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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS

Reports submitted in accordance with Council resolution
1988 (LX) by States parties to the Covenant concerning
rights covered by articles 10 to 12

FEDERAL REPUBLIC OF GERMANY

/21 December 1979/

Preliminary remarks

In accordance with the relevant general guidelines (G/SO.221/912) the following report covers the period since entry into force of the Covenant, on 3 January 1976. For preceding periods, reference is made to the following reports submitted to the United Nations:

- (a) Report on economic, social and cultural legislation (E/CN.4/1155/Add.5), which covers the period from 1 July 1969 to 30 June 1973;
- (b) Report on social progress in the Federal Republic of Germany during the past 20 years, which covers the period up to 1971;
- (c) Report on the implementation of the Declaration on social progress and development, which covers the period up to 1973.

ARTICLE 10. PROTECTION OF FAMILIES, MOTHERS AND CHILDREN

A. Protection of families

Preliminary remarks

In substance article 10, paragraph 1, corresponds largely to article 23, paragraphs 1 and 3, of the Covenant on Civil and Political Rights. Therefore reference is made to the respective report of the Federal Government (United

Nations document CCPR/C/1/Add.18, 30 November 1977). This report states that, by virtue of Article 6 of the Basic Law, marriage and family enjoy the special protection of the State and that social legislation must also take account of family law aspects.

(1) Article 6 of the Basic Law; see also comments under (3) and (4).

(2) The right of men and women to enter into marriage and to establish a family only with free consent is safeguarded in the Federal Republic of Germany (cf. comments on Article 23, paragraphs 2 and 3, of the report on the Covenant on civil and political rights).

(3) To support young families a number of Lander give financial assistance to persons who get married or establish a family; this assistance takes the form of low-interest or interest-free loans and allowances for the birth of a child. Such loans are granted in Berlin (West), Baden-Wurttemberg, the Saarland, Bavaria, Rhineland-Palatinate and Schleswig-Holstein. As a rule the amount of the loan to be repaid is scaled down upon the birth of a child, with rebates increasing with the number of children. Moreover married couples are granted income tax relief under the so-called splitting system which according to the total income of both spouses and the proportionate income of each spouse allows them to move down to a lower category of the progressive tax-scale.

(4) One of the most important measures to maintain, strengthen and protect the family is the system of equalization of family burdens which is available to Germans as well as to foreigners living in the Federal Republic of Germany. Its purpose is to reduce the financial burden for parents in order to avoid a decline in the standard of living of families with children as compared to childless couples and to create more favourable conditions for the children's development.

As of 1 January 1975 the system of equalization of family burdens was reorganized and improved. Now all parents with the same number of children get the same amount of child benefit. Employment and income are irrelevant for the entitlement to child benefit. Child benefit is already payable for the first child. The new child benefit replaces the children's allowance in wage and income tax, the child supplement in the public service and the previous child benefit. Thus the unsatisfactory situation where low income groups received no or a substantially lower children's allowance than parents with a high income and where some parents received child benefit already for the first child, others only for the second and many received no child benefit at all, was abolished.

Child benefit is paid in respect of:

One's own children and adopted children;

Stepchildren whom the beneficiary has taken into his household;

Foster children (a foster child being a child whom the beneficiary has taken into his household and with whom he intends to establish a long-term family-like relationship);

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Grandchildren, brothers and sisters of the beneficiary whom he has taken into his household or to whose maintenance he predominantly contributes.

As a rule, child benefit is payable for children up to the age of 18. It is payable for children up to the age of 27 if:

They are engaged in education or vocational training; or if

They have, for the period of one year, voluntarily taken up welfare work within the meaning of the Act to promote voluntary welfare work;

They are unable to support themselves due to a physical, mental or psychological disablement (child benefit continues to be paid for such a child even beyond the age of 27 if the child is single or widowed or if he is married and if his spouse is unable to support him);

They are the only ones to help the housewife or housekeeper and work exclusively in the household of the beneficiary, provided at least four other children live in this household;

They keep the house for the beneficiary, thus replacing the housewife or housekeeper who, due to sickness is unfit for work, for more than 90 days, provided at least one other child lives in this household.

Child benefit is payable in respect of children who are engaged in education or vocational training beyond the age of 27 if they have:

Completed their basic military service or civilian alternative service;

Enlisted as a volunteer - for not more than three years - in the army or the police forces and have thus fulfilled their compulsory military service or civilian service;

Worked as volunteers in development assistance and are therefore exempt from military and civilian service according to section 1, paragraph 1, of the Development Assistance Act.

In all these cases the age limit of 27 years is raised by the period during which one of the above-mentioned activities was carried out but by not more than 24 months. Moreover the age limit of 27 years is raised by the period during which training had to be delayed because no training place was available.

Since 1 July 1976 child benefit is not payable for a child over 18 who is engaged in vocational training if the child receives a gross training allowance of at least 750 DM per month or if, on account of the training, he is entitled to a maintenance benefit of at least 580 DM or to a transitional allowance for which the assessment base is at least 750 DM per month.

Since 1 September 1976 child benefit is also payable for children between 18 and 23 if they have no job or training place, receive neither unemployment

benefit nor unemployment assistance and are available for placement (this means that the child must be registered with the labour office as a job-seeker).

Since the reform of the equalization of family burden system the monthly child benefit rates have been increased several times.

Monthly child benefit rate

As of	First child	Second child	Third child and other children
		(DM)	
1 Jan. 1977	50	70	120
1 Jan. 1978	50	80	150
1 Jan. 1979	50	80	200
1 July 1979	50	100	200

Child benefits are paid from general tax revenue. The payment is effected by the labour offices. In the public service the child benefit is paid by the employer.

On the basis of collective agreements about 4 million employees - above all in the service sector - receive, on top of their wage or salary, a household, marriage or child supplement if they fulfil certain conditions. These collectively agreed supplements have lost significance since the introduction of the statutory child benefit.

Persons drawing an injuries pension from the statutory accident insurance or a contributor's pension from the statutory pension insurance do not receive child benefit for their children but a child allowance or child supplement from the respective insurance institution. These benefits are also paid for the first child already; the rate is at least the same as the rate of the statutory child benefit.

In the statutory accident insurance a child allowance is paid if the injured person draws an injuries pension of at least 50 per cent of the full pension, or if he draws more than one pension taking account of a total reduction of earning capacity of 50 per cent.

This child allowance is payable for:

Legitimate children including adopted children;

Stepchildren whom the beneficiary has taken into his household;

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Children declared legitimate;

Illegitimate children of a male injured person, if his paternity has been established or if he is liable to pay maintenance;

The illegitimate children of a female injured person.

The allowance for a child under 18 amounts to 10 per cent of the pension.

The child allowance must not be lower than the child benefit which would be payable under the Federal Child Benefit Act. If a beneficiary is theoretically entitled to child supplement from the statutory pension insurance and to child allowance, only the child allowance is payable to at least the rate of the child supplement.

