



**Consolidated Report on the application of ILO
Conventions Nos 3, 12, 17, 18, 19, 24, 25, 102, 118,
121, 128, 130 & the Council of Europe European
Code of Social Security, as amended by its Protocol,**

Germany



Government Production Team

Parts of the Consolidated Report	Government department and official responsible for updates	<i>Contact information</i>
For all parts please refer to :	Federal Ministry of Labour and Social Affairs, Division VIb4.	e-mail : VIb4@bmas.bund.de

- The information provided by the Government under ILO Conventions Nos 102, 118, 121, 128, and 130 should be relevant for the treatment of ILO Social Security Conventions Nos 3, 12, 17, 18, 19, 24, and 25 ratified by Germany. If the Government may wish to provide additional information on the application of ILO Conventions Nos 3, 12, 17, 18, 19, 24, and 25, please consult the [report form](#) for the corresponding Convention.
- Please enter any modifications or new information using TRACK CHANGES function in MICROSOFT WORD.
- Where the text of the corresponding provisions of the ECSS and C102 has the same wording, the wording of C102 is taken as the basis, with eventual changes in the ECSS reproduced in brackets.
- Questions of the Report Form on the European Code of Social Security (ECSS) or on ILO Conventions (e.g. RF/C102) for which information is lacking are reproduced in a box below the respective provisions.
- Replies to pending questions raised by the CEACR may be provided in a box below the CEACR comments.

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Part I. General provisions

The Part I “General provisions” comprises the following explanatory and procedural clauses:

- **Articles 1-5 C102**
- **Articles 1-5 ECSS**
- **Articles 1-3, 5 C121**
- **Articles 1-5 C128**
- **Articles 1-6 C130**

Article 6 of C102/C128/ECSS

For the purpose of compliance with Parts II, III, IV, V, VIII (in so far as it relates to medical care), IX or X of this Convention (Code), a Member (Contracting Party) may take account of protection effected by means of insurance which, although not made compulsory by national laws or regulations for the persons to be protected:

- (a) is supervised [subsidised - ECSS] by the public authorities [or, where such insurance is complementary only, is supervised by the public authorities - ECSS] or administered, in accordance with prescribed standards, by joint operation of employers and workers;*
- (b) covers a substantial part of the persons whose earnings do not exceed those of the skilled manual male employee [determined in accordance with Article 65 - ECSS]; and*
- (c) complies, in conjunction with other forms of protection, where appropriate, with the relevant provisions of the Convention (Code).*

➤ **Draft Resolution CM/ResCSS(2021) ... on the application of the European Code of Social Security and its Protocol by Germany (Period from 1 July 2019 to 30 June 2020)**

II. concerning Part XI (Standards to be complied with by periodical payments):

a. Article 65 of the Code, in conjunction with Article 6, with regard to voluntary insurance schemes, the Committee of Ministers notes the information provided by the Government about the voluntary complementary private schemes “Riester pensions”. The Committee of Ministers notes, as indicated by the Government, that this scheme was introduced in 2001 together with pension reforms aimed at restraining pension increases in order to secure the long-term financial viability of the pension insurance system. More specifically, the introduction of the fully funded private pension scheme was intended to compensate for the decline in the replacement ratio associated with the moderation of pension adjustments in the statutory scheme. The Government also indicated that “Riester pensions” were subsidised by the State and did not provide for benefits defined in relation to previous earnings, but benefits resulting from the contributions paid by employees at a maximum amount of 4 per cent of their wage.

The Committee of Ministers considers that “Riester pensions” can provide a valuable complementary income to retired persons. It recalls however that for such schemes to be taken into account for the purposes of applying the Code, sufficient guarantees shall be provided to ensure compliance with Article 6 of the Code. This Article provides that a Contracting Party may take account of the protection offered by voluntary insurance schemes (e.g. by supplementary pension funds or individual life insurance policy taken from a commercial insurance company) only subject to certain conditions. These conditions have been established with a view to ensuring that the voluntary schemes afford equivalent protection to that offered under statutory schemes in compliance with the objectives of the Code. Article 6 requires in particular that voluntary insurance schemes be subsidised by the public authorities or, where such insurance is complementary only, be supervised by the public authorities or administered by joint operation

of employers and workers, that they cover a substantial part of the persons whose earnings do not exceed those of the skilled manual male employee, and that they comply, in conjunction with other forms of protection, where appropriate, with the relevant provisions of the Code. This means that they have to comply with the general standards of the Code as to the scope of protection, the duration of benefits, qualifying period, right of complaint and appeal, finance and administration. The Committee of Ministers recalls that benefits provided under voluntary insurance schemes shall also be regularly adjusted in line with the increase of prices and/or wages, and shall not depend on the surpluses achieved by the fund by investments made (if any), in accordance with Article 65(10) of the Code. The Committee of Ministers further recalls that such benefits shall be periodically paid throughout the contingencies they cover, rather than paid in the form of a lump sum. When the aforementioned conditions are met (e.g. through national standards which may also be imposed as conditions for the exemption of contributions paid to such schemes from income tax), it is possible to take supplementary benefits paid by such voluntary insurance schemes also into account to reach the benefit level prescribed by the Code. The Committee of Ministers therefore once again requests the Government to provide information as indicated below;

The Committee of Ministers decides to invite the Government of Germany:

a. Article 65 of the Code, in conjunction with Article 6, with regard to voluntary insurance schemes, to provide information in the next report on the compliance of the complementary voluntary private scheme providing for "Riester pensions" with the requirements of Article 6 of the Code, with a view to ascertaining whether they can be taken into account for the purposes of applying **Part V of the Code**;

Please provide a reply to the question (RF for the ECSS):

Compliance with Article 6(a) of the ECSS, in conjunction with Part V:

Please state whether the voluntary insurance scheme [*"Riester pensions"*] or schemes concerned are:

- (i) subsidized or supervised by the public authorities; or
- (ii) administered in accordance with prescribed standards by joint operation of employers and workers.

Concerning (i):

"Riester pensions" serve to build up capital-based supplementary provisions for old-age. "Riester pensions" are state-subsidised on the basis of corresponding statutory provisions through allowances and, potentially, additional tax relief through a special expense deduction. The allowances are paid out by a central authority (Zentrale Zulagenstelle für Altersvermögen - ZfA) to the providers (e.g. life insurance companies or investment companies), where they are allocated to the individual Riester plans. The Federal Government estimates that the subsidy level in 2021 will amount to around 770 million euros. "Riester pensions" therefore represent a system of voluntary old-age provision products that are subsidised with public funds on the basis of statutory provisions.

In addition, the providers of Riester plans are subject to supervision by the Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht). "Riester pensions" thus also represent a system of voluntary insurance supervised by public authorities.

Concerning (ii):

"Riester pensions" are by contrast not a system of voluntary insurance operated jointly by employers and workers.

Compliance with Article 6(b) of the ECSS, in conjunction with Part V:

1. Please indicate the wage of the skilled manual male employee computed in accordance with the provisions of Article 65 (see [Title I](#) under [Part V - 4. Level and calculation of benefit](#)).

The provisional average earnings according to Annex 1 of SGB VI are based on the average earnings of all persons insured in the statutory pension insurance scheme. This was 38,901 euros for the year 2022. The wage of a skilled male manual worker within the meaning of Article 65 (6) (c) of the ECSS is therefore 125 per cent of this figure, 48,626 euros.

2. Please furnish, in accordance with paragraph 1 (b) of Article 74, the following statistical information on the number of persons protected by voluntary insurance:

- A. Number of employees (or economically active persons) protected by the voluntary insurance scheme or schemes concerned, whose earnings do not exceed the wage of the skilled manual male employee computed in accordance with the provisions of Article 65.

- (i) Scheme No. 1 ["Riester pensions"]

There is no data available on this. The data on the plans is from statistics provided by the insurance providers. They do not keep any data differentiated according to income.

- (ii) Scheme No. 2 [Betriebliche Altersversorgung]

There is no data available on this. The data on the plans is from statistics provided by the insurance providers. They do not keep any information differentiated by income.

- (iii) Total

No figures for those in employment who fall under Scheme 1 and/or Scheme 2 are available. To estimate a prevalence rate, it is possible to use survey results of employees between 25 and 64 years of age who are insured in the statutory pension insurance scheme.

These surveys reveal that the cumulative prevalence rate of supplementary insurance contracts, i.e. Riester plans (Scheme 1) and/or occupational pension plans (Scheme 2), is 60 per cent among the employees with remuneration below the earnings of a male skilled worker. It should be noted that asking about earnings in personal surveys has its uncertainties. The share mentioned can thus only be taken as an approximate value.

- B. Total number of employees (or of economically active persons) protected by the voluntary insurance scheme or schemes concerned.

- (i) Scheme No. 1 ["Riester pensions"]

*There were 15.9 million Riester plans in 2022. This does **not** correspond to the number of persons, as one person can take out several Riester plans.*

- (ii) Scheme No. 2 [Betriebliche Altersversorgung]

*There were 21.0 million active entitlements in 2019. This does **not** correspond to the number of persons, as one person can have several active entitlements..*

(iii) Total

No exact figures for those in employment who fall under Scheme 1 and/or Scheme 2 are available. A survey of employees between the ages of 25 and 64 who are insured under the statutory pension insurance scheme indicates that the prevalence rate of subsidised supplementary pension provision (Riester plans (Scheme 1) or occupational pension plans (Scheme 2)) is 66 per cent.

- C. Number of persons insured whose earnings do not exceed the wage of the skilled manual male employee (A(iii)) per cent of the total number of persons insured (B(iii))

As explained before, no data on this is available.

Compliance with Article 6(c) of the ECSS, in conjunction with Part V:

Please indicate the compliance of the voluntary insurance scheme ["Riester pensions"] with the following provisions of Part V of the ECSS:

- [Article 26 of ECSS \(Part V - 2. Contingency covered\)](#)

"Riester pensions" are based on a contract between the provider and the contracting party (old-age provision contract), which must meet certain requirements laid down by law. These requirements are laid down in the Retirement Provision Plans Certification Act (Gesetz über die Zertifizierung von Altersvorsorge- und Basisrentenverträgen --AltZertG). The fulfilment of these requirements is a **prerequisite for the promotion** of the plans.

Regarding Article 26 of the ECSS, the relevant provision is that the plan must provide for a lifelong retirement benefit calculated independently of gender, and which may not be disbursed before the age of 62 or the commencement of a benefit from a statutory old-age pension scheme before the age of 62 (Section 1 (1) 2 AltZertG). At the beginning of the disbursement phase, up to 30 per cent of the available capital can be paid out as a one-time payment to the contract partner outside of the monthly benefits (Section 1 (1) 4 (a) AltZertG).

For "Riester pensions" it is thus ensured that the contingency covered is the reaching of an agreed age and that at least 70 percent of the capital saved is used for the lifelong monthly payments. Furthermore, it is possible for the contracting parties to agree on an age for payments to begin that it is not higher than 65 years; in this case, between 62 and 65 years.

- [Article 65\(10\) of ECSS \(Part V - 5. Adjustment of benefit\)](#)

The statutory requirements for "Riester pensions" stipulate that the benefits must remain constant or increase throughout the payout phase (Section 1 (1) 4 (a) AltZertG).

Article 65 (10) of the ECSS stipulates that the amounts of current periodical payments at old age be reviewed following substantial changes in the general level of earnings resulting from substantial changes in the cost of living. Given the nature of how "Riester pensions" work, the benefits of such schemes are financed on the basis of the contributions paid in and the income generated from their investment.

Typically, adjustments are made according to an agreed upon nominal interest rate and/or depending on surpluses.

The Federal Government welcomes the clarification of the Committee that Article 65 (10) of the ECSS does not require an automatic adjustment of pension benefits in line with the development of wages or the development of the cost of living but that it lays down an obligation to regularly review pension adjustments without defining a specific method.

Concerning Article 65 (10) of the ECSS, it should also be noted that the "Riester pensions" are merely a supplementary pension scheme that has its place alongside the statutory pension insurance scheme, and only accounts for a small proportion of old-age pensions.

- [Article 29 of ECSS \(Part V - 6. Qualifying period\)](#)

The benefits of "Riester pensions" do not depend on the fulfilment of any specific qualifying contribution, employment or residence period.

- [Article 30 of ECSS \(Part V - 7. Duration of benefit\)](#)

As already noted under Article 26 of the ECSS, the statutory requirement stipulates that "Riester pensions" must provide for a lifelong retirement benefit.

- [Article 68 of ECSS \(Part V - 10. Suspension of benefit\)](#)

There is no provision that makes the payment of benefits from "Riester pensions" dependent on residence in Germany's territory. So-called harmful use is deemed to exist, however, if the person entitled to the allowances transfers their domicile or habitual residence to a country that does not belong to the EU/EEA area during the payout phase (Section 95 of the Income Tax Act (Einkommenssteuergesetz)).

There are no provisions calling for a suspension of benefits from "Riester pensions" if the livelihood of the person concerned is covered by public funds or by a social security institution or service.

"Riester pension" payments are not reduced in connection with other social security cash benefits or third-party old-age benefits.

Riester pension providers can of course refuse to pay if an insured person or a third party tries to obtain a payment through fraud.

Article 68 (e) to (j) of the Code do not apply to old-age benefits.

- [Article 69 of ECSS \(Part V - 9. Right of complaint and appeal\)](#)

The contractual partner can take legal action when a provider refuses to make "Riester pension" payments or if the type or amount is disputed.

There are also institutions for resolving disputes out of court, such as the insurance ombudsperson.

Conclusions 2022:

"[...] Bearing these principles in mind, the Committee requests the Government to provide information in its next report:

- (a) to which extent Riester pension rights are, in practice, converted into lump-sum payments either by making use of the clause, which allows a one-off payment of 30 per cent at retirement, or by using the accumulated capital for the purchase of a home (i.e. the so-called Wohn-Riester), and
- (b) to which extent Riester-pensions have effectively been increased in the past during their payout phase."

Germany:

a)

The German Government does not have any administrative data on the number of Riester pension entitlements that are converted into lump-sum payments.

According to a survey on old-age security in Germany (*ASID in German*), which was conducted for the 2020 report on old-age security, around 285,000 persons age 65 or older were receiving old-age benefits from a Riester contract in 2019. The majority, i.e. 80% of these persons, were already receiving a periodic, life-long pension. The share of 20% of one-off payments can still be attributed to the short contract periods of Riester pensions, which were not introduced until 2001. This share is expected to fall significantly in the future. At present, pay-out statistics are being developed. **In future**, they will provide a sound basis for information on Riester pension benefits.

b)

The German Government does not have figures on adjustments to Riester pensions during the pay-out phase.

As you can read under a), state support for Riester pensions has only existed for 20 years. As a result, there are not yet many persons age 65 or older who are drawing Riester pensions. At the end of 2021, roughly 3% of Riester contracts had reached the pay-out phase. In addition, the contracts are usually still at the beginning of the pension phase. We expect insurance companies to generate surpluses with these “young” contracts, which they are likely to pass on in the form of higher pensions.

Conclusions 2023:

“[...] Bearing these principles in mind, the Committee reiterates its request to the Government to collect and, where available, to provide information:

(a) to which extent Riester pension rights are, in practice, converted into lump-sum payments either by making use of the clause, which allows a one-off payment of 30 per cent at retirement, or by using the accumulated capital for the purchase of a home (i.e. the so-called “Wohn-Riester”); and
(b) to which extent Riester pensions have effectively been increased in the past during their pay-out phase.

Germany:

Germany concurs that in order to better assess the compliance of Riester pensions with the requirements of Article 6 of the Code, the collection of data concerning lump-sum payments and observed increases of payments during the pay-out phase could be of interest. The preparation of statistics on payments of Riester pensions is in progress.

With regard to other aspects of this conclusion, we kindly refer to the previous reports.

Part II. Medical Care

Germany has accepted the obligations resulting from Part II of C102, Part II of C130 and Part II of the ECSS, as amended by its Protocol.

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II-5. Cost-sharing	<i>Art.10(2)C102/ECSS Art.17 C130</i>	
II-6. Objectives of medical care	<i>Art.10(3) C102/ECSS Art.9 C130</i>	
II-7. Promotion of the general health service	<i>Art.10(4) C102/ECSS</i>	
II-8. Qualifying period	<i>Art.11 C102/ECSS Art.15 C130</i>	
II-9. Minimum duration of benefit	<i>Art.12 C102/ECSS Art.16 C130</i>	
II-10. Suspension of benefit	<i>Art.69 C102, Art.68 ECSS Art.28 C128</i>	
II-11. Right of complaint and appeal	<i>Art.70 C102, Art. 69 ECSS Art.29 C130</i>	
II-12. Financing and Administration	<i>Art.71,72 C102 Art.70,71 ECSS Art.30,31 C130</i>	

List of applicable legislation

[...]

II - 1. Regulatory framework

Article 7. C102 and ECSS

Each Member (Contracting Party) for which this Part of this Convention (Code) is in force shall secure to the persons protected the provision of benefit in respect of a condition requiring medical care of a preventive or curative nature in accordance with the following Articles of this Part.

Article 8. C130

Each Member shall secure to the persons protected, subject to prescribed conditions, the provision of medical care of a curative or preventive nature in respect of the contingency referred to in subparagraph (a) of Article 7.

II - 2. Contingencies covered

Article 8. C102 and ECSS

The contingencies covered shall include any morbid condition, whatever its cause, and pregnancy and confinement and their consequences.

Article 1 (j). C130

The term "sickness" means any morbid condition, whatever its cause.

Article 7. C130

The contingencies covered shall include:

(a) need for medical care of a curative nature and, under prescribed conditions, need for medical care of a preventive nature.

II - 3. Persons protected

Article 9. ECSS, as amended by its Protocol

The persons protected shall comprise:

(a) prescribed classes of employees, constituting not less than 80 per cent of all employees, and also their wives and children; or

(b) prescribed classes of the economically active population, constituting not less than 30 per cent of all residents, and also their wives and children; or

(c) prescribed classes of residents, constituting not less than 65 per cent of all residents.

Article 10. C130

The persons protected in respect of the contingency referred to in subparagraph (a) of Article 7 shall comprise:

(a) all employees, including apprentices, and the wives and children of such employees; or

(b) prescribed classes of the economically active population, constituting not less than 75 per cent of the whole economically active population, and the wives and children of persons in the said classes; or

(c) prescribed classes of residents constituting not less than 75 per cent of all residents.

Article 12. C130

Persons who are in receipt of a social security benefit for invalidity, old age, death of the breadwinner or unemployment, and, where appropriate, the wives and children of such persons, shall continue to be protected, under prescribed conditions, in respect of the contingency referred to in subparagraph (a) of Article 7.

Article 9. C102

The persons protected shall comprise:

(a) prescribed classes of employees, constituting not less than 50 per cent of all employees, and also their wives and children; or

(b) prescribed classes of the economically active population, constituting not less than 20 per cent of all residents, and also their wives and children; or

(c) prescribed classes of residents, constituting not less than 50 per cent of all residents.

Report form for the ECSS:

The provisions of the agreement are implemented mainly by the provisions of the Social Code, and in particular by Book V of the Social Code (SGB V) - Statutory Health Insurance of 20 December 1988

1. Please state to which of the subparagraphs a), b), or c) of Article 9 of the ECSS recourse is had and provide for statistical data depending on the chosen subparagraph:

Title I under Article 76 for Article 9(a) of the ECSS

- A. Number of employees protected¹:
- i) under general scheme ... 34.9 million compulsorily insured persons
 - ii) under special schemes (if any) ... 6.3 million voluntarily statutorily insured persons
 - iii) Total ... 41.2 million statutorily insured persons. (April 2023)**
- B. Total number of employees² ... **45.7 million (April 2023)**
- C. Number of employees protected (A(iii)) per cent of total number of employees (B). Please state how these data are computed and give dates of reference.

90.2 percent of employees have statutory health insurance. According to the Federal Statistical Office, 45.7 million Germans were in employment in April 2023, and 41.2 million had statutory health insurance according to official statistics.

Title II under Article 76 for Article 9(b) of the ECSS

- A. Number of economically active persons protected³:
- i) under general scheme ... 30.9 million working compulsory members
 - ii) under special schemes (if any) ... 5.6 million working voluntary members
 - iii) Total ... 36,5 million (April 2023)**
- B. Total number of residents⁴... **84.4 million inhabitants (2022)**
- C. Number of economically active persons protected (A(iii)) per cent of total number of residents (B).
- D. Please state how these data are computed and give dates of reference.

43,2 % - Working persons with statutory health insurance out of the total number of inhabitants (April 2023)

Title III under Article 76 for Article 9(c) of the ECSS

- A. Number of residents protected⁵ 83.4 million
- B. Total number of residents⁶ 84.4 million
- C. Number of residents protected (A) per cent of total number of residents (B) 98,8 %

2. Please confirm that the dependent wives and children of the persons protected (classes of employees or of the economically active population) are also entitled to the medical benefits stipulated in Article 10 of ECSS, in accordance with the provisions of this Article. Please state, wherever possible, the number of dependent wives and children protected.

Children, spouses and registered partners of members of the statutory health insurance scheme (GKV) are covered by non-contributory family insurance if they have their residence or habitual abode in Germany and have a total income that does not regularly exceed a certain income limit (in 2022: 470 euros per month and in 2023: 485 euros per month). A prerequisite for family insurance is also that the relatives are not otherwise subject to compulsory insurance, voluntarily insured, exempt from compulsory insurance or self-employed as their main occupation.

The non-contributory co-insurance of family members is an essential element of social equalisation that characterises the GKV system. It is an exception to the principle that an insured person has an obligation to contribute themselves. To keep the community of solidarity from being overburdened financially, the non-contributory family insurance only provides support when the dependents have

¹ Dependants who are protected in their breadwinner's right should not be included in this number.
² This number should comprise all employees, including civil servants and, for Parts II, III, V, VII, VIII, IX, and X, also unemployed persons.
³ Dependants who are protected in their breadwinner's right should not be included in this number.
⁴ This number should comprise all residents, including children and old people.
⁵ This number should comprise all persons protected, including those protected in their breadwinner's right.
⁶ This number should comprise all residents, including children and old people.

no income of their own or only a low income. Dependents with income of their own above the statutory limit can be expected to pay their own contributions.

Family insurance for children generally ends when they reach the age of 18, or for non-working children when they reach the age of 23. If the child is completing school or vocational training or is doing voluntary service, family insurance ends when the child reaches the age of 25.

In 2022 and in 2023, 16.0 million people were insured under the non-contributory family insurance scheme.

II - 4. Types of benefit

§1. Article 10. ECSS, as amended by its Protocol

The benefit shall include at least:

- (a) in the case of a morbid condition:
 - (i) care by general practitioners, including domiciliary visiting, and care by specialists in accordance with prescribed conditions;
 - (ii) hospital care including maintenance, care by general practitioners or specialists as required, nursing and all auxiliary services required;
 - (iii) all necessary non-proprietary pharmaceutical supplies and proprietary preparations regarded as essential; and
 - (iv) conservative dental care for the children protected; and
- (b) in the case of pregnancy, confinement and their consequences:
 - (i) pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives;
 - (ii) hospitalisation where necessary; and
 - (iii) pharmaceutical supplies.

Article 13. C130

The medical care referred to in Article 8 shall comprise at least:

- (a) general practitioner care, including domiciliary visiting;
- (b) specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
- (c) the necessary pharmaceutical supplies on prescription by medical or other qualified practitioners;
- (d) hospitalisation where necessary;
- (e) dental care, as prescribed; and
- (f) medical rehabilitation, including the supply, maintenance and renewal of prosthetic and orthopaedic appliances, as prescribed.

§1. Article 10. ECSS

The benefit shall include at least:

- (a) in case of a morbid condition:
 - (i) general practitioner care, including domiciliary visiting;
 - (ii) specialist care at hospitals for in patients and out patients, and such specialist care as may be available outside hospitals;
 - (iii) the essential pharmaceutical supplies as prescribed by medical or other qualified practitioners; and
 - (iv) hospitalisation where necessary; and
- (b) in case of pregnancy and confinement and their consequences,
 - (i) pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and
 - (ii) hospitalisation where necessary.

Report form for the ECSS:

Please state in detail the nature of the benefits provided, with reference to paragraph 1 of Article 10 of the ECSS, as amended by its Protocol.

No changes compared to the text of the 45th report:

Persons insured in the statutory health insurance are entitled to treatment during sickness in accordance with sections 27 to 43c of Book V of the Social Code if such treatment is necessary to identify a disease, to cure it, to prevent its aggravation or to alleviate disease-related pain and suffering. Treatment during sickness includes:

1. *medical treatment including psychotherapy as medical and psychotherapeutical treatment,*
2. *dental treatment including the provision of dentures,*
3. *provision of medicines, dressings, therapeutic remedies and aids,*
4. *domestic nursing care and home help,*
5. *hospital treatment,*
6. *medical and supplementary rehabilitation benefits as well as tolerance testing and work therapy.*

In the event of pregnancy and maternity, they are entitled to the following benefits under sections 24c to 24i of Book V of the Social Code (Sozialgesetzbuch V):

1. *medical care and midwife assistance,*
2. *provision of medicines, dressings, therapeutic remedies and aids,*
3. *outpatient or inpatient delivery,*
4. *provision of care at home*
5. *home help,*
6. *maternity benefits.*

II - 5. Cost-sharing

§2. Article 10. ECSS, as amended by its Protocol

The beneficiary or his breadwinner may be required to share in the costs of the medical care which the beneficiary receives:

(a) in case of morbid condition, provided that the rules concerning such cost-sharing shall be so designed as to avoid hardship, and that the part of the cost paid by the beneficiary or breadwinner shall not exceed:

- (i) for care by general practitioners and specialists outside hospital wards: 25 per cent;*
- (ii) for hospital care: 25 per cent;*
- (iii) for pharmaceutical supplies: 25 per cent on the average;*
- (iv) for conservative dental care: 33 1/3 per cent;*

(b) in case of pregnancy, confinement and their consequences, in respect of pharmaceutical supplies only for which the part of the cost paid by the patient or breadwinner shall not exceed 25 per cent on the average; the rules concerning such cost-sharing shall be so designed as to avoid hardship;

(c) where cost-sharing takes the form of a fixed sum in respect of each case or course of treatment or each prescription of pharmaceutical supplies, the total of such payments made by all persons protected in respect of any one of the types of care referred to in sub-paragraphs a or b shall not exceed the specified percentage of the total cost of that type of care within a given period.

Article 17. C130

Where the legislation of a Member requires the beneficiary or his breadwinner to share in the cost of the medical care referred to in Article 8, the rules concerning such cost sharing shall be so designed as to avoid hardship and not to prejudice the effectiveness of medical and social protection.

§2. Article 10. C102

The beneficiary or his breadwinner may be required to share in the cost of the medical care the beneficiary receives in respect of a morbid condition; the rules concerning such cost-sharing shall be so designed as to avoid hardship.

Report form for the ECSS:

1. If recourse is had to paragraph 2 (a), Article 10 of ECSS please indicate, for each type of benefit enumerated in paragraph 1 (a), Article 10 of ECSS, the extent to which the patient or the breadwinner is required to share in the cost of the medical care received. Please state what measures are taken to ensure that cost-sharing does not involve hardship.
2. If recourse is had to paragraph 2 (b), Article 10 of ECSS, please indicate, for pharmaceutical supplies, the extent to which the patient or the breadwinner is required to share in the cost.
3. Please confirm that, in accordance with paragraph 2 (b), Article 10 of ECSS, **cost-sharing is not required in the case of pregnancy and confinement and their consequences**, except for pharmaceutical supplies. If the scheme provides for the reimbursement of the expenses which the beneficiary or her breadwinner was obliged to incur in order to obtain the benefits stipulated in paragraph 1 (b)(i)(ii), Article 10, please furnish any available information to show that the beneficiary or her breadwinner does not share in the cost of such benefits.
4. If the scheme provides for cost-sharing in the form of a fixed sum in respect of each case or course of treatment or each prescription of pharmaceutical supplies, please indicate the total of such payments made by all persons protected in respect of any one of the types of care referred to in sub-paragraphs (a) or (b) of paragraph 2, and the total cost of that type of care.

No changes compared to the text of the 45th report:

The provisions on cost sharing (co-payments by insured persons) are stipulated in sections 31 (3), 32 (2), 33 (2), 37 (5), 38 (5), 39 (4), 40 (6), 41 (3) and 60 (2) of Book V of the Social Code.

As a rule, co-payments amount to 10 percent of the pharmacy retail price, but at least to 5 euros and at most to 10 euros. No insured person is required to pay more than the costs of the relevant cure, however.

Special co-payment rules apply to in-patient care (in-patient prevention and rehabilitation benefits and services as well as hospital treatment including follow-up rehabilitation) and to therapeutic medical aids, to domestic nursing care and travel expenses.

For in-patient treatment, insured persons are required to make a co-payment of 10 euros per calendar day. As for hospital treatment and in the event of follow-up rehabilitation co-payments are limited to 28 days per calendar year. In other cases, e.g. when medicines, dressings, therapeutic remedies and aids are needed, insured persons have to make co-payments in the amount of 10 percent but of at least 5 euros and at most 10 euros. No insured person is required to pay more than the costs of the relevant cure, however. In case of medical aids and domestic nursing care, co-payments amount to 10 percent of the costs and 10 euros per prescription. As a rule, children are exempt from co-payments before the completion of age 18. The only exception concerns co-payments towards transport costs that have to be made also by insured persons who are not yet of age.

Contribution limits ensure that persons who are ill or have a disability obtain full medical care and that the statutory co-payments are not an unreasonable burden on them. Insured persons are not required to spend more than 2% of their annual gross income - available to them to cover subsistence costs - in order to cover such co-payments (so-called contribution limit). There is a special regulation for chronically ill persons. In derogation from the principle of co-payments of 2% per calendar year, a limit of 1 per cent of the annual gross income to cover their living expenses has applied to this category of persons. Insured persons whose co-payments have reached this limit in a given calendar

year may get an exemption from their health insurance fund for all co-payments for the rest of that year.

As far as **pregnancy-related problems** are concerned and in connection with delivery of the baby, co-payment rules according to section 24e sentence 2 of Book V of the Social Code stipulating entitlement to medicines, dressings, therapeutic remedies and aids do not apply so that the insured woman is exempt from compulsory co-payments.

II - 6. Objectives of medical care

§3. Article 10. C102 and ECSS

The benefit provided in accordance with this Article shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.

Article 9. C130

The medical care referred to in Article 8 shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.

Report form for C102/ECSS:

Please state in detail what measures are taken to give effect to the provisions of paragraph 3 of Article 10 of C102/ECSS.

Please see in detail the explanations under II-4 on Section 1 Article 10 ECSS.

According to Sections 20 ff. SGB V, the health insurance funds must provide benefits to prevent disease risks (primary prevention) as well as to promote self-determined, health-oriented decisions by insured persons (health promotion), for behaviour-related prevention, for health promotion and prevention in living environments for those insured in the statutory health insurance scheme and for health promotion in companies. The benefits aim particularly at reducing inequalities arising from social circumstances as well as gender-related inequalities in health opportunities.

II - 7. Promotion of the general health service

§4. Article 10. C102 and ECSS

The institutions or Government departments administering the benefit shall, by such means as may be deemed appropriate, encourage the persons protected to avail themselves of the general health services placed at their disposal by the public authorities or by other bodies recognised by the public authorities.

Report form for C102/ECSS:

Please state in detail what measures are taken to give effect to the provisions of paragraph 4 of Article 10 of C102/ECSS.

The range of benefits of the statutory health insurance scheme is fully available to all insured persons (see II.4)

II - 8. Qualifying period

§1(f) Article 1 C102, §1(i) Article 1 ECSS, C130

The term qualifying period means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed.

Article 11. C102 and ECSS

The benefit specified in Article 10 shall, in a contingency covered, be secured at least to a person protected who has completed, or whose breadwinner has completed, such qualifying period as may be considered necessary to preclude abuse.

Article 15. C130

Where the legislation of a Member makes the right to the medical care referred to in Article 8 conditional upon the fulfilment of a qualifying period by the person protected or by his breadwinner, the conditions governing the qualifying period shall be such as not to deprive of the right to benefit persons who normally belong to the categories of persons protected.

Report form for C102/ECSS:

Please state the length of the qualifying period which has been considered necessary to preclude abuse. Please summarize the rules concerning the computation of the qualifying period.

No change:

There is no qualifying period for medical benefits in the statutory health insurance.

II - 9. Minimum duration of benefit

Article 12. ECSS, as amended by its Protocol

The benefits specified in Article 10 shall be granted throughout the contingency covered, except that hospital care may be limited to 52 weeks in each case or to 78 weeks in any consecutive period of three years.

Article 16. C130

- 1. The medical care referred to in Article 8 shall be provided throughout the contingency.*
- 2. Where a beneficiary ceases to belong to the categories of persons protected, further entitlement to medical care for a case of sickness which started while he belonged to the said categories may be limited to a prescribed period which shall not be less than 26 weeks: Provided that the medical care shall not cease while the beneficiary continues to receive a sickness benefit.*
- 3. Notwithstanding the provisions of paragraph 2 of this Article, the duration of medical care shall be extended for prescribed diseases recognised as entailing prolonged care.*

Article 12. C102

The benefit specified in Article 10 shall be granted throughout the contingency covered, except that, in case of a morbid condition, its duration may be limited to 26 weeks in each case, but benefit shall not be suspended while a sickness benefit continues to be paid, and provision shall be made to enable the limit to be extended for prescribed diseases recognised as entailing prolonged care.

Report form for the ECSS:

Please state whether the duration of hospital care is limited. If so, please specify the limit fixed in each case or in any consecutive period of three years.

No change:

The duration of medical benefits that are granted to persons insured in the statutory health insurance is not limited.

II - 10. Suspension of benefit

Article 69. C102, Article 68. ECSS

*A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--
(a) as long as the person concerned is absent from the territory of the Member;*

(b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;

(c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;

(d) where the person concerned has made a fraudulent claim;

(e) where the contingency has been caused by a criminal offence committed by the person concerned;

(f) where the contingency has been caused by the wilful misconduct of the person concerned;

(g) in appropriate cases, where the person concerned neglects to make use of the medical or rehabilitation services placed at his disposal or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries;

Article 28. C130

1. A benefit to which a person protected would otherwise be entitled in compliance with this Convention may be suspended to such extent as may be prescribed:

(a) as long as the person concerned is absent from the territory of the Member;

(b) as long as the person concerned is being indemnified for the contingency by a third party, to the extent of the indemnity;

(c) where the person concerned has made a fraudulent claim;

(d) where the contingency has been caused by a criminal offence committed by the person concerned;

(e) where the contingency has been caused by the serious and wilful misconduct of the person concerned;

(f) where the person concerned, without good cause, neglects to make use of the medical care or the rehabilitation services placed at his disposal, or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries;

Report form for C102/ECSS:

Please indicate the provisions, if any, for the suspension of the medical care benefits referred to in Article 10 of C102/ECSS.

Entitlement to benefits is suspended if an insured person is behind with their contribution payments to the extent of two months' contributions and they do not pay despite being reminded. Excluded are examinations for the early detection of diseases and services according to Sections 25 and 26 of Book V of the Social Code (SGB V) that are necessary for the treatment of acute diseases or pain conditions and in cases of pregnancy and maternity. The suspension ends upon payment of all unpaid contributions and the contributions for the period of suspension. If instalment payments have been effectively established, the member is entitled to benefits again from that point on.

