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EUROPEAN SOCIAL CHARTER OF 1961

30th National Report on the implementation of
the European Social Charter of 1961

submitted by

THE GOVERNMENT OF GERMANY

(Articles 3, 11, 12, 13 and 14 of the Charter
for the period 01/01/2008 – 31/12/2011)

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Berlin, November 2012

30th Report

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

for the time period from 01 January 2008 until 31 December 2011 (Articles 3, 11, 12, 13 and 14)
and Article 4 of the 1988 Additional Protocol

to be submitted 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 are to be communicated 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 herewith submits the Sixth Report in accordance with the new reporting system for the drafting of the State reports on the domestic implementation of the European Social Charter.

This Report contains Group 2 – Health, social security and social protection with Articles 3, 11, 12, 13 and 14 (period under report 1 January 2008 to 31 December 2011).

The 30th Report borrows from the previous Reports of the Federal Government on the domestic implementation of the obligations set out 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 the conclusions XIX-2 give reason for this, or the questionnaire makes this necessary or if relevant amendments in the material and legal situation have occurred.

Article 3 – The right to safe and healthy working conditions

Paragraph 1 – Issue of safety and health regulations

New Ordinance on the Protection from Hazards caused by Artificial Optical Radiation

The Ordinance on the Protection of Employees from Hazards caused by Artificial Optical Radiation entered into force on 27 July, 2010 (Federal Law Gazette. I p. 960). This means that the three EC Directives on safety and health at work on noise, vibration and artificial optical radiation have now been transposed into national law (the EC Directive on electromagnetic radiation has yet to be transposed). No matter whether it is a small or large enterprise, the provisions of the safety and health ordinance on artificial optical radiation ensure a higher degree of safety and health for employees at work.

Artificial optical radiation that poses health risks occurs in particular in the context of welding, the processing of glass and quartz, the production and processing of metal and in the context of laser applications which are used more and more often. In case of exposure, optical radiation from artificial radiation sources (e.g. laser or UV/IR radiation) may lead to serious eye and skin damage and thus endanger the health and safety of employees in many workplaces. Short-term damage manifests itself, for example, in the form of skin burns and damage to the cornea, conjunctiva and retina of the eye. Long-term high exposure of the skin to intensive UV radiation may lead to late consequences in the form of skin cancer.

The use of lasers involves a high risk potential for employees because of the high energy density of the laser radiation that is generated. Without imperative protective measures, irradiation by high-performance lasers leads in most cases directly to extremely severe and irreversible damage to eyes and skin. This is why the ordinance consistently prescribes that a competent laser safety officer has to be present when particularly dangerous lasers are used in enterprises.

The preventive measures laid down in the ordinance are meant to contribute both to improvements in the occupational safety and health of employees and to a reduction of the costs that have to be borne by social security systems.

New Product Safety Act

The central legal provision on the safety of equipment, products and installations is the Act on making products available on the market (Produktsicherheitsgesetz - Product Safety Act). The scope of the Act covers hair dryers, kettles and mini-excavators as well as breathing equipment and complex installations. The new Product Safety Act entered into force on 01 December, 2011 (Federal Law Gazette I p. 2178) and supersedes the previous Equipment and Product Safety Act.

Key elements of the new Product Safety Act:

The Product Safety Act includes new and improved provisions on market surveillance, in particular. One aim is to intensify cooperation between market surveillance (for which the Federal States are responsible) and the customs services so as to be able to detect dangerous products as early as possible. This guarantees a high level of safety of the products on the market - and also contributes to a fair competition between manufacturers. Moreover, the introduction of a uniform reference value of 0.5 samples per 1,000 inhabitants ensures that imbalances in the market surveillance controls on the Federal State markets are avoided.

The provisions governing the equipment safety mark (GS mark) have been made more restrictive and extended with regard to the prerequisites for its issue and the control of its use. The aim is to strengthen the GS mark in a sustainable way and combat abuse. In the past, the GS mark proved to be a reliable instrument for consumer information. By referring to "tested safety" ("geprüfte Sicherheit"), the GS mark influences consumers' purchasing decisions and thus contributes in a significant way to an effective consumer protection. On the whole, the relevance of the Product Safety Act as central marketing and safety regulation for products has been strengthened and market surveillance has been linked more closely on a European scale. It makes an important contribution to the protection of employees and consumers.

Self-employed persons

Also in the period covered by the 30th report, there was a broad spectrum of measures in Germany to promote the occupational health and safety of the self-employed. These measures tackle both the level of legal provisions and are effective in specialist/content terms. Under the law, the possibility exists to make the self-employed compulsorily insured in the statutory accident insurance by applying the statutes of the accident insurance funds, and hence to place them under the protection of the accident prevention regulations (section 3 of Book Seven of the Social Code [Siebtes Buch Sozialgesetzbuch – SGB VII]). Self-employed persons working in agriculture are already compulsorily

insured in accident insurance by force of law. In the period under review and also in future, all self-employed persons have and will have the possibility at any time to voluntarily comply with the occupational health and safety regulations applicable to employers and employees. However, in line with European law principles, there is no general application of the legal provisions on safety and health at work to self-employed persons. Insofar there have been no changes in Germany's position as against the period covered by the previous report. Their legal status alone precludes that an employer's duty of care to his/her employees applies to self-employed persons as well.

Paragraph 2 - Measures of supervision to provide for the enforcement of regulations

Also in the field of supervisory measures to enforce safety and health regulations for the protection of employees at work, the reforms introduced in the context of the Joint German Health and Safety Strategy (Gemeinsame Deutsche Arbeitsschutzstrategie - GDA) have led to fundamental improvements.

In the framework of the GDA, public safety and health authorities and occupational accident insurance funds have committed themselves to share the tasks in the fields of counselling and supervising enterprises and coordinate their relevant activities. The aims are coordination, uniformity and transparency in counselling and supervision, i.e. integrated approaches to prevention that are offered to enterprises and upon which they can rely.

Central instruments of the joint counselling and supervision strategy include:

- Framework agreements on cooperation between public safety and health authorities and occupational accident insurance funds,
- Joint guidelines on coordinated and planned supervisory action and an equal implementation of occupational safety and health provisions,
- Promotion of a data and information exchange between Federal States and occupational accident insurance funds on inspections.

As regards the way of proceeding/work of the labour inspection in general, reference is made to the information provided in the 26th report on the implementation of Article 3 of the ESC.

Paragraph 3 - Measures to hold consultations with the social partners

For decades already, Germany has pursued - with the involvement of the social partners - a coherent occupational safety and health policy. The concrete targets for this policy have been updated once again by the GDA strategy in which not only the Federal Government and the Federal States are involved but also the occupational accident insurance funds and the social partners as important players in safety and health at work (GDA strategy stakeholders).

The legal framework conditions for the GDA strategy were established in November 2008 by means of changes in the Safety and Health at Work Act and Book Seven of the Social Code. The National Health and Safety Conference was set up as central decision-making body for planning, coordinating and evaluating the measures envisaged to implement the GDA strategy. The conference consists of three representatives from the Federal Government, three from the safety and health authorities of the Federal States and three from the central associations of the statutory occupational accident insurance. Three representatives from the central associations of employers and employees respectively act as advisors to the conference. The conference is alternately chaired by the Federal Government, the Federal States and the occupational accident insurance funds on an annual basis. By setting up the conference, a body has been created that has given new impetus to the cooperation between Federal Government, Federal States and occupational accident insurance funds in the field of safety and health at work during the period under review. It is a positive result of the involvement of the social partners in the conference that safety and health targets have been geared to meeting practical requirements as closely as possible and that they are reaching into the enterprises.

As an alliance to strengthen prevention in working life, the GDA strategy pursues the aim to improve and promote employees' safety and health by means of a prevention-based and systematically implemented approach to safety and health at work. In the field of prevention, the GDA strategy stakeholders act on the basis of jointly defined safety and health targets. In the period under review, a number of work programmes were implemented in areas with particular risk potentials and their benefit for enterprises and employees was evaluated; this was done on a nationwide scale and in line with uniform criteria.

Further information on the GDA strategy and the National Health and Safety Conference is available on http://www.gda-portal.de.

Figures/statistics on labour inspection/accidents at work

Statistical surveys of labour inspection activities in Germany

Information on inspections carried out by the labour inspectorates and by the accident insurance funds is contained in the lists that are available on http://osha.europa.eu/fop/germany/de/statistics/statistiken/suga/suga2010.
Since the statistics list companies only by size classes, it is not possible to provide the specific numbers of employees covered by the inspections.

Figures/statistical surveys of accidents at work and occupational diseases in Germany

In the period under review, the numbers of reportable and of fatal accidents at work follow the trend of many years and continue to decrease. The rate of reportable accidents at work per 1,000 full-time workers is also decreasing. It has to be emphasized that this development can be observed against the backdrop of higher economic growth and an increased number of gainfully employed persons. The crisis year 2009 with considerably lower employment levels and thus a considerably lower accident potential was disregarded in this assessment as a "non-standard" year.

In the field of occupational diseases, there has been an increase in the number of notifications of suspected occupational diseases. The reasons are above all attributable to the fact that in 2009, the law on occupational diseases was reformed, the list of occupational diseases was extended and recognition periods were amended. In contrast, the number of recognized occupational diseases and of deaths as a result of occupational diseases has gone down.

Detailed information on accidents at work and occupational diseases is contained in the report by the Federal Government on the state of safety and health at work and on accidents and occupational diseases in the Federal Republic of Germany in 2010 (“SuGa 2010”);http://osha.europa.eu/fop/germany/de/statistics/statistiken/suga/suga2010.

Figures from the safety and health at work report - SuGA -
(most recent figures available for 2010)

Table 1: Accidents at work (AW)

Year	Reportable AW	Reportable AW per 1,000 full-time workers	Fatal AW
2008	1,063,915	28.3	765
2009	974,642	25.8	622
2010	1,045,816	27.4	674

Table 2: Inspections carried out by labour inspectorates and accident insurance funds

Year	Labour inspectorates	Accident insurance funds	Total
2008	332,199	690,658	1,022,857
2009	315,309	648,134	963,443
2010	300,253	627,185	927,438

Table 3: Number of companies inspected

Year	Labour inspectorates	Accident insurance funds	Total
2008	131,021	384,914	515,935
2009	124,479	382,353	506,832
2010	121,990	372,832	494,822

Supplementary information:

The table reveals a decrease in the number of companies inspected. The following information is provided in this regard:

In the field of the statutory accident insurance, supervising the implementation of preventive measures always goes together with an ad-hoc counselling on how shortcomings can be removed, if necessary. In addition to this supervision including an ad-hoc counselling as laid down in Book Seven of the Social Code, the occupational accident insurance funds have been increasingly engaged in another form of counselling for some years, namely counselling that is provided upon request of companies and institutions. In the course of this development, the individual counselling sessions have become more extensive and more time-consuming. One reason for this is a greater need for counselling on the part of companies and institutions that has been caused by the

abolition of well-established and specific safety and health provisions in the past few years.

Besides, other preventive activities have been extended by the occupational accident insurance funds. Qualification programmes and campaigns are mentioned by way of example. This development has to be seen against the backdrop of a review of prevention-related services of the statutory occupational accident insurance that was carried out in the context of the quality in prevention project. The review revealed that services such as supervision are more sustainable and effective if they are supported by other measures. This means that in practice, there are hardly any measures that focus on supervision alone. The prevention services rather offer a whole bundle of measures when companies are inspected. Qualification programmes and counselling upon request have proved to be very efficient and sustainable, for example. Every year, more than 400,000 multipliers from companies take part in the training programmes offered by the occupational accident insurance funds.

In view of the almost constant number of staff working in the field of prevention in the statutory occupational accident insurance and the changes described above, the decrease in the number of inspections can be explained. These changes and the wide range of prevention services provided by the occupational accident insurance are not reflected in the annual report by the Federal Government on safety and health at work. Therefore, the German Statutory Accident Insurance is working to persuade the Federal Government to include all prevention services provided by the statutory occupational accident insurance in its report. Proposals for an extension of the report and an adjustment of the figures presented therein are being drafted by the occupational accident insurance funds.

In the labour inspectorates of the Federal States, staff numbers were reduced in the period under review from 3,218 to 3,029 persons. This corresponds to a reduction of 6.2 %. The legally prescribed tasks such as the issue of licenses or permits in the field of occupational safety and health or in the other legal areas for which the labour inspectorates are competent besides occupational safety and health have remained unchanged and even increased in the other legal areas. This means that there is less and less time available for safety and health at work inspections.
The points mentioned above explain why the number of inspections carried out by the labour inspectorates decreased by 9.6 % from 2008 to 2010.

Table 4: Objections

Year	Labour inspectorates	Accident insurance funds	Total
2008	613,762	859,557	1,473,319
2009	579,023	817,353	1,396,376
2010	509,441	841,709	1,351,150

Table 5: Enforcement measures

Year	Orders	Cautions	Fines	Complaints
2008	38,125	1,357	2,464	273
2009	34,516	824	2,378	255
2010	33,968	1,003	2,511	265

Article 11 - The right to protection of health

General comments on Article 11

Health reporting and health monitoring

Based on health monitoring data collected by the Robert Koch Institute (RKI) in Berlin and other data sources, the Federal Health Reporting System (GBE) supplies information on the country's health care services and the population's health status Focussing on specific aspects, it covers a broad spectrum of health-related topics in non-technical language, ranging from topics like legal ground rules, health status, health behaviour, health hazards and major diseases, the availability and utilisation of health care services, to topics such as health costs and financing of the health system. Access to the relevant database is made available.

Since 2008, health reporting has been supplemented with health monitoring conducted by RKI. This allows close and continuous observation of the health situation in Germany. Surveys in the framework of health monitoring are in particular aimed at collecting representative data on the population's health status, health behaviour and health risks across all age groups. The results of health monitoring are presented in analytical form in Federal Health Reporting (GBE) publications.

Health monitoring and health reporting are the responsibility of the Federal Ministry of Health (BMG). The practical implementation of health monitoring and GBE publications are the task of RKI.

GBE publications including national health reports, topical booklets, "GBE Kompakt", and information on health monitoring and related health surveys can be found at http://www.rki.de/DE/Content/Gesundheitsmonitoring/gesundheitsmonitoring_node.html

The Federal Statistical Office is responsible for the Information System of the Federal Health Monitoring on behalf of the Federal Ministry of Health. All German health data - if valid and reliable- are available in the health monitoring information system maintained by the Federal Statistical Office. The data can be accessed at www.gbe-bund.de.

A major element of national health monitoring is the "German health interview and examination survey for adults (DEGS)" First results of the DEGS survey, which was carried out between November 2008 and December 2011, were presented at a symposium in June 2012. It was shown, among other things, that the proportion of overweight persons in Germany was more or less the same as in the previous survey conducted in1998, but that the number of seriously overweight persons had further increased, in particular among young adults.
Moreover, representative results for unknown diabetes mellitus based on blood tests (fasting glucose and glycated hemoglobin measurements) were for the first time presented for Germany. For the adult German population a proportion of 0.7 per cent was measured (if both parameters were combined), or 2.1 per cent (if only one parameter was considered). Both figures are lower than previous estimates on the basis of an oral glucose tolerance test.

Life expectancy

Life expectancy in Germany has also continued to increase in recent years.

Life expectancy after birth
(Source: Federal Statistical Off

	Mortality table 2005/2007	Mortality table 2008/2010
female	82.25 years	82.59 years
male	76.89 years	77.51 years

In 2008/2010, average life expectancy at birth was 77.5 years for men and 82.6 years for women [1](EU 27 average was 75.2 years for men and 81.5 years for women[2]). The

[1] Eurostat
[2] ibid.

mortality rate in 2010 was 5.65 per 1000 population [3](EU 27 average in 2006 was 6.48 per 1000 population[4]). The most frequent causes of death were cardiovascular diseases, which were responsible for 41.1 per cent of all deaths (91.9 per cent of these relate to persons over 65) and cancer (accounting for 26.2 per cent of deaths). The number of patients who died because of cardiovascular diseases was nonetheless falling.

Main causes of death

Health professionals and health care facilities

Pharmacists and pharmacies
(Source: Bundesvereinigung Deutscher Apothekerverbände - Confederation of German Pharmacy Associations)

	2008	2009	2010	2011
Pharmacists total	57,479	57,832	58,932	59,291
Pharmacists in public pharmacies	48,030	48,002	48,695	48,690
Pharmacists in hospital pharmacies	1,874	1,890	1,909	1,966
Pharmacists in industry, administration, specialist organisations, research	7,575	7,940	8,328	8,635
Public Pharmacies	21,602	21,548	21,441	21,238
Inhabitants per pharmacy	3,800	3,800	3,800	3,800

Paragraph 1 - Removing the causes of ill-health

Preventative health strategy

The Federal Government is developing a preventative health strategy with the aim of strengthening the population's health-related knowledge and ability to practice health

[3] ibid.
[4] ibid.

conscious behaviour at all stages of life and of reducing health risks. Work on this project is still ongoing.

National Cancer Plan

Germany has a highly developed health care system providing comprehensive care to all citizens in the case of cancer, including early diagnosis, treatment and after-care. However, despite considerable progress in cancer treatment, Germany, like other industrial nations, is facing growing challenges in the fight against cancer. They include first of all an increase in newly diagnosed cancer due to demographic change. The risk of developing cancer increases with age. Thus, according to RKI data, the number of newly diagnosed cancer patients amounted to 470,000 in 2008, which is 70,000 more than in 1999. With more than 218,000 deaths per year, 1 in 4 persons die from cancer in Germany.

On 16 June 2008, the Federal Government, together with the German Cancer Society and the Working Group of German Tumor Centres, initiated the German National Cancer Plan. The initiative is aimed at coordinating the activities of all those involved in the fight against cancer and to push ahead with goal-oriented action. The *Federal States*, health funds, pension insurance, service providers, science and patient' organisations were gained as active cooperation partners in this process.

The National Cancer Plan is a programme for cooperation and coordination with a long-term perspective. By adopting a National Cancer Plan Germany meets the recommendations of the European Union and World Health Organisation.

In the initial phase, the National Cancer Plan focuses on the following 4 action fields:

- further development of cancer screening/early detection;
- further development of cancer care structures and quality management;
- assurance of efficient oncological treatment (currently emphasising oncological pharmacotherapy);
- patient empowerment.

To ensure goal-oriented work in the four action fields a total of 13 objectives and associated sub-objectives were formulated and recommendations for their implementation were drawn up. Cancer research and in particular cancer care research are included as cross-cutting issues in all action fields.

