

**Universal Periodic Review
(44th working group session)
Contribution of UNESCO to Compilation of UN information**

Germany

I. RATIFICATION OF UNESCO CONVENTIONS

TITLE	Date of ratification, accession, acceptance or succession	Declarations/Reservations	Recognition of specific competences of treaty bodies	Reference to the rights within UNESCO's field of competence
Convention against Discrimination in Education (1960)	Ratification: 17/07/1968			The right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Ratification: 23/08/1976			The right freely to participate in the cultural life of the community
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Acceptance: 10/04/2013			The right freely to participate in the cultural life of the community
Convention on the Protection and	Ratification: 12/03/2007			The right freely to participate in the cultural life of the community

Promotion of the Cultural Diversity of Cultural Expressions (2005)				
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II. REVIEW OF LEGISLATIVE, REGULATORY AND POLICY FRAMEWORKS AND IMPLEMENTATION

A. RIGHT TO EDUCATION

Legislative, regulatory and policy frameworks

1. The Federal Constitution of Germany does not enshrine the right to education. At states' level, while some *Länder* enshrine the right to education in their Constitution, not all *Länder* do, such as Hamburg where the Constitution does not enshrine the right to education.
2. All of the 16 *Länder's* legal frameworks guarantee compulsory primary and secondary education for at least nine years, and free education for at least 12 years.
3. Pre-primary education is not compulsory in Germany and parental contribution obligations for pre-primary education differ at *Land* level.

Inclusive education

4. In the previous UPR, Germany was recommended to improve equal access to education including for students with migrant backgrounds and to address inequalities, including social inequalities, in the education system (155.190 and 155.189).
5. In its national report for the 1960 Convention 10th Consultation¹, Germany explained that:
 - In 2019, the Standing Conference of the Ministers of Education and Cultural Affairs (KMK) adopted a recommendation on strengthening educational language skills in the German language (*Bildungssprachliche Kompetenzen in der deutschen Sprache stärken*²) with concrete practical recommendations for all schools. This recommendation provides the *Länder* with an orientation framework for strengthening educational language skills in the German language (p.9)

¹ https://www.unesco.org/education/edurights/media/resources/file/Germany_-_CADE_10th_Consultation_Guidelines_Questionnaire_DEU_final.pdf

² https://www.kmk.org/fileadmin/Dateien/pdf/PresseUndAktuelles/2019/2019-12-06_Bildungssprache/2019-368-KMK-Bildungssprache-Empfehlung.pdf

- In 2018, a joint initiative was launched by the Federation and the *Länder* to promote high performing and potentially particularly high-performing pupils (*Leistung macht Schule*³). Against the background of an education policy aimed at equal opportunities, the initiative aims to ensure the best possible learning and educational success for all the pupils concerned, irrespective of their origin, gender or social status. It focuses in particular on children and young people from educationally disadvantaged families, especially those with a migrant background, and on gender balance, especially girls in STEM subjects. In the first five-year phase, the schools will be supported in the development of practical strategies and concepts for school and teaching development by an interdisciplinary research network financed by the federal government. (p.9)
- In 2019 the Federation and the *Länder* launched a programme to support schools in socioeconomically disadvantaged areas (*Schule macht stark*⁴). The programme aims to enhance opportunities for disadvantaged pupils by addressing the challenging situation in both urban and rural areas, as well as by fostering pupils' potential and talents. For the coming ten years, the Federation and the *Länder* are providing a total of 125 million euros for the initiative in equal parts. (p.9)
- In 2018, the Federal Government initiated a renewal of the 2015 National Action Plan on Integration coordinated by the Federal Government Commissioner for Migration, Refugees and Integration to further enhance processes between stakeholders. The Plan is based on five phases of a typical migration and integration process: prior to migration, upon arrival, incorporation, growing together, cohesion. Together with relevant ministries, the *Länder*, cities, local communities and civil society, the aim is to develop key measures and projects for each phase. The process involves more than 300 stakeholders, including more than 75 migrant organizations. The result will be a collection of approximately 150 measures and projects. (p.9)

Corporal punishment

6. While several *Länder* explicitly prohibit the use of corporal punishment in schools, no such provision has been identified, for example, in North Rhine-Westphalia or Lower Saxony.

Enrolment rates

7. The gross enrolment rates (GER)⁵ in 2020 were:
 - In pre-primary education: 108% in total, for girls and for boys;
 - In primary education: 101% in total, 102% for girls and 101% for boys;
 - In secondary education: 97% in total, 95% for girls and 99% for boys;
 - In tertiary education: 73% in total, 75% for girls and 71% for boys.

³ <https://www.leistung-macht-schule.de>

⁴ https://www.kmk.org/fileadmin/Dateien/pdf/PresseUndAktuelles/2019/2019-10-23_Schule_macht_stark_Bund-Laender-Vereinbarung.pdf

⁵ UNESCO UIS data

Government expenditure

8. In 2020, the percentage of GDP allocated to education was 4.7% and the percentage of total government expenditure allocated to education was 9.2%, which is less important than in 2019 (respectively 5.1 and 11.4).⁶

Digital education

9. In 2021, the Digital Education Initiative has been launched at the Federal Level⁷, aiming to improve digital literacy for people of all ages. Among the concrete measures that are taken under this initiative are an app that teaches data literacy and a National Education Platform.

