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Reports on economic, social and cultural rights, for the  
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	<u>Page</u>
Federal Republic of Germany . . . . .	2
Hungary . . . . .	31

FEDERAL REPUBLIC OF GERMANY

/8 May 1974/

I

Under the terms of its Basic Law, the Federal Republic of Germany is a social constitutional State with a liberal and democratic basic order.

From the social-policy point of view, this means not only the abolition of the fear of material distress and social descent. It involves putting into practice more justice and working for more real freedom in our society.

From the economic-policy standpoint, this means that more freedom is given to the individual to develop his personality.

Accordingly, in the period under review, it was the Federal Government's aim, on the basis of the high degree of social progress that had already been attained, to develop further the social constitutional State, and, through domestic reforms, afford greater social justice to the citizens of this country.

In this respect, special importance is attached to putting into effect the individual's right to employment through an active labour-market policy and an economic policy aimed at full employment.

The Labour Promotion Law, which came into force on 1 July 1969, provides the legal basis for a number of employment-policy measures designed to secure full employment and which are supplemented by regional- and structural-policy measures.

From 1969 to 1973, the unemployment quota lay between 0.7 per cent and 1.2 per cent. During this period, there were at least twice as many vacant jobs as unemployed persons on the yearly average. In 1970, there were even more than five times as many. The number of foreign workers in the Federal Republic of Germany nearly doubled during the same period, rising from 1.37 million in mid-1969 to 2.57 million in mid-1973.

The humanization of working life is another important social-policy objective. Employers became legally bound to appoint works doctors and industrial-safety experts in their works. The Federal Government considers that environmental protection should begin at the work-bench. Special attention is paid to accident prevention and research. In order to collect essential data in this sector, the Federal Institute for Labour Protection and Accident Research was founded in Dortmund.

Priority is also given to the expansion of social security and welfare. The important reform legislation concerning statutory health insurance and pension insurance funds will be dealt with in detail in III.B and L.

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In this connection, it should be mentioned that the Federal Republic of Germany attaches special importance to the rehabilitation of handicapped persons. With its action programme, which was published in 1970 and which has since then been translated into practice, the Federal Government launched a policy designed to secure for the handicapped the status of equal citizenship, and to guarantee the free development of their personalities in vocational life and in society.

Measures to improve existing savings-promotion legislation were brought in to ensure a more just distribution of wealth. Good progress has been made in preparations for a comprehensive system of participation by broad sections of the public in the growth of productive assets in large concerns.

Modern social policy requires a set of modern instruments. For that reason, the Federal Government has for a number of years published an annual social report on existing and pending measures, coupled with a social budget which gives a run-down of all social expenditure, according to institutions and facts relevant to social policy. It also provides a preview of the following five years.

Important progress has also been made in bringing more democracy to working life. The new Works Constitution Act, which came into force at the beginning of 1972 and which replaced the Works Constitution Act of 1952, takes into account the technical, economic, and social changes of the past 20 years. It is founded on the principle of trust and co-operation between the employer and the works council, and increases the individual worker's freedom.

The new law also incorporates more social safeguards for the worker through the extension and strengthening of his participation rights, especially participation of the works council in social, personnel and economic affairs of the firm. It also guarantees increased trade-union presence in the firm. At the same time, good progress is being made in expanding worker co-determination at management level.

Cyclical and growth policy are also central tasks for the modern social State. For that reason, the Federal Government has been furnished with guidelines for a co-ordinated economic and finance policy in the Law on the Promotion of Stability and Growth in the Economy, of 8 June 1967.

At the same time, this law contains budgetary, credit and fiscal policy instruments to steer the economic trend and growth. It obliges both the Federal and the Länder (states of the Federation) Governments to observe the demands of an overall economic equilibrium in their economic- and finance-policy measures. These Governments are thus committed to gearing their economic and finance policies to overall economic and, at the same time, social goals. All Government and Länder economic- and finance-policy measures have to be drawn up in such a way that they contribute, "within the framework of the market-economy system", to the maintenance of "price-level stability", a "high employment level", and "the balance of foreign trade" with a "steady and appropriate economic growth".

Although these indicators of overall economic equilibrium are not the only criteria for Government action in the sector of economic and finance policy, they

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do represent a basic yardstick for the success of economic policy in the Federal Republic of Germany.

The following figures show that economic and social policy in the Federal Republic of Germany has brought increasing prosperity to broad sections of the population. The GNP (at constant prices) rose by 18 per cent in the period under review; the social welfare expenditure amounted to 21.5 per cent of the GNP in 1973; per-capita income totalled DM 11,500 the same year; collectively agreed standard wages rose by 53 per cent, and actually paid wages by even 57 per cent in the period reviewed in the report. There was a considerable rise in real incomes for workers in the same period even taking into account the rise in the cost of living.

## II

It should be mentioned at the outset that the Federal Republic of Germany does not ratify any international treaty before the Government and the legislative bodies conclude, after careful examination, that its national legislation is compatible with the obligations it subscribes to with the ratification of such an international treaty.

A similar examination was carried out during the period under review prior to the depositing of the relevant ratification instrument in December 1973 (after the admission of the Federal Republic of Germany to the United Nations) with regard to the legal requirements of the International Covenant on Economic, Social and Cultural Rights.

Accordingly, during the period under review, close examination was given to legislation in the Federal Republic of Germany, as to whether this was in line with the requirements of the said Covenant whose ratification was prepared in the same period. (The ratification instrument was deposited in December 1973, following the admission of the Federal Republic of Germany to the United Nations.)

During the period under review, the Federal Republic of Germany ratified the following four Conventions of the International Labour Organisation:

No. 118 concerning Equality of Treatment of Nationals and Non-nationals in Social Security. The Convention is intended to give international validity to the principle of equality between nationals and non-nationals in social security, and to supplement Convention No. 102 concerning the Minimum Standards of Social Security, which the Federal Republic of Germany ratified in 1958;

No. 121 concerning Benefits in the Case of Employment Injury. The Convention is designed to provide adequate protection against accidents at work and occupational diseases and fix minimum levels of compensation;

No. 122 concerning Employment policy. The Convention establishes a modern and comprehensive framework for a specific labour-market policy in the member States;

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No. 128 concerning Invalidity, Old-age, and Survivors' Benefits. The Convention establishes a modern framework for old-age, invalidity and surviving-dependants' insurance. In contrast to earlier agreements, the circle of affected persons has been widened, and, in many cases, the scale of payments considerably increased.

In addition, in the period under review, preparatory work for the ratification of Convention No. 135, concerning Protection and Facilities to be afforded to Workers' Representatives in the Undertaking, was brought to a stage where the Convention could be ratified on 23 July 1973, shortly after the expiry of the period under review.

This supplements Convention No. 98 concerning the Application of the Principles of Right to Organize and to Bargain Collectively, and thus continues the development of international law on relations between employers' representatives and trade unions in an important sector.

Finally, mention should be made of the following international instruments that have come into force in the period under review: Protocol of 31 January 1967 relating to the Status of Refugees; Convention of 14 July 1967 establishing the World Intellectual Property Organization; International Health Regulations of 25 July 1969.

### III.A

#### Introductory remarks

The right to employment is translated into practice mainly through an economic policy aimed at full employment, and through an active labour-market policy. In this respect, reference is made to remarks under I, III.A.1, and III.A.3.