A detailed, carefully drawn-up and coordinated catalogue containing some 100 recommendations on how to meet the joint National Cancer Plan objectives is now available. The recommendations are autonomously implemented by the relevant stakeholders. In health policy, priority is currently given to the implementation of cancer screening/early detection as well as cancer care and quality management.

Detailed information on the German National Cancer Plan is available at the website of the Federal Ministry of Health: http://www.bmg.bund.de/praevention/nationaler-krebsplan.html

Health protection measures for certain groups of persons

Prevention programmes for adults

In accordance with the social law regulations in Germany, persons insured under the statutory health insurance scheme have a right to early detection of diseases. Women and men from the age of 35 may attend a health check-up ("Check-up 35") every two years. Furthermore, women from the age of 20, and men from the age of 35 have a right to regular checks for early detection of certain kinds of cancer.

Health check-ups ("Check-up 35") serve in particular to provide early detection of cardiovascular diseases, diabetes mellitus and renal diseases. Also the relevant risk factors for these diseases, such as smoking, hypertension and overweight are to be detected in the check-ups. The check-up covers taking the patient's medical history, physical examinations and laboratory tests of blood and urine samples. Following on from the examination, further diagnostic and therapeutic tests can be taken where appropriate. The concluding discussion should also include motivation to reduce lifestyle-related health risks.

The early cancer detection programme within statutory health insurance aims at certain types of cancer that can be reliably detected by diagnostic measures and effectively treated in the preliminary and early stages. Women with statutory insurance have a regular right from a certain age to early detection check-ups for cancers of the genital organs/of the cervix (annually form the age of 20) of the breast (annually from the age of 30) of the skin (every two years from the age of 35), of the colon and rectum (annually from 50 to 54). There is also a right to colonoscopy from the age of 55 in the context of early detection of colorectal cancer, and this can be carried out twice at an interval of 10

years. Insured persons aged 55 and older who do not wish to undergo colonoscopy may alternatively opt for a stool test (FOBT) every two years.
50 to 69-year-old women can also take part every two years in mammography screening for early detection of breast cancer, which was first introduced in 2005. Mammography screening in Germany is a nationwide, population-based, quality-assured programme with organised invitations on the basis of the "European Guidelines for Quality Assurance in Mammography." Men with statutory health insurance are offered early detection check-ups of the skin (every two years from 35) the prostate/external genital organs (annually from 45) and of the large intestine and the rectum (annually from 50 to 54). As with women, there is a right to colonoscopy or a stool sample test (FOBT) from the age of 55. Germany has taken up a pioneering position internationally since July 2008 with the above-mentioned early skin cancer detection check-ups for skin cancer in the shape of a biannual standardised screening for women and men from 35.

Further development of cancer screening is a key area of action under the National Cancer Plan. The aim is to adapt the existing cervical and colorectal cancer screening programmes to the quality standards set out in the latest European Guidelines. In this context, the procedures of the established cervical and colorectal cancer screening will be further developed and to some extent re-organised. Important steps will be the introduction of organised invitations, better information of eligible insured persons and extension of quality assurance and performance monitoring. The innovations will be implemented in an organised, population-based process. In Germany, a mammography screening programme for the early detection of breast cancer in accordance with the European Guidelines was successfully introduced between 2005 and 2009.

Drug addicts

The Pilot Project for Heroin-assisted Treatment of Opiate-dependent Patients was funded by a joint initiative of the Federal Ministry of Health, the *Federal States* Hamburg, Hesse, Lower Saxony and North Rhine-Westphalia as well as the cities of Bonn, Frankfurt, Hanover, Karlsruhe, Cologne and Munich, and was supported in an advisory capacity by the German Medical Association. The Centre for Interdisciplinary Addiction Research of the University of Hamburg was commissioned with the scientific planning and implementation of the study. All in all, the Federal Government has spent more than 15 million Euros on the project since 2001. The study was completed in 2007. Until the entry into force of the Act on Diamorphine Treatment, heroin clinics continued to operate on the basis of transitional provisions. The Federal Government continued to provide funding for the documentation of treatment standards and therapeutic effects as part of a quality

assurance project running until mid-2012. The documentation makes it possible to follow-up diamorphine treatment in Germany in order to gain information on its long-term effects.

The evaluations of scientific monitoring on conclusion of the follow-up phase have confirmed the long-term success of diamorphine treatment. The data have shown that co-consumption of cocaine, street heroin, cannabis and benzodiazepines also continues to fall under long-term treatment with diamorphine (up to 4 years) and that patients' health continues to stabilise. The employment situation also appears highly positive. The share of all patients in work is 40 per cent at the end of the 4th year of treatment, and the share of employable patients was as high as 68 per cent.
Following the approval of the Bundesrat, the Act on Diamorphine Treatment entered into force mid-2009. The Act amends (besides the Pharmaceuticals Act) the Narcotics Act (BtMG) and the Ordinance on the Prescription of Narcotics (BtMVV). After the entry into force of the Act on Diamorphine Treatment, the seven outpatient clinics participating in the federal pilot project on diamorphine-supported substitution treatment were granted a licence from the competent Land authorities to ensure a continued and legally compliant operation of the clinics. In spring 2010, the Federal Joint Committee (GBA) decided to modify its Guideline on "Methods of providing SHI-accredited physician services: diamorphine-supported substitution treatment of opiate-dependent patients". The aim was to ensure that the cost of diamorphine-supported substitution treatment would be covered by the statutory health insurance (SHI) (in force since June 2010). The amendment of the Uniform Assessment Standard (EBM) adopted by the SHI Evaluation Committee (BWA) and implementing recommendations for the funding of diamorphine-supported treatment of opiate-dependent patients entered into force in November 2010.

So far, diamorphine treatment centres have not been set up in new locations. On 1 July 2011, 0.4 per cent of the total number of 76,200 substitution patients received a prescription for diamorphine. Since the end of the pilot study, 203 new patients have been referred to diamorphine substitution treatment and have been included in the documentation.

In response to the Committee of Experts' request for information about major changes to the legislation on statutory health insurance since the adoption of the 2007 Act to Increase Competition in Statutory Health Insurance (GKV-Wettbewerbsstärkungsgesetz - GKV-WSG) the following information is provided:

On 1 January 2009 The Act to Enhance the Organisational Structures of Statutory Health Insurance (*Gesetz zur Weiterentwicklung der Organisationsstrukturen in der gesetzlichen Krankenversicherung* - GKW-OrgWG) entered into force. The legal provisions of section 171b of Book V - Health Insurance - of the Social Code meet the regulatory task imposed by the GKV-WSG by making all health insurance funds capable of becoming insolvent thus creating a level playing-field for a fair competition in statutory health insurance. Supportive rules lay down adequate instruments for the stakeholders (health insurance funds, the National Association of Statutory Health Insurance Funds and the supervisory authorities) to help avoid closures and insolvency cases in the interest of all insured persons.

The law also provides for changes to the Risk Structure Compensation Ordinance (*Risikostruktur-Ausgleichsverordnung* - RSAV) to include rules for standardising administrative expenses of the health insurance funds - a necessary prerequisite for the establishment of the Health Fund - and to specify further details.
On 1 January 2011, the Act on the Reform of the Market for Medicinal Products (*Gesetz zur Neuordnung des Arzneimittelmarktes* - AMNOG) entered into force. The purpose of this Act is to contain the rapid increase of the pharmaceutical expenditure of the statutory health insurance funds. AMNOG opens the way for a fair competition and a stronger focus on what benefits patients. The Act has managed to find a new balance between pharmaceutical innovation and affordability. The price of drugs is now determined by the additional benefits they offer to patients. Moreover it cuts down bureaucracy for doctors and helps improve the information of citizens through independent patient counselling.

On 1 January 2011, the Act for Sustainable and Socially Balanced Financing of Statutory Health Insurance (*Gesetz zur nachhaltigen und sozial ausgewogenen Finanzierung der gesetzlichen Krankenversicherung* - GKW-FinG) entered into force. The GKW-FinG Act ensures a stable and sustainable health care system guaranteeing also for coming generations reliable and high-level protection in cases of ill-health. At the core of this Act are not only the provisions for the containment of costs and for securing a sustainable financial basis but also the introduction of a fair balance between social interests. The introduction of flat contribution surcharges as a new element combined with an automatic and unbureaucratic tax-financed social compensation mechanism puts the system on a sustainable and solid financial basis.

The Act contains in particular the following provisions:

- The contribution of 15.5 per cent is restored. To respond to the economic and financial crisis the Federal Government had temporarily reduced the contribution rate as part of stimulus package II.

- The Act now firmly establishes contributions at this rate. Thus labour costs are largely decoupled from the development of health care costs.

- Further unavoidable increases in health care expenses in excess of wage and salary growth are now financed by non income-related contribution surcharges. This enhances contribution autonomy and sends a transparent price signal thus strengthening competition between health insurance funds.

- The GKV-FinG provides for an unbureaucratic social compensation mechanism to avoid that contribution surcharges place an excessive financial burden on the members of statutory health insurance funds. When the anticipated contribution surcharge exceeds two per cent of an insured person's income liable for contributions, the person concerned is eligible for a social compensation in the form of a corresponding reduction of the earnings-related contribution. As a rule the earnings-related contribution is automatically reduced by the employer or the pension insurance institution.

On 1 January 2012, the Act to Improve the Efficiency of Care Structures in Statutory Health Insurance (*GKV-Versorgungsstrukturgesetz* – GKV-VStG) entered into force. The Act establishes a framework for

- improvements in care,
- more interconnection between the health care service sectors,
- more rapid access to innovations, and
- more competition that will drive innovation.

The GKV-VStG Act continues the line of reforms for a stable and sustainable social health insurance system. The Act creates the conditions that will ensure a nationwide provision of appropriate medical care at a reasonable distance from patients' homes. It introduces specific incentives for providing adequate remuneration and motivation to doctors notably in particularly demanding places - such as rural regions and depressed urban areas. At the same time it improves everyday care for patients for instance by cutting red tape, by making sure that also in future patients have access to the necessary medicines, aids and appliances and by an improved coordination of treatment by doctors, hospitals and other facilities.

Local actors will have more possibilities of taking account of regional realities and needs. One could name in particular the following provisions:

- More open demand planning so that regional particularities can be specifically taken into account. In future, the Federal States will be involved in the demand planning processes.

- Further development of the instruments to ensure that medical care is available including targeted incentives also in the system of remuneration. Physicians in disadvantaged regions, for instance, will be exempt from the cut in fees, to prevent that those who work more earn less.

- Incentives to reduce oversupply. On the one hand, the regional panel physicians' associations have wider possibilities of providing financial incentives to encourage the voluntary surrender of the licence to practice as a panel physician. On the other, before starting the process of filling a vacant position of a panel doctor in regions with an oversupply the licensing committees are required to check whether it is absolutely necessary to fill that position.

- Measures for reconciling work and family notably for physicians.

In response to the Committee of Experts' question whether access to health care is guaranteed equally to German nationals and foreign nationals working lawfully in Germany, the following information is provided:

Persons employed as workers whose earnings are above the threshold level of € 400 but below the ceiling for mandatory coverage are subject to compulsory health insurance regardless of their nationality and irrespective of whether their employment is lawful or unlawful. Workers with earnings above the ceiling for mandatory coverage have the right to join the statutory health insurance provided they had been compulsory members of statutory health insurance before and completed a specified previous insurance period, or take up employment in Germany for the first time.
Persons who do not meet the requirements for compulsory coverage and fail to exercise their right of membership in the statutory scheme within the prescribed time limit are (subsidiarily) subject to compulsory insurance in the statutory health insurance when they were last affiliated to the statutory scheme. When they were last insured in a private scheme or when they have to be assigned to the private health insurance, they are under the obligation to take out private health insurance.

In response to the Committee of Experts' question whether access to health care is guaranteed equally to German nationals and foreign nationals residing lawfully in Germany, the following information is provided:

Statutory health insurance is open to compulsory members, voluntary members and insured family members regardless of their nationality.

Compulsory members pursuant to section 5 of Book V of the Social Code are in particular:

- Workers whose income from work is above € 400 a month but below the general ceiling for mandatory coverage; this ceiling is adjusted annually and stood at € 49,500 in 2011,
- Trainees and students under certain conditions, as well as interns completing an unpaid practical training period as prescribed by the study and examination regulations,
- Pensioners provided they completed a specified previous insurance period,
- Recipients of unemployment benefit or maintenance benefit according to Book III - Employment Promotion - of the Social Code, and, under certain condition, recipients of unemployment benefit II,
- Persons in youth welfare facilities who are to be prepared for employment,
- Persons with disabilities working in sheltered workshops, workshops for blind people, institutions, homes or similar facilities,
- Participants in measures promoting participation in working life,
- Self-employed farmers and forest entrepreneurs and their family helpers as well as retired farmers (who retain the right to continue to live at the farm),
- Artists and journalists.

The following persons above all can take out voluntary insurance in the statutory health insurance (section 9 of Book V of the Social Code):

- Persons ceasing to be compulsorily covered or covered as family members provided they were continuously covered for at least 12 months immediately before compulsory coverage ended or covered for a total of 24 months within the last 5 years before the end of compulsory coverage,
- Workers with earnings above the ceiling for mandatory coverage who take up employment in Germany for the first time,
- Workers who had worked abroad and again take up employment in Germany within 2 months after their return,
- Severely disabled persons when they themselves, their parent, spouse or registered partner were insured in the statutory health insurance for at least 3 years within the last 5 years preceding affiliation.

Dependants of compulsory members and voluntary members are automatically covered as family members (according to section 10 of Book V of the Social Code). This includes spouses, registered partners and children within specific age limits. Children are covered permanently if the child is unable to support itself due to a disability. Step-children and grandchildren whose support is mainly provided by the member are also treated as

children. The main prerequisites for the non-contributory coverage of family members are domicile or habitual residence in Germany and total earnings normally below € 365 a month (figure for 2011); for people in marginal employment the income threshold is € 400.

Due to the detailed requirements of the aforementioned provisions the statutory health insurance funds have to check case by case whether a person is liable to compulsory insurance, eligible for voluntary membership or entitled to non-contributory coverage as a family member.

German nationals and foreign nationals who are not covered by the above provisions and have no other entitlement to protection in the event of sickness benefit from the regulations on subsidiary compulsory coverage in statutory or private health insurance that were introduced by the Act to Increase Competition in Statutory Health Insurance. These are as follows:

Persons without protection in case of sickness who were last covered in the statutory health insurance are as a rule subject to subsidiary compulsory insurance in the statutory health insurance (section 5 (1) (13) (a) of Book V of the Social Code). They become compulsory members of their former statutory health insurance fund or its legal successor.

Moreover, compulsory coverage in the statutory scheme includes also persons without any other protection in case of sickness who previously had neither statutory nor private health insurance coverage in Germany and cannot be attributed to the sphere of private health insurance. The sphere of private health insurance covers in particular full-time self-employed persons, workers whose income from work is above the ceiling for compulsory coverage as well as civil servants, professional soldiers and other groups of persons entitled to allowances in case of sickness according to civil service regulations or principles. Persons returning from abroad are classed according to the group of persons to which they would have belonged had they exercised their previous occupational activity in Germany.

Subsidiary compulsory coverage in the statutory health insurance applies to foreigners who are not nationals of a Member State of the European Union nor nationals of a contracting state of the Agreement on the European Economic Area nor nationals of Switzerland provided they have a right of establishment or residence permission for more than 12 months according to the Residence Act.

However, subsidiary compulsory coverage does not come into effect, if the issue of the above-mentioned residence titles is subject to the condition that the foreign national is able to cover his own living expenses including sufficient health insurance without claiming public assistance. This provision is to ensure that the person's residence permit does not result in a financial burden on the German social security system. Therefore, the required health insurance coverage to be financed from own financial resources excludes subsidiary compulsory coverage in the statutory health insurance.

Foreign nationals from a member state of the EU, or from a country which is a party to the Agreement on the European Economic Area, or from Switzerland taking up residence in Germany are as a rule covered by subsidiary compulsory insurance pursuant to Section 5(1) No. 13 of the Social Code, Book V, unless they have other health insurance coverage. However, if the persons referred to above are not gainfully employed, they are not subject to subsidiary compulsory health insurance. In this case, they must have previously existing health insurance coverage (Section 5(1) Sentence 2 of the Social Code, Book V in conjunction with Section 4 of the Freedom of Movement Act/EU).

Persons who move their domicile or habitual place of residence to Germany and do not have any other health insurance coverage and are not covered by subsidiary compulsory health insurance are subject to compulsory private health insurance (Section 193(3) of the Insurance Contract Law - VVG). In these cases, persons have a right to be insured at the basic tariff rate every private insurance company is obliged to offer.

The basic tariff must include benefits comparable to the benefits offered by the statutory health insurance. In the case of this tariff, insurance companies are obliged to contract, i.e. they cannot reject applicants who wish to be insured at the basic tariff rate (Section 193(5) VVG); applicants are free to take out an insurance policy from a company of their choice. In addition, private insurers are not allowed to exclude or surcharge certain risks in the case of these policies.

The Committee asks what arrangements are made to manage health care waiting times. The following information is provided in this regard:

Measures in the field of out-patient treatment

The right of access to health care also requires that benefits and services are provided within a reasonable period of time. This is a particular challenge in rural and structurally disadvantaged regions. Therefore, the Act on Care Structures in Statutory Health Insurance was designed to create conditions ensuring that in these regions a sufficient

number of doctors is available to provide close-to-home and needs-oriented medical care and, if necessary, to reduce existing waiting times. In this context, it is particularly important to make the provisions for needs-oriented planning of the number of panel physicians more flexible and to establish, above all, possibilities to deviate from the national planning provisions, depending on the regional needs for care. This way, the local actors responsible for health care policy are assigned increased responsibility to flexibly manage medical care in their regions. In this connection, it was also entrenched in the law that the Panel Physicians' Association's responsibility for ensuring the provision of adequate services also includes that insured persons are provided with specialist medical care within a reasonable period of time. The overall contracts at regional level must specify which times in the standard and exceptional case shall still be considered compliant with the requirement of timely specialist medical care.

Measures in the field of in-patient treatment

In line with their responsibility for hospital planning, the Federal States in Germany must ensure that the population is provided with an adequate hospital infrastructure. The capacities to be maintained shall be planned in such way as to prevent unnecessary and avoidable waiting times. This also implies that the Federal States regularly review their hospital planning, taking into account the demographic development, changes in the population structure and medical developments and adapt to changing needs.