The child allowance is payable at the latest up to the age of 25 in respect of a child who is engaged in education or vocational training, who has voluntarily taken up welfare work for a period of one year ("social year") or who, as a result of physical or mental disability, is incapable of earning his own living. If education or vocational training is interrupted or delayed by compulsory service the child allowance is paid beyond the age of 25 for a period corresponding to the period of service.

Since 1 July 1976 child allowance is not paid for children over 18 if they receive a gross training allowance of at least 750 DM or if, on account of their training, they receive a maintenance benefit of at least 580 DM per month or a transitional allowance for which the assessment base is at least 750 DM per month.

Since 1 July 1976 no child allowance is paid for foster children, grandchildren and sisters or brothers whom the injured person has taken into his household; for them child benefit under the Federal Child Benefit Act is payable. In the statutory pension insurance a child supplement is paid for each child in addition to the insured person's pensions (disability and unemployability pension, the so-called pension for bringing up a child, paid to divorced persons, retirement pensions).

Up to 30 June 1977 the annual child supplement amounted to one tenth of the relevant general assessment base. As of 1 July 1977 the child supplement has been fixed at a special rate and is exempt from income tax; it amounts to 152.90 DM per month (in the wage earners' and salaried employees' pension insurance). The objective of this measure was to avoid an increasing discrepancy between the child supplements from the statutory pension insurance and the child benefits paid under the Federal Child Benefit Act.

Since 1 January 1979 pensioners receive a compensatory benefit for the third and all subsequent children, designed to offset the difference between the child supplement and the child benefit under the Federal Child Benefit Act (200 DM per month).

No child supplement is paid in addition to child allowance from the statutory

accident insurance, orphan's pensions from the statutory pension insurance or child-related supplements to remuneration or pensions paid by public institutions.

For further details see the comments on child allowance from the statutory accident insurance.

Statutory sickness insurance, statutory accident insurance and statutory pension insurance provide, inter alia, for household assistance. In the statutory accident insurance such assistance is granted as an additional benefit parallel to curative treatment and occupational therapy, if the injured person has to live apart from his family for the purpose of receiving curative treatment or occupational therapy and is therefore unable to keep house. This presupposes, however, that none of the other persons who live in his household is capable of keeping house and that the household includes at least one child who is not yet 8 years old, who is disabled and dependent on help.

The rehabilitation centres have to provide a housekeeper or have to adequately reimburse the costs for a housekeeper whom the beneficiary provides. For housekeepers who are related to the beneficiary in the first or second degree there is no reimbursement of costs although travel expenses and loss of earnings may be reimbursed.

The same applies to the statutory pension insurance regarding rehabilitation benefits and for the statutory sickness insurance in cases where the insured person or his spouse are in a hospital, maternity clinic or are undergoing spa treatment which is paid in part or in full by the sickness fund. Another important measure in terms of family policy is the automatic sickness insurance coverage of family members:

The spouse and children of persons covered by the statutory sickness insurance or the sickness insurance for farmers are - without any additional contributions - entitled to benefits in the event of sickness unless they have an income which regularly exceeds 390 DM per month (1979). There is no entitlement for children if the spouse to whom they are related is not a member of the statutory sickness insurance and if his monthly income regularly exceeds one twelfth of the annual remuneration ceiling and is regularly higher than the total income of the person insured (3,000 DM per month for the year 1979). Persons who cease to be automatically covered as family members may voluntarily become an affiliate of the statutory sickness insurance.

Since 1 April 1971 children in kindergartens, school children and university students are covered by statutory accident insurance. Coverage includes all activities which are connected in any way to the attendance of educational institutions (kindergartens, schools for general education, vocational training and further training schools, universities). The way to and from school and any school activities outside the school premises are also covered.

The benefits are provided for under the provisions for the general scheme. The computation base for the assessment of cash benefits is scaled to take account of the age of the beneficiary.

A series of other family policy measures are designed to provide financial or other assistance to families.

The Federal Training Promotion Act is to prevent children from lower income groups having fewer educational opportunities. The benefits granted take account of the parents' income. Since 1975, children of nationals from other EC member States who were employed in the Federal Republic of Germany as well as foreign children, one of whose parents is a German national, within the meaning of the Basic Law, may also receive benefits under this Act.

In the Federal Republic the State grants rent allowances as a subsidy towards the cost of housing. This rent allowance takes account of the higher cost of housing for big families with a correspondingly lower disposable income and is designed to ensure that there is adequate living space in particular with a view to children and their development in order to improve the chances above all of children from underprivileged groups.

Seminars for parents, educational guidance, marriage and family counselling services have been set up and are available free of charge in order to prevent children having fewer development opportunities due to the parents' insufficient knowledge of child education.

Intensified efforts were made to provide an optimum care of small children whose parents are unable to look after their children adequately. Thus it is preferable to find foster parents for a child instead of bringing it up in a home or day-care centre.

Over the past few years extent and quality of kindergarten services have been improved. The kindergarten is designed to promote the social development of the children and to offset any deficiencies in their upbringing which might negatively affect the equality of opportunities.

Together with measures to stimulate demand and to improve economic growth the Federal Government decided to introduce fiscal measures in order to further improve the economic situation of families. These measures include in particular:

The admission of expenditure for child care as an extraordinary financial burden.

As of 1 January 1980 tax relief is granted for child care expenditure up to a specified maximum amount; previously tax relief was limited to expenditure for domestic servants or household aid whereas it has now been extended to cover also other forms of child care. For parents living in one household, for a widowed parent or for families where one parent is living outside the Federal Republic of Germany, the specified maximum amount is 1,200 DM per year in respect of each child up to the age of 18; in all other cases the maximum amount is 600 DM per year for the parent with whom the child lives. In cases where the other parent fails to contribute to the maintenance of a child the maximum amount is raised to 1,200 DM.

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The introduction of a so-called limited splitting procedure. As of 1 January 1979 the person liable to pay maintenance may apply for tax relief in respect of the payments to the divorced or separated spouse up to a maximum amount of 9,000 DM per calendar year. For the recipient, these maintenance payments are taxable. This splitting procedure can, however, only be applied with the consent of the recipient of the payments.

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B. Maternity protection

(1) Reich Insurance Code (sects. 195 and following; 205 a); Act governing sickness insurance for farmers (sects. 22 to 29); Maternity Protection Act as amended by the Act introducing maternity leave; Guidelines of the Federal Commission of Doctors and Sickness Funds on medical care during pregnancy and after confinement (Maternity Guidelines).

(2) Maternity care in the framework of the statutory sickness insurance starts at an early stage and covers examinations to determine pregnancy, preventive measures including the necessary laboratory examinations, and guidance during pregnancy, for example, on diet and hygiene. The first examination should take place as early as possible; it is followed by further examinations every six weeks and every two weeks in the last two months of pregnancy, so as to prevent any risk to mother or child. Women insured in their own right or as family members are entitled to medical and midwife services. Pharmaceuticals, dressings and appliances which are needed in connexion with the pregnancy or confinement are supplied to the insured person free of charge. She is furthermore entitled to confinement in a hospital or clinic and to nursing care. In cases of home births the costs for medical and nursing care may also be covered.

