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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee
on Economic, Social and Cultural Rights

Federal Republic of Germany

1. The Committee considered the third periodic report of Germany on the implementation of the Covenant (E/1994/104/Add.14) together with the written replies to the list of questions at its 40th to 42nd meetings, held on 23 and 24 November 1998 and adopted the following concluding observations.¹

A. Introduction

2. The Committee welcomes the submission of the third periodic report which is the first report on the rights protected under the Covenant since the reunification of the two Germanies in October 1990. The report was submitted in general conformity with the guidelines established by the Committee.

3. It notes with appreciation that the report was presented by a high level delegation which was able to entertain an open and straightforward dialogue with the members of the Committee. The delegation pointed out at the outset that the new government of Chancellor Schröder has a different agenda from that of the former government on a wide range of socio-economic issues which accord job creation a high priority.

4. The Committee notes that the report had been prepared without the involvement of non-governmental organizations whose contributions were

¹At its 54th meeting held on 2 December 1998.

nevertheless valuable to the Committee for the consideration of the State Party's report.

5. The Committee notes that some of the replies given to the questions raised lacked precision and details on the following questions:

- unemployment in the new Länder
- the number of civil servants and professionals who were dismissed from their posts in East Germany after the unification of Germany.
- the number of the poverty stricken people and social security recipients.
- HIV/Aids victims, women's exploitations and child abuse.
- pension plans.

B. Positive Aspects

6. The Committee welcomes the very positive attitude demonstrated by the delegation in its introductory statements, which, together with the Policy Statement made by the new Chancellor, on 10 November 1998, leads the Committee to believe that the new government intends to give the implementation of economic social and cultural rights an added impetus.

7. In this connection, a visible shift in policy, contained in the new Policy Statement, could lead to the progressive realization of economic, social and cultural rights to a fuller extent and could be particularly beneficial to the new Länder and reduce the still existing economic gap between the old and new Länder.

8. The Committee notes with satisfaction that this policy be implemented in the following fields:

- education and training programmes in order to assist young people in general and women in particular in finding employment, especially those in the new Länder
- modernization of the law on nationality to allow for dual nationality.
- the elaboration of an action plan aimed at women at work ensuring equal opportunities.
- the promulgation of the Gender Equality Act.
- the creating of school and child-care systems.

- the introduction of bills aimed at eliminating discrimination based on ethnic origin and prosecuting Germans for child sexual abuses committed abroad.
- the reform of the pension system based on the national insurance scheme, the company pension schemes, private pension scheme and the participation of employees in their companies' productive capital and profits.
- the reintroduction of protective measures against dismissals as well as the payment of sickness allowances.

9. The Committee takes note of the creation of the post of Minister of State for Cultural Affairs who will be responsible for implementing the federal cultural policy and for liaising with the Länder. In this connection, it notes with satisfaction that cooperation with churches and religious communities will be part of that policy which is intended to enhance the dialogue between different religious communities and to reduce racial hatred and xenophobia.

10. The Committee takes note of the State Party's intention to establish a parliamentary independent Human Rights Commission and to create a "human rights post" within the Foreign Ministry.

11. The Committee welcomes the fact that the State Party is open-minded towards the elaboration of an Optional Protocol.

Factors and difficulties impeding the implementation of the Covenant

12. The full integration of East and West Germany remains partly unfulfilled despite the determined efforts to realize this objective. This lack of full integration remains an obstacle to the full implementation of the Covenant by the State Party.

D. Principal subjects of concern

13. The Committee expresses its concern about the status of the Covenant within the domestic legal system of Germany and the lack of court decisions on the application of the Covenant.

14. The Committee notes that unemployment is still particularly high in Germany and twice as high in the East as in the West. In this connection the Committee notes with regret that women and foreigners are most affected by this high percentage of unemployment.

15. The Committee also notes that no poverty line or threshold has yet been articulated. Nor has the delegation of the State Party provided information about people affected by poverty.

16. The Committee also notes with alarm that only 12 per cent of public servants within science and technology sector of the former GDR, including teachers, scientists and professionals, have been re-employed and that the rest remain without employment or adequate compensation or a satisfactory pension

plan. The Committee fears that the majority of the affected people may have been dismissed from their positions for political rather than for professional or economic reasons in violation of Article 2(2) of the Covenant. It is noted in this connection that the issue of discrimination against the employment of teachers in the new Länder was raised in 1993 by the ILO Committee of Experts on the Application of Conventions and Recommendations. Similar concerns were raised by German NGO's.