Special assistance is required by those people who, because of physical or mental handicaps, find difficulty in pursuing an occupational activity in keeping with their interests, abilities and knowledge. In this respect, the "Rehabilitation Action Programme" announced in 1970 has already been mentioned under I. In order to implement this programme, the Federal Government, in the period under review, adopted important legislative initiatives, of which only the most significant can be mentioned here.

For example, the draft of a law to equalize payments for the rehabilitation of handicapped persons is designed to provide, during rehabilitation measures, uniform maintenance payments based on the last gross earnings. This "transitional money" should be adjusted annually to economic developments. At the same time, the body providing rehabilitation should ensure social security for the handicapped by paying contributions to the social insurance companies and the Federal Institute for Employment with regard to the unemployment money and other assistance provided by it in cases of full or partial unemployment. (See III.B.)

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Important rehabilitation work is also carried out under the Federal Social Assistance Law (compare social assistance in principle, III.C.1-3). On the basis of a law drawn up in the period under review, and in the meantime approved, integration assistance is extended to cover, under this law, all those persons who - not only temporarily, are physically or mentally handicapped, or who are threatened by such handicaps.

Special importance is attached to the law - now also approved - for the further development of legislation concerning the seriously disabled. Even under earlier legislation, employers were obliged to take on certain groups of seriously disabled persons. This law is now being extended to cover all persons whose earning power is reduced by at least 50 per cent because of physical or mental handicaps, whatever the cause of the handicap. The employer's obligation to provide welfare services is being extended to the vocational development of the seriously disabled person, who will receive improved protection with regard to notice of termination of employment. The position of the delegate representing seriously disabled persons, who previously also looked after their interests in factories and offices, is to be strengthened. Special promotion is to be given to workshops for handicapped persons through incentives for supply contracts.

### III.A.1

The free choice of vocation, work-place, and training facility, as well as the freedom of movement, is guaranteed for all Germans under the Constitution. To ensure that the right of free choice in selecting a place of work is effectively applied, the Labour Promotion Law, referred to under I, has established an effective set of tools for an active labour-market policy. This embraces in particular:

Vocational guidance including placement at vocational training facilities; finding employment including work counselling; promotion of vocational education (individual and institutional promotion of vocational training, advanced training and retraining); promotion of the taking up of employment; work and vocational promotion for handicapped persons (vocational rehabilitation); granting of payments to maintain and create jobs (compensation for short-time working, promotion of all-year employment in the building trade, measures to find work).

All these tasks are carried out by the Federal Institute for Employment and its numerous regional and local offices, whose great efficiency is widely acknowledged. The Federal Institute for Employment also keeps the labour market under observation, and carries out labour-market and vocational research. Above all, the Institute's information, advisory and mediatory services make the labour-market situation more transparent, and thus facilitate the free choice of occupation, work-place, and training facility.

### III.A.2

One of the Federal Republic of Germany's important social-policy aims is to give employed persons just and favourable working conditions. This is translated into practice on the one hand by legislation, and on the other hand by numerous wage agreements, concluded by the trade unions with the relevant employers' associations or individual employers within the framework of wage autonomy, which is legally guaranteed to both partners. Numerous wage agreements, which have brought about steady general improvements in working conditions, have been concluded in the period under review.

In the legislation sector, mention should primarily be made of the First Law to Improve Labour Legislation of 14 August 1969. This law considerably improved the position of employed persons in the sector of legislation governing notice and protection against notice.

Employee protection is also afforded by the Law Governing Labour Recruitment Agency on a Commercial Basis of 7 August 1972. It does away with inadequacies that appeared in this sector.

Employee representation in the firm plays an important role in creating and securing just and favourable working conditions. Mention is again made of the new Works Constitution Act which, in comparison with earlier legislation, provides numerous improvements in favour of the employees and their representations.

In a number of questions, works councils possess co-determination rights, with the result that, if differences of opinion cannot be settled between them and the employers, a neutral instance (conciliation board or labour court) decides.

The rights of individual employees in matters which concern them and their jobs have also been regulated. The employee, in addition, has a comprehensive right to lodge complaints, whereby he can draw on the works councils for support.

### III.A.3

One of the main tasks of economic (cyclical, regional, and sector-structural) policy and labour-market policy is to guarantee full employment. The role of labour-market policy is to ensure that supply and demand on the labour market correspond qualitatively and quantitatively. Its purpose is to prevent, or keep to a minimum, foreseeable employment difficulties by applying preventive measures.

Labour-market policy is particularly important as a means of ensuring the full employment value of jobs. An important contribution in this respect is made by measures to promote vocational education, which are found in numerous forms in the Labour Promotion Law.

The Labour Promotion Law envisages individual promotion in vocational education, advanced training, and retraining, and, in addition, institutional promotion, i.e. the promotion of educational facilities by the Federal Institute

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for Employment. Apart from this, the Labour Promotion Law also provides the instruments for subsidizing familiarization with work. This allowance is granted to the employer for employees who can be fully effective on their jobs only after a period of familiarization.

Alongside these measures to promote occupational mobility, there are also measures to facilitate the taking up of employment by greater geographical mobility; assistance under labour-market policy for employees in certain branches of the economy (agriculture, the coal, iron and steel industries, the building trade), as well as special assistance for handicapped and elderly employees.

#### III.A.4

A just and favourable remuneration for work, guaranteeing the employee and his family an adequate livelihood, is realized in the main through favourable wage and salary scales negotiated by trade unions and employers on the bases of their wage autonomy. In the period under review, the wage scales negotiated by trade unions rose considerably. Apart from this, in view of the full-employment situation in the Federal Republic of Germany and the concomitant shortage of labour, employers often paid wages in excess of the agreed scales. (See I above.)

The fact that wage questions are largely regulated by wage agreements does not rule out the possibility of special wage-payment problems being regulated by law, and of remuneration for certain groups of persons being fixed in legally regulated procedures.

For example, in the period under review, the Law on the Continuation of Wage Payments of 27 July 1969 was passed. This law gives workers a claim to the continued payment of full wages for a period of six weeks should they be incapacitated through illness or have to undergo health-cure treatment.

As a result, workers enjoy practically the same status as salaried employees, who were entitled to continued payment much earlier. The First Law to Improve Labour Legislation, already mentioned, regulates specific problems connected with continued payment where notice is given.

A decision taken by the Federal Constitutional Court on 27 February 1973 is worth mentioning here. It states that the empowerment of the home-worker committees to fix minimum remuneration and working conditions for persons working at home, who are in special need of social protection, is compatible with the Basic Law.

#### III.A.5

The right to equal payment for equal work without any discrimination has been consistently recognized as an element of labour law by the Federal Labour Court. The Court cites the general equality clause of the Basic Law, as far as this

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applies to equal payment for men and women. It also cites special provisions of the Basic Law which prescribe equal treatment for men and women, and which forbid any kind of discrimination on grounds of sex. This has led, among other things, in the period under review, to the abolition by the trade unions and employers of special women's wage groups in the leather industry. Special problems involving the so-called "minimum-wage groups" are referred to in V.

The Federal Labour Court endeavours to proceed against hidden discrimination as well. In the case of a firm which in the period under review paid their female foreign workers less wages than the male ones, the Court presumed discriminatory intent on the part of the firm and required the firm to prove that such an intent did not exist.

### III.A.6

There have been continuous improvements in the employees' position with regard to rest periods, leisure-time, limited working hours, and paid holidays. These sectors are in part legally regulated, and in part regulated by wage-scale agreements, which are more advantageous than legislation for the employee, e.g. with regard to the number of hours worked per week, or the length of paid holidays. In the period under review, a considerable number of relevant wage-scale agreements were concluded in various economic branches.