In the field of prenatal care, genetic counselling services were established in the framework of a pilot project for the Federal Republic of Germany. Subsequently, further advice centres were set up by the Lander.

An attempt is being made to bring about a closer co-operation between the genetic advice centres and the public health service in order to ensure that genetic counselling is available to the entire population. Moreover research projects on mother and infant mortality are carried out.

(3) The Maternity Protection Act improves the protection of working mothers and their newborn children. Women are released from work 6 weeks before confinement and 8 weeks after confinement, and in case of premature or multiple births 12 weeks after confinement. In addition, the mother has the possibility to be released beyond this protective period for another four months after confinement; during this period her social security status is maintained and her job is reserved for her.

Apart from the general protection of expectant mothers to prevent risks to the life and health of the mother or the child, the employment of women in special dangerous jobs is not allowed. Overtime as well as work at night and on Sundays is also prohibited. The wage continues to be paid so as to compensate any loss of earnings which may result from these restrictions.

It is not possible for an employer to dismiss a woman during pregnancy and during a period of up to four months after confinement or up to two months after termination of the maternity leave in cases where she has taken such leave.

As a rule a fine of up to 5,000 DM is imposed for non-compliance with these provisions. Wilful violation of these provisions may be punished with imprisonment for up to one year.

Insured women, who are employed or work as housewives six weeks before confinement or whose employment relationship has been lawfully terminated by the employer during pregnancy, receive a maternity benefit to replace the wage or salary. This maternity benefit is payable on the condition that between the tenth and the fourth month before confinement liability to compulsory insurance or an employment relationship existed for a period of at least 12 weeks. The maternity benefit is calculated on the basis of the average earnings after taxes of the last three calendar months (in the case of weekly payments the last 13 weeks) preceding the protective period of six weeks before confinement. It amounts to between 3.50 DM and 25 DM per calendar day. The maternity benefit is payable for a period of six weeks before confinement and eight weeks after confinement, in the case of premature or multiple births 12 weeks after confinement. If the remuneration continues to be paid in part or in full, the maternity benefit is suspended accordingly. Insured women who are not employed or working as housewives but who are entitled to sickness benefit in case of incapacity for work such as, for example, unpaid family assistants in agriculture and unemployed persons who are not subject to pension insurance, receive a maternity benefit at the rate of the sickness benefit, provided they have been insured for at least 12 weeks between the tenth and fourth month before confinement. Female workers who are not covered by sickness insurance but fulfil all other requirements receive maternity benefit from federal funds at the same rate as insured workers. Female workers who draw maternity benefit receive from their employer a subsidy making up for the difference between the maternity benefit and the average remuneration, after tax, per calendar day. Women whose employment relationship was lawfully terminated during pregnancy or during the protective period receive this subsidy from federal funds. Insured persons who have no claim to maternity benefit such as female farmers or voluntarily insured persons receive a non-recurrent benefit of 150 DM in respect of confinement. Persons who are insured as family members are awarded a non-recurrent maternity benefit of 35 DM. The statutes of the sickness fund may provide for an increase of this amount to a maximum of 150 DM.

Mothers who are entitled to maternity leave subsequent to the protective period after confinement and who make use of their entitlement receive, up to the day on which the child is 6 months old, maternity benefit at the rate of 775 DM per month, which must, however, not exceed the average remuneration of the last three calendar months before the protective period. The maternity benefit is not taxable.

Working mothers also enjoy special protection and assistance in the statutory pension insurance. Therefore periods for which an employment subject to pension insurance is interrupted by pregnancy or confinement are considered as excused periods. These periods are credited only if compulsory contributions have been paid for at least half of the period between affiliation to the pension insurance and the contingency, but for not less than 60 months. During the period of maternity leave (from the termination of the protective period under the Maternity Protection Act up to the day when the child is 6 months old) the mother remains covered by the statutory pension insurance without payment of contributions, the contributions being paid by the Federal Government. Corresponding provisions apply for female civil servants.

(4) In sickness insurance no special measures are required for the category of persons concerned here. The comments under (2) and (3) apply accordingly to female workers. Self-employed women receive maternity benefit if they are covered by the statutory sickness insurance and have a claim to sickness benefit.

The situation in the pension insurance is as follows:

Persons exercising self-employment other than temporarily may become compulsorily insured in the statutory pension insurance if they file an application to this effect within two years after becoming self-employed or after expiration of compulsory insurance. All persons who are not liable to pension insurance and who reside in the territory to which the Acts of the Federal Republic of Germany apply may, after having completed age 16, voluntarily affiliate themselves to the statutory pension insurance. This applies also to German nationals living abroad.

Craftsmen entered on the Roll of Artisans are compulsorily insured in the wage-earners' pension insurance as long as they have paid contributions for less than 216 calendar months in respect of an employment or activity subject to compulsory pension insurance.

Independent farmers (persons engaged in agriculture and forestry including viniculture, fruit and vegetable growing, horticulture and pisciculture) whose holding provides a livelihood based on the cultivation of the soil are compulsorily covered by the pension insurance for farmers. This is a basic social security network which due to its agricultural policy objectives is predominantly financed from public funds.

Standard benefits are the old-age pension payable for transfer of the farm to other hands and the premature pension paid in the event of unemployability. The rate of old-age pension for an unmarried beneficiary amounts to approximately two thirds of the rate for a married beneficiary.

Additional benefits consist, inter alia, of rehabilitation benefits (medical and supplementary measures including in-patient treatment and the provision of an assistant to help with the farm or the household).

If an agricultural holding is transferred to another person for structural improvement purposes, a land surrender pension may be granted under certain conditions; its rate exceeds the old-age pension by a certain amount which is laid down by law.

Under certain conditions unpaid family assistance may receive an old-age pension or a premature pension at a reduced rate; they are moreover entitled to rehabilitation measures.

As regards accident insurance the following comments can be made:

Statutory accident insurance covers various groups of entrepreneurs (e.g. farmers, the owners of enterprises in coastline shipping and fishing, peddlers) and their spouses employed in the business. Moreover the accident insurance

institutions (Berufsgenossenschaften) may determine by statute that coverage be extended to self-employed persons and to their spouses employed in the business. Some accident insurance institutions have made use of this possibility.

In addition any self-employed person and his spouse employed in the business may voluntarily affiliate themselves to accident insurance.

(5) If the husband dies, the mother receives a survivors' pension from social security as a contribution towards the maintenance of the children.

If a person dies from an industrial accident (occupational disease), widows (widowers) and orphans receive a pension from the accident insurance.

The widow's pension amounts to 30 per cent of the annual remuneration which the deceased had earned in the year preceding the accident; yet there are upper and lower limits for this pension.

The widow's pension amounts to 40 per cent of the annual remuneration, if the widow is 45 years or older, has the care of a child entitled to an orphans' pension or of a disabled child, or is occupationally disabled or unemployable.

A widow's pension is also payable to the former wife of a person who died as a result of an industrial accident, if the marriage has been divorced or annulled provided she had been entitled to maintenance.