Unless otherwise stipulated by supranational or intergovernmental law, entitlement to benefits is generally suspended during stays abroad. Under the specified conditions, Regulation (EC) 883/2004 and certain social security agreements make it possible to receive medical benefits by way of benefits in kind assistance during stays abroad. Section 17 SGB V further stipulates that members who have been sent abroad by their employer and fall ill during their stay abroad or require pregnancy and maternity benefits are to receive certain benefits from their employer for themselves and legally specified family members while abroad. Employers are entitled to partial cost reimbursement from the insured person's health insurance fund.

II - 11. Right of complaint and appeal

Article 70. C102, Article 69. ECSS

1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.

2. Where in the application of this Convention (Code) a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this

article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.

Article 29. C130

1. Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity.

2. Where in the application of this Convention a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

Report form for C102/ECSS:

1. Please state whether every claimant has a right of appeal in case of refusal of medical care benefits or complaint as to its quality or quantity, as stipulated in paragraph 1 of this Article. Please summarize the rules which apply in the case of an appeal.

2. Please state whether recourse is had to paragraph 2 of this Article and, if so, what measures are taken to ensure that every person protected has the right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

If insured persons do not agree with a decision of their health insurance provider, they can file an objection. Following the objection procedure, they can bring a lawsuit before the competent social court. They may also have the health insurance provider's decision reviewed by the supervisory authority responsible for the respective health insurance provider.

II - 12. Financing and Administration

See under Part XIII-3.

Article 30. C130

1. Each Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose.

2. Each Member shall accept general responsibility for the proper administration of the institutions and services concerned in the application of this Convention.

Article 31. C130

Where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to a legislature:

(a) representatives of the persons protected shall participate in the management under prescribed conditions;

(b) national legislation shall, where appropriate, provide for the participation of representatives of employers;

(c) national legislation may likewise decide as to the participation of representatives of the public authorities.

Part III. Sickness Benefit

Germany has accepted the obligations resulting from Part III of C130 and Part III of the ECSS, as amended by its Protocol.

Category	Relevant Articles	Questions raised by the CEACR
III-1. Regulatory framework	<i>Art.13 ECSS, Art.18 C130</i>	
III-2. Contingencies covered	<i>Art.14 ECSS, Art.7(b) C130</i>	
III-3. Persons protected	<i>Art.15 ECSS, Art.19 C130</i>	
III-4. Level and calculation of benefit	<i>Art.16 ECSS, Art.21 C130</i>	
III-5. Qualifying period	<i>Art.17 ECSS, Art.25 C130</i>	
III-6. Minimum duration of benefit	<i>Art.18 ECSS, Art.26 C130</i>	
III-7. Funeral benefit	<i>Art.27 C130</i>	
III-8. Suspension of benefit	<i>Art.68 ECSS, Art.28 C130</i>	
III-9. Right of complaint and appeal	<i>Art.69 ECSS, Art.29 C130</i>	
III-10. Financing and Administration	<i>Art.70,71 ECSS Art.30,31,33 C130</i>	

List of applicable legislation

[...]

III - 1. Regulatory framework

Article 13. ECSS

Each Member (Contracting Party) for which this Part of this Convention (Code) is in force shall secure to the persons protected the provision of sickness benefit in accordance with the following Articles of this Part.

Article 18. C130

Each Member shall secure to the persons protected, subject to prescribed conditions, the provision of sickness benefit in respect of the contingency referred to in subparagraph (b) of Article 7.

III - 2. Contingency covered

Article 14. ECSS

The contingency covered shall include incapacity for work resulting from a morbid condition and involving suspension of earnings, as defined by national laws or regulations.

Article 1 (j). C130

The term "sickness" means any morbid condition, whatever its cause.

Article 7 (b). C130

The contingencies covered shall include

(b) incapacity for work resulting from sickness and involving suspension of earnings, as defined by national legislation.

Report form for C130:

Please indicate the degree of incapacity for work prescribed for entitlement to sickness benefit.

Applicable legislation: Book V of the Social Code (SGB V) – Statutory Health Insurance, dated 20 December 1988

Insured persons are entitled to sickness benefit if their sickness makes them incapable of work or if they are treated as inpatients in a hospital, a health or a rehabilitation facility at the health insurance fund's expenses. The degree of incapacity for work is not prescribed.

III - 3. Persons protected

Article 15. ECSS, as amended by its Protocol

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 80 per cent of all employees; or*
- (b) prescribed classes of the economically active population constituting not less than 30 per cent of all residents; or*
- (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67.*

Article 19. C130

The persons protected in respect of the contingency specified in subparagraph (b) of Article 7 shall comprise:

- (a) all employees, including apprentices; or*
- (b) prescribed classes of the economically active population, constituting not less than 75 per cent of the whole economically active population; or*
- (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 24.*

Report form for the ECSS:

Please state to which of the subparagraphs a), b), or c) of Article 15 of the ECSS recourse is had and provide for statistical data depending on the chosen subparagraph:

No changes since the 45th Report:

All wage-earners, salaried employees and persons gainfully employed for the purpose of vocational training are compulsorily insured under the statutory health insurance and, according to Section 44 of Book V of the Social Code (SGB V), are therefore entitled to sickness benefit.

Title I under Article 76 for Article 15(a) of the ECSS

- A. Number of employees protected⁷:
 - i) under general scheme ... 34.9 million compulsorily insured persons
 - ii) under special schemes (if any) ... 6,3 million voluntarily insured persons
 - iii) Total ... **41.2 Million (April 2023)**
- B. Total number of employees⁸ ... 45.7 million (April 2023)
- C. Number of employees protected (A(iii)) per cent of total number of employees (B). Please state how these data are computed and give dates of reference. : **90,2%**

⁷ Dependants who are protected in their breadwinner's right should not be included in this number.

⁸ This number should comprise all employees, including civil servants and, for Parts II, III, V, VII, VIII, IX, and X, also unemployed persons.

Title II under Article 76 for Article 15(b) of the ECSS

- A. Number of economically active persons protected⁹:
- i) under general scheme ... 30.9 million working compulsory members
 - ii) under special schemes (if any) ... 5,6 million working voluntary members
 - iii) Total ... 36,5 million
- B. Total number of residents¹⁰... 84.4 million inhabitants (2023)
- C. Number of economically active persons protected (A(iii)) per cent of total number of residents (B). Please state how these data are computed and give dates of reference: **43,3%**

Title III under Article 76 for Article 15(c) of the ECSS

- A. Please give the rules applied to determine whether a resident is entitled to benefit during the contingency covered.
- B. Please indicate, more particularly:
- a. the amount of the means of any description which excludes a resident altogether from entitlement to benefit;
 - b. the amount of the means of any description which is allowed without a reduction of the full benefit.

Entitlement to benefits in the statutory health insurance is not dependent on the economic situation of the insured person. In particular, entitlement is not linked to income or assets, as statutory health insurance is based on the principle of solidarity.

III - 4. Level and calculation of benefit

Article 16. ECSS

1. Where classes of employees or classes of the economically active population are protected, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.
2. Where all residents whose means during the contingency do not exceed prescribed limits are protected, the benefit shall be a periodical payment calculated in such a manner as to comply with the requirements of Article 67; [provided that a prescribed benefit shall be guaranteed, without means test, to the prescribed classes of persons determined in accordance with Article 15. a or b - ECSS].

Article 21. C130

The sickness benefit referred to in Article 18 shall be a periodical payment and shall:

- (a) where employees or classes of the economically active population are protected, be calculated in such a manner as to comply either with the requirements of Article 22 or with the requirements of Article 23;
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, be calculated in such a manner as to comply with the requirements of Article 24.

Report form for ECSS/C130:

1. If recourse is had to subparagraphs (a) or (b) of Article 15 of the ECSS (Article 19 of C130) for determining the persons protected, please state whether you have recourse, for the calculation of the benefit, to the provisions of Article 65 or to those of Article 66 of the ECSS (Articles 22 or 23 of C130).
2. Please furnish information under this Article as follows:
 - I. if recourse is had to Article 65 of the ECSS (Article 22 of C130), in the form set out in Titles I, II and V under Article 65 below;
 - II. if recourse is had to Article 66 of the ECSS (Article 23 of C130), in the form set out in Titles I, II and V under Article 66 below.

For Article 65 of the ECSS (Article 22 of C130), if chosen

⁹ Dependants who are protected in their breadwinner's right should not be included in this number.

¹⁰ This number should comprise all residents, including children and old people.

Title I (Information on the standard wage)

- A. Please summarize the rules for the calculation of the benefit and the computation of the previous earnings. Please state whether recourse is had to the provisions of paragraph 3 of Article 65 and, if so, please indicate the maximum amount prescribed for the benefit or for the earnings taken into account for the computation of the benefit.
- B. Please state to which of the provisions of paragraph 6 of Article 65 you have recourse for selecting the skilled manual male employee to whose wage paragraph 3 of Article 65 refers.

Please specify more particularly:

- a. if recourse is had to subparagraph (b) of paragraph 6:
- i. how the division and the major group of economic activity to which the typical skilled employee belongs are determined with reference to paragraph 7; and
 - ii. how the typical skilled employee in the major group is chosen; or
- b. if recourse is had to subparagraph (c) of paragraph 6, how the earnings of all persons protected are computed; or
- c. if recourse is had to subparagraph (d) of paragraph 6, how the average earnings of all the persons protected are computed.
- C. Please indicate, in any event, the time basis on which the wage of the typical skilled employee is calculated, with reference to the provisions of paragraph 9 of Article 65. Please confirm that, in accordance with the provisions of paragraph 4 of that Article, the same time basis is used for calculating the benefit and the family allowances.

Please indicate the amount of the wage of the skilled manual male employee selected as shown under B (standard wage).

Title II (Information on the replacement rate of benefit)

The standard beneficiary for whom the following information should be given is a man with a wife and two children where the previous earnings serving for the calculation of the benefit are equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- E. Amount of family allowances, if any, payable during employment for a period equal to the time basis.
- F. Amount of family allowances, if any, payable during the contingency for a period equal to the time basis.
- G. Sum of benefit and family allowances payable during the contingency (D+F) per cent of sum of the standard wage and family allowances payable during employment (C+E).

Title V (replacement rate for a woman employee)

The beneficiary for whom the following information should be given is a woman employee whose previous earnings serving for the calculation of benefit were equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- G. Amount of benefit (D) per cent of the standard wage (C).

No changes compared to the 45th Report, only values updated:

In the following, the amount of sickness benefit is calculated pursuant to Article 65 (Titles I and II):

*Pursuant to sections 44 and 47 of Book V of the Social Code insured persons who are incapacitated for work on account of sickness are entitled to **sickness benefit amounting to 70 percent** of their previous regular earnings and income on which contributions are assessed (upper benefit assessment level), **but not exceeding 90 percent** of the net earnings calculated pursuant to section 47 (2) of Book V of the Social Code.*

If a person received one-off payments subject to contributions during the previous twelve calendar months, the regular earnings are increased by one 360th of these one-off payments. The total amount of sickness benefit must not exceed 100 percent of the last net earnings excluding one-off payments.

The monthly benefit assessment ceiling (upper limit) for the assessment of sickness benefit amounted to 4,837.50 euros in 2022 and 4,987.50 euros in 2023.

The sickness benefit is calculated according to the uniform regulations outlined above and the calculation is insofar not related to the sex or number of children etc.

III - 5. Qualifying period

Article 17. ECSS

The benefit specified in Article 16 shall, in a contingency covered, be secured at least to a person protected who has completed such qualifying period as may be considered necessary to preclude abuse.

Article 25. C130

Where the legislation of a Member makes the right to the sickness benefit referred to in Article 18 conditional upon the fulfilment of a qualifying period by the person protected, the conditions governing the qualifying period shall be such as not to deprive of the right to benefit persons who normally belong to the categories of persons protected.

§1(i) Article 1. ECSS, C130

The term qualifying period means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed.

Report form for the ECSS:

Please state the length of the qualifying period which has been considered necessary to preclude abuse. Please summarize the rules concerning the computation of the qualifying period.

No changes since the 45th Report:

Persons subject to compulsory coverage in the statutory health insurance scheme are entitled to sickness benefit without a qualifying period.

III - 6. Minimum duration of benefit

Article 18. ECSS, as amended by its Protocol

The benefit specified in Article 16 shall be granted throughout the contingency, except that it need not be paid for the first three days of suspension of earnings and may be limited to 52 weeks in each case of sickness or to 78 weeks in any consecutive period of three years.

Article 26. C130

1. The sickness benefit referred to in Article 18 shall be granted throughout the contingency: Provided that the grant of benefit may be limited to not less than 52 weeks in each case of incapacity, as prescribed.

2. Where a declaration made in virtue of Article 2 is in force, the grant of the sickness benefit referred to in Article 18 may be limited to not less than 26 weeks in each case of incapacity, as prescribed.

3. Where the legislation of a Member provides that sickness benefit is not payable for an initial period of suspension of earnings, such period shall not exceed three days.

Report form for the ECSS:

Please state whether the duration of sickness benefit is limited and, if so, specify the limit or limits fixed and indicate how they are determined. Please state whether a waiting period is provided for and, if so, indicate the length of such period and the rules concerning its computation.

No changes compared to the 45th report:

Section 48 of SGB V provides for an unlimited entitlement to sickness benefit. In case of incapacity for work on account of the same illness, however, sickness benefit is granted for a maximum of 78 weeks within three years from the day of the beginning of incapacity for work.

As long as insured persons have earnings or income from work subject to contributions, their entitlement to sickness benefit is suspended (section 49 of SGB V).

III - 7. Funeral benefit

Article 27. C130

1. In the case of the death of a person who was in receipt of, or qualified for, the sickness benefit referred to in Article 18, a funeral benefit shall, under prescribed conditions, be paid to his survivors, to any other dependants or to the person who has borne the expense of the funeral.

2. A member may derogate from the provision of paragraph 1 of this Article where:

- (a) it has accepted the obligations of Part IV of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967;
- (b) it provides in its legislation for cash sickness benefit at a rate of not less than 80 per cent of the earnings of the persons protected; and
- (c) the majority of persons protected are covered by voluntary insurance which is supervised by the public authorities and which provides a funeral grant.

Report form for C130:

Please state under what circumstances funeral benefit is paid to the survivors of a deceased person who has in receipt of, or qualified for, sickness benefit, or to other dependants or to the person who bore the expense of the funeral.

No changes since the 45th Report:

The funeral allowance, previously provided as a statutory health insurance benefit, was abolished in 2004. Every insured person can, however, take out private insurance to cover funeral costs. The Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht) is the authority responsible for the supervision of private insurance contracts.

III - 8. Suspension of benefit

Article 68. ECSS

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;
- (b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;
- (c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;
- (d) where the person concerned has made a fraudulent claim;
- (e) where the contingency has been caused by a criminal offence committed by the person concerned;
- (f) where the contingency has been caused by the wilful misconduct of the person concerned;

(g) in appropriate cases, where the person concerned neglects to make use of the medical or rehabilitation services placed at his disposal or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries;

Article 28. C130

1. A benefit to which a person protected would otherwise be entitled in compliance with this Convention may be suspended to such extent as may be prescribed:

(a) as long as the person concerned is absent from the territory of the Member;

(b) as long as the person concerned is being indemnified for the contingency by a third party, to the extent of the indemnity;

(c) where the person concerned has made a fraudulent claim;

(d) where the contingency has been caused by a criminal offence committed by the person concerned;

(e) where the contingency has been caused by the serious and wilful misconduct of the person concerned;

(f) where the person concerned, without good cause, neglects to make use of the medical care or the rehabilitation services placed at his disposal, or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries;

(g) in the case of the sickness benefit referred to in Article 18, as long as the person concerned is maintained at public expense or at the expense of a social security institution or service; and

(h) in the case of the sickness benefit referred to in Article 18, as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, subject to the part of the benefit which is suspended not exceeding the other benefit.

2. In the cases and within the limits prescribed, part of the benefit otherwise due shall be paid to the dependants of the person concerned.

Report form for the ECSS:

Please indicate the provisions, if any, for the suspension of sickness benefits.

cf. explanations in II-10 and III -6

III - 9. Right of complaint and appeal

Article 69. ECSS

1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.

2. Where in the application of this Convention (Code) a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.

Article 29. C130

Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity.

Report form for the ECSS:

Please state whether every claimant has a right of appeal in case of refusal of sickness benefits or complaint as to its quality or quantity, as stipulated in paragraph 1 of this Article. Please summarize the rules which apply in the case of an appeal.

If insured persons do not agree with a decision of their health insurance provider, they can file an objection. Following the objection procedure, they can bring a lawsuit before the competent social court. They may also have the health insurance provider's decision reviewed by the supervisory authority responsible for the respective health insurance provider.

III - 10. Financing and Administration

See under Part XIII-3.

Part IV. Unemployment Benefit

Germany has accepted the obligations resulting from Part IV of C102 and Part IV of the ECSS, as amended by its Protocol.

Category	Relevant Articles	Questions raised by the CEACR
IV-1. Regulatory framework	Art.19 C102/ECSS	
IV-2. Contingency covered	Art.20 C102/ECSS	
IV-3. Persons protected	Art.21 C102/ECSS	
IV-4. Level and calculation of benefit	Art.22 C102/ECSS	
IV-5. Qualifying period	Art.23 C102/ECSS	
IV-6. Minimum duration of benefit	Art.24(1,2) C102 Art.24(1-3) ECSS	
IV-7. Waiting period	Art.24(3,4) C102 Art.24(4,5) ECSS	
IV-8. Promotion of employment	Art.24(6) ECSS	
IV-9. Suspension of benefit	Art.69 C102, Art.68 ECSS	
IV-10. Right of complaint and appeal	Art.70 C102, Art.69 ECSS	
IV-11. Financing and Administration	Art.71, 72 C102 Art.70, 71 ECSS	

List of applicable legislation

[...]

IV - 1. Regulatory framework

Article 19. C102 and ECSS

Each Member (Contracting Party) for which this Part of this Convention (Code) is in force shall secure to the persons protected the provision of unemployment benefit in accordance with the following Articles of this Part.

IV - 2. Contingency covered

Article 20. C102 and ECSS

The contingency covered shall include suspension of earnings, as defined by national laws or regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work.

Report form for C102/ECSS:

Please give the definition of the contingency which, under national laws or regulations, gives rise to unemployment benefit.

Basically, there have been no changes in the period under review as regards the eligibility requirements for unemployment benefit.

Persons are entitled to unemployment benefit from the unemployment insurance if they

are unemployed (an unemployed person is defined as a person who has no employment/self-employment at all or works less than 15 hours/week, looks for a new job, i.e. makes efforts to find a new job (personal initiative) and is available for placement by the employment agencies (ability to work and willingness to work)),

have registered as unemployed with the employment agency, and
 have completed the qualifying period (section 142, Book III of the Social Code). The qualifying period is completed when the person concerned was engaged in employment with compulsory social insurance coverage for at least 12 months (precisely 360 calendar days) within the preceding 30 months (so-called framework period, section 143, Book III of the Social Code) or was otherwise insured with the Federal Employment Agency.

A person who has reached the age required for the standard old-age pension is not entitled to unemployment benefit from the beginning of the following month.

IV - 3. Persons protected

Article 21. C102 and ECSS, as amended by its Protocol

The persons protected shall comprise:

(a) prescribed classes of employees, constituting not less than 50 per cent [55 per cent – Protocol] of all employees; or

(b) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67.

Report form for C102/ECSS:

1. Please state to which of the subparagraphs of Article 21 of C102/ECSS recourse is had and provide for statistical data depending on the chosen subparagraph:

Title I under Article 76 for Article 21(a) of C102/ECSS

- A. Number of employees protected¹¹:
 - i) under general scheme ...
 - ii) under special schemes (if any) ...
 - iii) Total ...
- B. Total number of employees¹² ...
- C. Number of employees protected (A(iii)) per cent of total number of employees (B). Please state how these data are computed and give dates of reference.

Protected employees comprise the number of employees liable for social insurance contributions.

Year	2017	2018	2019	2020	2021	2022
A. Protected (1,000 Empl.)	32,266	32,992	33,537	33,577	33,922	34,528
B. Total (1,000 Empl.)	39,978	40,641	41,117	40,859	41,022	41665
C. Share Protected	80.7%	81.2%	81.6%	82.2%	82,7%	82,9%

Please note: In contrast to previous versions of the report, civil servants (Beamte) are no longer subtracted here. Footnote 12 explicitly includes the "civil servants". That explains the significant change in the ratio.

¹¹ Dependants who are protected in their breadwinner's right should not be included in this number.

¹² This number should comprise all employees, including civil servants and, for Parts II, III, V, VII, VIII, IX, and X, also unemployed persons.

Title II under Article 76 for Article 21(b) of C102/ECSS

- A. Please give the rules applied to determine whether a resident is entitled to benefit during the contingency covered.
- B. Please indicate, more particularly:
 - a. the amount of the means of any description which excludes a resident altogether from entitlement to benefit;
 - b. the amount of the means of any description which is allowed without a reduction of the full benefit.

IV - 4. Level and calculation of benefit

Article 22. C102 and ECSS

1. Where classes of employees are protected, the benefit shall be a periodical payment calculated in such manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.

2. Where all residents whose means during the contingency do not exceed prescribed limits are protected, the benefit shall be a periodical payment calculated in such a manner as to comply with the requirements of Article 67. [provided that a prescribed benefit shall be guaranteed, without means test, to the prescribed classes of employees determined in accordance with Article 21.a. - ECSS]

Report form for C102/ECSS:

- 1. If recourse is had to subparagraph a) of Article 21 of C102/ECSS for determining the persons protected, please state whether you have recourse, for the calculation of the benefit, to the provisions of Article 65 or to those of Article 66 of C102/ECSS.
- 2. Please furnish information under this Article as follows:
 - I. if recourse is had to Article 65 of C102/ECSS, in the form set out in Titles I, II and V under Article 65 below;
 - II. if recourse is had to Article 66 C102/ECSS, in the form set out in Titles I, II and V under Article 66 below.

For Article 65 of C102/ECSS, if chosen

Title I (Information on the standard wage)

- A. Please summarize the rules for the calculation of the benefit and the computation of the previous earnings. Please state whether recourse is had to the provisions of paragraph 3 of Article 65 and, if so, please indicate the maximum amount prescribed for the benefit or for the earnings taken into account for the computation of the benefit.
- B. Please state to which of the provisions of paragraph 6 of Article 65 you have recourse for selecting the skilled manual male employee to whose wage paragraph 3 of Article 65 refers.

Please specify more particularly:

- a. if recourse is had to subparagraph (b) of paragraph 6:
 - i. how the division and the major group of economic activity to which the typical skilled employee belongs are determined with reference to paragraph 7; and
 - ii. how the typical skilled employee in the major group is chosen; or
 - b. if recourse is had to subparagraph (c) of paragraph 6, how the earnings of all persons protected are computed; or
 - c. if recourse is had to subparagraph (d) of paragraph 6, how the average earnings of all the persons protected are computed.
- C. Please indicate, in any event, the time basis on which the wage of the typical skilled employee is calculated, with reference to the provisions of paragraph 9 of Article 65. Please confirm that, in accordance with the provisions of paragraph 4 of that Article, the same time basis is used for calculating the benefit and the family allowances.
- Please indicate the amount of the wage of the skilled manual male employee selected as shown under B (standard wage).

Title II (Information on the replacement rate of benefit)

The standard beneficiary for whom the following information should be given is a man with a wife and two children where the previous earnings serving for the calculation of the benefit are equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- E. Amount of family allowances, if any, payable during employment for a period equal to the timebasis.
- F. Amount of family allowances, if any, payable during the contingency for a period equal to the timebasis.
- G. Sum of benefit and family allowances payable during the contingency (D+F) per cent of sumof the standard wage and family allowances payable during employment (C+E).

Title V (replacement rate for a woman employee)

The beneficiary for whom the following information should be given is a woman employee whose previous earnings serving for the calculation of benefit were equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- G. Amount of benefit (D) per cent of the standard wage (C).

For beneficiaries with children, the resulting unemployment benefit is 67% , for all other beneficiaries 60 % of the previous earnings calculated on the basis of gross earnings (assessment earnings) minus the normal statutory deductions for employees (standardized net earnings = benefit-relevant earnings). Gross earnings are taken into account only to the extent to which they are used as a basis for the assessment of social security contributions, i.e. up to the contribution assessment ceiling which, in 2023, is 7,300 euros in western Germany and 7,100 euros in eastern Germany (maximum amount according to Article 65 paragraph 3)

The contribution assessment ceiling is identical with the contribution assessment ceiling in pension insurance. The contribution assessment limits in the general pension insurance change on January 1 of each year. They change in accordance with the relation between the gross wages and salaries per employee (Section 68 (2) sentence 1 SGB VI) in the previous calendar year and the corresponding gross wages and salaries in the calendar year before that year. The changed amounts are rounded up to the next higher multiple of 600 only for the calendar year for which the the contribution assessment ceiling is determined.

Gross wages and salaries per employee are the gross wages and salaries per employee determined by the Federal Statistical Office, excluding persons in work opportunities with compensation for additional expenses, in each case according to the system of national accounts.

*With regard to the replacement rate, **no differentiation is made between the sexes** (question Titel II and V): For beneficiaries with children, the resulting unemployment benefit is 67%. The family supplement is thus 7 percent.*

The normal statutory deductions for employees are the taxes and social security contributions that employees normally have to pay regardless of their personal circumstances. For the purpose of determining the benefit-relevant earnings, these deductions are calculated in a standardized form. As from 1 January 2005, assessment earnings are subject to a flat-rate deduction of 21 % to account for the social security contributions.

Unemployed persons with a previous average wage of 7,300 euros per month (average of the last twelve month, without children) receive, after deductions (social security contributions and taxes), approx. 2,437 euros (tax class IV). With tax class III, they receive approx. 2,810 euros.

The unemployment benefit is exceptionally calculated without wage tax deduction for a cross-border commuter, whose country of residence is entitled to the right of taxation for the unemployment benefit according to a double taxation agreement and exercises this right of taxation.

IV - 5. Qualifying period

§1(f) Article 1 C102, §1(i) Article 1 ECSS

The term qualifying period means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed.

Article 23. C102 and ECSS

The benefit specified in Article 22 shall, in a contingency covered, be secured at least to a person protected who has completed such qualifying period as may be considered necessary to preclude abuse.

Report form for C102/ECSS:

Please state the length of the qualifying period which has been considered necessary to preclude abuse. Please summarize the rules concerning the computation of the qualifying period.

The "qualifying period" as defined in Convention 102 (Article 1 (1) (f)) corresponds to the "Anwartschaftszeit" (qualifying period) in Germany (section 142, Book III of the Social Code). This qualifying period is deemed to be fulfilled if the person concerned was engaged in employment with compulsory social insurance coverage (sections 24 to 28, Book III of the Social Code) for no less than twelve months within the framework period (normally the last 30 months preceding registration as unemployed) (section 142, Book III of the Social Code).

Section 142 (2) of Book III of the Social Code provides for easier acquisition of entitlement to unemployment benefits for employees who, due to the special features of their occupation or the sector of the economy in which they are employed, are predominantly employed for only a short period of time. According to this provision, employees who are predominantly employed for a short period of time can, under further conditions, already acquire an entitlement to unemployment benefits if they were employed for at least six months (180 days) within the last 30 months prior to becoming unemployed (framework period) and subject to compulsory insurance with the Federal Employment Agency.

Contributions to employment promotion (unemployment insurance) - insofar as they are earmarked for unemployment benefits - serve to finance the unemployment benefits of employees who belong to the risk-sharing community of insured persons until the insured event occurs and who have accordingly borne the risk of unemployment insurance up to that point. This corresponds to the basic idea of all risk insurances. Claimants are therefore required to prove that they have belonged to the community of insured persons both for a certain minimum period and in a temporal proximity to the insured event.

Unemployment insurance law already deviates considerably from this basic principle in the interest of social protection for employees. Unemployment benefits can even be claimed by those who no longer belong to the community of insured persons when they become unemployed, but who were employed subject to compulsory social insurance contributions for at least twelve months in the last 30 months.

IV - 6. Minimum duration of benefit

Article 24. C102 and ECSS, as amended by its Protocol

1. The benefit specified in Article 22 shall be granted throughout the contingency, except that its duration may be limited,

(a) where classes of employees are protected, to 13 weeks within a period of 12 months, [21 weeks within a period of 12 months, or to 21 weeks in each case of suspension of earnings – Protocol]; or

(b) [2 - Protocol] where all residents whose means during the contingency do not exceed prescribed limits are protected, to 26 weeks within a period of 12 months; [the benefit specified in Article 22 shall be granted throughout the contingency. Provided that the duration of the prescribed benefit guaranteed without a means test may be limited in accordance with paragraph 1 of this Article - Protocol].

2. [3 - Protocol] Where national laws or regulations provide that the duration of the benefit shall vary with the length of the contribution period and/or the benefit previously received within a prescribed period, the provisions of paragraph 1 of this article shall be deemed to be fulfilled if the average duration of benefit is at least 13 weeks [21 weeks – Protocol] within a period of 12 months.

Report form for C102/ECSS:

Please state whether the duration of unemployment benefits is limited and, if so, specify the limit or limits fixed and indicate how they are determined.

The duration of the entitlement to unemployment benefits depends on the duration of the insurance period in the last five years before unemployment and the age of the unemployed person at the time of entitlement. (section 147 of Book III of the Social Code (SGB III)).

After compulsorily insured employment ofmonths in total	and upon completion of age months
12		6 (24 weeks)
16		8
20		10
24		12
30	50	15
36	55	18
48	58	24

The maximum duration of unemployment benefits of twelve months is reached for employees under 50 years of age after an insurance period of 24 months. For older employees, there is a staggered maximum period of up to 24 months depending on age. The longer maximum period of entitlement for older employees takes into account in particular the significantly more difficult labor market situation for this group of people compared with younger employees.

IV - 7. Waiting period

§4§5 Article 24. Protocol to the ECSS

4. The benefit need not be paid:

(a) for the first three days in each case of suspension of earnings, counting the days of unemployment before and after temporary employment lasting not more than a prescribed period as part of the same case of suspension of earnings; or

(b) for the first six days within a period of twelve months.

5. In the case of seasonal workers, the duration of the benefit and the waiting period may be adapted to their conditions of employment.

§3§4 Article 24. C102

3. *The benefit need not be paid for a waiting period of the first seven days in each case of suspension of earnings, counting days of unemployment before and after temporary employment lasting not more than a prescribed period as part of the same case of suspension of earnings.*

4. *In the case of seasonal workers the duration of the benefit and the waiting period may be adapted to their conditions of employment.*

Report form for the ECSS:

Please state whether a waiting period is provided for and, if so, indicate the length of such period and the rules concerning its computation. Please also state the maximum period of employment which is deemed temporary in the meaning of para (a) of Article 24 of the ECSS.

Please state whether any special rules have been adopted as regards benefits /or seasonal workers and, if so, what are these rules.

*See explanations on point IV.6. re: the duration of the entitlement to unemployment benefits depending on the duration of the insurance period in **the last five years before unemployment** and the age of the unemployed person at the time of entitlement.*

IV - 8. Promotion of employment

§6 Article 24. ECSS, as amended by its Protocol

Measures shall be taken to maintain a high and stable level of employment in the country, and appropriate facilities shall be provided to assist unemployed persons to obtain suitable new work including placement services, vocational training courses, assistance in their transfer to another district when necessary to find suitable employment, and related services.

Report form for the ECSS:

Please state in detail what measures are taken to give effect to the provisions of paragraph 6 of Article 24 of the Protocol.

Wide ranging, flexible options to support workers are provided for in the active employment promotion measures of the third chapter of Book III of the Social Code (SGB III), including a right to counselling and placement for young people and adults who are active in working life or want to be. The type and scope of the counselling is based on the need of the person seeking advice. Counselling may therefore include, for example, the provision of information and advice on career development or career changes, the situation and development of the labour market and occupations, and vocational training possibilities. Placement efforts are aimed at balancing the labour market and include all activities with the goal of bringing jobseekers together with employers to establish an employment relationship. Those jobseekers at risk of unemployment can also receive support from the placement budget when initiating or taking up employment subject to compulsory social insurance, if this is necessary for integration into work. The integration into work of these persons can be supported with measures for such integration and for activation.

These instruments pave the way to employment for many of those affected, or make it easier for them to remain in employment and advance in their careers. The fact that the employment agencies are also the first point of contact for the companies in the placement process and are involved at an early stage is also beneficial in this regard.

A second focus is on instruments to promote continuing vocational education and training (CVET). Funding for CVET programmes is not only open to the unemployed or those facing redundancy, but also to employed workers regardless of their age, qualification and size of the enterprise. We support employees whose jobs could be replaced by new technologies or which are affected by structural changes. The support may include paying for workers' training measures as well as granting wage subsidies for employers to supplement workers' salaries whilst they are on training.

Wage subsidies and the share of the covered education costs depend on the size of the company. People older than 45 years in small and medium sized enterprises with up to 250 employees and seriously disabled people are specially considered concerning the promotion conditions, i.e. the subsidies of the education costs might be up to 100 %. In addition, we introduced a right to make up for a professional qualification for low-skilled people.

People receiving benefits under the scheme of Basic income support for jobseekers under Book II of the Social Code (SGB II) also have access to this wide array of support. Additionally, SGB II provides even further possibilities of support for disadvantaged people, such as wage subsidies according to the Teilhabechancengesetz, debt and psycho-social counselling.

Overview of BMAS measures to deal with the effects of the COVID 19 pandemic:

- **Act on the Temporary, Crisis-related Enhancement of the Provisions on Short-time Work Allowance of 13 March 2020 (Gesetz zur befristeten krisenbedingten Verbesserung der Regelungen für das Kurzarbeitergeld)** To facilitate rapid responses to crises such as the COVID 19 pandemic, temporary authorisation to issue ordinances was introduced into the SGB III. In the case of short-time work schemes (Kurzarbeit), the measures were to be in force until 2021. On this basis, the short-time work allowance (Kurzarbeitergeld) ordinance and several amending ordinances were issued. The ordinances regulate, for a limited period until the end of 2021, easier access to short-time work benefits and financial relief for employers through the reimbursement of social security contributions during short-time work.
- **Social protection package (Sozialschutz-Paket):** As a first step, the Federal Government took immediate measures to quickly and effectively counter the serious negative effects in the form of the Act to Facilitate Access to Social Security and on the Deployment and Protection of Social Service Providers due to Coronavirus SARS-CoV-2 (Gesetz für den erleichterten Zugang zu sozialer Sicherung und zum Einsatz und zur Absicherung sozialer Dienstleister aufgrund des Coronavirus SARS-CoV-2) of 27 March 2020.
 - Partially exempting additional earnings being counted against Kurzarbeitergeld when taking up employment in essential jobs.
 - Quick and unbureaucratic access to basic income for jobseekers under Book II of the Social Code (SGB II) to secure livelihoods if no higher-order benefits apply. Easing burdens by only considering substantial assets and assuming for six months that the actual costs of accommodation and heating are reasonable.
 - Monthly financial subsidies to social service providers through the Act on the Deployment of Social-service Providers (Sozialdienstleister-Einsatzgesetz, or SodEG for short) of 28 March 2020, in order to maintain important social infrastructure, e.g. in the field of labour market policy, rehabilitation and assistance for persons with disabilities.
 - A temporary authorisation to issue ordinances in the legislation on working hours (Arbeitszeitgesetz) allows for nationwide exemptions from the working hours regulations for certain activities in order to ensure maintenance of public safety and order, health and nursing care, essential public services and the supply of essential goods to the population.
 - Extension of time limits for short-term employment extended to mitigate the effects of restricted mobility in Europe and the resulting significant decline in seasonal workers.
- **Work of Tomorrow Act (Arbeit-von-morgen-Gesetz):** The Federal Government was authorised to extend the period of entitlement to the short-time work allowance (Kurzarbeitergeld) to up to 24 months in the event of exceptional labour market conditions. By ordinance, the duration of Kurzarbeitergeld was gradually extended to 24 months at most until 31 December 2021.

