

## **German Statement concerning the Draft General Comment on Article 24 CRPD**

Germany thanks the Committee on the Rights of Persons with Disabilities for its Draft general comment and would like to offer the following comments:

### *General introductory remarks:*

In Germany, all young people with or without a disability have the right and the obligation to attend school. This includes general schools and schools tailored to students with special educational needs (special schools). Just like Länder responsibility for education, these options have a long tradition in Germany.

The transition to an “inclusive education system at all levels”, set forth in the Convention as a long-term goal, implies that joint learning at regular schools is to be the rule. Germany has long started to embark on this road. The Länder have taken action aimed at dismantling barriers and at equal participation of young people with disabilities in education. The majority of Länder is striving to give people a choice between regular schools and special schools. Over the past few years, the share of children with special educational needs attending regular schools has risen continuously.

Overall our educational institutions are in a transition phase at the moment. All Länder have begun to work towards the goal of creating a different institutional framework geared towards inclusion.

Following a decision by the Standing Conference of Education Ministers of the German Länder in 2012, teacher training for teachers of all school types was adapted accordingly. All teachers are supposed to acquire the knowledge, capacities and attitudes needed for inclusive education. University-level training for special education teachers lasts 6 to 7 years in Germany. Prospective special education teachers follow two special education tracks. During their training, particular emphasis is put on diagnostics, counselling and teaching in inclusive settings. The common objective is promoted through joint professional development courses organised for teachers of all school types at central level, or close to or within schools.

### *Comments on individual paragraphs:*

#### Paragraph 4

In paragraph 4 you are advancing the thesis that many millions of persons with disabilities continue to be denied a right to education and that many more people only learn in settings where they are isolated, receiving education of an inferior quality.

Germany points out that the notion that students receive education of an inferior quality at special schools is not valid for Germany. At these schools students are taught by teachers with extraordinarily well-grounded academic training which takes several years to complete.

#### Paragraph 7

Paragraph 7 states that the General Comment is applicable to all persons with disabilities, including those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. But the General Comment is then based on a much larger target group (all students).

In Germany, our actions in terms of education at schools are guided by the effects of a disability, impairment, disadvantage or chronic illness on learning at schools and by a potential special educational need these factors may give rise to (right to guidance on special needs education/special needs support or the right to a special needs educational offer), which we see in interaction with barriers, and which on the one hand defines the group of persons described in paragraph 7 more narrowly (students with disabilities without special educational needs), and which on the other hand, defines it more broadly (students receiving support in the fields of learning, language, emotional and social development).

#### Paragraph 10

The second indent considers inclusive education to be an indispensable means of realizing other human rights. If you turned this argument around, it would be impossible to realise the other human rights of students living in countries where they have a choice and who opt for an exclusive educational offer. This statement is not valid for Germany.

#### Paragraph 11

Paragraph 11 describes the education of students with disabilities in separate environments as “segregation”; the system of special needs schools in Germany falls in this category. The term “segregation” has nothing but negative connotations. As a State Party, Germany does not agree with such a view. The education system in Germany is built on the natural right of parents to determine the upbringing and education of their children, which is guaranteed in Article 6 (2) of the Basic Law. An education system allowing parents to choose between inclusion at regular schools and special schools adheres to these constitutional principles. There can only be talk of “segregation” in the context of “educating students in separate environments”, if this is being done against the will of the parents; the definition of “segregation” should be complemented by this addition. The concluding observations of the Committee on the Rights of Persons with Disabilities on Germany's initial report also take this view by stat-

ing in indent b) of recommendation 46 that mainstream schools enrol children with disabilities if that is their choice.

#### Paragraph 12

Indent b of paragraph 12 demands that when planning teaching, the focus should be on the learners rather than on content. The German understanding is that from a technical point of view such a division is fundamentally flawed. As far as students with special needs are concerned, the subjects and content to be covered are chosen for and adapted to each individual case. They must have current and future relevance and must make an important contribution to a higher level of health, activity and participation.

#### Paragraph 17

Various passages of the General Comment call for free education at the primary level (elementary schools). Examples include paragraphs 23, 27 and 40. Germany would like to point out that access to education at the different school levels is unlimited and free.

#### Paragraphs 40 and 61

Where the draft deals with implementation at the national level, it takes a centralist view (“action to adopt and implement a national educational strategy”). This does not correspond to the German form of government and to that of other federal states.

#### Paragraph 71

Because of parents' right to choice, Germany can only transfer resources from special to regular schools to the extent that parents opt for inclusion, but not against their will as paragraph 71 demands.

#### Paragraph 74

As far as paragraph 74 is concerned, Germany believes that it makes sense for teachers or trainers to have qualifications enabling them to teach/train persons with disabilities.