Orphans' pensions are payable for each child up to the age of 18. The orphans' pension for full orphans amounts to 30 per cent, for one-parent orphans to 20 per cent of the annual remuneration. As regards the definition of children reference is made to A (4). Foster children of the insured person, his grandchildren and brothers or sisters who had lived in his household or who had been predominantly maintained by him are also entitled to an orphans' pension.

On account of school education, vocational training, a voluntary "social year" or infirmity the orphans' pension may be paid up to the age of 25, and under certain circumstances even longer.

As of 1 July 1976 the orphans' pension is not paid for children over 18 if the child receives a gross allowance of not less than 1,000 DM from a training relationship or a maintenance allowance of not less than 730 DM on account of the training or a transitional allowance for which the assessment base is at least 1,000 DM per month.

As regards relatives in the ascending line, step-parents or foster parents whom the deceased had predominantly maintained from his earnings, a pension of 20 per cent of his annual earnings is paid for one parent and a pension of 30 per cent of the annual earnings for both parents.

Survivors' pensions are paid from the statutory pension insurance, if at the time of his death the deceased was in receipt of a contributor's pension or if the

qualifying period for an unemployability pension (period of coverage of 60 calendar months) was fulfilled or was deemed to be fulfilled.

The widow's pension amounts to 60 per cent of the occupational disability pension excluding any additional periods; the pension is assessed at the increased rate of the unemployability pension including additional periods if the widow is 45 years or older, if she is occupationally disabled or unemployable or if she has the care of a child who is entitled to an orphans' pension or of a child who is entitled to orphans' pension on account of physical or mental infirmity.

Unlike widows, widowers are entitled to a pension only if the deceased predominantly contributed to the maintenance of the family.

In its judgement of 12 March 1975 the Federal Constitutional Court instructed the legislator to amend legislation by 1984, so that the same conditions would apply for the award of survivors' pensions to widows and to widowers.

The former wife of an insured person may receive a widow's pension if the marriage has been divorced, annulled or dissolved before 1 July 1977 and if she was entitled to maintenance. The First Act to Reform Marriage and Family Law, which took effect on 1 July 1977, introduced the splitting of pension rights in case of divorce. This means that as a rule the rights to an old age, disability or unemployability pension which were acquired by the spouses during their marriage are compared with each other. The spouse with lower rights is entitled to half of the difference which was determined on the basis of this comparison of pension rights. Thus it is very often the housewives who acquire the entitlement to a pension of their own right.

If the divorce takes place after 30 June 1977 the previous spouse may, as long as she does not remarry, receive after the death of her spouse a pension of her own right for the period during which she brings up a child who is entitled to an orphans' pension (pension for the up-bringing of a child).

Orphans' pensions are granted in respect of each child up to the age of 18. The orphans' pension amounts to 10 per cent, in the case of full orphans to 20 per cent of the unemployability pension of the insured person. As a rule the pension for one-parent orphans is increased by 152.90 DM per month, the pension for full-orphans is increased by 10 per cent of the general assessment base relevant for the computation of the pension. This increase is halved if the orphan also draws an orphans' benefit from the civil servants' pension fund or from other public institutions.

As regards the definition of children reference is made to A (4). Foster children of the insured person, his grandchildren and brothers or sisters who live in his household or have been predominantly maintained by him are also entitled to an orphans' pension. As regards the special provisions in the case of school attendance and vocational training, reference is made to the comments relating to accident insurance.

Under the old age assistance for farmers, farmers may receive an old age

pension or a premature pension under certain conditions if the farm was transferred to other hands. They receive a land surrender pension if they themselves are not farmers and if the deceased spouse had been entitled to a land surrender pension. After the death of a farmer orphans' pensions are payable under certain conditions to his children (cf. A (4)), his foster children as well as his grandchildren, brothers and sisters who had lived in his household or who had been predominantly maintained by him.

As regards the special provisions relating to school education and vocational training, reference is made to the comments on accident insurance.

C. Protection of children and juveniles

(1) Act on Youth Welfare Services (cf. (3)); Act Protecting Young Persons in Employment (cf. (4) and (5)).

The Act on Advances for Maintenance Payments, which will enter into force on 1 January 1980, is to alleviate the difficulties of single parents and their children which arise in cases where the other parent fails or is unable to pay maintenance for a dependent child, or if one parent has died. According to this Act the maintenance of children under 6 years who live in the Federal Republic of Germany with a parent who is single, widowed, divorced or permanently separated will, upon application and for a period of not more than 3 years, be paid from public funds at the rate of the standard maintenance payments for illegitimate children, in so far as the child does not receive maintenance payments from the other parent or an orphans' pension at a corresponding rate. The Act does not discriminate between German and foreign children. The Act to simplify changes in maintenance benefits, dated 29 July 1976 (BGBI. I, p. 2029), which facilitates the adjustment of maintenance benefits in respect of children under age of divorced or separated parents on account of substantial changes in the general economic conditions, has similar objectives.

(2) As of 1 July 1975 the Act on Social Insurance for Disabled Persons extends sickness and pension insurance coverage to disabled persons who are employed in workshops for the disabled or for the blind, who work in institutions or homes or who participate in occupational training measures in special centres. It moreover provides that unemployable persons have an entitlement to an unemployability pension from the statutory pension insurance if, before filing the application, they have completed a period of coverage (contribution and substitute periods) of 240 calendar months. This Act does not discriminate between Germans and foreigners.

In this context reference is made to the collective agreements concluded for the chemical industry and the metal industry of the Palatinate which are designed to provide training for hard-to-place juveniles in basic occupational skills or to facilitate the integration of juveniles who have not completed their basic school education into occupational life.

(3) Under the Youth Welfare Act every German child has the right to an adequate education so that he can develop his physical, emotional and social abilities and capacities. It is primarily up to the parents to safeguard this right. The State intervenes in the framework of youth assistance programmes only where the child's right to education is not guaranteed by his family.

Public youth assistance programmes are designed to support and supplement the education of the child in the family. All public youth assistance measures should be taken in co-operation with the person who has custody of the child.

The Act also contains provisions on the protection of foster children, on child guidance under a supervision order, voluntary educational assistance and residential training in a borstal, on the supervision of homes and the protection

of young persons under 16 in homes as well as provisions governing the competent authorities - in particular the youth offices - and their functions.

The youth offices are responsible for all juveniles under age who are ordinarily resident in their district irrespective of whether they are German or non-German nationals. Yet any intervention in respect of foreign children and juveniles (for example decisions imposing corrective training for a child) has to be very carefully considered.

The educational measures provided for in the Youth Welfare Act are means for the State to react to criminal offences committed by juveniles. Therefore the general facilities of youth assistance are also available for the education and training of delinquent juveniles; this applies in particular to education and family counselling services, child psychologists, child guidance services under a supervision order, educational seminars for parents and children, foster families, community accommodation with socio-pedagogical services or homes.

