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38th National Report on the implementation of the
European Social Charter

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THE GOVERNMENT OF THE GERMANY

Articles 3, 11, 12, 13 and 14
for the period 01/01/2016 – 31/12/2019

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**38th Report
of the Government of the Federal Republic of
Germany
for the period
1 January 2016 - 31 December 2019
(Articles 3, 11, 12, 13, 14)**

To be presented according to the provisions of Article 21 of the
European Social Charter,
whose instrument of ratification was deposited on 27 January 1965.

Pursuant to Article 23 of the European Social Charter, copies of the report will
be provided to the Confederation of German Employers' Associations
and
the Federal Board of the German Trade Union Confederation.

TABLE OF CONTENTS

Preliminary remarks		1
Article 3	The right to safe and healthy working conditions	1
Paragraph 1	Issuance of safety and health regulations	1 - 6
Paragraph 2	Enforcement of safety and health regulations	7 - 17
Paragraph 3	Measures to hold consultations with the social partners	18
Article 11	The right to protection of health	18 - 24
Article 12	The right to social security	24 - 43
Paragraph 1	Existence of a social security system	19 - 29
Paragraphs 2 / 3	Development of the social security system	29 - 36
Paragraph 4	Equal treatment of nationals of other States Parties with regard to social security	37 - 38
Article 13	The right to social and medical assistance	43 - 46
Paragraph 1	Assistance and medical care for people in need	43 - 45
Paragraph 3	Advice and assistance in an emergency	45
Paragraph 4	Equal treatment of citizens of other contracting parties	46
Article 14	The right to benefit from social services	47
Paragraph 1	Social services	47

Preliminary remarks

The 38th report follows on from the earlier reports presented by the Federal Government on the national implementation of the obligations set down in the European Social Charter. The report only addresses individual provisions of the Charter if comments by the European Committee of Social Rights under the European Social Charter (for convenience, referred to as the "Committee" in this report) in Conclusions XXI-2 (2017) give grounds to do so, if required in the questionnaire, or if circumstances and the legal situation have changed significantly in the reporting period.

If the situation within Germany varies as a result of reunification, the 38th report makes a distinction between old and new *Länder*. The term "new *Länder*" refers to the federal states (*Länder*) of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia, as well as the eastern part of *Land* Berlin.

Article 3 - The right to safe and healthy working conditions

Paragraph 1 - Issuance of safety and health regulations

Second Ordinance to Amend the Ordinance on Preventive Occupational Health Care (*Zweite Verordnung zur Änderung der Verordnung zur arbeitsmedizinischen Vorsorge*)

In 2019, a new ground for preventive occupational health care was added to the Annex to the Ordinance on Preventive Occupational Health Care (Federal Law Gazette 2019 I, 1082).

Since then, employers are required to offer preventive occupational health care to workers with intense exposure to natural UV radiation.

Furthermore, employers are required to keep harmful solar radiation exposure to a minimum.

In connection with the new ground for preventive occupational health care, clarification was also provided regarding overall preventive occupational health care. All grounds for preventive occupational health care shall be addressed simultaneously at one appointment with the occupational health physician (OHP); this makes it easier to organise preventive health care and enables the provision of individual information and advice on all work-related health risks.

General administrative rule for the provision of services of occupational physicians and safety specialists in the authorities and undertakings of the Federal Government (*Allgemeine Verwaltungsvorschrift für die betriebsärztliche und sicherheitstechnische Betreuung in den Behörden und Betrieben des Bundes*)

The general administrative rule for the provision of services of occupational physicians and safety specialists in the authorities and undertakings of the Federal Government entered into force on 1 April 2018 on the basis of Section 115 (1) first sentence of Book VII of the Social Code. It replaces the "Regulation for the provision of services of occupational physicians and safety specialists in the administrative bodies and undertakings of the Federal Government" (*Richtlinie für den betriebsärztlichen und sicherheitstechnischen Dienst in den Verwaltungen und Betrieben des Bundes*), which had been in force since 1978.

The Occupational Safety Act (*Arbeitssicherheitsgesetz*) requires employers to appoint OHPs and occupational safety and health (OSH) professionals. They are to advise and support employers in meeting their obligations with regard to safety at work and accident prevention. The Occupational Safety Act does not apply directly to the public sector but does require the public sector to ensure medical and OSH protection that is on a par with the Occupational Safety Act (Section 16 of the Occupational Safety Act). The aforementioned general administrative rule now guarantees this occupational safety and health protection, which is equivalent to that provided under the Occupational Safety Act, for the immediate federal administration.

The main changes compared to the aforementioned regulation of 1978 are primarily concentrated in two areas:

- closer collaboration between occupational health physicians and OSH professionals with actors in the administration;
- general support tied exclusively to categorising provisions (defining a set of general support tasks) and company-specific support based on the specific official needs assessment (via a risk assessment) instead of the previous system of support based exclusively on a set number of allocated hours.

In terms of content, the general administrative rule for the provision of services of occupational physicians and safety specialists in the authorities and undertakings of the Federal Government takes account of German Social Accident Insurance (DGUV) Regulation 2, which has applied outside the public-service domain since 1 January 2011.

The Committee requests more detailed information regarding Section 5 (3) no. 6 of the Act on Safety and Health at Work (Arbeitsschutzgesetz). The Federal Government provides the following information in this regard:

The provision added to the Act on Safety and Health at Work under Section 5 (3) no. 6 serves to provide clarification regarding the risk factors that must be considered in a risk assessment. The amendment is designed to raise employers' awareness of psychological stress at work, and further increase the performance of risk assessments in practice, while also placing a particular priority on the inclusion of psychological stress in the risk assessment. The formulation "at work" makes it clear that the clarification is not intended to generally improve workers' state of health in all aspects of life. Employers are still only required to put protective measures in place to the extent that the work puts workers' physical or mental health at risk.

Protection of workers from exposure to asbestos

In Germany, provisions to protect workers from exposure to asbestos are contained in the Ordinance on Hazardous Substances (*Gefahrstoffverordnung*). No amendments to the legal regulations have been made in the reporting period. The limit of 0.1 fibres per cm³ for asbestos in the workplace has been defined as the tolerance concentration in Technical Rules for Hazardous Substances TRGS 910 and is also included in TRGS 519. Compliance with this value is mandatory in accordance with Section 7 (11) of the Ordinance on Hazardous Substances.

Protection of workers against ionising radiations

The Radiation Protection Act (*Strahlenschutzgesetz*) and the Radiation Protection Ordinance (*Strahlenschutzverordnung*) provide the legal basis for protection against the harmful effects of ionising radiation. These pieces of legislation follow the EURATOM standards for radiation protection (Directive 2013/59/EURATOM), which define the framework for radiation protection in the EU and make reference to the recommendations of the International Commission on Radiological Protection (ICRP). The German Radiation Protection Act covers both the protection of the population and the protection of workers.

With regard to employment, the radiation protection principles of justification, avoidance of unnecessary exposure, dose reduction, and dose constraints are the most relevant. These

principles establish an obligation to optimise radiation protection in line with the ALARA principle (that radiation doses should be kept as low as reasonably achievable) and to make these principles particularly visible in special fields of activity.

Aside from the legal provisions, the requirements are also specified in the general administrative provisions, regulations and other special provisions. For example, they contain detailed dosimetry specifications or specifications regarding the necessary qualifications for in-house radiation protection experts.

In Germany, the legal framework is based on the transfer of responsibility for radiation protection to the radiation protection supervisor and one or more appointed radiation protection officers. To perform the specific tasks and duties, the radiation protection officer must demonstrate the necessary radiation protection expertise, professional integrity and sufficient powers within the undertaking. The requirements are set down in a series of regulation guidelines that are appropriate for the complexity and practical radiological risk. The German concept of a radiation protection officer dovetails with the requirements of the 2013 EUR-ATOM Directive on basic safety standards for radiation protection supervisors and radiation protection officers, as it comprises both a qualification confirmed and recognised by the competent authority and tasks and capacities within the undertaking.

Several dose limits for occupational exposure are defined in the Radiation Protection Act. For example, the limit for total effective doses calculated in all calendar years for occupationally exposed persons is 400 millisievert. On the other hand, the limit for the effective dose per calendar year for occupationally exposed persons is 20 millisievert. In isolated cases the competent authority can permit an effective dose of 50 millisievert for an individual calendar year, but a total of 100 millisievert may not be exceeded in five consecutive years and in the year in question. Furthermore, there are limits for the equivalent dose per calendar year for the lens of the eye (20 mSv), skin (500 mSv) and for hands, forearms, feet and ankles (500 mSv in each case).

In Germany, persons under the age of 18 may not have occupational exposure to ionising radiation of more than 1 millisievert per calendar year. With the consent of the competent authority, exemptions can be granted for individuals aged between 16 and 18 who are in vocational training. In this case, the competent authority can approve a limit of 6 millisievert per calendar year as the effective dose and a limit of 150 millisievert per calendar year as the equivalent dose. This applies to the skin, hands, forearms, feet and ankles in each case.

For women of child-bearing age, the limit for the equivalent dose of the uterus is 2 millisievert per calendar month. For an unborn child who is exposed due to the mother's work, the limit for the effective dose from the moment the pregnancy is declared to the end of the pregnancy is 1 millisievert.

The results of measurements and the assessment of body doses must be recorded immediately and retained until the monitored individual has or would have attained the age of 75 years, but in any case not less than 30 years after termination of the work involving exposure. If the individual changes job, the assessment results must be presented to the new employer upon request. Irrespective of this, these data must be permanently filed in the central dose register at the Federal Office for Radiation Protection.

Individuals with occupational exposure to radiation that may exceed 6 millisievert in a calendar year may only work in the controlled area if they were examined one year before commencing this job by a physician authorised by the competent authority and if the radiation protection officer has received a certificate from said physician confirming that the individual has medical clearance to perform the task. This examination must be repeated every twelve months. The competent authority can shorten this period on the physician's recommendation. Occupational safety and health measures are only implemented at the specific instruction of the competent authority for persons who could have occupational exposure to an effective dose of over 1 millisievert per calendar year.

Protection of Federal Armed Forces soldiers from post-traumatic stress disorder

In the Federal Armed Forces, post-traumatic stress disorder (PTSD) is recognised as a job-related illness and is given separate attention in research, prevention, treatment and rehabilitation. In recent years, the Federal Armed Forces have developed an assistance programme specially for soldiers, civilian staff and former members of the Federal Armed Forces with mental health problems. Between 2009 and 2013, the Federal Armed Forces conducted epidemiological studies on soldiers deployed to Afghanistan and on a non-deployed control group. This study on the gap between reported and unreported cases (the "hidden" figure) provided initial meaningful results. More than 20% of all deployed and non-deployed soldiers presented symptoms of mental ill health.