Of the legal regulations, mention should be made here of a law amending the law on working hours in bakeries and confectioners' shops of 23 July 1969, an amendment law on closing hours for shops of 23 July 1969, the law concerning road transport drivers of 30 March 1971, and the regulation on employment hours in road transport of 28 October 1971.

### III.A.7

The right to establish trade unions and to become a member of a trade union of one's choice is embodied in the Basic Law. In this respect, no need arose in the period under review to pass further legislation. However, the Federal Constitutional Court, which in earlier rulings had developed important principles regarding the rights of the trade unions, confirmed for the trade unions in a decision on 26 May 1970 that the right to recruit members is in accordance with constitutional law. At the same time, the decision elucidated the manner in which this right can be exercised.

### III.A.8

The right of employees to strike is guaranteed in the Federal Republic of Germany. Details regarding the law of labour conflicts have been developed on relevant occasions in decisions of labour courts, especially those of the Federal Labour Court.

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One decision of special importance in the period under review is that of the High Division (Grosser Senat) of the Federal Labour Court of 21 April 1971, which is binding upon all divisions of that Court. It contains the following principles:

Measures employed in labour conflicts are subject to the dictates of proportionality. Strikes can lead to suspension, but not to the termination of employment. Lock-outs also have in general the character of suspensions. According to the dictates of proportionality, a lock-out involving termination of employment can be permissible. In such a case, the employee can demand re-employment ex aequo et bono after the end of the labour dispute.

The number of labour disputes in the Federal Republic of Germany has been limited up to now. A record was reached in 1971 with 4.5 million man-days lost through strikes and lock-outs. In 1972, 23,000 employees went on strike at 53 firms, and 66,000 man-days were lost.

### III.B

The right to social security has been implemented in the Federal Republic of Germany by a comprehensive social system. This system affords protection to practically the entire population in the Federal Republic of Germany, regardless of nationality, in cases of sickness, maternity, industrial accidents, occupational illnesses, invalidity, old-age, and death. In the period under review, this system has been further expanded and improved in all important sectors.

The Law Extending Statutory Health Insurance Legislation, of 21 December 1970, has made it possible for all employees to join the statutory health insurance scheme.

The law also acknowledges a claim to measures for the early diagnosis of diseases. Children can take advantage of this claim up to the completion of their fourth year of life, and, in the case of the early diagnosis of cancer, women from the start of their 30th year of life and men from 45. Because of the above-mentioned law, voluntarily insured persons in a statutory health insurance scheme, and privately insured persons receive a share of the costs from their employers, as has long been the case with compulsorily insured persons.

Through the law of 10 August 1972, 2.4 million independent farmers, members of the family who work on the farm, and the elderly, as well as family members with a claim to maintenance, have been incorporated into social health insurance. This now includes nearly 88 per cent of the total population.

Statutory accident insurance, which has involved 26 million people up to now, i.e. all employees, a number of other gainfully employed persons, as well as persons working in the interests of the public weal, has now been extended to include 12.6 million children and young persons: students, pupils, kindergarten children. Accident insurance also covers detours made by working parents on their way to and from work to accommodate their children.

Pensions covered by statutory accident insurance were raised by about 43 per cent between 1969 and 1973.

The statutory pension insurance fund affords protection against the risk of invalidity, old-age, and death. The pension reform law of 16 October 1972 opened statutory pensions insurance to everyone. Originally conceived as an employees' insurance, this scheme now applies to independent persons as compulsorily voluntarily insured persons, and to non-employed persons (e.g. housewives) as voluntary members. About 750,000 self-employed persons and 7 million women are able to enjoy the benefits of this scheme. Membership of the pensions insurance scheme has been facilitated by a generous provision regarding the back-dating of contributions to 1956.

Everyone in the Federal Republic of Germany can enter a voluntary insurance scheme regardless of nationality. Foreigners who leave the Federal Republic of Germany are able, unless otherwise provided in inter-governmental agreements or in European Community Law, to ask for their contributions to the statutory pensions insurance scheme to be refunded (the yield of the employee share).

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The pensions reform law has lowered the age limit for persons insured for at least 35 years from 65 to 63. Seriously disabled and incapacitated persons can, under certain circumstances, draw their old-age pension at 62. Even under earlier legislation, women and unemployed persons have been able to receive old-age pensions on completion of their sixtieth year of life, under certain insurance preconditions.

The level of pensions, which are adjusted annually to the development of wages and salaries (so-called "dynamic pensions"), is based in principle on the number and size of contributions paid, whereby the size of the contribution depends on the size of the wage or salary.

German law does not provide for a minimum pension. But the pensions reform law provides that persons insured for at least 25 insurance years are treated in computing the amount of pensions as if they had earned during their employment at least 75 per cent of the average earnings of all insured parties. The legislator assumes a minimum income in these cases. This has led to appreciable pension increases for the persons concerned.

In the period under review, pensions within the statutory pensions insurance scheme have risen by almost 50 per cent. Old-age pensions for average earners after 40 years insurance contributions totalled DM 668.60 a month in 1973.

Old-age pensions for independent farmers and members of the family helping on the farm, and which are implemented in their own branch of the social security system outside statutory pensions insurance schemes, have been considerably expanded and improved in the period under review. Old-age pensions for these persons have been increased from DM 175 to DM 240 a month for married persons, and the land surrender pension from DM 275 to DM 415.

Wage substitution payments under the Labour Promotion Law are designed to protect employed persons against the economic consequences of full or partial unemployment.

Mention should be made first and foremost of unemployment benefits financed from contributions by employers and employed: Recipients of such benefits are automatically insured free of charge in the statutory health insurance scheme and the statutory accident insurance scheme. Unemployment benefits are supplemented by a non-contributory system, viz. unemployment assistance, which however is dependent on the degree of necessity.

In case of temporary unavoidable absence from work, due to economic causes or industrial structural changes or unavoidable events, the employed persons concerned are paid short-time working benefits. The recipients of such benefits retain their membership, and rights, in the statutory health and pensions insurance schemes. The necessary contributions are paid partly by the employer, and partly by the labour administration.

In the case of building workers, the aim of inclement weather payments as a reimbursement for wage losses is to preserve jobs and secure an adequate income for the worker.

Adaptation assistance for elderly land workers giving up their employment was introduced on 1 January 1973 as a measure within the framework of Community tasks headed "Improvement of Agricultural Structure and Coastal Protection". Those entitled to assistance are agricultural workers between the ages of 55 and 65 who lose their jobs in agriculture because of rationalization.

With regard to children's allowances, see remarks under III.E.1.

As regards war victims' pensions, there have been a number of structural improvements in the period under review, as well as regular linear pension increases totalling more than 37 per cent, and even more than 46 per cent in the case of widows' pensions. Since 1970, war victims' pensions have been adjusted annually in line with current pensions under the statutory pensions insurance scheme. These pensions, therefore, are also "dynamic".

The provision of retirement pensions by firms is an important addition to old-age, disablement and survivors' security provided for by social insurance. Such retirement pensions have been expanded continuously in the period under review, and now include about half of all employed persons in the Federal Republic of Germany. They are not legally prescribed, but are subject to contractual regulation, based mainly on individual work contracts, in-firm agreements, or wage-scale agreements. A number of forms of contract can be selected, which vary according to the pension-paying institution and the financing procedure:

Direct pledges (in-firm pension obligations) oblige the employer, as the pension-paying party, to provide payment himself. Such direct pledges account for about 70 per cent of all expenditure for in-firm old-age pensions. This method is preferred mainly by large-scale and medium-sized firms.