In addition, the support of continuous vocational education measures to prepare people in Germany in due time for the work of tomorrow were improved: Wage subsidies and the share of the covered education costs are increased and a right for low-skilled people to make up for a professional education is introduced.

- **Social protection package II (Sozialschutz-Paket II):** The extension of the measures of the first social protection package aims to go a long way towards alleviating the economic and social hardships of the crisis.
 - Gradual increase of Kurzarbeitergeld for employees until 31 December 2020.
 - Exemption of earnings from marginal employment (Minijob) started during short-time work from being counted against the Kurzarbeitergeld. The restriction of additional earnings, which are not counted against Kurzarbeitergeld, to essential jobs has been abolished.
 - One extension of unemployment benefits for a limited period (until the end of December 2020) by three months.
 - Ensuring lunch is provided to pupils and children in need of assistance in the event of pandemic-related closures of schools, their day-care facilities or other places for minding children.
- **Act to Secure Employment (Beschäftigungssicherungsgesetz):** Extension of essential pandemic-related special regulations for Kurzarbeitergeld such as the gradual increase and exemption from additional income from marginal employment (mini-job) until the end of 2021. Employers who qualify employees during short-time work will receive a partial reimbursement of course costs and social security contributions until 31 July 2023.
- **Act on Calculation of Basic Needs Assistance (Gesetz zur Ermittlung der Regelbedarfe) and amendments to Book XII of the Social Code (SGB XII) and other legislation:** As a supplement to the hardship case provisions for additional needs in the scheme for basic income for jobseekers, it has been possible to grant aid for unavoidable basic needs under certain conditions since January 2021.
- **Social protection package III (Sozialschutz-Paket III):**
 - Extension of easier access to basic income systems until 31 December 2021.
 - Extension of the special regulations on the needs for lunches in schools and workshops for persons with disabilities.
 - Provision of a one-off financial assistance payment for adult beneficiaries of minimum income schemes in May.
 - Extension of the special mandate of the SodEG until 31 December 2021 at the latest.
- Financial support for the Federal Employment Agency (BA) to deal with the COVID 19 pandemic, because the expansion of benefits had serious effects on the organisation in general, but especially on the BA's budget. The subsidy for the BA included in the 2021 federal budget aims to secure the BA's ability to function in the future.
- **Act to Strengthen Vaccination Prevention against COVID-19 and to Amend other Provisions related to the COVID-19 pandemic (Gesetz zur Stärkung der Impfprävention gegen COVID-19 und zur Änderung weiterer Vorschriften im Zusammenhang mit der COVID-19-Pandemie) and Act to Extend Special Provisions in connection with the COVID-19 Pandemic in short-time work allowance and other benefits (Gesetz zur Verlängerung von Sonderregelungen im Zusammenhang mit der COVID-19 Pandemie beim Kurzarbeitergeld und anderer Leistungen):** Further extensions of essential pandemic-related special regulations for Kurzarbeitergeld.
 - The temporary authorization to ease the conditions for access to short-time work allowance and for full or partial reimbursement of social security contributions were extended until 31 March 2022. The reimbursement decreased from 100 per cent to 50 per cent from the beginning of the year 2022. Since April 2022, the

employers have not received a reimbursement for their social security contributions anymore.

- The gradual increase of *Kurzarbeitergeld* for employees was in force until 30 June 2022.
- Earnings from marginal employment (mini-job) during short-time work continued to be excluded from being counted against the *Kurzarbeitergeld* until 30 June 2022.
- Until then the temporary easing of the conditions for access to short-time work allowance was in force as well.
- The maximum reference period of the entitlement to short-time work allowance was extended to 28 months until the end of 30 June 2022, provided that the entitlement was acquired by 30 June 2021.
- An ordinance for the extension of the other pandemic-related special regulations was issued. It is valid until 30 September 2022.
- **Act Amending the Infection Protection Act and Other Regulations (*Gesetz zur Änderung des Infektionsschutzgesetzes und anderer Vorschriften*):** The provision originally created by the Act on the Temporary, Crisis-related Enhancement of the Provisions on Short-time Work which made temporary agency workers eligible to receive short-time work allowances was extended until 30 June 2022 (further extendable until 30 September 2022 via a regulation to be issued). Furthermore an ordinance authorization for the full or partial reimbursement of social security contributions was issued with effect for all sectors. It is valid until 30 September 2022.
- **Ordinances relating to the special regulations on short-time work allowances:** In the period from 1 July 2022 to 30 June 2023, three ordinances were issued that prolonged and/or reintroduced certain special regulations on short-time work allowances:
 - The eased conditions of access to short-time work allowances applied during the entire period under review. They expired on 30 June 2023.
 - A regulation extending the receipt of short-time work allowances to temporary agency workers that had been in force until June 2022 was reintroduced with effect from October 2022. It also expired on 30 June 2023.
 - Consequently, the last special regulations on short-time work allowances expired on 30 June 2023.

IV - 9. Suspension of benefit

Article 69. C102, Article 68. ECSS

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;
- (b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;
- (c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;
- (d) where the person concerned has made a fraudulent claim;
- (e) where the contingency has been caused by a criminal offence committed by the person concerned;
- (f) where the contingency has been caused by the wilful misconduct of the person concerned;
- (h) in the case of unemployment benefit, where the person concerned has failed to make use of the employment services placed at his disposal;
- (i) in the case of unemployment benefit, where the person concerned has lost his employment as a direct result of a stoppage of work due to a trade dispute, or has left it voluntarily without just cause; and

Report form for C102/ECSS:

Please indicate the provisions, if any, for the suspension of unemployment benefits.

Book III of the Social Code provides that in certain cases benefits may be "suspended" or denied" (Article 69 of the Convention):

a. The entitlement to unemployment benefits is suspended:

1. in general as long as the unemployed person is absent from Germany unless Regulation (EC) No. 883/2004 or bilateral social security agreements provide otherwise for certain groups of persons;

2. as long as the unemployed person is in receipt of one of the social benefits specified in section 156 of Book III of the Social Code;

3. as long as the unemployed person receives or may claim earnings from employment (section 157, Book III of the Social Code);

4. when the claimant receives severance pay, at the latest until the ordinary period of notice has expired (section 158, Book III of the Social Code))

5. in case of unemployment in connection with a labour dispute:

In particular, no benefits are paid to unemployed persons who are on strike or affected by a lock-out (section 160 (2), Book III of the Social Code).

6. Unemployment benefits are denied during a waiting period if the insured persons brought about the contingency themselves without just cause because they

- have terminated their job (voluntarily) or have given the employer cause for the termination by conduct contrary to the terms of the employment contract,*
- have not accepted or taken up a reasonable offer of employment or have prevented the initiation of an employment relationship by their conduct,*
- have failed to demonstrate the personal jobsearching efforts required by the Employment Agency,*
- have refused to participate in a measure for activation and labour market integration or a measure for vocational training or further training or a measure for participation in working life despite having been informed of the legal consequences,*
- have refused to take part in an integration course or a course for the promotion of German as a foreign language in spite of having been informed of the legal consequences,*
- have broken off a measure or have given cause for exclusion from one of these measures through behaviour incompatible with the measure,*
- have not complied with a request by the employment agency to register or to appear for a medical or psychological examination, or have not complied with the obligation to register for an early job search.*

The waiting period lasts from one week to twelve weeks depending on the reason for the blocking period. The duration of the entitlement to benefits is reduced by the waiting period. When the unemployed person has given reason to impose waiting periods of 21 weeks in total after having acquired the benefit entitlement, the unused entitlement to unemployment benefit lapses (section 147, Book III of the Social Code).

IV - 10. Right of complaint and appeal

§1§3. Article 70. C102, Article 69. ECSS

1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.

3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.

Report form for C102/ECSS:

Please state whether every claimant has a right of appeal in case of refusal of unemployment benefits or complaint as to its quality or quantity, as stipulated in paragraph 1 of this Article. Please summarize the rules which apply in the case of an appeal.

The objection (Widerspruch) proceedings can be initiated easily and quickly by anyone. The objection has to be lodged within one month after notification of the administrative act with the issuing authority in writing or dictated into the record of the authority (section 84 of the Social Courts Act). If no decision is taken on the objection after the expiry of a period of three months, a complaint for failure to act may be filed in accordance with section 88 of the Social Courts Act.

Both in the administrative proceedings and in social court proceedings, applicants have the possibility to be represented free of charge by trade unions, employers' associations or other autonomous associations of employees with social policy or profession-related objectives (section 13 (6), second sentence, Book X of the Social Code, section 73 (2) nos. 5, 7 of the Social Courts Act).

IV - 11. Financing and Administration

See under Part XIII-3.

Part V. Old-Age Benefit

Germany has accepted the obligations resulting from Part III of C128 and Part V of the ECSS, as amended by its Protocol.

Category	Relevant Articles	Questions raised by the CEACR
I. General provisions		Art. 6 C102/ECSS , in conjunction with Part V (Old-Age benefit)
V-1. Regulatory framework	Art.25 ECSS Art.14 C128	
V-2. Contingency covered		Art.26 ECSS Art.15 C128
V-3. Persons protected	Art.27 ECSS Art.16 C128	
V-4. Level and calculation of benefit		Art.28 ECSS, in conjunction with Art. 65 Art.17 C128, in conjunction with Art. 26
V-5. Adjustment of benefit	Art.65(10) ECSS, Art.29 C128	
V-6. Qualifying period	Art.29 ECSS, Art.18 C128	
V-7. Duration of benefit	Art.30 ECSS, Art.19 C128	
V-8. Suspension of benefit	Art.31 C128, Art.68 ECSS Art.32,33 C128	
V-9. Right of complaint and appeal	Art.69 ECSS, Art.34 C128	
V-10. Financing and Administration	Art.70,71 ECSS Art.35,36 C128, Art.30 C128	

List of applicable legislation

[...]

V - 1. Regulatory framework

Article 25. ECSS

Each Member (Contracting Party) for which this part of this Convention (Code) is in force shall secure to the persons protected the provision of old-age benefit in accordance with the following Articles of this Part.

Article 14. C128

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of old-age benefit in accordance with the following Articles of this Part.

V - 2. Contingency covered

Article 26. ECSS, as amended by its Protocol

1. The contingency covered shall be survival beyond a prescribed age.

2. The prescribed age shall be not more than 65 years or than such higher age that the number of residents having attained that age is not less than 10 per cent of the number of residents under that age but over 15 years. Provided that, where prescribed classes of employees only are protected, the prescribed age shall be not more than 65 years.

3. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if he is engaged in any prescribed gainful activity, or that the benefit, if contributory, may be reduced whenever the earnings of the beneficiary exceed a prescribed amount.

Article 26. C102

1. The contingency covered shall be survival beyond a prescribed age.

2. The prescribed age shall be not more than 65 years or such higher as may be fixed by the competent authority with due regard to the working ability of elderly persons in the country concerned.

3. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

Article 15. C128

1. The contingency covered shall be survival beyond a prescribed age.

2. The prescribed age shall be not more than 65 years or such higher age as may be fixed by the competent authority with due regard to demographic, economic and social criteria, which shall be demonstrated statistically.

3. If the prescribed age is 65 years or higher, the age shall be lowered, under prescribed conditions, in respect of persons who have been engaged in occupations that are deemed by national legislation, for the purpose of old-age benefit, to be arduous or unhealthy.

➤ **Draft Resolution CM/ResCSS(2021) ... on the application of the European Code of Social Security and its Protocol by Germany (Period from 1 July 2019 to 30 June 2020)**

I. concerning Part V (Old-age benefit), Article 26(2) of the Code, as amended by the Protocol, Pensionable age, in its previous comments, the Committee of Ministers observed that, since 1 January 2012, the pensionable age for statutory old-age pension had gradually increased to 67 years for persons born between 1947 and 1964 and that Article 26(2) of the Code, as amended by its Protocol, did not allow an increase of pensionable age beyond 65 years where, as in Germany, prescribed classes of employees only are protected by the statutory pension scheme.

The Committee of Ministers noted the explanations provided by the Government which put forward the reasons for increasing the retirement age, as follows: (1) coping with demographic change is a key challenge for Germany, where persistently low birth rates and longer life expectancy are causing major shifts in the age structure of the population; (2) in the future, more older and fewer younger people will be available on the labour market; (3) at the same time, there will be significantly more pension recipients and fewer contributors; and (4) employers are at risk of no longer finding enough skilled workers – a problem which is already becoming apparent for some occupations, sectors and regions in Germany.

The Government further explained that, with a view to strengthening the financial underpinnings of statutory pensions and in order to counter the looming shortage of skilled workers, the German Bundestag decided in 2007 to lift the standard retirement age for statutory pension insurance from 65 to 67. However, in order to ensure that employers and workers have enough time for the necessary adjustments, the standard retirement age is raised gradually in small steps: since the beginning of 2012, it has risen by one month per year, and starting in 2024, it will increase by two months. The new standard retirement age of 67 years will thus only apply from 2029 onwards (for people born in 1964). In 2019, the standard retirement age will be increased by another month for the eighth time, reaching 65 years and eight months. The Committee of Ministers also

noted the Government's indication that older people can continue to tailor their employment to their personal preferences and that it is possible to retire before reaching the standard retirement age as well as to work beyond the retirement age, under the Flexible Pensions Act (Flexirentengesetz).

The Committee of Ministers further noted the Government's indication that the gradual increase of the standard retirement age to 67 years is not limited to persons covered by statutory pension insurance (gesetzliche Rentenversicherung), as persons covered by the pension insurance fund for farmers (Alterssicherung der Landwirte), by various pension funds for freelancers who are members of their corresponding professional chambers, and by the special schemes for civil servants are subject to the same increase.

The Committee of Ministers also noted that, according to the Government, the long period of gradual increases of the standard retirement age allows for adapting the working conditions to ageing workforces, i.e. to continuously mould the world of work in an age/ageing appropriate manner and to gear it more strongly to the skills, competencies and needs of older workers. The Government referred to the progress that has been made in this regard over the past few years as illustrated by the remarkable rise in the labour force participation rate of older persons, where, between 2000 and 2017, the employment rate of persons aged 60–64 has increased more strongly in Germany than in any other EU country. Finally, the Committee of Ministers noted that persons with a long insurance record of at least 35 or 45 years are allowed to retire about two years earlier than the normal retirement age without deductions.

The Committee of Ministers once again recalls that the Protocol to the Code establishes a strict rule in Article 26(2) of the Code as regards the highest acceptable age at which members of a social insurance scheme like Germany's shall be entitled to claim an old-age pension by stipulating that in schemes, which protect prescribed classes of employees only, the prescribed (pensionable) age shall be not more than 65 years;

The Committee of Ministers decides to invite the Government of Germany:

I. concerning Part V (Old-age benefit), Article 26(2) of the Code, as amended by the Protocol, Pensionable age, to indicate in its next report the measures taken to fulfil the requirement of Article 26(2) of the Code;

Please provide a reply to the question:

[...]

The statements and explanatory comments from the 51st report which referred to, inter alia, the 2019 Supplementary Report regarding the reasons for the statutorily stipulated gradual increase of the standard retirement age in the statutory pension insurance as well as in other compulsory old-age security systems for specific occupational groups, continue to apply. We include these statements and explanatory comments again below for completeness.

The framework conditions, especially with regard to demographic criteria, have changed significantly since the European Code of Social Security and its protocol as well as the relevant ILO conventions were adopted and ratified and require appropriate adjustment measures in order to guarantee the adequacy and sustainability of the pension system in the long term. As explained, the increase of the retirement age is caused by the ongoing demographic change and the clear ageing of the population in Germany. The gradual increase in the statutory retirement age to 67 years in the statutory pension insurance by 2031 as well as the different measures to reduce pre-retirement options are important in order to guarantee the sustainable funding and adequacy of the benefits in the above-mentioned old-age provision systems in the long run. Abandoning the

statutory measures already applicable since the year 2012 is thus not planned. This clearly goes in line with the recommendations of the EU Commission and the OECD.

The 2021 Pension Adequacy Report of the EU Social Protection Committee and of the European Commission also affirms that in general the German old-age security system provides for a successful balance between financial sustainability and adequacy of benefits. The Report in particular sees the relatively constant period of pension receipt caused by the increasing age of retirement positively. The OECD projections contained in the Report on the future adequacy of the pensions in the year 2059 in Germany assume that the replacement rate (with the inclusion of the additional provisions for old age) remains almost constant. For low-wage earners, it will even rise due to the basic pension introduced (for more information see the following sections) compared to the reference year 2019.

Explanatory comments on the increase of the standard retirement age above 65 years:

Coping with demographic change is a key challenge for Germany, too. Persistently low birth rates and longer life expectancy are causing major shifts in the age structure of the population. In future, more older and fewer younger people will be available on the labour market and at the same time there will be significantly more pension recipients and fewer contributors. Employers are at risk of no longer finding enough skilled workers - a problem which is already becoming apparent for some occupations, sectors and regions in Germany. In the long term, the number of persons receiving statutory pensions will go up and that of contributors will go down.

Like other European countries, especially in Scandinavia, Germany has responded to this challenge by adjusting the retirement age:

In 2007, the German Bundestag decided to lift the standard retirement age for the statutory pension insurance from age 65 to age 67 in order to strengthen the financial underpinnings of statutory pensions and in order to counter the looming shortage of skilled workers.

To ensure that employers and workers have enough time for the necessary adjustments, the standard retirement age is raised gradually in small steps: Since the beginning of 2012, it has risen by one month per year; starting in 2024 it will increase by two months. The new standard retirement age of 67 years will only apply from 2031 onwards (for people born in 1964 or later). It should be noted in this context that older people can continue to tailor their employment to their personal preferences. It is possible to retire before reaching the standard retirement age as well as to work beyond the retirement age. The Flexible Pensions Act (Flexirentengesetz) further improved the statutory framework conditions for older people. With effect from 1 January 2023, in view of the general shortage of skilled workers and in order to further increase work incentives, the additional earnings limit for early old-age pensions was abolished.

In Germany, the gradual increase of the standard retirement age to 67 years is not limited to persons covered by statutory pension insurance (gesetzliche Rentenversicherung). Persons covered by the pension insurance fund for farmers (Alterssicherung der Landwirte, by various pension funds for freelancers who are members of their corresponding professional chambers, and civil servants are subject to the same increase.

Germany also meets the additional requirement of the protocol that the number of residents who have reached the pensionable retirement age, is at least 10 percent of the total number of residents over fifteen years of age who have not yet reached pensionable age (please see below the figure on the old age dependency ratios).

The long period of gradual increases of the standard retirement age makes it possible to adapt working conditions to ageing workforces. It is important to continuously mould the world of work in an age/ageing appropriate manner and to gear it more strongly to the skills, competencies and needs of older workers. Impressive progress has been made in this regard over the past few years as illustrated by the remarkable rise in the labour force participation rate of older persons. We also refer to the statistical data on age trends provided in the framework of the CEACR direct request below.

➤ [Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#)

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (Ratification: 1971)

Old-age benefit (Part V of the CR), Article 15(2) of Convention No. 128. Pension age. The Committee notes that, since 1 January 2012, pension age for statutory old-age pension has gradually increased to 67 for people born in the years 1947–64. This measure has been taken as a result of demographic trends characterized by an increasing life expectancy and low birth rates. **The Committee requests the Government to provide information on the demographic, economic and social criteria (demonstrated statistically) justifying the increase of the statutory pension age beyond 65 years.**

Please provide a reply to the question:

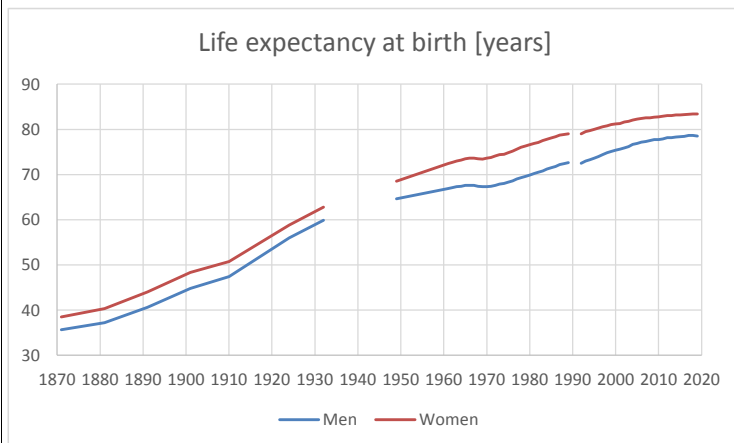
[...]

The employment rates of persons aged 60 to 64 over the period 2000 to 2021

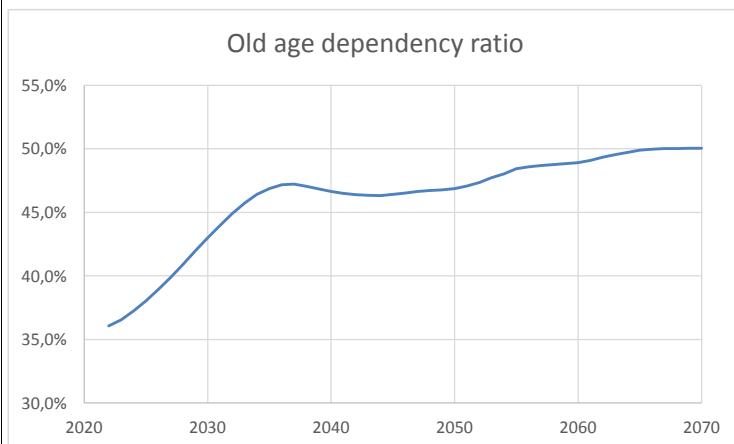
	Men	Women	Total
2000	27.2%	12.1%	19.6%
2001	28.4%	13.4%	20.8%
2002	30.2%	14.5%	22.2%
2003	31.2%	15.9%	23.5%
2004	33.2%	17.6%	25.3%
2005	35.9%	20.7%	28.2%
2006	37.7%	21.9%	29.7%
2007	41.2%	24.9%	32.9%
2008	43.2%	27.7%	35.1%
2009	47.0%	30.4%	38.6%
2010	49.4%	33.1%	41.4%
2011	52.4%	36.5%	44.3%
2012	54.9%	38.8%	46.6%
2013	57.7%	42.8%	50.0%
2014	59.4%	46.2%	52.6%
2015	59.1%	47.9%	53.3%
2016	61.5%	50.8%	56.0%
2017	63.7%	53.5%	58.4%
2018	65.4%	55.4%	60.3%
2019	66,6%	57,1%	61,8%
2020	64,5%	56,9%	60,7%
2021	65,7%	56,7%	61,1%

Source: Eurostat.

The labour force participation rate of those aged 60 to 64 has increased continuously over the last 20 years. This reflects the rising demand for staff aged 60 or older in the German economy. Moreover, the population projections of the Federal Statistical Office show that the old-age dependency ratio will increase considerably over the next decades. If, under these preconditions, the statutory pension is to continue to provide for a decent standard of living in old-age and if, at the same time, the employed population is not to be burdened excessively through their contribution payments, it is unavoidable to increase the statutory retirement age beyond 65.



Source: German Federal Statistical Office, mortality tables (territories of the German Reich (1871/81 to 1932/34); former federal territory (1949/51 to 1986/88); Germany (since 1991/93))



Source: German Federal Statistical Office, data from the 15th coordinated population projection, medium variant (G2-L2-W2). Old age dependency ratio displayed as number of persons aged 65 or older in relation to the number of persons aged 15 to 64.

Conclusions 2022:

“The Committee therefore once again requests the Government to take measures to fulfil the requirement of Article 26(2) of the Code, as amended by the Protocol, by bringing down to 65 years the age at which an old-age benefit, as set out in Part V of the Code, amended by the Protocol, becomes payable.”

Germany:

It again has to be pointed out that the gradual increase of the standard retirement age to 67 years in Germany is not limited to persons covered by statutory pension insurance (gesetzliche Rentenversicherung). Persons covered by the pension insurance fund for farmers (Alterssicherung der Landwirte), by various pension funds for freelancers who are members of their corresponding professional chambers (Berufsständische Versorgungswerke) and civil servants are subject to the same increase.

Conclusions 2023:

*“[...] However, the Committee is bound to recall again that the Protocol, which Germany has accepted, establishes a strict rule in Article 26(2) of the Code as regards the highest acceptable age at which members of a social insurance scheme like Germany's shall be entitled to claim an old-age pension by stipulating that in schemes, which protect prescribed classes of employees only, the prescribed (pensionable) age shall be not more than 65 years. Such a pension shall be payable already after a period of contributions of not more than 15 years. **The Committee therefore urges once again the Government to take measures to fulfil the requirement of Article 26(2) of the Code, as amended by the Protocol, by bringing down to 65 years the age at which an old-age benefit, as set out in Part V of the Code, amended by the Protocol, becomes payable.**”*

Germany:

It again has to be pointed out that the gradual increase of the standard retirement age to 67 years in Germany is not limited to persons covered by statutory pension insurance (gesetzliche Rentenversicherung). Persons covered by the pension insurance fund for farmers (Alterssicherung der Landwirte), by various pension funds for freelancers who are members of their corresponding professional chambers (Berufsständische Versorgungswerke) and civil servants are subject to the same increase.

Germany also meets the additional requirement of the protocol that the number of residents who have reached the pensionable retirement age, is at least 10 per cent of the total number of residents over fifteen years of age who have not yet reached pensionable age (please see above the figure on the old age dependency ratios).

V - 3. Persons protected

Article 27. ECSS, as amended by its Protocol

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 80 per cent of all employees; or*
- (b) prescribed classes of the economically active population, constituting not less than 30 per cent of all residents; or*

(c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67.

Article 16. C128

1. The persons protected shall comprise:

(a) all employees, including apprentices; or

(b) prescribed classes of the economically active population, constituting not less than 75 per cent. of the whole economically active population; or

(c) all residents or residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 28.

Report form for C102/ECSS:

1. Please state to which of the subparagraphs of Article 27 of the ECSS recourse is had and provide for statistical data depending on the chosen subparagraph:

Title I under Article 76 for Article 27(a) of the ECSS

A. Number of employees protected¹³:

i) under general scheme ...

ii) under special schemes (if any) ...

iii) Total ...

B. Total number of employees¹⁴ ...

C. Number of employees protected (A(iii)) per cent of total number of employees (B). Please state how these data are computed and give dates of reference.

The provision of paragraph 1 (a) is applied.

(Art. 76 Title I)

1. Number of protected employees (in 1000s)	2017	2018	2019	2020	2021	2022
a) Pension insurance	36 967	37 612	38 053	37 583	37 953	38 609
b) Special system for civil servants	2 014	2 025	2 038	2 050	2 066	2 072
c) Total	38 981	39 637	40 091	39 633	40 019	40 681
2. Total number of employees (in 1000s)	39 858	40 502	40 973	40 765	40 908	41 523

¹³ Dependants who are protected in their breadwinner's right should not be included in this number.

¹⁴ This number should comprise all employees, including civil servants and, for Parts II, III, V, VII, VIII, IX, and X, also unemployed persons.

3. Number of protected employees as percentage of total number of employees	97,8	97,9	97,8	97,2	97,8	98,0
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Explanatory comments:

Information on the pension insurance system is based on the number of employees with compulsory social insurance coverage, supplemented by employees having marginal part-time jobs.

Title II under Article 76 for Article 27(b) of the ECSS

- A. Number of economically active persons protected¹⁵:
 - i) under general scheme ...
 - ii) under special schemes (if any) ...
 - iii) Total ...
- B. Total number of residents¹⁶...
- C. Number of economically active persons protected (A(iii)) per cent of total number of residents (B). Please state how these data are computed and give dates of reference.

Title III under Article 76 for Article 27(c) of the ECSS

- A. Please give the rules applied to determine whether a resident is entitled to benefit during the contingency covered.
- B. Please indicate, more particularly:
 - a. the amount of the means of any description which excludes a resident altogether from entitlement to benefit;
 - b. the amount of the means of any description which is allowed without a reduction of the full benefit.

V - 4. Level and calculation of benefit

Article 28. ECSS, as amended by its Protocol

The benefit shall be a periodical payment calculated as follows:

- (a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67. Provided that a prescribed benefit shall be guaranteed without means tests to the prescribed classes of persons determined in accordance with sub-paragraphs a or b of Article 27, subject to qualifying conditions not more stringent than those specified in paragraph 1 of Article 29.

Article 17. C128

The old-age benefit shall be a periodical payment calculated as follows:

- (a) where employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 26 or with the requirements of Article 27;
- (b) where all residents or all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 28.

➤ **Draft Resolution CM/ResCSS(2021) ... on the application of the European Code of Social Security and its Protocol by Germany (Period from 1 July 2019 to 30 June 2020)**

- II. concerning Part XI (Standards to be complied with by periodical payments):
 - b. Article 65 of the Code, in conjunction with Articles 29(1) and (2), 57(1) and (2), and 63(1) and (2) of the Code, with regard to the replacement rate of old-age, invalidity and survivors'

¹⁵ Dependants who are protected in their breadwinner's right should not be included in this number.

¹⁶ This number should comprise all residents, including children and old people.

benefits, in its previous comments, the Committee of Ministers noted that the calculations of the old-age, invalidity and survivors' benefits' replacement rates provided by the Government included a "personal provision for old-age" benefit provided by private insurance companies or other financial institutions proposing so-called "Riester pension contracts", added to the benefits provided by the statutory pension scheme. The Committee of Ministers recalled that to take into account "Riester pensions" in the calculation of benefits' replacement rates under Article 65 of the Code, these should meet the requirements of Article 6 and referred the Government to its request in this regard. The Committee of Ministers notes the information provided by the Government, according to which, a standard beneficiary, for the purpose of applying Article 65 of the Code, is a skilled manual male employee with 30 years of contributions, i.e. a person who has acquired 37.5 personal earnings points with respect to old-age pension whose earnings are equal to 125 per cent of the average earnings. The Committee of Ministers further notes the absence of reply by the Government to the request made in its previous comments and once again requests the Government to provide the calculation as indicated below.

The Committee of Ministers also notes that, once again, the Government's calculations of the benefits' replacement rate compare the net amount of earnings of a skilled manual male employee with the corresponding benefits that a standard beneficiary would receive, instead of the gross amount of earnings. In its previous comments, the Committee of Ministers observed that this would be possible, provided that the social security contributions and the income tax to be borne by the standard beneficiary were deducted on both sides of the equation. The Committee of Ministers further noted, however, that no income tax was deducted from the benefits payable to a standard beneficiary in the Government's calculations, even though benefits in Germany were (in principle) also subject to taxation. The Committee of Ministers therefore once again requests the Government to provide further information as indicated below;

The Committee of Ministers decides to invite the Government of Germany:

b. Article 65 of the Code, in conjunction with Articles 29(1) and (2), 57(1) and (2), and 63(1) and (2) of the Code, with regard to the replacement rate of old-age, invalidity and survivors' benefits, to provide, in its next report, the calculation on the replacement rate of standard statutory pensions for a standard beneficiary, as defined under Article 65 of the Code, without adding any benefits derived from complementary voluntary private schemes. The Government is also requested to indicate whether a person in the situation of a standard beneficiary would be liable to pay income tax and, in the affirmative, to deduct such a tax also from the benefit calculation, in line with Article 65 of the Code.

Please provide a reply to the question:

As explained in detail under I. above, retirement income from a Riester pension is increasingly necessary and required to adequately provide for old-age. This is also pointed out every year in the Federal Government's pension insurance report. Against this background, the Riester pension continues to be included in the calculations presented below.

Report form for the ECSS:

1. If recourse is had to subparagraph a) of Article 28 of the ECSS for determining the persons protected, please state whether you have recourse, for the calculation of the benefit, to the provisions of Article 65 or to those of Article 66 of the ECSS.
2. Please furnish information under this Article as follows:
 - I. if recourse is had to Article 65 of the ECSS, in the form set out in Titles I, III and V under Article 65 below;
 - II. if recourse is had to Article 66 of the ECSS, in the form set out in Titles I, III and V under Article 66 below.

For Article 65 of the ECSS, if chosen**Title I (Information on the standard wage)**

- A. Please summarize the rules for the calculation of the benefit and the computation of the previous earnings. Please state whether recourse is had to the provisions of paragraph 3 of Article 65 and, if so, please indicate the maximum amount prescribed for the benefit or for the earnings taken into account for the computation of the benefit.

The following four factors are relevant to the pension calculation:

- *earnings points*
- *the personal age factor relevant to the respective earnings points (the product of "earnings points multiplied by age factor" are the personal earnings points)*
- *the pension type factor (e.g for old-age pensions it is 1.0 in the general pension insurance system, and 1.3333 in the miners' pension insurance system)*
- *the current pension value (36.02 euros for the old Länder, and 35.52 euros for the new Länder since 1 July 2022).*

The pension formula is as follows: Personal earnings points x pension type factor x current pension value = gross monthly pension.

The earnings points are the ratio between the individual's earnings in a year of coverage and the average earnings of all insured persons in the same calendar year. With an average earner, this value is one earnings point per year. The age factor is determined by the date on which an old-age pension starts. Where an insured person makes use of the possibility of drawing an early old-age pension, the resulting prolonged period of pension receipt is offset by the age factor, which is one for a pension not claimed earlier, being reduced by 0.003 points for each month of retirement before the standard pension age. This leads to an 0.3% reduction of the old-age pension for each month of retirement before the prescribed pension age. The pension type factor which varies depending on the individual types of pensions takes account of the intended protection purpose of the pension type in relation to the old-age pension. The current pension value is the monthly Euro-equivalent of one earnings point at the time of the calculation of the old-age pension.

Apart from the contribution periods, certain non-contributory periods are also taken into account in the calculation of a pension: Periods in which insured persons were prevented from paying compulsory contributions, such as periods of military service (substitute periods) and periods for which it was no longer possible to pay any contributions because of early invalidity/death (added periods) are taken into consideration and serve to increase the pension. Further non-contributory periods are the credited periods. These periods distinguish between credited periods that are valued (e.g. attendance at a technical college, maternity protection), which serve to increase the pension,

and credited periods that are not valued (e.g. unemployment, incapacity for work), which do not directly serve to increase the pension.

