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25^{EME} Rapport national sur l'application de la Charte Sociale
Européenne

soumis par

LE GOUVERNEMENT DE L'ALLEMAGNE

(pour la période du 1 janvier 2005 au 31 décembre 2006)
sur les articles 1, 9, 10 et 15

et pour la période du 1 janvier 2003 au 31 décembre 2006 sur l'article 18

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25th Report

submitted by the Government of the **Federal Republic of Germany**

for the time period from 1 January 2005 until 31 December 2006 (Articles 1, 9, 10 and 15)

and for the time period from 1 January 2003 until 31 December 2006 (Article 18)

in accordance with the provisions of Article 21 of the European Social Charter, the instrument of ratification of which was deposited on 27 January 1965.

In accordance with Article 23 of the European Social Charter copies of this report

shall be sent to

the Federation of German Employers' Associations
(Bundesvereinigung der Deutschen Arbeitgeberverbände)

and

the Federal Executive Committee of the Confederation of German Trade Unions
(Bundesvorstand des Deutschen Gewerkschaftsbundes).

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Preliminary remarks

The Federal Republic of Germany hereby submits its first Report that has been prepared in accordance with the new reporting system adopted by the Committee of Ministers at its 963rd meeting on 3 May 2006 for the presentation of the national reports concerning their national implementation of the European Social Charter.

The Report deals with group 1 (area of employment, training and equal opportunities) concerning Articles 1, 9, 10, 15 (period under review: 1 January 2005 until 31 December 2006) and Article 18 (period under review: 1 January 2003 until 31 December 2006).

The 25th Report is a follow-up to earlier reports submitted by the Federal Government on the national implementation of the obligations laid down in the European Social Charter. It does not refer to the individual provisions of the Charter unless either the remarks of the European Committee for Social Rights of the European Social Charter (by way of simplification hereinafter referred to as "Committee") in particular in the conclusions XVII-2, XVIII-1 and XVIII-2 give reason for this, or the revised questionnaire makes this necessary or if relevant amendments in the material and legal situation have occurred.

ARTICLE 1 The right to work

Paragraph 1 – Full employment

Employment policy

The German government's policy to reach full employment and the measures taken to arrive at the highest possible and most stable level of employment are described in detail in the attached National Reform Programmes 2005 and 2006 (Annex 1 and Annex 2).

Development of labour market policy expenditure

Labour market policy expenditure is structured as follows:

The expenses of the Federal Employment Agency (BA) amounted to 53.088 thousand million euros and to 44.170 thousand million euros in the years 2005 and 2006, respectively.

Expenses of the Federal Employment Agency in € '000 million	2006	2005
active labour market policy	11.121	13.576
passive benefits	27.218	32.977
administration cost	5.831	6.535

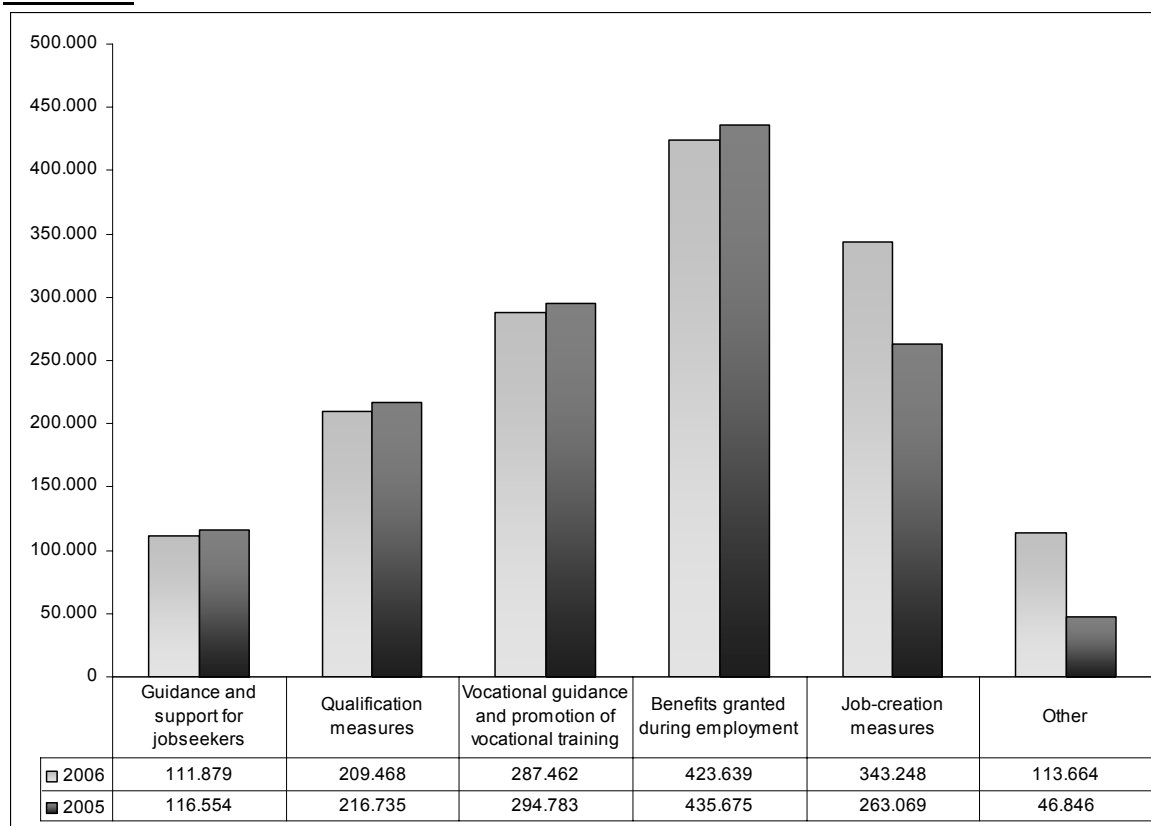
In addition, labour market policy was financed from the federal budget in the field of basic provision for jobseekers. The passive benefits are composed of unemployment benefits II (cf. below) and the federal share in the housing expenses:

Expenses of the Federal Ministry of Labour and Social Affairs in € '000 million	2006	2005
active labour market policy	4.624	3.563
passive benefits	30.431	28.534
administration cost	3.607	3.050

In addition to the Federal Government, local governments assume a share in housing expenses, and thus in the passive benefits. Their contribution amounted to 8.747 thousand million euros and to 9.739 thousand million euros in the years 2005 and 2006, respectively.

The numbers concerning participants in labour market policy measures in the years 2005 and 2006 are summarised in the following overview (for the organisation of job placement, refer to report concerning Article 1 Para. 3).

Existing participants in labour market policy measures by categories on average in the year 2006/2005



Source: Federal Employment Agency, without approved community providers

Active labour market policy for selected categories of persons

By the Fourth Act concerning modern services on the labour market (“Hartz IV Act”) enacted effective 1 January 2005, basic provision for jobseekers (governed by Book II of the Social Code – SGB II) was introduced which combined unemployment assistance and social assistance into unemployment benefits II. The aim of this vital element of the labour market reforms initiated by the Federal Government some years ago is to support employable persons in need (i.e. who are between 15 and 65 years of age and capable of working for at least three hours per day) by means of tax-financed social benefits, while at the same time encouraging their placement through improved guidance and assistance based on the principle of rights and responsibilities.

Women

The principles of equal opportunities in employment promotion in accordance with Book Three of the Social Code (SGB III) that have been laid down in the 23rd Report are also firmly anchored in the basic provision for jobseekers (SGB II). For example, the providers of basic provision are required to ensure equal opportunities of women and men as a consistent principle and to employ the benefits granted towards counteracting gender-specific disadvantages of employable persons in need. As regards the payment of integration benefits under SGB III and SGB II, women have to be accounted for, at minimum, in proportion to their numerical share in unemployment.

One fundamental requirement of employability – especially as regards women – are need-related framework conditions that ensure the compatibility of family and work. For this reason, the special needs of persons raising children or taking care of dependants have been duly considered when specifying the conditions under which jobseekers receiving basic provision can be reasonably expected to accept employment opportunities.

The Federal Government adopted a bundle of different measures designed to enhance equal opportunities of women and men in gainful employment. Special emphasis is placed on the improvement of the framework conditions concerning the compatibility of family and work life, the broadening of the range of professions exercised by women, as well as the promotion of self-employment and the career opportunities of women.

By the “Agreement between the Federal Government and the umbrella organisations of German business on the promotion of equal opportunities of women and men in private business”, which was signed in July 2001 and is subject to regular evaluation, the German national employers’ associations committed themselves to a proactive equal opportunities policy. In February 2006, the Federal Government published the second balance sheet concerning the implementation of this agreement. It documents the progress made and success achieved in the field of equal opportunities of women and men in business with a special focus on “Women in management positions”.

Numerous other activities of the Federal Government and industry serve to increase the proportionate share of women in future-oriented jobs as well as in skilled and management positions. The associations, companies and political stakeholders will continue to take suitable measures – such as the “Girls’ Day – Day to Promote the Future of Girls” – in order to increase the number of girls and women interested in technical, often better paid jobs. Specific information concerning jobs and careers as well as better networking of women is offered by the Internet platform “Jobs and Careers for Women” subsidised by federal funding.

The positive development of the female labour participation rate has continued in Germany since the last report. The female labour force participation rate, reflecting the proportionate share of working and unemployed women in the total female population aged 15 to 64 years, has steadily increased in Germany since the mid-1990s. While the male labour force participation rate has stagnated at a level of approximately 80 % since 1996, the female participation rate rose from 62.3 % to 66.8 % in the year 2005 and to 68.5 % in the year 2006.

The number of unemployed women dropped by 100,000 to 2.15 million in 2006 compared to the year 2005. However, since the number of unemployed men decreased more strongly, i.e. by 270,000 to 2.34 million, the proportionate share of unemployed women increased from 46.4 % in the year 2005 to 47.9 % in the year 2006.

As a result of the introduction of basic provision for jobseekers, the share of women in the individual discretionary benefits of active employment promotion has been separately recorded since 2005, depending on whether the women are covered by employment promotion under SGB III or by basic provision under SGB II. Meanwhile (2006), 60 % of the unemployed women are covered by basic provision, whereas this figure amounts to 66 % for men.

In the year 2005, 318,000 women received promotion under SGB III, corresponding to roughly 40 % of all persons promoted. Under SGB II, the proportionate number of women with respect to all persons receiving promotion amounted to 177,000 or also approximately 40 %. The figures for the year 2006 are not yet available.

As in the previous years, a generally high number of women participated in measures for the promotion of their occupational further training in the reference period (2005: 52.4 %), in aptitude tests or training measures (2005: 44.2 %), in the promotion of self-employment through start-up subsidies (44.7 %) and in job creation measures (2005: 41.1 %).

In the year 2005, 39.9 % of women were rehabilitated after participation in a vocational further training measure under SGB III compared to 41.8 % among the men. As in the years before, the integration subsidies proved to be an especially successful instrument for the sustainable integration of women. Here, the integration rate was 73.0 % or more than 5 percentage points above the integration rate for men. As regards the job creation measures, female integration reached almost 21 % in the year 2005, thus exceeding that of men by one percentage point. No integration rates are available with respect to promotion under SGB II.

Young people

In Germany, the unemployment rate among persons under 25 years dropped from 12.5 % on annual average in 2005 to 10.8 % on annual average in 2006 (with respect to the gainfully employed civilian working persons). This corresponded to a decline in unemployed persons under 25 years by 15.5 % in the year 2006. The initial increase in the unemployment rate of persons under 25 years after the end of the last period under review could be reversed in the course of the current period under review. The generally positive development of the economic situation and the labour market has had above-average effects on the situation of people under 25 years. The unemployment rate in this age group continued to be below the comparable rate of all unemployed persons on average in the years 2005 and 2006 (2005: 13.0 %, 2006: 12.0 %).

Among those under 25 years of age, unemployment rates continue to differ between east and west Germany. In the west (10.6 % in 2005, 9.1 % in 2006), the unemployment rate among young people is about half the figure of that in the east (19.3 % in 2005, 17.2 % in 2006). The labour market situation of young people in eastern Germany still is difficult. However, numbers are continuously on the decline here, also.

Almost 600,000 (2005: almost 583,000) people under 25 years of age were supported by active employment promotion measures on average in the year 2006. More than 4 thousand million euros (2005: almost 5 thousand million euros) were spent for this purpose. People under 25 years in eastern Germany accounted for 39.6 % of all young people receiving support and thus far more than average compared to the population figures. Support was mainly granted for transitioning from school to vocational training. More than 375,000 (2005: 384,000) people under 25 years of age received this kind of promotion, for which almost 3.4 thousand million euros (2005: more than 3.8 thousand million euros) were spent. Almost 100,000 of them, including almost 58,000 in eastern Germany, received vocational training grants in 2006. For more information, also refer to report on Article 10, Para. 1 and Para. 2.

The integration of young people into the training and labour market continues to be a central concern of the Federal Government in the future. Measures to promote access of young people to training and employment are target-group oriented and have a variety of contents. Books Three (SGB III) and Two (SGB II) of the Social Code provide for youth-specific promotional benefits for the relevant target groups. All of these measures are designed to integrate young people into the labour market by promoting training or qualification.

Since basic provision for jobseekers (SGB II) became effective on 1 January 2005, employable persons under 25 years applying for benefits under SGB II shall be immediately placed in

employment, training, or a work opportunity. These persons accounted for 55.9 % of the young unemployed persons in December 2006. Every recipient of unemployment benefit II under 25 years of age may contact a personal adviser. This adviser should not be in charge of more than 75 persons at maximum, in order to be able to properly attend to the needs of the individual young person. This consulting ratio has largely been ensured in the meantime. Guidance and placement have been improved through individual profiling.

As a rule, young people without vocational training have priority as regards the placement in apprenticeships or vocational qualification measures. Young people of immigrant origin are offered special programmes, such as language courses. On average, more than 170,000 programmes for people under 25 years were promoted in 2006. More intensive attendance to young people in need as part of basic provision for jobseekers has contributed to a reduction of youth unemployment. In December 2006, unemployment among persons under 25 years had dropped by 23.6 % compared to December 2005.

The integration of young people into the employment and training market is also supported by the National Pact for Career Training and Skilled Manpower Development, the Federal Government's special programme for the pre-vocational training of young people (EQJ-Programme), the government/states-run training programme East and the JOBSTARTER promotional programme. These instruments will be described in detail in the report on Article 10 Para. 2.

Older workers

In the period under review, the instruments for promoting the employment of older workers largely corresponded to the instruments that were already presented in the report for the year 2005:

1. *Degressive wage subsidies granted for three years:*

For the recruitment of workers older than 50, wage subsidies can be paid to companies.

2. *Promotion of further training of older workers:*

In small and medium-sized enterprises with no more than 100 employees, the qualification of older employees over 50 years of age is supported by payment of the further training costs by the Federal Employment Agency if the employer continues to pay their wages and salaries.

3. *Wage safeguards:*

Workers older than 50 years of age receive a 50 % compensation for the difference between new and former wage if they take up a lower paid job.

4. *Exemption of the employer from paying unemployment insurance contributions:*

Employers who hire unemployed workers older than 55 years are now exempt from paying their share of unemployment insurance contributions.