Pension funds or clubs are independent pension-paying institutions - as a rule in the legal form of an insurance association based on reciprocity - which are subject to State insurance supervision. They are financed by contributions and remittances from one or several firms, sometimes with employee participation.

Provident funds are independent pension-paying institutions. They are not subject to State insurance supervision, and do not guarantee any legal claim on their payments. They must, however, treat all employed persons equally. The majority of the 10,000 or so provident funds are found in smaller firms.

Direct insurance is based on life insurance schemes, concluded by the employer to cover the life and the advantage of the employed person.

In the period under review, the Federal Government worked out the draft of a law to improve in-firm old-age pensions. This has in the meantime been passed to the legislative bodies. It envisages regulations under labour and fiscal law. These are augmented for civil servants, judges, and professional soldiers by service regulations.

### III.C

#### Introductory remarks

The right to an adequate standard of living is guaranteed to the population of the Federal Republic of Germany mainly by an economic policy aimed at maintaining full employment, and an active labour-market policy. This aim has been fully met in the period under review. (See I above.)

Those persons who are not in a position to provide an adequate standard of living for themselves and their families through their own labours can call on various social security and social assistance payments. (See III.B, III.C.1-3 above.)

These schemes not only provide, as a rule, adequate food, clothing and accommodation, but - mainly because of the development of wages and the dynamization of social security payments - a continuous improvement in living conditions. The latter are also made possible through publicly backed funds to support improvements in economic and social infrastructures.

At the same time, an active regional planning policy contributes to countering regional imbalances, caused by the growth of the population and jobs in a number of areas and the concomitant wide range of well equipped infrastructural facilities although at the same time poorer environmental conditions, while other areas gradually lose their populations.

In line with the view reflected in the Basic Law on the relationship of the individual to the State and society, social services are in part made available by the public authorities, and part are of private character. The private sponsors of social services are able to draw on both material and non-material support from the State in a variety of ways.

The extent to which the individual can form financial reserves is also important in the securing of an adequate standard of living. This is promoted by various kinds of saving schemes. Of these, employees' savings promotion above all has been improved considerably in the period under review. The number of employed persons who have made use of the relevant law rose between 1969 and 1973 from about 5.7 million to about 17 million (that is about 75 per cent of all employed persons). The average amount invested annually to form assets rose from DM 280 in 1969 to DM 510 in 1972, giving a total for all savers of DM 1,600 million in 1969 and DM 8,700 million in 1972.

Apart from savings promotion, the Federal Government is to put before parliament a Wealth Participation Law, under which employed persons can participate in the growth of productive assets. The guidelines worked out by the parties supporting the Government on 19 January 1974 provide for the following:

1. Firms with a taxable profit of not less than DM 400,000 or DM 500,000 should pay a levy, if possible in the form of participation shares.

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2. The total yield from these levies should from 1976 total DM 5,000 million a year for the time being.

3. Participation by claimants shall be covered by certificates in funds administering the total yield.

With a supposed average yield of about DM 5,000 million in the first year, each of a probable 23.6 million entitled employees can claim an annual sum of about DM 212. This is augmented by yields and the "internal value increment".

Social assistance can be claimed where the individual cannot support himself or his family either through his own work or through social security benefits under III.B. In 1961, the Federal Social Assistance Law established a modern system of such additional help. This has been considerably improved in the period under review by the Amendment Law of 14 August 1969.

Social assistance stops the gaps left by other social payments systems, when these do not provide payments to eliminate certain social distress situations, or do not include certain groups of people, or when payments are not adequate in individual cases. Social assistance is not tied to membership of a certain group of persons or to advance payments of any kind. Social assistance applies when the individual seeking help cannot improve his distressed position either by his own endeavours or funds, regardless of whether he is responsible for his own predicament or not.

The Amendment Law of 14 August 1969, mentioned above, has improved integration assistance for handicapped persons. Subsequent to this, a number of implementing regulations were approved from 1970 to 1972. Among other things, they define the group of seriously handicapped persons who are entitled to additional assistance for maintenance, and increased nursing assistance. They contain more advantageous regulations on non-accountable incomes. The regulation on integration assistance now includes persons with a serious mental handicap. The regular rates in the Regular Rates Ordinance, decisive for maintenance, have been revised. On the basis of this, the Länder adjust the level of regular rates to current price developments at regular intervals.

Expenditure for social assistance totalled DM 4,800 million in 1972. Half the social assistance expenditure in 1972 was used for recipients in institutes, homes and similar facilities; the remainder for recipients outside such institutions. In contrast, the number of social assistance recipients has remained constant over the past few years at about 1.5 million.

Most forms of social assistance - whether money, materials, or personal service - can, according to the Federal Social Assistance Law, be expressly claimed by persons seeking aid, whereby the type and form of social assistance depends on the circumstances in each individual case. The Social Office must take action ex officio as soon as it learns of a distress case. The aid recipient - apart from a number of exceptional cases - is not obliged to repay the social assistance he receives. An exception would be a case where the recipient has been responsible, either wilfully or by gross negligence, for his own distressed situation or that of his family.

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The Federal Republic of Germany is well aware that there can be disaster situations in which what the individual, the State or society has laid aside in the way of vital goods is no longer adequate. To cover such situations, Disaster Protection, established by law on 9 July 1968, was compounded into one single instrument for all conceivable cases. The material, and staff who is equipped with modern equipment, is employed in numerous emergencies in daily life.

### III.C.2

The provision of appropriate living space for the population of the Federal Republic of Germany has always been regarded as an important task, especially as about 13 million expellees and refugees have had to be accommodated, while on the other hand innumerable houses and flats were destroyed or damaged during the war.

Since 1950, there have been a number of laws to promote Government-subsidized housing, fiscal reliefs and tax privileges for house-building in general. They have provided tenants with protection against notice, and contain legal ruling on rents.

During the period under review, mention should be made of: the Ordinance on New Building Rents of 14 December 1970; the Law to Improve Rent Legislation to Limit Rent Increases, and to Regulate Engineers' and Architects' Remuneration, of 4 November 1971, which also regulates housing agents' services; the Law on Protection against Notice regarding Tenancy of Dwellings, of 25 November 1971; the Housing Amendment Act of 17 December 1971; and the Ordinance to Amend the Industrial Code, of 16 August 1972, with regulations regarding professional real property agents, builders, and building supervisors.

Special promotion programmes within the framework of the Government-subsidized housing scheme have for many years benefited the groups living on small incomes, as well as elderly people, seriously handicapped persons, young families, and families with many children.

In order that people on low incomes who own a dwelling can live adequately, payment is made of housing money - in the form of rent subsidies or subsidies for burdens. The Second Law concerning Housing Money of 14 December 1970 led to an expansion in the number of beneficiaries, improved payments, and facilities procedures. In 1969, a total of 850,000 households were in receipt of housing money amounting to DM 577 million. This rose to 1.4 million households and a total housing money of DM 1,200 million. Housing money can also be claimed by foreigners.

### III.C.4

We refer first to the introductory remarks to III.C. For the rest, continuous improvements in living conditions do not solely depend on increases in income, but on the consumer's sensible use of this income. The task of the Government's consumer policy is to help him on the market.

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During the period under review, consumer policy grew from a number of individual ad-hoc measures, and became part of economic and social policy. This development found its first perceptible expression in the Federal Government's report on consumer policy in October 1971. Apart from this, a Consumer Council was set up at the Ministry of Economics on 18 May 1972 to advise the Federal Government on consumer-policy questions.