17. The Committee is furthermore concerned about the status of the asylum seekers in Germany especially with regard to the prolonged processing of their application for refugee status as well as with regard to their economic and health rights pending the final decision.

18. The Committee is also concerned about the plight of the Sinti and Roma (gypsies) in Germany and about their enjoyment of their rights to housing, education and employment. The continued discrimination against the gypsies calls for immediate remedial policies and measures.

19. The Committee notes that civil servants in Germany across the board do not enjoy the right to strike and that only a limited number of them can exercise this right, in violation of article 8(2) of the Covenant.

20. The Committee is particularly concerned about violence against women and especially about those who fall victims of marriage trafficking, trafficking for prostitution and exploitation. Statistics on the affected people are also lacking.

21. The Committee is alarmed at the continued abuse of children and their sexual exploitation. Widespread pornography is of particular concern as it seems to be linked with the exploitation of children and women.

22. The Committee notes with concern that tuition fees for university education are on the rise despite the fact that Article 13 of the Covenant calls for the progressive introduction of free higher education.

23. The alarming number of victims of HIV/ Aids victims in the territory of the State Party also cause concern to the Committee. Lack of statistics on the subject, especially with regard to the most vulnerable groups of people residing in Germany, is of special concern.

24. The Committee also expresses its concern about the plight of homeless people, whose actual number is still unknown, as well as the plight of squatters in many parts of the country, especially in the new Länder.

E. Suggestions and Recommendations

25. The Committee recommends that the State Party give more prominence to the rights recognized in the Covenant whether by legislative or judicial means and/or practices. The Policy Statement of the new Chancellor suggests that economic, social and cultural rights will hopefully be elevated to new heights. It is recommended therefore that this new policy is translated into deeds as soon as possible.

26. The Committee requests the State Party to provide in its next report more precise statistics and data regarding the question of unemployment, especially in the new Länder, the number and situation of poverty stricken people and social security recipients.

27. The Committee strongly recommends to the State Party to promote discussion within German society on social indicators or bench marks for the implementation of the Covenant. It also encourages the Government to continue to support the dialogue on the elaboration of an Optional Protocol to the Covenant in order to lend greater support to the realization of economic, social and cultural rights.
28. The Committee requests the State Party to take immediate measures, legislative or otherwise, to address and redress the situation of the different categories of asylum seekers in accordance with General Comment 4 of the Committee. It also suggests that the applications of asylum seeker be processed expeditiously and that the refugees be accorded health, economic and educational rights in accordance with the Covenant.
29. The Committee urges the State Party to implement the various educational programmes for youths and other vulnerable groups especially those intended to create employment, and those especially aimed at improving the level of employment in East Germany.
30. Pension plans and social security benefits also need a thorough reconsideration to ensure gender equality and fairness among all eligible beneficiaries in all the Länder be it in East or West.
31. The Committee recommends that civil servants not involved in essential services be accorded the right to strike.
32. The Committee calls on the State Party to take affirmative and effective measures against trafficking in women or their exploitation for whatever purpose.
33. The Committee also calls on the State Party to take effective measures to regulate child labour, in compliance with the Covenant and the relevant ILO Conventions.
34. The Committee furthermore calls on the State Party to make increased efforts to prevent child abuse, child exploitation and child pornography.
35. The Committee urges the State Party to provide more adequate assistance to HIV Aids victims without any discrimination on the basis of race, origin, nationality or gender.
36. As an act of national reconciliation, the Committee calls on the State Party to ensure that compensation will be provided to civil servants, professionals and scientists associated with the old regime in the former GDR to ensure that such compensation is both adequate and fair with a view to absorbing as many of them as possible within the mainstream of Germany's life and/or offer them fair compensation or appropriate pension plans where appropriate.
37. The Committee further recommends that the State Party avoid increases in university tuition in compliance with article 13 of the Covenant.
38. The Committee urges the State Party to accelerate the process of integration between East and West Germany on all fronts with a view to reduce the gap that may still exist between them.

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39. The Committee requests the State Party to widely disseminate its Concluding Observations among all layers of society and to inform the Committee on all steps taken for their implementation. It also urges the Government to consult with non-governmental organizations in the preparation of its fourth periodic report as the role of German NGO's has been of great value in making the Committee's dialogue with the State Party delegation a more fruitful and significant one.