Two special federal programmes were added. In view of an ageing labour force and insufficient integration of older workers and their potentials into companies, the **Perspective 50plus – Employment pacts in the regions** programme was launched by the Federal Government in October 2005. As part of this federal programme, a total of 62 regional employment pacts, which had been selected by an independent jury in summer 2005 from the participants of a brainstorming competition, received promotion and technical support worth 250 million euros in total for the independent implementation of their concepts. After roughly 1 ½ years, the federal programme can now present considerable success with respect to the target group, i.e. long-term unemployed persons over 50 years of age. By December 2006, almost 9,200 persons were placed in employment. The intermediate results of an evaluation carried out within the framework of the programme also already indicate that the employment pacts were able to successfully link and implement several goals. One of them is the development and testing of approaches for activating and integrating long-term unemployed persons over 50 years of age in a regional framework and as a result of new forms of cooperation between regional labour market stakeholders. In the course of these projects, important findings were made as to how the various placement impediments in the target group can be overcome. This will also benefit the set of rules for job placement in the long term. Another result is a growing awareness in enterprises and among the population for the achievement potential and the needs of older workers.

The federal programme **30,000 additional jobs for older persons above 58 years** will promote up to 30,000 job creation schemes with reimbursement of additional expenses (additional jobs) with a term of up to three years for older long-term unemployed persons. The professional skills obtained by elderly people are to be maintained and activated for socially recognised activities.

In total, the measures for promoting the employment of elderly people have already had a positive influence on the employment rate of older working people. The general increase in employment in Germany can also be attributed to the current economic situation as a whole, however, employment of elderly people has increased particularly. Between the years 2000 and

2006, the number of people employed in the age group 55 to 64 years of age increased from 37.6 % to 48.4 % (Eurostat) and is now higher than the average in Europe.

Long-term unemployed persons

In the period under review, the instruments for promoting the employment of long-term unemployed persons largely corresponded to the instruments that were already presented in the 23rd Report. Under Book Two of the Social Code, which took effect in January 2005, unemployment assistance and social assistance were combined in the form of basic provision for jobseekers and the employment promotion opportunities under Book Three of the Social Code (SGB III) were improved.

The improved support and guidance services mainly comprise the following elements:

- nation-wide introduction of a case management,
- conclusion of an integration contract,
- offering benefits for integration into employment immediately when applying for benefits for the first time (as of 1 August 2006),
- creation of work opportunities,
- initial financial support for unemployed, employable persons in need when taking up gainful employment subject to mandatory social security contributions or a self-employed activity, and
- social services (care for children or dependants in need of care, debtor counselling, psycho-social counselling, etc.).

Meanwhile, long-term unemployed persons can be reached to a much higher degree by active labour market policy measures:

Share of long-term unemployed persons covered by selected labour market policy measures

Type of measure	2005	2006
Vocational further training	19.6 %	20.5 %
Training measures	19.8 %	21.6 %
Job creation measures	40.6 %	31.9 %
Structural adjustment measures	18.4 %	18.3 %
Work opportunities	38.5 %	31.2 %
Integration grants	25.6 %	22.0 %
Total	36.2 %	41.5 %

Integration rates for individually granted benefits

As of 2001, integration rates have been set up for assessing the effectiveness of labour market policy measures. They indicate whether within six months after the end of promotion, the participants have entered employment subject to mandatory social security contributions. It must be noted, however, that the success criterion of employment subject to mandatory social security contributions does not cover all of the instruments (e.g. bridging benefits).

Integration rates for selected measures of employment promotion in 2005¹⁾

Instrument	Integration rate		
	Total	East	West
Integration grants	69.5 %	69.3 %	69.9 %
Vocational further training	40.9 %	39.9 %	41.4 %
Employment creating infrastructure measures	34.7 %	34.7 %	36.2 %
Structural adjustment measures	32.2 %	30.7 %	40.7 %
Job creation measures	18.3 %	15.6 %	26.1 %
Recruitment grants for new start-ups	63.4 %	62.1 %	64.4 %
Assistance during training	65.7 %	59.9 %	67.4 %
Vocational training in centralised institutions	23.7 %	19.1 %	32.0 %
Bridging benefits	14.7 %	13.0 %	15.2 %
Start-up grants	21.6 %	19.3 %	22.3 %

¹⁾ Including persons who participated in subsequent measures subject to mandatory social security contributions.

Concerning the comparability of the rates, reference is made to the details provided in the previous reports. No data is available for 2006 yet.

Labour force participation

Preliminary remarks: The complete data for the year 2006 is not yet available. Therefore, reference has to be made to the numbers for the years 2004 and 2005 in some cases.

Labour force participation in Germany

	Population		Labour force		Labour force participation rate ¹⁾		Gainfully employed persons		Employment rate ¹⁾	
	(in thousand)		(in thousand)		(in %)		(in thousand)		(in %)	
	2005	2004	2005	2004	2005	2004	2005	2004	2005	2004
male	40,340	40,354	22,709	22,232	80.4	79.3	20,134	19,681	71.3	70.8
female	42,098	42,147	18,441	17,814	66.8	65.2	16,432	15,978	59.6	59.2
Total	82,438	82,501	41,150	40,046	73.7	72.3	36,566	35,659	65.4	65.0

¹⁾ Rates in percent of the population between 15 and 64; March 2004 and annual average 2005

Source: Federal Statistical Office

From 2004 to 2005 Germany's population declined by 62,000 to amount to 82.438 million. Of those, 41.2 million persons were gainfully employed or looking for a job. The labour force participation rate stood at 73.7 % in 2005. Gainfully employed were 36.6 million persons. Accordingly, the employment rate stood at 65.4 % and was thus 0.4 percentage points higher than in the year before.

Of the persons gainfully employed in 2005, 2.4 % were employed in agriculture and forestry, 29.7 % in the manufacturing industry, 23.3 % in trade, the hotel and restaurant industry and transport and 44.7 % in other service areas. From 2003 to 2005, the proportionate share of the manufacturing industry dropped slightly by 0.4 percentage points. At the same time, the other service areas rose by 1.2 percentage points.

The share of self-employed persons and family members helping with the business in the total of gainfully employed persons was 12.3 % in 2005. This was a slight increase (11.4 %, see Annex 3, Chart 1) since 2003. Accordingly, the share of gainfully employed persons amounted to 87.7 % in 2005. The share of self-employed persons and family members helping with the

business was 49.3 % and thus by far highest in the area of agriculture and forestry. By contrast, the number of self-employed persons and family members helping in the business accounted for only 8.2 % in the manufacturing industry.

In eastern Germany, the number of self-employed persons and family members helping in the business strongly increased in the past few years, reaching comparable levels in the year 2005 (12.1%) as in western Germany (12.4 %). In the year 2003, this difference had still amounted to 2.1 percentage points.

The structure of gainfully employed persons according to age groups can be taken from Annex 3, Chart 2.

Of the wage earners and salaried employees, 85.3 % had open-ended work contracts in 2005. At 86.8 % this proportion was slightly higher in 2004 (see Annex 3, Chart 3). The share of wage earners and salaried employees working full time decreased from 77.2 % in 2004 to 75.5 % in 2005.

The number of unemployed people dropped from 4.861 million in 2005 to 4.487 million in 2006. The unemployment rate amounted to 11.7 % in the year 2005, whereas it was 10.8 % in 2006. In eastern Germany, the unemployment rates of 18.7 % and 17.3 % in the years 2005 and 2006, respectively, were significantly higher than those in western Germany, where they amounted to 9.9 % and 9.1 % in 2005 and 2006, respectively (for more unemployment figures, refer to Annex 3, Chart 4).

Development of the number and type of job vacancies

Due to the reinvigorating economic situation, demand for labour significantly rose in 2005 and 2006 without always being satisfied. Thus, the number of job vacancies reported to the employment agencies and joint agencies (for joint agencies, see Article 1 Para. 3 under the heading "Basic provision for jobseekers under SGB II") by the establishments and administrations increased by 127,000 or 45 % to 413,000 vacancies in 2005 on average and by 151,000 or 37 % to 564,000 positions on average in 2006.

Concerning the Committee's request for information on the employment situation:

The employment rate increased from 65.0 % in the year 2004 to 67.2 % in the year 2006. Unemployment rose from 10.5 % in the year 2004 to 11.7 % in the year 2005 and dropped again to 10.8 % in the year 2006.

In the year 2005, the average female unemployment rate amounted to 12.7 % of the gainfully employed civilian working persons and dropped to 12.0 % in the year 2006 (men 2005: 13.4 %; 2006: 12.0 %). Youth unemployment dropped from 12.5 % in the year 2005 to 10.8 % in the year 2006.

In the year 2006, 197,000 persons with severe disabilities were unemployed on average (2005: approximately 194,000). The unemployment rate among persons with severe disabilities decreased from an average of 18.0 % in the year 2005 to 17.8 % in the year 2006.

The immigrants' unemployment rate amounted to 25.2 % in the year 2005, whereas 2006 it dropped to 23.6 %.

The duration of completed periods of unemployment increased from an average of 39.6 weeks in the year 2005 to 41.4 weeks in 2006. However, this is not contradictory to the general improvement on the labour market. Based on the recovery of the economic situation, a significantly lower number of persons were laid off last year. The unemployment base consisted of persons with generally lower integration opportunities who remained unemployed for longer periods of time. Thus, the share of long-term unemployed persons also increased from 36.3 % to 41.7 % of total unemployment in 2005 and 2006, respectively. The duration of unemployment of the persons remaining unemployed increased accordingly. The increased duration of unemployment and higher share of long-term unemployed persons is partly also due to a special statistical effect: When basic provision for jobseekers (SGB II) came into force, many persons who received social assistance prior to 2005 and unemployment benefit II after 2005 were recorded as being unemployed for the first time. This resulted in a high number of new names on the unemployment records which distorted statistics for the worse. Statistically speaking, unemployment of these persons started with a duration of zero, although some of them may have been jobless for quite some time already. This is a problem of adjusting statistical mapping to the actual integration opportunities of this group of persons.

Promoting the integration of long-term unemployed persons is one of the greatest challenges for a sustainable, long-term improvement of the employment situation. Controlling and preventing long-term unemployment is becoming more and more significant.

Concerning the Committee's request for information on the consequences of the reform of the labour market instruments and the Federal Employment Agency resulting from the first three acts concerning modern services on the labour market:

In the years 2005 and 2006, the instruments that had been modified or introduced by the first three acts concerning modern services on the labour market were subjected to comprehensive evaluation. It turned out that the central instruments of active labour market policy, such as promotion of occupational further training, integration grants, promotion of self-employment and placement vouchers are basically efficient. The positive effect of promoting occupational further training mainly becomes manifest in short or long measures, i.e. the lock-in effect¹ grew shorter in duration. Especially as regards persons that had previously been unemployed for a long time (six months or more), early integration into gainful employment is achieved. This effect is mainly obtained by improving the quality of the measures and reducing their duration as part of the "Hartz reforms". Job creation measures and Personnel Service Agencies as they had been designed before, however, may slow down integration into gainful employment. The reorganisation of the Federal Employment Agency is also progressing well. Its activities have become more efficient and transparent.

At the macroeconomic level, positive results of labour market policy measures are mainly observed for those instruments that directly promote employment (integration grants) compared to other labour market policy measures. The overall economic balance sheet result of promoting further training also seems to be better than that of other labour market policy measures. A direct correlation between the amount of funds spent on active labour market policy as a whole and the macroeconomic target quantities could not be determined. The reliability of the analyses is limited.

Basic provision for jobseekers is also subject to scientific evaluation: The so-called experimental clause, i.e. the competition between the joint agencies (run by the employment agencies and the communities) and the approved community providers and their relevant performance concerning integration into work are in the focus of this evaluation. The report prepared on this issue, which will be available in the year 2008, will be of great significance. It may provide guidance with respect to the decisions as to how tasks regarding basic provision for jobseekers will be organised after the year 2010 (for the organisation of job placement services, see also report on Article 1, Para. 3).

¹ The reduction of the placement and own search activity for or by the unemployed during participation in the measure (lock-in) initially reduces his/her chances of being integrated. The (positive) effect of measures then has to over-compensate this negative effect. However, one should interpret this carefully. Quick placement is not always good – it also has to fit and have a sustainable effect, and measures completed may have an additional positive effect especially in the long term.

Concerning the Committee's request regarding the proportionate increase in measures for long-term unemployed persons, reference is made to the report on long-term unemployed persons.

Paragraph 2 – The right of the worker to earn his living in an occupation freely entered upon

The **General Equal Treatment Act** (Allgemeines Gleichbehandlungsgesetz – AGG) which came into force on 18 August 2006 is the first of its kind to establish comprehensive non-discrimination law in Germany within a broad scope of application (labour law, civil law and public law).

By this act, the following four European non-discrimination Directives were implemented into national law:

- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ EC No. L 180 p. 22),
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ EC No. L 303 p. 16),
- Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ EC No. L 269 p. 15) and
- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (OJ EC No. L 373 p. 37).

Non-discrimination provisions

General non-discrimination provisions have been stipulated (AGG Section 7) in order to efficiently counteract discrimination in employment and occupation. Accordingly, in working life, nobody may be placed at a disadvantage because of his/her ethnic origin or race, his/her sex or age, his/her disability, sexual orientation, religious or political opinions. The term disadvantage

is defined in AGG Section 3 to include direct and indirect discrimination as well as harassment and sexual harassment.

Grounds for justification

Differential treatment based on the discriminatory features as such is not prohibited under all circumstances. For example, differential treatment is permitted, in particular, if the relevant feature constitutes a substantial and decisive job requirement (AGG Section 8). Specific positive (promotional) measures to make up for existing disadvantages (e.g. promotion of women, measures for persons with disabilities) also remain admissible. In addition, special justifications may be invoked with respect to religious/political opinions and age characteristics (AGG Sections 9 and 10).

For example, AGG Section 10 stipulates that people may be treated differently based on their age if this treatment is objective and reasonable and justified by a legitimate objective. The means applied to achieve this objective must be appropriate and necessary. The act includes six standard cases in this connection that specify more details concerning the principle outlined above.

Employer's organisational duties

According to the requirements of the Directives, the employer is obligated to take suitable measures to ensure the protection of the workers against discrimination (AGG Section 12). This includes the obligation of the employer to emphasise the inadmissibility of discrimination and to undertake his best efforts to ensure that no discrimination takes place, in particular, in the course of vocational training and further training. The concrete measures necessary (e.g. proper measures or appropriate training) may be judged differently depending on the individual case.

Workers' rights

In line with the known principles of the Workers' Protection Act and BGB (Civil Code) Section 611a, which were repealed when AGG came into force, the workers concerned are entitled to raise a complaint (AGG Section 13), to refuse performance (AGG Section 14) and to claim adequate compensation for the non-pecuniary damage suffered (non-material damage). As before, a claim to compensation of the pecuniary damage incurred (material damage) cannot

result in a claim to establishment of employment. For the benefit of legal certainty, the worker must file his/her claim in writing within two months of becoming aware of the discriminating activity (AGG Section 15).

The employer must not discriminate against employees for having enforced rights under this act, the same applies to persons supporting employees in the enforcement of their rights as well as witnesses thereto (AGG Section 16).