Protection of temporary workers

German occupational safety and health regulations aim to protect all wage and salary workers, i.e. all workers who have an employer. As workers on fixed-term or temporary agency

employment contracts have an employment contract like the other employees, occupational safety and health regulations also apply as much to them as to the other workers. Attention must only additionally be paid to the rule set down in Section 11 (6) of the Act on Temporary Agency Work (*Arbeitnehmerüberlassungsgesetz*), which states that the work performed by the temporary agency worker at the user company falls within the scope of the provisions of safety and health legislation, under public law, that apply for the user company's undertaking; the resulting obligations for the employer rest with the user company irrespective of the obligations of the temporary work agency. In particular, this provision requires the user company to inform the temporary agency worker about the safety and health risks that the worker can be exposed to at work prior to the commencement of employment, and in the event of any changes to the temporary agency worker's area of employment, and about the measures and facilities to avoid such risks. In addition, the user company must inform the temporary agency worker of any special qualifications or professional skills or medical surveillance required and about increased specific risks associated with the job.

The Committee requests information on how Germany guarantees protection for persons considered to be self-employed. The Federal Government provides the following information in this regard:

In the reporting period, a broad range of measures were in place in Germany to promote the protection of health and the safety of self-employed persons. These measures relate both to legal provisions and the subject matter/substance. At the legal level, under the statutes of the accident insurance funds it is possible for self-employed persons to be compulsorily insured in the statutory accident insurance system and thereby covered by accident prevention regulations (Section 3 Book VII of the Social Code). By law, self-employed persons working in agriculture are already compulsorily insured under the accident insurance system. In addition, in this reporting period and in the future, all self-employed persons are always invited to comply voluntarily with the safety and health regulations that apply for employers and employees. In accordance with the provisions under European law, there is no general application of regulations governing safety and health at work to self-employed workers, however. In this respect, Germany's position has not changed since the previous reporting period. From a legal position alone, the duty of care that applies for employees cannot also apply for self-employed persons.

With regard to self-employed persons in the platform economy, reference is made to the Report on Social Insurance for Workers in the Platform Economy (see under Article 12, paragraph 2 and 3 ESC).

Paragraph 2 - Enforcement of safety and health regulations

Statistical studies on the activities of the labour inspectorate in Germany

The Federal Government issues the report on "Safety and Health at Work" annually in collaboration with the Federal Institute for Occupational Safety and Health. Following publication, this report is made available on the Internet (www.baua.de/suga). The report for 2019 with figures for the 2019 reference year is not yet available. It will be drawn up by 31 December 2020 and made available at the link above by March 2021 at the latest.

Please also refer to the overviews and data contained in these annual reports on the activities of the safety and health authorities of the *Länder* and of the accident insurance funds, and on the incidence of accidents and occupational diseases:

	Safety and health authorities of the <i>Länder</i>	Accident insurance funds (<i>Unfallversicherungsträger</i>)
Laws and ordinances for which the labour inspectorate is responsible	Annex 1 (government occupational safety and health regulations), Annex 2 (model rules of accident insurance)	
Labour inspectorate personnel	TG 2, TM 14 (time series)	TH 1, TM14 (time series)
Statistics of undertakings subject to supervision and number of workers in said undertakings	TA 1 (gainfully employed persons), TA 5 (undertakings and employees subject to mandatory social insurance contributions)	TH 2 (businesses and full-time workers in businesses)
Statistics on inspections conducted and inspected undertakings	TG 1 (inspected undertakings, inspections)	TH 3 (inspections, inspected businesses)
Statistics on violations and enforcement measures	TG 3 (complaints), TG 4 (enforcement measures)	TH 5 (enforcement measures including complaints)

Statistics on accidents at work	TB 1 - TB 10, TL 1 (according to accident insurance funds), TL 2 (by <i>Land</i>), TM 2 - TM 4 (time series)
Statistics on occupational diseases	TC 1 - TC 6, TM 6 - TM 9 (time series)

The Committee asked to be informed about the reasons why the numbers of labour inspectors and inspections indicated in the 34th report differ from the figures published by ILOSTAT. The Federal Government provides the following information in this regard:

The figures reported for the previous reporting period of 2012 - 2015 have been reviewed and corrected in certain respects. The corrected figures are presented in the following tables and have since been reported to DESTATIS/ILOSTAT.

The process of annual data transmission is another reason for the variance in numbers: the figures for business inspections and supervisory staff for the previous year are only available in the second half of the following year. Therefore, only the figures for the year before the previous year can be regularly reported to ILOSTAT by the 30 June reference date. For this reason, the year reference indicated for the previous year in the report has always been changed to the year before the previous year. The Federal Ministry of Labour and Social Affairs therefore always supplies data on the requested reporting year to DESTATIS/ILOSTAT two years later.

Inspections

Commerical inspectorate (Gewerbeaufsicht)			Occupational accident insurance funds (Berufsgenossenschaften)	
Year	Inspections	Undertakings inspected	Inspections	Undertakings inspected
2016	200,564	82,653	562,465	282,779
2017	182,504	74,750	524,355	268,721
2018	167,270	68.638	527,210	264,736
2019	151,096	61,864	514,159	269,792

Source: Report on Safety and Health at Work, tables TG 1 and TH 3 in each case

Supervisory staff

Year	Commercial inspectorate (Gewerbeaufsicht)	Occupational accident in- surance funds (Berufsgenossenschaften)
2014	3,229	2,762
2015	3,186	2,704
2016	3,185	2,680
2017	3,151	2,683
2018	3,187	2,596
2019	3,200	2,614

Source: Report on Safety and Health at Work, tables TG 2 (column 7) and TH 1 (column 3 and 5) in each case

Further details on the inspection activities of the safety and health authorities

In Germany, the *Länder* are also responsible for safety and health at work in addition to the accident insurance funds (*Unfallversicherungsträger*). The *Länder* are required to inspect undertakings and advise them on how they can improve occupational safety. However, various studies have shown that the number of occupational safety and health inspections has declined in recent years.

The Federal Government has therefore held intensive talks with the *Länder* aimed at improving both the quality and quantity of OSH inspection in Germany. These talks resulted in the adoption of an amendment to the Act on Safety and Health at Work by the Federal Cabinet.

Among other elements, this bill, which is currently in the parliamentary process, contains provisions for a statutory minimum inspection rate. From 2026 onwards, at least 5% of all undertakings are to be inspected by the state safety and health authorities. Furthermore, a joint business register is to be introduced, providing transparency across the *Länder* on the undertakings that have been inspected by the individual authorities. In addition, a Safety and Health Specialist Unit is to be set up, which will be responsible for compiling and preparing data from the *Länder*, thereby enabling the Federal Government to fulfil its legal supervision role even more effectively.

The Committee requests data on the measures taken by the labour inspectorates. The Federal Government provides the following information in this regard:

The powers of the labour inspectorates in enforcing occupational safety and health legislation are defined in detail in Section 22 of the Act on Safety and Health at Work. Pursuant to

paragraph 2 of this regulation, the persons tasked with the supervision are authorised to enter, inspect and examine business premises, offices and working areas during business and working hours and to inspect the business documents of the person obliged to provide information insofar as this is necessary for the performance of their tasks. In addition, they are authorised to inspect operating equipment, work equipment and personal protective equipment and to examine work procedures and processes, to take measurements and, in particular, to determine and investigate occupational health risks to which the causes of an accident at work, an occupational disease or a claim for damage can be attributed. They are entitled to require the employer or a person authorised by the employer to accompany them. The employer or the persons responsible must support the persons tasked with the supervision in exercising their powers in accordance with the first and second sentence. Outside of the times referred to in the first sentence, or if the work place is a person's home, the persons tasked with the supervisory activity may take the measures referred to in the first and second sentence without the consent of the employer only to prevent imminent dangers to public safety or order. The person obliged to provide information shall acquiesce to the measures referred to in the first, second and fifth sentence. The first and fifth sentences shall apply *mutatis mutandis* if it is not clear whether persons are employed at the work place but there are facts which justify this assumption. The basic right to the inviolability of the home (Article 13 of the Basic Law (*Grundgesetz*)) is restricted in this respect.

The Committee requests information on measures that need to be implemented to focus the labour inspectorate on small and medium-sized enterprises. The Federal Government provides the following information in this regard:

The Joint German Occupational Safety and Health Strategy (GDA) aims to improve the organisation of safety and health in the workplace, primarily in small and medium-sized enterprises (SMEs). Businesses can conduct a self-assessment of the organisation of safety and health in their workplace using the "ORGA-Check" tool. This check also serves as the basis for advice and supervision on the part of the prevention and supervisory services. In the third GDA period, the plan is for the OSH authorities of the *Länder* and the prevention services of the accident insurance funds to conduct a total of around 200,000 business inspections with a system assessment, primarily in SMEs.

Figures/statistical studies on accidents at work and occupational diseases in Germany

Accidents at work

Detailed information on accidents at work and occupational diseases is provided in the Federal Government Report on Safety and Health at Work (SuGA). The reports for 2016, 2017 and 2018 are published at www.baua.de/suga. The report for 2019 with the figures for the 2019 reporting year is not yet available. This report will be drawn up by 31 December 2020 and made available at the link above by March 2021 at the latest. Comprehensive overviews of accidents at work, fatal accidents at work and accident rates are provided in tables TB 1 - TB 9, TM 2 - TM 5 (time series).

In the reporting period, the number of notifiable accidents at work and fatal accidents at work followed the long-term trend and continued to decline (notifiable accidents at work in 2016: 959,266; 2017: 954,627; 2018: 949,309; fatal accidents at work in 2016: 557; 2017: 564; 2018: 541). Between 2015 and 2016, the number of fatal accidents at work dropped from 605 to 557 and reached a record low of 541 in 2018.

Regarding the request by the Committee in Conclusions XXI-2 (2017) for information on the most common reasons for accidents at work, the Federal Government states the following:

According to the data compiled by Eurostat, slightly more than 41% of non-fatal accidents at work in Germany are attributable to the working environment in the industrial and commercial sector. The sector for service activities, offices and entertainment facilities accounts for roughly 15%; and the construction, building and open-cast mining sector still accounts for approximately 13%.