The young offender can only be formally sentenced if he was at least 14 years old when committing the offence, was capable of realizing that he acted wrongly and would have been able to act otherwise and if corrective measures do not suffice in view of the seriousness of the offence and the distinct criminal inclination of the offender.

Even if a sentence is imposed it is in the majority of cases suspended on probation and the juvenile is assigned a probation officer who monitors the educational measures imposed by the judge for this particular case and who moreover assists and looks after the young person.

If the sentence is executed, it will be served in a particular institution with special educational objectives, which are based on work, classes and meaningful leisure-time activities. The school education given takes account of the age of the offender. There are furthermore opportunities for vocational training, further training, retraining or participation in other training and further training measures according to the aptitudes of the person concerned. Very comprehensive legal provisions are in preparation and have the objective to further develop the educational aspects of juvenile imprisonment. Its basic principles are worked out by a commission of scientists and experts which was set up by the Federal Government.

A special form of reacting to minor offences of juveniles is the so-called "youth arrest" which has no penal character as such. This youth arrest should not last more than four weeks and is to promote his development and to make him aware of the injustice he committed by individual talks, group therapy, training courses and work.

The Placement for Adoption Act, which entered into force on 1 January 1977, fundamentally reformed the existing adoption placement system. By this Act the right to arrange adoptions is concentrated within the field of youth offices and independent institutions on a limited number of adoption placement units with qualified staff. In addition, central adoption offices were set up at the Land

Youth Offices. This Act creates also the organizational and technical prerequisites for a comprehensive and early identification of adoptable children and improves the conditions for a national adoption placement system. By revising the prohibitions to arrange adoptions it guarantees a qualified adoption placement system and gives adoptive parents, the child and his real parents a right to adoption guidance. This Act respects the principles of the European Adoption Convention of 24 April 1967.

The protection of children and juveniles against negligence, cruelty or child trade is primarily regulated in criminal law. It goes without saying that children are protected by the general regulations of criminal law irrespective of their age as these regulations are to protect the life, physical integrity and personal freedom of all persons.

There are in addition a number of special provisions which mainly focus on the protection of children and juveniles by taking account of the special need of young persons for protection and assistance. This concerns for example the maintenance, on which young persons who cannot yet earn their living, have to depend: section 170 b of the Criminal Code provides for the punishment of persons who fail to comply with their duty to pay maintenance so that the living of the dependent child is jeopardized or would be jeopardized without the help of third persons. According to this section it is also punishable for a person to grossly neglect his duty to look after a child under 16 thus putting him at risk of leading a criminal life or becoming a prostitute. To abandon a child is punishable under section 221 of the Criminal Code. A person who torments or maltreats juveniles under 18 who are in his custody or care or who live in his household, who have been entrusted to his care by the person who has the custody of the child, or who are dependent on him on account of a service or employment relationship, or a person who damages their health by malevolently neglecting his duty to look after them commits an offence under section 223 b of the Criminal Code. A number of specific provisions try to protect the sexual integrity and the undisturbed sexual development of children and juveniles; these are in particular sections 174, 175, 176, 180 a para. 2, number 1 and para. 4, 182 and 184 b of the Criminal Code.

The Federal Republic's support of international efforts to control child trade follows a tradition which goes back to the ratification of the International Convention to combat white slavery dated 4 May 1910 and the International Covenant of 30 September 1921 to abolish white slavery. Section 181 of the Criminal Code provides for imprisonment for up to ten years for such offences.

(4) and (5) The Act to protect young persons in employment improves the protection of children and juveniles against dangers resulting from excessive strain due to employment and training. This Act takes particular account of the European Social Charter of 18 October 1961 and the ILO Convention 138 of 26 June 1973 concerning the minimum age for admission to employment. The Act applies to Germans and non-Germans alike.

According to this Act the employment of young persons under 15 is as a rule prohibited. The working hours must not exceed 8 hours per day and 40 hours per week. There must be adequate rest periods of at least 30 minutes for a working period of more than 4 1/2 hours and of at least 60 minutes for a working period of more than 6 hours. The employment of young persons between 8 p.m. and 7 a.m. is as a rule not permissible.

There are employment restrictions and prohibitions for particularly dangerous work as well as for work which exceeds the capacity of juveniles and for work in which they might be exposed to dangers to their morals. Piecework and work where they could obtain a higher remuneration if they worked at an increased pace are as a rule not admissible.

Persons violating these provisions are as a rule fined up to 20,000 DM. Imprisonment of up to one year or a fine may be imposed for violations which endanger the health or working capacity of children and juveniles.

Some collective agreements provide for an extension of the statutory period of leave over the next few years to six weeks for juveniles as well as for adult workers.

The Federal Republic of Germany ratified Convention No. 138 of the International Labour Organisation relating to the minimum age for admission to employment.

(6) See annex I.

ARTICLE 11. THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

A. General and specific measures to achieve an adequate standard of living and to continue improving the living conditions of people

This objective is realized above all in the field covered by articles 6 and 9 of this Covenant. Therefore reference is made to the comments on these articles contained in the corresponding report of Federal Republic of Germany. Supplementing these comments the following remarks can be added:

Persons who are capable of working should if possible be given the opportunity to work and thus to earn a living for themselves and their family. Social security benefits are to be granted to persons who are not capable of working or who do not find a job opportunity.

In the Federal Republic of Germany it is the task of economic and social policy to create the necessary conditions. The economic system of the Federal Republic of Germany - the social market economy - makes it possible for the individual citizen to develop freely his personality in the economic field. Thus the rights laid down in article 11 are safeguarded by a successful market economy and by a tight social security network.

The social benefits designed to enable the individual to lead a human life also include the social assistance provided for in the Federal Social Assistance Act. The function of social assistance is to guarantee a minimum socio-cultural standard of living. Therefore social assistance is the lowest level of the social security system designed to catch all those persons who cannot sufficiently look after themselves and do not receive the necessary assistance from third persons. Consequently all other public and private benefits take precedence over social assistance.

Another basic principle of social assistance is that it is always geared to the special circumstances of the particular case. Social assistance includes individual assistance such as, for example, advice in important social matters as well as cash benefits and benefits in kind. The person seeking help has a legal entitlement to the most important social assistance benefits if the requirements are fulfilled.

Social assistance is designed to promote self-help. Therefore the beneficiary has to co-operate as far as possible. If he refuses to participate, for example by not accepting employment, he loses his entitlement to social assistance. The assistance is then reduced to subsistence level.

Social assistance differentiates between benefits to meet the cost of living and assistance in special circumstances. The first type of assistance covers the need for food, clothing, accommodation, household effects and other indispensable requirements including participation in social and cultural life. Assistance in special circumstances relates mainly to sickness, disability and the need for constant care. Apart from being means-tested the benefits are comparable to social insurance benefits.

Social assistance is not only paid to German nationals. Homeless foreigners as well as recognized refugees and persons entitled to asylum are treated like German citizens. Stateless persons receive social assistance under article 23 of the Convention concerning the legal status of stateless persons in connexion with article 1 of the Ratification Act. Nationals of the member States to the European Welfare Agreement receive social assistance under article 1 of this Agreement, all other foreigners receive it by virtue of section 120 of the Federal Social Assistance Act; this means that for foreigners the rate of the most essential social assistance benefits is the same as for Germans.