Judicial remedy

In cases of discrimination, the employees are entitled to invoke simplified rules regarding the burden of proof (AGG Section 22). If a party to a litigation provides circumstantial evidence that leads to the assumption of discrimination based on one of the grounds indicated in the act, the relevant other party bears the burden of proof that none of the statutory non-discrimination provisions has been infringed upon. This distribution of the burden of proof was modelled according to the provisions of BGB Section 611a applicable until the AGG came into force.

Rights of associations to participation

Under AGG Section 17(1), the parties to the collective agreements – employers, employees and their representations – are required to assist with the actual prevention or abolition of discrimination on the grounds mentioned in AGG Section 1 within the scope of their duties and possibilities for action.

In the event of gross infringements of the non-discrimination provisions, the works council or a trade union represented in the establishment may demand that the employer desist from, tolerate or perform an activity and may enforce these rights in court.

The participation of associations in the enforcement of legal claims of persons discriminated against is ensured by the right of such persons to be supported in the labour courts by so-called anti-discrimination associations (AGG Section 23).

Anti-discrimination office

When the AGG came into force, an independent anti-discrimination office (ADS) was established at the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth which

may be contacted by any person feeling discriminated against on grounds of race or ethnic origin, sex, religious or political opinions, a disability, age or his/her sexual identity. The ADS co-operates closely with other government representatives, such as the Federal Commissioner for the Interests of the Disabled and the Federal Commissioner for Migration, Refugees, and Integration.

The interpretation of individual terms and/or provisions of the act by the courts cannot be evaluated for the time being as the act came into force in August 2006, and the number of court proceedings is correspondingly low.

Concerning the Committee's questions with respect to the remuneration paid to working prisoners as well as the types of work that prisoners perform for private enterprises as well as the questions raised in the general introduction to Conclusions XVIII-1, the following comments are made:

In accordance with Section 2 of the Prison Act (Strafvollzugsgesetz – StVollzG), the penal system has been implemented for the purpose of enabling prisoners to lead their lives without any criminal activity and in social responsibility in the future. In order to achieve this goal, their personality and living circumstances are examined in accordance with Section 6 of the Prison Act upon admission to a penal institution. This examination is taken as a basis for the imprisonment schedule to be prepared under Section 7 of the Prison Act which decides about the prisoners' work assignments and about vocational training and further training measures offered. In accordance with Section 37(1) of the Prison Act, work, therapeutic occupation, training and further training are designed, in particular, to teach, maintain or promote skills needed for gainful employment after release. Section 37(2) of the Prison Act stipulates that the prisoners shall be assigned economically valuable work with due regard to their capabilities, skills and preferences.

The penal institutions shall set up internal businesses in accordance with Section 149(1) of the Prison Act where the prisoners perform the work assigned to them, receive vocational training or a work therapy. These businesses shall be comparable to the situation outside the penal institution, Section 149(2) of the Prison Act. The occupational health and safety provisions as well as the accident prevention regulations must be observed. Vocational training and work therapy can also be offered in suitable establishments run by private entrepreneurs in accordance with Section 149(3) of the Prison Act.

The prisoners receive **remuneration** in consideration of their employment inside or outside the penal institution in accordance with Section 43 of the Prison Act. The average daily

remuneration of a prisoner amounted to 10.43 euros and 10.58 euros in the years 2005 and 2006, respectively. This low amount of remuneration, compared to collectively agreed wages, accounts for the receipt of benefits in kind (board and lodging), i.e. those prisoners that receive remuneration for work under Section 43 of the Prison Act are exempted from the obligation to pay a contribution to the costs of imprisonment as part of the law enforcement costs in accordance with Section 50(1) 2nd sentence no. 1 of the Prison Act. Prisoners having performed the work assigned to them for one year are entitled to release from the obligation to work for 18 workdays. During this time of release, the prisoners continue to receive the remuneration they had previously earned, Section 42(3) of the Prison Act. This entitlement to release is equivalent to an additional remuneration for work performed in the form of a non-monetary element of remuneration.

The remuneration for work is accumulated and a bridging fund is built up under Section 51 of the Prison Act which is disbursed to the prisoners upon their release and is designed to ensure their needed livelihood during the first four weeks after their release from prison.

Prisoners may also work in a **free employment relationship** outside the penal institution. For this purpose, they conclude a civil law contract of employment with their employer which can be continued once they have been released from prison. This is an important step towards their social reintegration after having been released from prison.

In addition, prisoners sometimes also **perform work on behalf of private entrepreneurs within the penal institution.**

By its ruling dated 1 July 1998, the Federal Constitutional Court did not object to the employment of prisoners in private enterprises as long as the work was performed under the public-law responsibility of the enforcement authorities. In this connection, it stated:

*“If a prisoner who is eligible for day release cannot find work under a free contract of employment – despite all efforts the prison may have made – it may not be ruled out, with a view to the requirement of rehabilitation, that the enforcement authority assigns the prisoner **a certain activity in a private enterprise outside the institution with the prisoner’s approval.**”*

In addition, reference is made to the statements in previous reports, in particular, as regards the insufficient availability of jobs.

Concerning the Committee's further request in Conclusions XVIII-1 (general part) with respect to national legislation against terrorism precluding persons from taking up certain employment, it is hereby pointed out that there is no special legislation that is exclusively designed to avoid dangers caused by terrorism.

Paragraph 3 – Free placement services

A two-tier system of labour market policy has been in force since 1 January 2005. The existing employment promotion (unemployment insurance) provided for in Book Three of the Social Code (SGB III) as a contribution-funded insurance system was complemented by the new tax-funded system of "basic provision for jobseekers" under Book Two of the Social Code (SGB II).

Employment promotion under Book Three of the Social Code (SGB III)

Placement activity of the employment agencies

The free placement services of the employment agencies as branches of the Federal Employment Agency (BA) under SGB III cover the whole spectrum of jobs and qualifications. In addition, separate placement facilities are provided for certain areas. In cases where the local labour market does not provide the necessary number of jobs, agencies try to match supply and demand at supra-regional level. The placement of people with specific occupations who usually need an extended labour market and where guidance and placement require specific expert knowledge, is the task of special centralised and regional placement units.

Anyone searching employment can seek assistance with the employment agencies. The only restriction to be observed by the agencies is not to place jobseekers if the employment to be established is unlawful or against public policy. Any limitations specified by the employer with respect to the sex, age, health condition or nationality of the jobseeker to be placed or similar features may only be accounted for if these limitations are indispensable for the type of work to be performed. The employment agencies may accept the restrictions stipulated by the employer on grounds of race or ethnic origin, religious or political opinions, a handicap or the sexual identity of the applicant to be placed only if they are admissible under the General Equal Treatment Act.

Involvement of the employment agencies in the balancing processes on the labour market

The following is to be noted with respect to the interpretation of the placement figures set forth below:

- Placements are recorded on the basis of the outflow of unemployed persons. Placements are counted whenever an employment is established upon the selection and suggestion of a skilled placement officer. The number of placements does not adequately reflect the total involvement of the employment agencies and the community providers in the process of balancing the labour market. In addition to classic placement tasks, the self-information services offered by the BA, the guidance services, contracting of private providers, diverse financial assistance schemes for jobseekers as well as the placement vouchers contribute to the establishment of employment relationships.
- An evaluation of the outflow and the placement of unemployed persons can only be performed on the basis of the IT placement system maintained by the BA for the period under review.
- In the course of the year 2006, the Federal Employment Agency replaced the old operative placement system CoArb (computer-aided job placement) by the new operative specialist procedure VerBIS (placement, guidance and information system of the BA). For this reason, a comparison of figures in 2006 and 2005 is possible to a limited extent only as regards the individual reasons for outflows, and thus for placements.

In the year 2005, 256,000 placements based on selection and suggestions were made under SGB III and 218,000 in the year 2006. Only a small proportion of placements resulted in subsidised employment relationships on the second labour market. According to the statistics of promotion, 16,000 unemployed persons joined a job creation or structural adjustment programme in 2005, whereas this figure amounted to 15,000 in 2006. A differentiation according to sex and age can be derived from the table below.

Outflow of unemployed persons and new entries of (previously unemployed) participants in subsidised employment (under SGB III)

Feature	Outflow of unemployed persons			New entries of participants in subsidised employment
	Total	to gainful employment	placed through selection and suggestion	
Grand total 2005				
Total	4,783,598	2,191,567	256,444	15,967
Men	2,756,644	1,407,298	161,741	9,888
Women	2,026,954	748,269	94,703	6,079
under 25 years	1,090,579	508,138	78,896	3,911
25 to 50 years	2,772,553	1,392,589	142,321	4,942
50 years and more	920,466	290,840	35,227	7,114
Grand total 2006				
Total	4,350,775	2,000,758	217,534	15,051
Men	2,467,775	1,278,681	137,351	9,303
Women	1,883,000	722,077	80,183	5,748
under 25 years	960,934	449,714	62,660	3,685
25 to 50 years	2,447,047	1,250,387	114,338	3,392
50 years and more	942,794	300,657	40,536	7,974

Source: Federal Employment Agency, July 2007

The placement rate is published by the BA pursuant to Section 11(2) No. 5 of SGB III as part of the rehabilitation balance sheet, i.e. the share of non-promoted placements in the non-promoted outflow of unemployed persons taking up employment. The placement rate cannot be calculated for 2005 and 2006 because the data available is not sufficiently differentiated.

The placements will be related to the outflow of vacancies in the table below. However, this ratio will not be referred to as placement rate but rather as utilisation rate. In 2005, the utilisation rate of all positions amounted to 34.3 %, and in 2006 it was 34.9 %. In the year 2006, 8.0 % of the utilisation rate was attributable to SGB III services and 27.0 % was attributable to SGB II services. It should be pointed out, however, that the BA does not apply this variable for the reasons indicated above.

Utilisation rate

Feature	Outflow of vacancies (all vacancies reported) ¹⁾	Outflow of unemployed persons placed by selection and suggestion ²⁾	Utilisation rate
Grand total 2005	2,557,839	877,181	34.3
under SGB III only		256,444	10.0
under SGB II only		620,737	24.3
Grand total 2006	2,732,884	955,061	34.9
under SGB III only		217,534	8.0
under SGB II only		737,527	27.0

¹⁾ Job statistics; data is exclusively based on the vacancies reported to the employment agencies and joint agencies.

²⁾ Unemployment statistics: Evaluations are based on the specialist IT procedure of the BA and do not contain any data from approved community providers.

Source: Federal Employment Agency, July 2007

Organisation of job placement activities of the employment agencies

In 2002, the BA started a reform process which also aimed at providing quicker placement into jobs and increased customer orientation. At its core, there is the so-called customer centre with the employment agencies being structured according to a clear, output-related business system. In 2004, the BA began to introduce this concept nationwide. Meanwhile, the new organisational structures of the customer centre have been set up in all 178 agencies and offer modern services.

Clearly defined quality standards and the introduction of action programmes for the worker-clients are designed to support the integration of the clients into the labour market and enable the control of the placement business according to the principles of effectiveness and efficiency. Operative activities on location depend on client groups that also differ in terms of their integration potential, and thus their need for support. This way, the most promising route leading out of unemployment is to be found.

In addition, action programmes for employer clients include a differentiation of all employers into target and standard clients, an optimisation of matching processes and the development of a communication concept for target clients. These measures are designed to improve employer-related services and to strengthen co-operation with selected employers in order to increase the number of vacancies available. The action programmes were introduced in all employment agencies by the end of 2006.

Job placement services are supported by modern information technology. Within the framework of the “virtual labour market”, a central and web-based platform is being further developed for all groups of persons involved in the labour market, including the BA personnel.

The “virtual labour market” includes the following fields:

- The www.arbeitsagentur.de online platform contains all the information concerning the services offered by the BA.
- The job robot searches the Internet for vacancies on a daily basis and supports the placement process of the staff. In total, the job robot delivered approximately 500,000 potential placements of jobs and apprenticeships within one year.
- The job exchange activates autonomous matching processes by offering free access to vacancy and applicant databases. The introduction of an applicant and application management ensures additional attractiveness among employers and jobseekers.
- Introduction of the new placement, guidance and information system (VerBIS). VerBIS was introduced nationwide in the course of the year 2006. VerBIS offers a single user interface for all placement and placement support processes.

Accompanying measures for jobseekers under SGB III

In accordance with SGB III, the employment promotion benefits are especially designed to balance the supply and demand on the training and labour market, facilitate the swift filling of vacancies, promote individual employability by maintaining and extending knowledge, skills and capabilities, counteract underemployment and contribute to the development of the regional employment system and infrastructure. On this background, jobseekers may be offered the following accompanying measures (if they meet the legal eligibility criteria):

- Strengthening own initiative (e.g. placement voucher, reimbursement of job application and travel expenses),
- Increasing mobility (e.g. mobility assistance),
- Qualification of workers and employees (e.g. assumption of the further training cost),
- Benefits payable to employers (e.g. integration subsidies),

- Exploitation of the competence of market partners (e.g. entrusting placement to third parties or to personnel service agencies),
- Stabilisation of employment (e.g. wage subsidies for occupational further training of unskilled workers),
- Promotion of self-employment (e.g. start-up grants),
- Promoting the reintegration of persons with severe disabilities into the general labour market (subsidies for employers).

Accompanying measures for jobseekers under SGB III

Categories	Number of participants on yearly average				Inflow/Entries/Allowances granted per year in total			
	absolute figures		Change with respect to previous year		absolute figures		Change with respect to previous year	
	2006	2005	absolute figures	in %	2006	2005	absolute figures	in %
Guidance and support for job search	30.811	35.284	- 4.473	- 12.7	1.365.734	1.453.756	- 88.022	- 6.1
Placement voucher – payment after 6 weeks	x	x	x	x	34,624	36,504	- 1,880	- 5.2
Placement entrusted to third parties	23,961	28,238	- 4,277	- 15.1	152,928	152,914	+ 14	+ 0.0
Integration measures entrusted to providers	6,850	7,046	- 196	- 2.8	21,415	16,896	+ 4,519	+26.7
Support for guidance and placement	x	x	x	x	1,156,767	1,247,442	- 90,675	- 7.3
Benefits granted during employment	343,387	398,693	- 55,306	- 13.9	467,724	503,996	- 36,272	- 7.2
Promotion of gainfully employed persons	62,697	82,098	- 19,402	- 23.6	282,945	256,088	+ 26,857	+ 10.5
Personnel Service Agencies	4,149	11,710	- 7,561	- 64.6	11,015	23,849	- 12,834	- 53.8
Integration grants	39,503	41,673	- 2,170	- 5.2	112,573	73,281	+ 39,292	+ 53.6
Integration grants for persons with severe disabilities	14,158	19,837	- 5,679	- 28.6	7,609	9,295	- 1,686	- 18.1
Recruitment grants for start-ups	3,406	6,924	- 3,518	- 50.8	7,054	9,688	- 2,634	- 27.2
Recruitment grants for substitutes	283	616	- 333	- 54.0	358	610	- 252	- 41.3
Wage safeguards for older workers	.	.	.	x	.	.	.	x
Wage subsidy during occupational further training	1,199	1,340	- 141	- 10.5	1,684	403	+ 1,281	+ 317.9
Mobility grants	x	x	x	x	142,652	138,962	+ 3,690	+ 2.7
Promotion of self-employment	280,690	316,594	- 35,904	- 11.3	184,779	247,908	- 63,129	- 25.5
Start-up subsidies	7,617		+ 7,617	x	33,569		+ 33,569	x
Bridging benefits	63,153	82,993	- 19,841	- 23.9	108,398	156,888	- 48,490	- 30.9
Start-up grants	209,921	233,601	- 23,680	- 10.1	42,812	91,020	- 48,208	- 53.0

Notes: Data as per April 2007. The one-time subsidies include: placement voucher, support for guidance and placement, mobility grants. Inflow/entries/allowances granted are case numbers, i.e. persons may receive promotion several times.