The most common reason for non-fatal accidents at work is the "complete or partial loss of control over the machine, transport vehicle, transportation equipment, hand tool, object or animal" (2018: 31.6%), followed by "persons slipping or tripping and falling" (2018: 18.6%).

The Committee requests information on measures taken to enforce regulations and prevent these accidents. The Federal Government provides the following information in this regard:

The prevention mandate of the statutory accident insurance system to use "all appropriate means" to prevent accidents at work and on the way to and from work, occupational diseases and work-related health hazards allows for a very broad range of prevention measures. This is reflected in the non-exhaustive catalogue of prevention services (listed in alphabetical order) currently offered by the accident insurance funds, which covers a wide variety of topics:

- Consulting (on request)
- Fact-finding
- Incentive systems
- Information, communication and prevention campaigns
- Monitoring including ad hoc consulting
- Provision of occupational safety and health services
- Qualification
- Research, development and pilot projects
- Rules and regulations
- Testing and certification

Prevention campaigns are organised to demonstrate the application of the ten prevention services: Since 2003, the statutory accident insurance system has been regularly holding campaigns to help achieve prevention goals. In these campaigns, PR efforts and the prevention services are focussed on specific priority topics. The aim of prevention campaigns is to help reduce accidents, occupational diseases and work-related illnesses over the medium- and long-term.

The current "*kommmitmensch*" campaign (www.kommmitmensch.de) was launched in October 2017. Safety and health are to be considered as an important criterion in all decisions and processes – by everyone and in all businesses and facilities. The campaign will run for a period of 10 years.

"*kommmitmensch*" focuses on six action areas which, combined, determine the culture of prevention in a business enterprise:

- Management
- Communication
- Participation
- Culture of error management and learning from mistakes
- Working atmosphere
- Safety & health

A new thematic priority was adopted in the campaign in 2019: in operations, the focus is placed on "Vision Zero" and the avoidance of accidents involving falls and road accidents with vehicles, particularly for small and medium-sized enterprises (SMEs).

Incidence rate for fatal accidents

The data compiled by Eurostat continue to show an incidence of fatal accidents in Germany that is well below the EU-28 average. The rate has dropped further on the previous reporting period.

The Eurostat incidence of non-fatal accidents at work in Germany is also declining, but the figure regularly continues to be above the EU-28 average. This is primarily due to the different data collection methods used in the Member States and the Member States' different social systems. Underreporting of non-fatal accidents can be expected in many countries whose statistics are not based on an insurance-based system of data collection, unlike in Germany. This drives down the average incidence rate across all EU Member States. Countries with a comparable insurance-based system of data collection, such as Finland for instance, have incidence rates on a par with Germany.

Occupational diseases

Comprehensive overviews of occupational diseases are provided in the Report on Safety and Health at Work (www.baua.de/suqa), in tables TC 1 - 5 and TM 6 - TM 9 (time series).

Suspected cases of occupational disease have been reported as follows:

2018: 82,622, 2017: 79,774 and 2016: 80,163. Furthermore, the number of recognised occupational diseases amounted to 18,041 in 2018; 16,969 in 2017; and 16,413 in 2016. The most common recognised occupational diseases in the reporting period were noise-induced hearing loss (2018: 6,942; 2017: 6,849; and 2016: 7,032 cases), skin cancer from exposure to UV radiation (2018: 5,720; 2017: 5,318; and 2016: 5,063 cases) and asbestosis (2018: 1,721; 2017: 1,955 and 2016: 2,189 cases). The number of persons with an occupational disease who died as a result of the occupational disease is as follows: 2018: 2,457; 2017: 2,609; and 2016: 2,576.

An overview of recognised occupational diseases by economic sector is provided in table TC 5 of the Report on Safety and Health at Work.

An overview of reported suspected cases of occupational disease in the reporting period, by economic sector, of the occupational accident insurance funds for the industrial sector (*gew-*

erbliche Berufsgenossenschaften) and public-sector accident insurance funds (*Unfallversicherungsträger der öffentlichen Hand*) (excluding the occupational accident insurance fund for the agricultural sector (*landwirtschaftliche Berufsgenossenschaften*)) is included as Annex 1.

The Committee requests information on the legal definition of occupational diseases and on mechanisms to recognise, examine and review occupational diseases. The Federal Government provides the following information in this regard:

Definition of occupational diseases

The term occupational disease only refers to diseases which, according to medical knowledge, are caused by specific exposure that occurs at a much higher frequency among certain groups of people, on account of their work, than the rest of the population. Occupational diseases are diseases which the Federal Government defines as occupational diseases by statutory order with the consent of the Bundesrat, on the basis of Section 9 (1) Book VII of the Social Code, and which insured parties suffer from as a result of pursuing an insured activity (see Annex to the Ordinance on Occupational Diseases (*Berufskrankheiten-Verordnung*) of 31 October 1997 as amended on 10 July 2017 - known as the "occupational disease list"). The Ordinance on Occupational Diseases as amended on 10 July 2017 comprises 80 occupational diseases.

Further to this, Section 9 (2) of Book VII of the Social Code allows - on a case-by-case basis - an illness not included in the occupational disease list to be recognised as an occupational disease, and compensation to be granted, if the conditions for designating the illness an occupational disease are met owing to new medical findings. This is the case when a certain group of persons have specific, damaging exposure at a much higher frequency than the rest of the population as a result of their occupational activity.

Mechanisms for recognising, examining and reviewing occupational diseases

The "Occupational Diseases" medical expert advisory board issues scientific recommendations and opinions on occupational diseases. The "Occupational Diseases" medical expert advisory board is an internal advisory board that is not bound by instructions and supports the Federal Government in reaching decisions on issues in the field of medical science. The responsibility of the board is to review and assess scientific knowledge for the purpose of updating existing occupational diseases, or adding new occupational diseases to the Ordinance

on Occupational Diseases. On the basis of existing findings, the board issues recommendations to the Federal Government and delivers opinions for the Federal Government.

The Federal Government publishes the scientific recommendations of the advisory board. These recommendations form the scientific basis for any decisions by the Federal Government to add new diseases to the occupational disease list and to have a disease recognised as an occupational disease by the statutory accident insurance funds in individual cases.

The Committee requests information on the incidence rate of occupational diseases.

The Federal Government provides the following information in this regard:

In Germany, incidence rates are not calculated for occupational diseases, as the suitable benchmark numbers required for this are not available. To determine incidence rates that are specific for occupational diseases, the number of cases of occupational disease would need to be considered, in each case, in relation to the hours of work with a risk or harmful exposure. Such data are not available in Germany, however.

At present, an incidence rate is also not considered suitable for international comparisons. Due to the different accident insurance systems in the various countries, different illnesses are defined as occupational diseases and are therefore subject to different recognition criteria and other insurance-law conditions. As a result of the different legal regulations, there are different recognition practices and different consequences if an illness is categorised as an occupational disease. Therefore each country's specific statistics on occupational diseases refer to a different subject matter.

The same is true for the benchmark figures. Different countries have different benchmark figures for calculating the incidence rates. Like the figures referring to occupational diseases, these figures also vary on account of different systems, legal situations and statistical requirements. Incidence rates created on this basis have a different substantive meaning in every country. Any interpretation of a differentiated country comparison is therefore practically impossible.

The Committee requests information on measures that have been taken, or are planned, to address shortcomings in the reporting and recognition of cases of occupational disease. The Federal Government provides the following information in this regard:

Past exposure, sometimes several decades ago, and the onset of disease with multiple root causes carry the risk that illnesses are not associated with previous work-related exposure often enough. Therefore, the statutory accident insurance system has various measures in place to safeguard the quality of suspected case reporting and processes to capture and record occupational diseases.

Doctors using information on occupational diseases (www.dguv.de/bk-info) based on ICD-10-coded diagnoses also receive information about occupational reasons for the illness their patient presents with.

With regard to determining relevant exposure, a variety of quality assurance activities have also been implemented, particularly in the recent past. For one, following a proposal by the statutory accident insurance system, the development and use of exposure registers is authorised by law with effect from 1 January 2021. With exposure data collected at a wide range of workplaces, difficulties in establishing the cause of an illness in isolated cases can be overcome on the basis of information available for similar jobs. Furthermore, the statutory accident insurance funds have published legal and practical framework conditions for establishing exposure in its "Guide for Establishing and Assessing Exposure in Procedures for the Identification of Occupational Diseases" (<https://publikationen.dguv.de/versicher-ungleistungen/berufskrankheiten/3652/dguv-handlungsempfehlung-ermittlung-und-bewertung-der-einwirkung-im-berufskrankheitenverfahren?number=SW17652>). In addition, existing programmes for computer-based establishment and assessment of exposure (medical history software) are being updated and upgraded for additional occupational diseases.

For many years now, assessment recommendations for selected occupational diseases of particular importance have been developed in conjunction with the scientific medical societies in the particular field concerned and with other institutions. These recommendations are updated every five years approximately and are based on the "Joint Recommendations for the Development of Guidelines and Recommendations for the Assessment of Occupational Diseases" (<https://publikationen.dguv.de/versicherungleistungen/berufskrankheiten/2552/gemeinsame-empfehlungen-bei-der-entwicklung-von-leitlinien-und-empfehlungen-zur-begutachtung-von-ber>). There is broad acceptance of these recommendations also among the social courts, as they present the current state of medical knowledge on an evidence basis. Statutory accident insurance representatives are involved in a wide variety of further training and informational events hosted by the scientific medical societies and the medical councils in order to provide doctors with information that is relevant for occupational diseases, both with regard to the reporting of suspected cases and expert assessment questions.

Planned or implemented preventive measures

Preventive occupational health care is based on the Ordinance on Preventive Occupational Health Care (<https://www.gesetze-im-internet.de/arbmedvv/>) and is an effective instrument for the prevention of work-related illnesses and occupational diseases. Please see paragraph 1 for information on the amendment to the Ordinance on Preventive Occupational Health Care.

Further to this, the statutory accident insurance system pursues various individual preventive approaches, on the basis of Section 3 of the Ordinance on Occupational Diseases, to prevent occupational diseases and avoid a deterioration or resurgence of existing occupational diseases. One example in this context is the dermatologist procedure, which follows from Sections 41 ff. of the agreement between physicians and accident insurance funds on the early screening of occupational skin diseases, and is described in detail (in German) in the following document: https://www.dguv.de/medien/inhalt/versicherung/berufskrankheiten/hauterkrankungen/dguv_hautarztverfahren.pdf

Another example of individual preventive measures to prevent occupational diseases is the "series of courses for a healthy back" offered by the occupational accident insurance fund for health services and public welfare (*Berufsgenossenschaft für Gesundheitsdienst und Wohlfahrtspflege*) to prevent work-related disorders of the spinal column: <https://www.bgw-online.de/DE/Arbeitssicherheit-Gesundheitsschutz/Gesunder-Ruecken/Rueckenkolleg/Rueckenkolleg.html>.