The Committee asks how many hospital beds there are for psychiatric patients (note: the average number of beds in psychiatric hospitals in Europe was 0.60 per 1,000 inhabitants in 2005): The following information is provided in this regard:

With the German psychiatry reform which was initiated in the 1970s, the traditional institutionalised psychiatry was replaced by a therapeutically oriented, decentralised system of most diverse offers of treatment and rehabilitation which are based on in-patient, out-patient and day patient treatment. Since then, the number of hospital beds in psychiatric hospitals has decreased by slightly more than half with the majority of these beds being in the psychiatric wards of general hospitals.

In 2010, there were 50,731 full-time hospital beds in specialist hospitals and psychiatric and psychotherapeutic wards, which corresponds to 0.82 beds per 1,000 inhabitants.

	2008	2009	2010	2011
A) total of beds (hospitals + rehabilitation and prevention facilities)	**674,420**	**674,830**	**674,473**	Data not yet available

Of those: 1. **hospital beds** *Including: beds for psychiatric patients*	**503,360** *(64,457)*	**503,341** *(65,478)*	**502,749** *(66,795)*	Data not yet available
Of those: **2. Beds in prevention and rehabilitation facilities**	**171,060**	**171,489**	**171,724**	Data not yet available
B) Beds per 1,000 inhabitants	**8.21**	**8.24**	**8.25**	Data not yet available
Of those: **1. Hospital beds per 1,000 inhabitants** *Including:* ***Beds for psychiatric patients per 1,000 inhabitants***	**6.13** (0.78)	**6.15** ***(0.80)***	**6.15** ***(0.82)***	Data not yet available
Of those: **2. Prevention and rehabilitation beds per 1,000 inhabitants**	**2.08**	**2.09**	**2.10**	Data not yet available

The Committee notes from another source that there is a problem of uneven geographical distribution of doctors between urban and rural areas and, in particular, that 50% of posts in hospitals in former East Germany remain empty. The Committee therefore asks for information on the geographical distribution referred to above and measures taken to remedy the problem of uneven distribution of health care professionals.

In the field of out-patient treatment by doctors there is the following situation: unfortunately, it is true that in Germany there is an uneven distribution of doctors between urban and rural areas and the current planning on how to meet future demands falls short of the aim to provide country-wide and close-to-home care structures in the desired way. The Act to Improve the Efficiency of Care Structures in Statutory Health Insurance (GKV-VStG) therefore provides for the further development of demand planning. In accordance with the Act, the Joint Federal Committee (G-BA) as the supreme decision-making body of the joint self-administration of doctors, dentists, hospitals and health insurance funds in Germany, has been assigned the task to review its demand planning guidelines (BPL-RL) and redefine the so far rigid planning areas with the aim to reach country-wide and as close-to-home care structures as possible. The Act also provides for the Joint General Committee to adjust the ratio (resident/doctor ratio) for the general demand-oriented degree of care for all categories of doctors with special view to the demographic development. To better assess local requirements and better take account of regional particularities, the Federal States' requirement plans may deviate from the demand planning guidelines. In cases where the regional demographic development and morbidity structure of insured persons suggest specific or above-average care requirements, different ratios can, e.g., be specified for the respective categories of doctors.

On the basis of the further development of demand planning, the Act on Care Structures in the Statutory Health Insurance has supplemented the instruments to influence doctors' choices of where they establish their practices via financial incentives. The Panel Physicians' Associations and the state branches of the health insurance funds, for example, may now give additional financial incentives such as price supplements for individual, to-be-determined services or for service providers deserving special support, especially for doctors in planning areas with a shortage (or imminent shortage) of doctors, so that they choose to establish their practices in these areas. Furthermore, the Act also contains provisions concerning the distribution of fees. Where the fee distribution scales of the Panel Physicians' Associations provide for measures to limit or reduce the number of cases, such measures must not be used when treating patients in (imminent) shortage areas or in areas with additional local care requirements. The Panel Physicians' Association is also obliged to examine individually whether the above mentioned provision to ensure out-patient care is sufficient and whether it has to take further measures (e.g. exemption from the quantity restriction).

The federal government does not have any data or evidence showing that 50 per cent of hospital jobs in former East Germany are empty. According to figures of the German Hospital Institute (DKI), 4.1 per cent of doctors' positions in hospitals were not filled in East and West Germany in 2008. This was the case in 2010, too. According to the DKI statistics for 2011, 3 per cent of full-time doctors' positions in German hospitals were not filled.

Above all, hospitals having problems to fill vacancies must organise themselves in such a way that they can offer young doctors attractive positions. Nevertheless, the federal government always seeks to improve the framework conditions for doctors working in hospitals. Today, this means in particular to make jobs family-friendly.

Between 2010 and 2011, there were already three meetings of the "Round Table on the Reconciliation of Family and Career in Healthcare" which was also attended by hospital representatives. Since 2009, the federal government has been promoting a project identifying approaches for better reconciliation of family and career and age-appropriate work in hospitals. The corresponding internet platform (www.pflege-krankenhaus.de) presents new ideas and implementation strategies for family-friendly working conditions in hospitals.

Especially the requirements of working time legislation, which was amended a few years ago, contribute to improve the working situation of doctors with families. To support the implementation of working time legislation and better working time organisation in hospitals, a 700 million EUR programme was launched to successively provide hospitals with additional funds.

In addition to the Act to Improve Care Structures in the Health Sector, the federal government in 2011 presented amendments to the Regulation on the Licensing of Doctors, containing different measures for a targeted recruitment of young doctors and the promotion of medical students. Above all, these measures provide for an increase of the number of hospitals in which students can complete their pre-registration years. Especially hospitals in rural areas are given an instrument to maintain staff at an early stage. This will contribute to achieving a more balanced regional distribution of future doctors and facilitate the mobility of medical students within Germany.

The Committee notes that there are significantly more deaths due to alcohol abuse in Germany than in other European countries (4.7 per 1 000 in 2006 compared to 2.7 per 1 000 in the same year for the EU 27). It asks what measures are being taken to address this situation.

In particular in light of the high annual consumption of alcohol per person aged 15 and over, the Committee asks to be kept informed of all trends in consumption and measures taken to combat alcohol abuse.

Alcohol consumption trends in Germany

Every third male adult and slightly more than one fifth of adult women in Germany consume alcohol to an extent that puts their health at risk. Still, about 1.3 million persons in Germany are considered to be alcoholics. The average per capita consumption of pure alcohol of the adult population stands at 10 litres. Compared with previous years, there has been a slight downward trend in alcohol consumption. There has also been a clear decrease in the occurrence of heavy episodic drinking.

Encouragingly, regular consumption of alcohol by young people in Germany has been declining over the last years (Drug Affinity Study of the Federal Centre for Health Education 2012). Yet, heavy episodic drinking (consumption of at least 5 alcoholic beverages on a single occasion) is still widespread. Despite heavy drinking has also been on the decline, approx. 14 per cent of young people under age are binge drinkers once a month while the per centage for 18-to-25-year-olds is roughly 40 per cent. In 2010, almost 26,000 children, young people and young adults between 10 and 20 years were treated in

hospitals for acute alcohol intoxication. For the first time in 10 years, there has thus been no further increase in the number of hospitalisations compared to the previous year.

As a result of increasing per capita alcohol consumption, there is also an increase in alcohol-associated secondary diseases of the body and general mortality. In Germany, at least 73,000 persons die as a result of alcohol abuse every year. In international comparison, Germany is a country with high per capita consumption and very low abstinence rates. The WHO, however, deems drinking patterns not to be very hazardous in comparison (Global Status Report on Alcohol and Health 2011). The joint publication of the EU and the WHO Europe "Alcohol in the European Union" 2012 shows that the per centage of alcohol-induced deaths in Germany is below EU average for both men and women. Alcohol-related liver disease deaths rank among the top third in European comparison. Clearly below average is the road traffic mortality rate (European Status Report on Alcohol and Health, WHO 2010).

The federal government attaches great importance to the prevention of alcohol-related diseases and deaths. A set of complex measures makes the effective prevention of alcohol abuse possible.

Measures for the prevention of juvenile alcohol consumption

Education and prevention concerning the consumption of substances by children and young people are generally part of the Federal States' school curricula. With the prevention project "Alkohol? Kenn dein Limit" [Alcohol. Be aware of your limit] of the Federal Centre for Health Education, the federal government, in cooperation with the Association of Private Healthcare Providers (PKV), has stepped up its prevention work with young people, putting a special focus on the age group 16-20. The campaign aims at motivating young people and young adults to consume alcohol in a responsible manner and prevent the development of dangerous drinking patterns (www.kenn-dein-limit.info). The campaign which has been running since October 2009, has already aroused great public interest and has been awarded a number of prevention prizes.

The campaign "Null Alkohol - Voll Power" [Zero Alcohol - Full Power] of the Federal Centre for Health Education was updated in 2012. It is mainly addressed at young people between 12 and 16 years before patterns of abusive alcohol consumption develop and become a habit. The campaign aims at informing as many young people as possible about alcohol and the risks of excessive alcohol consumption. It points out the negative

consequences of excessive alcohol consumption and provides knowledge about the responsible consumption of alcohol (www.null-alkohol-voll-power.de).

In 2009, the project "Hart am Limit - HaLT" [Close to the Limit] was launched which has been crucially supported by the federal government. The HaLT project focuses above all on addressing at an early stage children and young people treated as in-patients for severe alcohol intoxication. The aim is to analyse the incident, identify its causes and provide young people with tools to prevent a repetition which might have life-threatening consequences. In addition, HaLT includes the establishment of local approaches for situational prevention (above all strengthening of juvenile protection). Meanwhile, about 150 HaLT project sites have been established in 15 Federal States.

Since 2010, the federal government has been supporting parents in dealing with the alcohol consumption of their children The objective is to strengthen parents' positive influence on the drinking habits of their children. In the framework of a model project promoted by the Federal Ministry of Health (BMG), an information event to provide evidence-based recommendations has been developed. The event will for the first time be held on the occasion of parents' evenings for 8 to 10 graders in general educational schools and evaluated. In addition, the federal government already launched a campaign in 2010 to promote a more effective implementation of juvenile protection, especially at alcohol sales points.

Prevention of alcohol abuse in the adult population

The campaign "Alkohol? Kenn dein Limit" of the Federal Centre for Health Education is also aimed at countering the trivialisation of the consequences of problematic alcohol consumption for the individual and society. The campaign furthermore promotes the positive adult role model for children and young people and advocates abstinence, especially during pregnancy and breastfeeding, as well as sobriety on the road, at work and of persons being under medication. Since 2010, the core element has been a mobile exhibition on alcohol prevention which can be used in places with high public traffic.

Moreover, the German Center for Addiction Issues organises an action week under the motto "Alkohol? Weniger ist besser" [Alcohol? Less is Better"] every two years. Organisations and associations of addiction aid, self-help groups, specialised clinics, doctors and pharmacists as well as enterprises and administrations are called upon to bring the subject to public attention. Widely covered by the media, more than 1,500 events and activities took place from 21 to 29 May 2011 throughout Germany. They focused on

the subject of alcohol and hazardous consumption, suggesting participants to check their own drinking habits.

The consumption of alcohol and tobacco during pregnancy is associated with considerable risks for the foetus and still widespread in Germany. In 2011, the federal government launched a funding priority to strengthen target-group specific prevention or at least the reduction of substance consumption during pregnancy. Seven model projects developing and implementing new and target-group specific approaches to prevent tobacco and/or alcohol consumption during pregnancy were supported in 2011 for one year. The best three concepts will be extended to other sites in Germany over the following years.

Moreover, in the framework of the government's funding priority "Addiction in Old Age", eight model projects designed to raise awareness for the issue and to qualify the staff working for addiction aid organisations and in elderly care have been funded since 2010. The aim is to increase their knowledge on the risks of addiction and addictive disorders to ensure the initiation of early interventions in the case of substance abuse. The central element of the model projects is the promotion of structured cooperation between the staff working in elderly care and addiction aid organisations, building on mutual learning and exchange on equal footing between the individual workers. In February 2012 the federal government adopted the new National Strategy on Drug and Addiction Policy. It is the basis of future alcohol prevention measures in Germany.

Check-up programmes for children

Children check-up programmes continue to be decisive instruments to prevent health impairments from the very beginning. Continuity is very important here. Therefore, the federal government's action programme "Early aid for parents and children and early social detection systems" that was already mentioned in the 26th Report and aims at protecting children against neglect and abuse, has been extended until 2014. The expansion and development of the "Early aid" networks shall be strengthened. This also includes the federal initiative "Networks early aid and family midwives" which was enshrined in the Federal Child Protection Act.

Paragraph 2 – Advisory and educational facilities

Health education in schools

HIV and AIDS education in schools

Almost all juveniles are currently reached by HIV and AIDS education in school lessons. 93 % of 16-20-year-old juveniles say that AIDS had been dealt with in lessons; 77 % of them state that they have learned much or very much about the topic. The federal government provides material for lessons via the Federal Centre for Health Education. The provision of the curricula of the schools themselves lies within the remit of the Federal States, which coordinate themselves via the Conference of Ministers of Culture and Education.
The German strategy does not follow a path of regulation, but one of debate and encouragement to take responsibility for one's own actions. Enabling people to talk to one another about sexuality and protection against infection risks is one of the goals of HIV prevention. Physical threats and violence are also discussed in the educational material in this context. For instance, special education targeting juveniles imparts the courage to fend off unwanted approaches and threats, strengthen self-confidence and the sexual identity and provides information on the appropriate advice centres.

The Committee of Experts wants to know whether and how problems relating to smoking, alcohol, road safety and healthy eating are incorporated into the school curriculum and whether all pupils are concerned.

The topics of smoking, alcohol, road safety and healthy eating have been firmly included in the guidelines and curricula for all types of school. Some of them are repeatedly dealt with in different grades.
"Road safety" is an important topic in the subject of "Sachunterricht" (provides an introduction to social studies, history, geography, biology, physics and chemistry) at all elementary schools. German secondary schools offer safety training courses for bicycle riders nationwide. In the framework of substance abuse prevention, the curricula of the Federal States deal with legal substances such as tobacco and alcohol between grades 4 (i.e. at elementary school) and 9, depending on the type of school. For several years now, there has been a strict ban on smoking in all German schools. The Federal Centre for Health Education supported the introduction of this measure with the guide "Rauchfreie Schule" [School without Smoke]. The measures concerning nutritional education taught at school also include the critical analysis of eating habits. Meanwhile, there are experts at the schools of all Federal States providing advice on topics such as school meals.

The Committee of Experts wants to know whether there are specific public campaigns in such areas as nutrition, sexuality and the environment.

Supported by the Association of German Private Healthcare Providers (PKV), the Federal Centre for Health Education launched a broad alcohol prevention campaign in 2009 which

is targeted at young people and young adults. The campaign aims at informing about the risks of alcohol consumption and promotes the responsible consumption of alcohol as an everyday drug.

The Federal Centre for Health Education has conducted non-smoking campaigns for many years. The campaigns are targeted at the population in general and are particularly focused on children, young people and adults with the aim to inform about the risks of smoking/passive smoking. Special offers such as telephone advice, online programmes on how to quit and group courses have been designed to make it easier for smokers to quit smoking.

The Conclusions require free and regular consultation and screening for pregnant women and children throughout the country. The Committee therefore asks for information in this regard.

As explained in the 23rd Report, the German legislator has specified special prenatal care measures. The kind and scope of prenatal care benefits of the statutory health insurance were specified by the Joint Federal Committee in the maternity protection guidelines. The regular medical check-ups offered are aimed at monitoring the development of the child and the health of the mother, identifying health risks at an early stage and, if possible, preventing risks threatening the life and health of mother and child as well as treating health disorders at an early stage. Among other things, the pregnancy check-ups also include three ultrasound examinations. Furthermore, pregnant women are also entitled to advice and health education.

The Federal Government’s Strategy to Promote Child Health was adopted on 27 May 2008. The Committee asks for information on its core elements and the first results of the Strategy's implementation.

With the Strategy to Promote Child Health of 27 May 2008, the federal government adopted a set of inter-ministerial measures to pursue a holistic approach for the promotion of child health. In this context, the Child Health Strategy has pooled many initiatives and measures of the individual ministries with the aim to improve children's health while supporting the implementation and initiation of new measures. Central fields of action are the expansion of prevention and health promotion, promotion of equal health opportunities, reduction of health risks and observation of the health situation through continuous health monitoring. The Strategy's core elements comprise initiatives and measures such as the promotion of physical activity and healthy diets, further

development of early detection check-ups, increase of the vaccination rate of children and juveniles, prevention of alcohol, tobacco and cannabis consumption, promotion of the mental development of children and juveniles, support of chronically sick children, expansion of early aids and early social warning systems, strengthening of parents' child-rearing skills and combat against violence, prevention of child accidents, reduction of environmental health hazards for children and the minimisation of health risks resulting from UV radiation.

Many of the measures specified in the Strategy have already been implemented or are in the process of being implemented. Since January 2009, for example, health insurance funds, together with the Federal States, have been obliged to promote participation in early detection check-ups in order to motivate more families to regularly participate in paediatric examinations. Comprehensive measures to promote healthy diets and physical activity are implemented, for example, in the framework of the National Action Plan "IN-FORM - Germany's National Initiative to Promote Healthy Diets and Physical Activity". The federal government has also launched extensive projects to prevent the consumption of alcohol, tobacco and cannabis among children and juveniles such as the Federal Centre for Health Education's campaigns "Make children strong" or "Great!", the prevention project "Alcohol? Be aware of your limit" in cooperation with the Association of Private Health Funds, the model project "HaLT - Close to the Limit" and the national campaign "smoke-free". Another substantive focus are the approaches to strengthen the mental health of children and juveniles. For example, projects aimed at enhancing parents' child-rearing skills are promoted to identify the conditions causative of mental disorders and the consequences of such diseases. As a result, the practical care of children with ADHS will be improved. For chronically sick children, an inter-disease training programme is being developed and tested. Furthermore, the Examination Survey for Children and Adolescents (KiGGS) will be continued. In this context, a follow-up survey is being conducted with the first results being expected in 2013. For the first time, it will thus be possible to perform trend analyses on the health situation and health behaviour of children and adolescents that are based on nationally representative data.