Basic provision for jobseekers under Book Two of the Social Code (SGB II)

Placement activities of the providers of basic provision

The basic provision for jobseekers introduced effective 1 January 2005 (which is governed by Book Two of the Social Code) for the first time offers a standard benefit to all employable persons who are in need because they either are out of work or do not have sufficient income to cover their livelihood.

The purpose and the aim of basic provision are to achieve a quick, tailor-made placement of this group of persons in employment. Under the new system of basic provision for jobseekers,

employable former recipients of social assistance and unemployment assistance are offered equal, free access to the necessary guidance, placement and integration services from a single provider.

The benefits and services of basic provision for jobseekers are tax-financed and based on need. The employment agencies and the communal providers are responsible for the provision of these services. The employment agencies are in charge of disbursing the standard benefits for ensuring livelihood and the integration benefits. The communities provide the payments for housing and heating, in particular, the one-time payments and accompanying integration benefits.

Under Social Code Book II, basic provision for jobseekers can be provided through three different organisation models:

- *Joint provision of services by joint agencies:*
A total of 353 joint agencies has been established where the communal provider and the regional employment agency co-operate. This kind of joint performance of tasks has become the standard case.
- *Separate performance of tasks:*
The two benefit providers – employment agency and community – individually perform the tasks conferred to them by law. At the moment, 21 communities have chosen this option.
- *Sole provision by community:*
69 approved community providers perform the tasks provided for in SGB II alone under the so-called experimental clause, this experiment being limited to six years for the time being.

In spite of the separation between the contribution-funded system (employment agency) and the tax-financed system (basic provision), there is close co-operation at the regional level, especially between the employment agencies and the joint agencies.

For example, the joint agencies and the employment agencies use the same internal IT system, thus accessing the same vacancies posted by the employers. Attendance to employers is in many cases also performed by a joint employer service maintained by the employment agency and the joint agency. As a result, employers benefit from a single contact person.

Involvement of the providers of basic provision in the matching processes on the labour market

In the years 2005 and 2006, 621,000 and 738,000 placements were made, respectively, by the providers of basic provision (exclusive of the 69 approved community providers), based on selection and suggestion. A differentiation according to sex and age is given in the chart below.

Outflow of unemployed persons and inflow of (previously unemployed) participants into subsidised employment (under SGB II)

Feature	Outflow of unemployed persons ¹⁾			Inflow of participants into subsidised employment ²⁾
	Total	to gainful employment	placed through selection and suggestion	
Grand total 2005				
Total	2,865,782	1,102,121	620,737	568,080
Men	1,618,319	693,132	381,651	345,505
Women	1,247,463	408,989	239,086	222,575
under 25 years	735,111	237,381	148,303	136,264
25 to 50 years	1,680,347	711,918	362,548	324,253
50 years and more	450,324	152,822	109,886	107,563
Grand total 2006				
Total	3,718,130	1,376,447	737,527	616,962
Men	2,142,651	884,440	455,610	375,936
Women	1,575,479	492,007	281,917	241,026
under 25 years	823,878	292,187	170,289	138,819
25 to 50 years	2,288,646	896,158	435,930	356,002
50 years and more	605,606	188,102	131,308	122,141

¹⁾ Unemployment statistics: Evaluations are based on the specialist IT procedure of the BA and do not contain any data from approved community providers.

²⁾ Support statistics; results based on data of support provided from the BA's systems, exclusive of data on support provided by approved community providers. This includes the following measures: job creation measures, structural adjustment measures.

Source: Federal Employment Agency, July 2007

Accompanying measures for jobseekers under SGB II

In accordance with Section 1 of SGB II, the services of basic provision for jobseekers shall, in particular, aim at:

- avoiding or eliminating need, shortening the duration of need or reducing the scope of need through gainful employment,
- maintaining, improving/restoring the employability of the person in need,
- counteracting gender-specific disadvantages of employable persons in need,
- accounting for the family-specific living conditions of needy employable persons raising children or looking after dependants in need of care,
- overcoming disability-related disadvantages.

Benefits for integration into employment may be granted insofar as they are necessary to prevent, overcome and reduce situations of need or shorten their duration so that the person concerned can be integrated into working life. With respect to the benefits for reintegration into employment, the capability, individual living conditions – especially the family situation –, the expected duration of neediness and the sustainability of the reintegration of the employable persons in need must be accounted for. Any measures providing for the direct beginning of employment shall have priority.

Most of the support benefits granted under SGB III may also be used under SGB II. In addition, new instruments such as back-to-work allowances and work opportunities (job creation measures) may be applied for the reintegration of the persons in need. Details are given in the table below.

Accompanying measures for jobseekers under SGB II

Categories	Number of participants on yearly average				Inflow/Entries/Allowances granted per year in total			
	absolute figures		Change with respect to previous year		absolute figures		Change with respect to previous year	
	2006	2005	absolute figures	in %	2006	2005	absolute figures	in %
Guidance and support of job search	81,068	81,270	- 202	- 0.2	1,091,191	954,215	+ 136,976	+ 14.4
Placement voucher – payment after 6 weeks	x	x	x	x	28,423	13,798	+14,625	+ 106.0
Placement entrusted to third parties	75,709	75,058	+ 650	+ 0.9	148,511	272,627	- 124,116	- 45.5
Integration measures entrusted to providers	5,360	6,212	- 852	- 13.7	12,738	19,048	- 6,310	- 33.1
Support for guidance and placement	x	x	x	x	901,519	648,742	+ 252,777	+ 39.0
Benefits granted during employment	72,447	28,388	+ 44,059	+ 155.2	297,554	172,189	+ 125,365	+ 72.8
Promotion of gainfully employed persons	54,038	22,508	+ 31,529	+ 140.1	264,983	155,040	+ 109,943	+ 70.9
Personnel Service Agencies	1,736	884	+ 853	+ 96.5	5,010	3,556	+ 1,454	+ 40.9
Integration grants	42,710	18,591	+ 24,120	+ 129.7	104,584	60,675	+ 43,909	+ 72.4
Integration grants for persons with severe disabilities	1,317	362	+ 955	+ 263.7	1,698	947	+ 751	+ 79.3
Recruitment grants for new start-ups	3,122	1,892	+ 1,230	+ 65.0	5,731	5,138	+ 593	+ 11.5
Recruitment grants for substitutes	123	84	+ 39	+ 46.5	162	215	- 53	- 24.7
Wage safeguards for older workers	.	.	.	x	.	.	.	x
Wage subsidy during occupational further training of workers	19	5	+ 14	+ 258.7	38	12	+ 26	+ 216.7
Mobility grants	x	x	x	x	132,863	81,549	+ 51,314	+ 62.9
Back-to-work allowance – for dependent employment	5,011	691	+ 4,320	+ 625.2	14,897	2,948	+ 11,949	+ 405.3
Promotion of self-employment	18,409	5,879	+ 12,530	+ 213.1	32,571	17,149	+15,422	+ 89.9
Back-to-work allowance – for self-employment	18,409	5,879	+ 12,530	+ 213.1	32,571	17,149	+15,422	+ 89.9

Notes: cf. above, support from the BA's system, without data on support from community providers. The one-time benefits additionally include other benefits under Section 6(2) of SGB II.

Private job placement

Recommendations were addressed to the (public) employment agencies to ensure uniform procedures for co-operation with private job placement services. Co-operation primarily refers to the field of job placement. The provisions do not include any differentiation as regards co-operation with private placement agencies offering free vs. paid services.

Involvement of employer and employee representatives in the organisation and operation of the job placement services

The operative business of the Federal Employment Agency (BA) is the task and the responsibility of its management (Board of the BA and the management of the regional directorates and the employment agencies); the organs of self-government of the BA supervise the management and the administration and provide guidance concerning all current labour market issues. The organs of self-government (with equal representation of the employees, employers and public authorities) comprise the supervisory board at the headquarters in Nuremberg and the administrative committees at the employment agencies. The self-government organs have a comprehensive right to information. On the other hand, the Board of the BA and the management of the employment agencies have a proactive and comprehensive duty to inform. In addition, the statutes of the BA stipulate the kinds of business transactions by the Board that require the prior approval of the supervisory board.

Thus, it is ensured that the representatives of the self-governing organs are part of the various procedures and decision-making processes. This also applies to the organisation and activity of the job placement services.

Basic provision for jobseekers under SGB II is a tax-financed system. In contrast to the insurance benefits under SGB III, the representatives of the employers and the employees are not involved in the organisation or the business policy.

Overall responsibility as well as the expenses for basic provision for jobseekers are borne by the Federal Government, i.e. the Federal Ministry of Labour and Social Affairs. To the extent that the BA provides benefits under SGB II, legal and technical supervision are the responsibility of the Federal Ministry of Labour and Social Affairs (Section 47 of SGB II). Supervision of the approved community providers is performed by the responsible authorities of the Länder (Section 47 of SGB II).

Paragraph 4 – Vocational guidance, training and integration

Vocational training

Trends on the training place market in 2005 and 2006

After a decline in the number of newly signed training contracts in 2005 (550,180 new training contracts were recorded; this was a decline of 22,800 or 4.0 % compared to 2004), the number

of new training contracts could be increased again in 2006. By 30 September 2006, 576,153 training contracts had been signed nationwide. This is an increase of 25,973 contracts (4.7 %). In view of the significantly higher number of applicants (763,097) registering with the Federal Employment Agency, this result is very positive.

However, the number of young people that still were registered as unplaced applicants on 30 September also significantly increased in the period under review. On 30 September 2005, 40,488 unplaced applicants were registered, whereas this number had increased by 8,965 or 22.1 % to 49,453 in 2006. The intensive extra placement campaigns undertaken by the employment agencies together with the chambers as part of the training pact resulted in a reduction of this figure to approximately 17,400 by mid-January 2007.² Although this number exceeded the figure of the previous year by 1,800, a significantly higher number of young people could be offered apprenticeships or other forms of training because the initial figures were also much higher.

Activities of the Federal Government to ensure a sufficient supply of training places

In addition to the positive economic development, the manifold activities undertaken under the training pact signed by the Federal Government and the central associations of German business on 16 June 2004 contributed to the mobilisation of apprenticeship places and thus to an increased number of newly signed training contracts. In total, the chambers persuaded industry to offer approximately 67,900 new training places in the year 2006. Establishments and enterprises also made approximately 42,000 places available for company-based introductory training.

The Federal Government further supported the efforts undertaken by industry, the central associations of business and the chambers in the years 2005 and 2006 by continuing various support programmes. Important examples include the following:

Since 2004, the Federal Ministry of Labour and Social Affairs has maintained its programme for introductory training of young people. The material and personnel costs of pre-vocational, introductory training are borne by the companies, whereas the Federal Employment Agency

² Due to the Europe-wide harmonisation of statistics, the counting date was anticipated from the end of a month to the middle of the month as of January 2005. Therefore, the data obtained during the years preceding this change can hardly be used for comparison in the statistics of the Federal Employment Agency.

pays a subsidy towards the young peoples' livelihood³. The internship in the company serves to teach and deepen basic knowledge which is necessary for acquiring an occupational capacity to act and has a minimum duration of six months, support is granted for a maximum of twelve months. By late December 2005, 15,376 young people had signed a contract for introductory training, and in late 2006 this figure amounted to approximately 20,000 young people. On 27 September 2006, the Federal Cabinet decided to renew the special programme for one year and to increase the number of places to 40,000 beginning in October 2006. An additional 124.4 million euros was made available for this purpose (also refer to Article 10).

Access to the dual system of vocational training by non-German young people

When examining the question as to whether or not non-German adolescents may take up an apprenticeship under the dual system, the apprentice's status as an employee in the company is of vital importance. According to the provisions of the Residence Act, applicants must necessarily have a work permit prior to beginning the apprenticeship which is issued by the employment agencies.

Foreigners not enjoying free access to the German labour market (also refer to statements concerning Article 18 Para. 2 and 3), may be admitted to company-based training and further training under section 17 of the Residence Act. However, the relevant residence permit or work permit (EU) may only be granted subject to the approval of the Federal Employment Agency.

³ For example, a livelihood subsidy of 192 euros per month and of 102 euros (as of 1 February 2007: 99 euros) for social security contributions is granted under the EQJ-Programme of the Federal Ministry of Labour and Social Affairs.

ARTICLE 9 *The right to vocational guidance*

Vocational guidance is an inherent element of services of general interest and as such is provided free of charge by the nationwide network of 178 employment agencies (providers of employment promotion) as well as 614 local offices. In addition vocational guidance can also be offered by the providers of basic provision of services for jobseekers (Book II of the Social Code) and by private service providers. It may be used on a voluntary basis, and all people residing lawfully in Germany have equal access to vocational guidance, also to the special offers for people with disabilities.

Being one of the statutory core tasks (mandatory services) of the employment agencies under Sections 29 *et seq.* of SGB III, vocational guidance is available to all persons participating or seeking to participate in working life regardless of age, training level and the individual vocational and living situation. The nature and length of the specific guidance talks depend on the individual person's need for guidance, e.g., in the field of initial vocational training or taking up employment, occupational reorientation, vocational further training, retraining in the event of unemployment or when seeking a new job. In this context, the guidance-seeker's interests, aptitude and capabilities as well as regional and interregional employment opportunities are taken into consideration. The employment agency also applies its knowledge of the labour markets in the European Economic Area.

Persons seeking guidance are offered many ways of making use of the vocational guidance services provided by the employment agencies. They may obtain information brochures and consult electronic media, attend public events or receive individual advice in their local agencies. In addition, there is a possibility of using numerous Internet offers for self-information and of ordering information leaflets and brochures on-line.

The vocational counsellors of the agencies stage job orientation events and measures for pupils, students, parents, teachers and other target groups. The employment agencies may promote the pupils at schools of general education by offering them "thorough" vocational guidance in accordance with Section 33, 3rd sentence *et seq.* of SGB III if third parties pay at least 50 % of the costs of such measures. The aim of this measure is to achieve a more timely, more intensive and more practice-oriented preparation of school leavers for their occupation so as to ensure more reasonable vocational and career choices, to prevent or minimise the risk of young people dropping out of their training course and to satisfy the employers' need for qualified labour.

In the framework of the **National Pact for Career Training and Skilled Manpower Development in Germany** (refer to Article 10 Para. 2) made between industry and the Federal Government for a term of three years, the parties to this pact also agreed to strengthen vocational orientation. For this purpose, a concept entitled **Schools and business enterprises as partners – a guideline for action to strengthen career orientation and training maturity** was adopted in the year 2006 in co-operation with the conference of the ministers of education of the Länder which was designed to encourage schools and business enterprises to practise intense, systematic and consistent co-operation and to ensure that vocational orientation and preparation of the choice of the right occupation becomes a fixed element of everyday school life.