In view of the rapid structural changes in the living and economic conditions the right to an adequate standard of living must be supported by structural measures.

It is the task of regional planning to offset regional imbalances in the development of living conditions (in particular employment and job opportunities, infrastructure, housing and environment). The 1975 Federal Regional Planning Programme forms an over-all framework for a corresponding co-ordination of the relevant measures to be taken by the Federal Government and the Lander.

The unbalanced regional development in the Federal Republic of Germany is characterized by a continuing increase in job opportunities and a deteriorating environment in the conglomerations and by an insufficient infrastructure and a drain of primarily young persons due to a lack of employment possibilities in the structurally weak areas.

Therefore the primary aim for structurally weak regions is the increase of job opportunities in terms of quantity and quality. Therefore the joint programme of the Federal Government and the Lander to "improve the regional economic structure" assisted private investment projects in the weak areas with a volume of 34.6 billion DM and thus helped to create some 260,000 jobs and to maintain another 500,000 jobs by modernization measures.

The infrastructure in weak and rural areas was in part substantially improved, for example by a better connexion to the federal trunk road network and by improvements in the health care system.

The most urgent tasks in the conglomerations are to restore the quality of city centres (revival of city centres), to systematically develop the housing situation as well as to reduce the drift of people from the towns to the surrounding country. An intensified co-ordination of town planning, housing and transportation policy is one way to approach this problem.

Protection of the environment is also one of the means to guarantee the individual a human life.

Since the beginning of the 70s the conservation of the natural environment is an objective which all political forces in the Federal Republic of Germany have in common. With its first Environment Programme of 29 September 1971 the Federal

Government was one of the first Governments in Europe to propose measures which had to be taken or initiated to combat the growing pollution of water, soil, air and countryside and to make up for the extremely inadequate protection of the environment.

It is the primary aim of environmental policy to safeguard the elementary conditions of life. In addition it is necessary to preserve and shape an environment which offers housing areas and work places and provides raw materials, food and recreation. Apart from reducing or eliminating apparent environmental hazards, environmental policy has also preventive functions and thus tries to bring about an ecologically balanced utilization of the environment.

The policy of the Federal Government places particular emphasis on these preventive aspects so as to make sure that protection of the environment is not confined to warding off imminent dangers and to eliminating existing damages.

Its purpose is to

Safeguard the health and well-being of people;

Preserve the ecological balance;

Guarantee in the long run the progress and productivity of civilization;

Prevent damages to our cultural and economic assets;

Conserve the varieties of landscape, flora and fauna.

A responsible environmental policy has not only to consider a human environment but also to take account of the economic and technical feasibility.

An analysis of the positive and negative effects of environmental protection on the employment situation has shown that, after all, environmental policy has a clearly positive impact on the labour market. Although its negative effects on employment must not be ignored, the total positive effects tend to be far stronger. As the environmental protection industry has developed into an important branch, any considerations to reduce environmental investment is questionable even from an economic point of view. Such reductions would also put the jobs in this industry at risk.

The Federal Republic of Germany is aware of the need to contribute, in the framework of international co-operation, to a situation where everybody in the world reaches an adequate standard of living paralleled by a continual improvement in his living conditions. This is the objective of the humanitarian assistance and relief work of the Federal Republic of Germany and in general of the co-operation with the developing countries. Here the aim is in particular to enable the people in the developing countries continually to improve their living conditions and finally to achieve an adequate standard of living by the creation of new productive employment opportunities. The World Employment Programme launched by the International Labour Organisation and supported by the Federal Republic of Germany is another means of achieving this objective.

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B. The right to adequate food

(1) In the Federal Republic of Germany the right to adequate food is guaranteed by the Social Assistance Act (see art. 11 A).

Agricultural and food policy within the common agricultural market of the European Communities is to ensure that there is an adequate and varied supply of high-quality food-stuffs at reasonable prices. In order to fulfil this task satisfactorily an efficient and flexible agriculture as well as viable competition are required. It is of particular importance that supply structures and market transparency are further improved. The supply of high-quality products to consumers continues to be a major objective. It must therefore be ensured that food-stuffs comply with existing health requirements. The observance of health standards for food-stuffs is given priority over purely economic considerations.

Legislative and administrative measures to safeguard the food supply in times of crises were taken on the basis of the Act concerning the security of food supply.

(2) In the Federal Republic, measures to develop or reform existing agrarian systems are taken under the programme for an improvement of agricultural structures. They were first introduced in 1973 on the basis of the Act respecting the joint programme for the improvement of agricultural structures and coastal protection. Planning and financing are under the joint responsibility of the Federal Government and the Lander, whereas implementation lies with the Lander alone.

By these measures the structural pre-conditions for a noticeable improvement in incomes and in production and working conditions on farms must be created so that an efficient and future-oriented agriculture and forestry can be developed.

The programme provides for structural measures on a global basis as well as for assistance to individual farms. Approximately 75 per cent of the annual volume of more than 2 billion DM is spent on global measures: in particular land consolidation, water management and measures to improve cultivation methods and market structures. Individual investment subsidies are primarily given to farms with satisfactory prospects of long-term development.

Since 1977, efforts to improve agricultural structures and living conditions in rural areas, have been supplemented by a four-year public investment programme. Under this programme some 2 billion DM have been earmarked for "long-term water management" and "improvement of habitat", in particular village modernization.

These measures are accompanied by the continually updated instruments provided for under building law, land law, land lease law and inheritance law as well as by instruments for fiscal and social policy. They have largely contributed to an improvement in the economic and social conditions in agriculture and forestry, thus creating the basis for a stable food supply at reasonable prices.

(3) (a) During the past 30 years agricultural production in the Federal Republic of Germany increased by 91.5 per cent. To begin with, priority was given

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to food production in sufficient quantities. Food shortage made an increase in production necessary. This objective having been achieved by the use of modern agricultural means of production such as high-quality seed, mineral fertilizers, plant protection substances and technical equipment, the first and foremost task of agricultural production is now to meet consumer demand for high-quality products and to supply a great variety of food-stuffs at reasonable prices. In recent years new and important statutory requirements were introduced in order to improve farm produce quality and to apply the latest scientific and technological findings to all fields of plant production and animal husbandry, at the same time taking account of the interests of consumer protection, animal welfare and environmental protection.

The Fertilizers Act of 15 November 1977 stipulates that fertilizers may be commercially marketed only if they correspond to approved types. Type approval is given on condition that the product in question does not have any harmful effect on soil fertility, health of humans or domestic animals, that it does not affect the ecological balance and provided that it increases the growth and yield of crops or improves their quality.

Better farm produce quality has also been achieved by an improvement of the plant protection law, i.e. by greater stringency and an extension of the testing and approval requirements for plant protection substances. Efforts are made to replace plant protectives by integrated plant protection methods in order to take particular account of environmental aspects.