The federal government has initiated measures to reduce the consumption of cannabis. These measures are designed to strengthen primary prevention and, through differentiated therapeutic assistance, support consumers' efforts to end consumption. The Committee asks what steps have been taken to inform and educate the public about the dangers of other drugs.

In Germany, education and information concerning addiction and drug prevention is a genuine element of prevention measures in schools and by municipalities which are supported by the Federal States and government. The actors of self-administration such as the statutory health insurance, the Deutsche Rentenversicherung Bund, the statutory accident insurance as well as a number of actors from private industry and civil society are also committed in this field. Through horizontal and vertical coordination it is attempted to use synergies and avoid duplications. Data bases such as Prevnet and Dotsys which are under the responsibility of the Federal Centre for Health Education, collect and document corresponding prevention activities at state and federal level. Although prevention measures in Germany generally extend to any kind of drugs, there are also drug-specific prevention measures other than cannabis prevention. Examples in this regard are the online drug dictionary www.drugcom.de which informs about the different aspects of drugs and the newsletters of the Federal Centre for Health Education informing about new psychoactive substances such as synthetic cannabinoids or cathinones. Moreover, the annual Drug and Addiction Report of the Drug Commissioner of the federal government informs about ongoing drug prevention activities and other sources of information.

Tobacco advertising

For the implementation of the Audiovisual Media Services Directive 89/552/EEC, as last amended by Directive 2007/65/EC, the existing media-specific prohibitions under the Provisional Tobacco Act were supplemented by a prohibition of the sponsoring of audio-visual media services or programmes by tobacco undertakings and a prohibition of product placement in favour of tobacco products or tobacco undertakings in audio-visual programmes. These provisions of the Second Act Amending the Provisional Tobacco Act entered into force in July 2010.

Paragraph 3 – Prevention of epidemic, endemic and other diseases

HIV and AIDS in Germany

There are roughly 73,000 individuals who are infected with the HIV virus or ill from AIDS in Germany at present, roughly 14,000 of whom are women. The number of new HIV diagnoses in 2011 was 2,800. After several years of plateau, there was, for the first time, a declining trend in the total of new HIV diagnoses. Based on a mathematical model which was used for the first time in 2011, it is estimated that the number of actual new HIV infections has already been declining since 2007 (which has not been immediately registered because diagnosis is only possible after a certain period of time).

The most important group of persons affected, at 62 per cent, are still men who have sex with men (MSM). The generally downward trend is, above all, due to the decline of new diagnoses in this group. Among persons with heterosexual infection risk and consumers of intravenously administered drugs (IVD), the number of new HIV infections has remained unchanged since 2007. Despite this number of new diagnoses, which is low in international comparison and the generally positive trends in HIV infections , the federal government will not tire of its preventive measures, and will push forward information and education, in particular in the group of men who have sex with men.
The use of condoms has spread considerably in the German population since the beginning of the HIV and AIDS education campaign. For instance, in 1988 in the sexually-active group of those under 45 living alone, 58 per cent of respondents used condoms, as against a figure of 80 per cent in 2010. Nonetheless, 20 per cent of sexually-active respondents with no regular partner have stated that they had recently never used condoms in sexual intercourse. This is the so far lowest rate in the period under report since 1988 and can be considered a success of HIV prevention. Nonetheless, this rate is also an indication that parts of this group continue to be engaged in sexually risky behaviour. For this reason, campaigns aiming to bring about a change of conduct continue to be a priority of the federal government’s efforts for which it has allocated more than Euro 11 million per year.

Hospital hygiene

In the period under report, the federal government took different measures to improve the quality of hygiene in medical facilities and prevent the spread of resistant pathogens. Many of these measures have been compiled in the "German Antibiotics Resistance Strategy" (DART). The "Act Amending the Protection Against Infection Act and Other Acts" of 20 July 2011 re-defined the legal framework conditions, setting the same goal.

- At the Robert Koch Institute (RKI), a "Commission on Anti-Infectives, Resistance and Therapy" (ART Commission) will be established. The Commission's task is to issue and continuously develop recommendations for doctors containing general principles for diagnostics and (antibiotics) therapies, mainly against infections with resistant pathogens. The ART commission is supplementary to the already existing commission on hospital hygiene and infection prevention (KRINKO).
- The heads of hospitals and other medical facilities are obliged to take the prevention measures necessary to comply with a high level of protection (state-of-the-art of medical science) in order to prevent nosocomial infections and the spread of resistant pathogens in particular. A general benchmark for the measures

necessary in this regard is compliance with the recommendations of KRINKO and the ART commission.

- The heads of hospitals and facilities for outpatient surgery must ensure that the nosocomial infections ascertained by the RKI and the occurrence of pathogens with special resistances and multi-resistances are recorded and evaluated on an on-going basis in a special report and that appropriate conclusions regarding the necessary prevention measures are drawn, communicated to the staff and implemented.
- The hospitals and facilities for outpatient surgery have expressly been obliged to draw relevant conclusions for the required prevention measures from their reports and evaluations about nosocomial infections and the occurrence of pathogens and to implement them. Moreover, they will also be obliged to record and evaluate the consumption of antibiotics, taking into account the local resistance situation and then draw the necessary conclusions for the use of antibiotics. The necessary adjustments of the use of antibiotics shall be communicated to the staff and implemented.
- The above mentioned records are to be kept for a period of ten years and upon request, the competent health office is to be given access to the reports, evaluations and conclusions.
- All Federal States have been obliged to adopt legal ordinances by 31 March 2012 specifying the staff and organisational requirements with regard to infection hygiene in all relevant medical facilities. The federal law specifies certain subjects to be regulated by the Federal States, for example, the number of hygiene specialists and hospital hygienists, the designation of doctors responsible for hygiene in the facilities as well as the provision of clinical microbiological and clinical pharmaceutical advice to the medical staff.
- In the future, health offices will have to transmit more data about hospital infections reported to them by doctors to the RKI so that the data can be centrally analysed there.
- In the field of the statutory health insurance, the Joint Federal Committee (G-BA) will be obliged to set forth in its guidelines on quality assurance suitable measures to improve the quality of hygiene. In particular, indicators to measure the quality of hygiene shall be specified, making it possible to evaluate and compare the hygienic situation in hospitals. The results will then have to be included in hospitals' quality reports and, as from 2013, will have to be published on an annual basis rather than every two years as before. This will enable patients to obtain specific information about the quality of hygiene in individual hospitals.

- To cover the costs for the diagnostics and treatment of patients infected or populated with MRSA, a specific cipher under a uniform benchmark is introduced which is limited for a period of two years.

To improve RKI monitoring and strengthen the infection and hygiene control of hospitals through the health offices, an ordinance was adopted on 26 May 2009 according to which laboratories are subject to a notification obligation if they detect MRSA in liquor or blood.

Vaccinations

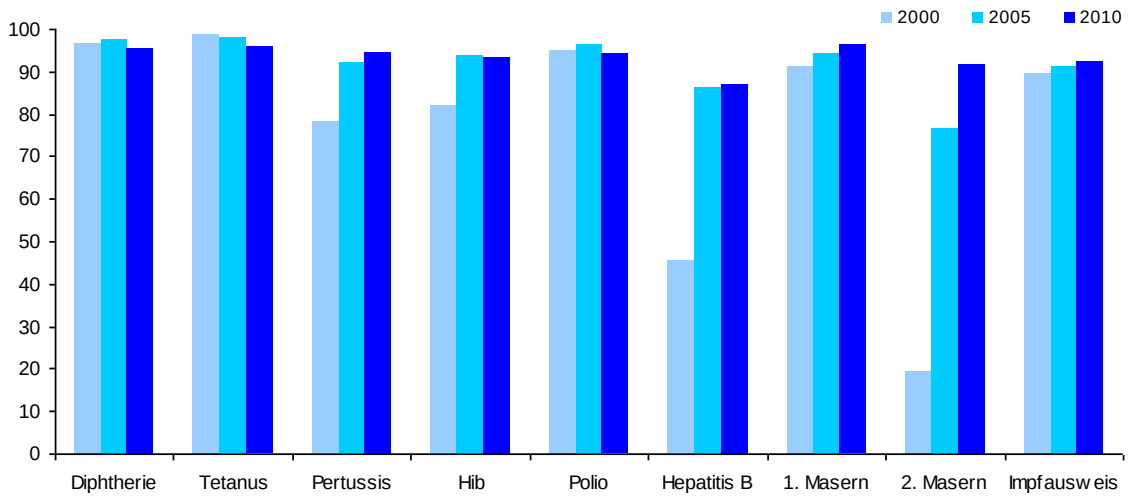
The 26th Report's information on vaccinations is updated as follows:
The standard vaccinations generally recommended by the Standing Vaccination Commission (STIKO), currently include vaccinations against measles, mumps, rubella, pneumococci, meningococcemia, tetanus, haemophilus-influenzae type b (Hib), hepatitis B, whooping cough, chicken pocks, diphtheria, polio and vaccinations against human papillomaviruses, which can set off cervical cancer (for girls aged between 12 and 17 years) and against influenza for adults over 60. Further vaccinations are recommended as indication vaccinations for certain groups of individuals; the costs for these are also included.
The vaccination rates at the check-ups performed on entering school have continuously risen over the past few years or have remained constantly high (source: RKI, Epidemiologisches Bulletin 16/2012, see table concerning the status of vaccinations recommended at school entry check-ups 2010).

Status 2010 concerning recommended vaccinations
(collected in connection with school entry check-ups in 2010)

Vaccinations against	**Germany 2010 in %**
diphtheria	95.3
tetanus	95.7
whooping cough	94.7
Hib (haemophilus-influenzae Type b)	93.1
poliomyelitis	94.2
hepatitis B	86.8
measles 1st dose 2nd dose	 96.4 91.5
mumps 1st dose 2nd dose	 96.1 91.2
rubella 1st dose	 96.1

2nd dose	90.1%

The data relating to school entry check-ups show continuously rising vaccination rates over the years (source: RKI, Epidemiologisches Bulletin 16/2012)



The 26th report provides figures on drug abuse, policies to combat drug addiction and drug-induced deaths. The number of drug deaths, which fell continuously since 2000, increased in 2007. The Committee asks to be informed of all trends in this area.

As was the case in 2010, the number of drug-induced deaths continued to fall in 2011: 986 deaths were recorded. This is a fall of 20 per cent compared to the previous year (1,237) and the lowest rate since 1988. The majority of deaths was due to heroin overdose (279 persons). Another 290 persons died as a result of heroin overdose in connection with other drugs. The number three cause of death is again long-term health damage resulting from year-long consumption of other drugs (211 persons). The highest number of drug-induced deaths was accounted for among drug addicts aged 30 and older (746 persons). The average age of those dying from drugs rose by approximately half a year to almost 37 years. 85 per cent of those were men and 15 per cent women. A detailed analysis of the figures relating to drug-induced deaths, trends in drug abuse and political measures in these areas is contained in the REITOX Report which is annually submitted to the European Monitoring Centre for Drugs and Drug Addiction in Lisbon (www.dbdd.de).

The Committee wants to know whether in the period under report measures have been taken to reduce injury and death by accidents and wants to be informed about the trends in the number of accidents.

The Federal Centre for Health Education is hosting a specialised online database on the prevention of accidents involving children. It provides an overview of who works in the field of child accident prevention in Germany and which measures and media are available for the individual target groups. Information for educational specialists and young parents on how to prevent accidents when children are small is provided on the Federal Centre for Health Education's internet portals www.bzga.de/kindersicherheit und www.kindergesundheit-info.de.
Between 2003 and 2006 the RKI Berlin conducted a nationwide survey on the health of children and adolescents (0 to 17 years) in Germany. The survey also collected data on accidents of children between one and 17 years. According to this data, 15.2 per cent of children and adolescents between one and 17 years had an accident during the 12 months preceding the survey interview. 13.3 per cent of the injured children and adolescents had to be treated in hospital. Toddlers (1-4 years) were the group most frequently hospitalized.
According to surveys of the Federal Statistical Office, the number of fatal accidents among children under 15 has been decreasing. Whereas in 1985 11.6 deaths by accident occurred per 100,000 adolescents under 15, this number fell to 2.4 deaths per 100,000 in 2010.

Article 12 - The right to social security

Paragraph 1 - Existence of a social security system

The following response can be given to the question in the Committee's conclusions as to the minimum level and the duration of payment of social benefits:

Unemployment benefit:
As a matter of principle, no minimum level is set with the insurance payment of unemployment benefit. The amount of the benefit is orientated in line with the remuneration that the unemployed person made subject to mandatory insurance prior to becoming unemployed, the income tax class and the question of whether there is a maintenance obligation for a child (= 67% of the earnings used for assessment), or not (60 % of the earnings used for assessment).

Employment up to 400 Euro is exempt from social insurance as a matter of principle. The following values emerge with unemployment benefit which is calculated according to a

monthly remuneration of Euro 401:

income tax classes I / II / III - 60% = 187.50 Euro
income tax classes I / II / III - 67% = 209.10 Euro
income tax class V - 60% = 167.10 Euro
income tax class V - 67% = 186.60 Euro

There are however also remunerations which do not exceed 400 Euro, without nonetheless ruling out obligatory insurance for employment promotion e.g. section 27 subs. 2 sentence 2 – employment promotion – of the Third Book of the Social Code (*SGB III*) (e.g. in-house vocational training, Federal Voluntary Service). An even lower unemployment benefit claim may be accrued in such cases.

Where unemployment benefit is low, unemployment benefit II can be drawn as a top up if the unemployed person satisfies the corresponding statutory requirements.

The duration of drawing unemployment benefit emerges from the following table.

After periods in obligatory insurance with a total duration of at least….. months	After reaching the age of……..	Months
12		6
16		8
20		10
24		12
30	50	15
36	55	18
48	58	24

The following observations are submitted regarding the Committee's conclusions and questions according to which the provisions are said not to be in conformity with the ESC because of the provisions on reasonableness:

When it comes to drawing unemployment benefit II, the principle of "challenge and support" states that an individual who is supported from tax funds in an emergency situation must contribute towards improving their situation. An employable person who is in need because they cannot find work can count on the support of the community. In return, however, they must do everything they can to earn a living for themselves once more. This mechanism of obligation for people to help themselves and to cooperate does not however establish coercion or an obligation to work. Those individuals who are entitled to the benefits can determine for themselves which steps they wish to take in order to reduce or overcome their neediness. Gainful employment plays a major role here. As was already stated in the 26th Report, in the sphere of unemployment benefit in accordance with the Third Book of the Social Code, the Employment Agencies are to promote the individual's employability by maintaining knowledge, skills and abilities, as well as countering underemployment. The Employment Agencies must take these objectives as an orientation in the framework of their placement activity by attempting primarily to integrate the unemployed in jobs which are in line with their skills. However, inflexibly holding on to an existing occupational guarantee for the unemployed in each case can no longer be justified in modern employment services in the face of structural change and globalisation. An unemployed person can be expected as a matter of principle to also take on activities in other fields to which he/she is suited so long as these activities are appropriately remunerated. In this regard, it is correct for the question of whether

employment is acceptable for an unemployed person to primarily take as an orientation the amount of remuneration in relation to his/her previous income.

As per 1 January 2009, changes were introduced in the law on benefit suspension with the reform of the labour market policy tools. The duration of benefit suspensions for rejection of a job, in case of rejection of a vocational integration activity or if such an activity is terminated, was simplified. Since then it has been:

- three weeks for a first violation,
- six weeks for a second violation, and
- twelve weeks for a third violation.

A graduated benefit suspension duration of three to twelve weeks was provided for prior to the legal amendment. The specific benefit suspension duration was however dependent on two parameters which had to be examined in parallel, and which caused considerable administrative effort:

- the number of violations (as in the current law), and
- the remaining duration of the integration measure or of the employment that had been offered.

One can conclude in practice from the figures below on benefit suspensions which occurred because of refusal to accept a job that there are also no major problems in implementing the provision.

The number of benefit suspensions because of refusal to accept a job under the Third Book of the Social Code has developed as follows:

Year	Benefit suspension because of giving up a job
2006	23,546
2007	23,107
2008	27,409
2009	21,057
2010	24,167
2011	26,966

It should be taken into account with the regard to figures that refusal to accept a job which triggered commencement of the benefit suspension may have had extremely divergent

reasons (e.g. amount of the salary, working hours, distance to the workplace, etc.). Only a small per centage of refusals to accept a job is likely to have taken place because the unemployed person did not consider the job that was offered as corresponding to his/her qualification.

The statistical evaluations of the Federal Employment Agency do not provide any cross-referenced data on the duration of a benefit suspension in accordance with the respective reason for the benefit suspension. It is hence not possible to say anything precise about the duration of the benefit suspensions which occurred because of refusal to accept a job. In particular, the figures below also include the benefit suspensions because of giving up a job, since six- and twelve-week benefit suspensions can also occur because of this.

	3 weeks' benefit suspension	6 weeks' benefit suspension	12 weeks' benefit suspension	Expiry of the claim because total benefit suspensions of at least 21 weeks have occurred
2006	35,966	7,801	170,015	2,096
2007	35,596	7,988	161,468	4,726
2008	42,480	9,493	171,491	6,625
2009	44,584	8,930	193,720	6,650
2010	44,989	9,859	183,141	6,906
2011	42,705	10,406	175,801	7,555

The increase in the number of twelve-week benefit suspensions observed in comparison to 2008 can be primarily explained by parallel benefit suspensions because of giving up a job (the standard duration of the benefit suspension is twelve weeks), and is hence not caused by benefit suspensions because of refusal to accept a job.

With regard to the Committee's question requesting to be regularly provided with per centage figures concerning the coverage of the population for all social security branches, the following statistical information is provided for the period 1 January 2008 to 31 December 2011 for the basic income support for jobseekers in accordance with the Second Book of the Social Code (*Zweites Buch Sozialgesetzbuch – SGB II*) (basic income support for jobseekers):

Furthermore, as a matter of principle all employable needy persons aged between 15 and 65 who are habitually resident in Germany continue to be eligible, as are the family members living with them in a joint household.

The number of employable beneficiaries has fallen continually in the period under report. The lowest number of people were relying on unemployment benefit II in 2011 since the introduction of the Second Book of the Social Code in 2005.
According to the current values, on an annual average in 2011, approx. 4.62 million employable beneficiaries lived together with 1.74 million non-employable beneficiaries – most of whom were children aged under 15 – in 3.42 million joint households. The number of employable beneficiaries fell year on year by almost six per cent (-279,000). Hence, on an annual average in 2011 almost one individual in ten aged under 65 (9.8 per cent) and 8.6 per cent of people of employable age relied on basic income support for jobseekers.