The European service of the Federal Employment Agency offered European consulting services in 15 locations throughout the country in the period under review. The networks of the *“European Employment Services”* (EURES) and the *“Euroguidance”* system are fully available to this service. Its service also included advice to migrants considering returning to their countries of origin. In order to increase awareness of the opportunities for working in other European countries, an info bus toured all of Germany in the year 2006. For this project, the Federal Employment Agency received the *“European Year of Workers’ Mobility”* Award from the European Commission. The activities of the European Service of the Federal Employment Agency were supported by the activities of the information centre for working abroad of the Central Placement Office which provided telephone advice to more than 70,000 citizens interested in the possibilities of working, obtaining vocational training and studying in Europe and worldwide in the year 2006. In addition, the Central Placement Office organises EU information and job exchanges together with companies mainly from EU member states. The regional teams of the European service were integrated into the International Placement Services in the course of the reform of the Central Placement Office completed in 2007.

During the period under review, the U 25 teams described in the last report were established in the employment agencies. In addition, vocational guidance was realigned and the programmes for action for placement in training places were established. The aim of the overall concept is to contribute to the sustainable support, activation and promotion of young people under 25 years, especially during transition from school to vocational training, in compliance with the principle of "rights and responsibilities". For this purpose, the services offered by the U 25 team will be systematically structured, streamlined and focused as well as integrated into the reform of the Federal Employment Agency. Optimizing support for young people with inferior initial opportunities will be in the foreground of activities. The concept has been revised on the basis of the practical experience gained in a total of seven employment agencies during three test series and with due regard to the suggestions made by the agencies involved and will now be

launched on a national level. In the course of introducing the reorientation, all employment agencies will also review their local occupational guidance concept. The staff of the U 25 teams will be increased in numbers, if necessary. Regular quality assessment and assurance in occupational guidance are another envisaged project. For this purpose, clients will be interviewed by telephone. In addition to the reorientation, the methodology of occupational guidance as well as the media services offered by the BA will be enhanced.

For special groups of persons, including persons with disabilities, occupational guidance will provide comprehensive, specific information and advisory services. In addition to multimedia information, orientation and guidance for school leavers, printed and electronic media are available for multipliers and other persons involved in the vocational training of young persons with disabilities. Persons with disabilities will be taken care of and placed by specially qualified advice staff, the so-called teams for rehabilitees.

As already outlined in the last report, occupational guidance under SGB III may take a wide range of measures in order to promote vocational integration. This equally applies to funds providing basic benefits and services for jobseekers in the framework of SGB II. Apart from direct guidance, occupational orientation measures, occupational preparation measures, psychological and medical examinations and aptitude tests, supportive measures with regard to vocational training including vocational training assistance for young people with learning disabilities or young people who are socially disadvantaged are offered. All of these measures pursue the aim to obtain vocational qualification.

Measures of thorough occupational orientation round off the orientation services provided. For example, the **Girls in male occupations** project comprising lectures of female speakers in traditionally male-dominated occupations, factory visits and group work is designed to extend the range of potential job choices, to promote the realisation of own strengths and their exploitability and to reduce gender-specific behavioural patterns.

Young people aiming at university studies are offered special advice by the employment agencies. Occupational guidance provided by the employment agencies to secondary school graduates includes talks involving the topics of choosing subjects, eligibility criteria and requirements during the courses, job perspectives and financial support. The vocational counsellors and the young people or young adults jointly work out goals and perspectives as well as job opportunities and alternatives.

The Federal Employment Agency offers a broad range of target group-specific media for occupational guidance.

The **Occupational Guidance Services (Angebote der Berufsberatung)** information sheet published by the Federal Employment Agency provides an overview of the possibilities to obtain guidance and services. Reference books such as **What's new in trades and occupations? (Beruf aktuell)** or **University studies and/or choice of occupation (Studien- und Berufswahl)** contain concise information about all recognised trades and occupations as well as courses of university education. More detailed descriptions of specific occupations, periodicals for senior high school students (**Choosing the right occupation after high school / abi-Berufswahl-Magazin**), and special educational material for school classes (**GET IT RIGHT – Finding out more about things of interests and jobs / MACH'S RICHTIG – Interessen und Berufe erkunden**) round off the range of information material. The series of publications **Occupation Education Future (Beruf Bildung Zukunft)** has been specifically tailored to the needs of workers who have to make an occupational decision. In addition, the Federal Employment Agency publishes special brochures and media for particular target groups (foreign pupils, girls, young disadvantaged people, etc.). All brochures are supplemented by extensive on-line information on the Internet. **KURSNET** and **BERUFNET** are on-line databases presenting educational opportunities in Germany and other European countries as well as descriptions of training courses and job activities. Special, country-specific booklets entitled **Mobile in Europe** contain information on the labour and training markets of all EU member states, the EEA countries and Switzerland.

Without prior appointment or waiting time and without having to register their names or announce their requests, young people and adults can find information on a huge range of questions related to training and further training, university studies, choice of occupation and the labour market at the job information centres of the Federal Employment Agency. They offer information folders, books, magazines and PC workstations.

The media listed above are spread through different channels. Individual copies are sometimes on display in the job information centres, and many copies are distributed at the schools. Other services can be retrieved on-line at no cost. In addition, the Federal Employment Agency offers a mail order service where many media can be ordered (some of them against reimbursement of a low discretionary fee and postage).

The total public expenditure towards the Federal Employment Agency's vocational guidance service was as follows (the amounts have been rounded):

2005: 196 million euros

2006: 192 million euros

The skilled experts working in the Federal Employment Agency's vocational guidance service were assigned to the following fields:

Vocational counsellors for initial counselling (general vocational guidance and professional guidance for school leavers with A-levels and university students):

2005: 2,742.5

2006: 2,686

The vocational counsellors have a broad professional background (they are e.g. from teaching backgrounds, economists, business management experts, lawyers, psychologists) and participate in job-related further qualification programmes on an ongoing basis.

After the number of persons seeking guidance from the employment agencies had declined from 2.21 million to 1.95 million between the occupational guidance year 1999/2000 (October 1999 until September 2000) and the occupational guidance year 2004/2005 (October 2004 until September 2005), it increased to 2.06 million persons again in the occupational guidance year 2005/2006 (October 2005 to September 2006). 48.4 % of all persons seeking occupational guidance were women in September 2005, and 47.9 % in September 2006.

In the guidance years 2004/2005 and 2005/2006, 73.0 % and 72.7 %, respectively, of the guidance seekers had attended a school of general education, 22.3 % and 21.1 %, respectively, had attended a vocational school and 2.2 % and 1.1 %, respectively, had attended a university or academy upon or shortly before contacting the occupational guidance services. Only 2.5 % and 2.0 %, respectively, of the guidance seekers stated that they had not attended a school. In the years 2004/2005 and 2005/2006, 15.1 % and 14.7 %, respectively, of the guidance seekers stated that they had achieved or wanted to attain a general qualification for university access, 3.7 % and 3.8 %, respectively, a qualification for a technical university, 38.8 % and 37.0 %, respectively, had graduated or intended to graduate from intermediate secondary school (Realschulabschluss) and 29.5 % and 30.2 %, respectively, from lower secondary school (Hauptschulabschluss). 12.9 % (2004/2005) and 12.8 % (2005/2006) were recorded as guidance seekers that had no lower secondary level school qualification (Hauptschulabschluss).

1.6 % of the advice seekers were below 15 years of age in each of the guidance years 2004/2005 and 2005/2006. The strongest group consisted of young people aged 15 to 19, who accounted for 69.4 % (2004/2005) and 67.6 % (2005/2006) of guidance seekers. Guidance seekers aged 20 to 24 numbering 25.1 % (2004/2005) and 25.8 % (2005/2006) were the second strongest group. The remaining group in each case was 25 years of age or older.

The fact that approximately one quarter of the guidance seekers were persons who could not be attributed to a school of general education when or shortly before they contacted occupational guidance services demonstrates that occupational guidance is also sought to a considerable extent by persons that no longer are at the beginning of the process of choosing an occupation. This is also reflected by the fact that for a number of years, about three out of ten guidance seekers have been 20 years or older.

Concerning Conclusions XVIII-2 of the Committee:

The Committee asks for information on staffing, expenditure and the number of persons assisted in the field of occupational guidance as part of the system of education.

The number of measures undertaken for vocational orientation (occupational orientation sessions and events with parents) in addition to the data presented above with respect to the background of individual guidance seekers has no longer been covered by statistics since 2003. The technical standards only lead to some boundary values: Each class leaving a school of general education is supposed to attend at least two hours of school guidance and a two-hour session in the job information centre, and one information meeting is held for their parents. At the moment, 10 % of the staff capacity are fixed as guideline value for job orientation, and 5 % of the staff capacity are earmarked for consultation hours in schools.

No similar quantitative staffing standards have been defined for additional job orientation events (in vocational schools, for teachers and other multipliers, job-specific lectures and group events on special topics). In these cases, the agencies themselves decide upon co-operative measures depending on the regional situation and subject to the agreements made with local partners (especially the schools). Therefore, depending on the agreements made in the individual Länder, events in schools may comprise more than the minimum services defined above.

ARTICLE 10 *The right to vocational training*

Paragraph 1 – Promotion of technical and vocational training

Vocational training is covered by the Vocational Training Act (Berufsbildungsgesetz – BBiG) and/or the Crafts Code (Handwerksordnung – HWO) as well as the collective agreements between the social partners.

Promotion of vocational training in companies and specialised training centres is based on the federal-law provisions of SGB III (in particular, Sections 59 *et seq.* of SGB III) and in exceptional cases on SGB II. In addition, supplementary programmes have been established by the Länder. Special support programmes are available for the vocational training of persons with disabilities and with severe disabilities under Sections 236 *et seq.* of SGB III and Section 235a of SGB III, respectively.

More than 3.8 thousand million euros were spent in 2005, and almost 3.4 thousand million euros in 2006, on measures of active employment promotion of young people transitioning from school to apprenticeships under SGB III and SGB II and under the German government's special programme for introductory training of young people (EQJ-Programme). Of these, 1.8 thousand million euros (2005) and 1.7 thousand million euros (2006) are attributable to the vocational training of persons with (severe) disabilities. Vocational training in specialised training centres was subsidised by 839.9 million euros and 590.8 million euros in 2005 and 2006, respectively. 331.4 million euros (2005) and 323.2 million euros (2006) were paid in vocational training grants for vocational training. Pre-vocational training programmes were promoted by vocational training grants in the amount of 209.9 million euros (2005) and 182.5 million euros (2006) and the assumption of training course costs in the amount of 413.8 million euros (2005) and 365.2 million euros (2006). 141.7 million euros (2005) and 117.6 million euros (2006) were paid in assistance during training. However, these data can be compared to earlier figures to a limited extent only due to a modified statistical evaluation system. Expenditure was funded from public budgets including the Federal Employment Agency in its capacity as a public law institution responsible for unemployment insurance.

Public expenditure for vocational schools in all territorial authorities (part-time and full-time vocational training schools, vocational extension schools, full-time vocational schools, upper vocational schools, technical secondary schools) amounts to the following according to the Federal Statistical Office (provisional figures, actual expenditure): For the year 2005, expenditure amounted to 7.2 thousand million euros, and the 2006 budget provided for 6.8

thousand million euros for funding the vocational schools. When differentiating between expenditure for full-time and part-time education and numbers of pupils in the 2005/2006 school year, almost 2.9 thousand million euros out of the budget for 2006 were spent on part-time vocational training schools under the dual system, and almost 2.4 thousand million euros were allocated to full-time vocational schools. The balance of almost 1.6 thousand million euros is used to finance other types of schools forming part of the vocational training system, such as technical secondary schools (523 million euros), upper vocational schools (450 million euros), the prevocational training year (293 million euros) and the basic vocational training year (216 million euros).

*For other types of promotion of vocational training, refer to the **overview** (Annex 3, chart 5), "Expenditure for vocational training under the dual system".*

Paragraph 2 – Promotion of apprenticeship

Access to vocational training is open to young people of both sexes. This applies to training under the dual system in one of the approximately 350 recognised training occupations pursuant to the Vocational Training Act or the Crafts Code and to full-time vocational school courses. Full-time vocational school courses may be liable to tuition fees, depending on who runs the school, and eligibility criteria for some training courses include proof of graduation from certain schools of general education.

In Germany, there has been an increased share of girls and young women enrolled in full-time vocational training courses for a longer time now. This applies to health professions, professions in social education, caring professions or speech therapy, where 80 % of the students are female. In the dual system where, apart from the growing service sector, the focus is still on technical occupations in industry, 40 to 50 % of all trainees are female.

Since the year 2002 it has also been possible to generate gender-specific figures from the results of the survey on new training contracts conducted by the Federal Institute for Vocational Education and Training. At that time, 43.4 % of all training beginners were young women. Since then, this share has dropped slightly each year, amounting to 41.5 % in 2006. When the number of new contracts declined in the time between 2002 and 2006, young women were more often affected, whereas they benefited less than average from the 2004 increase. This also applies to the year 2006. Approximately 17,026 young men profited from the total number of 25,973 additional contracts, accounting for almost two-thirds (65.6 %) of additional apprenticeships, but only 8,947 or 34.4 % young women. Accordingly, the proportionate increase in new contracts for male apprenticeship beginners was + 5.3%, and thus higher than the share of the female beginners (+ 3.9%).

Since this trend has been continuously observed in the past, one can say that generally speaking, young women and men still are very heterogeneously distributed over the various fields of occupation. Likewise, the tendency to concentrate on few occupations that are highly in demand continues to be much stronger among young women than among their male counterparts. A share of 184,200 or 77.1 % out of a total of 238,800 female apprenticeship beginners had chosen one of the 25 apprenticeship careers preferred by women. This is contrasted by 201,300 or 59.7 % out of the total of 337,300 young men beginning their apprenticeship in one of the 25 careers preferred by men.

In 2005, “specialist for motor vehicle mechatronics” was the occupation chosen by the majority of trainees, followed by “retail salesperson”. As regards distribution by gender, priorities have been different, since under that aspect, occupations preferred by men on the one hand and women on the other come into the fore more strongly. Occupations mainly chosen by women belong to the commercial service sector. So, for example, the occupation chosen by the majority of young women is office clerk, followed by physician’s assistant, retail salesperson and dental assistant.

Young women’s and men’s choice of career still largely follows traditional patterns. In order to extend young women’s options for career choice, the German government has established the following measures which include:

- “Girls’ Day – Mädchen-Zukunftstag”, as a nationwide measure to extend the options for career choice has been staged six times by 2006; since 2001 a total of some 500,000 girls participated in almost 25,000 events;
- LizzyNet - Information, communication and learning platform to assist girls and young women with computer use and Internet design;
- Nano4girls - taster day to arouse the interest of female pupils in the manifold applications of nanotechnology.

The nation-wide pilot project “New paths for boys” established by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth aims at changing the role models and the range of occupational choices of boys who are encouraged to include social occupations – which are so far dominated by women – in their potential occupational choice. The network built up currently comprises 63 initiatives throughout Germany, the project will terminate in late 2007.

Company-based training in a state-recognised training occupation can be supported by assistance during training (Section 241(1) of SGB III). In this way, more than 50,000 participants received support on average in the year 2005, and more than 45,000 participants in the year

2006. Support is especially granted to young people of both sexes suffering from learning impairments and social disadvantages.