On 1 January 2021 an earnings points supplement was introduced in the statutory pension insurance for persons with a long insurance record (individual **basic pension supplement or "Grundrente" in German**). The pension is increased by a supplement provided the person has completed at least 33 years of basic pension periods (above all compulsory contributions from employment, child-raising periods and care-giving periods). The earnings points (EP) that have been earned from "basic pension assessment periods" are the basis for the calculation of the supplement. This includes only those basic pension periods that correspond to a value of at least 0.025 EP/month (0.3 EP/year). This corresponds to 30 percent of the average earnings in the respective year. If somebody has completed 35 years of basic pension periods and the average value from all "basic pension assessment periods" is under 80 percent of the average earnings (= 0.8 EP/year), the supplement is calculated for a maximum period of 35 years of basic pension assessment periods. In the transition range between 33 and 35 years, an increasing basic pension supplement is calculated. The basic pension supplement is granted on the basis of the taxable income following an income test.

In the old Länder (West) the current pension value is

01/07/2018	32.03 euros
01/07/2019	33.05 euros
01/07/2020	34.19 euros
01/07/2021	34.19 euros
01/07/2022	36.02 euros

In the new Länder (East) the current pension value is

01/07/2018	30.69 euros
01/07/2019	31.89 euros
01/07/2020	33.23 euros
01/07/2021	33.47 euros
01/07/2021	35.52 euros

In the **old Länder (West)**, the contribution assessment ceiling is

	General pension insurance system	Miners' pension insurance system
for calendar year 2018	78,000 euros	96,000 euros
for calendar year 2019	80,400 euros	98,400 euros
for calendar year 2020	82,800 euros	101,400 euros

<i>for calendar year 2021</i>	<i>85,200 euros</i>	<i>104,400 euros</i>
<i>for calendar year 2022</i>	<i>84,600 euros</i>	<i>103,800 euros</i>
<i>In the new Länder (East), the contribution assessment ceiling is</i>		
	<i>General pension insurance system</i>	<i>Miners' pension insurance system</i>
<i>for calendar year 2018</i>	<i>69,600 euros</i>	<i>85,800 euros</i>
<i>for calendar year 2019</i>	<i>73,800 euros</i>	<i>91,200 euros</i>
<i>for calendar year 2020</i>	<i>77,400 euros</i>	<i>94,800 euros</i>
<i>for calendar year 2021</i>	<i>80,400 euros</i>	<i>99,000 euros</i>
<i>for calendar year 2022</i>	<i>81,000 euros</i>	<i>100,200 euros</i>

B. Please state to which of the provisions of paragraph 6 of Article 65 you have recourse for selecting the skilled manual male employee to whose wage paragraph 3 of Article 65 refers.

Please specify more particularly:

- a. if recourse is had to subparagraph (b) of paragraph 6:
 - i. how the division and the major group of economic activity to which the typical skilled employee belongs are determined with reference to paragraph 7; and
 - ii. how the typical skilled employee in the major group is chosen; or
- b. if recourse is had to subparagraph (c) of paragraph 6, how the earnings of all persons protected are computed; or
- c. if recourse is had to subparagraph (d) of paragraph 6, how the average earnings of all the persons protected are computed.

Pursuant to Article 65 (6) (c), the minimum standards are to be calculated for a worker whose earnings are equal to 125% of the average earnings. Using the average earnings of all insured persons as a basis, as shown in Annexes 1 and 10 to SGB VI, earnings are as follows (in euros and per year):

	Old Länder	New Länder
Remuneration in accordance with Annex 1 Book VI of the Social Code in 2022	38,901	
Conversion value according to Annex 10		1.0420

Book VI of the Social Code in 2022		
125% of the average remuneration	48,626	46,666

After deduction of taxes, social insurance contributions and private old-age provision costs, the net income for this worker (depending on the number of children) is given in the table below:

	Married without children		Married with 2 children	
	Old Länder	New Länder	Old Länder	New Länder
Gross wages	48,626	46,666	48,626	46,666
+ child benefit	0	0	5,256	5,256,256
Gross income	48,626	46,666	53,882	51,922
- social contributions	9,883	9,485	10,029	9,625
- taxes	8,459	7,870	8,522	7,930
- personal pension savings	1,361	1,317	1,170	1,092
Net income	28,922	27,994	34,161	33,276

Pursuant to the provisions (Part XI, Protocol) of the European Code of Social Security or the table relating to Part V of C 128, the following minimum standards have to be complied with:

Case	Regulated in Part ... of the European Social Order	Basis ...	Required benefit level in per cent of net income
Age	V	married man (pensioner)	45
Invalidity	IX	Married man, 2 children	50
Death of the breadwinner	X	Widow with 2 children	45

C. Please indicate, in any event, the time basis on which the wage of the typical skilled employee is calculated, with reference to the provisions of paragraph 9 of Article 65. Please confirm that, in accordance with the provisions of paragraph 4 of that Article, the same time basis is used for calculating the benefit and the family allowances.

Please indicate the amount of the wage of the skilled manual male employee selected as shown under B (standard wage).

Title III (Information on the replacement rate of benefit)

The standard beneficiary for whom the following information should be given, for each scheme concerned, is a man with a wife of pensionable age where the previous earnings of the husband serving for the calculation of the benefit are equal to the wage of the skilled manual male employee shown in Title I, under C, above.

- D. Amount of benefit granted during the time basis.¹⁷
- E. Amount of family allowances, if any, payable in respect of the wife during employment, for a period equal to the time basis.
- F. Amount of family allowances, if any, payable in respect of the wife during the contingency, for a period equal to the time basis.
- G. Sum of benefit and family allowances payable during the contingency (D+F) per cent of sum of the standard wage and family allowances payable during employment (C+E).

¹⁷ Please indicate the length of the qualifying period required of the standard beneficiary, specifying whether recourse is had to paragraph I, 3 or 4 of Article 29.

In accordance with Article 29 (1) (a), the benefit specified in Article 28 is to be determined for a skilled worker (125 % of average earnings) with 30 years of employment who starts to draw a pension when reaching the statutory retirement age. 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, twelve 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.

In the light of the demographic trends, measures to restrain pension increases were adopted with the pension reforms of 2001 (Retirement Assets Act/Retirement Assets (Extension) Act) and 2004 (Pension Insurance Sustainability Act) in order to secure the long-term financial viability of the pension insurance system. These measures went hand in hand with enhanced state support to strengthen the second and third pillars of old-age provision. Thus the decline in the replacement ratio associated with the moderation of pension adjustments is to be compensated by supplementary old-age provision.

This systematic correlation explains why the calculations are based on the assumption that, under the requirements of Articles 27 D, 55 D and 61 D in conjunction with Article 6, the maximum amounts qualifying for state subsidies are paid into a Riester pension plan during the employee's entire work history.

In 2019, the number of occupational pension entitlements of active employees (second pillar) had risen from 14.6 million in 2001 to 21 million. The number of Riester pension contracts that were introduced in 2001 was 15.9 million in 2022. On the basis of a survey among employees insured in the statutory pension insurance aged 25 to 64 years, there is a prevalence rate of the subsidized additional provision for old age (Riester contracts or occupational pension schemes) of 66 percent. In both systems the fund management is subject to state supervision which is carried out by the Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht).

For simplification purposes a private retirement savings plan is taken into account in the following calculations to represent the supplementary pension systems described above. The calculations are based on the following assumptions: Savings rate = 4 % of gross income, interest rate = 4.0 %, administrative costs = 10 % of the paid premiums.

As the following table shows, the ratio of the net old-age pension to the net earnings of a worker with 125% of average income, assuming an insurance record of 30 years, is **71.1 %** in the old Länder and **72.1 %** in the new Länder, and thus higher than the required standard of 45%. **In the statutory pension insurance as well as in private or occupational pension schemes the levels of pension rights and the replacement rates are gender-neutral.**

		Old-age pension	
		Old Länder	New Länder
1	Years of employment	30	30
2	Earnings points total (EP)	40.49	40.49
3	Current pension value (euros/ EP month)	36.02	35.52
4=2*3*12M	Gross pension (euros/ year)	17,502	17,259
5	Social contributions	1,986	1,959
6	Taxes	2,185	2,056
7	Personal pension savings	7,224	6,933
8=4-5-6+7	Net income in old-age	20,554	20,178

9	Net income from work	28,922	27,994
10=8/9	Ratio	71.1	72.1

The adjustment of the pension values will already be completed in 2024 due to the higher wage increase in Eastern Germany and thus one year earlier than laid down in the Pension Alignment Conclusion Act (Gesetz über den Abschluss der Rentenüberleitung) adopted in 2017. That law regulates the last steps towards a uniform pension law in East and West Germany.

Title V (replacement rate for a woman employee)

The beneficiary for whom the following information should be given is a woman employee whose previous earnings serving for the calculation of benefit were equal to the wage of the skilled manual male employee shown in Title I above.

D. Amount of benefit granted during the time basis.

G. Amount of benefit (D) per cent of the standard wage (C).

In the statutory pension insurance as well as in private or occupational pension schemes the levels of pension rights and the replacement rates are gender-neutral.

Conclusions 2022:

1.

“The Committee therefore requests the Government to provide calculations on the replacement rate of standard statutory pensions without adding any contributions made to, or benefits derived from, such complementary voluntary private schemes.”

Germany:

With regard to this conclusion, we kindly refer to the previous reports.

2.

“The Committee therefore requests the Government to calculate the old-age pension under the statutory scheme in Germany for a pensioner with 37.5 earnings points only, i.e. on the basis of 30 years of insurance without adding additional non-contributory periods.”

Germany:

With regard to this conclusion, we kindly refer to the previous reports.

Conclusions 2023:

“[...] The Committee considers in this respect that the criteria and parameters laid down in the Code for the definition of a standard beneficiary and the calculation of a standard benefit are exclusive and final. The Committee therefore urges once again the Government to calculate the old-age pension under the statutory scheme in Germany for a pensioner with 37.5 earnings points only, i.e. on the basis of 30 years of insurance without adding additional non-contributory periods.”

Germany:

Accounting for certain non-contributory periods in the calculation of a pension is an integral part of the German pension formula, as already explained in our previous reports. This consideration explicitly values certain phases in the biography, such as participation in the Federal Voluntary Service and periods of professional education. In view of the complexity of the calculation, removing these periods is not easily possible without changing the context - and, from our point of view, it does not necessarily result from the interpretation of Art. 65.

With regard to the rest of this conclusion, we kindly refer to the previous reports.

V - 5. Adjustment of benefit

§10 Article 65. ECSS

The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

Article 29. C128

1. The rates of cash benefits currently payable pursuant to Article 10, Article 17 and Article 23 shall be reviewed following substantial changes in the general level of earnings or substantial changes in the cost of living.

2. Each Member shall include the findings of such reviews in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation, and shall specify any action taken.

Rate of adjustment of the current pension value as a percentage of the previous year:		
Date of pension adjustment	Old Länder	New Länder
1 July 2018	3.22	3.37
1 July 2019	3.18	3.91
1 July 2020	3.45	4.20
1 July 2021	0.00	0.72
1 July 2022	5.35	6.12

Report Form for the ECSS (Title VI):

1. Please state the methods adopted for giving effect, where necessary, to the provisions of paragraph 10 of Article 65 of the ECSS.

2. Please give the following information:

Period under review	Cost-of-living index	Index of earnings ¹⁸
A. Beginning of period ¹⁹
B. End of period ²⁰
C. Percentage $\frac{A}{B}$

3. Please state whether the amount of the periodical payments has been reviewed during the period of reference. If so, please indicate the changes made in the level of benefits and furnish the following information:

¹⁸ The index of earnings should correspond to the classes of employees or economically active persons shown under the Article dealing with persons protected (Article 27, 33 or 61). If no index of earnings is available, the index of money wages may be substituted.

¹⁹ The indices at the beginning and end of each period should refer to the same base.

²⁰ The indices at the beginning and end of each period should refer to the same base.

On pension adjustments:

As wage-related benefits pensions are, as a rule, adjusted in line with the last wage and salary developments (wage factor). For this purpose a new current pension value is to be determined annually on the basis of the data of gross wages and salaries per employee as shown in the national accounts. To reflect the actual revenue development of the statutory pension insurance, the wage developments identified for the purpose of determining the pension adjustment rates include not only the wage trends as shown in the national accounts statistics but also the development of the actually earned income liable to contributions.

To make sure that the costs of demographic change are equally shared between the generations and that the statutory pension insurance complies with financial sustainability principles, pension adjustments take account of two other important factors apart from the development of wages and salaries. Firstly, changes in the expenses of employees for the statutory pension insurance and supplementary old-age provision are taken into account in the pension adjustment process (factor of old-age provision expenses). Secondly, the so-called sustainability factor ensures that the development of the correlation between those who draw pensions and those liable to pay contributions is reflected in the adjustment of pensions. All three factors are summarized in the pension adjustment formula.

The respective pension adjustments (in per cent) in the period under review amounted to

Rate of adjustment of the current pension value as a percentage of the previous year:		
Date of pension adjustment	Old Länder	New Länder
1 July 2018	3.22	3.37
1 July 2019	3.18	3.91
1 July 2020	3.45	4.20
1 July 2021	0.00	0.72
1 July 2022	5.35	6.12

In the period from 2018 to 2022, the figures reflecting developments in the cost of living in Germany on the one hand and developments of wages and pensions on the other, changed as follows on annual average:

Change in percent per annum	average 2018 -2022
Consumer prices	2.74
Wages	2.8
Pension value 1 July (old Länder)	3.04

The development laid down in the table shows that the average adjustment of pensions has exceeded the annual average pay rises in the years 2018 to 2022 and that pensions increased clearly more strongly than consumer prices.

V - 6. Qualifying period

Article 29. ECSS

1. The benefit specified in Article 28 shall, in a contingency covered, be secured at least:
(a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 30 years of contribution or employment, or 20 years of residence; or

(b) where, in principle, all economically active persons are protected, to a person protected who has completed a prescribed qualifying period of contribution and in respect of whom while he was of working age, the prescribed yearly average number of contributions has been paid.

2. Where the benefit referred to in paragraph 1 of this article is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least:

(a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of 15 years of contribution or employment; or

(b) where, in principle, all economically active persons are protected, to a person protected who has completed a prescribed qualifying period of contribution and in respect of whom, while he was of working age, half the yearly average number of contributions prescribed in accordance with paragraph 1.b of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, ten years of contribution or employment, or five years of residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds ten years of contribution or employment but is less than 30 years of contribution or employment; if such qualifying period exceeds 15 years, a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. Where the benefit referred to in paragraphs 1, 3 or 4 of this Article is conditional upon a minimum period of contribution or employment, a reduced benefit shall be payable under prescribed conditions to a person protected who, by reason only of his advanced age when the provisions concerned in the application of this Part come into force, has not satisfied the conditions prescribed in accordance with paragraph 2 of this Article, unless a benefit in conformity with the provisions of paragraphs 1, 3 or 4 of this Article is secured to such person at an age higher than the normal age.

Article 18. C128

1. The benefit specified in Article 17 shall, in a contingency covered, be secured at least--

(a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 30 years of contribution or employment, or 20 years of residence; or

(b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, a prescribed qualifying period of contribution and in respect of whom, while he was of working age, the prescribed yearly average number of contributions has been paid.

2. Where the old-age benefit is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least--

(a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of 15 years of contribution or employment; or

(b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, a prescribed qualifying period of contribution and in respect of whom, while he was of working age, half of the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V but a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, ten years of contribution or employment, or five years of residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part V may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds ten years of contribution or employment or five years of residence but is less than 30 years of contribution or employment or 20 years of residence; if such qualifying period exceeds 15 years of contribution or employment, a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

Report Form for the ECSS:

1. Please indicate the nature and the length of the minimum qualifying period or the minimum average yearly number of contributions, as the case may be, which entitles the persons protected to a pension. Please summarize the rules concerning the computation of such qualifying period. Please state whether recourse is had to paragraphs 1 and 2 or paragraph 3 or 4 of this Article.

The qualifying period remains

- for the standard old-age pension: five years,
- for the old-age pension for persons with a long insurance record: 35 years,
- for the old-age pension for persons with severe disabilities: 35 years,
- for the old-age pension for persons with a particularly long insurance record: 45 years,
- for the old-age pension for miners with many years of work underground: 25 years.

2. If recourse is had to paragraphs 1 and 2 the benefit the amount of which is shown under Article 28 should be the benefit granted during the time basis to a standard beneficiary who has completed 30 years of contribution or employment, or 20 years of residence. Please indicate, under this Article, how the reduced benefit is calculated to which a standard beneficiary is entitled who has completed a qualifying period of 15 years of contribution or employment or in respect of whom half the yearly average number of contributions prescribed for title to full benefit has been paid.
3. If recourse is had to paragraph 3 the benefit the amount of which is shown under Article 28 should be the benefit granted during the time basis to a standard beneficiary who has completed ten years of contribution or employment or five years of residence.

V -7. Duration of benefit

Article 30. ECSS

The benefits specified in Articles 28 and 29 shall be granted throughout the contingency.

Article 19. C128

The benefit specified in Articles 17 and 18 shall be granted throughout the contingency.

V - 8. Suspension and coordination of benefit

Article 68. ECSS

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;*
- (b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;*
- (c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;*
- (d) where the person concerned has made a fraudulent claim;*
- (e) where the contingency has been caused by a criminal offence committed by the person concerned;*
- (f) where the contingency has been caused by the wilful misconduct of the person concerned;*

Article 31. C128

- 1. The payment of invalidity, old-age or survivors' benefit may be suspended, under prescribed conditions, where the beneficiary is engaged in gainful activity.*
- 2. A contributory invalidity, old-age or survivors' benefit may be reduced where the earnings of the beneficiary exceed a prescribed amount; the reduction in benefit shall not exceed the earnings.*
- 3. A non-contributory invalidity, old-age or survivors' benefit may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.*

Article 32. C128

- 1. A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to IV of this Convention may be suspended to such extent as may be prescribed:*

- (a) as long as the person concerned is absent from the territory of the Member, except, under prescribed conditions, in the case of a contributory benefit;*
 - (b) as long as the person concerned is maintained at public expense or at the expense of a social security institution or service;*
 - (c) where the person concerned has made a fraudulent claim;*
 - (d) where the contingency has been caused by a criminal offence committed by the person concerned;*
 - (e) where the contingency has been wilfully caused by the serious misconduct of the person concerned;*
 - (f) in appropriate cases, where the person concerned, without good reason, neglects to make use of the medical or rehabilitation services placed at his disposal or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries; and*
 - (g) in the case of survivors' benefit for a widow, as long as she is living with a man as his wife.*
- 2. In the case and within the limits prescribed, part of the benefit otherwise due shall be paid to the dependants of the person concerned.*

Article 33. C128

- 1. If a person protected is or would otherwise be eligible simultaneously for more than one of the benefits provided for in this Convention, these benefits may be reduced under prescribed conditions and within prescribed limits; the person protected shall receive in total at least the amount of the most favourable benefit.*
- 2. If a person protected is or would otherwise be eligible for a benefit provided for in this Convention and is in receipt of another social security cash benefit for the same contingency, other than a family benefit, the benefit under this Convention may be reduced or suspended under prescribed conditions and within prescribed limits, subject to the part of the benefit which is reduced or suspended not exceeding the other benefit.*

Report form for the ECSS:

Please indicate the provisions, if any, for the suspension of old-age benefits.

Additional income for early and standard old-age pensions may be earned without restriction.

With effect from 1 January 2023, in view of the general shortage of skilled workers and in order to further increase work incentives, the additional earnings limit for early old-age pensions was abolished.

V - 9. Right of complaint and appeal

Article 69. ECSS

- 1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.*
- 2. Where in the application of this Convention (Code) a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.*
- 3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.*

Article 34. C128

- 1. Every claimant shall have a right of appeal in the case of refusal of benefit or complaint as to its quality or quantity.*
- 2. Procedures shall be prescribed which permit the claimant to be represented or assisted, where appropriate, by a qualified person of his choice or by a delegate of an organization representative of persons protected.*

Report form for the ECSS:

Please state whether every claimant has a right of appeal in case of refusal of old-age benefit or complaint as to its quality or quantity, as stipulated in paragraph 1 of this Article. Please summarize the rules which apply in the case of an appeal.

No changes to the previous legal situation.

V - 10. Financing and Administration

See under Part XIII-3.

Article 30. C128

National legislation shall provide for the maintenance of rights in course of acquisition in respect of contributory invalidity, old-age and survivors' benefits under prescribed conditions.

Article 35. C128

- 1. Each Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose.*
- 2. Each Member shall accept general responsibility for the proper administration of the institutions and services concerned in the application of this Convention.*

Article 36. C128

Where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to a legislature, representatives of the persons protected shall participate in the management under prescribed conditions; national legislation may likewise decide as to the participation of representatives of employers and of the public authorities.

Part VI. Employment Injury Benefit

Germany has accepted the obligations resulting from C121 and Part VI of the ECSS, as amended by its Protocol.

Category	Relevant Articles	Questions raised by the CEACR
VI-1. Regulatory framework	<i>Art.31 ECSS</i>	
VI-2. Contingency covered	<i>Art.32 ECSS, Art.6 C121</i>	
VI-3. Definition of industrial accident	<i>Art.7 C121</i>	
VI-4. Definition of occupational disease	<i>Art.8 C121</i>	
VI-5. Persons protected	<i>Art.33 ECSS, Art.4 C121</i>	
VI-6. Medical care and allied benefits	<i>Art.34 ECSS, Art.10 C121</i>	
VI - 7. Cost-sharing and avoidance of hardship	<i>Art.34 ECSS, Art.11 C121</i>	
VI-8. Prevention, rehabilitation and placement services		<i>Art.35 ECSS, Art.26 C121</i>
VI-9. Temporary or initial incapacity for work	<i>Art.36(1) ECSS, Art.13 C121</i>	
VI-10. Loss of earning capacity likely to be permanent	<i>Art.36(1) ECSS, Art.14(1) C121</i>	
VI-10 (a). Total loss of earning capacity	<i>Art.36(1) ECSS, Art.14(2) C121</i>	
VI-10 (b). Partial loss of earning capacity	<i>Art.36(2) ECSS Art.14(3) C121</i>	
VI-11. Death of the breadwinner: periodical payment	<i>Art.36(1) ECSS Art.18(1) C121</i>	
VI-12. Death of the breadwinner: funeral benefit		<i>Art.18(2) C121</i>
VI-13. Lump-sum payment	<i>Art.15, 18(3) C121</i>	<i>Art.36(3) ECSS Art.14(4)(5) C121</i>
VI-14. Adjustment of benefit	<i>Art.65(10) ECSS Art.21 C121</i>	
VI-15. Increments and reassessment of payments	<i>Art.17 C121</i>	<i>Art.16 C121</i>
VI-16. Duration of benefit	<i>Art.38 ECSS Art.9(3) C121</i>	
VI-17. Qualifying conditions	<i>Art.37 ECSS Art.9(1)(2) C121</i>	
VI-18. Suspension of benefit	<i>Art.68 ECSS Art.22 C121</i>	
VI-19. Right of complaint and appeal	<i>Art.69 ECSS Art.23 C121</i>	

VI-20. Financing and Administration	Art.70,71 ECSS Art.25 C121	Art.24 C121
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List of applicable legislation

[...]

VI - 1. Regulatory framework

Article 31. ECSS

Each Member (Contracting Party) for which this Part of this Convention (Code) is in force shall secure to the persons protected the provision of employment injury benefit in accordance with the following Articles of this Part.

VI - 2. Contingencies covered

Article 32. ECSS, as amended by its Protocol

The contingencies covered shall include the following where [the state of affairs described is – ECSS] due to accident or a prescribed disease resulting from employment:

- a) a morbid condition;
- b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations;
- c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- d) the loss of support suffered by the widow or child as the result of the death of the breadwinner.

Article 6. C121

The contingencies covered shall include the following where due to an employment injury:

- (a) a morbid condition;
- (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national legislation;
- (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- (d) the loss of support suffered as the result of the death of the breadwinner by prescribed categories of beneficiaries.

Report form for the ECSS:

Please state whether national laws or regulations prescribe a minimum degree of loss of earning capacity that gives rise to the medical care benefits (Article 34) and cash benefits in case of temporary incapacity and permanent incapacity (Article 36), and, if so, indicate the degree.

No major changes occurred in the period under review.

A minimum degree of incapacity for work is not required regarding the benefits specified in subparagraphs (a) and (b) - and is in particular not required regarding benefits specified in Article 34 either (sections 27-34 SGB VII). Only the cash benefits specified in Article 36 require a reduction in earning capacity of at least 20 per cent, in exceptional cases even a lower level of reduction in earning capacity may suffice (section 56 SGB VII).

VI – 3. Definition of industrial accident

§1(c) Article 1 C121

The term industrial undertaking includes all undertakings in the following branches of economic activity: mining and quarrying; manufacturing; construction; electricity, gas, water and sanitary services; and transport, storage and communication.

Article 7. C121

- 1. Each Member shall prescribe a definition of "industrial accident", including the conditions under which a commuting accident is considered to be an industrial accident, and shall specify the terms of such definition in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation.*
- 2. Where commuting accidents are covered by social security schemes other than employment injury schemes, and these schemes provide in respect of commuting accidents benefits which, when taken together, are at least equivalent to those required under this Convention, it shall not be necessary to make provision for commuting accidents in the definition of "industrial accident".*

VI – 4. Definition of occupational disease

Article 8. C121

Each Member shall:

- (a) prescribe a list of diseases, comprising at least the diseases enumerated in Schedule I to this Convention, which shall be regarded as occupational diseases under prescribed conditions; or*
- (b) include in its legislation a general definition of occupational diseases broad enough to cover at least the diseases enumerated in Schedule I to this Convention; or*
- (c) prescribe a list of diseases in conformity with clause (a), complemented by a general definition of occupational diseases or by other provisions for establishing the occupational origin of diseases not so listed or manifesting themselves under conditions different from those prescribed.*

VI - 5. Persons protected

Article 33. ECSS, as amended by its Protocol

The persons protected shall comprise prescribed classes of employees constituting not less than 80 per cent of all employees and, for the benefit in respect of the death of the breadwinner, also their wives and children.

Article 4. C121

- 1. National legislation concerning employment injury benefits shall protect all employees, including apprentices, in the public and private sectors, including co-operatives, and, in respect of the death of the breadwinner, prescribed categories of beneficiaries.*
- 2. Any Member may make such exceptions as it deems necessary in respect of:*
 - (a) persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employer's trade or business;*
 - (b) out-workers;*
 - (c) members of the employer's family living in his house, in respect of their work for him;*
 - (d) other categories of employees, which shall not exceed in number 10 per cent. of all employees other than those excluded under clauses (a) to (c).*

Report form for the ECSS:

Please provide for statistical data:

Title I under Article 76 for Article 33 of the ECSS

- A. Number of employees protected²¹:**
 - i) under general scheme ...**

²¹ Dependants who are protected in their breadwinner's right should not be included in this number.

ii) under special schemes (if any) ...

iii) Total ...

B. Total number of employees²² ...

C. Number of employees protected (A(iii)) per cent of total number of employees (B). Please state how these data are computed and give dates of reference.

A. *The categories of persons insured in the statutory occupational accident insurance cover in particular all employees including apprentices/trainees (sections 2-6, SGB VII). Civil servants are covered by a special system.*

In the period under review the categories of persons to be covered have been extended. Since July 1, 2020, participants in preventive measures are covered by statutory occupational accident insurance. A declaration pursuant to Article 3 was not made.

B. (Art. 76 Title I)

1. Number of protected employees (in 1000s)	2017	2018	2019	2020	2021	2022
a) General system	37 844	38 477	38 935	38 715	38 842	39 451
b) Special system for civil servants	2 014	2 025	2 038	2 050	2 066	2 072
c) Total	39 858	40 502	40 973	40 765	40 908	41 523

²² This number should comprise all employees, including civil servants and, for Parts II, III, V, VII, VIII, IX, and X, also unemployed persons.

2. Total number of employees (in 1000s)	39 858	40 502	40 973	40 765	40 908	41 523
3. Number of protected employees						
as a share of the total number						
of employees in per cent	100,0	100,0	100,0	100,0	100,0	100,0

Explanatory comments:

The total number of civil servants and employees has been calculated on the basis of the national accounts (VGR).

VI - 6. Medical care and allied benefits

Article 34. ECSS

1. In respect of a morbid condition, the benefit shall be medical care as specified in paragraphs 2 and 3 of this article.

2. The medical care shall comprise:

- a) general practitioner and specialist in-patient care and out-patient care, including domiciliary visiting;
- b) dental care;
- c) nursing care at home or in hospital or other medical institutions;
- d) maintenance in hospitals, convalescent homes, sanatoria or other medical institutions;
- e) dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances, kept in repair, and eyeglasses; and
- f) the care furnished by members of such other professions as may at any time be legally recognised as allied to the medical profession, under the supervision of a medical or dental practitioner.

3 [4 – C102]. The medical care provided in accordance with the preceding paragraphs shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.

Article 10. C121

1. Medical care and allied benefits in respect of a morbid condition shall comprise:

- (a) general practitioner and specialist in-patient and out-patient care, including domiciliary visiting;
- (b) dental care;
- (c) nursing care at home or in hospital or other medical institutions;
- (d) maintenance in hospitals, convalescent homes, sanatoria or other medical institutions;
- (e) dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances kept in repair and renewed as necessary, and eyeglasses;
- (f) the care furnished by members of such other professions as may at any time be legally recognised as allied to the medical profession, under the supervision of a medical or dental practitioner; and
- (g) the following treatment at the place of work, wherever possible:
 - (i) emergency treatment of persons sustaining a serious accident;
 - (ii) follow-up treatment of those whose injury is slight and does not entail discontinuance of work.

2. The benefits provided in accordance with paragraph 1 of this Article shall be afforded, using all suitable means, with a view to maintaining, restoring or, where this is not possible, improving the health of the injured person and his ability to work and to attend to his personal needs.

Report form for the ECSS:

1. Please indicate in detail the nature of the medical benefits provided, referred to in paragraph 2 of Article 34.
2. Please state what measures are taken to give effect to paragraph 4 of Article 34 of the ECSS (paragraph 3 of C102).

3. Please confirm that, in accordance with the provisions of this Article, the beneficiary is not required to share in the cost of the medical care received. If the scheme provides for the reimbursement of the expenses which the beneficiary was obliged to incur in order to obtain the benefits stipulated in paragraph 2 of this Article, as the case may be, please furnish all available information to show that the beneficiary does not share in the cost of such benefits.

After an accident at work has occurred or an occupational disease has been diagnosed, the accident insurance fund provides benefits in kind; apart from the change in the level of the benefit payable by long-term care insurance (see subparagraph c), no major amendments have been introduced in the period under review.

a, b) *Outpatient medical and dental care by general practitioners, medical specialists and hospital doctors as well as inpatient hospital treatment (sections 27, 28, 33 of SGB VII).*

c) Nursing care can be provided by paying a long-term care allowance (Pflegegeld) or, upon special request, by supplying the necessary nursing staff for home nursing or by providing for the livelihood and nursing care in a suitable institution in the form of institutional care (section 44 of SGB VII).

Long-term care allowance levels

<i>Date of adjustment</i>	<i>West (euros)</i>	<i>East (euros)</i>
<i>1 July 2016</i>	<i>344 - 1,374</i>	<i>319 - 1,278</i>
<i>1 July 2017</i>	<i>351 - 1,400</i>	<i>330 - 1,324</i>
<i>1 July 2018</i>	<i>362 - 1,445</i>	<i>341 - 1,369</i>
<i>1 July 2019</i>	<i>374 - 1,491</i>	<i>354 - 1,423</i>
<i>1 July 2020</i>	<i>387 - 1,542</i>	<i>369 - 1,483</i>
<i>1 July 2021</i>	<i>387 - 1,542</i>	<i>372 - 1,494</i>
<i>1 July 2022</i>	<i>408 - 1,624</i>	<i>395 - 1,585</i>

d) *As far as necessary, inpatient hospital care or a rehabilitation institution (section 33 of SGB VII, see also above under a)).*

e, f) *Supply of medicines and bandages, therapies, supply of prostheses, orthopedic and other aids including any necessary adjustments, maintenance and replacement as well as training to learn how to use these aids; physiotherapy, exercise therapy, speech therapy and ergotherapy (sections 27, 29, 30, 31, 32, 34 of SGB VII).*

g) *Of course, the benefits catalogue also includes emergency treatment for employees who have suffered serious accidents at their place of work and follow-up care for victims with lesser injuries that do not lead to absence from work.*

VI - 7. Cost-sharing and avoidance of hardship

Article 11. C121

1. Any Member which provides medical care and allied benefits by means of a general health scheme or a medical care scheme for employed persons may specify in its legislation that such care shall be made available to persons who have sustained employment injuries on the same terms as to other persons entitled thereto, on condition that the rules on the subject are so designed as to avoid hardship.
2. Any Member which provides medical care and allied benefits by reimbursing expenses may in its legislation make special rules in respect of cases in which the extent, duration or cost of such care exceed reasonable limits, on condition that the rules on the subject are not inconsistent with the purpose stated in paragraph 2 of Article 10 and are so designed as to avoid hardship.

VI - 8. Prevention, rehabilitation and placement services

Article 35. ECSS

1. The institutions or Government departments administering the medical care shall co-operate, wherever appropriate, with the general vocational rehabilitation services, with a view to the re-establishment of handicapped persons in suitable work.
2. National laws or regulations may authorize such institutions or departments to ensure provision for the vocational rehabilitation of handicapped persons.

Article 26. C121

1. Each Member shall, under prescribed conditions:
 - (a) take measures to prevent industrial accidents and occupational diseases;
 - (b) provide rehabilitation services which are designed to prepare a disabled person wherever possible for the resumption of his previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to his aptitudes and capacity; and
 - (c) take measures to further the placement of disabled persons in suitable employment.
2. Each Member shall as far as possible furnish in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation information concerning the frequency and severity of industrial accidents.

- [Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#), **Social Security (Minimum Standards) Convention, 1952 (No. 102) (Ratification: 1958), Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (Ratification: 1972)**

Article 35 of Convention No. 102 and Article 26 of Convention No. 121. Prevention, rehabilitation and placement services. The Committee notes that according to the consolidated report, the statutory occupational accident insurance funds cooperate closely with the occupational rehabilitation funds and other public and private bodies. **The Committee requests the Government to indicate the measures taken by these bodies to promote the placement of persons with disabilities in suitable employment, illustrated by the corresponding statistical data.**

Please provide a reply to the question:

[...]

Insured persons receive extensive vocational rehabilitation services for reintegration into working life (e.g. re-training).

Rehabilitation cases with measures to promote labour-market participation

and expenses for benefits for labour-market participation*

Year	Measures to promote labour-market participation - Number -	Expenditure on benefits for labour-market participation - in million euros -
2015	22,471	187
2016	22,040	185
2017	21,538	182
2018	22,373	173
2019	22,020	167
2020	18,322	165
2021	17,222	159

*Incl. Pupil accident insurance.
Source: Deutsche Gesetzliche Unfallversicherung

Report form for the ECSS:

Please state briefly what measures are taken to give effect to the provisions of Article 35 of the ECSS.

As indicated in the last consolidated report the statutory occupational accident insurance funds continue to cooperate closely with the occupational rehabilitation funds and other public and private bodies - especially the employers - regarding the provision of occupational rehabilitation benefits (sections 26, 35-38 of SGB VIII). During the period of occupational rehabilitation (e.g. retraining) the injured person receives a transitional allowance.