Table 1 The number of beneficiaries under the Second Book of the Social Code and assistance per centages

Time	2007		2008		2009		2010		2011	
	abs.	%	abs.	%	abs.	%	abs.	%	abs.	%
Persons under Social Code Second Book and Social Code Second Book rate[1)]	7,241,250	11.0	6,908,991	10.6	6,726,800	10.4	6,712,953	10.3	6,353,482	9.8
Employable beneficiaries or employable beneficiaries rate[2)]	5,277,556	9.7	5,011,438	9.3	4,909,085	9.1	4,894,219	9.1	4,615,057	8.6
aged under 25	2,964,990	10.9	2,814,835	10.2	2,690,277	9.9	2,659,438	9.7	2,497,949	8.8
aged 25 to under 50	3,098,388	10.4	2,895,001	9.8	2,820,409	9.7	2,807,788	9.8	2,607,535	9.1
50 and older	1,177,406	7.6	1,198,418	7.6	1,215,301	7.6	1,245,136	7.5	1,246,681	7.5
Women	3,632,786	10.0	3,500,489	9.6	3,391,672	9.4	3,370,808	9.3	3,207,929	8.9
Men	3,608,423	9.4	3,408,490	8.9	3,335,127	8.8	3,342,145	8.8	3,145,554	8.3
Germans	5,942,487	8.8	5,641,524	8.4	5,467,774	8.2	5,436,708	8.1	5,132,991	7.6
Foreigners	1,289,137	16.9	1,248,077	16.6	1,230,901	16.7	1,244,967	16.9	1,192,521	16.3
non-employable beneficiaries and non-employable beneficiaries per centage	1,963,694	3.0	1,897,553	2.9	1,817,715	2.8	1,818,734	2.8	1,738,425	2.7
incl.: non-employable beneficiaries and non-employable beneficiaries per centage aged under 15	1,894,540	16.8	1,825,995	16.4	1,741,882	15.8	1,741,363	15.9	1,658,728	15.2

[1)] beneficiaries in accordance with the Second Book of the Social Code (number of employable and non-employable beneficiaries) in relation to the population aged under 65
[2)] number of employable beneficiaries and of non-employable beneficiaries (non-employable beneficiaries) related to the population aged from 15 to aged under 65 (employable beneficiaries per centage) and aged under 65 (non-employable beneficiaries per centage) in the corresponding population group
The population size calculated by the Federal Statistical Office in each case as per 31 December of a year is used as a reference value. According to the latest figures, however, the population size as per 31 December of the previous year (t-1) is used as a basis until the current year (t) is available. As soon as this is the case, an adjustment of the per centages to the current population sizes is carried out.

Pensions insurance:

1.1 Statistical part incl. explanation of the relevant provisions

Social insurance benefits in accordance with Article 12§1 of the Charter – where they constitute wage replacement benefits – should be set such that they are appropriately

proportionate to the previous earned income.
In order to guarantee continuity in reporting vis-à-vis the Council of Europe, the examination of the minimum standard will take place as in the 41st report on the implementation of the European Code of Social Security as amended by its Protocol (minimum standards on the basis of ILO Convention No. 128).
All calculations refer to 2011.

1.1.1 1. On the definition of the minimum standards to be complied with 1.1.2

In accordance with Article 65§6c, Part XI of the European Code, the minimum standards are to be calculated for a worker whose earnings are equal to 125 per cent of average earnings. On the basis of the average insured person's s remuneration, the following earnings therefore emerge in accordance with Annex 1 and Annex 10 of Book VI of the Social Code (*SGB VI*) (stated in Euro per year):

	Old Federal States	New Federal States
Remuneration in accordance with Annex 1 of Book VI of the Social Code in 2011	30,268	
Conversion value in accordance with Annex 10 of Book VI of the Social Code in 2011		1.1429
125% of average earnings	**37,835**	**33,105**

The net income presented in the table below can be calculated for this worker, after deduction of taxes and social contributions, depending on consideration of children. In accordance with Article 27 D, 55 D and 61 D in conjunction with Article 6, insurance payments which are voluntary but state subsidised and supervised and cover a large number of insured parties can also be included in the overall calculation. This applies to insurance policies of the second and third pillars of old-age provision. In the interest of simplification, the calculations below consider private retirement provision in place of occupational retirement provision as well as state subsidy for private pension insurance[5]. There are currently roughly 15.4 million policies of so-called state subsidy for private pension insurance (so-called *Riester* pensions).

[5] The calculations are based on the following presumptions:
amount of savings = 4 % of gross income, interest rate = 4.0 %, administrative costs = 10 % of the contributions.

	Married without children		Married with two children	
	old Federal States	new Federal States	old Federal States	new Federal States
Gross wage + child benefit	37,835 0	33,105 0	37,835 4,416	33,105 4,416
Gross income	37,835	33,105	42,251	37,521
- social contributions	7,898	6,911	7,803	6,828
- taxes	3,733	2,519	3,306	2,258
- private retirement provision	1,140	937	759	570
Net income	**25,064**	**22,738**	**30,382**	**27,865**

In accordance with the provisions (Part XI of the Protocol) of the European Code of Social Security, the following minimum standards are to be complied with:

Contingency	**Regulated in Part … of the European Code of Social Security**	**Standard beneficiary …**	**Required level of the benefits as a % of net income**
Old age	V	Man with wife, pensionable age	45
Invalidity	IX	Man with wife and two children	50
Survivors	X	Widow with 2 children	45

1.1.3

1.1.4 2. Payments in respect of old age

1.1.5

Pension calculation

The following four factors are relevant to the pension calculation:

- the remuneration points
- the age factors that are individually relevant to the remuneration points (The product of "remuneration points multiplied by age factor" are the personal remuneration points.)
- the pension type factor (e.g. with old-age pensions 1.0 in general pensions insurance, 1.3333 in the miners' pension insurance system)
- the current pension amount (27.47 € since 1 July 2011 for the old Federal States, 24.37 € for the new Federal States).

The pension formula can be shown as follows: Personal remuneration points x pension type factor x current pension amount = gross monthly pension.

The ratio of the personal remuneration earned during the year of contributions at the average income of all insured persons of the respective calendar year is formed in order to calculate the remuneration points. This value is 1 remuneration point per year with an

average earner. The age factor is orientated to the time of the commencement of an old-age pension: If an insured person avails him/herself of the possibility of an early retirement pension, the longer eligibility period of the old-age pension caused by claiming early is compensated for in such a way that the age factor, which is 1 for an old-age pension not taken early, is reduced by 0.003 points for each month by which it is claimed early. This leads to a reduction in the old-age pension by 0.3% for each month by which it is claimed prior to the retirement age relevant in each case. The pension type factor, which differs in accordance with the individual types of pension, takes account of the security assurance goal of the respective type of pension in relation to the old-age pension. The current pension amount constitutes the respective monthly equivalent value currently applicable in Euro for 1 remuneration point in the calculation of an old-age pension.

Beyond the contributory periods, specific exempt periods are also considered in calculating the pension: Periods during which insured persons were prevented from paying compulsory contributions, e.g. periods of military service (substitute periods) and periods for which it was no longer possible to pay any contributions because of premature disability/death (added period) are added and serve to increase the pension. The credited periods form further exempt periods. These periods distinguish between evaluated credited periods (e.g. attendance at a technical college, maternity protection), which are added and serve to increase the pension, and credited periods that are not counted (e.g. unemployment, incapacity for work), which do not directly serve to increase the pension.

The current pension amount is:

in the old Federal States (West)		**in the new Federal States (East)**
1 July 2009	27.20 Euro	24.13 Euro
1 July 2010	27.20 Euro	24.13 Euro
1 July 2011	27.47 Euro	24.37 Euro

The contribution assessment ceiling for the old Federal States (West) is as follows

	General pensions insurance	**Miners' pensions insurance**
for the calendar year 2009	64,800 Euro	79,800 Euro
for the calendar year 2010	66,000 Euro	81,600 Euro
for the calendar year 2011	66,000 Euro	81,000 Euro
for the calendar year 2012	67,200 Euro	82,800 Euro

The contribution assessment ceiling for the new Federal States (East) is as follows

	General pensions insurance	**Miners' pensions insurance**
for the calendar year 2009	54,600 Euro	67,200 Euro
for the calendar year 2010	55,800 Euro	68,400 Euro
for the calendar year 2011	57,600 Euro	70,800 Euro
for the calendar year 2012	57,600 Euro	70,800 Euro

The minimum standard

In accordance with the European Code of Social Security, the benefit for a worker with 125 per cent of average earnings after 30 years' employment and retiring at the age of 65 is to be determined. Since in the German law on pensions, periods such as unemployment, child-raising or training also exert an influence on the amount of the pension, in addition to the 30 years' gainful employment, 12 months of Federal Voluntary Service, three years' training time and two years' technical college time are included in the pension calculation in order to achieve a more realistic biography. Such a short employment period is not the norm for Germany among men. A good 80 per cent of new male retirees in 2011 have insurance biographies of 35 years and more.

Retirement in 2011 by number of years of contributions

	Men	Women	Total
under 35 35 and more	19.6 80.4	48.3 51.7	35.7 64.3

As the table below reveals, the ratio of net old-age pension to the net income of a worker, at 125 per cent of the average income with a presumed insurance biography of 30 years, is 70.3 per cent in the old Federal States and 68.4 per cent in the new Federal States, which is hence above the required standard of 45 per cent. The calculations include a pension from private retirement provision.

		Old-age pension	
		old Federal States	**new Federal States**

1	Years of employment	30	30
2	Total remuneration points	40.49	40.49
3	Current pension amount (€ per year)	27.47	24.37
4=2*3	Gross pension (€ per year)	13,348	11,841
5	Social contributions	1,355	1,202
6	Private retirement provision	5,621	4,918
7=4-5+6	Net income in old age	17,614	15,558
8	Net income from work	25,064	22,738
9=7/8	**Ratio**	**70.3**	**68.4**

The equalisation of the pension amounts between the old and the new Federal States will be completed as wages are equalised in the two parts of the country. When this will be the case depends on future economic developments, and cannot be predicted with certainty today.

Further information

In addition to monitoring compliance with the minimum standards, further information is to be provided with regard to the number of estimated persons, the number of retirees, as well as on developments in prices in comparison to developments in pensions and wages.

In million	**2010**	**2011**
Insured persons on 31 December	52.3	x
Active insured persons	35.4	x
Passive insured persons	16.9	x
Pensioners on 1 July	20.5	20.5

The following changes occurred in Germany in the period 2010 to 2011 as to developments in the cost of living, on the one hand, and wages and pensions on the other:

Year-on-year change in per cent	**2011**
Consumer prices	2.31
Wages	3.03
Pension amount as per 1 July (old *Federal States*)	0.99

The developments shown in the table indicate that pensions in 2011, at 0.99 per cent in the old *Federal States*, lagged behind developments in wages and prices. This is, firstly,

the consequence of the reform efforts made in recent years to place statutory pensions insurance on a footing for the future which is equitable in terms of the different generations and is financially sustainable. Consequently, the determination of the annual current pension amount is orientated in line with developments in the wages and salaries of those in employment, plus the changes in the "*Riester* factor"* and in the sustainability factor which slow the increase in the current pension amount. Additionally, the temporary particularity has applied since 2011 that pension increases are to be reduced by half until the "equalisation requirement", that is the equalisation coming about because of the expanded safeguard clause for pension reductions, has been done away with (cf. Para 3 Legal amendments).

The pension adjustment rates (in %) in the period under report were as follows

Time	West	East
1 July 2009	2.41	3.38
1 July 2010	0.00	0.00
1 July 2011	0.99	0.99

1.1.6 3. Benefits in case of invalidity

The minimum standard

In accordance with the European Code of Social security, the benefit for the selected worker (125 per cent of average earnings) after 15 years' employment, followed by invalidity, can be determined.
For the calculation of pensions on account of reduced earning capacity, in accordance with German pensions law, an added period is included up to the age of 60, which is calculated with the average accrued pension rights in the previous working life. Moreover, since the reform of 2001, pensions on account of reduced earning capacity have been reduced by a deduction for early retirement by a maximum of 10.8 per cent. In addition to the 15 years' gainful employment, 12 months of Federal Voluntary Service, three years' training and two years at technical college are presumed. In case of invalidity, there is additionally a disability pension from private retirement provision.
The table below shows that the married worker with two children defined here[6] reaches a net pension of 66.9 per cent in the old Federal States in the event of total occupational disability and 66.5 per cent in the new Federal States. The necessary minimum standard

* Translator's note: The share of gross wages paid into additional old-age pension provision plus the contribution rate to the general pensions insurance
[6] It is presumed that both children were born after 1992.

of 50 per cent is hence complied with.

		Pensions on account of reduced earning capacity	
		old Federal States	**new Federal States**
1	Years of employment	15	15
2	Total remuneration points	53.83	53.83
3	Age factor	0.892	0.892
4=2*3	Personal remuneration points	48.02	48.02
5	Current pension amount (€/remuneration points/month)	27.47	24.37
6=4*5	Gross pension (€ per year)	15,829	14,042
7	Child benefit	4,416	4,416
8	Social contributions	1,607	1,425
9	Private retirement provision	1,703	1,490
10=6+7-8+9	Net income in old age	20,341	18,523
11	Net income from work	30,382	27,865
12=10/11	**Ratio**	**66.9**	**66.5**

1.1.7

1.1.8 4. Benefits for surviving dependants

1.1.9

The minimum standard

In accordance with the European Code of Social Security, the benefit for the surviving dependants of the selected worker (125 per cent of average earnings) in the case of death after 15 years' employment is to be determined. An additional 12 months' Federal Voluntary Service, three years' training and two years' technical college are added to the calculation in order to calculate the benefits.

The law on surviving dependants' pensions was fundamentally reformed with the pensions reform of 2001. The new law applies to marriages concluded from 2002 onwards, or to couples where both partners were still under 40 on 1 January 2002. For the calculation of the surviving dependants' pension, as with pensions on account of reduced earning capacity, an added period is considered and a deduction made for early retirement. The widow receives 55 per cent of the husband's (theoretical) pension rights thus calculated. Moreover, in accordance with the new law the widow is granted a supplement for children if the child-raising periods are accrued to her.

The table below shows that the widow defined here with two children receives a benefit of 52.7 per cent in the old *Federal States*, and in the new Federal States receives a benefit in relation to the net income of the deceased husband. The required minimum standard of 45 per cent is hence exceeded. Here too, a surviving dependant's protection from private

retirement provision was taken into account in the calculations.

		Old Federal States	**New Federal States**
1	Years of employment	15	15
2	Total remuneration points	40.56	40.56
3	Age factor	0.892	0.892
4	Supplement for children	5.45	5.45
5=2*3+4	Personal remuneration points	41.64	41.64
6	Pension type factor	0.55	0.55
7	Current pension amount (€/remuneration points/month)	27.47	24.37
8=5*6*7	Gross widow's pension (€ per year)	7,549	6,697
9	Gross orphan's pensions (2 children)	4,585	4,068
10	Total gross pensions (€ per year)	12,134	10,765
11	Child benefit	4,416	4,416
12	Social contributions	1,232	1,093
13	Private retirement provision	681	596
14=10+11-12+13	Net income in old age	15,999	14,684
15	Net income from work	30,382	27,865
16=14/15	**Ratio**	**52.7**	**52.7**

The previous law continues to apply to the vast majority of the current new surviving dependants' pensions, in accordance with which a level is reached in comparison to the net income of the deceased husband of 51.5 per cent in the old Federal States and of 51.6 per cent in the new *Federal States*. Unlike the new law, the pension type factor is 0.6. In turn, however, the supplement for children ceases to apply. The necessary minimum standard of 45 per cent is also complied with in accordance with the old law, cf. table below:

		Old Federal States	New Federal States
1	Years of employment	15	15
2	Total remuneration points	40.56	40.56
3	Age factor	0.892	0.892
4	Supplement for children	0.00	0.00
5=2*3+4	Personal remuneration points	36.18	36.18
6	Pension type factor	0.60	0.60
7	Current pension amount (€/remuneration points/month)	27.47	24.37
8=5*6*7	Gross widow's pension (€ per year)	7,156	6,349
9	Gross orphan's pensions (2 children)	4,585	4,068
10	Total gross pensions (€ per year)	11,741	10,416
11	Child benefit	4,416	4,416
12	Social contributions	1,192	1,057
13	Private retirement provision	681	596
14=10+11-12+13	Net income in old age	15,647	14,371
15	Net income from work	30,382	27,865
16=14/15	**Ratio**	**51.5**	**51.6**

Statutory health insurance

According to the latest results of the Microcensus, a representative official population survey, the share of persons with statutory insurance, including non-contributory affiliated family members, among the total population, is almost 88 %. Almost 12 % of the total population are in substitutive private comprehensive healthcare insurance. The subordinate obligatory insurance in statutory health insurance, which has existed since 1 April 2007, as well as subordinate obligatory insurance in private health insurance since 1 January 2009, have led to a situation in which roughly 180,000 persons have returned to statutory health insurance and about 100,000 persons have returned to private health insurance as per 31 December 2011.

Note:

A description of the proportion of sickness benefit and maternity benefit recipients among the total population does not appear to make sense in view of the fact that many residents are insured via special systems (health insurance assistance, private health insurance, free medical care). Their share among the number of insured persons is much more authoritative. Accordingly, 39.8 per cent of insured persons had a right to a sickness benefit on an annual average in 2011. Sickness benefit is 70 per cent of the previously earned regular earnings from work and earned incomes where it is subject to the contribution calculation.

Maternity benefit is received by female members who have a right to sickness benefit in case of incapacity for work, or to whom no earnings from work are paid because of the maternity protection periods. Roughly 1.6 per cent of female insured persons drew maternity benefit in 2010.

Updated information on social insurance benefits and the respective minimum levels

Roughly 80 million citizens currently receive insurance protection in case of need of long-term care. Social insurance for long-term care is managed as an independent branch of social insurance (with 69.49 million insured persons as per 1 January 2012) and within private compulsory long-term care insurance (9.5 million insured persons as per 31 December 2010). The number of recipients of out-patient and in-patient benefits from long-term care insurance is currently roughly 2.46 million.