The generally positive effects of the **National Pact for Career Training and Skilled Manpower Development** noticeable already in 2004 continued in the second (2005/2006) and third (2006/2007) year of its validity: By providing 63,400 (2005) and 67,900 (2006) new apprenticeship places and offering approximately 42,000 pre-vocational training places for young people (EQJ places) per year, business enterprises have clearly exceeded the concrete promises they had made in the pact (30,000 new apprenticeship places and 25,000 EQJ places). In both years, approximately 40,000 new business enterprises could be convinced each year to offer vocational training. The efforts of all parties to the pact again resulted in a large number of newly signed training contracts, which amounted to 550,200 in the year 2005 and 576,200 in the year 2006. The share of company-based training contracts has increased. Any unplaced applicants for training places were invited for an extra placement campaign at the beginning of a training year. Most of the young people who applied for extra placement could be offered training places or other forms of training in the years under review. Thus, the remaining number of unplaced applicants (49,500) as of 30 September 2006 was reduced by 65 % to 17,400 applicants by January 2007, i.e. more strongly than in the previous years (2005: 61 %), although the total number of applicants exceeded that of the year 2005 by 22,000. The unplaced applicants were still able to choose among 1,700 free apprenticeship places, more than 15,000 EQJ places as well as 2,500 places in specialised training centres of the Federal Employment Agency. As a result, the parties to the pact had in some cases clearly exceeded their agreements and commitments. Co-operation of the stakeholders responsible for the training market and the placement of young people was significantly improved by the training pact.

The special programme for the pre-vocational training of young people (**EQJ-Programme**) launched in the year 2004 in connection with the training pact also exceeded all expectations. For the target group, the programme proved to be the door opener to vocational training. 62.4 % of the young people that completed pre-vocational training started an apprenticeship in a company afterwards. The Federal Government increased places under the programme to 40,000 as of October 2006.

The annually renewed **government/states-run training programme East** provides for specific supplementary accents in eastern Germany to close the gap in the provision of training places. Under this programme, 14,000 and 13,000 training places were made available in the former east-German Länder, most of them with a clear company-related component, in the years 2005 and 2006, respectively.

The Federal Government additionally supports the provision of training places via the **JOBSTARTER** promotion programme. This programme aims at specifically strengthening and sustainably ensuring the willingness and ability of establishments and companies to provide vocational training through suitable support and service, and at generating additional training places through these measures. Its term is limited until 2010, and the funding totals approximately 125 million euros including co-financing from the European Structural Funds (ESF). The programme is administered by the JOBSTARTER programme office at the Federal Institute for Vocational Education and Training (BIBB), Bonn. During the first funding round, a total of more than 200 project applications were submitted, with 52 projects of scale being selected for support. The second funding round is mainly aimed at convincing small and medium-sized enterprises (SME) that have so far offered none or only few training places, and start-ups to engage in vocational training. Another focus is on companies and institutions in research-based and technology-oriented fields of business and in growth industries with a high employment potential. Project promotion, which may include various kinds of promotional instruments, is designed to strengthen the commitment of mainly small and medium-sized enterprises to vocational training, or to win them for training efforts. The innovative approach of JOBSTARTER will strengthen vocational training and skills promotion in companies as structural elements to cover the specific need for skilled personnel on a regional basis. Funding has been doubled for this funding round by the Second Funding Guidelines published in July 2006, making up to 100 regional projects eligible for promotion. In late 2006, a total of approximately 140 regional projects will have been promoted by JOBSTARTER as a result of the two funding rounds.

Paragraph 3 – Vocational training and retraining of adult workers

Workers are entitled to special continuing training promotion if the continuing education or training is necessary in order to integrate them into the labour market in the event of unemployment or to prevent that they become unemployed, or because they have never completed any vocational training before. Those who are entitled to support in principle also include unskilled workers who have completed vocational training in the past, but who have worked for four years or more as semiskilled or unskilled workers and who can probably not be placed into a job for which they were trained. In order to facilitate the qualification of workers working in a job for which they have not been trained, the *First Act on Modern Public Services on the Labour Market* which entered into force on 1 January 2003 reduced the period during which a worker must have been employed in a job for which he was not trained, from six to four years. As a rule, workers must have received guidance by the employment agency before enrolling in a training programme and proof that the prerequisites for the receipt of allowances

payable to programme participants have been fulfilled must be furnished by submitting a training voucher. Promotion can also be granted for further training including vocational qualification.

The training voucher is valid for three months, as a rule, and specifies the training goal, qualification focus and the maximum training course duration. The training voucher can only be used within a day commuter's area if the required training programmes are available in this area. The participant can make use of this voucher with a training provider of his personal choice who offers courses leading to the certified training goal. The training providers are obligated to assist participants in their placement efforts.

The following additional instruments are available to improve the skills of employed workers:

- Employers who grant their employees time off in order to complete schooling in day or evening classes, can obtain wage subsidies from the Federal Employment Agency. These subsidies can be paid up to the amount of the wage itself, including the employer's share in the overall contribution towards social insurance. The wage subsidy is intended as an incentive for employers to support their employees' continuing vocational training efforts. The purpose of this programme is to improve the qualification of adult employees and to prevent unemployment by means of early qualification activities.
- Employers who give time off to their workers in danger of becoming unemployed in order to participate in a training programme, aptitude test or continuing vocational training and who continue to pay wages to workers during such periods can receive wage-cost subsidies, provided that the programme was started on or before 31 December 2006. These subsidies can be paid up to the amount of the wage that is payable while the qualification programme is attended including the employer's share in the overall contribution towards social insurance. Workers who have a fixed-term employment contract or who have already been given notice are the target group for this programme.
- Supportive measures for workers aged 50 plus towards continuing vocational education in companies with up to 100 employees is designed to facilitate continuing vocational education for older workers. By acquiring up-to-date skills, skill-related dismissals of workers can be prevented. Older workers are reimbursed for the costs of further training if they participate in an educational programme recognised by the employment agency, provided that their employers give them time off and continue to pay their remuneration while they participate in continuing education measures. The employment agency pays a

supplement towards the necessary accommodation away from home and child-care fees on a case-to-case basis.

- In the framework of the promotion of job rotation schemes, employers facilitating their workers' participation in a continuing training measure and who substitute this worker temporarily by an unemployed person with a fixed-term contract of employment can get a subsidy towards the wage of the substitute worker. This subsidy is to increase the employers' readiness to give their workers time off for continuing vocational education and training. The idea is that additional employment opportunities are provided for unemployed persons, whose chances to re-enter the job market are thus improved.

In the year 2006, the Federal Employment Agency initiated the special programme **Continued education of low-skilled and employed elderly workers in companies** with a funding volume of 200 million euros in order to improve the skills of the low-skilled and elderly workers. The programme is aimed in two directions in order to improve the participation of low-skilled and older workers in the labour market. First, integration of low-skilled unemployed with low chances of being integrated (including older persons aged 50 and above) is to be improved. And second, the programme is intended to serve as start-up financing in small and medium-sized companies in order to enable older and low-skilled workers (especially those without qualified training) to participate in further training. This will contribute towards the establishment of regular further training of employed workers also with a view to technological change. More than 110,000 persons were covered by the programme. The programme has focussed on further training, which accounted for over 40 % of new participants.

According to the statistics of the Federal Employment Agency, the further training measures promoted under SGB III/SGB II are distributed over the various types of workers as follows:

Vocational further training measures (inflow) according to selected education objectives

Education objective	Total	
	2005	2006
Total	131,521	246,789
Lathe operator	1,940	2,497
Welder	6,868	11,927
Fitter	1,535	1,677
Metalworker	1,286	2,543
Mechanical engineer	1,306	1,820
Motor vehicle operator	4,661	8,396
Professional driver (freight traffic)	2,416	4,953

Warehouse manager, storeman	2,648	6,588
Entrepreneur, managing director	638	896
Accountant	2,305	4,116
IT specialist	1,800	4,014
Application programmer	848	991
Computer centre specialist	1,408	3,423
Office clerks	22,662	48,016
Plant security personnel	3,448	6,366
Old people's nurse	4,110	4,530

Note: This chart only shows the results on the basis of the data from the BA's systems, exclusive of the data of approved community providers.

Source: Federal Employment Agency

As a rule, all unemployed workers may receive support for vocational further training in the form of assumption of costs of further education under SGB III/SGB II. Support for employed workers under SGB III/SGB II is restricted to low-skilled workers without vocational qualification as well as older workers (50 or 45 years or more) in small and medium-sized enterprises.

The number of vocational further training measures (inflow) including promotion under SGB III/SGB II in the years 2005 and 2006 is as follows:

Year		Type of measure		
		vocational further training total	including vocational further training with qualification (retraining)	other vocational further training
2005	Total	131,521	16,183	115,338
	West	91,096	10,557	80,539
	East	40,425	5,626	34,799
2006	Total	246,789	17,488	229,301
	West	173,032	11,546	161,486
	East	73,757	5,942	67,815

Note: This chart only shows the results on the basis of the data from the BA's systems, exclusive of data of approved community providers.

Source: Federal Employment Agency

Approximately 1.7 thousand million euros were spent in the year 2006 and 2 thousand million euros in the year 2005 with respect to vocational further training measures under SGB III and SGB II.

According to the law on employment promotion and basic provision for jobseekers, women are to be considered for active employment promotion and/or vocational rehabilitation at least in proportion to their share in total unemployment and their relative affectedness by unemployment. This statutory requirement of a minimum participation of women applies to the whole range of labour market policy instruments. Among the instruments that are directly aimed at improving the chances of being integrated into the labour market, promotion of vocational further training continues to account for the highest proportion of women: in 2005, 52.4 % of all participants were women, and in 2006 their share was 48.5 %.

In addition to labour market policies, the Federal Employment Agency is involved in nationwide initiatives, projects and networks with the aim to increase the share of women – especially in future-oriented industries such as the information technology, but also in universities, science and research (e.g., the TeDiC Competence Centre “Technology – Diversity – Equal Opportunities” and the “Women and Internet” programme promoted by the Federal Ministry of Education and Research).

For those women who want to return to gainful employment after a family phase, the Federal Employment Agency has offered specific information material and information events since the year 2006. Not least against the background of demographic development and its consequences for the need for skilled personnel, guidance for employers was also intensified in this area by raising their awareness for the positive aspects of retaining qualified female employees in the company even throughout a family phase, or of utilising the great potential of excellently skilled women when filling vacancies. According to the Federal Employment Agency, recent customer surveys have confirmed that this service has met with a positive response.

In principle men and women of foreign nationalities who have unrestricted access to the labour market and a consolidated residential status are entitled to assistance in respect of their participation in further training pursuant to Book Three of the Social Code under the same conditions as Germans.

Apart from general programmes, Book Three of the Social Code also provides for additional benefits and services for the integration of people with (severe) disabilities into the labour market so as to compensate for disadvantages experienced by the disabled in the labour market. Especially the instruments stipulated in Book Nine of the Social Code (SGB IX) are designed to help integrate people with (severe) disabilities into the labour market.

ARTICLE 15 *The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement*

Paragraph 1 – Vocational training arrangements for disabled persons

Definition of disability and number of people with disabilities

The term disability is defined as follows in Section 2(1) of SGB IX: Persons are disabled if their physical functions, mental capacities or psychological health are highly likely to deviate for more than six months from the condition which is typical for the respective age and whose participation in the life of society is therefore restricted. They are in danger of becoming disabled if such restrictions are to be expected. The definition of severe disability additionally presupposes a particular severity of the disability.

The degree of disability (GdB) is the measurement of the physical, mental and psychological consequences of functional restrictions that is applied in the law concerning persons with severe disabilities. The effects of the functional restrictions are reflected by a graduated GdB in steps of 10 between 20 and 100. Severely disabled are persons whose degree of disability is at least 50 and who either lawfully reside in Germany, have their ordinary residence or legal employment in Germany.

Persons with disabilities with a degree of disability of less than 50 but at least 30 can be given the status of persons with severe disabilities if certain conditions are met. This status is granted by the employment agency upon application.

Persons with severe disabilities enjoy special protection and support in working life. Their participation in gainful employment is protected and promoted by the following measures, among others:

- A system of mandatory employment and compensation levy (cf. below)
- Persons with severe disabilities or an equal status enjoy special dismissal protection. Their employment may only be terminated with or without notice if the integration office has previously approved their dismissal.
- Persons with severe disabilities are entitled to five additional days of paid leave per year. This does not apply to persons with disabilities who were granted the status of a severely disabled person.

- Depending on the degree of disability and the presence of certain health conditions, tax exemptions (e.g. flat amounts), exemption from motor vehicle tax or free transportation in public transport may be claimed.

The number of persons with disabilities in Germany can only be stated for persons recognised as having severe disabilities. Other reliable data does not exist.

According to the Statistics on Severely Disabled Persons of the Federal Statistics Office, the situation in the Federal Republic of Germany at the end of 2005 was as follows:

Persons with severe disabilities (as per December 2005)

	Total		Female		Male	
Number of persons with severe disabilities	6,765,355	100 %	3,237,372	47.9 %	3,527,983	52.1 %
Person with severe disabilities aged 15 to 64	3,041,171	100 %	no info	--	no info	--
Ratio of persons with severe disabilities in Germany	8.2 %					

no info = no information available

Source: Federal Statistical Office

The corresponding data for 2006 is not yet available.

The Federal Republic of Germany is aware of its special responsibility for women with disabilities. For this reason, a nationwide political representation of interests is promoted with a view to enhancing self-determination. This special representation of interests of women with disabilities is granted the same rights under the provisions of Book Nine of the Social Code and the Act on Equal Opportunities for Disabled Persons (Behindertengleichstellungsgesetz – BGG) as the other associations representing persons with disabilities in order to duly account for gender mainstreaming. In this way, specific situations of stress for women with disabilities can be identified and accounted for in the legislation. The Act on Equal Opportunities for Disabled Persons (Section 2 of BGG) stipulates that special measures to facilitate effective enforcement of equal rights of women with disabilities and to eliminate existing discrimination are legal.

Vocational training for people with disabilities

It is of great importance to provide vocational training to persons with disabilities. It is the foundation for the participation of persons with disabilities in working life on the basis of equality.

For this reason, training in the dual system in the manner that has become standard for persons without disabilities is the uppermost goal for the Federal Government.

The provision of young people with disabilities with vocational training places is very good: In the vocational training year 2004/2005, the Federal Employment Agency was able to place 73.2 % of young applicants with disabilities in apprenticeships and 24.1 % in alternative training courses, such as pre-vocational training measures. As a result, applicants with disabilities were placed at a very high rate of 97.3 %. Because of a different data collection system implemented by the Federal Employment Agency, no comparable more recent data is available. However, it can be assumed that the rate of provision with training places will be equally high in the year 2005/2006.

This result demonstrates that vocational training of young women and men with disabilities has a broad foundation.

While at school, the Federal Employment Agency in co-operation with specialist integration services already offers individual guidance to pupils with disabilities and their parents concerning the possibilities of vocational training. Those young people with disabilities that are not yet fit for vocational training when leaving school are offered specific pre-vocational education measures by the Federal Employment Agency.

Employers providing training to persons with disabilities may receive state subsidies, in particular, with respect to the costs of the training and the adjustment of the workplace to the needs of the disabled person. If no training is attainable in the dual system due to the nature or severity of the disability, despite the state subsidies, the persons with disabilities may resort to other programmes matched to their disability. These primarily include vocational rehabilitation facilities and specialised training centres (Berufsbildungswerke) close to their place of residence.