Discrimination in education (UNESCO consultations)

10. Germany submitted a national report for the 9th and the 10th Consultation on the implementation of the Convention and the Recommendation against Discrimination in Education.

B. RIGHT TO FREEDOM OF OPINION AND EXPRESSION AND RIGHT TO INFORMATION

Constitutional and legislative frameworks

11. The Basic Law for the Federal Republic of Germany 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".⁸
12. The Federal Act Governing Access to Information establishes a legal right of access to official information held by authorities of the Federal Government.⁹
13. Defamation is a criminal offense under sections 186-188 of the criminal code, with a maximum sentence of up to 5 years imprisonment.¹⁰
14. In 2017, Germany passed the Network Enforcement Act (NetzDG) to improve law enforcement in social networks. This included the imposition of fines up to €50

⁶ sdg4-data.uis.unesco.org

⁷ <https://www.bundesregierung.de/breg-en/service/archive/initiative-digitale-bildung-1860892>

⁸ https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html

⁹ http://www.gesetze-im-internet.de/englisch_ifg/englisch_ifg.html

¹⁰ https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html

million¹¹ on social media companies with more than 2 million users for noncompliance with legal obligations to remove illegal content within a period of 24 hours.¹²

15. In 2021, the German Bundestag approved a reform to the 2016 Federal Intelligence Service Act (BND Act).¹³ This comes after the German Federal Constitutional Court ruled that the law was unconstitutional and instructed the Bundestag to reform the 2016 BND Act by 2021.¹⁴
16. In 2021, the German Bundestag approved amendments¹⁵ to the 1990 Federal Constitutional Protection Act,¹⁶ which removed legal provisions exempting journalists from surveillance and hacking in the context of terrorism investigations by federal police and intelligence services.

Implementation of the law

17. Broadcasting is regulated on the level of the federal states (Länder). Independent broadcast councils 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 license fees. The organisational and legal structure of broadcasting corporations is defined in Länder laws. The regulatory bodies on the level of federal states regulate private broadcasters, including issuance of licenses to both terrestrial and cable operators. Each state has its own legislation to implement the above-mentioned regulatory activities.
18. The broad scope of the Network Enforcement Act (NetzDG) and the assignment of responsibilities to actors who are not under judicial oversight raise concerns on potential impacts on freedom of expression.

Safety of journalists

19. Since 2006, when systematic reporting began, UNESCO has recorded no killings of journalists and media workers in Germany [as at 31 January 2023].

C. THE RIGHT TO SHARE IN SCIENTIFIC ADVANCEMENT AND ITS BENEFITS

¹¹<https://www.bundesanzeiger.de/pub/publication/OQ9ESKavUzbSVCH8nYU/content/OQ9ESKavUzbSVCH8nYU/BAanz%20AT%2025.05.2018%20B2.pdf>, p.9

¹² <https://www.gesetze-im-internet.de/netzdg/BJNR335210017.html>, §3

¹³[https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBI&start=/*\[@attr_id=%27bgbl121s0771.pdf%27\]#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl121s0771.pdf%27%5D_1666972683898](https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBI&start=/*[@attr_id=%27bgbl121s0771.pdf%27]#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl121s0771.pdf%27%5D_1666972683898)

¹⁴https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2020/05/rs20200519_1bvr283517.html

¹⁵ <https://www.bundestag.de/dokumente/textarchiv/2021/kw23-de-verfassungsschutzrecht-843408>

¹⁶ <https://www.gesetze-im-internet.de/bverfschg/BJNR029700990.html>

20. Germany submitted a national report on the implementation of the Recommendation on Science and Scientific Researchers (2017) from 2017 to 2020. The country's science landscape is shaped by its nature as federal republic, the constitutionally guaranteed freedom for sciences, research and teaching (article 5 of the Constitution), the relevant European Union framework programmes and the considerable share of private sector funding for research and development (R&D). In 2020, Germany invested 3.14% of its GDP on R&D.¹⁷
21. Germany reported progress in all ten key areas of the Recommendation. The most important policy document of the federal government is the "High Tech Strategy" which is geared towards human welfare and the "Grand Challenges" (ie. Health, Sustainability/Climate/Energy, Mobility, Urban/rural connections, Security, Future of Work, etc.). The German Sustainability Strategy of 10 March 2021 highlights the role of science and innovation for sustainable development. The large-scale federal Funding Programme FONA (translated: "Research for Sustainable Development") is equipped with roughly 800 million Euro per year. While the prioritization of research topics falling within the scope of the Agenda 2030 is increasingly seen as compatible with academic freedom, there is still no broad consensus about this.
22. The Federal Ministry of Education and Research (BMBF) adopted an Open Access Strategy that prompted inter alia the inclusion of an open access clause in the BMBF's funding regulations, communication campaigns and the creation of a publication fund. Several German states have also developed strategies on Open Access. To improve the science-society interface, the German Government has funded citizen science projects (a second phase initiated in autumn 2019), published a policy paper on strengthening science communication and proclaimed 2022 a national science year with focus on society's participation.
23. The Act to Align Copyright Law with the Current Demands of the Knowledge-based Society (UrhWissG) came into force on 1 March 2018 to create a science and education-friendly environment. It includes the mining of scientific text and data as well as the use of copyrighted works for scientific research and for teaching at educational institutions.
24. Several relevant laws such as WissZeitVG and BAFöG have been adapted and existing programmes continued to promote the place of women in science. While the share of women scientists has been increasing at all professional levels, the country acknowledges that there is room for improvement.
25. The responsibility of science is addressed through different rules and regulations, including on Data Privacy (cp. above), Research Integrity (cp. below), Dual Use, GMOs and research involving animals and human beings. Scientific integrity is advanced through institutions such as the "ombudsperson for science" which is based on self-regulation. As regards research on human beings, including embryos, Germany has ratified the