A further example is the "healthy knees training programme" offered by the occupational accident insurance fund for the construction industry (*Berufsgenossenschaft der Bauwirtschaft*). Relevant information on this topic is available (in German) at <https://www.bgbau.de/service/bildungsangebote/kniekolleg/>

Paragraph 3 - Measures to hold consultations with the social partners

No changes since the previous report.

Article 11 - The right to protection of health

Access to health care

The Appointment Service and Health Care Delivery Act (*Terminservice- und Versorgungsgesetz*), which entered into force in May 2019, introduced additional measures to ensure the nationwide provision of easy-to-reach health services that are consistent with demand. This Act builds on the Health Care Structure Act of the Statutory Health Insurance Funds (*Versorgungsstrukturgesetz der Gesetzlichen Krankenversicherungen*) of January 2012 and the Act to Strengthen Health Care Provision in Statutory Health Insurance (*GKV-Versorgungsstärkungsgesetz*), which entered into force in July 2015. As part of their mandate to ensure the provision of services under Section 75 of Book V of the Social Code, the associations of statutory health insurance (SHI) physicians (*Kassenärztliche Vereinigungen*) are responsible for guaranteeing the provision of adequate and timely specialist care by SHI-affiliated physicians. The associations of statutory health insurance physicians are therefore also obliged to take all suitable financial and other measures in line with the requirements plan, and with the assistance of the National Association of Statutory Health Insurance Physicians (*Kassenärztliche Bundesvereinigung*), to ensure, improve or promote the provision of health care by SHI-affiliated physicians. These measures to safeguard provision also include associations of statutory health insurance physicians running their own practices (individual facilities). In this respect, the Appointment Service and Health Care Delivery Act explicitly provides that these individual facilities can also be offered in a mobile or telemedical care provision format.

The Appointment Service and Health Care Delivery Act has also made provisions for obligatory regional service guarantee bonuses for SHI-affiliated physicians working in rural or underserved areas. Furthermore, the Act provides that the associations of statutory health insurance physicians must create structural funds to finance support measures to safeguard health care delivery by SHI-affiliated physicians. The financial resources available to these structural funds have been doubled and the scope of their intended purpose broadened. As a result, it is possible to provide grants towards investment costs associated with the setting-up of new practices, the take-over of existing practices, or the establishment of branch practices, as well as other payment supplements. In addition, the *Länder* can decide whether existing permit bans can be waived for SHI-affiliated physicians wishing to open a practice in rural or structurally disadvantaged areas.

The "Master Plan for Medical Studies 2020" in which a "country doctor quota", inter alia, was agreed also deserves a special mention in this context. This allows the *Länder* to allocate up to 10% of university medicine places in advance to applicants who undertake to work for up to ten years in G.P. care in regions that are underserved, or at risk of being underserved, on completion of their study programme and specialist training in general medicine.

All these measures are designed to ensure effective, equal access to health services in all regions.

Updated information on waiting times for out-patient treatment is available from the survey of insured persons conducted by the National Association of Statutory Health Insurance Physicians. The results of the survey (in German) can be accessed at the following link: <https://gesundheitsdaten.kbv.de/cms/html/24045.php>. The data from the surveys conducted between 2008 and 2019 reveal that the majority of those surveyed get an appointment with the family G.P. or specialist immediately in Germany, i.e. without having to wait a day. At the same time, the findings also show that there are also patients whose last doctor's appointment was associated with a – sometimes longer – waiting time.

According to the data of the Federal Statistical Office, the share of health care expenditure in GDP amounted to 11.7% in 2018. In the same year, the share of patients' out-of-pocket payments for health care stood at 13%.

Access to psychotherapy

The psychotherapy guideline was fundamentally overhauled by the Federal Joint Committee (*Gemeinsamer Bundesausschuss*) with effect from 1 April 2017. This guideline forms the framework for adequate, appropriate and efficient psychotherapies, in line with legal requirements, for insured parties and their families in the system of care by SHI-affiliated physicians to be borne by the statutory health insurance funds. Since then, new care elements have been enshrined as important services in psychotherapeutic health care provision, such as psychotherapeutic consultation hours, acute psychotherapeutic treatment and relapse prevention measures. The changes sought particularly to guarantee the insured parties concerned low-threshold, flexible and easy access to psychotherapeutic services and to reduce waiting times.

The requirement planning guideline, which defines the German national framework for the nationwide, close-to-home provision of health care by SHI-affiliated physicians, was thoroughly revised by the Federal Joint Committee with effect from 30 June 2019. The *Länder* had until 1 January 2020 to implement the revised guideline at *Land* level. As part of the requirement planning reform, 723 additional opportunities for psychotherapists to set up practice were introduced for the field of outpatient psychotherapeutic care.

Advisory and education facilities for health promotion and the promotion of personal responsibility in health matters

The introduction of the Prevention Act (*Präventionsgesetz*) in Germany in 2015 created the basis for the comprehensive involvement of social insurance agencies in the field of prevention. They now offer a wide range of measures, including measures focussing on addiction prevention and addiction support.

Addiction and dependency-related conditions are problems that affect society as a whole and, in the interests of the individuals concerned, require unified action of all sectors of society. To more effectively coordinate the various measures at all levels of government and society, the National Strategy on Drug and Addiction Policy was developed, which is backed by a broad consensus (https://www.drogenbeauftragte.de/fileadmin/dateien-dba/Drogenbeauftragte/2_Themen/1_Drogenpolitik/Nationale_Strategie_Druckfassung-Dt.pdf). The primary objective is to prevent and/or reduce the consumption of drugs, alcohol and tobacco products. Particular importance is attached to addiction prevention in this respect. At the federal level, this is the responsibility of the Federal Centre for Health Education (*Bundeszentrale für gesundheitliche Aufklärung*). Core elements of its work include:

- providing and disseminating information (also through social media)
- developing and managing nationwide multi-level campaigns and platforms (e.g. *Alkohol? Kenn dein Limit!* (Alcohol? Know Your Limit!), *rauchfrei* (smoke-free), *drugcom.de* etc.)
- running help hotlines (e.g. hotline to stop smoking)
- implementing and supporting broad-based life-skills programmes (e.g. *Kinder stark machen* (Strong Kids), *Klasse2000* (Class2000) etc.)
- supporting the *Länder* and municipalities in the implementation of addiction prevention measures.

Due to Germany's federal system, the *Länder* and the municipalities also offer suitable services. In order to coordinate these measures more effectively, there is regular exchange at all levels.

An overview of the most important measures in the field of addiction prevention and support is provided in the annual Drugs and Addiction Report by the Federal Government Commissioner on Narcotic Drugs. The last report available is from 2019 (https://www.drogenbeauftragte.de/fileadmin/dateien-dba/Drogenbeauftragte/4_Presse/1_Pressemitteilungen/2019/2019_IV.Q/DSB_2019_mj_barr.pdf).

The annual Drugs and Addiction Report also provides comprehensive information on the current prevalence of individual narcotics. Considerable progress could be made, particularly with regard to tobacco consumption. While the prevalence of tobacco consumption among 11-17 year-olds was almost 28% in the 2000s, last year only 7.2% of this age group regularly consumed tobacco. Current studies indicate that this positive trend is continuing. The micro-census also suggests a positive trend among adults, with regular tobacco consumption dropping from 27% in 2005 to just 22.4% in 2017. The priority now is to consolidate these positive developments further.

With regard to alcohol consumption, the Federal Government is fortunate to report the lowest consumption level ever among the key target group of children and young people, with 8.7% consuming alcohol at least once per week. Of illegal drugs, cannabis consumption is the biggest challenge that requires more effective action. The Federal Centre for Health Education offers a comprehensive range of information and assistance on its platform drugcom.de. And with the integrated "Quit the shit" module, the Federal Centre for Health Education also offers counselling intervention to help people give up cannabis use. Efforts in this field will be stepped up in the future, with preparations for a broad-based social media campaign currently underway.

For comprehensive information on the overall situation in the area of illegal drugs, please refer to the annual REITOX report (<https://www.dbdd.de/situation/jahresbericht/>), which is produced by the German Monitoring Centre for Drugs and Drug Addiction.

Reduction in tobacco and alcohol consumption, particularly among young people

The Federal Government takes the risks that the consumption of tobacco products, electronic nicotine delivery systems and alcoholic drinks poses to children and young people very

seriously. For this reason, numerous regulations to restrict availability are already in place in Germany.

The Protection of Young Persons Act (*Jugendschutzgesetz*) defines clear rules for the sale and distribution of tobacco products, electronic nicotine delivery systems and alcoholic beverages to children and young people. Pursuant to Section 9 (1) no. 1 of the Protection of Young Persons Act, beer, wine-like beverages or sparkling wine or mixtures of beer, wine, wine-like beverages or sparkling wine with non-alcoholic beverages may not be sold or distributed to children or young people under the age of 16. Pursuant to Section 9 (1) no. 2 of the Protection of Young Persons Act, other alcoholic beverages, such as spirits (e.g. *Korn* (a grain-based spirit), vodka and liqueurs) or liqueur wines (e.g. sherry) or foodstuffs that contain these other alcoholic beverages above a negligible level may not be sold or distributed to children or young people under the age of 16 in restaurants, shops or elsewhere in public, nor their consumption permitted. Pursuant to Section 10 of the Protection of Young Persons Act, this also applies for tobacco, electronic cigarettes and hookahs.

Furthermore, compliance with the legal provisions of the Protection of Young Persons Act and the rigorous implementation of these provisions is also of utmost importance. The authorities in the *Länder* (either the youth welfare offices or the public order offices, depending on the *Land*) are responsible for monitoring and implementing the applicable regulations. As part of intensive educational and awareness-raising activities, the Federal Government organises nationwide projects for the purpose of effective compliance with the Protection of Young Persons Act. Using posters, flyers and stickers, the campaign *Jugendschutz: Wir halten uns daran!* (Youth Protection: We Follow the Rules!) raises awareness for adherence to applicable regulations under the Protection of Young Persons Act. Further to this, the youth protection Internet portal "*Jugendschutz aktiv*" at www.jugendschutzaktiv.de provides information for business owners and event organisers, as well as parents, educators and all interested parties about the legal provisions of the Protection of Young Persons Act.