The table below provides an overview of the statutory established benefit rights of insured persons as regards long-term care insurance:

		Care category I **Persons in considerable need of long-term care**	**Care category II** **Persons in need of constant nursing care**	**Care category III** **Persons in extreme need of long-term care (in hardship cases)**
Provision of care at home	Long-term care benefits in kind up to € per month to 30 June 2008	**384**	**921**	**1,432 (1,918)**
	from 1 July 2008 to 31 December 2009	**420**	**980**	**1,470 (1,918)**
	from 1 January 2010 to 31 December 2011	**440**	**1,040**	**1,510 (1,918)**
	from 1 January 2012	**450**	**1,100**	**1,550 (1,918)**
	Long-term care allowance, € per month to 30 June 2008	**205**	**410**	**665**
	from 1 July 2008 to 31 December 2009	**215**	**420**	**675**
	from 1 January 2010 to 31 December 2011	**225**	**430**	**685**
	from 1 January 2012	**235**	**440**	**700**

Care support[7]	Long-term care expenditure for up to 4 weeks per calendar year			
• **by close relatives**	up to € to 30 June 2008	**205**[1)]	**410**[1)]	**665**[1)]
• **by other individuals**		**1,432**	**1,432**	**1,432**
• **by close relatives**		**215**[1)]	**420**[1)]	**675**[1)]
• **by other individuals**	from 1 July 2008 to 31 December 2009	**1,470**	**1,470**	**1,470**
• **by close relatives**		**225**[1)]	**430**[1)]	**685**[1)]
• **by other individuals**	from 1 January 2010 to 31 December 2011	**1,510**	**1,510**	**1,510**
• **by close relatives**		**235**[1)]	**440**[1)]	**700**[1)]
• **by other individuals**	from 1 January 2012	**1,550**	**1,550**	**1,550**
Short-term care	Long-term care expenditure, up to € to 30 June 2008	**1,432**	**1,432**	**1,432**
	from 1 July 2008 to 31 December 2009	**1,470**	**1,470**	**1,470**
	from 1 January 2010 to 31 December 2011	**1,510**	**1,510**	**1,510**
	from 1 January 2012	**1,550**	**1,550**	**1,550**
Partly in-patient day and night care[8]	Long-term care expenditure up to € per month to 30 June 2008	**384**	**921**	**1,432**
	from 1 July 2008 to 31 December 2009	**420**[2)]	**980**[2)]	**1,470**[2)]
	from 1 January 2010 to 31 December 2011	**440**[2)]	**1,040**[2)]	**1,510**[2)]
	from 1 January 2012	**450**[2)]	**1,100**[2)]	**1,550**[2)]
Supplementary benefits for insured persons with considerable general need for care[9]	Amount of benefits up to € per year to 30 June 2008	**460**	**460**	**460**
	since 1 July 2008	**2,400**3)	**2,400**3)	**2,400**3)
Institutional care	Long-term care expenditure, lump sum € per month, to 30 June 2008	**1,023**	**1,279**	**1,432 (1,688)**
	from 1 July 2008 to 31 December 2009	**1,023**	**1,279**	**1,470 (1,750)**
	from 1 January 2010 to 31 December 2011	**1,023**	**1,279**	**1,510 (1,825)**

[7] On request, the close relatives are refunded necessary expenditure (loss of earnings, travel expenses, etc.) up to the maximum amount for other individuals.

[8] In addition to the entitlement to day care, a 50% right to the respective out-patient benefit in kind in the event of long-term care or long-term care allowance is retained.

[9] Up to € 1,200 (basic amount) or up to € 2,400 (increased amount) is paid, depending on the personal long-term care situation determined from permanent and regular damage or ability disturbances in accordance with section 45a subs. 2 sentence 1 Nos. 1 to 13 of Book Eleven of the Social Code (*SGB XI*). Insured persons with the so-called “Care category 0” can also receive these benefits.

	from 1 January 2012	**1,023**	**1,279**	**1,550 (1,918)**
Care in fully in-patient facilities of assistance for persons with disabilities	Long-term care expenditure of	**10 % of the cost of the home, up to a maximum of € 256 per month**		
Nursing aids which are intended to be consumed	Expenditure up to € per month	**31**		
Technical nursing aids and other nursing aids	Expenditure of	**100 % of the costs, subject to specific preconditions, however, an additional payment of 10 %, up to a maximum of € 25, is payable per nursing aid. Technical nursing aids are primarily provided on loan, and therefore free of charge, and hence exempt from co-payment**		
Measures to improve the living environment	Expenditure of up to	**2,557 € per measure, taking account of a suitable co-payment**		
Payment of pensions insurance contributions for carepersons[10]	depending on the extent of the long-term care work, up to € per month (new *Federal States* and Berlin (East))	**137.20 (117.08)**	**274.40 (234.16)**	**411.60 (351.23)**
Payment of contributions to unemployment insurance for carepersons in case of care-giving leave	€ per month (new *Federal States* and Berlin (East))	**7.88 (6.72)**		
Supplements to health and long-term care insurance for carepersons in case of care-giving leave	up to € per month health insurance long-term care insurance	**135.62** **17.06**		

Measures of long-term care insurance for insured persons

	To enhance long-term care in case of	
	care at home	**in-patient care**
Assistance from community-based long-term care support centres	X	X
Individual long-term care advice (case management)	X	X

[10] With at least 14 hours of long-term care work per week if the careperson is not employed for more than 30 hours and does not yet draw a full old-age pension.

Availability of **- benefit and price comparison lists of approved long-term care facilities**	X	X
- benefit and price comparison lists of low-threshold long-term care services	X	
- information on self-help contacts and self-help groups	X	X
- information on integrated care contracts/participation in integrated care in the catchment area of the applicant	X	X
Care courses to train family members and volunteer carepersons	X	
Premiums on remuneration for additional care in case of care of persons in need of long-term care with considerable general need of care		X
Promotion of enabling and rehabilitative measures by bonus payments to long-term care facilities for a marked reduction in the need of assistance		X
Promotion of the care structures for persons with considerable general need of care	X	
Promotion of the establishment and expansion of honorary structures, as well as self-help	X	X

Paragraphs 2 and 3 – Further development of the social security system

Major legal amendments in the period under report 2008 to 2011

Social insurance for long-term care

Act to Structurally Further Develop Long-Term Care Insurance (*Gesetz zur strukturellen Weiterentwicklung der Pflegeversicherung – Pflege-Weiterentwicklungsgesetz*) of 28 May 2008 (Federal Law Gazette [*BGBl.*] Part I 2008 No. 20 p. 874)

This Act orientates long-term care insurance even more closely in line with the needs and wishes of persons in need of long-term care, as well as of their family members. The principle of “out-patient before in-patient” has been adhered to more closely since then than had previously been the case. In order to continue to guarantee this priority of domestic care, and to reduce the burden on both the persons in need of long-term care and their family members, the benefit amounts were increased. Furthermore, the general care and supervision needs of people with dementia-related disabilities, intellectual disabilities or mental disorders were better considered. Case management was stepped up in which, for persons in need of long-term care, an individual entitlement to comprehensive long-term care advice was also introduced in long-term care support centres. At the same time, the establishment and expansion of community-based care

structures was promoted and the persons in need of long-term care were enabled to receive long-term care that is locally-based and orientated in line with their needs (cf. table overview above).

Bill Re-Orientating Long-term Care Insurance (Long-term Care Re-Orientation Act [*Pflege-Neuausrichtungs-Gesetz – PNG*]) (Federal Law Gazette Part I 2012 No. 51, p. 2246)

Roughly 2.4 million people are already in need of long-term care today. The number will increase to over 4 million people in only a few decades. A large share of people in need of long-term care are also suffering from dementia. At the same time, the overall population size is falling, so that the per centage share of people in need of long-term care will increase faster still. This change poses major challenges as to the further development of the supply of long-term care and its funding. The current goal of the Federal Government is to refine long-term care insurance and to re-orientate it such that, also in terms of demographic change, people in need of long-term care can live a dignified life, independently and self-determinedly, as far as they are able. It is necessary to refine the benefits offered by long-term care insurance to do justice to the challenges of the future. Large parts of the Long-term Care Re-Orientation Act came into force on 30 October 2012. The remaining provisions will come into force soon, namely as per 1 January 2013. These particularly include the improved long-term care services for people with considerably restricted abilities for routines of day-to-day life, the introduction of domestic care services and the expansion of the deployment of “additional care workers”, including day and night long-term care facilities, to include the entire field of in-patient services.

The measures refer, firstly, to a new understanding of who is to be regarded as being in need of long-term care and what help is needed by dementia sufferers in particular. Given that dementia sufferers need practical assistance quickly, they will already receive more and better benefits once the Act comes into force, and until the new definition of need of long-term care becomes applicable. Additionally, further comprehensive improvements in benefits are intended, from taking up domestic care benefits in the right to benefits in kind, through making the claiming of long-term care services more flexible, facilitating care in out-patient accommodation groups via better advice, to reducing the burden on family carers.

Additionally, the financial basis for long-term care is to be adjusted: In order to ensure that the above measures in particular can be financed, the contribution rate of long-term care insurance is to be increased by 0.1 per centage points as per 1 January 2013. Long-term

care insurance can furthermore only remain insurance of a part of the costs, so that private provision remains a major element of personal security in the future. This is to receive state promotion from 2013 onwards as voluntary private long-term care provision.

Currently, furthermore, an expert advisory council of the Federal Ministry of Health is preparing the introduction of a new definition of need of long-term care. This is to do better justice than was previously the case to the situation of people with restricted abilities for routines of day-to-day life, such as dementia. The amount of independence in carrying out activities or the design of various spheres of life is to take on central significance here.

Basic income support for the unemployed

Since the introduction of the provisions on the basic income support for job-seekers under the law on benefits in 2005, the standard benefits (basic needs assistance) by 31 December 2010 in accordance with the development in pension amounts and for 2011 in accordance with a mixed index of pricing trends, the consumption items that are relevant to the standard rate and trends in net wages and net salaries of employees in accordance with the national accounts were described as follows:

Trends in standard benefits/basic needs assistance for single persons and lone parents in the Second Book of the Social Code			
Year	Six-month period	monthly	adjustment in accordance with trends in pension amounts
2005	1 January to 31 December 2005	**345 West** **331 East**	no pension adjustment
2006	1 January to 30 June 2006 from 1 July 2006	345 /331 € **345 €**	no pension adjustment, but fixed nationwide
2007	1 January to 30 June 2007 1 July to 31 December 2007	345 € **347 €**	0.54 per cent
2008	1 January to 30 June 2008 1 July to 31 December 2008	347 € **351 €**	1.1 per cent
2009	1 January to 30 June 2009 1 July to 31 December 2009	351 € **359 €**	2.41 per cent

2010	1 January to 31 December 2010	359 €	no pension adjustment
2011	from 1 January to 31 December 2011	**364 €**	calculation of basic needs assistance in compliance with the newly-established mixed index on the basis of 2008
2012	from 1 January 2012	**374 €**	adjustment in accordance with the mixed index (70 % price trends and 30 % wage trends)

Special attention was paid in the period under report to the further development of standard benefits/basic needs assistance, taking account of child-specific needs, and provisions were handed down under the law on benefits which particularly improve the material situation of school-age children.

With the “Act to Promote Families and Household-related Services” (*Gesetz zur Förderung von Familien und haushaltsnahen Dienstleistungen – Familienleistungsgesetz – FamLeistG*) (Federal Law Gazette 2008 Part I p. 2995), an “additional benefit for school” of 100 Euro per year for children and juveniles was introduced from families receiving the benefits in accordance with the Second Book of the Social Code (basic income support for job-seekers) and the Twelfth Book of the Social Code (social assistance). The Federal Government thus supported improved schooling for children and juveniles without questioning the fundamental responsibility of the *Federal States* for the school sector.

The additional benefit for school for 1.5 million children and juveniles from low-income families was paid for the first time at the beginning of the school year 2009/2010. This benefit made it easier in particular to purchase articles of personal equipment for school (e.g. school satchels, gym gear, calculators, drawing and painting material), these being expenses which are incurred particularly at the beginning of the school year.

Additionally, in 2008, the Federal Government introduced the “Act to Safeguard Employment and Stabilisation in Germany” (*Gesetz zur Sicherung von Beschäftigung und Stabilisierung in Deutschland*) of 2 March 2009 (Federal Law Gazette p. 416), which increased the relevant standard benefit for the age group of 6- to 13-year-old recipients of social allowance from 60 per cent to 70 per cent of the standard benefit of a single person or of a lone parent. 810,000 children in the Second Book of the Social Code were able to

benefit from this provision.

A fundamental change was made to the Second and Twelfth Books of the Social Code with the ruling of the Federal Constitutional Court regarding the assessment of the standard benefits for adults and children of 9 February 2010. This was however not because the amount of the benefits was considered to be inadequate, but because the calculation of the standard benefits had previously not been carried out in a completely transparent and comprehensible manner. The previously-applicable per centage derivation of the standard benefits of the children from the standard benefit of an adult living alone was found to be unconstitutional. The previous orientation towards the employable persons in the household was supplemented by weighting the promotion towards children and juveniles.

The prerequisites of the Federal Constitutional Court regarding the calculation of basic needs assistance were constitutionally implemented with the “Act on the Calculation of Basic Needs Assistance and Amending the Second and Twelfth Books of the Social Code” (*Gesetz zur Ermittlung von Regelbedarf und zur Änderung des Zweiten und Zwölften Buches Sozialgesetzbuch*) (Federal Law Gazette p. 850).

In implementation of the ruling of the Federal Constitutional Court, basic needs assistance has been placed on a foundation of reliable figures that are transparent, proper and realistic, as well as comprehensive and conclusive. Basic needs assistance was calculated on the basis of the 2008 sample survey of income and expenditure and extrapolated in accordance with a new mixed index of pricing trends in the consumption items relevant to the standard rate and trends in net wages and net salaries for the period July 2008 to June 2011. Additionally, basic needs assistance for children and juveniles has been calculated independently and directly, as well as distinguished by age groups. The following relevant basic needs assistance applied from 1 January 2011 to 31 December 2011:

- to children up to the age of six, 215 Euro
- to children from the age of six to the age of 14, 251 Euro
- to juveniles from the age of 14 to the age of 18, 287 Euro
- to young adults who do not have a household of their own and live in their parents’ home, 291 Euro.

In the Second and Twelfth Books of the Social Code, as well as for families receiving supplementary child allowance or housing benefit, specifically favouring children, juveniles and young adults, not only the relevant basic needs assistance, but also the needs to

cover their specific socio-cultural subsistence minimum have been taken into account since 1 January 2011 through:

- assumption of costs for one-day and several-day school and day-care centre excursions,
- benefits for school materials (70 Euro at the beginning of the school year in August and 30 Euro half way through the school year in February),
- necessary actual expenditure for promotion of school pupils,
- learning support for school pupils, subject to certain preconditions,
- assumption of additional expenditure for participation in joint school, crèche or day-care centre lunch, as well as
- a monthly budget of up to 10 Euro for social participation.

With the exception of personal school materials and school transport, these educational and participation benefits are not provided by means of cash payments, but by benefits in kind and services. This ensures that the benefits actually reach the children. The implementation of the educational and participation benefits was transferred to the local authorities and towns constituting a district in their own right. 2.5 million needy children who grow up in low-income families benefit from the educational package.

The Federation pays the costs for the benefits which fall within the remit of the Federal Employment Agency (benefits to ensure the subsistence level and for integration in work, etc.). The costs for housing and heating, for other local benefits (e.g. psychosocial counselling), for some one-off benefits (e.g. the basic domestic items), as well as for education and participation, are paid by the local authorities. When it comes to the costs of housing and heating, the Federation is however participating with a fixed per centage, which was 29.2 per cent on an average of all *Federal States* in 2008, 26.0 per cent in 2009 and 23.6 per cent in 2010. Since 2011, the federal contribution towards the costs of housing and heating et al. has also placed local authorities in a financial position in which they can offer education and participation benefits.
The amount of the federal participation was therefore increased to a national average of 36.4 per cent for 2011 to 2013 (for 14 *Federal States* 35.8 per cent, for the *Land* Baden-Württemberg 39.8 per cent, as well as for the *Land* Rhineland-Palatinate 45.8 per cent).

Regardless of this, further amendments in the law on benefits have been implemented in the Second Book of the Social Code in the period under report.

With the Amended Budget Act (*Haushaltsbegleitgesetz*) 2011 of 9 December 2010 (Federal Law Gazette p. 1885 No. 63), the time-limited supplement was abolished as per 1 January 2011.

At the time of the introduction of the provisions of the law on the basic income support for jobseekers as per 1 January 2005, the supplement, which previously had been time-limited to two years, was to equalise a part of the difference between a previously larger amount of unemployment benefit and housing benefit in accordance with the Housing Benefit Act (*Wohngeldgesetz*) and the amount of basic income support for jobseekers. To this end, in particular financial hardships were to be compensated for by simultaneously reducing the claim duration in unemployment benefit from unemployment insurance, whilst at the same time abolishing unemployment assistance when taking up unemployment benefit II for the first time. This function of the time-limited supplement is out of date because of the claim duration, which was once more extended in the period under report in unemployment benefit for older employees from unemployment insurance. In addition, the provision had proven to be problematic and conflict-ridden. It ran counter to the general principle of “challenge and support”.

The Federal Government is increasingly focussing on taking up gainful employment meeting needs, and is increasing the incentive to take up employment subject to mandatory social insurance. For instance, the Act on Calculation of Basic Needs Assistance and other Amendments in the Second and Twelfth Books of the Social Code (*Gesetz zur Ermittlung der Regelbedarfe und weiterer Änderungen im SGB II und SGB XII*) has also refined the provisions of the law on benefits to consider income from gainful employment for the income range from 800 Euro to 1000 Euro. Accordingly, a maximum allowance on earned income of 300 Euro with a gross income of up to 1200 Euro can be considered. When observing the household-related estimation of basic income support for jobseekers, an amount of 330 Euro is exempt from offsetting against unemployment benefit II for gainfully active persons with one or several minor-age children with an income of up to a maximum of 1500 Euro. Moreover, the eligibility criteria have remained unchanged.
The eligibility criteria to draw basic income support for job-seekers also apply to foreigners who are in gainful employment in Germany (self-employed or in dependent employment). They receive unemployment benefit II subject to the same preconditions as German nationals if their income is insufficient to ensure their living. Moreover, the provisions for drawing basic income support for job-seekers apply to all EU foreigners in the same way; Germany has transposed the corresponding EU provisions into national law. Latitude that has been granted under Union law is taken advantage of. A three-month and more exclusion from benefits for foreigners is set out in the law on basic income support for job-

seekers.