The high proportion of applicants with disabilities that have found vocational training places is primarily due to the existence of these specialised training facilities. At least one-half of the young people with disabilities receive training in such centres. The quality of training offered by these specialised centres is recognised to be high. However, the young people often have difficulty finding a job, although they have successfully completed their training, because they are lacking in real workplace experience.

In order to increase the number of apprenticeships in companies, the Federal Government adopted the Act to Promote Training and Employment for Persons with Disabilities (Gesetz zur Förderung der Ausbildung und Beschäftigung schwerbehinderter Menschen) on 23 April 2004 which will improve access to assistance for employers and increase the guidance and support

services offered. At the same time, the prerequisites for so-called “interlinked training” have been improved. This is a special form of training in specialised centres where the young people receive the greatest possible portion of training in partner companies. This improves the practical orientation of their training, thus making it easier later on to gain a foothold on the general labour market. After all, if the young people are already known to the company, they have better chances of being offered a permanent job after training. A pilot project accompanied by scientific research has shown that young people trained under interlinked schemes are much more successfully integrated than young people exclusively receiving training in a specialised facility.

In order to raise the awareness of the stakeholders for this aspect, among others, and to put it into practice, the Federal Government launched the “Job – Jobs without Barriers” initiative in mid-2004 which is designed to support the improvement of the situation of persons with (severe) disabilities in working life. In addition to improving the employment opportunities of persons with severe disabilities especially in small and medium-sized companies and to strengthening prevention in companies, promoting the training of young people with disabilities was one of the most important points of the initiative. Numerous partners were involved in the “Job” initiative: Employers, trade unions, associations and organisations of persons with disabilities, the Federal Employment Agency, rehabilitation funds, integration authorities, rehabilitation services and institutions as well as the Advisory Council for the Participation of People with Disabilities and other organisations. The initiative achieved that more information was disseminated about the legal framework for the promotion of vocational training and employment of (severely) disabled persons and preventive measures in companies.

In the framework of the initiative, numerous training places and jobs were created for people with disabilities. More than one-third of the projects included in the initiative will be continued without any further funds from the initiative.

The initiative was terminated on 31 December 2006. Since there still is great need for information and guidance concerning the possibility of providing vocational training and jobs to persons with disabilities, it was meanwhile decided to continue the initiative until the end of the year 2010 and fund it with 3 million euros from the compensation fund. Co-financing will continue to be available in the form of 2 million euros from the European Social Fund (ESF). In addition, numerous companies (including METRO Group, E.ON and Siemens) announced that they would continue supporting the initiative.

Special institutions

I. Specialised training centres

Specialised training centres (Berufsbildungswerke – BBW) are supra-regional institutions which primarily offer initial vocational training to young people with disabilities. The aim is to enable the disabled trainees to participate in the vocational and social life without any restrictions. All over Germany, there are a total of 52 BBWs offering approximately 13,000 training places in roughly 230 different occupations. Here, young persons with disabilities receive high-quality vocational training. In addition to the training places, a number of additional places are available in pre-vocational training and education programmes.

No details are available concerning the total number and qualification of the personnel of the specialised training centres.

II. Vocational training centres

The vocational training centres (Berufsförderungswerk – BFW) are social services for the reintegration of adult persons with disabilities in the labour market. For this purpose, these institutions offer those concerned a large number of different, need-related and flexible services, ranging from information and guidance, tests and diagnoses up to qualification measures and assistance when taking up employment in a company. In general, vocational competence and self-confidence are promoted here.

The BFW offer approximately 15,000 places in more than 180 educational programmes with recognised qualifications.

No details are available concerning the total number and the qualification of the personnel of the vocational promotion centres.

III. Workshops for people with disabilities

Despite the support instruments, it is not possible to employ all young people on the general labour market due to the nature or severity of their disability, or because they are not (yet) able to undergo vocational training. These people may use the pre-training and vocational training facilities of the workshops for persons with disabilities. The sheltered workshops fulfil the

statutory task of offering disabled persons adequate vocational training aimed at integrating them into the productive working area of the workshop or the general labour market.

The assessment procedure at the beginning is designed to determine whether or not the workshop is the best suitable institution to ensure the participation of a person with disabilities in working life, and which areas of the workshop, and which services for integration into working life are most appropriate. In addition, an integration plan is to be set up. The assessment procedure is followed by vocational training. Here, individual measures and training programmes are carried out in order to improve participation in working life and to further develop the individual's personality. The aim is to enable the persons with disabilities to render a minimum of economically useful work performance after having completed vocational training. The duration of the measures in the field of vocational training normally is two years. As a rule, they are granted for one year and extended by another year if the qualification of the disabled person can be further developed or recovered.

In Germany, there are 671 recognised sheltered workshops for persons with disabilities. Approximately 10 % of the people working there are undergoing the assessment procedure or the training phase. In the year 2005, 256,556 persons with disabilities were employed there.

No concrete data is available concerning the total staff number in sheltered workshops, which is assumed to amount to 3,300 skilled employees.

Questions of the Committee concerning Conclusions XVIII-2

- Development of the definition of disability
The present report (Article 15 Para. 1) contains detailed information concerning the interpretation of the term "disability" in Germany. The definition of this term has proven its worth as a basis of the procedure for determining disability. Therefore, no changes have been planned.
- Mainstreaming
Mainstreaming of pupils with disabilities has been provided for in the legal provisions of the Länder.
- Access to higher education for persons with disabilities
In accordance with the university acts of the Länder, the universities shall ensure that students with disabilities are not discriminated against at university, and that they can make use of the education offered at university without the help of others wherever possible. The

examination regulations must account for the special needs of students with disabilities in order to protect their equal opportunities, i.e. the various forms of disability must be adequately considered by the requirements for evidence of academic achievement and examinations.

- Integration of a special training component into teacher training which accounts for the special needs of pupils with disabilities

Training teachers is the sole responsibility of the Länder. Most of the Länder account for the special needs for special educational support of pupils with disabilities in their teacher training programmes.

- Effects of the “Act to Enhance the Training and Employment of Persons with Severe Disabilities” (Gesetz zur Förderung der Ausbildung und Beschäftigung schwerbehinderter Menschen) of 2004

By this act, various grants and premiums became payable to employers offering vocational training to young people with severe disabilities. The Federal Working Association of the Integration Offices and Welfare Offices for Disabled Persons, which is responsible for the payment of these grants, communicated that few applications have been filed so far. It normally takes some time before new promotional instruments are comprehensively used.

Paragraph 2 – Placement arrangements for disabled persons

The self-determined participation of persons with severe disabilities in social life is the political objective of the Federal Government. Work is a fundamental element of social participation of persons both with and without disabilities. For this reason, the Federal Government strongly supports the occupational integration of persons with disabilities, in particular, with respect to employment on the general labour market.

The efforts concerning an improvement of the vocational integration of severely disabled persons are strongly dependent on a number of instruments for job-creation and job-promotion:

Mandatory employment and compensation levy

The system of mandatory employment and compensation levy is of central importance in this respect. Mandatory employment applies to employers with 20 workplaces or more. They are

obliged to hire persons with severe disabilities for a minimum of 5 % of these workplaces. If this employment obligation is not complied with, in whole or in part, they must pay a compensation levy to the integration offices.

The aim is to motivate companies to hire more persons with disabilities (incentive). If this goal is not reached, the compensation levy for non-employment of persons with severe disabilities is payable as a secondary obligation. This payment is designed to equalize the burden between those employers that meet their obligation and those that do not (equalizing function). The only stated purpose of the compensation levy as a special charge is to promote the employment of persons with severe disabilities.

Under the Act to Fight Unemployment among Persons with Severe Disabilities (Gesetz zur Bekämpfung der Arbeitslosigkeit Schwerbehinderter) of 1 October 2000, the previously uniform equalizing levy became more highly differentiated. Since early 2001, a graduated compensation levy has been charged which depends on the degree to which compulsory employment is complied with. The higher the degree of non-compliance, the higher is the compensation levy. Accordingly, an employer must pay monthly compensation levies for each unoccupied mandatory workplace in the amount of:

- 105 euros for an employment rate of 3 % to less than 5 %,
- 180 euros for an employment rate of 2 % to less than 3 % and,
- 260 euros for an employment rate of less than 2 %.

Employers with less than 60 workplaces are subject to mitigating exemptions.

As a result of the graduated compensation levy, the number of mandatory workplaces occupied by severely disabled persons, and thus the (actual) rate of compliance increased significantly:

Number of mandatory workplaces occupied by severely disabled persons

	2001	2002	2003	2004	2005
Total mandatory workplaces occupied	768,388	748,435	793,617	794,833	800,429
Actual rate	3.8 %	3.8 %	4.0 %	4.1 %	4.2 %
Employers not complying with mandatory employment	59,225	58,210	39,766	35,073	32,341

Source: Federal Employment Agency

At the same time, it can be determined that the number of employers subject to mandatory employment who did not employ a single person with severe disabilities has been continuously on the decline since 2001. Employers have been specially motivated to recruit persons with severe disabilities for the first time since the graduated compensation levy was introduced.

No data is available for 2006 yet.

Integration subsidies

Employers may apply for special integration subsidies designed to promote the employment of persons with (severe) disabilities. The necessary legal foundations are found in special provisions of SGB II and SGB III.

Up to 70 % of the eligible wage is reimbursed to the employers. The integration subsidies may be granted for up to 24 months, and for up to 36 months for persons above 50 years of age. For particularly affected persons with severe disabilities, the subsidy is generally paid for up to 36 months, for persons 50 years or older for up to 60 months and for persons 55 years or older for up to 96 months.

In addition, apprenticeship pay subsidies may be applied for by employers for company training or further education of persons with severe disabilities if training or further education cannot be achieved by other means. The subsidies should not exceed 80 % of the monthly apprenticeship pay. If the person with severe disabilities is given a permanent contract after his/her training or further education, an integration subsidy of up to 70 % may be granted for one year.

Integration subsidies (EGZ) and apprenticeship pay subsidies (SGB II/SGB III). Number of cases promoted/inflow

	2004	2005	2006
Total	12,884	12,952	13,415
Women	4,683	4,659	4,534

Source: Federal Employment Agency (without approved community providers)

Benefits from the integration offices

The integration offices of the Länder are responsible for continuing assistance in working life which is aimed at enabling persons with severe disabilities to be employed at workplaces in

which they can fully exploit and further develop their skills and knowledge. This kind of assistance includes in particular:

- the installation of jobs and training places adapted to the needs of people with disabilities (e.g. fitting a Braille display to a computer workstation or ensuring barrier-free access, e.g., by installing ramps or lifts),
- benefits to compensate for extra efforts (wage subsidies to compensate for lower productivity), and
- work assistance (e.g. personal assistance to persons with severe physical disabilities, reading assistance for the blind and visually disabled, or sign language interpreters for persons with a hearing impairment).

The evolution of financial benefits paid to employers, which considerably contribute towards the maintenance and protection of jobs, has been summarised in the charts provided below (no data has been obtained as yet for the year 2006):

Installation of jobs and training places adapted to the needs of people with disabilities

2003			2004			2005		
Million €	Number of cases		Million €	Number of cases		Million €	Number of cases	
	Total	Women		Total	Women		Total	Women
34.46	9,616	3,269	37.85	7,258	2,426	37.14	10,109	3,502

Source: Federal Working Association of the Integration Offices and Welfare Offices for Disabled Persons

Benefits to compensate for extra efforts

2003			2004			2005		
Million €	Number of cases		Million €	Number of cases		Million €	Number of cases	
	Total	Women		Total	Women		Total	Women
77.79	18,967	6,071	94.77	25,760	8,169	103.70	27,436	7,921

Source: Federal Working Association of the Integration Offices and Welfare Offices for the Disabled

Work assistance

2003			2004			2005		
Million Euro	Number of cases		Million Euro	Number of cases		Million Euro	Number of cases	
	Total	Women		Total	Women		Total	Women
4.55	620	193	6.38	878	258	7.66	1,084	338

Source: Federal Working Association of the Integration Offices and Welfare Offices for the Disabled

Support by specialised integration services

Specialised integration services are third-party services that provide guidance and support to specially affected persons with disabilities looking for a training place or a job, and place them in adequate training or workplaces. In addition, they offer information, guidance and support to employers desiring to recruit persons with severe disabilities. Their services include the assessment of the abilities of persons with severe disabilities and the preparation of an individual skills profile. They develop suitable workplaces, prepare the persons with disabilities for these jobs, and assist them at work for as long as necessary.

Structural responsibility was assigned to the integration offices of the Länder effective 1 January 2005 under the Act to Enhance the Training and Employment of Persons with Severe Disabilities. At the same time, the tasks of the specialised integration services were extended. They also became responsible for supporting the Federal Employment Agency, upon request, with the vocational orientation and occupational guidance in schools.

The specialised integration services are bound by contracts with the integration offices within the scope of their structural responsibility. In addition, the rehabilitation funds may instruct the specialised integration service to place rehabilitees. The employment service may also involve the specialised integration services in the placement of persons with severe disabilities.

In 2006, the specialised integration services supported approximately 87,000 (2005: 77,590) specially affected persons with severe disabilities within the framework of both responsibilities. For 28,800 (2005: 26,500) of them, qualified guidance or a short-time intervention were sufficient in order to achieve a positive final result. By contrast, 58,300 persons (2005: 51,000) – or two-thirds of all clients – required more extensive or longer assistance in order to stabilise an existing employment or establish a new one.

The development of the placement results in the years 2005 and 2006 demonstrates the consistent, high quality of the placement activities. The proportion of placements on the labour market vs. placement cases completed amounted to approximately 30 % both in 2005 and 2006.

Placement results of the specialised integration services

	2005		2006	
	Number of cases	in %	Number of cases	in %
Placement cases completed	13,272	100.0	18,625	100.0
Of those, labour market placements	4,157	31.3	5,355	28.8

Source: Federal Working Association of the Integration Offices and Welfare Offices for Disabled Persons

In the area of job safeguarding, 10,115 cases were completed in the year 2006, and more than two-third of all employment relationships could be maintained.

Results in the area of job safeguarding

	2005	2006
Jobs safeguarded	6,752	6,844
Termination of employment by mutual agreement/by the employee	769	1,384
Termination of employment by the employer	716	949
Retirement	646	938
Total	8,883	10,115

Source: Federal Working Association of the Integration Offices and Welfare Offices for the Disabled

In 2006, only 10 % of the jobs were lost due to dismissal. In almost 70 % of all cases, the employment relationship was maintained. Both women and men equally benefited from this good result.

Integration management at company level

In accordance with the principle „Rehabilitation instead of dismissal or pension“ workplace integration management aims at keeping employees **healthy and fit for work** by relying on the players and structures available and by using the potential which exists or can be mobilised at the workplace, i.e., this does not only refer to people with severe disabilities, but rather to all workers and employees. The advantages benefit all: the companies, the employees concerned, but also the social security systems.

Demographic change and its consequences demonstrate that aspects such as prevention and rehabilitation must be placed in the foreground at the company level. The change in the age structure will also lead to an increase in chronically ill and disabled workers. In addition, diseases and disabilities and their effects are subject to change. Even now, the proportionate share of long-term ill persons suffering from stress, burn-out syndrome and depression is steadily rising. In the future, employers will have to expect even more employees with reduced performance levels.