The new Livestock Breeding Act of 20 April 1976 has adapted livestock breeding law to progress made in this field and has created the prerequisites for a better translation of the latest scientific findings into practice. The improvement of animal performance by breeding is a pre-condition for more efficient animal production and a better quality of animal products.

Animal welfare law has been constantly improved in accordance with the European Convention for the Protection of Animals kept for Farming Purposes of 10 March 1976 which was ratified by the Federal Republic on 9 March 1978. A number of statutory regulations such as the Regulation for the protection of pigs and calves kept in housing were drawn up on the basis of the Animal Welfare Act. An amendment of slaughtering legislation is under preparation.

The epizootic situation continues to be quite satisfactory in the Federal Republic of Germany. The Regulation respecting the import of food-stuffs of animal origin of 15 August 1978 introduced the necessary protective measures against the carrying in of pathogens, in particular salmonellae and anthrax pathogens.

(3) (b) In this context agricultural research plays an important role. Annual subsidies of approximately 200 m DM are granted by the Federal Government for this purpose. In research priority is given to quality maintenance and improvement of farm produce, development of healthy and non-polluting production and processing methods, problems of agriculture and food industry, rationalization of production and marketing, improvement of structures in rural areas, conservation of nature and landscape and animal welfare.

(3) (c) The Federal Government attaches great importance to the dissemination of technical knowledge and new scientific findings. Major pre-conditions for this are sound vocational training and possibilities for further training. These are provided for in the Vocational Training Act, the Employment Promotion Act, the Federal Act to Promote Education as well as in the Training Places Promotion Act. Measures to promote training and further training are constantly being improved and updated.

Agricultural counselling is one of the major promotion instruments. Counselling is supplied by public institutions or bodies corporate under public law to persons employed in agriculture and is normally free of charge. About half of all farms have made use of the existing counselling services geared to the specific situation in agriculture. Counselling also covers family and household problems in rural communities. Technical knowledge and scientific findings are also disseminated by evaluation and information services, counselling centres and technical journals.

(4) The measures outlined above continue to be of importance for German agriculture although they are less fundamental now than they may be in other countries.

Modern production and cultivation methods, the use of suitable plant protection substances and pesticides as well as of agricultural machinery and of appropriate storage facilities have made it possible to conserve the existing production factors and to reduce losses before, during and after harvest to a minimum level. It is the task of the research work referred to in paragraph 3 above, of vocational, further training, agricultural counselling and of the dissemination of technical knowledge in general to develop further these possibilities and to make use of them in the best possible way. In this context priority is given to the maintenance and improvement of farm produce quality as well as to the maintenance of a healthy environment and the preservation of the resources of nature and landscape as the basis for human life.

The Regulation on the control of virus diseases in fruit growing, dated 26 July 1978, may be quoted as an example for efforts to achieve high-quality agricultural production. As in fruit growing virus diseases cannot be controlled by chemical substances and as these diseases affect production both in terms of quantity and quality, this Regulation provides for measures to eliminate viruses in fruit tree cultivation. The necessary tests and controls of the parent material are carried out by the plant protection services.

(5) German farmers working as free entrepreneurs have set up a multitude of specialized professional organizations and associations supporting their farming activities. The agricultural co-operatives, carrying out about 50 per cent of all purchases and sales in agriculture are particularly worth mentioning. The most important direct business partners of farmers, both for the sale of farm produce and for the purchase of equipment and material, are the agricultural consumers' co-operatives and the private rural trade companies, which are also concerned with the making up of wholesale batches and with the collection, classification, sorting, storage and processing of agricultural products.

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In order to improve market structures for farm produce and to strengthen the producers' market position in relation to their clients, the Market Structure Act of 1969 introduced the possibility to grant government subsidies for the establishment of producers' organizations and aids to companies concluding delivery contracts with producers' organizations. The measures comprise scaled aids for the initial period of operation as well as investment subsidies. The qualifying requirements have been continually improved and updated. Since 1977 the European Communities have granted assistance for measures to improve the processing and marketing conditions for agricultural products.

The setting-up of producers' organizations enabled the farming community to adjust production to market requirements. With this system the numerous small farmers have the possibility to meet demand both in terms of quantity and quality, thus strengthening their own market position. This is also achieved by co-operation on the basis of contracts with firms for the treatment and processing of basic agricultural products.

Measures to improve market structures have also been implemented under the joint programme for the improvement of agricultural structures and coastal protection. It includes measures to improve the structures of dairies, public slaughterhouses and live cattle markets as well as investment subsidies for marketing facilities for specific products.

Other priorities of agricultural policy are the improvement of market transparency and sales promotion. In 1969, the Sales Fund Act was adopted in order to promote sales and the processing of products of agriculture, forestry and food industry. A sales fund was established as a body corporate under public law. Promotion as such is carried out by the Zentrale Markt- und Preisberichtsstelle (ZMP) (Central Market and Price Reporting Unit) as well as by the Zentrale Marketing-Gesellschaft der Deutschen Agrarwirtschaft mbH (CMA) (Central Marketing Association of German Agriculture). The activities of ZMP have led to a greater market transparency for all parties involved. At the same time they illustrate that in agriculture measures often help producers, traders and consumers alike.

Efforts to increase market transparency have been continued over the past few years, for example by further updating market reports for cattle, meat, milk and dairy products as well as by the adoption of regulations laying down an obligation to transmit information for the purpose of market observation and market reporting. In order to promote sales CMA marketing measures were systematically extended, including for example specific publicity campaigns for reasonably-priced products or the award of special quality labels certifying permanent quality control.

(6) Adequate supply at reasonable prices has ceased to be a problem in the Federal Republic of Germany. In recent years a steadily decreasing percentage of total expenditure for private consumption has been spent on food.

As it is set out in detail under items 1, 3, 7 and 8 it is the primary objective of German agricultural consumer and food policy to supply consumers with

high-quality food-stuffs without harmful effect on human health, to protect consumers from health hazards and fraud and to provide information and guidance on food supply and diet corresponding to nutritional needs.

(7) There is comprehensive food legislation in the Federal Republic of Germany protecting consumers against potential health hazards and fraud and ensuring that they are adequately informed. Food legislation has now been in existence for 100 years and was repeatedly reviewed and improved in the past in order to take account of rapid technological and economic development, always bearing in mind the principle of preventive health care. The latest amendments are contained in the Act for an over-all revision of food legislation, the major part of which entered into force in 1975.

The central piece of the Over-all Reform Act is the Act on food-stuffs and commodities, a basic piece of legislation containing provisions on food-stuffs, tobacco products, cosmetics and other commodities (annex I). It includes inter alia general prohibitions for the purpose of health protection and the prevention of fraud as well as provisions to ensure appropriate consumer information and effective monitoring. Provisions on additives and on residues of plant protectives and pharmacological substances are of particular importance. As far as additives are concerned the general rule is that all food additives require a special authorization to be granted only if the substance is non-harmful to health and its utilization is technologically necessary.