Integration into the labour market

Placement, as the core area of labour market policy, was enhanced and simplified with the Act on the Reorientation of Labour Market Policy Instruments (*Gesetz zur Neuausrichtung der arbeitsmarktpolitischen Instrumente*) of 21 December 2008. Effective tools were refined further. In order to improve the integration chances and the medium-term vocational development opportunities of low-skilled unemployed persons, a legal right was created to subsequently take the lower secondary school certificate within a pre-vocational training programme and within vocational further training. This provided the foundation and motivation for further skill-building steps. Ineffective tools were abolished. The Act set the stage for a new goal steering process between the Federal Employment Agency and the Federal Ministry of Labour and Social Affairs.

Furthermore, the instruments of labour market integration were re-organised in the Second Book of the Social Code and independent promotion was included, by means of which the institutions of basic income support for job-seekers receive greater scope for action. They can hence develop and use tailored promotion approaches over and above the set of regulations.

Unemployment benefit/unemployment insurance

With the Act Amending the Fourth Book of the Social Code – (Joint Provisions) – Establishing an Office for the Adjustment of Pension Rights in Case of Divorce and other Acts (*Gesetz zur Änderung des Vierten Buchs Sozialgesetzbuch – SGV IV (Gemeinsame Vorschriften) - zur Errichtung einer Versorgungsausgleichskasse und anderer Gesetze*) of 15 July 2009 a special provision for short-term workers was inserted in section 123 subs. 2 of the Third Book of the Social Code. Largely short-term workers have hence been able since 1 August 2009 to gain easier access to the insurance payment of unemployment benefit under certain preconditions.

This easier access is particularly conditional on

- employment days within the framework period being largely the result of employment that is subject to mandatory insurance which is limited to not more than six weeks, and
- the earnings from work in the last twelve months not exceeding the relevant reference in accordance with section 18 subs. 1 of Book Four of the Social Code (Western Germany 2009: 2,520 Euro (and 30,240 Euro per year); Eastern Germany 2009: 2,135 Euro (and 25,620 Euro per year).

A six-month qualification period must be complied with if all other preconditions are satisfied.

When this qualification period has been complied with, the duration of the unemployment benefit claim, regardless of age, is

after obligatory insurance with a total duration of at least ... months	…months
6	3
8	4
10	5

The special arrangement improves the social security of employees who cannot satisfy the regular qualification period for a right to unemployment benefit of at least twelve months within the two-year framework period for reasons related to their work or because of the particularities of the economic sector in which they are employed, for example because they can only exercise very short-term employment. In particular, the special conditions of cultural workers are taken into account with this provision. The provision is limited to three years and is evaluated within impact research in accordance with section 282 of the Third Book of the Social Code.

Within the Employment Opportunities Act (*Beschäftigungschancengesetz*) of 24 October 2010, the possibility that was introduced with the labour market reforms – with a sunset clause up to 31 December 2010 – for caregivers, persons employed abroad and the unemployed who start up in business in order to end their unemployment to take up obligatory unemployment insurance on request (voluntary continued insurance), was continued taking account of the experience that had been gathered.

The following observations are submitted regarding the Committee's questions on the results obtained from the JobPerspektive tool:

With the employment promotion benefits (JobPerspektive) in accordance with section 16e of the Second Book of the Social Code, an additional tool was created as per 1 October 2007 for long-term unemployed employable beneficiaries with several obstacles to placement. This was to open up additional possibilities for a group of individuals who were particularly far removed from the labour market to increase their participation in society via promoted gainful employment. It was possible to promote jobs with an employment grant of up to 75 per cent of the paid earnings from work. The duration of promotion was initially

24 months. After a renewed review of the chances for integration into regular employment, the promotion was then to be provided for an unlimited duration.

Roughly 35,000 beneficiaries of unemployment benefit II had taken up promoted employment subject to mandatory social insurance within the JobPerspektive programme by 2010. The comprehensive evaluation however showed that the objectives pursued with the introduction of the tool were only partly achieved. For instance, uncertainties as to prognoses were ascertained particularly with regard to participants' labour market chances, which led to a considerable amount of people being promoted who certainly would have had (in some cases) good chances for integration in regular employment. Furthermore, considerable, ongoing "lock-in effects" were transmitted among those who received support in the employment phase.

The results of the evaluation have been input into the redesign of publicly-promoted employment with the Act to Improve Integration Chances on the Labour Market (*Gesetz zur Verbesserung der Eingliederungschancen am Arbeitsmarkt*) of 20 December 2011. The new provision contained in section 16e of the Second Book of the Social Code (promotion of employment relationships) links the previous tool of subsidised community work in the remuneration variant with the JobPerspektive. The lack of opportunities for employable beneficiaries to become integrated into the labour market also remains relevant. The promotion duration was however restricted to 24 months within a period of five years.

The following observations are submitted regarding the Committee's request for information on the implementation and concrete impact of the extension of the claim duration for older unemployed people:

The Federal Government has gradually extended the duration of the right to unemployment benefit for the over 50s, starting with effect from 1 January 2008. The background was that, although the reforms on the labour market and the positive economic trends had contributed to a marked decrease in the number of unemployed people, vocational reintegration remained difficult for many older employees.

The impact of the extension of the right has not been investigated. Such an isolated portrayal would hardly be possible because of the multifactorial developments. Having said that, the figures relating to the labour force participation rate of older people show that these have developed positively, despite the extension of the claim duration in unemployment benefit.

Labour force participation rates

Men

Year	50 to less than 55 years	55 to less than 60 years	60 to aged under 65
2007	91.4	82.7	45.1
2008	90.9	83.2	46.6
2009	90.8	83.7	50.5

Women

Year	50 to less than 55 years	55 to less than 60 years	60 to aged under 65
2007	79.2	66.7	27.4
2008	79.7	67.5	29.3
2009	80.0	68.8	32.8

Major legal amendments in the period under report 2008-2011

Pension adjustment

The statutory pension follows wages as a matter of principle. The wage-orientated adjustment of pensions has already been an elementary component of statutory pensions insurance since 1957. The objective of this adjustment method, which has been introduced with the consent of all parties and of the social partners, and which continues to apply today, was then and remains to ensure that pensioners participate in economic development in both good and less good years, as is expressed in the development of wages of those in employment.

In order to spread the burdens arising because of demographic change across the generations, in addition to the wage trends that are relevant to the adjustment, two further developments are included in the calculation of the pension adjustment ("attenuation factors"): Firstly, changes in the employees' expenditure on statutory pensions insurance and additional retirement provision are transferred to the adjustment of the pensions. Secondly, trends in the quantitative ratio of pensioners to contributors are taken into account in the adjustment of the pensions by means of the "sustainability factor".

The factor for retirement provision expenditure takes into account both the changes in the contribution rate to general pensions insurance and the retirement provision share, which has been increasing since the 2003 pension adjustment ("*Riester* stairway"). This

retirement provision share, rising in eight grades, slows the respective pension adjustment by roughly 0.65 per centage points per grade, and ensures that the increasing burdens on the generations in work today for their additional retirement provision are reflected in the pension adjustment.

The Pension Adjustment Act 2008 (*Gesetz zur Rentenanpassung*) moved the fifth and sixth grades of the eight-level "*Riester* stairway" in the pension adjustments in 2008 and 2009 in order to permit pensioners to have a larger share of the economic recovery of that time. By these means, a pension adjustment had come about in 2008 that was 0.64 per centage points and was 0.63 per centage points higher in 2009. To guarantee the long-term stability of pension finances and maintain intergenerational equity, the slowing effect of these two grades was not suspended, but was moved to 2012 and 2013. From the pension adjustment 2014 onwards, the consideration of the changes in expenditure of the persons who are gainfully active today for their old-age pensions in the pension adjustment will be restricted to trends in the contribution rate to general pensions insurance.

The sustainability factor transfers the change of the ratio of pensioners to contributors, which is standardised towards average earners and standard pensioners, to the pension adjustment. Because of the demographic development, the sustainability factor will have a negative impact on pension adjustments in future.

A statutory safeguard clause was also introduced with the introduction of the sustainability factor in 2004. This safeguard clause largely ensured that, with positive wage trends, the attenuation factors, which arithmetically are to be calculated separately from one another, could not in the outcome lead to a reduction in the current pension amount. The safeguard clause was expanded in 2009 to the so-called pension guarantee so that a reduction in the gross pension in the pension adjustment is now ruled out even where there is a negative wage trend.

The safeguard clause, or its expansion to the pension guarantee, was applied in 2005, 2006 and 2010. Pensions were not reduced during these years, as would have been the case had the adjustment formula been applied in a purely arithmetical sense. The total of the pension attenuation which was not carried out was recorded in the "compensation requirement". It has been necessary since the pension adjustment that was carried out as per 1 July 2011 to reduce this compensation requirement by basically halving the pension adjustments. This brings about a situation in which the intended impact of the attenuation factors is realised and the contributors are not burdened in the long term by the application of the safeguard clauses.

The 2008 pension adjustment

The pension adjustment as per 1 July 2008 was based on a wage trend relevant to adjustment of 1.40 per cent in the old *Federal States* and of 0.54 per cent in the new *Federal States*. Despite the *Riester* stairway being moved by the Pension Adjustment Act 2008, the factor for retirement provision expenditure had a slowing effect of minus 0.51 per centage points, since the increase in the contribution rate in general pensions insurance as per 1 January 2007, from 19.5 per cent to 19.9 per cent, had to be taken into account. The sustainability factor had the effect of increasing the adjustment in the 2008 pension adjustment, accounting for 0.22 per centage points.

Consequently, the pensions of statutory pensions insurance in the old *Federal States* were adjusted by 1.1 per cent as per 1 July 2008. Since the wage trends relevant to adjustment in the new *Federal States*, at 0.54 per cent, were not as high as in the old *Federal States* (1.40 per cent), this led in arithmetical terms to an increase in the current pension amount (East) by only 0.26 per cent. The legislature however ensured with the so-called “safeguard clause (East)” that in determining the current pension amount (East) at least the adjustment rate of the current pension amount relevant for the old *Federal States* is to be taken as a basis. The pensions in the statutory pensions insurance were hence also adjusted by 1.1 per cent in the new *Federal States*.

The 2009 pension adjustment

The pension adjustment as per 1 July 2009 was based on wage trends relevant to adjustment in the old *Federal States* of 2.08 per cent and of 3.05 per cent in the new *Federal States*. The factor for the retirement provision expenditure did not have any effect in 2009 since the gradual increase in the retirement provision share was suspended by the Pension Adjustment Act 2008 and the contribution rate to the general pensions insurance remained constant. The effect of the sustainability factor, at 0.31 per centage points, had the effect of increasing the adjustment. Consequently, the current pension amount – relevant to the old *Federal States* – was adjusted by 2.41 per cent, and the current pension amount (East) – relevant to the new *Federal States* – was adjusted by 3.38 per cent.

The 2010 pension adjustment

As a result of the economic crisis, the wage trends relevant to the adjustment in the old *Federal States* were negative for the first time in 2009. The 2010 pension adjustment in the old *Federal States* was based on a wage trend relevant to the adjustment of minus

0.96 per cent. In the new *Federal States*, by contrast, a slight increase of 0.61 per cent was observed. This was caused by the fact that the economic crisis of 2009 had had divergent impacts in East and West. The gradual increase in the retirement provision per centage was taken into account once more in the factor for retirement provision expenditure, after temporary suspension, leading arithmetically to an impact of minus 0.64 per centage points, which had the effect of reducing the adjustment. The impact of the sustainability factor, at arithmetically minus 0.51 per centage points, also had the effect of reducing the adjustment. All in all, in accordance with the adjustment formula, arithmetically a pension adjustment of minus 2.10 per cent in the old *Federal States* and of minus 0.54 per cent in the new Federal States emerged. Because of the safeguard clause, which in 2009 was expanded to the so-called pension guarantee, pensions were however not reduced in 2010. The pension reductions that were omitted were included in the so-called compensation requirement.

The 2011 pension adjustment

The pension adjustment as per 1 July 2011 was based on a wage trend relevant to adjustment of 3.10 per cent in the old *Federal States* and 2.55 per cent in the new *Federal States*. At minus 0.64 per centage points, the factor for the retirement provision expenditure had the effect of reducing the adjustment. The sustainability factor, at minus 0.46 per centage points, also had a slowing impact on the pension adjustment. All in all, the adjustment formula in the old *Federal States* arithmetically led to a pension adjustment of 1.99 per cent, and that in the new *Federal States* led to an adjustment of 1.41 per cent. As per 1 July 2011, however, the reduction of the so-called compensation requirement (total of the omitted pension reductions from the past application of the safeguard clause) started by halving the positive pension adjustments as a matter of principle.

An adjustment of 0.99 per cent consequently emerged in the old *Federal States* as per 1 July 2011. Since the wage trends relevant to adjustment in the new *Federal States* were less pronounced, merely an arithmetical adjustment by 0.71 per cent emerged here. Where the “safeguard clause (East)”, mentioned above, is applied, the pension adjustment in 2011 was 0.99 per cent in both the old and in the new *Federal States*.

2008-2011 contribution rate

The contribution rate was not changed in 2008 to 2011, so that in each case the continued application of the contribution rate of 19.9 per cent (general pensions insurance) for the individual years 2008 to 2011 was announced in the Federal Law Gazette.

Statutory accident insurance

In order to secure the high-quality system of statutory accident insurance in Germany in

the long term, a fundamental organisational reform was adopted in the period under report. The Act to Modernise Accident Insurance (*Unfallversicherungsmodernisierungsgesetz*), which was adopted in October 2008, and which mainly came into force on 1 January 2009, adjusted the previous organisational structures in line with the changed economic conditions, the “old cases” problem was solved, and the economic viability and effectiveness of the system were improved.

The following main measures were carried out:

- In a merger process lasting several years, on the basis of the statutory requirements, the self-regulation of statutory accident insurance reduced the number of the accident insurance companies in the commercial sector to nine occupational accident insurance funds. This has enabled larger risk pools and insurers to be formed which are able to operate sustainably.
- In order to carry out the tasks more efficiently, comprehensive benchmarking was introduced to organise internal competition between the accident insurance companies.
- The existing system of fiscal equalisation among the *Federal States* between the commercial occupational accident insurance funds was completely reformed in order to solve the backlog problem.
- The property law relating to the accident insurance companies was reformed. It was possible to reduce the amount of resources and reserves, and hence reduce the capital tied up in the accident insurance companies. At the same time, the accident insurance companies were obliged to form reserves for old-age for the retirement provision of their workers in order to reduce the burdens faced by future generations.

The reform has upheld the successful fundamental principles of statutory accident insurance, such as obligatory insurance, the reliable provision of benefits, funding through the solidarity community of employers and the organisational link between prevention and implementation of insurance, and has made these secure for the future.

Furthermore, the following further legal amendments were carried out in the period under report:

a. The insurance protection of persons working on a voluntary basis was improved by expanding obligatory insurance to include further groups of individuals:

- participants in the voluntary service of all generations from 1 January 2009 onwards
- participants in the worldwide development-orientated voluntary service from 1 January 2009 onwards
- participants in international voluntary services from 3 May 2011 onwards
- participants in the new Federal Voluntary Service from 3 May 2011 onwards.

b. Existing loopholes in insurance protection for persons of the same sex who have established a registered partnership were closed with effect from 11 August 2010 onwards.

c. The cash benefits from accident insurance (injury pensions, surviving dependants' pensions and long-term care allowance) were increased as follows in line with the adjustment rate for cash benefits from statutory pensions insurance:

- as per 1 July 2008	1.10 per cent (old Federal States)	1.10 per cent (new Federal *Federal States*)
- as per 1 July 2009	2.41 per cent (old Federal States)	3.38 per cent (new Federal *Federal States*))
- as per 1 July 2010	no adjustment	no adjustment
- as per 1 July 2011	0.99 per cent (old Federal States)	0.99 per cent (new Federal *Federal States*)

2. Paragraph 4 - Equality of treatment of nationals of other States Parties in social security

The principle of equal treatment

The number of countries which have ratified the European Social Charter or the revised European Social Charter but are not members of the EU or of the EEA has fallen further since 1 January 2007. Since acceding to the EU, Romania and Bulgaria also fall within the scope of EU coordination law, which by means of Regulation 883/2004/EC replaces the agreements formerly concluded with Germany.

Negotiations with the Russian Federation and Ukraine are in progress during the period under report in order to further implement the principle of equal treatment of nationals of the States Parties stipulated in Article 12 IV a. According to the lead Labour and Social Affairs Ministry in Kiev, the signing of the draft on coordination of pension and accident insurance with Ukraine, on which negotiations have already been concluded, as well as

the accompanying implementation agreement, on which negotiations have also been concluded, still depends on the agreement of the Finance Ministry. The negotiations with the Russian Federation on pensions insurance are currently still underway, so that it is not possible to say anything about a likely time of conclusion.
Countries with which Germany has not yet concluded an agreement on social security remain Albania, Andorra, Armenia, Azerbaijan, Georgia and Moldova. The planned implementation of the European Stabilisation and Association Agreement should be referred to with regard to Albania, the adoption of which still depends on a ruling of the Council. The draft Resolution provides amongst other things that, in the mutual relationship, pension payments are to be disbursed unreduced to beneficiaries resident in the respective other State.

Expansion to cover third-country nationals

Regulation (EC) No 883/2004 on the coordination of social security systems has applied since 1 May 2010 only to EU citizens and their family members. By means of Regulation (EU) No 1231/2010, which came into force on 1 January 2011, in accordance with Article 1 the personal scope of Regulation 883/2004 is extended to also cover nationals of third countries who are not already covered by it solely on the ground of their nationality, if they are legally resident in the territory of a Member State and are in a situation which is not confined in all respects within a single Member State. The exceptional arrangement, which was annexed to the old Regulation 859/2003 on third-country nationals as to family benefits where third-country nationals do not have an adequate residence title, has also no longer applied to Germany since then.

