

Alternative Report of the Gewerkschaft Erziehung und Wissenschaft (GEW)
- The German Education Union -
on the Fifth Country Report of the Federal Republic of Germany
to the United Nations Committee for Economic, Social and Cultural Rights

Comment to be put before the Committee for Economic, Social and Cultural Rights
on 22nd November 2010 in Geneva
(Meeting of the Pre-sessional Working Group)

presented by
Dr. Andreas Keller

Member of the Executive Board of the GEW in charge of higher education and research

Dear Committee Members,

I would like to thank you for the opportunity to comment on our Alternative Report on Germany, which you have already received. The German Education Union is affiliated to the Federation of German Trade Unions (DGB). We represent more than 250,000 employees in all education sectors and are a member of Education International (EI), the international umbrella organisation of education unions. In preparing the Alternative Report we have co-operated with the Alliance for Economic, Social and Cultural Rights in Germany.

In our Report we refer to the state of implementation of Articles 13 and 14 (Right to Education and Right to Compulsory Education Free of Charge for All), Article 8 (Trade Union Rights), and Article 3 (Equal Rights of Men and Women).

(1) Articles 13 and 14 – Right to Education: inclusive education

The Country Report does not even mention Special Rapporteur Vernor Muñoz' visit to Germany in the spring of 2006. Therefore a number of matters raised during the visit of the Special Rapporteur on the Right to Education in his visit to Germany in 2006 are not treated in the Report: among others, that in Germany there are special schools alongside schools providing general education – attended by approximately five per cent of a year group; that the rate of integration of disabled children and young people into the regular school system is rather low in international comparison – just 15 per cent; and that in the period under consideration the Convention on the Rights of Persons with Disabilities was adopted by the United Nations.

This raises the following question:

- How does the Federal Republic assess the Report of the Special Rapporteur on Right to Education as a result of his visit to Germany in the spring of 2006 and what are conclusions of the assessment? How does the German government grant that all pupils and students have access to inclusive education?

(2) Articles 13 and 14 – Right to Education: tuition fees

With reference to Articles 13 und 14 the Committee expressed concern about the introduction of tuition fees in several of the Länder; this measure deviates from the principle of free higher education. The Committee recommended that the Federal Republic of Germany reduce tuition fees with a view to abolishing them altogether.

Regarding tuition fees the situation has severely deteriorated since 2001. I would like to stress that the Committee had already been concerned in 2001 about the introduction of an administrative charge to the average amount of 50 euros per semester in some of the Länder. Since 2006, seven of the Länder – Baden Württemberg, Bavaria, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, and the Saarland – have introduced substantial tuition fees; these apply in principle to all students and as a rule are charged at 500 euros per semester. Both Hesse and the Saarland abolished general tuition fees in 2008 and 2009 respectively. This means that at present five of the 16 Länder charge tuition fees from the first semester. More than half of the 2.1 million students in Germany are enrolled in these five Länder. The introduction of tuition fees in several of the Länder is a serious matter when considering that:

- a) access to higher education is in any case highly socially selective,
- b) empirical research studies have shown conclusively that tuition fees have a deterrent effect, and
- c) in Germany there is, no sufficient system in place capable of financing students' living expenses.

In general tuition fees will increase the already pronounced social selectivity of the German tertiary education system, that is, access to higher education for all, having a retrogressive impact in the implementation of the covenant

This raises the following questions:

- What is the position in relation to monitoring the effects of tuition fees which, is carried out by the Länder as announced in the Country Report? Will the social and gender specific effects of tuition fees be examined in relation to access to higher education?
- How does the Federal Republic of Germany intend to re-introduce free higher education progressively? What weight is placed on related legislative measures both at federal and Länder level?

(3) Articles 13 and 14 – Right to Education: human rights education

In its Concluding Observations to the fourth country report the Committee asked Germany to provide information on the current state and extent of human rights education.

In the fifth report the statements refer almost exclusively to schools providing general education. The report covers neither vocational schools nor the pre-school, primary or tertiary education sector. There is no systematic anchoring of human rights education themes in the curricula. As far as the teaching of human rights in schools is concerned, the actual question as to the extent of human rights education in schools is not answered.

This raises the following question:

- Could the Federal Republic of Germany raise and submit more detailed information and data concerning the extent of human rights education in schools and other educational institutions as the number of lessons devoted to human rights education, the number of international school partnerships with a human rights perspective, the number of teachers taking part in relevant further training courses, or the number of relevant examination or PhD theses?

(4) Article 8 - Trade Union Rights: strike ban for public servants

On Article 8, the Committee renewed its concern about the strike ban for public servants in 2001 which restricts the right to strike and exceeds lawful restrictions as detailed in Article 8,

2 of the Covenant. The Committee's recommendation was that the Federal Republic of Germany should grant the right to take strike action to public servants.

On this point we note that Germany still denies public servants the right to strike. This also applies to teachers who are not engaged in providing "essential services" within the spirit of the Covenant. Teachers whose terms and conditions at work are regulated by law must expect sanctions up to disciplinary measures under civil service regulations when they make use of their right to strike. This happened inter alia in Berlin in 2009, and in the Länder Bremen, Hesse, North Rhine-Westphalia and in Schleswig-Holstein in 2010.

This raises following question:

- How many civil servants were penalized by sanctions up to disciplinary measures for having taken strike agents? How many of them are teachers or otherwise not engaged in providing essential services?
- When will the Germany grant tenured civil servants the right to strike and to end the penalisation of teachers who take strike action?

(5) Article 3 - Equal Rights of Men and Women: shortage of childcare provision

The Committee expressed concern about the shortage of childcare provision and the negative impact this has on the equal participation of women in the labour market as well as generally for women's equality. The Committee recommended that the Germany increase childcare provision quantitatively, especially in the "old" Länder in West Germany. Nevertheless nowadays provision is still insufficient especially for children under three. According to the the Federal Statistical Office in 2009 only 20 per cent of under threes had places in nurseries, 45 per cent in the "new" Länder in East Germany, 15 per cent in the West.

This raises the following question:

- How will the Federal Republic of Germany secure the necessary expansion of nursery provision, particularly for under threes, and what provision will be made for the training of sufficient qualified staff and for the equipping of nurseries?