In order to optimise these processes, legal provisions on “workplace integration management” were introduced as Section 84(2) of SGB IX effective 1 May 2004, under which all employers are obliged to put in place workplace integration management in order to safeguard employment on the most sustainable basis possible according to the principle of “prevention and rehabilitation instead of dismissal or pension payments”.

If an employee is unable to work for more than six consecutive weeks or if he/she is repeatedly ill within one year, the employer, the representation of interests under Section 93 of SGB IX, and in the event of persons with severe disabilities, the body representing employees with disabilities, as well as the factory or company doctor, if necessary, with the approval and involvement of the person concerned, will examine how incapacity to work can be overcome, if possible, and which benefits and kinds of assistance are necessary to support the employee. Joint service facilities or integration offices will be consulted to clarify whether, and if so, what kind of benefits can be granted to ensure participation or accompanying assistance in working life. Notwithstanding their legal obligations many companies decide to address these issues at an earlier stage than provided for by law.

The implementation of the requirements is strongly supported by the Federal Government, including by research projects and financial support for pilot projects in the framework of the “Job – Jobs without Barriers” initiative, from the compensation fund and the European Social Fund.

No data is available concerning the employed persons whose disabilities are not defined as “severe”. However, data can be provided about the number of employees diagnosed with severe disability. It was obtained under the notifying procedure stipulated in Section 80(2) of SGB IX. The employers subject to mandatory employment of persons with disabilities must report all information relevant under the notifying procedure stipulated in Section 80(2) of SGB IX to the responsible employment agencies on an annual basis.

Persons with severe disabilities employed by employers with 20 workplaces or more

2003			2004			2005		
Total	Women	in %	Total	Women	in %	Total	Women	in %
761,882	307,818	40.4	764,701	313,440	41.0	771,233	319,699	41.5

Source: Federal Employment Agency; data obtained from the notifying procedure under Section 80(2) of SGB IX

With respect to the reporting period, the number of persons with severe disabilities working on the general labour market increased by 0.9 % (+ 6,532 persons) from 2004 to 2005. The figures for the year 2006 are not yet available.

The number of persons with disabilities employed in sheltered workshops outside the general labour market increased over the past few years:

Persons with disabilities employed in sheltered workshops:

2003	2004	2005
235,756	245,798	256,556

Source: Federal Ministry of Labour and Social Affairs

From 2004 to 2005, the number of persons employed in sheltered workshops increased by 4.4 % (+ 10,758 persons) (total employed at the end of the year). No data is available for 2006, however, it is generally assumed that this increase will continue in the next few years.

Questions of the Committee concerning Conclusions XVIII-2

- Positive effects on the unemployment figures due to measures to promote the employment of persons with severe disabilities:

The employment situation of persons with severe disabilities has continuously improved since 2003. From 2003 to 2005, the number of gainfully employed persons with severe disabilities increased by 1.2 % (and for women by 4 %). In the year 2005, approximately 914,000 persons with severe disabilities and disabled persons with assimilated status were gainfully employed, including 771,000 persons working with employers subject to mandatory employment and 143,000 with employers not subject to mandatory employment. This demonstrates that persons with severe disabilities benefit to an increasing extent from the positive economic development and that instruments to promote the employment of persons with severe disabilities are taking effect.

- Mandatory employment and compensation levy:

The present report contains detailed information concerning the system of mandatory employment and the compensation levy.

Since the graduated compensation levy was introduced in 2001 and by 2005

- the number of mandatory workplaces occupied by severely disabled persons increased by 4 %,
- compliance levels rose from 3.8 % to 4.2 %, and
- the number of employers subject to mandatory employment who do not employ any persons with severe disabilities has decreased by approximately 45 %.

These numbers demonstrate that the graduated compensation levy which has been in force since 2001 is the right approach.

- Persons with disabilities working in sheltered workshops and rate of transition from sheltered workshops to the general labour market:

The present report indicates how many persons with disabilities are working in sheltered workshops. According to a study published in 2003, the number of persons working in sheltered workshops who changed to the general labour market amounted to 0.32 % throughout Germany.

ARTICLE 18 *The right to engage in a gainful occupation in the territory of other Contracting Parties*

Paragraph 1 – Applying existing regulations in a spirit of liberality

As per 31 December 2006, 6,751,000⁴ inhabitants of Germany were of a foreign nationality. This corresponds to a share of 8.2 % in the total population.

Concerning the rate of work permit refusals in the reference period, the following information is provided:

Work permits and residence permits granted in the period under review

	Work permit applications	Granted work permits		Residence permits granted based on employment	Work permit denials	Residence permits denied based on employment
		Total	including new EU member states			
2003	930,511	886,386	498,017	--	44,125	--
2004	916,360	873,470	497,298	--	42,890	--
2005	370,322	--	364,069	no info	6,253	no info
2006	291,823	--	284,139	70,100	7,684	no info

As can be derived from the table, the number of work permits and residence permits granted based on employment in the years 2005/2006 significantly declined compared to 2003/2004.

This is contributed to by the fact that certain residence permits automatically include entitlement to access to the labour market for special reasons under the new immigration law, and are not counted as residence permits based on employment for this reason.

These include:

- a residence permit for the purpose of family reunion (Section 28(5), Section 29(5) of the Residence Act (Aufenthaltsgesetz – AufenthG),

⁴ The indications of the number of foreigners according to the central register of foreigners for the years prior to 2004 are not comparable due to adjustments made in 2004.

- a residence permit for reasons of international law, humanitarian or political grounds (Sections 22, 23 of the Residence Act),
- a residence permit for the spouse in the event of dissolution of the marriage (Section 31 of the Residence Act),
- a residence permit for a foreigner returning to Germany who lived in Germany for a long time as a child (Section 37 of the Residence Act), and
- a residence permit for former German nationals (Section 38 of the Residence Act).

Therefore, the data is no longer directly comparable.

Secondly, the number of work permit applications by citizens from the new EU member states has declined significantly. This results from the fact that, in contrast to Germany, some of the “old” EU member states granted unlimited freedom of movement to workers from the new member states upon their accession (in particular, the United Kingdom), and that workers migrated to those countries. Although nationals of the new EU member states (1 May 2004) enjoy free movement of persons, freedom of movement for workers still is restricted. The accession treaties contain transitory provisions which are made use of by Germany (with the exception of Malta and Cyprus) due to the tense situation on the labour market, especially in eastern Germany. For a period of transition, an approval has to be obtained from the Federal Employment Agency prior to taking up employment.

Paragraph 2 – Simplifying existing formalities and reducing dues and taxes

When the new immigration law came into force, formalities and procedural provisions were strongly simplified.

The Immigration Act (Zuwanderungsgesetz – ZuwG) which came into force on 1 January 2005 replaces the Foreigners Act (Ausländergesetz – AuslG) with the Residence Act (Aufenthaltsgesetz – AufenthG). As a result, not only the substantive law was changed, but also the administrative procedures were simplified – especially as regards the admission of foreign workers.

The previous (separate) approval procedures for work and residence permits were replaced with an internal approval procedure by the authorities. The core element of the new provisions is the introduction of the so-called “**one-stop-government**” principle. In the field of labour migration, the approval procedures for the work permit and the residence permit, which were

previously conducted in parallel by two different authorities, were replaced with **a single permit (residence permit)**. Since 1 January 2005, the foreigners' authorities have granted both the residence permit and the work permit at the same time. However, an approval has to be obtained from the Federal Employment Agency before the residence permit is granted. The foreigners' authorities initially verify whether the conditions for residency are satisfied, and contact the relevant employment agency if the approval of the labour administration is required to obtain its ruling concerning labour market access in an **internal procedure**.

A foreigner's entitlement to work in Germany directly results from the residence permit. Under the Residence Act, the different kinds of residence permits available under the Foreigners Act prior to 1 January 2005 (right of unlimited residence, limited/unlimited residence permit, residence title for specific purposes, residence title for exceptional purposes) were **reduced to three cases**:

(1) Limited residence permit (Aufenthaltserlaubnis – Section 7 of the Residence Act)

The limited residence permit is granted for a limited period of time. It is issued for a number of purposes, e.g., to begin vocational training, employment, for the purpose of family reunion or for humanitarian reasons.

(2) Settlement permit (Niederlassungserlaubnis – Section 9 of the Residence Act)

The settlement permit is granted for an unlimited period of time. It entitles its holder to unlimited residency and unlimited gainful employment, is not limited in time or space and may not be granted subject to collateral conditions.

The residence permit and the settlement permit are exclusively granted by the domestic foreigners' authorities.

The third type of residence permit is (3) the Visa (Section 4(1) No. 1 of the Residence Act) which must be obtained by third-country nationals, with a few exceptions, who want to travel to Germany, e.g., in order to take up employment. The visa as a form of residence permit is exclusively granted by the German consulates abroad. Apart from employment not requiring approval, the visa offices consult the local foreigners' office which in turn contacts the responsible employment agency in the internal approval procedure. Since the visa is a kind of residence permit, it entitles its holder to take up the employment stated in the visa immediately after entry. If the person concerned intends to stay longer, a limited residence permit has to be applied for prior to expiration of the visa, which is normally issued for a maximum of three months. The approval previously granted by the employment agency normally continues to be valid for the subsequently granted residence permit.

Time required for handling an application for a residence permit

No statistical data is available concerning the time required for handling applications. According to the Federal Employment Agency, the **processing duration** will probably have become **shorter** than the three months stated in the previous report due to the “one-stop-government procedure”. It is the aim of the Federal Employment Agency to complete these proceedings within **four weeks**.

Fees

The fees currently charged for a residence permit are stipulated in Sections 44 to 46 of the Ordinance Governing Residence (Aufenthaltsverordnung – AufenthV). Before the Immigration Act took effect, the fees were subject to the Ordinance Governing Fees Associated with the Foreigners Act (Ausländergebührenverordnung – AusGebV).

Due to the new “**one-stop-government**” principle, the fees for the residence permit and settlement permit are charged by the foreigners’ office only. They were raised by 15% (approximately 10 to 15 euros) compared to the fees previously payable under Sections 1 and 2 of the Ordinance Governing Fees Associated with the Foreigners Act, based on the cost development which has occurred after the last adjustment of fees in the year 1998. Any changes of a residence permit that refer to gainful employment are exempted from fees.

Paragraph 3 – Liberalising regulations

The provisions relating to immigration (Section 18 of the Residence Act) are based on the needs of Germany as an industrialised nation, with due regard to the labour market conditions and the need to efficiently combat unemployment. However, the exemptions from the basic prohibition of foreign workers already valid prior to 2005 were taken over and extended. Access to the labour market is now determined by the skill level. Accordingly, the Ordinance on the admission of foreigners for the purpose of taking up employment (Beschäftigungsverordnung – BeschV) and the Ordinance on official procedures enabling resident foreigners to take employment (Beschäftigungsverfahrensverordnung – BeschVerfV) adopted in this respect distinguish between highly skilled, skilled and low-skilled jobs.

Exemptions may be granted to certain groups of unskilled or low-skilled jobs under the Admission Ordinance, mainly for seasonal work (Section 18 of the Admission Ordinance), carniés (Section 19 of the Admission Ordinance), au-pairs (Section 20 of the Admission

Ordinance) and household maids (Section 21 of the Admission Ordinance). The approvals are granted for a limited period of time, each.

Approvals for skilled jobs requiring at least three years of training can only be granted on an exceptional basis and are subject to the principle of priority (Section 18(4) of the Residence Act). Exceptions include IT specialists with a (technical) university degree (Section 27(1) of the Admission Ordinance) and specialists with a (technical) university degree – without restriction to a certain subject – if there is public interest in them (Section 27(2) of the Admission Ordinance).

Approvals can also be granted in founded exceptional cases without limitation to a certain group of occupations under the provisions of the law (Section 18(4) 2nd sentence of the Residence Act) if there is public interest in the employment.

What is new is that applicants with especially high qualifications can be granted an unlimited residence permit (Section 19 of the Residence Act) which includes a permanent residence permit and unlimited work permit from the outset (Section 3 of the Employment Ordinance). For the purposes of Section 19 of the Residence Act, especially researchers, teaching personnel in higher positions, specialists and managerial staff with special job experience (the latter with a minimum annual income of 85,500 euros) are considered to be especially highly skilled.

Another novel provision is the right of foreign university graduates to stay in Germany for one year in order to find a job that matches their qualification (Section 16(4) of the Residence Act).

Another new principle applies: Family members following the permit holder will receive the same kind of domestic labour market access as the reference person (e.g. unlimited if reference person is highly skilled). This is a significant improvement over the prevailing situation (previously: subordinate labour market access and waiting periods of one year in some cases).

Foreigners who want to be self-employed may enter Germany subject to special conditions (Section 21 of the Residence Act). For this purpose, there must be a “higher-level economic interest” or a “special regional interest” in their activity. This activity must be expected to have “positive effects on the economy” and financing of the project must be ensured “by own funds or an approved loan”. An economic interest is assumed if the investment amounts to 1 million euros or more and 10 jobs are created (reference period; in the meantime, the preconditions were lowered to an investment of 500,000 euros and 5 jobs). The foreign entrepreneur will initially receive a residence permit for a term of three years at maximum. Afterwards, he can be granted an unlimited residence permit under more lenient conditions (2 years earlier than in the standard case; cf. Section 21(4) of the Residence Act) if his planned activity has been successful and his livelihood is ensured.

Change of occupation

The approval for an employment is normally granted for a certain occupational activity in a certain establishment (Section 13 of the Ordinance on official procedures enabling resident foreigners to take up employment). Therefore, changing the occupation requires another approval of the Federal Employment Agency. However, this limitation does not apply if the foreign applicant has been gainfully employed subject to mandatory social security contributions for at least three years, or if he has permanently stayed in Germany legally or tolerated in the country for four years (Section 9(1) of the Ordinance on official procedures enabling resident foreigners to take up employment).

Extension of the limited residence permit

An extension of a limited residence permit can be generally granted subject to the same rules as it is originally granted (Section 8(1) of the Residence Act). As a rule, a limited residence permit cannot be extended if extension was excluded by the responsible authority when granting it or upon the last extension granted because the residence was of a temporary nature for its very purpose (Section 8(2) of the Residence Act). For example, a residence permit granted for the purpose of seasonal work cannot be extended if the maximum duration of employment of four months (Section 18 of the Admission Ordinance) per calendar year has been reached.

Loss of or withdrawal from employment

If the foreign applicant in possession of a limited residence permit for the purpose of employment loses his job, the grounds for granting the limited residence permit are no longer given. In such a case, the foreigners' office will have to examine whether or not the residence permit has to be limited in duration retroactively. It is in the discretion of the foreigners' office to decide upon the remaining period of time to which the residence permit is limited, and whether or not the applicant will be entitled to search for a new position. The foreigners' office has a broad range of discretion when making this decision. Concerning the question as to whether and to which period of time the remaining duration of the residence permit is to be limited, it is required to duly account for all circumstances of the individual case, such as the type and scope of prior employment, the duration of previous residency, the receipt to unemployment benefits based on contributions paid.

Paragraph 4 – Leaving the country for the purpose of gainful occupation in another country

There are no restrictions if a foreigner wants to leave the country in order to seek gainful occupation in another country.

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