VI - 9. Temporary or initial incapacity for work

§1. Article 36. ECSS

In respect of incapacity for work, total loss of earning capacity likely to be permanent or corresponding loss of faculty, or the death of the breadwinner, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.

Article 13. C121

The cash benefit in respect of temporary or initial incapacity for work shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 19 or with the requirements of Article 20.

Report form for the ECSS:

1. Please state whether recourse is had, under paragraph 1 of this Article, to the provisions of Article 65 or to those of Article 66, for the calculation of the benefit.
2. Please furnish information under this Article as follows:
 - I. if recourse is had to Article 65 of the ECSS, in the form set out in Titles I, II and V under Article 65 below;
 - II. if recourse is had to Article 66 of the ECSS, in the form set out in Titles I, II and V under Article 66 below.

For Article 65 of the ECSS, if chosen

Title I (Information on the standard wage)

- A. Please summarize the rules for the calculation of the benefit and the computation of the previous earnings. Please state whether recourse is had to the provisions of paragraph 3 of Article 65 and, if so, please indicate the maximum amount prescribed for the benefit or for the earnings taken into account for the computation of the benefit.
- B. Please state to which of the provisions of paragraph 6 of Article 65 you have recourse for selecting the skilled manual male employee to whose wage paragraph 3 of Article 65 refers.

Please specify more particularly:

- a. if recourse is had to subparagraph (b) of paragraph 6:
 - i. how the division and the major group of economic activity to which the typical skilled employee belongs are determined with reference to paragraph 7; and
 - ii. how the typical skilled employee in the major group is chosen; or
 - b. if recourse is had to subparagraph (c) of paragraph 6, how the earnings of all persons protected are computed; or
 - c. if recourse is had to subparagraph (d) of paragraph 6, how the average earnings of all the persons protected are computed.
- C. Please indicate, in any event, the time basis on which the wage of the typical skilled employee is calculated, with reference to the provisions of paragraph 9 of Article 65. Please confirm that, in accordance with the provisions of paragraph 4 of that Article, the same time basis is used for calculating the benefit and the family allowances.
Please indicate the amount of the wage of the skilled manual male employee selected as shown under B (standard wage).

Title II (Information on the replacement rate of benefit)

The standard beneficiary for whom the following information should be given is a man with a wife and two children where the previous earnings serving for the calculation of the benefit are equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- E. Amount of family allowances, if any, payable during employment for a period equal to the time basis.
- F. Amount of family allowances, if any, payable during the contingency for a period equal to the time basis.
- G. Sum of benefit and family allowances payable during the contingency (D+F) per cent of sum of the standard wage and family allowances payable during employment (C+E).

Title V (replacement rate for a woman employee)

The beneficiary for whom the following information should be given is a woman employee whose previous earnings serving for the calculation of benefit were equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- G. Amount of benefit (D) per cent of the standard wage (C).

In the case of temporary incapacity for work, the injured person receives a periodical cash benefit, i.e. an injury benefit (Verletztengeld). However, if it can be expected that the (total or partial) loss of earning capacity will be of a permanent nature, the injured person receives an injury pension (Unfallrente) or, following the death of a person with dependant family members, the survivor(s) receive a surviving dependants' pension.

The injury benefit rate is generally calculated in the same way as the sickness benefit; it amounts to 80 per cent of the periodical income earned before the insured event but may not exceed the current year's annual income from work (section 47 of SGB VII).

The injury pension amounts to two-thirds of the annual income from work in the case of a total loss of earning capacity. If the capacity for work is not totally lost, but only reduced due to the consequences of the insured event, the amount of the payable pension corresponds to the degree of reduced earning capacity (partial pension) (section 56 (3) of SGB VII): The annual earnings correspond to the sum total of income from work and other income before taxes and social security contributions in the 12 full calendar months before the insured event. The annual earnings are only taken into account up to the double amount of the reference amount relevant at the time when the insured event occurred (section 85 (2) SGB VII). For the year 2022 this maximum amount was 78,960 euros in the old Länder (West) and 75,600 euros in the new Länder (East). The statutes of the accident insurance fund may determine a higher ceiling.

Calculation of the injury pension:

B. The basis for the calculation is the wage of a skilled male worker pursuant to Article 65 paragraph 6 subparagraph c). In 2022, this basic value was 125 per cent of the average gross wages, i.e. (38,901 x 125 per cent =) **48,626 euros/year**: 12 = 4,052.17 euros/month (West) and (37,333 x 125% =) 46,666 euros/year: 12 = 3,888.83 euros/month (East).

C. The monthly net wage of such a standard beneficiary (man with spouse and two children) amounts to 2,944.27 euros (West) and 2,863.95 euros (East) after deduction of social security contributions and income tax (plus church tax, tax bracket IV).

D. Amount of the injury pension (in the event of a total loss of earning capacity):

⅔ of 4,052.17 euros/month = 2,701.45 euros/month West

⅔ of 3,888.83 euros/month = 2,592.53 euros/month East

E. Family allowances for employees:

250 euros x 2 = 500 euros (child benefit for 2 children)

F. Family allowances for recipients of an injury pension:

250 euros x 2 = 500 euros (child benefit for 2 children)

G. Wage replacement rate:

(D+F) : (C+E) = (2,701.45 + 500) : (2,944.27 + 500) = 3201.45 : 3,444.27 = 92.9 % (West)

(D+F) : (C+E) = (2,592.53 + 500) : (2,863.95 + 500) = 3,092.53 : 3,363.95 = 91.9 % (East)

Pension adjustment

In the period under review, injury pensions were adjusted - in accordance with the adjustment of old-age pensions - as follows:

Adjustment date	Adjustment factor West	Adjustment factor East
1 July 2016	1,0425	1,0595
1 July 2017	1,0190	1,0359
1 July 2018	1,0322	1,0337
1 July 2019	1,0318	1,0391
1 July 2020	1,0345	1,0420
1 July 2021	1,0000	1,0072
1 July 2022	1,0535	1,0612

Re Title V: There is no gender-based differentiation regarding entitlements.

VI - 10. Loss of earning capacity likely to be permanent

§1. Article 36. ECSS

In respect of incapacity for work, total loss of earning capacity likely to be permanent or corresponding loss of faculty, or the death of the breadwinner, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.

§1. Article 14. C121

1. Cash benefits in respect of loss of earning capacity likely to be permanent or corresponding loss of faculty shall be payable in all cases in which such loss, in excess of a prescribed degree, remains at the expiration of the period during which benefits are payable in accordance with Article 13.

VI - 10 (a). Total loss of earning capacity

§2. Article 14. C121

In case of total loss of earning capacity likely to be permanent or corresponding loss of faculty, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 19 or with the requirements of Article 20.

Report form for the ECSS:

1. Please state whether recourse is had, under paragraph 1 of this Article, to the provisions of Article 65 or to those of Article 66, for the calculation of the benefit.
2. Please furnish information under this Article as follows:
 - I. if recourse is had to Article 65 of the ECSS, in the form set out in Titles I, II and V under Article 65 below;
 - II. if recourse is had to Article 66 of the ECSS, in the form set out in Titles I, II and V under Article 66 below.

For Article 65 of the ECSS, if chosen

Title I (Information on the standard wage)

- A. Please summarize the rules for the calculation of the benefit and the computation of the previous earnings. Please state whether recourse is had to the provisions of paragraph 3 of Article 65 and, if so, please indicate the maximum amount prescribed for the benefit or for the earnings taken into account for the computation of the benefit.
- B. Please state to which of the provisions of paragraph 6 of Article 65 you have recourse for selecting the skilled manual male employee to whose wage paragraph 3 of Article 65 refers.

Please specify more particularly:

- a. if recourse is had to subparagraph (b) of paragraph 6:
 - i. how the division and the major group of economic activity to which the typical skilled employee belongs are determined with reference to paragraph 7; and
 - ii. how the typical skilled employee in the major group is chosen; or
 - b. if recourse is had to subparagraph (c) of paragraph 6, how the earnings of all persons protected are computed; or
 - c. if recourse is had to subparagraph (d) of paragraph 6, how the average earnings of all the persons protected are computed.
- C. Please indicate, in any event, the time basis on which the wage of the typical skilled employee is calculated, with reference to the provisions of paragraph 9 of Article 65. Please confirm that, in accordance with the provisions of paragraph 4 of that Article, the same time basis is used for calculating the benefit and the family allowances.
Please indicate the amount of the wage of the skilled manual male employee selected as shown under B (standard wage).

Title II (Information on the replacement rate of benefit)

The standard beneficiary for whom the following information should be given is a man with a wife and two children where the previous earnings serving for the calculation of the benefit are equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- E. Amount of family allowances, if any, payable during employment for a period equal to the time basis.
- F. Amount of family allowances, if any, payable during the contingency for a period equal to the time basis.
- G. Sum of benefit and family allowances payable during the contingency (D+F) per cent of sum of the standard wage and family allowances payable during employment (C+E).

Title V (replacement rate for a woman employee)

The beneficiary for whom the following information should be given is a woman employee whose previous earnings serving for the calculation of benefit were equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- G. Amount of benefit (D) per cent of the standard wage (C).

There is no difference in the amount and calculation method between **temporary and permanent** reduction in earning capacity. Therefore see the answer to VI-9.

VI - 10 (b). Partial loss of earning capacity

§2. Article 36. ECSS

In case of partial loss of earning capacity likely to be permanent, or corresponding loss of faculty, the benefit, where payable, shall be a periodical payment representing a suitable proportion of that specified for total loss of earning capacity or corresponding loss of faculty.

§3. Article 14. C121

In case of substantial partial loss of earning capacity likely to be permanent which is in excess of a prescribed degree, or corresponding loss of faculty, the benefit shall be a periodical payment representing a suitable proportion of that provided for in paragraph 2 of this Article.

Report form for the ECSS:

Please indicate what proportion of the benefit in respect of total loss of earning capacity is granted in case of partial loss of earning capacity likely to be permanent, or corresponding loss of faculty.

There is no difference in the amount and calculation method between **temporary and permanent** reduction in earning capacity. Therefore see the answer to VI-9.

VI - 11. Death of the breadwinner: periodical payment

§1. Article 36. ECSS

In respect of incapacity for work, total loss of earning capacity likely to be permanent or corresponding loss of faculty, or the death of the breadwinner, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.

§1. Article 18. C121

The cash benefit in respect of death of the breadwinner shall be a periodical payment to a widow as prescribed, a disabled and dependent widower, dependent children of the deceased and other persons as may be prescribed; this payment shall be calculated in such a manner as to comply either with the requirements of Article 19 or with the requirement of Article 20: Provided that it shall not be necessary to make provision for a benefit to a disabled and dependent widower where the cash benefits to other survivors are appreciably in excess of those required by this Convention and where social security schemes other than employment injury schemes provide to such widower benefits which are appreciably in excess of those in respect of invalidity required under the Social Security (Minimum Standards) Convention, 1952.

Article 1. C121

(e) the term dependent refers to a state of dependency which is presumed to exist in prescribed cases;

(f) the term wife means a wife who is dependent on her husband;

(g) the term child covers:

(i) a child under school-leaving age or under 15 years of age, whichever is the higher: Provided that a Member which has made a declaration under Article 2 may, while such declaration is in force, apply the Convention as if the term covered a child under school-leaving age or under 15 years of age; and

(ii) a child under a prescribed age higher than that specified in clause (i) of this subparagraph and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, under prescribed conditions: Provided that this requirement shall be deemed to be met where national legislation defines the term so as to cover any child under an age appreciably higher than that specified in clause (i) of this subparagraph.

Report form for the ECSS:

1. Please state whether recourse is had, under paragraph 1 of this Article, to the provisions of Article 65 or to those of Article 66, for the calculation of the benefit.
2. Please furnish information under this Article as follows:
 - I. if recourse is had to Article 65 of the ECSS, in the form set out in Titles I, IV, and V under Article 65 below;
 - II. if recourse is had to Article 66 of the ECSS, in the form set out in Titles I, IV, and V under Article 66 below.

For Article 65 of the ECSS, if chosen

Title I (Information on the standard wage)

- A. Please summarize the rules for the calculation of the benefit and the computation of the previous earnings. Please state whether recourse is had to the provisions of paragraph 3 of Article 65 and, if so, please indicate the maximum amount prescribed for the benefit or for the earnings taken into account for the computation of the benefit.
- B. Please state to which of the provisions of paragraph 6 of Article 65 you have recourse for selecting the skilled manual male employee to whose wage paragraph 3 of Article 65 refers.

Please specify more particularly:

- a. if recourse is had to subparagraph (b) of paragraph 6:
 - i. how the division and the major group of economic activity to which the typical skilled employee belongs are determined with reference to paragraph 7; and
 - ii. how the typical skilled employee in the major group is chosen; or
 - b. if recourse is had to subparagraph (c) of paragraph 6, how the earnings of all persons protected are computed; or
 - c. if recourse is had to subparagraph (d) of paragraph 6, how the average earnings of all the persons protected are computed.
- C. Please indicate, in any event, the time basis on which the wage of the typical skilled employee is calculated, with reference to the provisions of paragraph 9 of Article 65. Please confirm that, in accordance with the provisions of paragraph 4 of that Article, the same time basis is used for calculating the benefit and the family allowances.

Please indicate the amount of the wage of the skilled manual male employee selected as shown under B (standard wage).

Title IV (Information on the replacement rate of benefit)

The standard beneficiary for whom the following information should be given, for each scheme concerned, is a widow with two children.

- C. Amount of benefit granted during the time basis.
- D. Amount of family allowances, if any, payable during employment²³ for a period equal to the time basis.
- E. Amount of family allowances, if any, payable during the contingency for a period equal to the time basis.
- F. Sum of benefit and family allowances payable during the contingency (C+ E) per cent of sum of the standard wage and family allowances payable during employment (B+D).
Please summarize the rules for the calculation of the benefit.

Title V (replacement rate for a woman employee)

The beneficiary for whom the following information should be given is a woman employee whose previous earnings serving for the calculation of benefit were equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- G. Amount of benefit (D) per cent of the standard wage (C).

If the insured person dies as a consequence of the accident at work or of the occupational disease, the spouse and the children of the insured person are entitled to a survivors' pension. The widow's or widower's pension amounts to 30 per cent of the annual earnings of a deceased person (so-called "small widow's/widower's pension"). It amounts to 40 per cent of the annual earnings (so-called "big widow's/widower's pension") if the eligible person

- has completed age 47, or
- has a reduced earning capacity within the meaning of pension insurance, or
- raises a child entitled to an orphan's pension, or
- raises a child that is entitled to an orphan's pension on account of his/her physical, mental or psychological disability.

The small widow's/widower's pension is paid for a maximum period of 24 calendar months following the month in which the spouse deceased or until the month in which he/she remarries prior to the end of the 24 calendar months. The big widow's/widower's pension is paid without time limit as long as the special eligibility criteria are fulfilled (section 65 of SGB VII).

Children of deceased persons can apply for an orphan's pension in their own right. Orphan's pensions are generally paid until age 18 and may be paid until age 27 e.g. if the orphan is enrolled in a (higher) education or vocational education institution. An orphan's pension amounts to 20 per cent of the annual earnings of the deceased person for half orphans and to 30 per cent for full orphans.

A certain amount of the own income from work or wage replacement benefits of the widow/widower is deducted from the survivor's pension. Income exceeding the current pension value (Entgeltpunkt) by a factor of 26.4 per month (section 65 (3) of SGB VII) is taken into account for this purpose. As of 1 July 2022, the deduction-free allowance has been 950.93 euros (West) and 937.73 euros (East). It is increased by 201.71 euros (West) and 198.91 euros (East) for every child of the deceased person eligible for an orphan's pension. Auf Waisenrenten wird kein Einkommen angerechnet. No income is taken into account in the calculation of orphan's pensions.

Commented [zg1]: Bitte an Sprachendienst um Übersetzung.

²³ Family allowances payable during employment to an employee with two children.

Calculation of a survivor's pension

B. The basis for the calculation is the wage of a skilled male worker pursuant to Article 65 paragraph 6 subparagraph c).

In 2022, this basic value was 125 percent of the average gross wages, i.e. $(38,901 \times 125\% =) 48,626$ euros/year: 12 = 4,052.17 euros/month (West) and $(37,333 \times 125\% =) 46,666$ euros/year: 12 = 3,888.83 euros/month (East).

C.

The monthly net wage of such a standard beneficiary (man with spouse and two children) amounts to 2,944.27 euros (West) and 2,863.95 euros (East) after deduction of social security contributions and income tax (plus church tax, tax bracket IV).

D.1 Amount of widow's pension:

40 % of 4,052.17 euros/month = 1,620.87 euros/month West

40 % of 3,888.83 euros/month = 1,555.53 euros/month East

D.2 Amount of an orphan's pension:

2 children x 20 % of 4,052.17 euros/month = 1,620.87 euros/month West

2 children x 20 % of 3,888.83 euros/month = 1,555.53 euros/month East

E. Family allowances for employees:

250 euros x 2 = 500 euros (child benefit for 2 children)

F. Family allowances for recipients of an injury pension:

250 euros x 2 = 500 euros (child benefit for 2 children)

G. Wage replacement rate:

$(D+F) : (C+E) = (1,620.87 + 1,620.87 + 500) : (2,944.27 + 500) = 3,741.74 : 3,444.27 = 108.6\%$ (West)

$(D+F) : (C+E) = (1,555.53 + 1,555.53 + 500) : (2,863.95 + 500) = 3,611.06 : 3,363.95 = 107.3\%$ (East)

In the period under review survivors' pensions have been adjusted - in accordance with the adjustment of old-age pensions. See VI-9.

Re Title V: There is no gender-based differentiation regarding entitlements.

VI - 12. Death of the breadwinner: funeral benefit

§2. Article 18. C121

In addition, a funeral benefit shall be provided at a prescribed rate which shall not be less than the normal cost of a funeral: Provided that where cash benefits to survivors are appreciably in excess of those required by this Convention the right to funeral benefit may be made subject to prescribed conditions.

- [Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#), Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (Ratification: 1972)

Article 18(2) of Convention No. 121. Funeral benefit. The Committee requests the Government to indicate how effect is given to this provision of the Convention in the national legislation and practice.

Please provide a reply to the question:

If an insured person dies as a result of an occupational accident or disease, surviving dependants receive a so-called "funeral benefit" (Section 64 SGB VII) to pay for the funeral costs. It is a lump sum of 1/7 of the reference amount applicable at the time of death. In 2022 it was 5,640 euros in the old Länder (West) and 5,400 euros in the new Länder (East).

VI - 13. Lump-sum payment

§3. Article 36. ECSS

The periodical payment may be commuted for a lump sum--

- (a) where the degree of incapacity is slight; or*
- (b) where the competent authority is satisfied that the lump sum will be properly utilised.*

§4§5. Article 14. C121

4. In case of partial loss of earning capacity likely to be permanent which is not substantial but which is in excess of the prescribed degree referred to in paragraph 1 of this Article, or corresponding loss of faculty, the cash benefit may take the form of a lump-sum payment.

5. The degrees of loss of earning capacity or corresponding loss of faculty referred to in paragraphs 1 and 3 of this Article shall be prescribed in such manner as to avoid hardship.

Article 15. C121

1. In exceptional circumstances, and with the agreement of the injured person, all or part of the periodical payment provided for in paragraphs 2 and 3 of Article 14 may be converted into a lump sum corresponding to the actuarial equivalent thereof when the competent authority has reason to believe that such lump sum will be utilised in a manner which is particularly advantageous for the injured person.

2. Where a declaration provided for in Article 2 is in force and the Member concerned considers that it lacks the necessary administrative facilities for periodical payments, the periodical payment provided for in paragraphs 2 and 3 of Article 14 may be converted into a lump sum corresponding to the actuarial equivalent thereof, as computed on the basis of available data.

§3. Article 18. C121

Where a declaration provided for in Article 2 is in force and the Member concerned considers that it lacks the necessary administrative facilities for periodical payments, the periodical payment provided for in paragraph 1 of this Article may be converted into a lump sum corresponding to the actuarial equivalent thereof, as computed on the basis of available data.

- **[Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\), Social Security \(Minimum Standards\) Convention, 1952 \(No. 102\) \(Ratification: 1958\), Employment Injury Benefits Convention, 1964 \[Schedule I amended in 1980\] \(No. 121\) \(Ratification: 1972\)](#)**

Article 35(3) of Convention No. 102 and Articles 14(4) and (5) and 15 of Convention No. 121. Lump-sum payment. The Committee requests the Government to provide information on the conditions under which the employment injury benefits could be converted into lump-sum payment.

Please provide a reply to the question:

If, given the particular circumstances of an individual case, it is expected that only a pension constituting temporary compensation is to be paid, insured persons can receive a lump-sum settlement consisting of the total probable amount of the pension payable.

Further lump-sum settlement options depend on the extent to which the insured person's capacity to work is impaired due to the consequences of the insured event. Insured persons whose incapacity to work is below 40% can apply for a once-and-for-all settlement amounting to the

capital value of the pension. Insured persons with a reduced capacity to work of 40% or above can have a lump-sum paid to them covering ten years at most and amounting to up to half their pension.

A one-off grant amounting to 40% of the deceased person's annual income is paid where there is no entitlement to a survivor's pension because the death did not result from an insured event and at the time of death the deceased person was entitled to (i) a pension because his/her incapacity to work was 50% or more or to (ii) several pensions of at least 50%.

Upon his/her first re-marriage a widow(er) receives a lump sum settlement amounting to 24 times the average amount he/she received in widow(er)'s pension over the last 12 months prior to cessation of the pension due to re-marriage.

Report form for the ECSS:

Please state whether recourse is had to paragraph 3 of Article 36 and, if so, please specify:

- (a) the maximum degree of incapacity in respect of which periodical payments may be commuted for a lump sum; or
- (b) what measures are taken to allow the competent authority to satisfy itself that the lump sum will be properly utilized by the beneficiary.

Article 36 paragraph 3 (or Article 15 of Convention 121) has been availed. During the period under review the legal prerequisites providing for a lump sum payment of an injury pension have not been amended essentially.

Since the lump sum settlement amount is not earmarked, no monitoring measures are required with regard to its use after approval.

Please also see the above-mentioned answer to the question formulated.

Conclusions 2022:

"The Committee requests the Government to take the necessary measures to ensure the continuous application of Article 36(3) of the Code, by requiring the competent authorities to proceed to an assessment of the beneficiaries' financial situation prior to authorizing the conversion of a periodical payment into a lump-sum."

Germany:

Existing national law already takes account of the request. Full lump-sum payments are only possible, if persons suffer a less than 40 percent loss of their earning capacity. If the loss in earning capacity is higher, the law only allows a partial lump-sum payment of the pension amount, which can also only be made for a limited period. This guarantees that the insured persons continue to receive periodic pension benefits in these cases. In addition, the pay-out of a lump-sum is at the discretion of the accident insurance fund. It takes into account all the personal circumstances of the insured persons, especially their financial situation. This policy aims to avoid a need for assistance of the insured persons that would otherwise lead to other state benefits.

VI -- 14. Adjustment of benefit

§10 Article 65. ECSS

The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

Article 21. C121

1. *The rates of cash benefits currently payable pursuant to paragraphs 2 and 3 of Article 14 and paragraph 1 of Article 18 shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.*
2. *Each Member shall include the findings of such reviews in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation, and shall specify any action taken.*

Report Form for the ECSS (Title VI):

1. Please state the methods adopted for giving effect, where necessary, to the provisions of paragraph 10 of Article 65 of the ECSS.

The regulations on the adjustment of cash benefits did not change during the reporting period. Cash benefits are adjusted according to the percentage by which pensions of the statutory pension insurance scheme change. The increase is based on the general development of wages. For details, please refer to Table VI-9.

2. Please provide for the following information:

See answer to item 1) in each case.

Period under review	Cost-of-living index	Index of earnings ²⁴
A. Beginning of period ²⁵
B. End of period ²⁶
C. Percentage $\frac{A}{B}$

3. Please state whether the amount of the periodical payments **for loss of earning capacity likely to be permanent** has been reviewed during the period of reference. If so, please indicate the changes made in the level of benefits and furnish the following information:

Period under review ²⁷	Benefit		
	Average per Beneficiary ²⁸	Benefit for Standard Beneficiary	Other estimates of benefits level
A. Beginning of period			
B. End of period.....			
C. Percentage $\frac{A}{B}$			

²⁴ The index of earnings should correspond to the classes of employees or economically active persons shown under the Article dealing with persons protected (Article 27, 33 or 61). If no index of earnings is available, the index of money wages may be substituted.

²⁵ The indices at the beginning and end of each period should refer to the same base.

²⁶ The indices at the beginning and end of each period should refer to the same base.

²⁷ This period should, as far as possible, coincide with the period referred to in the table under para.2

²⁸ Please give such data in columns I, II, and III as will show the percentage variation of the benefit.

4. Please state whether the amount of the periodical payments **in case of the death of a breadwinner** has been reviewed during the period of reference. If so, please indicate the changes made in the level of benefits and furnish the following information:

Period under review ²⁹	Benefit		
	Average per Beneficiary ³⁰	Benefit for Standard Beneficiary	Other estimates of benefits level
A. Beginning of period			
B. End of period.....			
C. Percentage $\frac{A}{B}$			

VI - 15. Increments and reassessment of payments

Article 16. C121

Increments in periodical payments or other supplementary or special benefits, as prescribed, shall be provided for disabled persons requiring the constant help or attendance of another person.

Article 17. C121

The conditions in which periodical payments due in respect of loss of earning capacity or corresponding loss of faculty shall be reassessed, suspended or cancelled by reference to a change in the degree of loss shall be prescribed.

- [Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#), **Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (Ratification: 1972)**

Article 16 of Convention No. 121. Increments and reassessment of payments. The Committee requests the Government to indicate what increments or complementary benefits are provided for persons with disabilities requiring the constant help or attendance of another person.

Please provide a reply to the question:

In addition to the benefits already described, insured persons may also receive supplementary benefits (e.g. motor vehicle assistance) or special assistance to compensate for particular hardship (e.g. top-up benefits, loans) (Section 39 SGB VII).

There were no significant changes in social participation benefits during the reporting period.

VI - 16. Duration of benefit

Article 38. ECSS

The benefit specified in Articles 34 and 36 shall be granted throughout the contingency, except that, in respect of incapacity for work, the benefit need not be paid for the first three days in each case of suspension of earnings.

§3. Article 9. C121

The benefits shall be granted throughout the contingency: Provided that in respect of incapacity for work the cash benefit need not be paid for the first three days:

²⁹ This period should, as far as possible, coincide with the period referred to in the table under para.2

³⁰ Please give such data in columns I, II, and III as will show the percentage variation of the benefit.

(a) where the legislation of a Member provides for a waiting period at the date on which this Convention comes into force, on condition that the Member includes in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation a statement that its reason for availing itself of this provision subsists; or
(b) where a declaration provided for in Article 2 is in force.

Report form for the ECSS:

1. Please confirm that, in accordance with the provisions of this Article, the benefits stipulated in Articles 34 and 36 above are granted throughout the contingency.
2. Please state whether a waiting period is provided for in case of incapacity for work and, if so, indicate the length of such period.

Medical benefits and injury pensions are granted throughout the duration of the insured event. In the event of incapacity for work resulting from an accident at work or from an occupational disease, an injury benefit (Verletztengeld) is granted without any qualifying period.

VI - 17. Qualifying conditions

§2. Article 9. C121

Eligibility for benefits may not be made subject to the length of employment, to the duration of insurance or to the payment of contributions: Provided that a period of exposure may be prescribed for occupational diseases.

Article 37. ECSS

The benefit specified in Articles 34 and 36 shall, in a contingency covered, be secured at least to a person protected who was employed on the territory of the Member (Contracting Party) concerned at the time of the accident if the injury is due to accident or at the time of contracting the disease if the injury is due to a disease and, for periodical payments in respect of death of the breadwinner, to the widow and children of such person.

Report form for the ECSS:

Please state whether, in accordance with the provisions of this Article:

- (a) all employees protected who were employed in the territory at the time of the accident or at the time of contracting the disease are entitled to the benefits stipulated in Articles 34 and 36;
- (b) the widow and children of an employee who was employed in the territory at the time of the accident or at the time of contracting the disease are entitled to the periodical payments stipulated in Article 36 without any conditions as to residence.

Employees who have had an accident at work or suffer from an occupational disease as a consequence of being employed in the territory of the Federal Republic of Germany are entitled to the benefits set forth in Articles 34 and 36. Moreover, accidents at work and occupational diseases which occur outside the above areas are also compensated if the eligibility criteria of Article 5 of the Act on Foreign Pensions (Fremdrentengesetz) are complied with. Survivors' rights are comprehensively listed in Article 36 (see comments under VI-11).

VI - 18. Suspension of benefit

Article 68. ECSS

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;
- (b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;

- (c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;
- (d) where the person concerned has made a fraudulent claim;
- (e) where the contingency has been caused by a criminal offence committed by the person concerned;
- (f) where the contingency has been caused by the wilful misconduct of the person concerned;

Article 22. C121

1. A benefit to which a person protected would otherwise be entitled in compliance with this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;
- (b) as long as the person concerned is maintained at public expense or at the expense of a social security institution or service;
- (c) where the person concerned has made a fraudulent claim;
- (d) where the employment injury has been caused by a criminal offence committed by the person concerned;
- (e) where the employment injury has been caused by voluntary intoxication or by the serious and wilful misconduct of the person concerned;
- (f) where the person concerned, without good cause, neglects to make use of the medical care and allied benefits or the rehabilitation services placed at his disposal, or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries; and
- (g) as long as the surviving spouse is living with another person as spouse.

2. In the cases and within the limits prescribed, part of the cash benefit otherwise due shall be paid to the dependants of the person concerned.

Report form for the ECSS:

Please indicate the provisions, if any, for the suspension of medical care benefits and cash benefits in case of employment injury.

*In the event of an employment injury or disease, insured persons receive extensive benefits, as already described, if the relevant conditions are met. **There are no grounds for suspension.***

VI - 19. Right of complaint and appeal

See under Part XIII-2.

Article 23. C121

1. Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity.

2. Where in the application of this Convention a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

3. Where a claim is settled by a special tribunal established to deal with employment injury benefit questions or with social security questions in general and on which the persons protected are represented, no right of appeal shall be required.

Report form for the ECSS:

Please state whether every claimant has a right of appeal in case of refusal of the employment injury benefit or complaint as to its quality or quantity, as stipulated in paragraph 1 of this Article. Please summarize the rules which apply in the case of an appeal.

If the accident insurance institution refuses benefits, the persons concerned can lodge an appeal against the refusal. If this is rejected, there is the possibility of legal action before the social courts.

VI - 20. Financing and Administration

See under Part XIII-3.

Article 24. C121

1. Where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to a legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions; national legislation may likewise decide as to the participation of representatives of employers and of the public authorities.

2. The Member shall accept general responsibility for the proper administration of the institutions or services concerned in the application of this Convention.

Article 25. C121

Each Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose.

- [Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#), **Social Security (Minimum Standards) Convention, 1952 (No. 102) (Ratification: 1958), Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (Ratification: 1972)**

Article 72 of Convention No. 102 and Article 24 of Convention No. 121. Administration of the scheme. The Committee requests the Government to provide further information on how the employment injury insurance scheme is managed and whether the persons protected participate in its administration.

Please provide a reply to the question:

The accident insurance institutions are self-governing bodies under public law. In these self-governing bodies employees and employers have equal representation.

Part VII. Family Benefit

Germany has accepted the obligations resulting from Part VII of C102 and Part VII of the ECSS, as amended by its Protocol.

Category	Relevant Articles	Questions raised by the CEACR
VII-1. Regulatory framework	<i>Art.39 C102/ECSS</i>	
VII-2. Contingency covered	<i>Art.40 C102/ECSS</i>	
VII-3. Persons protected	<i>Art.41 C102/ECSS</i>	
VII-4. Types of benefits	<i>Art.42 C102/ECSS</i>	
VII-5. Qualifying period	<i>Art.43 C102/ECSS</i>	
VII-6. Calculation of benefit	<i>Art.44 C102/ECSS</i>	
VII-7. Duration of benefit	<i>Art.45 C102/ECSS</i>	
VII-8. Suspension of benefit	<i>Art.69 C102, Art.68 ECSS</i>	
VII-9. Right of appeal	<i>Art.70 C102, Art.69 ECSS</i>	
VII-10. Financing and Administration	<i>Art.71,72 C102 Art.70,71 ECSS</i>	

List of applicable legislation

VII - 1. Regulatory framework

Article 39. C102 and ECSS

Each Member (Contracting Party) for which this Part of this Convention (Code) is in force shall secure to the persons protected the provision of family benefit in accordance with the following Articles of this Part.

VII - 2. Contingency covered

Article 40. C102 and ECSS

The contingency covered shall be responsibility for the maintenance of children as prescribed.

§1(e) Article 1. C102, §h Article 1. ECSS

the term "child" means a child under school leaving age or under 15 years of age, as may be prescribed.

Protocol to the ECSS

Article 1, paragraph 1, sub-paragraph h, shall read:

The term "child" means:

- (i) a child under 16 years of age; or*
- (ii) a child under school-leaving age or under 15 years of age, as may be prescribed, provided that in the case of a child continuing its education, apprenticed or invalid, it shall mean a child under 18 years of age;*

Report form for the ECSS:

Please indicate briefly the conditions of eligibility for the benefits provided for in Article 42 to the persons protected (number of children, age limit of children, etc.).

According to section 1 of the Parental Allowance and Parental Leave Act (Gesetz zum Elterngeld und zur Elternzeit (BEEG) the following prerequisites have to be complied with to be entitled to parental allowance:

- *the parent has his/her abode or ordinary residence in Germany,*
- *the parent lives in a joint household with his/her child,*
- *he/she looks after and brings up this child himself/herself, and*
- *is not in employment or works only part-time.*

VII - 3. Persons protected

Article 41. C102 and ECSS, as amended by its Protocol

The persons protected shall comprise, [in so far as periodical payments are concerned - Protocol]:

(a) prescribed classes of employees, constituting not less than 50 per cent [80 per cent - Protocol] of all employees; or

(b) prescribed classes of the economically active population, constituting not less than 20 per cent [30 per cent - Protocol] of all residents.

[(c) all residents whose means during the contingency do not exceed prescribed limits – C102].

Report form for the ECSS:

Please state to which of the subparagraphs of Article 41 of the ECSS recourse is had and provide for statistical data depending on the chosen subparagraph:

Title I under Article 76 for Article 41(a) of the ECSS

- A. Number of employees protected³¹:
- i) under general scheme ...
 - ii) under special schemes (if any) ...
 - iii) **Total ...**
- B. Total number of employees³² ...
- C. Number of employees protected (A(iii)) per cent of total number of employees (B). Please state how these data are computed and give dates of reference.

Title II under Article 76 for Article 41(b) of the ECSS

- A. Number of economically active persons protected³³:
- i) under general scheme ...
 - ii) under special schemes (if any) ...
 - iii) **Total ...**
- B. Total number of residents³⁴...
- C. Number of economically active persons protected (A(iii)) per cent of total number of residents (B). Please state how these data are computed and give dates of reference.

Parental allowance is a benefit to support parents who want to look after their children themselves for a certain time after their birth and can thus not engage in employment or can only work part-time. To this end, parental allowance compensates for the missing earned income of the parent looking after the child through a replacement benefit.