In the period under review, the following important consumer-policy measures should be mentioned:

The law on weights and measures, of 11 July 1969

The law to amend the instalment-payments law, of 1 September 1969

The ordinance on price notification, of 18 September 1969

The hotel and restaurant law, of 5 May 1970

The wine law, of 14 July 1971

The law to improve rent legislation, of 4 November 1971

The ordinance on packaging materials, of 16 December 1971

The DDT law, of 7 August 1971

The estate agents' law, of 16 August 1971

The amendment to the textile markings law, of 25 August 1972

The ordinance on price declarations, of 10 May 1973

The foodstuffs law serves to protect the consumer against health hazards, misleading information, and deception, together with ordinances approved on the basis of this law (e.g. on dyes, preservatives, the content of foodstuffs, maximum quantities, plant protection). These legal regulations are reviewed constantly and adapted to changing conditions.

### III.C.5

With its environmental programme of 29 September 1971, the Federal Government developed a purposeful, long-term environmental policy blueprint that fitted smoothly into the liberal social and economic system in the Federal Republic of Germany. The principles of this environmental policy are as follows:

Protection of the dignity of man, who is threatened when his health and well-being are in jeopardy either now or in the future,

Conserving the environment as man requires it for his health and for a dignified existence,

/...

Protection of the ground, air, water, plants and animals against the injurious effects of human intervention,

The removal of damage or the injurious consequences of human intervention,

The conservation of raw materials, mineral resources, as well as clean air and fresh water for the present and future generations.

In order to implement this plan, changes are to be made to the Basic Law to place basic natural elements under the special protection of the State system, and therefore lend constitutional status to man's right to a dignified environment.

### III.D.1

The measures demanded here to reduce the number of still births and infant mortality, as well as further the health development of children have long been basic elements of German health policy. Considerable success has been achieved in the past. In the period under review these problems also got full attention from the responsible bodies.

As referred to briefly in III.B, the law to extend statutory health insurance legislation, of 21 December 1970, obliged the health insurance companies to finance seven examinations on children up to the completion of their fourth year of life to ensure an early diagnosis of such diseases as could be of particular danger to the normal physical or mental development of a child.

This, together with examinations during pregnancy, increased information on health matters, and improved equipment and staffing of the gynaecological departments of hospitals, infant mortality was cut further in the period under review.

From 1969 to 1972, the numbers were lowered as follows:

- Perinatal deaths (in the first seven days), for every			
1.000 live and still births	from 26.6	to	24.2
In the first 28 days after birth	from 17.9	to	15.0
In the first year after birth	from 23.2	to	22.5
Still births	from 10.6	to	9.3

### III.D.2

Measures to protect people from health risks resulting from the technical and automated environment were given a new accent in the period under review. The Immediate Action Programme for Environmental Protection was announced in 1970, and the Federal Government's Environmental Programme in 1971.

The environmental programme contains several groups of measures to protect vital areas of humankind, animals and plants against the damaging effects of technology and its installations. All efforts to protect the environment are designed to serve man and his well-being, and especially his health.

The improvement in environmental hygiene demanded by the United Nations plays a prominent role in the Federal Government's environmental programme. Accordingly, not only directly impending dangers are to be countered. In the forefront is an active planning of technical processes which are likely to affect water, air and soil. For that reason, environmental protection is closely linked with regional planning, urban construction, and scientific, economic, transport, and, above all, health policy.

Of the legislation approved in the period under review, special mention should be made of: the ordinance on the lead content of petrol of 5 August 1971; the refuse removal ordinance of 7 June 1972; the DDT ordinance of 7 August 1972; the X-ray ordinance of 1 March 1973; and the ordinance on the ban on and limitation of the use of pesticides of 23 July 1971. Approval is expected to be given in the near future to a Federal Law on Protection Against Immission.

Within the framework of the environmental programme of the Federal Government, wide-ranging research is in progress to detect environmental chemicals (especially heavy metals) in foodstuffs, and to limit them where necessary by applying permissible maximum limits, e.g. the detection of lead, quicksilver, cadmium in the soil, in refuse compost studge, and other fertilizers in agriculture, in food and fodder plants, in game and sweet-water fish, and in earth and plants on both sides of transport routes.

In the sphere of labour hygiene, the new Works Constitution Act gives works councils wide-ranging powers regarding the application of the numerous Federal and Lander safety regulations. In the period under review, the legislative process for issuing a law on works doctors was introduced. It has been concluded in the meantime.

### III.D.3

The Federal Republic of Germany has at its disposal a highly developed system of preventing and combating infectious diseases.

This system has its legal foundation in the Law on the Prevention and Control of Communicable Diseases in Human Beings, the Law on Venereal Disease Control, on international health regulations and a number of ordinances.

Mortality due to infectious diseases is less than 1% of all mortality.

Supervisory programmes (e.g. polio, influenza) keep a regular check on the circulation of viruses and the degree of resistance in the population, so that the development of epidemics can be assessed in advance. Comprehensive vaccination programmes are designed to protect the population, and especially the children, against the major communicable diseases. It takes some effort, however, to mobilize the public to take voluntary vaccinations. This is because willingness on the part of the public decreases with the disappearance of danger.

The Federal Communicable Diseases Law was amended on 26 August 1971 in order to improve compensation for victims of vaccination. Apart from this, the Government took over the Paul-Ehrlich Institute in 1972 as the Federal Office for Sera and Vaccines. In the future, every vaccine and serum will require approval from this office. This is to ensure that only those vaccines are put on the market that have been tested for effectiveness, harmlessness and purity according to the latest scientific findings.

The expanded activities of works doctors, on the basis of the law referred to under III.D.2, will provide in the future for improved prevention, treatment and control of occupational diseases.

#### III.D.4

The economic preconditions enabling the public to claim medical facilities and treatment are established mainly by statutory health insurance, which benefits nearly 88% of the population. The system is being constantly expanded and improved. (See III.B.)

Mention should also be made of assistance in cases of sickness for members of the public service. Those people who receive the appropriate help neither from social-security institutions, nor from relatives obliged to provide maintenance, and who themselves are unable to bear the costs of treatment, are able to claim sick benefits under the terms of the Federal Social Assistance Law (See III.C.1-3)

The Law on the Economic Stability of Hospitals, and the Regulation of Hospital Nursing Rates of 29 June 1972 provide the basis for a system of efficient hospitals subdivided according to requirements. Accordingly, the State is obliged to ensure that everyone is within reasonable reach of a hospital bed in case of sickness, regardless of his social status, that adequate treatment facilities for in-patients are available, and that the costs of hospital bills are kept within socially reasonable limits.

#### III.E

##### Introductory remarks

Article 6 of the Basic Law of the Federal Republic of Germany affords the institutions of marriage and family special protection by the State. The constitutional protection and promotion precept takes effect in the entire range social and social-policy measures. The prime aim of State efforts is to improve development conditions for all members of the family.

Apart from legislation, the Federal Government also contributes to improving social conditions by promoting assistance to families and young people through family-oriented research and experimental projects, as well as through public relations work, especially in the interests of the children.

Apart from securing the material foundations of family life, the Federal Government's family policy places priority on the following sectors:

strengthening the educational side of family life,

assistance for education in early childhood,

the expansion and improvement of educational facilities for children of pre-school age,

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the provision of living accommodation to meet family needs,

the development of an environment in which families can grow up happily,  
using public funds and the instruments of planning.