Family benefits

Third-state nationals have a right to payment of family benefits for their children living in Germany as soon as they are resident or habitually resident in Germany and have appropriate residence status. Accordingly, however, there is no right to payment for children who are on the territory of another State Party.
As a result of different claim criteria, and in order to ensure equality of treatment within the meaning of Article 12 IV, Germany and Turkey have established within the bilateral social insurance agreement of 30 April 1964 that, in accordance with Art. 33§I of the Agreement, a right to family benefits also exists for children living in Turkey. This however only applies to those months during which employment is exercised as an employee in Germany if obligatory unemployment insurance exists during this employment. Persons who are not employees within the meaning of the German-Turkish Agreement on Social Security may also claim child benefit on the basis of *Decision No 3/80 of the EEC-Turkey Association* for those months during which they have obligatory or voluntary continued German social insurance for other reasons. Furthermore, a right to equality of treatment for Turkish

nationals exists in accordance with the European Interim Agreement on Social Security if they have lived in Germany for at least six months.
Under the same condition of the criterion of being an employee, on the basis of the German-Yugoslavian Agreement of 12 October 1968, which continues to apply to relations between Germany and Serbia, a right to payment of family benefits for children living in Serbia may also exist for Serbian nationals. Additionally, the European Interim Agreement and the six-month period which it contains applies to Serbs who have been recognised by the German Federal Office for Migration and Refugees with final and absolute effect as being entitled to asylum, or who are otherwise politically persecuted. The amount of the monthly child benefit for children in the corresponding foreign country, and for children who are in Germany only temporarily, is 5.11 Euro for the first child, 12.78 Euro for the second child, 30.68 Euro each for the third and fourth children, and 35.79 Euro for each further child each.

Agreements exist with Switzerland, Tunisia, Morocco and Turkey, as well as with Bosnia and Herzegovina, Serbia, Montenegro and Kosovo, regulating amongst other things the preconditions for drawing child benefit.

No further bilateral agreements on family benefit payments with countries mentioned by the Committee (Albania, Armenia, Georgia and the Russian Federation) are planned. This is, firstly, because of the very small amount of child benefit abroad. Secondly, however, in the course of the family benefit equalisation all foreign nationals who are liable for tax in Germany or are regarded as such are entitled to the allowances for children within the annual income tax calculation. This advantage is as a rule greater than the payment amounts of child benefit abroad, so that there is no practical need for a provision in the shape of an agreement.

Germany is considering changing the eligibility prerequisites for drawing family benefits. The entitlement to take up gainful employment or integration in the labour market could be considered as a criterion for the right to family benefits.

Other social security benefits

The granting of social security benefits – other than family benefits – in the case of nationals of States Parties which are not members of the EU or parts of the EEA, is in general subject to the provisions of the bilateral agreements that have been concluded by Germany with other states. There are accordingly no specific duration of residence or specific employment requirements. However, a claim to social insurance benefits is contingent on the existence of an insurance relationship, as well as on a specific minimum insurance duration (qualifying period) which however – because of the method used for

aggregation in social insurance agreements – where appropriate can also be satisfied by means of periods of insurance in the other State Party.

Article 13 - The right to social and medical assistance

With regard to the Committee's conclusions on the equality of treatment of nationals of other States Parties in emergency assistance, we refer to the observations made on Article 11 with regard to insurance of such individuals in statutory health insurance or private health insurance.

Paragraph 1 - Support and medical care for those without adequate resources

It is possible here to refer to the corresponding observations (pp. 66-70) in the 26th Report.

Paragraph 3 - Advice and assistance in emergency situations

Foreign nationals hence also have a right to assistance in overcoming specific social difficulties where they are likely to remain in Germany permanently. Only with such individuals is the granting of this right justified because of the permanence of their residence.

Paragraph 4 - Equal treatment of nationals of other States Parties

In accordance with section 4 of the Asylum-Seekers Benefits Act (*Asylbewerberleistungsgesetz – AsylbLG*), benefits necessary for medical and dental treatment, supply of medicinal products and bandages as well as others for recovery from, improvement of or relief for diseases or their consequences are granted, restricted to acute diseases and pain. Moreover, in accordance with section 6 of the Asylum-Seekers Benefits Act, further benefits can also be granted which are indispensable to ensure health in individual cases. These can also include treatment measures with chronic diseases, medically-necessary measures which cannot be postponed for rehabilitation or medically-necessary assistance.

The scope of the Asylum-Seekers Benefits Act includes all foreigners who are not permanently in Germany and have no established residence status. After benefit has been drawn for more than 48 months, as a matter of principle benefits are granted in accordance with the Twelfth Book of the Social Code. In contrast to the claim made in Conclusion XIX-2 (2009) re Article 13 para. 4, it is not restricted to individuals who have applied for asylum or other forms of refugee status. Rather, it is also for persons who are not legally resident in Germany (cf. section 1 subs. 1 Nos. 4 and 5 of the Asylum-Seekers Benefits Act).

Article 14 - The right to benefit from social welfare services

Paragraph 1 – Social welfare services

Non-statutory welfare benefits

The combination of public and non-statutory welfare services in Germany was described in detail in the 26th Report. The non-statutory welfare associations remain important partners in providing social welfare services, as an advocate for the needy and in support of changes in the social system. Because of their benefits for the community, they are a central element of the social welfare state.

A total of more than 1.54 million people are employed on a full-time basis in the associations and services of the welfare associations (in accordance with the most recent statistics from 2008). Hence, almost four per cent of all persons in gainful employment are employed in the central associations of non-statutory welfare and in their facilities and services. It is estimated that 2.5 to 3 million provide committed assistance on a voluntary basis in initiatives, relief agencies and self-help groups.

Also in 2008, the central associations of non-statutory welfare and the organisations belonging to them together constituted the largest provider of social services in Germany. In comparison with the most recent survey in 2004, an overall increase by almost three per cent can be ascertained in the number of facilities and services, as well as in the numbers of beds and places. 102,393 facilities and services nationally, with a total of 3,699,025 beds and places, were recorded in non-statutory welfare in 2008[11].

In detail, the following overview of facilities and services of non-statutory welfare can be made out[12]:

	Facilities	Beds/Places	Full-timers	Part-timers
1. Health services	8,462	21,7030	222,435	152,451
2. Youth welfare	38,092	203,2790	146,018	179,955
3. Family assistance	7,201	60,448	16,029	45,470
4. Old-age assistance	16,524	548,072	152,750	246,164
5. Assistance for persons with disabilities	15,365	493,708	125,815	165,492

[11] The date of the figures available is 1 January 2008. No more recent data are yet available.

[12] From: *Gesamtstatistik der Einrichtungen und Dienste der Freien Wohlfahrtspflege*, version: 1 January 2008, published by the Federal Joint Association of Independent Welfare Services

6. Assistance for persons in special social situations	7,782	60,449	13,765	13,936
7. Further assistance	7,329	234,593	25,625	22,279
8. Basic, further and ongoing training centres for social and care occupations	1,638	51,935	6,086	7,559
Total	**102,393**	**3,699,025**	**708,523**	**833,306**

Costs for taking up social welfare services – Assumption of costs depending on the financial situation – general and equal access (request for information of the Committee following on from the 26th Report)

In general terms, low-threshold social welfare services, and these include above all advice or offers for people in need, such as debt counselling, the railway mission and the telephone crisis line, are and must be free of charge, otherwise they do not serve their purpose. For instance, women and men have a legal right to free advice in accordance with section 2 of the Pregnancy Conflicts Act (*Schwangerschaftskonfliktgesetz*) in an advice agency intended for this (for instance on the topic of sex education, contraception and family planning).

In the field of youth welfare, child day-care can be mentioned by way of example. In accordance with section 90 of Book Eight of the Social Code (child and youth welfare) the possibility exists to set cost amounts for such services. This takes place as a matter of principle in the shape of a lump-sum contribution towards the costs, that is cost amounts are levied from the parents which are established in advance in accordance with objective criteria such as in particular income, number of children and daily care time. The cost contribution is however to be waived in part or completely on request if the financial burden would be unreasonable for the child and his/her parents.

There may also be special social services which go far beyond universal service and for which social facilities receive compensation for expenditure from the user: The railway mission and Deutsche Bahn AG have been cooperating successfully in “Kids on Tour” since 2003. This enables children aged from 6 to 14 to safely travel on a total of nine routes in ICE and IC trains, alone but well cared for by voluntary and full-time staff of the railway mission. More than 7,700 bookings were taken in 2011, and almost 39,000

bookings have been taken since 2003. Supervision by “Kids on Tour” costs 30 Euro per route in addition to the child’s ticket.

The Federal Government’s multi-generational homes action programme has since 2006 established a total of roughly 500 multi-generational homes and hence low-threshold points of call and advice and meeting places for people of all generations in almost every rural district and in each non-county town. They provide a space for joint activities in all parts of Germany and offer varied support and advice services for almost all everyday situations, starting with childcare and ranging through help with homework, multi-generational lunches, care and support of older people, advice for instance for lone parents, young families, the unemployed and the targeted integration of people with a migration background. Roughly two-thirds of these services are provided by committed volunteers.
The multi-generational homes make a comprehensive take-up of social services easier by virtue of the low-threshold nature of the services which they offer and the good networking with local authorities, other state agencies and non-state organisations.
For the further development of multigenerational work, a three-year action programme entitled multi-generational homes II was launched at the beginning of 2012, with 450 locations being promoted nationwide.

Advice agencies in local authorities and in social associations have established special advice services for foreigners in order to help them gain access to social welfare services. Individual initiatives of the social welfare associations in particular target specific groups of individuals: The “*AG Migrantenmedizin*” (migrants’ medicine taskforce) project of the Caritas Welfare Association for the Regensburg diocese was awarded the “innovatio” social prize in 2011. As voluntary workers of the Caritas refugee advice service, medicine students take care of asylum-seekers with medical complaints, for instance by organising doctors’ appointments or helping to bridge linguistic and cultural barriers.

An important medium for general access is the Internet, via which opening times, telephone numbers, forms and general information can be obtained. This initial information is also available in other languages in many cases.

The telephone is still a major communications channel with the public administration. A standard nationwide service number has therefore been established for citizens (115 government hotline), via which enquiries can be answered and entries processed. The two-year pilot operation started on 24 March 2009 in selected model regions, and

standard operation was officially launched on 14 April 2011. Roughly 22 million citizens nationwide are currently connected to the 115 number. 115 is available at local rates in the terrestrial networks and free of charge for those with a flat-rate.

The following observations can be made in answer to the Committee's question as to whether access to social services is free of charge in certain cases:

In the basic income support for job-seekers, social welfare services provide a large number of measures of employment promotion such as occupation-related training and advisory services. Taking up these services is included in the provision of the benefits by the basic income support institutions. The benefits are as such provided by a third party (the social service) as part of the basic income support for job-seekers, and hence belong within the statutory benefits. All basic income supports for job-seekers that are to be provided on the basis of the law are accessible for the beneficiaries free of charge.

Caring for ex-convicts

Legislative competence for prisons was transferred to the *Federal States* as per 1 September 2006. All Federal States have now enacted their own Prison Acts, and five Federal States (Baden-Württemberg, Bavaria, Hamburg, Hesse and Lower Saxony) have enacted a Prison Act to regulate the execution of prison sentences on adults. Where *Land* statutes have not yet come into force, the Prison Act (*Strafvollzugsgesetz – StVollzG*) of the Federation continues to apply.

The *Land* laws contain provisions the content of which is comparable with section 74 of the Prison Act, mentioned in the 26th Report, for giving advice to convicts when preparing them for release.

In accordance with section 74 of the Prison Act, in order to prepare for release, prisoners are to be given advice regarding the settlement of their personal, financial and social affairs. They are to be assisted in finding employment, accommodation and personal assistance for the time after their release. The advice also includes designating the agencies responsible for social benefits. This support from the prison authority makes a major contribution towards released convicts' social integration. Further assistance to organise their life is provided by independent organisations, such as the Joint Federal Agency for Support of Convicts (BAG-S), a combination of charitable associations which is promoted by the Federal Government. Moreover, projects are operated in several Federal States in order to intensify care for released prisoners.

The following should be pointed out with regard to the Committee's question as to whether there is any legislation on personal data protection:

Collecting, processing and using personal data is as a matter of principle regulated by the Federal Data Protection Act (*Bundesdatenschutzgesetz – BDSG*), which operates as a catch-all law in this respect. In accordance with section 1 subs. 3 sentence 1 of the Federal Data Protection Act, where other legal provisions of the Federation are applicable to personal data, including their publication, they precede the provisions of the Federal Data Protection Act.

Paragraph 2 – National commitment strategy

As was already stated in detail in the 26th Report, the welfare-orientated social services institutions make a major contribution towards guaranteeing social well-being by promoting civil commitment. Initiative, commitment and participation by citizens are major elements of political and social life, as well as forming the basis for the values and regulatory system in Germany. By their commitment to the common good, citizens create social cohesion, bring democracy to life, and make a contribution towards shaping and further developing society.
The Federal Government has recognised the societal significance of this task, and therefore adopted the National Commitment Strategy on 6 October 2010. Already in the run-up to this resolution, there was as yet no known cooperation between all players concerned, which drew up recommendations in the National Forum for Engagement and Participation for action to promote civil commitment. Since the resolution on the Commitment Strategy, the National Forum has had the task of supporting the Federal Government in refining and implementing its commitment policy.
In order to recognise, refine and strengthen citizens' commitment, the Federal Government is supporting programmes, action weeks, projects and initiatives in the context of the Commitment Strategy with which civil commitment is actively supported and made visible and tangible. The Federal Government is working closely together in this sphere with associations and facilities at national level, such as with the associations of non-statutory welfare. A central, new aspect of commitment promotion by the Federation is the promotion of social entrepreneurial commitment, and along with this the promotion of social innovations. Moreover, strategic partnerships with industry and foundations are being sought.

Foundations are a central pillar of civil society and an expression of civil commitment.

They frequently have an innovative impact, and hence set new social trends. With their proceeds, they commit to projects in the field of social affairs, training and education, art and culture, science and research, as well as environmental protection. Foundations also function in these areas as promoters of civil commitment. This includes civil foundations as a new form of commitment in which citizens and enterprises come together in their regional environments to take action for social, ecological and cultural concerns. Cooperation with the foundations is to be placed on a sound footing. Hence, a memorandum is being drafted on cooperation between foundations and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in the promotion of civil commitment in Germany, which is to be signed in 2012. It establishes the rules of cooperation and names the joint topics. This gives a new foundation to the strategic partnership within the National Commitment Strategy sought between all partners.

An ever greater role is increasingly played by companies in civil commitment and cooperation with civil society and as part of civil society.
Companies have frequently already been working directly with social initiatives or associations for a long time, such as in the roughly 900 German “tables”, where more than 50,000 volunteers are committed in different forms and which are supported by a broad network of local and supraregional companies, including with food that is perfectly alright, but which will no longer be used, or with vehicles and other forms of logistical assistance. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth furthermore works with the “*Wirtschaft.Initiative.Engagement*” (WIE) corporate initiative and commitment group of companies in the field of corporate volunteering, as well as in measuring the effect of projects.

The situation of civil commitment in Germany is to be described in the first Commitment Report 2012, entitled “For a Culture of Joint Responsibility”. The report was drafted by a committee of experts specially convened for this purpose; it will be handed over to the German Federal Parliament in 2012. It is to support the development of sustainable commitment policy and help to develop the potential that is available in society for civil commitment.
The report works as a topical focus on companies’ civil commitment.

Voluntary services

The suspension of military service and alternative service in 2011 was seen and used as a historic opportunity to strengthen voluntary commitment. Because of the enormous success of the Federal Government’s dual strategy, consisting of the introduction of the

Federal Voluntary Service as per 1 July 2011 and the parallel expansion of voluntary youth services (Federal Voluntary Service /Voluntary Ecological Year), the number of volunteers in the service is now roughly 80,000, including more than 30,000 in the Federal Voluntary Service and according to the organisers more than 47,000 in the Voluntary Social or Ecological Year. Added to this is volunteers in the International Youth Voluntary Service, which was introduced as per 1 January 2011.
The joint evaluation of the Federal Voluntary Service and the voluntary youth services will commence from the autumn of 2012.

Federal Voluntary Service

In accordance with section 1 of the Federal Voluntary Service Act (*BFDG*), the Federal Voluntary Service has the task of promoting life-long learning. This therefore underlines the educational and learning character of the Federal Voluntary Service. Within the highly varied fields of deployment of the Federal Voluntary Service, the volunteers are to learn social, ecological, cultural and intercultural skills with practice-orientated guidance at their workplaces, and through appropriate seminar days, with the aim in mind of strengthening their awareness of their responsibility for the common good.
In the same way as the civilian service in lieu of military service and the other voluntary services, the Federal Voluntary Service offers to young volunteers aged under 27 both the possibility to develop their personalities and a vocational orientation, as well as initial experience in the world of work.
Particular interest attaches in the Federal Voluntary Service to the new target group of older volunteers aged over 27. Since no appropriate experience has also been gathered so far in the other voluntary services, a working party that has already been established is to draw up appropriate skills requirements. So far, roughly one Federal Voluntary Service contract in five is concluded with a volunteer aged over 27. Roughly 13 per cent of Federal Voluntary Service volunteers are aged over 50. The current figures furthermore show that, with a relatively large proportion of men at roughly 53 per cent, the Federal Voluntary Service is a good supplement to the youth volunteer services, in which more than half of the participants are still young women, and takes up the positive impact of civilian service, which in the past was one of the few possibilities also to attract young men for social occupations.

Youth volunteer services

For several decades, the Federal Government has been promoting the commitment of young people in the youth volunteer services. As educational and orientation services, they provide for young people who are at the beginning of their working lives personal,

social, communicative, action-orientated, technical and cultural and intercultural skills, and are a special form of civil commitment. The Voluntary Social Year with its various fields of deployment, and the Voluntary Ecological Year, offer to young people a possibility to be active for themselves and for society. For juveniles with special promotion needs, the voluntary service can moreover be a major step towards entering a regular working life. A further goal is to enhance the services as a springboard to the integration of migrants.
The youth volunteer services have been strengthened and expanded parallel to the introduction of the Federal Voluntary Service. The funds provided to promote pedagogical guidance the in Voluntary Social Year and the Voluntary Ecological Year have been quadrupled since 2010. A total of 92.6 million Euro are available for the voluntary youth services in 2012. According to information from the institutions involved in the promotional procedure, there are 47,077 participants in the Voluntary Social Year in Germany and abroad in the volunteer year 2011/2012 as per the cut-off date of 1 December 2011. There are 2,671 participants in the Voluntary Ecological Year.
The “International Youth Voluntary Service”, which was launched in 2011, offers to young women and men new possibilities for voluntary commitment abroad, and as an educational and orientation year is subject to comparable quality requirements as the volunteer youth services Voluntary Social Year and Voluntary Ecological Year.