013.¹⁴ Nevertheless, Germany could be recommended to consider setting up measures at the federal level and spelling out a federal strategy to foster Sinti and Roma's inclusion, especially into the education system.
18. Several recommendations focused on the promotion of human rights education, in school, but also in the public sector. Since the education system and parts of the public sector (police, teachers' training) fall within the competence of the Länder, human rights education is implemented individually in the different Länder. The curricula of the different Länder spell out which of the subjects should focus on human rights education. Germany could be encouraged to assess the implementation of human rights education in the Länder.

➤ **Specific recommendations:**

1. Germany should be recommended to guarantee access to education for migrants and, to this end, to introduce measures aimed at reducing the socio-economic inequalities often faced by migrants.
2. Germany could be recommended to set up measures to foster the inclusion in the education system of Sinti and Roma communities and other ethnic minorities.
3. Germany could be encouraged to take measures ensuring and assessing human rights education.
4. Germany should be strongly encouraged to continue to submit state reports for the periodic consultations on UNESCO's education-related standard-setting instruments.
5. Germany should be encouraged to share with UNESCO any relevant information to update its country profile on UNESCO's Global Database on the Right to Education.¹⁵

Freedom of opinion and expression

19. The Government is encouraged to build further on the abolition of the "insult law" provisions and to decriminalize defamation and make it part of the civil code in accordance with international standards.

¹⁴ Senatsverwaltung für Arbeit, Integration und Frauen, 2013, Berlin Action Plan for the Inclusion of Foreign Roma.

[http://nws.euocities.eu/MediaShell/media/Berlin%20Action%20Plan%20for%20the%20Inclusion%20of%20Roma%20\(English\).pdf](http://nws.euocities.eu/MediaShell/media/Berlin%20Action%20Plan%20for%20the%20Inclusion%20of%20Roma%20(English).pdf) (accessed 06 June 2017)

¹⁵ <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/database/>

20. The Government is recommended to take into consideration the number of concerns of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression as outlined in Rapporteur's communication, reference: OL DEU 1/2017.¹⁶

Cultural Rights

21. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972),¹⁷ the Convention for the Safeguarding of the Intangible Cultural Heritage (2003),¹⁸ and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005),¹⁹ Germany is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Germany is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

Freedom of scientific research and the right to benefit from scientific progress and its applications

22. **Germany** submitted its National Report on the implementation of the **Recommendation on the Status of Scientific Researchers** (1974) for the **Second Consultation** covering the period from 2013 to 2016 (<http://unesdoc.unesco.org/images/0025/002527/252798e.pdf>). Germany reported that action had been taken in the country to promote the guiding principles of the 1974 Recommendation among multiple stakeholders, including the principles of respect for autonomy, freedom of research, non-discrimination and respect for the human rights of researchers.

¹⁶ <http://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL-DEU-1-2017.pdf>

¹⁷ Periodic Report available at: <http://whc.unesco.org/document/136521>

¹⁸ Periodic Report not available

¹⁹ Periodic Report available at:

http://en.unesco.org/creativity/sites/creativity/files/periodic_reports/old/germany_qpr_staatenbericht_2016_en_final.pdf