The legal and economic position of the illegitimate child in the Federal Republic of Germany has been considerably improved by the Law on the Legal Position of the Illegitimate Child, of 19 August 1969.

### III.E.1

Family life is promoted in the economic sector in the Federal Republic of Germany mainly through the Family Burdens Equalization Fund. This has existed for many years from direct and indirect payments.

Direct payments include family allowances under the terms of the Federal Family Allowances Law, the child bonus paid to members of the public service, as well as children's allowances and children's subsidies, which are paid in addition to social-insurance pensions.

Indirect assistance takes the form of tax reliefs with a certain amount of the income being exempt from taxation.

Children's allowances are paid for the second and every further child, as far as the child does not receive similar payments to children's allowance under other regulations (children's bonuses for children of public-service employees, children's allowances or children's subsidies under social-insurance law).

At the close of the period under review, the allowance for the second child totalled DM 25 a month, for the third and fourth child DM 60 each (the allowance for the third child was raised from DM 50 to DM 60 in the period under review), for every further child DM 70 a month.

Persons who have only two children receive allowances for the second child only when their annual income, together with the income of their marriage partner in the previous year or in the year before that, does not exceed a certain legally stipulated limit. During the period under review, this ceiling was raised from DM 7,800 to DM 16,800.

The payments paid in addition to social-insurance pensions (children's allowances and subsidies) are paid from the first child on. In general, they are considerably more than children's allowances, and during the period under review were adjusted annually along with pensions to changed economic conditions.

Up to 1970, direct payments under the Family Burdens Equalization Fund were paid only for unmarried children, and terminated with marriage. In 1970 the Federal Constitutional Court, in several decisions, declared this to be unconstitutional. Consequently, amendments were made on 25 January 1971 to social and civil-service laws on payments for married children. The new ruling provides for payments from the Family Burdens Equalization Fund to married children, too.

Children's allowances exempt from taxation under the income-tax laws (unchanged during the period under review) effected monthly tax reliefs in the lower income brackets of up to DM 19 for the first child, up to DM 26.60 for the second child, and up to DM 28.50 for each further child; and in the upper income brackets up to DM 53 for the first child, up to DM 74.20 for the second child, and up to DM 79.50 for each further child.

In the future, the Federal Government is to replace the multi-channel system of the Family Burdens Equalization Fund by uniform child payments. This will amount to DM 50 a month for the first child, DM 70 for the second, and DM 120 for each further child. The relevant bill has not been given a final reading yet.

In 1971, a longer-term housing programme was launched designed to improve the provision of living accommodation especially to young families and those with many children. The Government grants the Lander DM 250 million a year for this purpose.

Additional family loans can be claimed by the builder of a family home or an owner-occupied flat, where two or more children are present. Through the promotion of house construction, and participation in the development of standards and guidelines the Federal Government exerts an influence on the provision of living accommodation to meet family needs.

Increasing use of technology, and urbanization make it imperative to establish better legal and financial preconditions for the construction of playgrounds, sports grounds, and leisure-time facilities. A number of Lander have passed laws or have brought in bills on comprehensive regulations for the construction of playgrounds. Apart from the specific legal obligation on local authorities to provide playgrounds, they are bound by regulations on location, size and character, as well as regulations on cost-bearing. In planning and design, priority is given to play-psychology and social-education considerations.

Family vacation centres are promoted by subsidies and loans. They are built by non-profit-making bodies, and take mainly young families, families with many children, families with handicapped children, or families from socially difficult areas, who cannot afford normal holidays. In 1971, the Federal Government made available DM 5 million for this purpose. Most of the Lander and a large number of local authorities grant subsidies towards the accommodation and maintenance costs of individual families.

Finally, the Federal Government is expressly promoting all efforts by organizations in the field of family formation and counselling, enabling parents to fulfil their educational obligations optimally. In 1969, financial subsidies totalled about DM 1.6 million, and rose to about DM 2.1 million in 1973. In addition, the Federal Government also participates in the development of new methods of parental enlightenment.

### III.E.2

Mention should first be made of the expansion of kindergartens about which more details are given in III.E.3.

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Measures benefiting working mothers are adopted very often by firms on a voluntary basis. In view of the labour shortage in the Federal Republic of Germany, firms are interested in providing work for mothers who wish this but who have nowhere to send their children during working hours.

In this connection, the possibility of part-time work or temporary absence from work for certain periods plays an important role.

Since the amendment to the civil-service and pay legislation of March 1969, there is a legal basis for female civil servants and judges to practise part-time work or to be absent for a longer period if they have to bring up children living with them. In doing so, they do not relinquish any claims they might have accrued. In order to promote part-time work also in the free-market economy, the Federal Labour Office grants integration subsidies and assistance also for part-time work, and supports the setting up of part-time jobs from reserve funds.

In order to overcome difficulties caused by child sickness, parents can claim, as from 1 January 1974, temporary absence from work. Members of statutory health insurance schemes receive sickness benefits when child sickness, confirmed by a doctor, demands their presence at home to look after or nurse the child, and when this leads to loss of earnings. During the period in which the insured person can claim sickness benefits, he can also claim from his or her employer unpaid leave of absence from work.

The "daily mother" experiment launched by the Federal Government is an attempt to augment existing facilities to look after the small children (up to 3 years old) of working mothers.

An educationally qualified woman looks after the children of working mothers in her own home. This is to ensure that the child has an environment as close to the family as possible. The work of the "daily mother" is subject to social insurance, and is therefore a contribution to the independent social insurance of women.

### III.E.3

In the Federal Republic of Germany, the kindergarten, as an elementary sector of the educational system, has its own educational task. The personality of the child should be developed in constant contact with the parental home. The kindergarten augments and supports the education of the child at home.

There has been an increase in the number of kindergarten places. At the end of 1972, the number of kindergarten places totalled more than 1.3 million, an increase of 7 per cent over 1971. In 1965, there were only 33 places for every 100 children between the ages of three and six; in 1972 there were 48.

The educational plans of the Federal Government and the Lander aim at covering the requirement of kindergarten places by and large by 1980.

On 10 July 1970, the Federal Government set up an expert commission to work out the basics of a reform of the existing Youth Assistance Law.

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On 26 April 1973, the discussion draft of the Youth Assistance Law was published. In place of a "right to education", in current law only as a programme point, every young person will be able to claim a legal right to education defensible in court. This draft provides for a comprehensive list of clearly defined measures in education of young people. It is envisaged, for example, that, from the age of three to the start of compulsory schooling, every child has a legal claim on enrolment in a day or half-day facility.

Reference is also made to the measures mentioned in III.E.2, which serve care and support for children and young people.

#### III.E.4

Parents in the Federal Republic of Germany have a guaranteed right to decide freely on their own responsibility the number of the children they wish and the age difference between them. The precondition for responsible parenthood is sufficient knowledge of family planning possibilities. In order to make good the lack of family-planning advisory facilities, the Federal Government has developed a pilot programme to provide important data to the sponsors of advisory services.

The number of births has been decreasing in the Federal Republic of Germany since the mid-sixties. In 1969, there was a surplus of births totalling 160,000. In 1972, there was a deficit of 30,000, and in 1973 of 96,000. The causes of this fall in births are being analysed by the Federal Institute for Population Research set up at the beginning of 1973.

### III.F.1

The right to free primary school education has been guaranteed for a long time in the Federal Republic of Germany through the legislation of the Länder which are responsible for school matters, and partly also in the Länder constitutions.