Parents who were not employed before the birth of their child may also draw parental allowance.

All parents living in Germany are entitled to parental allowance, if they fulfil the prerequisites under section 1 of the Federal Allowance and Parental Leave Act. Not only Germans, but also nationals of EU Member States, and of Iceland, Liechtenstein, Norway and Switzerland are entitled to parental allowance if they are employed in Germany or live in Germany.

³¹ Dependants who are protected in their breadwinner's right should not be included in this number.

³² This number should comprise all employees, including civil servants and, for Parts II, III, V, VII, VIII, IX, and X, also unemployed persons.

³³ Dependants who are protected in their breadwinner's right should not be included in this number.

³⁴ This number should comprise all residents, including children and old people.

Foreign nationals who are not entitled to free movement are entitled to parental allowance if they have a settlement or residence permit allowing them to engage in employment. After residence in Germany of three years, parents may obtain parental allowance if they have a residence permit for reasons of hardship, temporary protection, suspension of deportation or because of the existence of obstacles to departure.

Parents who are only temporarily employed abroad are also entitled to parental allowance if they fulfil the prerequisites in section 1 (2) of the BEEG.

Apart from the biological parents and the adoptive parents, up to third degree relatives may also obtain parental allowance, e.g. grandparents or siblings.

Parents with a combined income of more than 300,000 euros per year before taxes (single parents of more than 250,000 euros) in the year before their child is born are not entitled to parental allowance.

In 2022 a total of 1,846,187 persons obtained parental allowance.

VII - 4. Types of benefit

Article 42. C102 and ECSS

The benefit shall be:

- (a) a periodical payment granted to any person protected having completed the prescribed qualifying period; or*
- (b) the provision to or in respect of children of food, clothing, housing, holidays or domestic help; or*
- (c) a combination of (a) and (b).*

Report form for the ECSS:

Please state to which of the subparagraphs of this Article recourse is had.

If recourse is had to subparagraph (a) or (c) please state the amount of the periodical payment made in respect of each dependent child.

If recourse is had to subparagraph (b) or (c) please specify the nature of the benefits in kind provided and the methods of providing them.

The amount of parental allowance is determined on the basis of the net income of the caring parent before the birth of the child. The parental allowance replaces pre-birth income at the following rates: for incomes between 1,000 and 1,200 euros per month the replacement rate is 67 per cent, for a pre-birth income of 1,220 euros or more the rate is 66 per cent, and with a pre-birth income of 1,240 euros or more the replacement rate is 65 per cent. The maximum payable amount is 1,800 euros. If the parent's pre-birth income was lower than 1,000 euros, the replacement rate gradually increases to up to 100 per cent. The parental allowance ranges from 300 euros to 1,800 euros.

Even without prior employment, parents may obtain the minimum amount of 300 euros.

Families with several young children obtain a sibling bonus or a multiple birth supplement.

VII - 5. Qualifying period

§1(f) Article 1, C102, §1(i) Article 1, ECSS

The term qualifying period means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed.

Article 43. C102, Article 43 ECSS

The benefit specified in Article 42 shall be secured at least to a person protected who, within a prescribed period, has completed a qualifying period which may be three months [one month - ECSS] of contribution or employment, or one year [six months of residence - ECSS], as may be prescribed.

Report form for the ECSS:

Please state, for each scheme concerned, the nature and the duration of the qualifying period, if any, for title to the benefits provided in accordance with the provisions of this Article. Please summarize the rules for the computation of the qualifying period.

The entitlement to parental allowance does not require the completion of a qualifying period.

VII - 6. Level and calculation of benefit

Article 44. ECSS, as amended by its Protocol

The total value of the benefits granted in accordance with Article 42 shall be such as to represent 2 per cent of the wage of an ordinary adult male labourer as determined in accordance with the rules laid down in Article 66 multiplied by the total number of children of all residents.

Article 44. C102

The total value of the benefits granted in accordance with Article 42 to the persons protected shall be such as to represent:

- (a) 3 per cent. of the wage of an ordinary adult male labourer, as determined in accordance with the rules laid down in Article 66, multiplied by the total number of children of persons protected; or*
- (b) 1.5 per cent. of the said wage, multiplied by the total number of children of all residents.*

Report form for the ECSS:

- A. Please furnish information on the **standard wage** under Title I under Article 66 below:

Title I under Article 66

A.1. Please state to which of the provisions of paragraph 4 and following of Article 66 recourse is had for selection of the ordinary adult male labourer to whose wage paragraph 1 of Article 66 refers.

1. Please specify, more particularly, whether recourse is had to subparagraph (b) of paragraph 4; if so, please state:
 - a. how the division and the major group of economic activity to which the ordinary labourer belongs are determined, with reference to paragraph 5; and
 - b. how the typical ordinary labourer in the major group is chosen.
2. Please indicate, in any event, the time basis on which the wage of the ordinary adult labourer is calculated, with reference to the provisions of paragraph 7 of Article 66. Please confirm that, in accordance with the provisions of paragraph 2 of that Article, the same time basis is used for calculating the benefit and the family allowances.

A.2. Please state the amount of the wage of the ordinary adult labourer selected (standard wage).

- B. Please also furnish the following information on the **total value of family benefits**:

- B.1. total amount of cash benefits granted in respect of children of the persons protected, as shown under Article 41 above,
- B.2. total value of benefits in kind granted in respect of children of the persons protected 1, as shown under Article 41 above,
- B.3. total value of benefits in cash and in kind granted in respect of children of the persons protected (B1+B.2).

- C. Please furnish:

- (i) the total number of children of all residents;
- (ii) the total value of benefits in cash and in kind (B.3) per cent of the wage of the ordinary adult male labourer (A.2) multiplied by the total number of children of all residents (C.i).

Parental Allowance:

In 2022, parental allowance expenditure amounted to some 7.6 billion euros.

Parents can obtain basic parental allowance from the birth of their child until the child is 14 months old, or they may obtain Parental Allowance Plus (ElterngeldPlus) beyond this date. Parental allowance is paid on the basis of live months of the child (not calendar months). The parents can decide by themselves who would like to stay at home and for how long. The basic parental allowance can be drawn for a period of up to 14 months. Every parent can draw the benefit for at least two and no more than twelve months.

Parents can apply for Parental Allowance Plus in addition to basic parental allowance. Parental Allowance Plus is intended in particular for parents who want to work part-time while drawing parental allowance. Parental Allowance Plus is calculated in the same way as basic parental allowance, but amounts to a maximum of half the amount of parental allowance for which parents without part-time income would be eligible. But on the other hand, it will be paid for twice the period of time: one basic parental allowance month = two Parental Allowance Plus months. Basic parental allowance and Parental Allowance Plus can be freely combined.

If both parents work between 24 and 32 hours a week in the same two, three or four subsequent months, each of them will receive two, three or four additional monthly rates of Parental Allowance Plus (partnership bonus) during these months.

Single parents can also apply for these partnership bonus months and may also use the partner months, provided they fulfil the necessary eligibility criteria.

Furthermore, there is an increase in parental benefit months for children who were born prematurely. Up to four additional months of basic parental allowance are possible, depending on the date of birth. Parents can claim one additional month of basic parental allowance in the case of a birth at least six weeks before the expected date. If the date of birth is eight weeks before the expected date, parents can claim two additional months of basic parental allowance. In the case of birth at least twelve weeks before the expected date, parents have an entitlement to three additional months of basic parental allowance. If the child is born at least 16 weeks before the expected date, the parents can claim four additional month of basic parental allowance.

Child Benefit:

In the relevant reporting period up to December 2022 the monthly child benefit was 219 euros for first and second children, for third children 225 euros and for the fourth and each additional child 250 euros. With effect from 01 January 2023, the monthly child benefit has increased to 250 euros for every child.

To cushion the burdens due to rising energy prices, families received a one-off child benefit bonus of 100 euros for each child entitled to child benefit in 2022.

Child Supplement:

From 01 January 2022, the monthly child supplement was 209 euros and with effect from 01 January 2023 the monthly child supplement has increased to up to 250 euros per child. Apart from the increase, reference is made to the previous report.

VII - 7. Duration of benefit

Article 45. C102 and ECSS

Where the benefit consists of a periodical payment, it shall be granted throughout the contingency.

Please, indicate the duration of family benefits.

See above.

VII - 8. Suspension of benefit

Article 69. C102, Article 68. ECSS

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;*
- (b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;*
- (c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;*
- (d) where the person concerned has made a fraudulent claim;*
- (e) where the contingency has been caused by a criminal offence committed by the person concerned;*
- (f) where the contingency has been caused by the wilful misconduct of the person concerned;*

Report form for the ECSS:

Please indicate the provisions, if any, for the suspension of family benefits.

See above.

VII - 9. Right of complaint and appeal

Article 70. C102, Article 69. ECSS

- 1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.*
- 3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.*

Report form for the ECSS:

Please state whether every claimant has a right of appeal in case of refusal of family benefits or complaint as to its quality or quantity, as stipulated in paragraph 1 of this Article. Please summarize the rules which apply in the case of an appeal.

If a person does not agree with a decision of respective authority regarding the entitlement (quantity and quality) to family benefits, they can file an objection. Following the objection procedure, they can bring a lawsuit before the competent social court.

VII - 10. Financing and Administration

See under Part XIII-3.

Part VIII. Maternity Benefit

Germany has accepted the obligations resulting from **C003**,³⁵ Part VIII of C102 and Part VIII of the ECSS, as amended by its Protocol.

Category	Relevant Articles	Questions raised by the CEACR
VIII-1. Regulatory framework	Art.46 C102/ECSS	
VIII-2. Contingency covered	Art.47 C102/ECSS	
VIII-3. Persons protected	Art. 48 C102/ECSS	
VIII-4. Medical care	Art.49 C102/ECSS	
VIII-5. Calculation of benefit	Art.50 C102/ECSS	
VIII-6. Qualifying period	Art.51 C102/ECSS	
VIII-7. Minimum duration of benefit	Art.52 C102/ECSS	
VIII-8. Suspension of benefit	Art.69 C102, Art.68 ECSS	
VIII-9. Right of appeal	Art.70 C102, Art.69 ECSS	
VIII-10. Financing and Administration	Art.71,72 C102 Art.70,71 ECSS	

List of applicable legislation

Gesetz zum Schutz von Müttern bei der Arbeit, in der Ausbildung und im Studium (Mutterschutzgesetz – MuSchG) vom 23. Mai 2017 (BGBl. I S. 1228), das durch Artikel 57 Absatz 8 des Gesetzes vom 12. Dezember 2019 (BGBl. I S. 2652) geändert worden ist.

VIII - 1. Regulatory framework

Article 46. C102 and ECSS

Each Member (Contracting Party) for which this Part of this Convention (Code) is in force shall secure to the persons protected the provision of maternity benefit in accordance with the following Articles of this Part.

VIII - 2. Contingency covered

Article 47. C102 and ECSS

The contingencies covered shall include pregnancy and confinement and their consequences, and suspension of earnings, as defined by national laws or regulations resulting therefrom.

VIII - 3. Persons protected

Article 48. C102 and ECSS, as amended by its Protocol

The persons protected shall comprise:

(a) all women in prescribed classes of employees, which classes constitute not less than 50 per cent [80 per cent - Protocol] of all employees, and, for maternity medical benefit, also the wives of men in these classes; or

³⁵ Not reflected in Part VIII of the Consolidated report template. Please indicate any changes in law and in practice affecting its application, if any (please see the [report form for C003](#)).

(b) all women in prescribed classes of the economically active population, which classes constitute not less than 20 per cent [30 per cent - Protocol] of all residents, and, for maternity medical benefit, also the wives of men in these classes.

Report form for the ECSS:

1. Please state to which of the subparagraphs of Article 48 of the ECSS recourse is had and provide for statistical data depending on the chosen subparagraph:

Title I under Article 76 for Article 48(a) of the ECSS

- A. Number of employees protected³⁶:
 - i) under general scheme ...
 - ii) under special schemes (if any) ...
 - iii) Total ...
- B. Total number of employees³⁷ ...
- C. Number of employees protected (A(iii)) per cent of total number of employees (B). Please state how these data are computed and give dates of reference.

According to Sections 24c to 24i of SGB V, all women insured in the statutory health insurance are entitled to pregnancy and maternity benefits as set forth in Articles 49 and 50.

Title II under Article 76 for Article 48(b) of the ECSS

- A. Number of economically active persons protected³⁸:
 - i) under general scheme ...
 - ii) under special schemes (if any) ...
 - iii) Total ...
- B. Total number of residents³⁹...
- C. Number of economically active persons protected (A(iii)) per cent of total number of residents (B). Please state how these data are computed and give dates of reference.

According to Sections 24c to 24i of SGB V, all women insured in the statutory health insurance are entitled to pregnancy and maternity benefits as set forth in Articles 49 and 50.

VIII - 4. Medical care

Article 49. C102 and ECSS, as amended by its Protocol

1. In respect of pregnancy and confinement and their consequences, the maternity medical benefit shall be medical care as specified in paragraphs 2 and 3 of this Article.

2. The medical care shall include at least:

(a) pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and
(b) hospitalisation where necessary; and

[(c) pharmaceutical supplies; the patient or her breadwinner may be required to share in the cost of the pharmaceutical supplies the beneficiary receives. The rules concerning such cost-sharing shall be so designed as to avoid hardship, and the part of the cost paid by the beneficiary or breadwinner shall not exceed 25 per cent on the average. Where cost-sharing takes the form of a fixed sum in respect of each prescription, the total of such payments made by all persons protected shall not exceed 25 per cent of the total cost within a given period - Protocol]

³⁶ Dependants who are protected in their breadwinner's right should not be included in this number.

³⁷ This number should comprise all employees, including civil servants and, for Parts II, III, V, VII, VIII, IX, and X, also unemployed persons.

³⁸ Dependants who are protected in their breadwinner's right should not be included in this number.

³⁹ This number should comprise all residents, including children and old people.

3. *The medical care specified in paragraph 2 of this Article shall be afforded with a view to maintaining, restoring or improving the health of the woman protected and her ability to work and to attend to her personal needs.*

4. *The institutions or Government departments administering the maternity medical benefit shall, by such means as may be deemed appropriate, encourage the women protected to avail themselves of the general health services placed at their disposal by the public authorities or by other bodies recognised by the public authorities.*

Report form for the ECSS:

1. Please indicate in detail the nature of the benefits provided, with reference to paragraph 2 of this Article, specifying more particularly the services provided in case of hospitalization.
2. Please confirm that, in accordance with the provisions of this Article, the beneficiary or her breadwinner is not required to share in the cost of the medical benefits provided. If the scheme provides for the reimbursement of the expenses which the beneficiary or the breadwinner was obliged to incur in order to obtain the benefits stipulated in paragraph 2, please furnish all available information to show that the beneficiary or breadwinner does not share in the cost of such benefits.
3. If the patient or her breadwinner is required to share in the cost of the pharmaceutical supplies, please state what measures are taken to ensure that cost sharing does not involve hardship. Please indicate the extent to which the patient or the breadwinner is required to share in the cost.
4. If the scheme provides for the cost sharing in the form of a uniformed sum in respect of each prescription, please indicate within a given period the total of such payments made by all persons protected per cent of the total cost.
5. Please indicate in detail what measures are taken to give effect to the provisions of paragraphs 3 and 4 of this Article.

No changes compared to the 45th report:

Pregnancy and maternity benefits provided for under sections 24d to 24h of SGB V comprise

- *medical care and midwife assistance,*
- *supply of medicines, bandages, therapeutic remedies and aids; assistance in connection with pregnancy-related problems and in connection with the delivery of the baby (no co-payment required)*
- *outpatient or inpatient delivery*
- *provision of care at home if a person living in the same household cannot provide this care to the extent necessary,*
- *home help if the insured woman is not able to perform domestic tasks during pregnancy or after delivery, and another person living in the same household cannot run the household.*

The health insurance funds can offer their insurees additional benefits and services provided by midwives during pregnancy and maternity (section 24d of SGB V) according to their statutes (section 11, paragraph 6 of SGB V).

In the event of pregnancy-related problems and in connection with giving birth the co-payment rules according to section 24e sentence 2 of Book V of the Social Code regarding the provision with medicines, dressings as well as therapeutic remedies and aids do not apply so that pregnant women are exempt from the co-payment rules.

VIII - 5. Level and calculation of benefit

Article 50. C102 and ECSS

In respect of suspension of earnings resulting from pregnancy and from confinement and their consequences, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66. The amount of the periodical payment may vary in the course of the contingency, subject to the average rate thereof complying with these requirements.

Report form for the ECSS:

1. Please state whether recourse is had, under paragraph 1 of this Article, to the provisions of Article 65 or to those of Article 66, for the calculation of the benefit.
2. Please furnish information under this Article as follows:
 - I. if recourse is had to Article 65 of ECSS, in the form set out in Titles I and V under Article 65 below;
 - II. if recourse is had to Article 66 of ECSS, in the form set out in Titles I and V under Article 66 below.

For Article 65 of the ECSS, if chosen

Title I (Information on the standard wage)

- A. Please summarize the rules for the calculation of the benefit and the computation of the previous earnings. Please state whether recourse is had to the provisions of paragraph 3 of Article 65 and, if so, please indicate the maximum amount prescribed for the benefit or for the earnings taken into account for the computation of the benefit.
- B. Please state to which of the provisions of paragraph 6 of Article 65 you have recourse for selecting the skilled manual male employee to whose wage paragraph 3 of Article 65 refers.

Please specify more particularly:

- a. if recourse is had to subparagraph (b) of paragraph 6:
 - i. how the division and the major group of economic activity to which the typical skilled employee belongs are determined with reference to paragraph 7; and
 - ii. how the typical skilled employee in the major group is chosen; or
 - b. if recourse is had to subparagraph (c) of paragraph 6, how the earnings of all persons protected are computed; or
 - c. if recourse is had to subparagraph (d) of paragraph 6, how the average earnings of all the persons protected are computed.
- C. Please indicate, in any event, the time basis on which the wage of the typical skilled employee is calculated, with reference to the provisions of paragraph 9 of Article 65. Please confirm that, in accordance with the provisions of paragraph 4 of that Article, the same time basis is used for calculating the benefit and the family allowances.
Please indicate the amount of the wage of the skilled manual male employee selected as shown under B (standard wage).

Title V (replacement rate for a woman employee)

The beneficiary for whom the following information should be given is a woman employee whose previous earnings serving for the calculation of benefit were equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.⁴⁰
- G. Amount of benefit (D) per cent of the standard wage (C).

No essential changes compared to the 45th Report (adjustments marked in bold letters):

⁴⁰ For maternity benefit (Article 50) the amount of which varies in the course of the contingency, the amount should be the average amount. Please indicate, in this event, the amount of the benefit-

- i. during the first week;
- ii. during the following 11 weeks; and
- iii. during any subsequent period.

According to section 24i of SGB V, insured persons, who are entitled to sickness benefit in the case of incapacity for work, or who, because of the maternity protection periods set forth in **section 3** of the Maternity Protection Act, are not paid any remuneration, receive maternity benefit amounting to the average income from work per calendar day over the previous 3 calendar months less the statutory deductions, but not exceeding a maximum of 13 euros per calendar day.

If the income from work exceeds a maximum of 13 euros per calendar day, the excess amount (maternity benefit supplement) will either be paid by the employer or by the federal government according to the provisions of the Maternity Protection Act. The resulting financial burdens are refunded to them by the competent health insurance fund. Under the Act to Compensate Employers for the Costs of Continued Payment of Wages (Gesetz zum Ausgleich der Arbeitgeberaufwendungen für Entgeltfortzahlung - AAG), all employers (as of 1 January 2006) are on the other hand obliged to pay a levy towards these costs.

Female employees who are covered by a private health insurance or who are covered by the statutory health insurance as family members receive a lump-sum maternity benefit of 210 euros. Insofar as the average net income from work exceeds 13 euros per calendar day they also obtain the difference as a supplement to the maternity benefit from their employer.

VIII - 6. Qualifying period

§1(f) Article 1 C102, §1(i) Article 1 ECSS

The term qualifying period means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed.

Article 51. C102 and ECSS

The benefit specified in Articles 49 and 50 shall, in a contingency covered, be secured at least to a woman in the classes protected who has completed such qualifying period as may be considered necessary to preclude abuse, and the benefit specified in Article 49 shall also be secured to the wife of a man in the classes protected where the latter has completed such qualifying period.

Report form for the ECSS:

Please state, for each scheme concerned, the length of the qualifying period which has been considered necessary to preclude abuse. Please summarize the rules concerning the computation of the qualifying period.

No changes since the 45th Report:

There are no qualifying periods for medical benefits in kind or for maternity benefits.

VIII - 7. Minimum duration of benefit

Article 52. C102 and ECSS

The benefit specified in Articles 49 and 50 shall be granted throughout the contingency, except that the periodical payment may be limited to 12 weeks, unless a longer period of abstention from work is required or authorised by national laws or regulations, in which event it may not be limited to a period less than such longer period.

Report form for the ECSS:

Please state whether, in accordance with the provisions of this Article, the medical benefits stipulated in Article 49 are granted throughout the contingency. Please specify also:

- a) the duration of the period during which the periodical payments stipulated in Article 50 are granted and

- b) the duration of any period of abstention from work which may be required or authorized by national laws or regulations.

*Section 3 (1) of the Act on the Protection of Working Mothers (MuSchG) stipulates that employers may not have pregnant women work during the last six weeks before childbirth (**protection period before childbirth**) unless they have expressly declared their willingness to work. In line with Sentence 1, they can revoke that declaration at any time with effect for the future. The protection period before childbirth is calculated based on the due date as certified by a physician, midwife or maternity nurse. If a woman does not give birth on the due date, the period of protection before childbirth is shortened or lengthened accordingly.*

*Section 3 (2) of the MuSchG stipulates that employers may not have women work until eight weeks after childbirth (**protection period after childbirth**). The protection period is extended to twelve weeks in cases of premature births, multiple births or if the child is diagnosed with a disability within eight weeks of its birth within the meaning of Section 2 (1) 1 of the Ninth Book of the Social Code. The protection period is only extended if the mother applies for it in such cases.*

In cases of premature delivery, the protection period after childbirth is extended by the amount of time the protection period before delivery was shortened by.

The continuation of payments at employment ban is not listed as a social benefit.

Minor changes compared to the 45th report (changes are marked in bold letters):

*Maternity benefit and maternity benefit supplement are paid during the last 6 weeks before the expected day of delivery, for the day of delivery and for the first 8 weeks after delivery (**or 12 weeks in the event of multiple births and preterm births and in cases where a doctor diagnoses a disability of the child within the meaning of section 2 (1) sentence 1 of Book IX of the Social Code and an application in accordance with section 3 (2) sentence 4 of the Maternity Protection Act is submitted before the 8 week period after delivery has expired**).*

VIII - 8. Suspension of benefit

Article 69. C102, Article 68. ECSS

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

(a) as long as the person concerned is absent from the territory of the Member;

(b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;

(c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;

(d) where the person concerned has made a fraudulent claim;

(e) where the contingency has been caused by a criminal offence committed by the person concerned;

(f) where the contingency has been caused by the wilful misconduct of the person concerned;

Report form for the ECSS:

Please indicate the provisions, if any, for the suspension of maternity benefits.

Maternity benefits from the GKV are generally suspended under the same conditions as other benefits (especially in the case of a stay abroad). However, being behind on contributions does not lead to suspension of benefits

VIII – 9. Right of complaint and appeal

Article 70. C102, Article 69. ECSS

1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.

3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.

Report form for the ECSS:

Please state whether every claimant has a right of appeal in case of refusal of maternity benefits or complaint as to its quality or quantity, as stipulated in paragraph 1 of this Article. Please summarize the rules which apply in the case of an appeal.

If insured persons disagree with a decision of their health insurance provider, they can file an objection. Following the objection procedure, they can bring a lawsuit before the competent social court. They may also have the health insurance provider's decision reviewed by the supervisory authority responsible for the respective health insurance provider.

The same applies to the Federal Office for Social Security (Bundesamt für Soziale Sicherung) to which employees who have private health insurance or non-contributory family health insurance may apply for maternity benefits.

VIII - 10. Financing and Administration

See under Part XIII-3.

Part IX. Invalidity Benefit

Germany has accepted the obligations resulting from Part II of C128 and Part IX of the ECSS, as amended by its Protocol.

Category	Relevant Articles	Questions raised by the CEACR
IX-1. Regulatory framework	Art.53 ECSS Art.7 C128	
IX-2. Contingency covered	Art.54 ECSS Art.8 C128	
IX-3. Persons protected	Art.55 ECSS Art.9 C128	
IX-4. Calculation of benefit		Art.56 ECSS, in conjunction with Art. 65 Art.10 C128, in conjunction with Art. 26
IX-5. Adjustment of benefit	Art.65(10) ECSS Art.29 C128	
IX-6. Qualifying period	Art.57(2) ECSS Art.11(2) C128	
IX-7. Duration of benefit	Art.58 ECSS Art.12 C128	
IX-8. Rehabilitation services	Art.13 C128 §2 Art.56 ECSS	
IX-9. Suspension of benefit	Art.68 ECSS Art.31-33 C128	
IX-10. Right of appeal	Art.69 ECSS Art. 34 C128	
IX-11. Financing and Administration	Art.70,71 ECSS Art.30,35,36 C128	

List of applicable legislation

[...]

IX - 1. Regulatory framework

Article 53. ECSS, Article 7. C128

Each Member (Contracting Party) for which this part of this Convention (Code) is in force shall secure to the persons protected the provision of invalidity benefit in accordance with the following Articles of this Part.

IX - 2. Contingency covered

Article 54. ECSS, as amended by its Protocol

The contingency covered shall include inability to engage in any gainful occupation to an extent prescribed, which inability is likely to be permanent or to persist after the exhaustion of sickness benefit. Provided that the prescribed extent of such inability shall not exceed two-thirds.

Article 8. C128

The contingency covered shall include inability to engage in any gainful activity, to an extent prescribed, which inability is likely to be permanent or persists after the exhaustion of sickness benefit.

Report form for the ECSS:

Please state the extent of invalidity, prescribed by national laws or regulations, that gives rise to the benefits provided in accordance with Article 56.

In case of loss of earning capacity, the statutory pension insurance provides a two-tier pension on account of reduced earning capacity:

- *a full-rate reduced earning capacity pension for persons with a residual working capacity of less than three hours a day on the general labour market,*
- *a partial reduced earning capacity pension for persons with a residual working capacity of three to under six hours a day on the general labour market.*

Insured persons who are capable of working at least three but not more than six hours a day receive the reduced earning capacity pension at the full rate if they are unable to use their capacity for gainful employment because no job is available.

A partial reduced earning capacity and occupational disability pension (Rente wegen teilweiser Erwerbsminderung bei Berufsunfähigkeit) can be claimed by insured persons born before 2 January 1961 who have an occupational disability. An insured person is considered to have an occupational disability if an illness or a disability has reduced his or her earning capacity to such an extent that he or she is capable of working not more than six hours a day as compared to persons without a physical, mental or psychological disability and who have similar qualifications and equal knowledge and skills.

In general, additional earnings have to be achieved within the insured person's remaining capacity for work as the pension is meant to be a financial compensation for the full or partial loss of his or her capacity for work.

Since 1st January 2023, reduced earning capacity pensions can be drawn with an increased, dynamic additional earnings limit. The previous additional earnings limit of 6,300 euros per calendar year no longer applies.

Pensions on account of partly reduced earning capacity are only half as high as pensions on account of fully reduced earning capacity because of a pension type factor of 0.5 and are geared towards additional earnings with the person's remaining working capacity. For this reason it is possible to have more additional earnings when you draw a pension on account of partly reduced earning capacity. In 2023, for a partly reduced earning capacity and occupational disability pension, an additional earnings limit of around 35,650 euros per calendar year applies, for a fully reduced earning capacity pension a limit of around 17,820 euros per calendar year applies. Only once you exceed this upper limit are any additional earnings in excess of the ceiling fully deducted from the pension. There is no pension entitlement if the additional earnings to be deducted from the pension exceed the amount of the full pension.

IX - 3. Persons protected

Article 55. ECSS, as amended by its Protocol

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 80 per cent of all employees; or*
- (b) prescribed classes of the economically active population, constituting not less than 30 per cent of all residents; or*
- (c) all residents whose means during the contingency do not exceed limits prescribed in such a way as to comply with the requirements of Article 67.*

§1. Article 9. C128

1. The persons protected shall comprise:

- (a) all employees, including apprentices; or*
- (b) prescribed classes of the economically active population, constituting not less than 75 per cent. of the whole economically active population; or*
- (c) all residents, or residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 28.*

Report form for the ECSS:

1. Please state to which of the subparagraphs of Article 55 of the ECSS recourse is had and provide for statistical data depending on the chosen subparagraph:

Title I under Article 76 for Article 55(a) of the ECSS

- A. Number of employees protected⁴¹:
 - i) under general scheme ...
 - ii) under special schemes (if any) ...
 - iii) **Total** ...
- B. Total number of employees⁴² ...
- C. Number of employees protected (A(iii)) per cent of total number of employees (B). Please state how these data are computed and give dates of reference.
- D.

The provision of paragraph 55 (a) is applied.

⁴¹ Dependants who are protected in their breadwinner's right should not be included in this number.

⁴² This number should comprise all employees, including civil servants and, for Parts II, III, V, VII, VIII, IX, and X, also unemployed persons.

1. Number of protected employees (in 1000s)	2017	2018	2019	2020	2021	2022
a) Pension insurance schemes	34 086	34 767	35 266	35 027	35 462	36 111
c) Special system for civil servants	2 014	2 025	2 038	2 050	2 066	2 072
d) Total	36 100	36 792	37 303	37 077	37 528	38 183
2. Total number of employees (in 1000s)	39 858	40 502	40 973	40 765	40 908	41 523
3. Number of protected employees as a share of the total number of employees in per cent	90,6	90,8	91,0	91,0	91,7	92,0

Explanatory comments:

The data on pension insurance is based on the numbers of employees with compulsory social insurance coverage plus people in marginal employment with a right to invalidity benefit.

Title II under Article 76 for Article 55(b) of the ECSS

- A. Number of economically active persons protected⁴³:
 - i) under general scheme ...
 - ii) under special schemes (if any) ...
 - iii) Total ...
- B. Total number of residents⁴⁴...
- C. Number of economically active persons protected (A(iii)) per cent of total number of residents (B). Please state how these data are computed and give dates of reference.

Title III under Article 76 for Article 55(c) of the ECSS

- A. Please give the rules applied to determine whether a resident is entitled to benefit during the contingency covered.
- B. Please indicate, more particularly:
 - a. the amount of the means of any description which excludes a resident altogether from entitlement to benefit;
 - b. the amount of the means of any description which is allowed without a reduction of the full benefit.

IX - 4. Level and calculation of benefit

Article 56. ECSS, as amended by its Protocol

The benefit shall be a periodical payment calculated as follows:

(a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;

⁴³ Dependants who are protected in their breadwinner's right should not be included in this number.

⁴⁴ This number should comprise all residents, including children and old people.

(b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67. Provided that a prescribed benefit shall be guaranteed without a means test to the prescribed classes of persons determined in accordance with subparagraphs a or b of Article 55, subject to qualifying conditions not more stringent than those specified in paragraph 1 of Article 57.

Article 10. C128

The invalidity benefit shall be a periodical payment calculated as follows:

(a) where employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 26 or with the requirements of Article 27;

(b) where all residents or all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 28.

➤ **Draft Resolution CM/ResCSS(2021)
on the application of the European Code of Social Security and its Protocol
by Germany (Period from 1 July 2019 to 30 June 2020)**

II. concerning Part XI (Standards to be complied with by periodical payments):

b. Article 65 of the Code, in conjunction with Articles 29(1) and (2), 57(1) and (2), and 63(1) and (2) of the Code, with regard to the replacement rate of old-age, invalidity and survivors' benefits, in its previous comments, the Committee of Ministers noted that the calculations of the old-age, invalidity and survivors' benefits' replacement rates provided by the Government included a "personal provision for old-age" benefit provided by private insurance companies or other financial institutions proposing so-called "Riester pension contracts", added to the benefits provided by the statutory pension scheme. The Committee of Ministers recalled that to take into account "Riester pensions" in the calculation of benefits' replacement rates under Article 65 of the Code, these should meet the requirements of Article 6 and referred the Government to its request in this regard. The Committee of Ministers notes the information provided by the Government, according to which, a standard beneficiary, for the purpose of applying Article 65 of the Code, is a skilled manual male employee with 30 years of contributions, i.e. a person who has acquired 37.5 personal earnings points with respect to old-age pension whose earnings are equal to 125 per cent of the average earnings. The Committee of Ministers further notes the absence of reply by the Government to the request made in its previous comments and once again requests the Government to provide the calculation as indicated below.

The Committee of Ministers also notes that, once again, the Government's calculations of the benefits' replacement rate compare the net amount of earnings of a skilled manual male employee with the corresponding benefits that a standard beneficiary would receive, instead of the gross amount of earnings. In its previous comments, the Committee of Ministers observed that this would be possible, provided that the social security contributions and the income tax to be borne by the standard beneficiary were deducted on both sides of the equation. The Committee of Ministers further noted, however, that no income tax was deducted from the benefits payable to a standard beneficiary in the Government's calculations, even though benefits in Germany were (in principle) also subject to taxation. The Committee of Ministers therefore once again requests the Government to provide further information as indicated below;

The Committee of Ministers decides to invite the Government of Germany:

b. Article 65 of the Code, in conjunction with Articles 29(1) and (2), 57(1) and (2), and 63(1) and (2) of the Code, with regard to the replacement rate of old-age, invalidity and survivors' benefits, to provide, in its next report, the calculation on the replacement rate of standard statutory pensions for a standard beneficiary, as defined under Article 65 of the Code, without adding any benefits derived from complementary voluntary private schemes. The Government is also requested to indicate whether a person in the situation of a standard beneficiary would be

liable to pay income tax and, in the affirmative, to deduct such a tax also from the benefit calculation, in line with Article 65 of the Code.

Please provide a reply to the question:

*As described in more detail below, in the calculations related to reduced earning capacity pensions we followed the advice given and pension income from Riester pensions was excluded, since the Riester contracts currently offered typically only rarely include cover against the **risk of disability**.*

Report form for the ECSS:

1. If recourse is had to subparagraph a) of Article 56 of the ECSS for determining the persons protected, please state whether you have recourse, for the calculation of the benefit, to the provisions of Article 65 or to those of Article 66 of the ECSS.
2. Please furnish information under this Article as follows:
 - I. if recourse is had to Article 65 of the ECSS, in the form set out in Titles I, II and V under Article 65 below;
 - II. if recourse is had to Article 66 of the ECSS, in the form set out in Titles I, II and V under Article 66 below.

For Article 65 of the ECSS, if chosen

Title I (Information on the standard wage)

- A. Please summarize the rules for the calculation of the benefit and the computation of the previous earnings. Please state whether recourse is had to the provisions of paragraph 3 of Article 65 and, if so, please indicate the maximum amount prescribed for the benefit or for the earnings taken into account for the computation of the benefit.

In the following, the reduced earning capacity pension rate is calculated according to the requirements of Article 65.