Legislative measures are also complemented by preventive measures. Details on the various preventive measures in place are available on the website of the Federal Government Commissioner on Narcotic Drugs at www.drogenbeauftragte.de and on the homepage of the Federal Centre for Health Education (www.bzga.de), which is responsible for addiction prevention actions.

Prevention of epidemic, endemic and other diseases

Regulations regarding the reporting on and notification of infectious diseases

Sections 6 and 7 of the Protection against Infection Act (*Infektionsschutzgesetz*), which entered into force on 1 January 2001, specifies which diseases are notifiable in the event of a suspected case, actual illness or death, and what evidence of the presence of pathogens, as a result of laboratory diagnostics, must be notified in Germany (<http://www.gesetze-im-internet.de/ifsg/index.html>). The Act also stipulates the items of information that must be reported by those responsible for notification, and which specific items of information are then passed on by the local health authority.

The reported data are published weekly (with a 3-week reporting lag) or monthly (Section 7.3 of the Protection against Infection Act) in the Epidemiological Bulletin of the Robert Koch Institute (RKI).

https://www.rki.de/DE/Content/Infekt/EpidBull/epid_bull_node.html;jsessionid=6DD8060B0840B9B6B078971ECA8D1142.internet091

The Infectious Disease Epidemiology Annual Report is published each year by the RKI and provides a detailed epidemiological overview of the notifications of infectious diseases reported to the Institute pursuant to the Protection against Infection Act. It also contains annual statistics on notifiable diseases by *Land*, which are also published in the Epidemiological Bulletin.

<https://www.rki.de/DE/Content/Infekt/Jahrbuch/Jahrbuecher/2018.html?nn=2374622>

Vaccination coverage

Germany does not have a single comprehensive system for the collection of vaccination data. To determine the vaccination and immunity status of the population, it is therefore necessary to use subsamples or cross-sectional studies, which allow us to estimate the vaccination situation in Germany. In Germany, data on administered vaccinations are primarily compiled on a regional and decentralised basis.

Data regularly collected on the vaccination status of the population in all the *Länder* are available from the check-ups conducted in advance of school admission and - for people born on

or after 2004 - also from the "Vaccination Monitoring" (*KV-Impfsurveillance*) project, which is coordinated by the RKI and conducted in collaboration with the 17 associations of statutory health insurance physicians.

Current data on the school admission check-ups, the Vaccination Monitoring project and other vaccination status surveys are published on the RKI website.

https://www.rki.de/DE/Content/Infekt/Impfen/Impfstatus/impfstatus_node.html

Article 12 - The right to social security

Paragraph 1 - Existence of a social security system

The Committee requests information on the share of insured persons (percentage of insured persons in the total active population). The Federal Government provides the following information in this regard:

The majority of gainfully employed persons are in jobs subject to compulsory social insurance contributions and are therefore insured against unemployment. The number of workers in jobs with compulsory social insurance coverage stood at 31.44 million in 2016 (approx. 72% of gainfully employed persons), 32.16 million in 2017 (approx. 73% of gainfully employed persons), 32.87 million in 2018 (approx. 73% of gainfully employed persons) and 33.41 million in 2019 (approx. 74% of gainfully employed persons). In addition, there is a small percentage of self-employed persons who are voluntarily insured under the unemployment insurance system. Most self-employed persons and assisting family members are not insured under the unemployment insurance system. This is also true of civil servants, judges and soldiers and those exclusively in marginal employment.

1. Rate of insured persons in the pension and survivors' insurance system

Number of employees covered (in 1000s)	2014	2015	2016	2017	2018	2019
a) Pension insurance	35,624	36,091	36,737	37,412	38,078	38,540
b) Special system for civil servants	2,022	2,014	2,010	2,014	2,024	2,033

c) Total	37,646	38,105	38,747	39,426	40,102	40,572
Total number of employees (in 1000s)	38,192	38,632	39,212	39,855	40,486	40,936
Number of employees covered in relation to the total number of employees (as %)	98.6	98.6	98.8	98.9	99.1	99.1

2. Rate of insured persons in event of occupational accidents and occupational diseases

Number of insured persons (in 1000s)	2014	2015	2016	2017	2018	2019
- excluding student accident insurance	65,048	65,899	65,878	66,804	68,918	-*

*Data not yet available

To determine the number of insured persons, an approximate calculation is made for the number of insured persons from the number of insurance relationships that actually enjoy the protection of accident insurance. Consequently – according to German Social Accident Insurance data (DGUV) – an adjustment is made for multiple insurance among occupational accident insurance funds for the industrial sector (*gewerbliche Berufsgenossenschaften*) and public-sector accident insurance funds (*Unfallversicherungsträger der öffentlichen Hand*). Adjustments are not made for multiple insurance between student accident insurance and general accident insurance, however. A change in reporting procedures is planned here.

Pension insurance:

1. Old-age benefits

Calculation of pensions

The following four factors are relevant for the calculation of pensions:

- the earnings points

- the entry age factors that are relevant for the earnings points ("earnings points multiplied by entry age factor" = "personal earnings points")
- the pension type factor (e.g. for old-age pensions, the pension type factor is 1.0 in the general statutory pension insurance system, and 1.3333 in the miners' pension insurance system)
- the current pension value (since 1 July 2019, €33.05 for the old *Länder* and €31.89 for the new *Länder*)

The pension formula is as follows:

personal earnings points x pension type factor x current pension value = gross monthly pension.

To determine the earnings points, the ratio of the amount of personal income earned in an insurance year to the average income of all insured persons in that calendar year is calculated. For an average earner, this value is 1 earnings point per year. The entry age factor is based on the time the retirement pension begins: if an insured person takes the option of an early retirement pension, the longer period of old-age pension entitlement as a result of early pension claims is offset in that the entry age factor, which is 1 for an old-age pension that is claimed upon normal retirement age (i.e. not early retirement), is reduced by 0.003 points for each month for which the pension is claimed early. This reduces the old-age pension by 0.3% for each month the pension is claimed before the relevant standard retirement age is reached. The pension type factor varies depending on the individual pension types and considers what the particular pension type is intended to provide for compared to the old-age pension. The current pension value represents the applicable monthly value in euros for 1 earnings point when calculating an old-age pension.

Beyond the contributory periods, certain non-contributory periods are also taken into consideration in the calculation of pensions: periods in which the insured party was prevented from making compulsory contributions - e.g. periods of military service (substitute periods) and periods for which contributions could no longer be paid due to pre-retirement disability/death - are considered in a manner that increases the pension. Other non-contributory periods are the credited periods. Here, a distinction is made between weighted credited periods (e.g. periods of technical college training, maternity leave), which have the effect of increasing the pension, and non-weighted credited periods (e.g. periods of unemployment, incapacity for work), which do not immediately have the effect of increasing pensions.

The current pension value is as follows:

In the old <i>Länder</i> (western Germany)		New <i>Länder</i> (eastern Germany)
1 July 2016	€30.45	€28.66
1 July 2017	€31.03	€29.69
1 July 2018	€32.03	€30.69
1 July 2019	€33.05	€31.89

The contribution assessment ceilings for the old *Länder* (western Germany) are as follows:

	General statutory pension insurance	Miners' pension insurance
For the 2017 calendar year	€76,200	€94,200
For the 2018 calendar year	€78,000	€96,000
For the 2019 calendar year	€80,400	€98,400
For the 2020 calendar year	€82,800	€101,400

The contribution assessment ceilings for the new *Länder* (eastern Germany) are as follows:

	General statutory pension insurance	Miners' pension insurance
For the 2017 calendar year	€69,600	€85,800
For the 2018 calendar year	€73,800	€91,200
For the 2019 calendar year	€77,400	€94,800

The total number of Riester policies for supplementary old-age provision was in the region of 16.5 million at the end of 2019, and the number of active entitlements to an occupational pension (second pillar) stood at around 20.8 million at the end of 2017.

The Committee recalls that the German social insurance system does not make provisions for a minimum level of benefits. The Federal Government makes the following statement in this regard:

a. Minimum pension

There is no minimum pension in the German pension system. Instead, the individual pension amount depends on the contributions made (i.e. the insured's individual work history and earnings). In Germany, the requirements for a standard old-age pension are already met after a 5-year period of employment, even in the event of very low part-time remuneration.

Due to the direct interplay between an insured's earned income and the pension amount he/she later receives, the at-risk-of-poverty threshold (50% of median equivalised income) would not appear to be a suitable indicator for determining the adequacy of old-age provision. The equivalised income amount is primarily determined by the composition of the household (e.g. one-person or multi-person household) and the availability of other income (in addition to the pension income). The question as to whether the pension amount is adequate can only meaningfully be answered in relation to the underlying remuneration that is subject to contributions.

For this reason, the ratio of net pension to net income for a worker earning 125% of the average income continues to be used as an indicator. In 2019, this ratio was 67.3% for an old-age pensioner in the old *Länder*, and 68.2% in the new *Länder*. This corresponds to a monthly pension of approximately €1,800 (old *Länder*) or €1,700 (new *Länder*).

b. Introduction of a basic pension in Germany

With the introduction of a basic pension under the statutory pension insurance system from 2021 onwards, insured persons who have spent at least 33 years paying mandatory contributions to the pension insurance system out of a low income, rearing children or caring for people, will receive a basic pension supplement to their pension. The amount of the basic pension supplement is based individually on the duration and amount of the contribution payment. Complementing this, allowances are introduced in the needs-based welfare systems,

such as the housing benefit and basic income support in old age and in the event of reduced earning capacity, for the long-term insured (at least 33 years) under compulsory old-age security systems. The basic pension is financed by taxes. A total of roughly 1.3 million people - primarily women (approximately 70%) - will receive a basic pension in the year of introduction.

c. Basic insurance

Persons who do not meet the general conditions and special conditions under insurance law to receive a pension insurance benefit can be entitled to social assistance benefits under Book XII of the Social Code. To qualify for these benefits, individuals must be unable to independently cover their own essential living costs - either sufficiently or at all - using their own capacities and resources, particularly their own income and available assets. Depending on the personal situation, these persons receive "cost-of-living assistance" or "basic income support in old age and in the event of reduced earning capacity" if the remaining conditions are met.