### III.F.2

The right of equality of access to higher school education is likewise guaranteed. As far as the schools involved serve vocational education, the basic right to the free choice of training facility, mentioned under III.A.1, applies.

In the period under review, the Law on Vocational Education was passed on 14 August 1969. This law introduced certain reforms and, at the same time, established a uniform legal basis for vocational education.

The discussion about the best possible form of vocational education continued, however, and led to further, very basic reform ideas, which, however, are not yet in force. In the period under review, a number of occupational programmes were reformulated and approved on the basis of the Law on Vocational Education of 14 August 1969. They regulate the details of training for each individual occupation.

In secondary school education, the Federal Republic of Germany is seeking not only legal equality of opportunity, but also wants to establish the economic preconditions for a situation where no one is prevented from grasping educational opportunities for lack of funds.

This aim was served by the Law on Educational Promotion of 19 September 1969. The law has been amended several times during the period under review, and was superseded on 26 August 1971 by the Federal Law on Educational Promotion. This law provides for financial promotion for pupils and students when parents' incomes do not exceed certain limits.

Up to now the university sector has been primarily a matter for Länder legislation. The Länder have passed a number of university laws. A General Universities Law is being drawn up, but is not yet approved.

Because of the pressure on places in certain subjects at scientific universities, numerous universities have had to introduce "numerus clausus" rulings, limiting the number of admissions.

In the period under review, the Federal Constitutional Court dealt with the question of whether limits on admission were compatible with the basic constitutional right of free choice of training facility. The Court confirmed this compatibility only when such restrictions on admission are absolutely necessary, when all existing educational capacities are fully utilised, when

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the selection and distribution of applicants takes place according to objective criteria, with an opportunity for every university applicant and where the individual choice of educational facility is taken as far as possible into consideration.

### III.F.3

The right of parents to select the type of education that their children should enjoy is guaranteed under the Constitution. To this extent reference is again made to the Law on Vocational Education, which draws the practical conclusions of this, and which was already mentioned under III.F.1.

In the period under review, the Federal Constitutional Court dealt with the right of parents to choose freely between the various educational systems that the State makes available in the school system.

The Court declared one Land law as unconstitutional. This law forbade, with the introduction of a compulsory promotion class in school age groups 5 and 6, attendance at a State secondary school outside the school district or attendance at a private substitute school.

### III.G.1

The right of the individual to participate in cultural life and to enjoy the fruits of scientific progress and their application is a matter of course in a liberal democracy such as the Federal Republic of Germany.

The acknowledgement of human dignity as one of the highest values in the constitutional system, the basic right to the free development of personality, and the basic right to unhindered education from generally accessible sources, establish the constitutional basis for this. Together with numerous public promotion measures, the prosperity achieved by broad sections of the population, reported briefly under I, establishes the economic and financial basis for the exercise of this participation right.

In the Federal Republic of Germany, this right is taken for granted to such an extent that, in the period under review, no laws or other State measures were required to secure its broader application.

Mention might only be made of the expansion of special programmes for foreign workers in radio and television, which make it possible for them to keep in continuous touch with homeland cultures, and which make it possible for every foreign worker to participate in cultural life even though he does not command the German language adequately.

### III.G.2

Under the Copyright Law of 9 September 1965, the Federal Republic of Germany provides comprehensive legal protection for the authors of works of literature, science and the arts.

This protection includes both the intellectual interests of the author in his work, and his material interests derived from the economic value of his work. This is achieved in principle by granting an exclusive right to the author to use his work in physical form and for public reproduction.

This exclusivity right for the author is restricted only in certain, specified exceptional cases in the interests of the public. In certain of these cases, the law gives the author a claim to appropriate remuneration instead of an exclusive utilization right in case his work is used.

The German Copyright Law protects not only the authors of works of literature, science and the arts, but also the performing artists, i.e. those who render or perform or take an artistic part in the performance of a work. The performing artist is protected by an affiliated law. This law differs in details from the Copyright Law, but embraces the most important non-material and material interests of the performing artist.

The protection afforded by the German Copyright Law to the author and the performing artist accords in all points with the minimum demands of relevant international agreements (the Berne Convention for the Protection of Literary and Artistic Work, of 9 September 1886, as amended in Brussels on 26 June 1948, as well as the World Copyright Convention of 6 September 1952, regarding authors and the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Corporations, of 26 October 1961, regarding performing artists), and in broad sections goes far beyond these minimum standards.

Protection for the author was further improved by the law amending the Copyright Law of 10 November 1972. This law gives authors a claim to appropriate remuneration in cases of leasing or lending of reproductive parts of their works by installations accessible to the public such as libraries, record collections, or collections of other reproduced parts (so-called library fees).

Apart from this, considerable improvements have been made with regard to regulating the claim of creative artists to participation in the proceeds of the further disposal of the originals of their works (so-called right to subsequent payment). In addition all authors whose works are taken wholly or partly into church or school collections or are used for instruction have a claim to remuneration.

Furthermore the Federal Constitutional Court, in the period under review, took a number of decisions in connection with copyright law. It referred this "intellectual property" to the property protection clauses of the Basic Law and thus embodied it in constitutional law.

Apart from this, the Court passed down a ruling on 24 February 1971 on the question of artistic activity and its limitation in relation to the constitutionally protected private sphere which is protected by the Constitution.

#### IV and V

From the aforesaid, it can be seen that the rights discussed have, in fact, benefited all sections of the population, without regard to person, race, colour, sex, language, religion, political convictions, national or social origin, wealth, birth, or other categories.

For that reason, no general legal or other measures are necessary any longer in the Federal Republic of Germany to ensure that such rights are enjoyed by increasing numbers of the population.

But this does not preclude the fact that in certain sectors difficulties have to be removed, and improvements are possible. For this reason, and for reasons of expediency, points IV and V are best dealt with together.

For example, for many years foreign workers have been playing an important part in the economic and social life of the Federal Republic of Germany. Where they have valid residence and work permits, they enjoy equal status with local labour with regard to labour and social law. Any form of discrimination is forbidden. Apart from this, nationals of the member States of the European Community enjoy complete freedom of movement and a free choice of work place in the Federal Republic of Germany, as do Federal citizens. All foreign workers are able to claim the protection of the State authorities and the courts in the same way as Federal citizens, and likewise the assistance of the trade unions, which they can join in the same way as Federal citizens.

The Federal Republic of Germany fully realizes, however, that equality under labour and social law for foreign workers does not suffice to solve all the problems arising from the employment of such a large number of foreign workers and from the presence of members of their families in Federal territory.

The problems concern mainly the accommodation of foreign workers and their families, as well as, under certain circumstances, the schooling of their children in the Federal Republic of Germany. It must be possible to integrate these children into society in the Federal Republic of Germany for the duration of their stay, and at the same time to maintain the intellectual and cultural links with their homelands. The solution of the problems arising requires a great deal of good will on all sides and a high degree of co-operation between the home countries of the foreign workers and the competent authorities in the Federal Republic of Germany. The Federal Government is doing its utmost in this respect.

Reference has been made in this report (III.A.5) to the need to counter unfair treatment of female workers in the wages sector. In many instances, this involves the "low-wage groups", whose employment criteria apply exclusively or mainly to female employees.

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The Federal Government is taking these accusations seriously. It has commissioned two independent scientists to draw up a report on the problem. The report is to be put before the German Bundestag, will be discussed in detail with the trade unions and employers, and will be made available to the public. It will create a new basis for the examination of the assessment criteria in wage-scale agreements.