A. For the pension on account of a partially reduced earning capacity the pension type factor for the personal earning points is 0.5 whereas it is 1.0 for the pension on account of a fully reduced earning capacity.

The 10.8 % reduction of reduced earning capacity pensions that was introduced by the 1999 Pension Reform Act is maintained. Its effect is mitigated, however, since the added period (Zurechnungszeit) is extended up to the age of 65 and 10 months (2021). With the Act on Statutory Pension Insurance Benefit Improvement and Stabilisation (RV-Leistungsverbesserungs- und Stabilisierungsgesetz) the added period for new pensioners with reduced earning capacity was extended in one step to age 65 and eight months in 2019. The end of the added period then rises to the age of 67 in a series of steps between 2020 and 2031.

In addition, as regards insured persons whose pension payments started on 1 July 2014, the Act on Statutory Pension Insurance Benefit Improvement provides for an examination whether the last four years before the reduction in earning capacity occurred reduce pension entitlements. If this is the case, these years are not considered for the calculation of the entitlements (so-called "most favourable" test).

Persons who were already receiving periodic pensions on account of reduced earning capacity before the beginning of the improvement of benefits outlined above have not benefited yet. For this reason, in 2022, it was decided to improve reduced earning capacity pensions that started in the period from 2001 to 2018. The recipients will get a supplement topping up their individual periodic pension benefits from 1 July 2024 onwards.

The amount of the supplement is based exclusively on the date of the beginning of retirement. For persons who accessed the system before 1 July 2014, the supplement will amount to 7.5 percent of the individual pension claimed on 1 July 2024. Persons who accessed the system from 1 July 2014 onwards will receive a 4.5 percent supplement. The supplement is also aligned with the increase of the added periods to up to 65 years and 8 months, which has been in force since 1 January 2019. Its effect reflects the extended added periods and totals 2.6 billion euros annually. In total, 3 million persons, who have not benefited at all or only partially from the legal improvements of the past few years, will receive higher pensions as a result.

- B. Please state to which of the provisions of paragraph 6 of Article 65 you have recourse for selecting the skilled manual male employee to whose wage paragraph 3 of Article 65 refers.

Please specify more particularly:

- a. if recourse is had to subparagraph (b) of paragraph 6:
 - i. how the division and the major group of economic activity to which the typical skilled employee belongs are determined with reference to paragraph 7; and
 - ii. how the typical skilled employee in the major group is chosen; or
 - b. if recourse is had to subparagraph (c) of paragraph 6, how the earnings of all persons protected are computed; or
 - c. if recourse is had to subparagraph (d) of paragraph 6, how the average earnings of all the persons protected are computed.
- C. Please indicate, in any event, the time basis on which the wage of the typical skilled employee is calculated, with reference to the provisions of paragraph 9 of Article 65. Please confirm that, in accordance with the provisions of paragraph 4 of that Article, the same time basis is used for calculating the benefit and the family allowances.
Please indicate the amount of the wage of the skilled manual male employee selected as shown under B (standard wage).

Title II (Information on the replacement rate of benefit)

The standard beneficiary for whom the following information should be given is a man with a wife and two children where the previous earnings serving for the calculation of the benefit are equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.⁴⁵
- E. Amount of family allowances, if any, payable during employment for a period equal to the time basis.
- F. Amount of family allowances, if any, payable during the contingency for a period equal to the time basis.
- G. Sum of benefit and family allowances payable during the contingency (D+F) per cent of sum of the standard wage and family allowances payable during employment (C+E).

Title V (replacement rate for a woman employee)

The beneficiary for whom the following information should be given is a woman employee whose previous earnings serving for the calculation of benefit were equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- G. Amount of benefit (D) per cent of the standard wage (C).

In accordance with Article 57 (1) (a), the benefit specified in Article 56 is to be determined for the defined employee (125 % of average earnings) confronted with the onset of an invalidity contingency after 15 years of employment.

⁴⁵ For invalidity benefit (Article 56 (a)), please indicate the length of the qualifying period required of the standard beneficiary, specifying whether recourse is had to paragraph 1, 3 or 4 of Article 57.

Under current German pension law, an added period (Zurechnungszeit) up to the age of 65 years and 10 months is taken into consideration for the calculation of the pension payable on account of a reduced earning capacity; this period is assessed on the basis of the average pension entitlements earned during the previous working life. Since the 2001 reform, pensions on account of reduced earning capacity are reduced by a maximum of 10.8 % to take account of the early pension receipt. 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.

As shown in the following table, the defined employee, married with two children, would receive a benefit with a net replacement rate of 72.3 % (old Länder) or 73.6 % (new Länder) in the event of a total loss of earning capacity. This means that the benefit meets the prescribed minimum standard of 50 %.

		Reduced earning capacity pension	
		Old Länder	New Länder
1	Years of employment	15	15
2	Earnings points total (EP)	60.66	60.66
3	Entry age factor	0.892	0.892
4=2*3	Personal earning points	54.11	54.11
5	Current pension value (euros/ EP/ month)	36.02	35.52
6=4*5*12M	Gross pensions (euros/ year)	23,389	23,064
7	Child benefit	5,256	5,256
8	Social contributions	2,573	2,537
9	Taxes	1,365	1,303
10	Personal pension savings	0	0
11=6+7-8-9+10	Net income in old-age	24,707	24,480
12	Net income from work	34,161	33,276
13=11/12	Ratio	72.3	73.6

As a rule, pensions on account of reduced earning capacity are only granted if the insured person has paid 3 years of compulsory contributions from an insured employment or activity within the last five years prior to the onset of the reduction in earning capacity and has completed the general qualifying period of 5 years (section 43, Book VI of the Social Code) or is deemed to have completed the said qualifying period (section 53, Book VI of the Social Code).

IX - 5. Adjustment of benefit

§10 Article 65. ECSS

The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

Article 29. C128

1. The rates of cash benefits currently payable pursuant to Article 10, Article 17 and Article 23 shall be reviewed following substantial changes in the general level of earnings or substantial changes in the cost of living.

2. Each Member shall include the findings of such reviews in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation, and shall specify any action taken.

Report Form for the ECSS (Title VI):

1. Please state the methods adopted for giving effect, where necessary, to the provisions of paragraph 10 of Article 65 of the ECSS.

2. Please give the following information:

Period under review	Cost-of-living index	Index of earnings ⁴⁶
A. Beginning of period ⁴⁷
B. End of period ⁴⁸
C. Percentage $\frac{A}{B}$

3. Please state whether the amount of the periodical payments has been reviewed during the period of reference. If so, please indicate the changes made in the level of benefits and furnish the following information:

On pension adjustments:

As wage-related benefits pensions are, as a rule, adjusted in line with the last wage and salary developments (wage factor). For this purpose a new current pension value is to be determined annually on the basis of the data of gross wages and salaries per employee as shown in the national accounts. To reflect the actual revenue development of the statutory pension insurance, the wage developments identified for the purpose of determining the pension adjustment rates include not only the wage trends as shown in the national accounts statistics but also the development of the actually earned income liable to contributions.

To make sure that the costs of demographic change are equally shared between the generations and that the statutory pension insurance complies with financial sustainability principles, pension adjustments take account of two other important factors apart from the development of wages and salaries. Firstly, changes in the expenses of employees for the statutory pension insurance and supplementary old-age provision are taken into account in the pension adjustment process (factor of old-age provision expenses). Secondly, the so-called sustainability factor ensures that the development of the correlation between those who draw pensions and those liable to pay contributions is reflected in the adjustment of pensions. All three factors are summarized in the pension adjustment formula.

The respective pension adjustments (in per cent) in the period under review amounted to

Rate of adjustment of the current pension value as a percentage of the previous year:		
Date of pension adjustment	Old Länder	New Länder
1 July 2018	3.22	3.37
1 July 2019	3.18	3.91
1 July 2020	3.45	4.20
1 July 2021	0.00	0.72
1 July 2022	5.35	6.12

⁴⁶ The index of earnings should correspond to the classes of employees or economically active persons shown under the Article dealing with persons protected (Article 27, 33 or 61). If no index of earnings is available, the index of money wages may be substituted.

⁴⁷ The indices at the beginning and end of each period should refer to the same base.

⁴⁸ The indices at the beginning and end of each period should refer to the same base.

In the period from 2018 to 2022, the figures reflecting developments in the cost of living in Germany on the one hand and developments of wages and pensions on the other, changed as follows on annual average:

Change in percent per annum	average 2018 -2022
Consumer prices	2.74
Wages	2.8
Pension value 1 July (old Länder)	3.04

The development laid down in the table shows that the average adjustment of pensions exceeded the annual average pay rises in the years 2018 to 2022 and that pensions increased clearly more strongly than consumer prices.

IX - 6. Qualifying period

§1(i) Article 1 ECSS, C128

The term qualifying period means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed.

Article 57. ECSS

1. *The benefit specified in Article 56 shall, in a contingency covered, be secured at least:*
 - (a) *to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or 10 years of residence; or*
 - (b) *where, in principle, all economically active persons are protected, to a person protected who has completed a qualifying period of three years of contribution and in respect of whom, while he was of working age, the prescribed yearly average number of contributions has been paid.*
2. *Where the benefit referred to in paragraph 1 is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least:*
 - (a) *to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or*
 - (b) *where, in principle, all economically active persons are protected, to a person protected who has completed a qualifying period of three years of contribution and in respect of whom, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.*
3. *The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, five years of contribution, employment or residence.*
4. *A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the pension corresponding to the reduced percentage exceeds five years of contribution or employment but is less than 15 years of contribution or employment; a reduced benefit shall be payable in conformity with paragraph 2 of this Article.*

Article 11. C128

1. *The benefit specified in Article 10 shall, in a contingency covered, be secured at least:*
 - (a) *to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or ten years of residence; or*
 - (b) *where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whom, while he was of working age, the prescribed yearly average number or yearly number of contributions has been paid.*
2. *Where the invalidity benefit is conditional upon a minimum period of contribution, employment or residence, a reduced benefit shall be secured at least--*
 - (a) *to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of five years of contribution, employment or residence; or*

(b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whom, while he was of working age, half of the yearly average number or of the yearly number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, five years of contribution, employment or residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part V may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds five years of contribution, employment or residence but is less than 15 years of contribution or employment or ten years of residence; a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. The requirements of paragraphs 1 and 2 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V is secured at least to a person protected who has completed, in accordance with prescribed rules, a qualifying period of contribution or employment which shall not be more than five years at a prescribed minimum age and may rise with advancing age to not more than a prescribed maximum number of years.

Report form for the ECSS:

1. Please indicate the nature and the length of the minimum qualifying period or the average yearly number of contributions, as the case may be, which entitles the persons protected to a benefit. Please summarize the rules concerning the computation of such qualifying period.
2. If recourse is had to paragraphs 1 and 2 the benefit the amount of which is shown under Article 56 should be the benefit granted during the time basis to a standard beneficiary who has completed 15 years of contribution or employment or ten years of residence. Please indicate under this Article how the reduced benefit is calculated to which a standard beneficiary is entitled who has completed a qualifying period of five years of contribution or employment or in respect of whom half the yearly average number of contributions prescribed for title to full benefit has been paid.

In accordance with Article 57 (1) (a), the benefit specified in Article 56 is to be determined for the defined employee (125 % of average earnings) confronted with the onset of an invalidity contingency after 15 years of employment.

Under current German pension law, an added period (Zurechnungszeit) up to the age of 65 years and 9 months is taken into consideration for the calculation of the pension payable on account of a reduced earning capacity; this period is assessed on the basis of the average pension entitlements earned during the previous working life. Since the 2001 reform, pensions on account of reduced earning capacity are curbed by a maximum of 10.8 % to take account of the early pension receipt. 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. When invalidity occurs, the employee can also claim an invalidity pension from a private, government subsidized retirement provision contract.

3. If recourse is had to paragraph 3 the benefit the amount of which is shown under Article 56 should be the benefit granted during the time basis to a standard beneficiary who has completed five years of contribution or employment or residence.
4. If recourse is had to paragraph 4 the benefit the amount of which is shown under Article 56 should be the benefit granted during the time basis to a standard beneficiary who has completed a qualifying period of more than five years but less than 15 years of contribution or employment. Please indicate the length of the qualifying period required.

IX - 7. Duration of benefit

Article 58. ECSS

The benefit specified in Articles 56 and 57 shall be granted throughout the contingency or until an old age benefit becomes payable.

Article 12. C128

The benefit specified in Articles 10 and 11 shall be granted throughout the contingency or until an old-age benefit becomes payable.

Report form for the ECSS:

Please state whether, in accordance with the provisions of this Article, invalidity benefit is granted for the whole duration of the contingency or until it is replaced by old-age benefit.

Reduced earning capacity pensions are paid until the beneficiary reaches statutory retirement age. When the beneficiary reaches the statutory retirement age, the beneficiary is entitled to the standard old-age pension, which is to be automatically awarded in these cases.

IX - 8. Rehabilitation services

§2. Article 56. ECSS, as amended by its Protocol

Measures shall be taken to provide for functional and vocational rehabilitation services, and to maintain appropriate facilities to assist handicapped persons in obtaining suitable work, including placement services, assistance in helping them transfer to another district when necessary to find suitable employment, and related services.

Article 13. C128

1. Each Member for which this Part of this Convention is in force shall, under prescribed conditions:

- (a) provide rehabilitation services which are designed to prepare a disabled person wherever possible for the resumption of his previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to his aptitudes and capacity; and*
- (b) take measures to further the placement of disabled persons in suitable employment.*

Report form for the ECSS:

Please state what measures are taken to give effect to Article 56(2) of the ECSS, as amended by its Protocol.

In accordance with sections 9 et seq. of Book VI of the Social Code, the pension insurance funds provide benefits and services for prevention, medical rehabilitation, labour market participation and follow-up care as well as supplementary benefits and services. The purpose of such benefits and services is to counteract or overcome the effects an illness and a physical, intellectual or psychological disability may have on the insured person's earning capacity, thus preventing an impairment of his or her earning capacity or an early exit from working life, and to try to re-integrate him or her permanently into working life.

Prevention programmes are as a rule group programmes and are generally provided in a modular form, starting with a full-day out-patient or in-patient initial phase, a subsequent job-related training phase, a phase of individual activities and ultimately one or several refresher days. The pension insurance fund has to provide advice regarding the choice of the best prevention programme if the application for medical rehabilitation assistance (section 15 (1) of Book VI of the Social Code) is declined because the personal prerequisites pursuant to section 10 (1) of Book VI of the Social Code are not met.

Medical rehabilitation assistance can be rendered as in-patient, partially in-patient or out-patient programme and include among other things

- *follow-up rehabilitation measures (AHB) immediately after the hospital stay if this is required for medical reasons,*
- *addiction treatment after consultation with the health insurance fund,*
- *treatment of children of insured persons with a view to future capacity for work, and*
- *gradual reintegration immediately following the medical rehabilitation measures.*

Labour market participation assistance mainly includes:

- *measures to retain or obtain a job,*
- *occupational adjustments, education and training and*
- *vehicle assistance to travel to work, if in the event of a severe disability the use of public transport is not reasonable.*

Follow-up care aims at securing the good outcome achieved by the rehabilitation in a sustainable form in order to support the long-term maintenance of the person's capacity for work or to enable his or her future gainful employment.

Prevention assistance has priority over rehabilitation and rehabilitation has priority over the benefits and services provided by the pension insurance.

All of the above benefits and services are supplemented by the following benefits if the prerequisites are fulfilled:

- *Transitional allowance during in-patient measures - as a rule the employer continues to pay the insured person his or her full wages or salary during the in-patient medical rehabilitation measure. Persons subject to compulsory social insurance coverage who are not or no longer entitled to continued payment of wages in the event of illness receive a transitional allowance to secure their livelihood,*
- *Travel expenses are covered, especially in the case of in-patient measures for outward and homeward journeys, and in the event of a measure to promote labour market participation, as a rule two journeys home to the family each month are covered.*
- *Domestic help if a child lives in the insured person's household that has not yet completed age 12 or has a disability if no other person living in the same household can take care of the household.*

IX - 9. Suspension of benefit

Article 68. ECSS

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

(a) as long as the person concerned is absent from the territory of the Member;

(b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;

(c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;

(d) where the person concerned has made a fraudulent claim;

(e) where the contingency has been caused by a criminal offence committed by the person concerned;

(f) where the contingency has been caused by the wilful misconduct of the person concerned;

Report form for the ECSS:

Please indicate the provisions, if any, for the suspension of invalidity benefits.

No changes to the previous legal situation.

IX - 10. Right of complaint and appeal

Article 69. ECSS

1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.

3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.

Report form for the ECSS:

Please state whether every claimant has a right of appeal in case of refusal of invalidity benefits or complaint as to its quality or quantity, as stipulated in paragraph 1 of this Article. Please summarize the rules which apply in the case of an appeal.

No changes to the previous legal situation.

IX - 11. Financing and Administration

See under Part V-10, Part XIII-3.

Part X. Survivors' Benefit

Germany has accepted the obligations resulting from Part IV of C128 and Part X of the ECSS, as amended by its Protocol.

Category	Relevant Articles	Questions raised by the CEACR
X-1. Regulatory framework	<i>Art.59 ECSS, Art.20 C128</i>	
X-2. Contingency covered	<i>Art.60 ECSS, Art.21 C128</i>	
X-3. Persons protected	<i>Art.61 ECSS, Art.22 C128</i>	
X-4. Calculation of benefit		<i>Art.62 ECSS, in conjunction with Art. 65 Art.23 C128, in conjunction with Art. 26</i>
X-5. Adjustment of benefit	<i>Art.65(10) ECSS Art.29 C128</i>	
X-6. Qualifying period	<i>Art.63 ECSS, Art.24 C128</i>	
X-7. Duration of benefit	<i>Art.64 ECSS, Art.25 C128</i>	
X-8. Suspension of benefit	<i>Art.68 ECSS, Art.31-33 C128</i>	
X-9. Right of appeal	<i>Art.69 ECSS, Art.34 C128</i>	
X-10. Financing and Administration	<i>Art.70,71 ECSS Art.30,35,36 C128</i>	

List of applicable legislation

[...]

X - 1. Regulatory framework

Article 59. ECSS, Article 20. C128

Each Member (Contracting Party) for which this Part of this Convention (Code) is in force shall secure to the persons protected the provision of survivors' benefit in accordance with the following Articles of this Part.

X - 2. Contingency covered

Article 60. ECSS

1. The contingency covered shall include the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.
2. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount, and, if non contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

Article 21. C128

1. The contingency covered shall include the loss of support suffered by the widow or child as the result of the death of the breadwinner.
2. In the case of a widow the right to a survivors' benefit may be made conditional on the attainment of a prescribed age. Such age shall not be higher than the age prescribed for old-age benefit.
3. No requirement as to age may be made if the widow:
 - (a) is invalid, as may be prescribed; or

(b) is caring for a dependent child of the deceased.

4. In order that a widow who is without a child may be entitled to a survivors' benefit, a minimum duration of marriage may be required.

§1(e) Article 1 C128

The term dependent refers to a state of dependency which is presumed to exist in prescribed cases.

Report form for the ECSS:

1. Please state whether recourse is had to the last sentence of paragraph 1 of this Article, according to which, in the case of the widow, the right to benefit may be made conditional on her being presumed to be incapable of self-support; if so, please specify the rules governing the right to benefit.

Please state whether recourse is had to paragraph 2 of this Article and, if so, please summarize the rules concerning the suspension or the reduction of the benefit where the beneficiary is engaged in any gainful activity.

A survivor's pension (pension on account of the insured person's death) is paid to the widow, the widower, the surviving partner of a registered same sex partnership, the orphans and, under specific conditions, to the former spouse of the deceased person.

1. In principle, the entitlement does not depend on whether the surviving dependants can support themselves.

2. In principle, the widowed person's pension is not dependent on reaching a certain age. However, under the new legislation, a large widowed person's pension is paid if the widowed person is bringing up a child under the age of 18, if the widowed person is incapacitated for work or has reached the age of 47. There is a transitional arrangement for deaths until 2028, according to which the age limit for the large widowed person's pension will be gradually raised from the 45th to the 47th year of life. If the above-mentioned requirements are not or no longer met, a small widowed person's pension is paid. This ends after 24 months.

The survivor's pension is intended to replace the maintenance that the survivor would have towards a living spouse. Section 97 Book VI of the Social Code (SGB VI) therefore stipulates that widows' and widowers' own income that exceeds a certain amount is counted against the pension due to death at a rate of 40 percent. This exemption is 26.4 times the current pension value and is thus dynamic. The exemption increases by 5.6 times the current pension value for each child entitled to an orphan's pension.

X - 3. Persons protected

§1(f) Article 1 ECSS, C128

The term wife means a wife who is maintained [dependent on - C128] by her husband.

Article 61. C102 and ECSS, as amended by its Protocol

The persons protected shall comprise:

(a) the wives and the children of breadwinners in prescribed classes of employees, which classes constitute not less than 50 per cent [80 per cent - Protocol] of all employees; or

(b) the wives and the children of breadwinners in prescribed classes of the economically active population, which classes constitute not less than 20 per cent [30 per cent - Protocol] of all residents; or

(c) all resident widows and resident children who have lost their breadwinner and whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67.

Article 22. C128

1. The persons protected shall comprise:

(a) the wives, children and, as may be prescribed, other dependants of all breadwinners who were employees or apprentices; or

(b) the wives, children and, as may be prescribed, other dependants of breadwinners in prescribed classes of the economically active population, which classes constitute not less than 75 per cent. of the whole economically active population; or

(c) all widows, all children and all other prescribed dependants who have lost their breadwinner, who are residents and, as appropriate, whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the provisions of Article 28.

2. Where a declaration made in virtue of Article 4 is in force, the persons protected shall comprise--

(a) the wives, children and, as may be prescribed, other dependants of breadwinners, in prescribed classes of employees, which classes constitute not less than 25 per cent. of all employees; or

(b) the wives, children and, as may be prescribed, other dependants of breadwinners in prescribed classes of employees in industrial undertakings, which classes constitute not less than 50 per cent. of all employees in industrial undertakings.

Report form for the ECSS:

1. Please state to which of the subparagraphs of Article 61 of the ECSS recourse is had and provide for statistical data depending on the chosen subparagraph:

Title I under Article 76 for Article 61(a) of the ECSS

A. Number of employees protected⁴⁹:

i) under general scheme ...

ii) under special schemes (if any) ...

iii) Total ...

B. Total number of employees⁵⁰ ...

C. Number of employees protected (A(iii)) per cent of total number of employees (B). Please state how these data are computed and give dates of reference.

The provision of paragraph 61 (a) is applied.

⁴⁹ Dependants who are protected in their breadwinner's right should not be included in this number.

⁵⁰ This number should comprise all employees, including civil servants and, for Parts II, III, V, VII, VIII, IX, and X, also unemployed persons.

1. Number of protected employees (in 1000s)	2017	2018	2019	2020	2021	2022
a) Pension insurance schemes	34 086	34 767	35 266	35 027	35 462	36 111
c) Special system for civil servants	2 014	2 025	2 038	2 050	2 066	2 072
d) Total	36 100	36 792	37 303	37 077	37 528	38 183
2. Total number of employees (in 1000s)	39 858	40 502	40 973	40 765	40 908	41 523
3. Number of protected employees as a share of the total number of employees in per cent	90,6	90,8	91,0	91,0	91,7	92,0
Title II under Article 76 for Article 61(b) of the ECSS						
A. Number of economically active persons protected ⁵¹ :						
i) under general scheme ...						
ii) under special schemes (if any) ...						
iii) Total ...						
B. Total number of residents ⁵² ...						
C. Number of economically active persons protected (A(iii)) per cent of total number of residents (B). Please state how these data are computed and give dates of reference.						
Title III under Article 76 for Article 61(c) of the ECSS						
A. Please give the rules applied to determine whether a resident is entitled to benefit during the contingency covered.						
B. Please indicate, more particularly:						
a. the amount of the means of any description which excludes a resident altogether from entitlement to benefit;						
b. the amount of the means of any description which is allowed without a reduction of the full benefit.						

X - 4. Level and calculation of benefit

Article 62. ECSS

The benefit shall be a periodical payment calculated as follows:

(a) where the wives and children of breadwinners in classes of employees or classes of the economically active population are protected, in such manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;

(b) where all resident widows and resident children whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67. [Provided that a prescribed benefit shall be guaranteed without a means test to the wives and children of breadwinners in the prescribed classes of persons determined in accordance with sub-paragraphs a or b of Article 61, subject to qualifying conditions not more stringent than those specified in paragraph 1 of Article 63 - Protocol]

Article 23. C128

⁵¹ Dependants who are protected in their breadwinner's right should not be included in this number.

⁵² This number should comprise all residents, including children and old people.

The survivors' benefit shall be a periodical payment calculated as follows:

(a) where employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 26 or with the requirements of Article 27;

(b) where all residents or all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 28.

➤ **Draft Resolution CM/ResCSS(2021)
on the application of the European Code of Social Security and its Protocol
by Germany (Period from 1 July 2019 to 30 June 2020)**

II. concerning Part XI (Standards to be complied with by periodical payments):

b. Article 65 of the Code, in conjunction with Articles 29(1) and (2), 57(1) and (2), and 63(1) and (2) of the Code, with regard to the replacement rate of old-age, invalidity and survivors' benefits, in its previous comments, the Committee of Ministers noted that the calculations of the old-age, invalidity and survivors' benefits' replacement rates provided by the Government included a "personal provision for old-age" benefit provided by private insurance companies or other financial institutions proposing so-called "Riester pension contracts", added to the benefits provided by the statutory pension scheme. The Committee of Ministers recalled that to take into account "Riester pensions" in the calculation of benefits' replacement rates under Article 65 of the Code, these should meet the requirements of Article 6 and referred the Government to its request in this regard. The Committee of Ministers notes the information provided by the Government, according to which, a standard beneficiary, for the purpose of applying Article 65 of the Code, is a skilled manual male employee with 30 years of contributions, i.e. a person who has acquired 37.5 personal earnings points with respect to old-age pension whose earnings are equal to 125 per cent of the average earnings. The Committee of Ministers further notes the absence of reply by the Government to the request made in its previous comments and once again requests the Government to provide the calculation as indicated below.

The Committee of Ministers also notes that, once again, the Government's calculations of the benefits' replacement rate compare the net amount of earnings of a skilled manual male employee with the corresponding benefits that a standard beneficiary would receive, instead of the gross amount of earnings. In its previous comments, the Committee of Ministers observed that this would be possible, provided that the social security contributions and the income tax to be borne by the standard beneficiary were deducted on both sides of the equation. The Committee of Ministers further noted, however, that no income tax was deducted from the benefits payable to a standard beneficiary in the Government's calculations, even though benefits in Germany were (in principle) also subject to taxation. The Committee of Ministers therefore once again requests the Government to provide further information as indicated below;

The Committee of Ministers decides to invite the Government of Germany:

b. Article 65 of the Code, in conjunction with Articles 29(1) and (2), 57(1) and (2), and 63(1) and (2) of the Code, with regard to the replacement rate of old-age, invalidity and survivors' benefits, to provide, in its next report, the calculation on the replacement rate of standard statutory pensions for a standard beneficiary, as defined under Article 65 of the Code, without adding any benefits derived from complementary voluntary private schemes. The Government is also requested to indicate whether a person in the situation of a standard beneficiary would be liable to pay income tax and, in the affirmative, to deduct such a tax also from the benefit calculation, in line with Article 65 of the Code.

Please provide a reply to the question:

The Federal Government considers taking benefits from voluntary individual supplementary pension schemes in the area of survivors' benefits into account justified. Payment of a survivor's pension is indeed sometimes not included among the benefits in these schemes, or is merely an option that must be selected by the insured person. However, in the case of Riester contracts, the pension assets accumulated can be inherited in the event of death during the accumulation phase and afterwards up to the age of 85 depending on the type of contract. When a married person dies, their inherited pension assets can be transferred to a Riester contract of the surviving spouse. The Riester contract may be concluded for this purpose. The funding remains in place. This, too, represents a certain amount of security for survivors.

The Federal Government also notes that, in addition to social security amounts, income tax is taken into account, when calculating the net income of survivors. The tax amount is listed on the invoice.

Report form for the ECSS:

1. Please state whether recourse is had, under paragraph 1 of this Article, to the provisions of Article 65 or to those of Article 66, for the calculation of the benefit.
2. Please furnish information under this Article as follows:
 - III. if recourse is had to Article 65 of the ECSS, in the form set out in Titles I, IV, and V under Article 65 below;
 - IV. if recourse is had to Article 66 of the ECSS, in the form set out in Titles I, IV, and V under Article 66 below.

For Article 65 of the ECSS, if chosen

Title I (Information on the standard wage)

- A. Please summarize the rules for the calculation of the benefit and the computation of the previous earnings. Please state whether recourse is had to the provisions of paragraph 3 of Article 65 and, if so, please indicate the maximum amount prescribed for the benefit or for the earnings taken into account for the computation of the benefit.
- B. Please state to which of the provisions of paragraph 6 of Article 65 you have recourse for selecting the skilled manual male employee to whose wage paragraph 3 of Article 65 refers.

Please specify more particularly:

- a. if recourse is had to subparagraph (b) of paragraph 6:
 - i. how the division and the major group of economic activity to which the typical skilled employee belongs are determined with reference to paragraph 7; and
 - ii. how the typical skilled employee in the major group is chosen; or
 - b. if recourse is had to subparagraph (c) of paragraph 6, how the earnings of all persons protected are computed; or
 - c. if recourse is had to subparagraph (d) of paragraph 6, how the average earnings of all the persons protected are computed.
- C. Please indicate, in any event, the time basis on which the wage of the typical skilled employee is calculated, with reference to the provisions of paragraph 9 of Article 65. Please confirm that, in accordance with the provisions of paragraph 4 of that Article, the same time basis is used for calculating the benefit and the family allowances.
Please indicate the amount of the wage of the skilled manual male employee selected as shown under B (standard wage).

Title IV (Information on the replacement rate of benefit)

The standard beneficiary for whom the following information should be given, for each scheme concerned, is a widow with two children.

- C. Amount of benefit granted during the time basis.
- D. Amount of family allowances, if any, payable during employment⁵³ for a period equal to the time basis.
- E. Amount of family allowances, if any, payable during the contingency for a period equal to the time basis.
- F. Sum of benefit and family allowances payable during the contingency (C+ E) per cent of sum of the standard wage and family allowances payable during employment (B+D).
Please summarize the rules for the calculation of the benefit.

Title V (replacement rate for a woman employee)

The beneficiary for whom the following information should be given is a woman employee whose previous earnings serving for the calculation of benefit were equal to the wage of the skilled manual male employee shown in Title I above.

- D. Amount of benefit granted during the time basis.
- G. Amount of benefit (D) per cent of the standard wage (C).

In accordance with Article 63 (1) (a), the benefit specified in Article 62 is to be determined for the survivors of a defined employee (125 % of average earnings) who completed 15 years of employment at the time of his or her death. In line with the calculations in Part V and in Part IX, the calculation of this benefit credits 12 months of Federal Voluntary Service, 3 years of training and 2 years of technical schooling.

Under the new German law, an added period (Zurechnungszeit) up to the age of 65 is taken into consideration for the calculation of the survivor's pension; as in the case of the pension paid on account of reduced earning capacity, the added period is assessed on the basis of the average pension entitlements earned during the deceased employee's working life. The derived entitlements are reduced by a maximum of 10.8 % to take account of the early receipt of the pension. Thus the widow receives 55 % (pension type factor 0.55) of her husband's (theoretical) pension entitlements. In addition, the widow is credited with a child bonus which, applying the pension type factor, amounts to three earnings points for the two children.

*The following table shows that the widow with two children defined here receives a benefit amounting to 71.8 % in the old Länder, or 73 % in the new Länder, in relation to the net earnings of her deceased husband. This means that the benefit exceeds the prescribed minimum standard of 45 %. **These calculations also include the widow's protection provided under a private and government subsidised retirement provision plan.***

⁵³ Family allowances payable during employment to an employee with two children.

		Old Länder	New Länder
1	Years of employment	15	15
2	Earning points (EP)	54.62	54.62
3	Entry age factor	0.892	0.892
4	Supplement for children	5.45	5.45
5=2*3+4	Personal earnings points	54.18	54.18
6	Pension type factor	0.55	0.55
7	Current pension value (euros/ EP/ month)	36.02	35.52
8=5*6*7*12M	Gross widow's pension (euros/ year)	12,880	12,701
9	Gross orphans' pension (2 children)	7,991	7,880
10	Gross pensions total (euros per year)	20,870	20,581
11	Child benefit	5,256	5,256
12	Social contributions	2,296	2,264
13	Taxes	164	121
14	Personal pension savings	875	840
15=10+11-12-13+14	Net income in old age	24,542	24,292
16	Net income from work	34,161	33,276
17=15/16	Ratio	71.8	73

Conclusions 2022:

"The Committee therefore requests the Government to provide calculations on the replacement rate of standard statutory pensions without adding any contributions made to, or benefits derived from, such complementary voluntary private schemes."

Germany:

With regard to this conclusion, we kindly refer to the previous reports.

X - 5. Adjustment of benefit

§10 Article 65. ECSS

The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

Article 29. C128

1. The rates of cash benefits currently payable pursuant to Article 10, Article 17 and Article 23 shall be reviewed following substantial changes in the general level of earnings or substantial changes in the cost of living.

2. Each Member shall include the findings of such reviews in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation, and shall specify any action taken.

Report Form for the ECSS (Title VI):

1. Please state the methods adopted for giving effect, where necessary, to the provisions of paragraph 10 of Article 65 of the ECSS.

2. Please give the following information:

Period under review	Cost-of-living index	Index of earnings ⁵⁴
A. Beginning of period ⁵⁵
B. End of period ⁵⁶
C. Percentage $\frac{A}{B}$

3. Please state whether the amount of the periodical payments has been reviewed during the period of reference. If so, please indicate the changes made in the level of benefits and furnish the following information:

Period under review ⁵⁷	Benefit		
	Average per Beneficiary ⁵⁸	Benefit for Standard Beneficiary	Other estimates of benefits level
A. Beginning of period			
B. End of period.....			
C. Percentage $\frac{A}{B}$			

On pension adjustments:

As wage-related benefits pensions are, as a rule, adjusted in line with the last wage and salary developments (wage factor). For this purpose a new current pension value is to be determined annually on the basis of the data of gross wages and salaries per employee as shown in the national accounts. To reflect the actual revenue development of the statutory pension insurance, the wage developments identified for the purpose of determining the pension adjustment rates include not only the wage trends as shown in the national accounts statistics but also the development of the actually earned income liable to contributions.

To make sure that the costs of demographic change are equally shared between the generations and that the statutory pension insurance complies with financial sustainability principles, pension adjustments take account of two other important factors apart from the development of wages and salaries. Firstly, changes in the expenses of employees for the statutory pension insurance and supplementary old-age provision are taken into account in the pension adjustment process (factor of old-age provision expenses). Secondly, the so-called sustainability factor ensures that the development of the correlation between those who draw pensions and those liable to pay contributions is reflected in the adjustment of pensions. All three factors are summarized in the pension adjustment formula.