¹⁷ <https://data.worldbank.org/indicator/GB.XPD.RSDV.GD.ZS?locations=DE>

Oviedo Convention. In addition to the requirement for ethics commissions in relation to all state medical chambers and all university medical faculties, there are two permanent national institutions: the German Ethics Council and the permanent working group of all medical ethics commission in Germany.

26. The German STI system is regularly assessed. Comprehensive statistical data is collected in line with EU, OECD and UIS guidelines as appropriate (ie. the annual Federal Report on Research and Innovation) with emphasis on data disaggregation.
27. Evaluation follows different internationally agreed systems (such as the European Innovation Scoreboard, the Global Competitiveness Index, the Global Innovation Index) and increasingly in recent years with a multidimensional perspective, such as the STI contribution to the 2030 Agenda.
28. The “Internationalization Strategy” of the Federal Ministry for Research and Education contains chapters on promoting cooperation with the Global South and on addressing Grand challenges.
29. The pandemic brought to the fore challenges in the research policy nexus which need to be further addressed. Despite Germany’s ratification of the International Covenant on Economic, Social and Cultural Rights, the right to science is still not well-known in the German public.

III. RECOMMENDATIONS

A. RIGHT TO EDUCATION

30. Germany should be encouraged to:
 - i. Enshrine the right to education at the Federal level and take steps to encourage all *Länder* to constitutionally protect this right;
 - ii. Take steps to encourage all *Länder* to legally guarantee one year of compulsory and free pre-primary education;
 - iii. Continue its efforts to improve inclusive education particularly regarding migrants;
 - iv. Take steps to encourage all *Länder* to explicitly prohibit corporal punishment in schools in their legislation;
 - v. Continue to submit regularly comprehensive national reports for the periodic consultations on UNESCO’s education-related standard-setting instruments, and notably on the Convention against Discrimination in Education;
 - vi. Share with UNESCO any relevant information to update its country profile on UNESCO’s Observatory on the Right to Education¹⁸ and Her Atlas.¹⁹

¹⁸ <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

¹⁹ <https://en.unesco.org/education/girls-women-rights>

B. FREEDOM OF OPINION AND EXPRESSION AND THE RIGHT TO INFORMATION

31. Germany is encouraged to decriminalize defamation and incorporate it into the civil code, in line with international standards.
32. Germany is recommended to review its 2017 Network Enforcement Act to ensure judicial oversight and access to redress in cases where the nature of online material is disputed, and that any restrictions to online expression avoid the use of overly broad terminology in accordance with international standards.
33. Germany is recommended to review its 2016 Federal Intelligence Services Act to ensure that journalists are not surveilled and that their sources do not risk exposure.

C. RIGHT FREELY TO PARTICIPATE IN THE CULTURAL LIFE OF THE COMMUNITY (CULTURAL RIGHTS)

34. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), 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 civil society organizations, as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young people and persons with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

D. THE RIGHT TO SHARE IN SCIENTIFIC ADVANCEMENT AND ITS BENEFITS

35. Germany submitted its National Report on the implementation of the Recommendation on Science and Scientific Researchers (2017) for the consultation period from 2017 to 2020. Therefore, Germany is encouraged to report again to UNESCO on its implementation actions, especially noting legislative or other measures adopted by it with the aim to ensure application of these norms and standards in national law, policy and practice paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers themselves (rights of association, freedom of research, expression and publication, etc.) and human rights obligations related to the practice of science generally: the human rights related to access to and uses of scientific

knowledge through education; the sharing of benefits of scientific progress and its applications; the principle of non-discrimination, requiring in this case active promotion of women and girls entering scientific careers; protection for the rights of human subjects of research; and promotion of the science society interface. Furthermore, Germany is encouraged to expand input on issues covered by the 2017 Recommendation in its national report to the UPR to allow further discussions thereon at the Human Rights Council and the formulation of specific recommendations. Within this framework, Germany is urged to consider expanding the scope of application of freedom of expression to include scientists and scientific researchers and also to address the relevant dimensions of the right to science in its reporting on the impact of the COVID-19 pandemic and the assessment of responses thereto.