Persons who are of working age but who are fully incapacitated for work temporarily, and are therefore unable to cover their costs of living on their own, receive "cost-of-living assistance". According to the latest available figures, a total of 121,511 persons received benefits under cost-of-living assistance on 31 December 2018.

Persons who have come to the end of their active working lives by reaching the statutory retirement age but who do not receive any old-age pension, or receive an old-age pension that does not cover living expenses, receive "basic income support in old age and in the event of reduced earning capacity". Basic income support in old age and in the event of reduced earning capacity is also granted to persons aged 18 and over who are fully incapacitated for work on a permanent basis for medical reasons. In March 2020, a total of 1.1 million people were receiving basic income support in old age and in the event of reduced earning capacity.

Both the basic income support in old age and in the event of reduced earning capacity and the cost-of-living assistance guarantees minimum needs which are vital for subsistence. Social assistance benefits under Book XII of the Social Code guarantee all living expenses for a standard of living consistent with human dignity. This comprises food, clothing, household goods, electricity, adequate housing, heating, personal hygiene and health as well as the

possibility to maintain interpersonal relationships and a minimum level of participation in social, cultural and political life.

Pension adjustments

Pension adjustments are based on the development of wages. In addition to wage developments, pension adjustments also take into consideration the development of the ratio of pension recipients to contribution payers in the form of a sustainability factor. In the reporting period, the sustainability factor increased pension adjustments by around 0.97 percentage points. The effect in the individual years was as follows:

Year	2016	2017	2018	2019
Sustainability factor	1.0018	0.9986	1.0029	1.0064

With regard to the development of the cost of living on the one hand and wages and pensions on the other, the following changes took place in Germany in the period from 2018 to 2019:

Percentage change on previous year	2019
Consumer prices	1.45
Wages	2.95
Pension value on 1 July (old Länder)	3.18

The development illustrated in the table shows that the pension adjustment in 2019 - at 3.18% in the old *Länder* - was above the development of prices and the development of wages.

The pension adjustment rates (expressed as a percentage) in the reporting period were as follows:

Date	Western Germany	Eastern Germany
1 July 2016	4.25	5.95

1 July 2017	1.90	3.59
1 July 2018	3.22	3.37
1 July 2019	3.18	3.91

The Committee requests information on the estimated net pension of a single person without dependents who has worked for 30 years at minimum wage. The Federal Government provides the following information in this regard:

The minimum wage rules have been in place in Germany since 2015. Assuming a comparable income over a period of 30 years, the following key parameters would apply:

		Old-age pension	
		Old <i>Länder</i>	New <i>Länder</i>
1	Years of employment	30	30
2	Total earnings points (EP)	22.7	23.3
3	Current pension value (€ / EP / month)	33.05	31.89
4=2*3	Gross pension (€ per year)	8,986	8,928
5	Social contributions	930	924
6	Private old-age provision	2,840	2,840
7	Housing benefit	1,188	1,224
8=4-5+6+7	Net income in old age	12,084	12,068
9	Net income from work	14,688	14,688
10=8/9	Ratio value	82.3	82.2

The Committee requests information on the estimated net pension of a single person without dependents who is fully incapacitated for work and worked for 15 years at minimum wage before the reduction in earning capacity. The Federal Government provides the following information in this regard:

Assuming a comparable income over a period of 15 years before total incapacitation for work, the following key parameters would apply:

		Old-age pension	
		Old <i>Länder</i>	New <i>Länder</i>
1	Years of employment	30	30
2	Total earnings points (EP)	23.1	24.3
3	Current pension value (€ / EP / month)	33.05	31.89
4=2*3	Gross pension (€ per year)	9,177	9,285
5	Social contributions	950	961
6	Private old-age provision	1,014	1,014
7	Housing benefit	2,208	2,136
8=4-5+6+7	Net income in old age	11,449	11,474
9	Net income from work	14,688	14,688
10=8/9	Ratio value	78.0	78.1

2. Invalidity benefits

The Act to Improve Reduced Earning Capacity Pension Benefits and to Amend other Acts (*Gesetz zur Verbesserung der Leistungen bei Renten wegen verminderter Erwerbsfähigkeit und zur Änderung anderer Gesetze*) of 17 July 2017 further improved provision for persons with reduced earning capacity under the statutory pension insurance system. Starting in 2018, the non-contributory supplementary period (*Zurechnungszeit*) will be gradually extended by three years to 65 years through to 2024 for future recipients of reduced earning capacity pension.

The Act on the Improvement of Benefits and Stabilisation in Statutory Pension Insurance (*Gesetz über Leistungsverbesserungen und Stabilisierung in der gesetzlichen Rentenversicherung*) of 28 November 2018 also even further improved provision for persons with reduced earning capacity in the statutory pension insurance system.

The non-contributory supplementary period - according to which reduced earning capacity pensions are calculated as if the insured had continued working as usual after the reduction in earning capacity began - was extended in 2019 for future pensions, in a single step, from 62 years and three months to the age of 65 years and eight months. Further to this, the Act

also specified that, with effect from 2020, the end of the non-contributory supplementary period will be gradually raised to the age of 67, in line with the raising of the standard retirement age.

In 2020, the non-contributory supplementary period is extended accordingly to 65 years and nine months. This means a targeted and substantial increase in pension claims for new pensioners.

3. Survivors' benefits

There are no changes or signs of new developments regarding the legal provisions governing "survivors' benefits" in the reporting period.

Unemployment insurance:

In response to the Committee's question regarding the amount of benefits for a single person without dependents who is working full-time at minimum wage, the following information is provided:

The assessment of unemployment benefit II/social assistance is based on the principle that the benefit is a subordinate welfare benefit, i.e. social benefits from other providers must be claimed first. Income and assets must be taken into account in the benefit assessment, after deduction of allowances, and reduce entitlements to unemployment benefit II accordingly. Ultimately, the amount of unemployment benefit II depends on the specific needs of the individual capable of work and eligible for benefits and the needs of other family members (spouse/partner and children under 25) living with the individual in a joint household.

Persons eligible for benefits receive benefits to cover the cost of living (unemployment benefit II or social allowance) in the form of the applicable standard needs rate plus assistance with any additional needs and reasonable needs for accommodation and heating.

Example: single person - standard needs rate in 2020 - €432 plus reasonable costs of accommodation and heating - €344 (average reasonable costs of accommodation - December 2019 Analysis Report, Social Code Book II, published in January 2020, p.64). At least €776 is therefore available excluding own wages. If the individual is in gainful employment, a basic allowance of €100 applies that does not affect the benefit amount, and the disposable household income increases accordingly.

In the reporting period from 1 January 2016 to 31 December 2019, the cases of suspension of benefits following refusal to take up employment fell from 12,771 cases in 2016 (with an interim rise to 13,958 cases in 2017 and slight drop to 13,709 cases in 2018) to 10,620 cases in 2019.

The development of the number of cases of benefit suspension following refusal to take up employment under Book III of the Social Code was as follows:

Year	Suspension following refusal to take up employment
2016	12,771
2017	13,958
2018	13,709
2019	10,620

The Committee requests clarification regarding the legal remedies that are available to lodge an appeal against decisions that result in the suspension or withdrawal of unemployment benefit. The Federal Government provides the following information in this regard:

The employment agency establishes the suspension period, and the suspension of the entitlement to unemployment benefit, by issuing an administrative act. In principle, individuals can raise an objection within one month of receipt of the notification (Sections 83 ff. of the Social Courts Act (*Sozialgerichtsgesetz*)). The authority must then review its decision.

If the objection is unsuccessful, the unemployed person can submit an appeal to the local competent social court (court for the place of residence of the affected party, Sections 51 ff. of the Social Courts Act). As specialised courts, the social courts decide in all matters concerning the promotion of employment, including the other functions of the Federal Employment Agency. In principle, the appeal must be submitted within one month of service of notification of the objection decision. Longer deadlines (three months) apply for notifications served abroad.

Paragraphs 2 and 3 – Development of the social security system

Key legislative changes in the 2016-2020 reporting period

Statutory pension insurance

Flexi-pension Act (*Flexirentengesetz*)

The Act to Flexibilise the Transition from Working Life to Retirement and to Strengthen Prevention and Rehabilitation in Working Life (the "Flexi-pension Act") (*Gesetz zur Flexibilisierung des Übergangs vom Erwerbsleben in den Ruhestand und zur Stärkung von Prävention und Rehabilitation im Erwerbsleben*) of 8 December 2016 created the framework for the more flexible and self-determined transition to retirement to suit individual preferences.

The measures include new, more flexible supplementary earnings and partial pension rules, which support people working past the normal retirement age more effectively than previous regulations. People working beyond the standard retirement age and simultaneously claiming a full old-age pension can opt to continue to pay into the pension insurance system. The payment of the employee's own contributions combined with the employer contributions, which have to be paid anyway, results in higher pension entitlements. The temporary abolition of the employer contribution to labour promotion for workers who have reached the standard retirement age is designed to encourage employers to employ retirees. With better services for prevention, rehabilitation and after-care the aim is to detect, and reduce, individual health risks early on, and protect and safeguard the health and earning capacity of insured persons so they can remain healthy and in work for longer.

Pension adjustments:

Pensions are adjusted on 1 July each year on the basis of the statutory pension adjustment formula. The statutory pension is an earning replacement benefit and follows wage developments in principle.

Pension adjustment 2016

The relevant wage increase for the pension adjustment as of 1 July 2016 was 3.78% in the old *Länder* and 5.48% in the new *Länder*. A statistical one-off effect owing to the revision of the national accounts from 2014 also applied this year. This had the effect of increasing wage developments - which are relevant for pension adjustments - by approximately one percentage point in the 2016 pension adjustment. This rebalanced the statistical effect that had lowered the previous pension adjustment.

In 2016, the stability factor - at 0.18 percentage points - had the effect of increasing the pension adjustment. Since the contribution rate to the general statutory pension insurance system dropped by 0.2 percentage points in 2015 (18.7%) compared to 2014 (18.9%) and the Riester reform scale ("*Riester-Treppe*") was applied for the last time in 2013, the factor of old age provision expenses, calculated at 0.26 percentage points, had the effect of increasing the pension adjustment in 2016.

On the basis of these data, there was an increase in the current pension value with effect from 1 July 2016 from the previous value of €29.21 to €30.45, and an increase in the current pension value (eastern Germany) from the previous value of €27.05 to €28.66. This corresponds to a pension adjustment of 4.25% in the old *Länder* and 5.95% in the new *Länder*.