The respective pension adjustments (in per cent) in the period under review amounted to

⁵⁴ The index of earnings should correspond to the classes of employees or economically active persons shown under the Article dealing with persons protected (Article 27, 33 or 61). If no index of earnings is available, the index of money wages may be substituted.

⁵⁵ The indices at the beginning and end of each period should refer to the same base.

⁵⁶ The indices at the beginning and end of each period should refer to the same base.

⁵⁷ This period should, as far as possible, coincide with the period referred to in the table under para.2

Rate of adjustment of the current pension value as a percentage of the previous year:		
Date of pension adjustment	Old Länder	New Länder
1 July 2018	3.22	3.37
1 July 2019	3.18	3.91
1 July 2020	3.45	4.20
1 July 2021	0.00	0.72
1 July 2022	5.35	6.12

In the period from 2018 to 2022, the figures reflecting developments in the cost of living in Germany on the one hand and developments of wages and pensions on the other, changed as follows on annual average:

Change in percent per annum	average 2018 -2022
Consumer prices	2.74
Wages	2.8
Pension value 1 July (old Länder)	3.04

The development laid down in the table shows that the average adjustment of pensions exceeded the annual average pay rises in the years 2018 to 2022 and that pensions increased clearly more strongly than consumer prices.

X - 6. Qualifying period

§1(i) Article 1 ECSS, C128

The term qualifying period means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed.

Article 63. ECSS

1. *The benefit specified in Article 62 shall, in a contingency covered, be secured at least:*

(a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or 10 years of residence; or

(b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, the prescribed yearly average number of contributions has been paid.

2. *Where the benefit referred to in paragraph 1 of this article is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least:*

(a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or

(b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. *The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but at a percentage of ten points lower than shown in the Schedule appended to that part for the standard beneficiary concerned is secured at least to a person protected whose breadwinner has completed, in accordance with prescribed rules, five years of contribution, employment or residence.*

4. *A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds five years of contribution or employment but is less than 15 years of contribution or employment; a reduced benefit shall be payable in conformity with paragraph 2 of this Article.*

5. In order that a childless widow presumed to be incapable of self-support may be entitled to a survivor's benefit, a minimum duration of the marriage may be required.

Article 24. C128

1. The benefit specified in Article 23 shall, in a contingency covered, be secured at least:

(a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or ten years of residence: Provided that, for a benefit payable to a widow, the completion of a prescribed qualifying period of residence by such widow may be required instead; or

(b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, the prescribed yearly average number or the yearly number of contributions has been paid.

2. Where the survivors' benefit is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least:

(a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or

(b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, half of the yearly average number or of the yearly number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected whose breadwinner has completed, in accordance with prescribed rules, five years of contribution, employment or residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part V may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds five years of contribution, employment or residence but is less than 15 years of contribution or employment or ten years of residence; if such qualifying period is one of contribution or employment, a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. The requirements of paragraphs 1 and 2 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V is secured at least to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of contribution or employment which shall not be more than five years at a prescribed minimum age and may rise with advancing age to not more than a prescribed maximum number of years.

Report form for the ECSS:

1. Please state, for each scheme concerned, the nature and the length of the minimum qualifying period or the minimum average yearly number of contributions, as the case may be, which entitles the persons protected to benefits. Please summarize the rules concerning the computation of such qualifying period. Please state whether recourse is had to paragraphs 1 and 2 or to paragraph 3 or 4 of this Article.

No changes in the period under review. Widows', widowers' and orphans' pensions are only granted if the general qualifying period has been completed or is deemed to have been completed. The qualifying period is completed when the deceased person had completed a period of coverage of five years at the time of his or her death.

2. If recourse is had to paragraphs 1 and 2 of this Article the benefit the amount of which is shown under Article 62 should be the benefit granted during the time basis to a standard beneficiary whose breadwinner has completed 15 years of contribution or employment or ten years of residence. Please state under this Article how the reduced benefit is calculated to which a standard beneficiary is entitled whose breadwinner has completed a qualifying period of five years of contribution or employment or in respect of whose breadwinner half the yearly average number of contributions prescribed for title to full benefit has been paid, as the case may be.

No changes in the period under review.

3. If recourse is had to paragraph J the benefit the amount of which is shown under Article 62 should be the benefit granted during the time basis to a standard beneficiary whose breadwinner has completed five years of contribution, employment or residence.
4. If recourse is had to paragraph 4 the benefit the amount of which is shown under Article 62 should be the benefit granted during the time basis to a standard beneficiary whose breadwinner has completed a qualifying period of more than five years but less than 15 years of contribution or employment. Please state the duration of the qualifying period.
5. Please state whether recourse is had to paragraph 5. If so, please specify the minimum duration of marriage required for a childless widow presumed to be incapable of self-support to be entitled to benefit.

No changes in the period under review. The minimum duration of the marriage is one year.

X - 7. Duration of benefit

Article 64. ECSS

The benefit specified in Articles 62 and 63 shall be granted throughout the contingency.

Article 25. C128

The benefit specified in Articles 23 and 24 shall be granted throughout the contingency.

Report form for the ECSS:

Please confirm that, in accordance with the provisions of this Article, survivors' benefit is granted throughout the contingency.

Confirmed.

X - 8. Suspension of benefit

See under Part V-8.

Article 68. ECSS

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;*
- (b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;*
- (c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;*
- (d) where the person concerned has made a fraudulent claim;*
- (e) where the contingency has been caused by a criminal offence committed by the person concerned;*
- (f) where the contingency has been caused by the wilful misconduct of the person concerned;*
- (j) in the case of survivors' benefit, as long as the widow is living with a man as his wife.*

Report form for the ECSS:

Please indicate the provisions, if any, for the suspension of survivors' benefits.

If widows or widowers remarry, they lose the right to their survivor's pension. However they can apply for a severance payment amounting to 24 monthly payments. If the new marriage ends in

divorce or the new spouse dies, the widow's or widower's pension from that time can be paid again.

X - 9. Right of complaint and appeal

Article 68. ECSS

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;*
- (b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;*
- (c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;*
- (d) where the person concerned has made a fraudulent claim;*
- (e) where the contingency has been caused by a criminal offence committed by the person concerned;*
- (f) where the contingency has been caused by the wilful misconduct of the person concerned;*

Report form for the ECSS:

Please indicate the provisions, if any, for the suspension of invalidity benefits.

Missing from the ECSS text (Art. 68):

- g) in appropriate cases, where the person concerned neglects to make use of the medical or rehabilitation services placed at his disposal or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of the beneficiaries;*
- h) in the case of unemployment benefit, where the person concerned has failed to make use of the employment services placed at his disposal;*
- i) in the case of unemployment benefit, where the person concerned has lost his employment as a direct result of a stoppage of work due to a trade dispute, or has left it voluntarily without just cause; and*
- j) in the case of survivors' benefit, as long as the widow is living with a man as his wife.*

- e) In case the spouse was murdered to procure a survivor's pension*
- j) In case of remarriage.*

X - 10. Financing and Administration

See under Part V-10, Part XIII-3.

Part XI. Standards to be complied with by periodical payments

Part	Contingency	Standard Beneficiary	C102/ECSS	C121	C128	Protocol
III	Sickness	Man with wife and two children	45%			50%
IV	Unemployment	Man with wife and two children	45%			50%
V	Old age	Man with wife of pensionable age	40%		45%	45%
VI	<u>Employment injury:</u>					
	<i>Temporary or initial incapacity for work</i>	Man with wife and two children	50%	60%		50%
	<i>Total loss of earning capacity or corresponding loss of faculty</i>	Man with wife and two children	50%	60%		50%
	<i>Death of breadwinner</i>	Widow with two children	40%	50%		45%
VIII	Maternity	Woman	45%			50%
IX	Invalidity	Man with wife and two children	40%		50%	50%
X	Survivorship	Widow with two children	40%		45%	45%

A. Determination of the standards wage of the skilled manual male employee

Article 65. C102 and ECSS, Article 19. C121, Article 26. C128, Article 22. C130.

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the previous earnings of the beneficiary or his breadwinner and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.
2. The previous earnings of the beneficiary or his breadwinner shall be calculated according to prescribed rules, and, where the persons protected or their breadwinners are arranged in classes according to their earnings, their previous earnings may be calculated from the basic earnings of the classes to which they belonged.
3. A maximum limit may be prescribed for the rate of the benefit or for the earnings taken into account for the calculation of the benefit, provided that the maximum limit is fixed in such a way that the provisions of paragraph 1 of this Article are complied with where the previous earnings of the beneficiary or his breadwinner are equal to or lower than the wage of a skilled manual male employee.
4. The previous earnings of the beneficiary or his breadwinner, the wage of the skilled manual male employee, the benefit and any family allowances shall be calculated on the same time basis.
5. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.
6. For the purpose of this Article, a skilled manual male employee shall be:
 - (a) a fitter or turner in the manufacture of machinery other than electrical machinery; or
 - (b) a person deemed typical of skilled labour selected in accordance with the provisions of the following paragraph; or
 - (c) a person whose earnings are such as to be equal to or greater than the earnings of 75 per cent. of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or
 - (d) a person whose earnings are equal to 125 per cent. of the average earnings of all the persons protected.

7. The person deemed typical of skilled labour for the purposes of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, and reproduced in the Annex to this Convention, or such classification as at any time amended, shall be used.

8. Where the rate of benefit varies by region, the skilled manual male employee may be determined for each region in accordance with paragraphs 6 and 7 of this Article.

9. The wage of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.

10. The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

B. Determination of the standards wage of the ordinary adult male labourer

Article 66. C102 and ECSS, Article 20. C121, Article 27. C128, Article 23. C130.

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the wage of an ordinary adult male labourer and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The wage of the ordinary adult male labourer, the benefit and any family allowances shall be calculated on the same time basis.

3. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

4. For the purpose of this Article, the ordinary adult male labourer shall be:

(a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or

(b) a person deemed typical of unskilled labour selected in accordance with the provisions of the following paragraph.

5. The person deemed typical of unskilled labour for the purpose of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, and reproduced in the Annex to this Convention, or such classification as at any time amended, shall be used.

6. Where the rate of benefit varies by region, the ordinary adult male labourer may be determined for each region in accordance with paragraphs 4 and 5 of this Article.

7. The wage of the ordinary adult male labourer shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 6 of this Article is not applied, the median rate shall be taken.

8. The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

C. Means-tested social assistance

Article 67. C102 and ECSS

In the case of a periodical payment to which this Article applies:

(a) the rate of the benefit shall be determined according to a prescribed scale or a scale fixed by the competent public authority in conformity with prescribed rules;

(b) such rate may be reduced only to the extent by which the other means of the family of the beneficiary exceed prescribed substantial amounts or substantial amounts fixed by the competent public authority in conformity with prescribed rules;

(c) the total of the benefit and any other means, after deduction of the substantial amounts referred to in subparagraph (b), shall be sufficient to maintain the family of the beneficiary in health and decency, and shall be not less than the corresponding benefit calculated in accordance with the requirements of Article 66;

(d) the provisions of subparagraph (c) shall be deemed to be satisfied if the total amount of benefits paid under the Part concerned exceeds by at least 30 per cent. the total amount of benefits which would be obtained by applying the provisions of Article 66 and the provisions of:

(i) Article 15 (b) for Part III;

(ii) Article 27 (b) for Part V;

(iii) Article 55 (b) for Part IX;

(iv) Article 61 (b) for Part X.

- **[Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#), **Social Security (Minimum Standards) Convention, 1952 (No. 102), Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), Medical Care and Sickness Benefits Convention, 1969 (No. 130), Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)****

Applying Conventions Nos 102, 121, 128 and 130 on the basis of minimum benefits. The Committee recalls that ILO social security Conventions on the example of Convention No. 102 can be applied on the force of social insurance schemes providing earnings-related benefits (*Article 65* of Convention No. 102) or flat rate benefits (*Article 66*), or social assistance schemes providing means-tested benefits (*Article 67*). Another option consists in applying these Conventions on the basis of basic income security guarantees where a social insurance scheme provides a minimum benefit, or a fixed basic amount as part of the earnings-related benefit, or where there is a guaranteed minimum income scheme or a universal social pension. The Committee systemically looks at this option every time when the regular benefit provided by the scheme in question does not attain the level prescribed by the Convention in question. It observes that the importance of the minimum benefits for the application of the Conventions has been growing steadily inasmuch as in many countries the replacement level of regular benefits showed a marked downwards trend, falling below the percentage prescribed by the Conventions and, for low wage earners, even below the poverty line in absolute figures. For the ordinary labourers a guaranteed minimum pension often provides better protection in terms of the Conventions, as they retain little chances of earning higher pension after 30 years of insurance.

According to Convention No. 102, the amount of a guaranteed minimum cash benefit, whichever form it takes, shall not be less than the corresponding benefit calculated in accordance with the requirements of its *Article 66*. For the family of the standard beneficiary, this amount shall be such as to attain, in respect of the contingency in question, at least the percentage of the reference wage of the ordinary adult male labourer indicated in the Schedule to Part XI of the Convention. For other beneficiaries with different family responsibilities, the guaranteed minimum benefit shall bear a reasonable relation to the benefit of the standard beneficiary (*Article 66(3)*). In all cases, the resulting amount shall be sufficient to maintain the family of the beneficiary "in health and decency" (*Article 67(c)*) under the conditions of entitlement prescribed by the corresponding Part of the Convention with respect to the qualifying period, age and duration of payment. This adequacy criteria comes forward when the amount of the minimum benefit calculated as a percentage of the reference wage of the ordinary labourer falls below the poverty threshold to a point incompatible with living in "health and decency". With respect to maintaining the family of the beneficiary in conditions of health, the minimum benefit shall be sufficient to cover the required cost-sharing by the beneficiary in the medical care guaranteed to his family under Part II of Convention No. 102 in such a manner as to avoid hardship and not to prejudice the effectiveness of medical and social protection (*Article 10(2)*). Persons on minimum benefit in need

of health care should not face an increased risk of poverty due to the financial consequences of accessing the types of health care specified in *Article 10(1)*. With regard to maintaining the family of the beneficiary in conditions of decency, the minimum benefit, together with other statutory social protections, shall allow life in dignity and provide income above the national poverty line or similar income threshold, preventing vulnerability and social exclusion. The entitlement to the minimum benefit shall not be subjected to any additional conditions of a discriminatory nature applied to any member of the family of the beneficiary, and shall not deprive the beneficiary of the acquired social and insurance status, including the rights acquired or in the course of acquisition under the statutory social security schemes. When the legislation makes the provision of social security benefits conditional upon occupational activity, periods during which minimum benefits are paid should normally be taken into consideration for acquisition of the right to other social security benefits. The rate of social insurance contributions or taxation or both applied to minimum benefits shall be determined in a manner which avoids hardship to persons of small means with due regard to social justice and equity (*Article 70(1)*). The current rates of the minimum benefits in respect of the long-term contingencies shall be adjusted to the cost of living (*Article 66(8)*). ***In the light of these explanations, the Committee requests the Government to assess whether and to what extent the existing minimum social security guarantees comply with the abovementioned requirements of Convention No. 102 as to their level and conditions of entitlement, and could be used to give effect to its provisions under each accepted Part of the Convention.*** For the relevant statistical indicators concerning income, poverty and wages, the Government may wish to refer to the ILO technical note.

Please provide a reply to the question:

The German Basic Law (Grundgesetz) guarantees the basic right to a subsistence minimum that is consistent with human dignity. This follows from Article 1 (1) of the Basic Law and the principle of the social state under Article 20 (1) of the Basic Law. This fundamental right guarantees every citizen the financial means essential to meet their subsistence needs and a minimum of participation in social, cultural and political life. The Basic Law does not distinguish according to the cause of the need for assistance. Social assistance and the benefits provided under it therefore constitute the bottommost social safety net.

Social assistance has the purpose of enabling a standard of living and social participation consistent with human dignity when a person's own income and assets are insufficient for that purpose. Social assistance also aims to compensate in case of need for impediments such as disabilities, need of nursing care or exceptional social difficulties so that people can take part in community life as fully as possible.

Various benefits are provided according to personal situation, age and situation. For example:

** Basic income support for jobseekers under Book II of the Social Code (SGB II) for those capable of work who are aged between 15 and the statutory retirement age and the members of their household;*

** Basic income support in old age and in the event of reduced earning capacity under Book XII of the Social Code (SGB XII) for persons who have reached the statutory retirement age and persons with permanent fully reduced earning capacity;*

** Cost-of-living assistance under Book XII of the Social Code (SGB XII) for persons who are not capable of work but are not persons with permanent full reduced earning capacity.*

** Benefits under the Asylum Seekers Benefits Act (Asylbewerberleistungsgesetz, AsylbLG) for certain groups of third-country nationals in need of financial assistance, in particular asylum seekers, persons whose deportation has been temporarily suspended and foreigners who are under an enforceable obligation to leave the country,*

** Welfare benefits in accordance with the Federal War Victims' Compensation Act (Bundesversorgungsgesetz, BVG) for victims of acts of violence, military service victims, civilian*

service victims, victims of state injustice in the GDR and victims of vaccinations, as well as their surviving dependents.

Social assistance benefits are needs-based. They are only paid to those whose own income and assets and, where applicable, those of their spouse or life partner do not meet the minimum subsistence level.

The benefits of the social minimum income schemes guarantee the socio-cultural minimum subsistence level. This includes in particular the costs of (necessary) subsistence. These include, above all:

- * Nutrition,
- * Clothes,
- * Household goods,
- * Electricity,
- * Personal care,
- * Costs of housing (so-called needs for expenses for housing incl. owner-occupied residential property) including heating and
- * other needs of daily life, including needs for social participation.

The needs for (necessary) subsistence are generally granted in the form of the lump-sum standard needs rate as well as the appropriate expenses for accommodation and heating.

In the case of benefits granted under SGB II and SGB XII, for example, the standard needs rate is a uniformly assessed monthly lump sum for everyday needs, the use of which is decided by the beneficiaries on their own responsibility. The standard needs rate is subdivided into six standard needs levels, which take into account the household constellation in the case of adults and age-related differences in the case of children and young people. The starting point for the calculation of standard needs rate is the determination of consumption expenditure relevant to standard needs on the basis of the sample survey of income and consumption conducted every five years by the Federal Statistical Office. Households of all social groups take part in the survey, so that the sample survey of income and consumption provides a representative picture of the reality of life for almost the entire population in Germany. In order to obtain a sufficiently large sample, 0.2 percent of all private households in Germany participate on a voluntary basis. In this way, the sample survey of income and consumption covers the income and consumption expenditure of representative households over a period of three months each year. The sum of the consumption expenditure relevant to the standard needs collected in this way forms the standard needs rate. This is currently 502 euros and is adjusted annually on the basis of a mixed index of price and wage trends. The standard needs rate is thus an aggregate lump sum that reflects all needs necessary for subsistence on the basis of representatively determined actual average expenditures of households in the lower income range that are not dependent on subsistence benefits due to sufficient income and assets. To help beneficiaries to cope with high inflation, a new mechanism for the annual update, which is based on more current data, has been established in 2023.

Regarding the needs for housing and heating - regardless of the type of housing - the expenses actually incurred for this purpose are recognised as needs insofar as their amount is reasonable.

An extra allowance for additional needs is paid for additional costs not covered by the standard needs rate in certain situations and special circumstances provided that the individual requirements are met. Among other things, this includes additional costs for persons eligible for benefits who have a severe disability pass with a 'G' entry (indicating 'significantly restricted

mobility in road traffic'), for expectant mothers and single parents, and to pay for decentralised water heating.

In addition to the so-called standard needs rate and the additional needs, there are also one-off needs. They are a supplement to the standard needs rate. The financial consequences of special events cannot be generalised because they occur only rarely and are therefore reflected in average consumption expenditure to an extent that can hardly be measured. On the other hand, however, such special life situations, once they occur, lead to high expenses. For this reason, lawmakers have provided for one-off needs in three special situations, which are paid in addition to the childcare allowance:

** initial fitting-out of housing, including household appliances;*

** initial supplies of clothing and initial supplies for pregnancy and birth (e.g. prams and baby equipment);*

- Purchase and repairs of orthopedic footwear, repairs of therapeutic devices and equipment, and rental of therapeutic devices.

In addition to the standard needs rates, children, adolescents and young adults are provided with education and participation assistance under what is called the education package (Bildungspaket). The aim is for children to have fair education and social participation opportunities and be able to develop their abilities regardless of their parents' financial means. The educational package (Bildungspaket) consists of the following types of assistance:

** Expenses for one-day and multi-day excursions with the school, the day care centre and the child day care,*

** Provision with personal school supplies,*

** Expenditure for pupils' transportation to/from school provided it is necessary and not already paid for by others*

** Expenses for extracurricular learning support*

** Expenditure for participation in school communal meals or preschool or child daycare communal meals*

** Expenses for social and cultural participation in the community (e.g. for sports club or music school).*

Health and long-term care insurance can be paid, as can pension contributions (Sections 32 and 33 of SGB XII).

Part XII. Equality of treatment of non-national residents

Germany has ratified C19, C102, 118, 121, and 130.

Article 68. C102

1. Non-national residents shall have the same rights as national residents: Provided that special rules concerning non-nationals and nationals born outside the territory of the Member may be prescribed in respect of benefits or portions of benefits which are payable wholly or mainly out of public funds and in respect of transitional schemes.

2. Under contributory social security schemes which protect employees, the persons protected who are nationals of another Member which has accepted the obligations of the relevant Part of the Convention shall have, under that Part, the same rights as nationals of the Member concerned: Provided that the application of this paragraph may be made subject to the existence of a bilateral or multilateral agreement providing for reciprocity.

Article 27. C121

Each Member shall within its territory assure to non-nationals equality of treatment with its own nationals as regards employment injury benefits.

Article 32. C130

Each Member shall, within its territory, assure to non-nationals who normally reside or work there equality of treatment with its own nationals as regards the right to the benefits provided for in this Convention.

Convention No. 118

[Please provide an updated information under the relevant Article of C118 in case of [any new legislative or other measures](#) affecting the application of C118 as well as statistical data on the approximate number of foreign workers in the national territory, their nationality, their occupational distribution (more particularly, see Parts II and V of the [report form for C118](#))]

Article 1. C118

In this Convention

- (a) the term *legislation* includes any social security rules as well as laws and regulations;
- (b) the term *benefits* refers to all benefits, grants and pensions, including any supplements or increments;
- (c) the term *benefits granted under transitional schemes* means either benefits granted to persons who have exceeded a prescribed age at the date when the legislation applicable came into force, or benefits granted as a transitional measure in consideration of events occurring or periods completed outside the present boundaries of the territory of a Member;
- (d) the term *death grant* means any lump sum payable in the event of death;
- (e) the term *residence* means ordinary residence;
- (f) the term *prescribed* means determined by or in virtue of national legislation as defined in subparagraph (a) above;
- (g) the term *refugee* has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951;
- (h) the term *stateless person* has the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954.

Germany has accepted branches (a) to (c), (g) and (h)

Article 2. C118

1. Each Member may accept the obligations of this Convention in respect of any one or more of the following branches of social security for which it has in effective operation legislation covering its own nationals within its own territory:

- (a) **medical care;**
- (b) **sickness benefit;**
- (c) **maternity benefit;**
- (d) **invalidity benefit;**
- (e) **old-age benefit;**

- (f) survivors' benefit;*
- (g) employment injury benefit;*
- (h) unemployment benefit; and*
- (i) family benefit.*

2. Each Member for which this Convention is in force shall comply with its provisions in respect of the branch or branches of social security for which it has accepted the obligations of the Convention.

3. Each Member shall specify in its ratification in respect of which branch or branches of social security it accepts the obligations of this Convention.

4. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of the Convention in respect of one or more branches of social security not already specified in its ratification.

5. The undertakings referred to in paragraph 4 of this Article shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.

6. For the purpose of the application of this Convention, each Member accepting the obligations thereof in respect of any branch of social security which has legislation providing for benefits of the type indicated in clause (a) or (b) below shall communicate to the Director-General of the International Labour Office a statement indicating the benefits provided for by its legislation which it considers to be--

(a) benefits other than those the grant of which depends either on direct financial participation by the persons protected or their employer, or on a qualifying period of occupational activity; or

(b) benefits granted under transitional schemes.

7. The communication referred to in paragraph 6 of this Article shall be made at the time of ratification or at the time of notification in accordance with paragraph 4 of this Article; as regards any legislation adopted subsequently, the communication shall be made within three months of the date of the adoption of such legislation.

Article 3. C118

1. Each Member for which this Convention is in force shall grant within its territory to the nationals of any other Member for which the Convention is in force equality of treatment under its legislation with its own nationals, both as regards coverage and as regards the right to benefits, in respect of every branch of social security for which it has accepted the obligations of the Convention.

2. In the case of survivors' benefits, such equality of treatment shall also be granted to the survivors of the nationals of a Member for which the Convention is in force, irrespective of the nationality of such survivors.

3. Nothing in the preceding paragraphs of this Article shall require a Member to apply the provisions of these paragraphs, in respect of the benefits of a specified branch of social security, to the nationals of another Member which has legislation relating to that branch but does not grant equality of treatment in respect thereof to the nationals of the first Member.

Article 4. C118

1. Equality of treatment as regards the grant of benefits shall be accorded without any condition of residence: Provided that equality of treatment in respect of the benefits of a specified branch of social security may be made conditional on residence in the case of nationals of any Member the legislation of which makes the grant of benefits under that branch conditional on residence on its territory.

2. Notwithstanding the provisions of paragraph 1 of this Article, the grant of the benefits referred to in paragraph 6 (a) of Article 2--other than medical care, sickness benefit, employment injury benefit and family benefit--may be made subject to the condition that the beneficiary has resided on the territory of the Member in virtue of the legislation of which the benefit is due, or, in the case of a survivor, that the deceased had resided there, for a period which shall not exceed--

(a) six months immediately preceding the filing of claim, for grant of maternity benefit and unemployment benefit;

(b) five consecutive years immediately preceding the filing of claim, for grant of invalidity benefit, or immediately preceding death, for grant of survivors' benefit;

(c) ten years after the age of 18, which may include five consecutive years immediately preceding the filing of claim, for grant of old-age benefit.

3. Special provisions may be prescribed in respect of benefits granted under transitional schemes.

4. The measures necessary to prevent the cumulation of benefits shall be determined, as necessary, by special arrangements between the Members concerned.

Article 5. C118

1. In addition to the provisions of Article 4, each Member which has accepted the obligations of this Convention in respect of the branch or branches of social security concerned shall guarantee both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention in respect of the branch or branches in question, when they are resident abroad, provision of invalidity benefits, old-age benefits, survivors' benefits and death grants, and employment injury pensions, subject to measures for this purpose being taken, where necessary, in accordance with Article 8.

2. In case of residence abroad, the provision of invalidity, old-age and survivors' benefits of the type referred to in paragraph 6 (a) of Article 2 may be made subject to the participation of the Members concerned in schemes for the maintenance of rights as provided for in Article 7.

3. The provisions of this Article do not apply to benefits granted under transitional schemes.

Article 6. C118

In addition to the provisions of Article 4, each Member which has accepted the obligations of this Convention in respect of family benefit shall guarantee the grant of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of this Convention for that branch, in respect of children who reside on the territory of any such Member, under conditions and within limits to be agreed upon by the Members concerned.

Article 7. C118

1. Members for which this Convention is in force shall, upon terms being agreed between the Members concerned in accordance with Article 8, endeavour to participate in schemes for the maintenance of the acquired rights and rights in course of acquisition under their legislation of the nationals of Members for which the Convention is in force, for all branches of social security in respect of which the Members concerned have accepted the obligations of the Convention.

2. Such schemes shall provide, in particular, for the totalisation of periods of insurance, employment or residence and of assimilated periods for the purpose of the acquisition, maintenance or recovery of rights and for the calculation of benefits.

3. The cost of invalidity, old-age and survivors' benefits as so determined shall either be shared among the Members concerned, or be borne by the Member on whose territory the beneficiaries reside, as may be agreed upon by the Members concerned.

Article 8. C118

The Members for which this Convention is in force may give effect to their obligations under the provisions of Articles 5 and 7 by ratification of the Maintenance of Migrants' Pension Rights Convention, 1935, by the application of the provisions of that Convention as between particular Members by mutual agreement, or by any multilateral or bilateral agreement giving effect to these obligations.

Article 9. C118

The provisions of this Convention may be derogated from by agreements between Members which do not affect the rights and duties of other Members and which make provision for the maintenance of rights in course of acquisition and of acquired rights under conditions at least as favourable on the whole as those provided for in this Convention.

Article 10. C118

1. The provisions of this Convention apply to refugees and stateless persons without any condition of reciprocity.

2. This Convention does not apply to special schemes for civil servants, special schemes for war victims, or public assistance.

3. This Convention does not require any Member to apply the provisions thereof to persons who, in accordance with the provisions of international instruments, are exempted from its national social security legislation.

Article 11. C118

The Members for which this Convention is in force shall afford each other administrative assistance free of charge with a view to facilitating the application of the Convention and the execution of their respective social security legislation.

Part XIII. Common provisions

XIII – 1. Suspension of benefit

Article 69. C102, Article 68. ECSS

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;*
- (b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;*
- (c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;*
- (d) where the person concerned has made a fraudulent claim;*
- (e) where the contingency has been caused by a criminal offence committed by the person concerned;*
- (f) where the contingency has been caused by the wilful misconduct of the person concerned;*
- (g) in appropriate cases, where the person concerned neglects to make use of the medical or rehabilitation services placed at his disposal or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries;*
- (h) in the case of unemployment benefit, where the person concerned has failed to make use of the employment services placed at his disposal;*
- (i) in the case of unemployment benefit, where the person concerned has lost his employment as a direct result of a stoppage of work due to a trade dispute, or has left it voluntarily without just cause; and*
- (j) in the case of survivors' benefit, as long as the widow is living with a man as his wife.*

XIII – 2. Right of complaint and appeal

Article 70. C102, Article 69. ECSS

- 1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.*
- 2. Where in the application of this Convention (Code) a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.*
- 3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.*

Article 23. C121

- 1. Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity.*
- 2. Where in the application of this Convention a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.*
- 3. Where a claim is settled by a special tribunal established to deal with employment injury benefit questions or with social security questions in general and on which the persons protected are represented, no right of appeal shall be required.*

Article 34. C128

- 1. Every claimant shall have a right of appeal in the case of refusal of benefit or complaint as to its quality or quantity.*
- 2. Procedures shall be prescribed which permit the claimant to be represented or assisted, where appropriate, by a qualified person of his choice or by a delegate of an organization representative of persons protected.*

Article 29. C130

1. Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity.
2. Where in the application of this Convention a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

XIII – 3. Financing and Administration

Article 71. C102, Article 70. ECSS

1. The cost of the benefits provided in compliance with this Convention (Code) and the cost of the administration of such benefits shall be borne collectively by way of insurance contributions or taxation or both in a manner which avoids hardship to persons of small means and takes into account the economic situation of the Member (Contracting Party) and of the classes of persons protected.
2. The total of the insurance contributions borne by the employees protected shall not exceed 50 per cent of the total of the financial resources allocated to the protection of employees and their wives and children. For the purpose of ascertaining whether this condition is fulfilled, all the benefits provided by the Member (Contracting Party) in compliance with this Convention (Code), except family benefit and, if provided by a special branch, employment injury benefit, may be taken together.
3. The Member (Contracting Party) shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention (Code), and shall take all measures required for this purpose; it shall ensure, where appropriate, that the necessary actuarial studies and calculations concerning financial equilibrium are made periodically and, in any event, prior to any change in benefits, the rate of insurance contributions, or the taxes allocated to covering the contingencies in question.

Article 72. C102, Article 71. ECSS

1. Where the administration is not entrusted [to an institution regulated by the public authorities or – C102] to a Government department responsible to a legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions; national laws or regulations may likewise decide as to the participation of representatives of employers and of the public authorities.
2. The Member (Contracting Party) shall accept general responsibility for the proper administration of the institutions and services concerned in the application of the Convention (Code).

Report form for the ECSS:

1. Please state, the resources of each scheme concerned, and more particularly, the rate or the amount of the contributions raised on earnings for the purposes of financing the scheme, either by way of insurance contributions or of taxes.
2. Please furnish the following statistical information for the specific Parts.

Part N	Resources allocated to the protection of employees, their wives and their children (A)	Insurance contributions borne by the employees protected (B)
Part II	<i>For 2023, data is not yet available</i>	<i>n/a</i>
Part III		
Part IV		
Part V		
Part VI⁵⁹		
Part VIII		
Part IX		
Part X		
Total		

3. Total in column B per cent of total in column A, above.
4. Please state to which extent responsibility has been assumed by the Member for the provision of benefits.
5. Please indicate the principal changes that have been made during the period covered by the reports as regards:
 - i. benefit;
 - ii. rates of contribution;
 - iii. other resources.
6. Please state whether the necessary actuarial studies and calculations concerning the financial equilibrium are made periodically. Where this has not already been done, please forward the results of any such studies and calculations.
7. Please state whether the persons protected participate in the management of the scheme or schemes concerned, or whether their representatives are associated therewith. If so, please state how participation or association is secured.

See below.

⁵⁹ The resources allocated to benefits in case of employment injury should not be included in this table if such benefits are provided under a special branch.

On Article 70 (2) (or Article 71 (2) of Convention 102)

Total expenditure and contribution revenue from the protected employees (excluding statutory accident insurance) were as follows:

Overall expenditure in million euros
(A)

Adopted parts of the Convention	2015	2016	2017	2018	2019	2020	2021
Parts II, III and VIII (Health insurance and maternity benefit)	97 675	99 899	104 036	107 655	114 834	117 911	127 155
Part IV (Unemployment insurance)	18 021	17 424	17 278	16 884	18 470	46 542	43 196
Parts V, IX and X (Pension insurance of workers, salaried employees and miners incl. special scheme for civil servants)	336 127	348 997	362 471	373 888	393 742	409 624	418 840
Total	451 823	466 320	483 785	498 427	527 046	574 076	589 191

Contribution revenue from employees
in million euros
(B)

Adopted parts of the Convention	2015	2016	2017	2018	2019	2020	2021
Parts II, III and VIII (Health insurance and maternity benefit)	69 644	75 030	78 783	82 551	80 408	79 848	85 193
Part IV (Unemployment insurance)	14 811	15 425	16 084	16 917	14 793	13 988	14 530
Parts V, IX and X (Pension insurance of workers, salaried employees and miners incl. special scheme for civil servants)	90 560	94 306	98 445	103 111	107 601	106 223	110 799
Total	175 015	184 760	193 312	202 579	202 802	200 059	210 522

Explanatory comments:

The figures are based on financial specifications of the insurance funds and the Federal Government's social budget and also include estimates. Expenditure relating to Parts II to IV and to Parts VI and VII does not include the - undisclosed - expenditure of the special scheme for civil servants. The overall expenditure of the health insurance fund (Parts II, III and VIII) were converted into expenditure per protected employee in the General Scheme. This was not possible for pension insurance expenditure (Parts V, IX and X); here total expenditure figures were used.

The contribution revenue listed here is confined to the contributions paid by the protected employees.

The following shares of the total expenditure (excluding accident insurance) was financed from the contributions paid by the protected employees

2015	38.7 per cent
2016	39.6 per cent
2017	40.0 per cent
2018	40,6 per cent
2019	38.5 per cent
2020	34.8 per cent
2021	35.7 per cent.