## HUNGARY

/9 May 1974/

It is Act I (1972) - the amendment of Act XX (1949) - the amended Constitution of the Hungarian People's Republic, that demonstrates first of all the changes brought about in the Hungarian People's Republic in the field of economic, social and cultural rights between 1 July 1963 and 30 June 1973. The Constitution embodies the fundamental changes that have taken place in the life of the Hungarian People's Republic, safeguards the achievements of the struggle for social development and the further progress on the road to socialism. A major part of the civil rights warranted by the modified Constitution had been contained also in Act XX (1949).

Article 54 of the 1972 Constitution declares that the Hungarian People's Republic respects human rights.

All regulations related to the fundamental rights and duties of citizens must be laid down in laws passed by the highest representative organ of the people, i.e. the Parliament.

Economic rights(a) Right to work and to remuneration according to work performed

The social system in the Hungarian People's Republic is based on labour. It is the right and duty of every citizen capable of work to do work according to his/her abilities. The Hungarian People's Republic strives for the consistent realization of the socialist principle. "For each according to his/her ability, to each according to his/her work" (Constitution - Article 14).

The Hungarian People's Republic guarantees its citizens the right to work and the respective remuneration according to the quantity and quality of the work performed (Constitution - Article 55).

(b) Right to rest and recreation

The Hungarian People's Republic ensures for its citizens the rights to rest and recreation. This right is enforced by the statutory establishment of working hours, by guaranteeing paid leave and by supporting the organization of recreation (Constitution - Article 56).

(c) Right to property and to inheritance

The base of the economic system of the Hungarian People's Republic is the social ownership of the means of production (Constitution - Article 6).

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The Hungarian People's Republic supports the co-operative movement based on the voluntary association of labourers, the development of the socialist co-operative property, guarantees the autonomy of the co-operatives and - in the interest of the enforcement of socialist co-operative principles - exercises supervision over their activity.

Special attention is paid by the Hungarian People's Republic to the agricultural co-operatives of the peasantry. It protects and develops the co-operative - socialist ownership of land.

Act III (1971) on co-operatives enacts the conditions of formation and termination of membership relations, the rights and duties of members, the financial relations between members and the co-operative as well as the conditions of the members' employment. It regulates the conditions of provisions for co-operative members and of different allotments granted for them.

The Hungarian People's Republic recognizes and protects personal property (Constitution - Article 11).

Decree No. 31 (5 October 1971) on some aspects of citizens' plot ownership, and Decree No. 32 (5 October 1971) on some questions of citizens' housing and holiday resort ownership, in order to prevent speculations, limit the size of plot, housing and holiday resort properties. According to these Decrees the upper limit of tenements of each grown-up person or each family is one housing and one rest-home site and one building for purpose of living quarters and one for recreation, respectively.

The State recognizes the socially useful economic activity of small-scale producers. Private property and private initiative, however, cannot violate public interests (Constitution - Article 12).

The Constitution guarantees the right to inheritance (Article 13).

Both Decrees No. 31 (1971) and 32 (1971), aiming at satisfying the requirement of citizens for plot, apartment and rest-home and at preventing money-making efforts without work, stipulate that after enforcement, if the upper limit of properties - due to inheritance - is exceeded, the owner has to alienate that property still vacant within two years.

#### Social rights

##### (a) Right to economic and social provisions

The Hungarian People's Republic safeguards the citizens' life, security, health and in case of illness, disability or old age supports them.



In case of old age, sickness or inability to work the Hungarian citizens are entitled to financial support. The right to financial support is secured by the Hungarian People's Republic through social insurance, by way of social institutions (Constitution - Article 58).

According to Decree No. 45 (4 November 1970) pensions of all kinds have to be raised annually by 2 per cent from 1 January 1971.

On the basis of Enactment No. 33 (1971), and Decree No. 45 (1971) on its implementation, workers entitled to pension who are still active for at least one year - without utilization of pension - are authorized to an extra annuation fund inspiring further work.

(b) Right to health protection

Citizens of the Hungarian People's Republic have the right to the protection of their life, security and health. This right is enforced in Hungary by the organization of labour, safety, health institutions, medical care and by the protection of the human environment (Constitution - Article 57).

Act No. II (1972) summarizes all basic rules concerning public health in the Hungarian People's Republic and regulates the rights and duties regarding the health protection of the population. Public health is a concern of the State, as the Statute specifies. All citizens are entitled to free medical examination and to all necessary medical treatments, as well as to maternity and ambulance care. Women, mothers as well as children enjoy increased protection of health. The law includes a provision to secure legality of accommodation in mental institutions, it regulates the questions of health education of the citizens and forbids any propaganda objectionable from the point of view of health protection.

(c) Protection of marriage and family

The Hungarian People's Republic protects the institution of marriage and family (Constitution - Article 15).

Decrees No. 7 (8 February 1971) and No. 2 (8 February 1971) on the financial conditions of house-building forms, welfare facilities, house building contributions, and on allowances grant social welfare allowances to families with children as well as to newly married couples.

(d) Protection of women and youth

The equality of rights of women is served by the guarantee of opportunities and conditions of employment: by paid maternity leave in case of pregnancy and delivery, increased legal protection of children and maternity, institutional care for mothers and infants (Constitution - Article 62).

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Decree No. 1013 (1970) on the improvement of the economic and social situation of women, sums up the duties and tasks of the management of each state organ, institute, enterprise and co-operative. These authorities are responsible to observe that women - for the same work - be equally paid with men, and to ensure their satisfactory vocational training. Directives are laid down as to the occupation of high offices, the facilitation of housework for earning women, the education of children as well as the health protection of women.

Special attention is paid to the development and socialist education of youth and the protection of the interests of the young generation (Constitution - Article 16).

By establishing the basic rights and duties of youth, by defining the duties of national bodies and co-operatives, the Law on Youth (IV) (1971) encourages the participation of young people in the building of socialism. It contains provisions on the questions of education, social stand and health protection, culture, sports, their participation in social life and social organizations of the youth.

#### Cultural rights

##### (a) Right to education

The Hungarian People's Republic ensures the right to education for its citizens. This right is realized by extending public education, by means of free and compulsory elementary, secondary and higher education, evening courses for adults and by financial aids (Constitution - Article 59).

Nationalities living on the territory of the Hungarian People's Republic have a free choice of using their mother tongue, education in their mother tongue and preservation and cultivation of their own culture (Constitution - Article 61).

Law No. VI (1969) on vocational training, describes the obligations of schools and authorities entrusted with vocational training, the rules and regulations of these schools, scope of their activity, beginning and termination of privity of skilled labour apprentices, the allowances and benefits (term-time, scholarship, gratification, reduced-rate meal, recreation, work-clothing, social services etc.) and the questions related to the protection of the apprentices' health and security.

##### (b) Right to free cultivation of science and arts

The Hungarian People's Republic organizes and supports the scientific activity contributing to the progress of society, assists arts serving progress (Constitution - Article 18), guarantees the freedom of scientific and artistic activity (Constitution - Article 60).

Decree No. 41 (1969) on the Hungarian Academy of Sciences summarising the rules relating to the activity of the Hungarian Academy of Sciences declares that, the highest scientific authority of the Hungarian People's Republic is the Hungarian Academy of Sciences.

Its function covers the whole field of scientific - especially basic - research. The Academy takes part in the guidance of scientific research and by a network of institutes and by activity of its members takes care of the cultivation of science and directs the research in its institutes.

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