Pension adjustment 2017

The relevant wage increase for the pension adjustment as of 1 July 2017 was 2.18% in the old *Länder* and 3.28% in the new *Länder*. In 2017, the stability factor - at -0.14 percentage points - had the effect of decreasing the pension adjustment. Since the contribution rate to the general statutory pension insurance system did not change in 2016 compared to 2015 and the Riester reform scale ("*Riester-Treppe*") was applied for the last time in 2013, the factor of old age provision expenses did not affect the pension adjustment in 2017.

On the basis of these data, there was an increase in the current pension value with effect from 1 July 2017 from the previous value of €30.45 to €31.03, and an increase in the current pension value (eastern Germany) from the previous value of €28.66 to €29.96. This corresponds to a pension adjustment of 1.90% in the old *Länder* and 3.59% in the new *Länder*.

Pension adjustment 2018

For the pension adjustment as of 1 July 2018, the provisions of the Act to Complete Pension Transition (*Rentenüberleitungsabschlussgesetz*) apply for the first time in the new *Länder*. Under these provisions, the current pension value (eastern Germany) is to be adjusted such that it at least reaches 95.8% of the western Germany value. However, if the adjustment formula produces a more favourable result, taking into account wage developments in the new

Länder, this will be applied. This is the case in the year under review, as the current pension value (eastern Germany), calculated on the basis of wage developments, is one cent higher.

The Act to Complete Pension Transition stipulates that the current pension value (eastern Germany) is to reach 100% by 1 July 2024 at the latest, so that from then on a uniform current pension value will apply throughout Germany. However, if wage developments in the new *Länder* are more positive, this could be the case sooner.

The relevant wage increase for the pension adjustment as of 1 July 2018 is 2.93% in the old *Länder* and 3.06% in the new *Länder*. This year, the sustainability factor had a positive effect of +0.29 percentage points on the pension adjustment. However, since the contribution rate to the general statutory pension insurance system did not change in 2017 and the Riemer reform scale (*Riemer-Treppe*) was applied for the last time in 2013, the factor of old-age provision expenses had no effect on the pension adjustment this year.

On the basis of these data, there was an increase in the current pension value with effect from 1 July 2018 from the previous value of €31.03 to €32.03, and an increase in the current pension value (eastern Germany) from the previous value of €29.69 to €30.69. This corresponds to a pension adjustment of 3.22% in the old *Länder* and of 3.37% in the new *Länder*.

Pension adjustment 2019

The relevant wage increase for the pension adjustment as of 1 July 2019 is 2.39% in the old *Länder* and 2.99% in the new *Länder*. This year, the sustainability factor had a positive effect of +0.64 percentage points on the pension adjustment. Since the contribution rate to the general statutory pension insurance system dropped by 0.1 percentage points from 18.7% in 2017 to 18.6% in 2018 and the Riemer reform scale (*Riemer-Treppe*) was applied for the last time in 2013, the factor of old-age provision expenses, calculated at 0.13 percentage points, had the effect of increasing the pension adjustment in 2019.

The pension level protection clause under the Pension Benefit Improvement and Stabilisation Act (*RV-Leistungsverbesserungs- und -Stabilisierungsgesetz*) was checked for the first time with the pension adjustment of 2019. This clause ensures that pensions do not drop below 48% in the period through to 1 July 2025. The pension level (referred to as the "pre-tax guarantee level" in the Act) describes the ratio between a disposable standard pension and the disposable average earnings, both exclusive of applicable taxes. The pension level for 2019, with the current pension value calculated using the pension adjustment formula employed up

to now, amounts to 48.16%, and is therefore consistent with the minimum guarantee level of 48%. The pension level protection clause is therefore not applied.

The alignment steps set down in the Act to Complete Pension Transition are relevant for pension adjustment in the new *Länder*. In 2019, the current pension value (eastern Germany) is to be adjusted at least such that it reaches 96.5% of the western Germany value. With this alignment step, the pension adjustment in eastern Germany is higher than according to actual wage developments in eastern Germany.

On the basis of these data, there was an increase in the current pension value with effect from 1 July 2019 from the previous value of €32.03 to €33.05, and an increase in the current pension value (eastern Germany) from the previous value of €30.69 to €31.89. This corresponds to a pension adjustment of 3.18% in the old *Länder* and of 3.91% in the new *Länder*.

Contribution rate 2016-2019

The rate of contribution to the general statutory pension insurance system remained stable in the period from 2016 to 2019. It stood at 18.7% each year in 2015, 2016 and 2017, and has stood at 18.6% since 2018.

Unemployment insurance

Access to unemployment insurance coverage is easier with effect from 1 January 2020. To be able to claim unemployment benefit, individuals must be insured for a minimum period of twelve months. After 1 January 2020, it is possible to meet this condition within 30 months (within two years up to 31 December 2019). The new rule is part of the Skills Development Opportunities Act (*Qualifizierungschancengesetz*) of 18 December 2018.

In line with gross wage developments, the contribution assessment ceiling for 2018 was set at €6,500/month (western Germany) and €5,800/month (eastern Germany).

The contribution assessment ceiling for 2019 is €6,700 (western Germany) and €6,150 (eastern Germany).

Statutory accident insurance

The following are the main legislative changes that took place in the reporting period:

- Five diseases were added to the list of diseases to be recognised as occupational diseases under the conditions laid down by law with effect from 1 August 2017 by virtue of the Fourth Ordinance to Amend the Occupational Diseases Ordinance (*4. Verordnung zur Änderung der Berufskrankheiten-Verordnung*). These diseases are: leukaemia due to 1,3-butadiene exposure, bladder cancer due to polycyclic aromatic hydrocarbons exposure, focal dystonia among instrumental musicians (neurological condition), ovarian cancer due to asbestos exposure, and cancer of the larynx due to polycyclic aromatic hydrocarbons exposure.
- The cash benefits from the statutory accident insurance system (accident pensions, survivors' pensions and long-term care allowance) have been increased as follows in line with the adjustment rate for cash benefits from the statutory pension insurance system:

Effective date	Old Länder	New Länder
- as of 1 July 2016	4.25 %	5.95 %
- as of 1 July 2017	1.90%	3.59%
- as of 1 July 2018	3.22 %	3.37 %
- as of 1 July 2019	3.18 %	3.91 %

II. Other information

Information on social insurance for workers in the platform economy

In the platform economy, there are a variety of models of dependent employment and self-employment, as well as main activities and sideline jobs. People who perform platform-based activities as paid employees are required to be insured in all branches of social insurance and thereby have comprehensive social protection. The employer shares in the contributions to social insurance and must pay them to the social insurance system. Persons in marginal employment, however, face considerable limitations when it comes to social insurance coverage. Self-employed workers in the platform economy generally have to make provisions

themselves/protect themselves against the risks of old age, invalidity, illness, long-term care, occupational accidents and unemployment/lack of work, and pay the contributions on their own. Insufficient social protection can arise in platform activities performed by self-employed persons if the self-employed person does not make appropriate provisions, or cannot due to the low income they earn.

Access to social insurance is also possible, however, in the event of self-employment: self-employed persons are also compulsorily insured under the health and long-term care insurance system, either under private or statutory health and long-term care insurance. A small, limited group of self-employed persons are compulsorily insured under the statutory pension insurance system (Section 2, Book VI of the Social Code). For the remaining self-employed, obligatory insurance on request or voluntary insurance in the statutory pension insurance system are possible. Further to this, voluntary insurance is also possible in the statutory accident insurance system and - under certain conditions - also under the unemployment insurance system. These options for voluntary protection are seldom used, however. The Federal Government therefore plans to introduce mandatory old-age provision for the self-employed.

In some areas of the gig economy (place-bound platform work), an insurance obligation applies in the accident insurance system pursuant to the insurance fund's statutes, i.e. due to a decision of the accident insurance fund responsible for the particular sector (Section 3 (1), no. 1, Book VII of the Social Code). For example, self-employed persons working for platforms in the area of food delivery services or mobility service providers are compulsorily insured in the statutory accident insurance system by virtue of the occupational accident insurance fund for the transport industry, postal logistics and telecommunications sector (*Berufsgenossenschaft Verkehrswirtschaft Post-Logistik Telekommunikation, (BG Verkehr)*). In the statutory accident insurance system, the employer pays the entire contribution for their employees, while self-employed persons pay their contribution themselves. Consequently, platform operators that use self-employed persons do not pay any contribution, while self-employed riders or Uber drivers - being compulsorily insured pursuant to the statutes - must pay the full contribution amount to the accident insurance company.

Platforms frequently specify in their General Terms and Conditions that the service is provided by own-account workers/self-employed persons. However, the determining factor in the legal assessment of the employment status is the actual execution of the contract, rather than the description chosen by the parties to the contract. All the circumstances of the individual case are considered in an overall assessment.

Every employer is obligated to examine whether the contractual relationship involves employment or an activity of self-employment. If it is found in the course of an audit that social insurance contributions should be paid, but a different approach had been taken, the back-payment of contributions is required. In Germany, businesses that have reported at least one employee under social insurance law are regularly audited every four years by the competent pension insurance fund for compliance with reporting and contribution obligations.

The Federal Government is currently examining possible ways to improve social protection (pension insurance, accident insurance) of own-account workers in the platform economy.

COVID-19 crisis

Regarding the request for information on all the effects of the COVID-19 crisis on social insurance coverage and on all special measures that have been taken to offset or mitigate any negative consequences, the Federal Government states the following:

As it is currently difficult for unemployed persons to find a new job, and the possibilities for the employment agencies to place people in work or offer further training are limited for public health reasons, the eligibility period for unemployment benefit was extended under the Social Protection Package II, on a one-off basis, by three months for all those whose entitlement would end between 1 May 2020 and 31 December 2020.

Anyone applying for basic income support for jobseekers (Book II of the Social Code) between 1 March and 31 December 2020 generally does not need to worry, in the first six months, that they will initially have to use their savings to cover their vital needs. The current rules regarding the use of assets only apply again after this period of grace.

A period of grace was also introduced regarding the assessment of the appropriateness of living space: in the first six months of receipt of benefits under Book II, expenses for accommodation and heating are recognised in the actual amount paid. An assessment to determine whether the expenses are appropriate (reasonable) is not performed. No-one applying for basic income support between 1 March and 31 December 2020 should have to move home because accommodation expenses are too high.

The proportion of workers in an enterprise that need to be affected by a cut in working hours to qualify for short-time work allowance is lowered from one third to ten percent. There is no requirement to build up negative working time balances before the

short-time work allowance is paid. These relaxed rules apply for businesses that introduced short-time work before 31 March 2021. The social insurance contributions which are borne exclusively by employers while short-time work allowance is claimed are reimbursed by the Federal Employment Agency in full up until 30 June 2021 and subsequently at a flat rate of 50% through to 31 December 2021. Temporary agency workers also have access to short-time work allowance temporarily, provided that short-time was introduced at the temporary work agency by 31 March 2021.

The period for which short-time allowance can be claimed is extended to a maximum of 24 months, up until 31 December 2021 at the very latest, for businesses that introduced short-time on or before 31 December 2021. From the fourth month, the short-time work allowance is increased to 70% (or 77% for employees with a child), and from the eighth month to 80% (or 88% for employees with a child) for all employees who gained an entitlement to short-time work allowance on or before 31 March 2021.

Paragraph 4 - Equal treatment of nationals of other States Parties with regard to social security

Regarding the request for information on unilateral and/or bilateral measures for the equal treatment between German nationals and nationals of other States Parties in respect of social security rights, the Federal Government states the following:

The Agreement on Social Security between the Federal Republic of Germany and the Republic of Albania entered into force on 1 December 2017. A social security agreement was concluded with the Republic of Moldova in January 2017 (Agreement on Social Security between the Federal Republic of Germany and the Republic of Moldova of 12 January 2017). The agreement entered into force on 1 March 2019. An agreement with Ukraine was concluded on 7 November 2019 (Agreement on Social Security between the Republic of Germany and Ukraine of 7 November 2019), but has not yet entered into force. Despite intensive efforts on the part of the Federal Government it has not yet been possible to conclude an agreement on social security with the Russia Federation.

A general overview of the bilateral agreements that Germany has concluded in the field of social security is included in the Annex.

Among other provisions, the agreements each contain the principle of equal treatment for the branches of social security covered in the agreement.

Regarding the conclusion of the Committee that equal treatment is not guaranteed to nationals of all other States Parties with regard to access to family benefits, the Federal Government states the following:

All the systems of social security cited in Article 12 (4) ESC refer expressly and primarily to insurance benefits and rights acquired under the individual systems. This does not cover any welfare benefits and other social benefits that are generally provided without contribution payments and without a connection to an existing employment relationship. Notwithstanding the fact that non-contributory welfare benefits and basic social benefits between the States Parties of the Council of Europe are covered and regulated first and foremost by the European Convention on Social and Medical Assistance (European Treaty Series No. 14) of 11 December 1953 (Federal Law Gazette 1956 II, p. 563), it is important to note that the provision of these benefits, and particularly the non-contributory family benefits this also entails, requires lawful residence in the other State Party as well as the fulfilment of the remaining conditions for eligibility. For example, pursuant to Section 62 (2) of the Income Tax Act (*Einkommensteuergesetz*) third-country nationals who are not entitled to freedom of movement have the right to child benefit in Germany only if they have a specific and lawful residence permit and also meet the additional requirements. Accordingly, the Federal Government is of the opinion that while the obligation to conclude bilateral agreements with other States Parties can be derived from Article 12 (4) of the Charter, it is not possible to derive the scope, the amount, the target audience and the extent of individual benefits in the individual State Party from this Article, as the Committee has done, and particularly not when the benefits are non-contributory welfare and social benefits or other government assistance.

Article 13 - The right to social and medical assistance

Paragraph 1 - Assistance and medical care for people in need

Basic security benefits for job-seekers under Book II of the Social Code

Persons capable of work and eligible for benefits under Book II are compulsorily insured in the statutory health insurance system and the social long-term care insurance system while receiving unemployment benefit II. The job centres pay the monthly contributions to the

Health Fund. Persons who last had private health insurance receive an allowance from the job centre to cover their contributions to private health and long-term care insurance.

In the reporting period, the number of persons eligible for benefits under Book II of the Social Code rose from 5,991,000 (2016) to 6,106,000 (2017), then fell to 5,847,000 (2018) and dropped again recently to 5,531,000 (2019).

Social assistance benefits under Book XII of the Social Code

Social assistance benefits are provided either in the form of services, cash benefits or benefits in kind. Services (advice and support) are generally the first level. With regard to cash benefits vs. benefits in kind, priority is given to cash benefits, which means that benefits defined as cash benefits cannot be replaced by benefits in kind or similar non-cash benefits. Consequently, the provision of a benefit as a benefit in kind is only possible if this is explicitly laid down by law, or the objective can be achieved in a much better or economic manner through the use of a benefit in kind. The provision of benefits in kind is also possible, however, if this is the preference of the individual entitled to benefits.

Need of assistance as criterion for entitlement

Need of assistance is defined as a person's inability to meet their own essential cost-of-living expenses and those of members of their joint household, either using their own resources (income and assets) or with their earning capacity (by working), or with help from others (third-party or from social benefits that take precedence). Verifying authority: Book II - job centres; Book XII - social assistance provider.

The standard needs rates to cover cost-of-living expenses are redetermined by the legislature when the results of the latest sample survey of income and expenditure are available. This survey is conducted every five years by the Federal Statistical Office in collaboration with the statistical offices at *Land* level. The current standard needs rates are based on the 2013 survey. Under the statistical model, the standard needs rates are identified based on empirically determined actual consumption expenditure of households in the lower income bracket and the consumption expenditure's relevance for guaranteeing a subsistence minimum that is consistent with human dignity. The legislature's decision on the specific consumption expenditure that is taken into consideration in determining standard needs does not constitute a decision on the actual use of the benefit amount. Rather, the amount represents a monthly budget which those entitled to the benefit can use as they see fit. In its decision of

2014, the Federal Constitutional Court again examined the procedure to determine standard needs and found it to be appropriate and in keeping with the constitution. This also applies to the annual updating of the standard needs rates which is performed in the years between the determination of standard needs.

The conclusions of the Committee on the second bullet point referring to the amount of benefits (p. 26) do not quite capture the logic of the system: to cover an individual's vital needs, priority is given to the use of the individual's own income and assets, or social benefits from other providers that take precedence over other benefits. The difference, which is required to cover total needs, is always paid. Therefore, **everyone** who is unable to cover their cost of living through their income and assets is entitled to supplementary basic income support/social assistance.

Regarding the request by the Committee for updated figures on basic income support and additional benefits for a single person without means, the Federal Government states the following:

The amount for standard needs has been increased several times in recent years, as have the costs of accommodation (total of ongoing and one-off expenses) that are individually covered. The table below provides details on the standard needs for single adults, organised by year with 30 June the effective reporting date; the costs of accommodation refer to the average recognised costs under basic income support for job-seekers (Book II of the Social Code).

Year	Standard needs of a single adult [EUR]	Costs of accommodation [EUR]	Total [EUR]
2016	404	363	767
2017	409	364	773
2018	416	376	792
2019	424	405	829

Paragraph 3 - Advice and assistance in an emergency

The right to assistance to overcome particular social difficulties also applies to foreign nationals if the latter are likely to remain in Germany permanently.

Regarding the request by the Committee for information whether foreign EU nationals are treated differently to foreign nationals of non-EU States Parties to the Charter, the Federal Government states the following:

In principle, all foreign nationals are treated the same when it comes to access to basic income support for job-seekers. In particular, during their first three months in the country, no foreign nationals receive benefits, unless they are in gainful employment. However, in accordance with the European Directive on Free Movement, EU citizens do receive benefits in the first three months of their stay in Germany if they lost their job, or had to give up their job, involuntarily.

Paragraph 4 - Equal treatment of citizens of other contracting parties

Pursuant to Section 4 of the Asylum Seekers Benefits Act (*Asylbewerberleistungsgesetz*), necessary services are provided for medical and dental treatment, the provision of medicines and dressings, and services necessary for convalescence, recovery, or alleviation of disease - but limited to acute illnesses and pain. Further to this, pursuant to Section 6 of the Asylum Seekers Benefits Act other services can be granted in individual cases if they are vital to safeguard health. This can include treatment for chronic diseases, medically necessary rehabilitation measures that cannot be postponed or medically necessary aids.

Regarding the Committee's request for detailed information on the status "habitual residence" and "likely to remain permanently" and particularly as to whether this means that citizens of States Parties who are lawfully in Germany must provide evidence of being in Germany for a certain time to be entitled to these services, the Federal Government states the following:

The scope of application of the Asylum Seekers Benefits Act extends to foreign nationals who do not have a secure residence status; in principle, benefits under Book XII of the Social Code can be granted after a period of 18 months in the territory of the Federal Republic of Germany.

Regarding the request by the Committee to explicitly confirm that foreign nationals who are not legally present in Germany receive emergency social assistance (food, accommodation, clothing) as long as they are in Germany, the Federal Government states the following:

We explicitly confirm that the right to receive benefits under the Asylum Seekers Benefits Act is not limited to persons who have applied for asylum or other forms of refugee status. Rather, it also applies to persons who are not legally present in Germany (cf. Section 1 (1) nos. 4 and 5 of the Asylum Seekers Benefits Act).

Article 14 - The right to benefit from social services

Paragraph 1 - Social services

Support of prisoners

Assistance to shape the lives of released prisoners and young offenders is primarily provided by voluntary organisations and through projects operated in the *Länder* to provide follow-up care for released prisoners. The Federal Association to Support Offenders (*Bundesarbeitsgemeinschaft für Straffälligenhilfe*), a group of different associations funded by the Federal Government, helps advise the facilities of the member associations in the area of assistance for former offenders, coordinate work priorities among the associations, and develop strategies and approaches. In each year of the reporting period (2016-2019), the Federal Association to Support Offenders received Federal Government funding of €142,270, €148,847, €148,700 and €187,000 respectively. The Association's brochure "*Wegweiser*" has been available in four languages (German, English, Russian and Arabic) since 2017. The initiative "*Wegweiser für nichtdeutsche Straffällige und Familien*" (Guide for Non-German Offenders and Their Families) took account of the fact that 35-40% of prisoners in German prisons are not German citizens and some have little or no German language skills. According to the data collected by the Federal Association to Support Offenders in the project on the living situations and challenges facing people convicted of a criminal offence and their families, the providers of voluntary assistance to offenders offer a broad range of services to support the individuals concerned in their efforts to bring stability to their lives. Roughly two-thirds of all clients avail of general advisory services. Of the specific advisory, assistance and mediation/placement services, the services to resolve housing problems are most in demand

(43.5%), followed by services in the area of "work, employment and skills development"; "addiction/drug counselling"; and "debt counselling", each accounting for 20%.