Apart from the Act on food-stuffs and commodities a series of specialized pieces of legislation (Meat Inspection Act, Poultry Meat Hygiene Act, Milk Act, Margarine Act, Wine Act etc.) have been adopted to take account of the particularities of specific products.

On the basis of the Food-stuffs and Commodities Act and the aforementioned specialized legislation a great number of statutory regulations have been worked out, containing both horizontal provisions generally applicable to all food-stuffs (as is the case with the Additives Certification Regulation and the Additives Marketing Regulation) and special provisions for specific products or groups of products.

It should be added that the production of high-quality food in fact begins with agricultural production. A number of Acts of Parliament and Regulations, such as the Seed Marketing Act, Stock Breeding Act, Fertilizer Act, Plant Protection Act and Food-stuffs Act have been passed in this field. The basic provisions on the marketing of food-stuffs are contained in the above-mentioned Act on food-stuffs and commodities stipulating that it is generally prohibited to produce or market food-stuffs which may have harmful effects on human health.

Efforts to protect consumers from health hazards and fraud have been increased over the past three years. In this context the Regulation on the marking of nutritional values, the Aflatoxin Regulation, the Erucic Acid Regulation as well as the Regulations on fruit juice, fruit nectar, fruit syrup and the amendment of the Minced Meat and Butter Regulations are particularly worth mentioning.

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By virtue of the provisions on additives contained in the Act on food-stuffs and commodities, which entered into force on 1 January 1978, all existing provisions on foreign substances - such as anti-oxidant agents, colorants, preservatives, fruit treatment substances, saccharines sulphur dioxide - have been amended accordingly. The new and generally applicable provisions on additives are contained in the Additives Marketing Regulation and the Additives Certification Regulation.

Since 1 January 1978 it is prohibited, by virtue of the Food-stuffs and Commodities Act, to market food-stuffs in which or on which plant protection substances are present which are not permitted in the Federal Republic of Germany. This prohibition does not apply where maximum levels for such substances have been specified by legal regulation or where exemptions have been authorized. Thus, it is possible, provided that it is acceptable from the health point of view, to take account of the fact that other countries use substances other than those approved in the Federal Republic of Germany. In the regulation on maximum levels for plant protection products issued in June 1978, maximum levels are specified for 280 substances, including both substances approved in the Federal Republic and substances which are not approved but which are in use in other countries.

Monitoring of compliance with these provisions has been further improved. The necessary qualifications for food inspectors are now defined on a uniform basis.

The Act on the Revision of drug legislation, which entered into force on 1 September 1976, also covers veterinary medicines. It stipulates that veterinary medicines must be of perfectly good quality and that proof of the alleged medical effects must have been established. All drugs are tested in order to find out what waiting period is required to be sure that products of animals treated with such drugs do not involve any risk for consumers. The drugs must be labelled accordingly.

Provisions to protect consumers from health hazards and fraud are moreover contained in the legislation on hygienic requirements for meat and poultry meat. It prohibits certain additives and treatments for meat, specifies tests to be carried out on imported meat, and makes provision for meat inspection, minimum hygienic requirements for meat and poultry and inspections of slaughtering cattle, slaughtering poultry and the meat from these animals.

Voluntary food labelling initiatives are another means of increasing consumer protection and information. An increasing number of quality labels for high-quality food, which is subject to control by an independent body, is to help consumers make their choice of quality products.

(8) In order to be able to take the right nutritional decisions the consumer needs sound and objective information. This requires a basic knowledge of nutrition, home economics, products, markets and storage and the publication of the latest market and price reports. For this purpose all media are used - including information on radio and TV, written documentation on specific topics as well as personal talks. Successful food information and guidance moreover necessitate research work in the field of nutritional science, economics and computer science and the practical application of the scientific findings obtained.

Consumer information in the food sector is in particular supplied by the following central institutions which are publicly subsidized: the Auswertungs- und Informationsdienst für Ernährung, Landwirtschaft und Forsten e.V. (AID) (Evaluation and Information Service for Food, Agriculture and Forestry) in co-operation with the Bundesausschub für volkswirtschaftliche Aufklärung e.V. (BAVA) (Federal Commission for Economic Education), Deutsche Gesellschaft für Ernährung (DGE) (German Food Association), the Arbeitsgemeinschaft der Verbraucher e.V. (AgV) (Consumer Association) and the Stiftung Warentest (Foundation for Commodity Testing).

Counselling in food and housekeeping matters is made available in particular by the following institutions which are also publicly subsidized: 11 consumer centres of the Lander with more than 100 branches in big cities and medium-sized towns, the home-economics extension service of the Lander with some 300 branches in rural areas as well as the Deutsche Gesellschaft für Ernährung (DGE) providing food and diet counselling.

DGE is an association of all major organizations in the Federal Republic of Germany working in the field of nutritional science. Its objective is to collect and evaluate nutritional research findings of the relevant disciplines and to contribute to the maintenance or restoration of health and working capacity by guidance in nutritional matters. For this purpose the organization publishes scientific documentation, organizes scientific conferences and seminars and offers a special advisory service for canteen cooking. In 1979 the Deutsche Gesellschaft für Ernährung has received subsidies of 1,555,000 DM from the Federal Ministry for Youth, Family and Health. Currently an annual amount of 6.75 m DM is made available by the Government for consumer education, information and guidance in the food sector. These funds are primarily used for the following projects:

Food and commodity information and education by counselling services including conferences, practical demonstrations, telephone information, local and regional price surveys and their publication in the press, radio and TV:

Preparation and distribution of information material such as booklets and leaflets on food-stuffs, markets, prices, nutrition and canteen meals;

Preparation of information material to be distributed to the press, radio and TV;

Production and showing of films on nutritional problems;

Production of special information material and presentation to the large public, for example, in touring exhibitions, multivision shows and other specialized exhibitions;

Participation in international consumer film contests and the consumer forum in Berlin (West) and in special consumer seminars;

Central further training seminars for persons disseminating information to consumers in the food sector.

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Every four years the Deutsche Gesellschaft für Ernährung, as an independent scientific organization, publishes a food report on behalf of the Federal Ministry for Youth, Family and Health and the Federal Ministry for Food, Agriculture and Forestry.

It is the purpose of these reports to give a comprehensive and critical description of the food situation and related problems in order to help the Federal Government and the Lander in their decisions on health and agricultural policy measures. At the same time these reports are an important basis for consumer education in the field of nutrition; moreover producers and manufacturers are given some guidance for the adjustment of production to the needs in terms of nutritional physiology.

(9) The Government of the Federal Republic of Germany, upon a letter of the Executive Director of the World Food Council to Members of the World Food Council, dated 23 October 1978, submitted a report on the implementation of the resolutions and recommendations of the World Food Conference of 1974 and of the World Food Council. Reference is made to this report. It gives a survey of measures taken by the Federal Government to promote an increase in food production, the improvement of human nutrition and the security of food supply in developing countries, the increase and improvement in food aid including the international emergency reserves of 500,000 tons of cereals as well as trade concessions which attempt to solve existing food problems.

The following comments should be added:

(a) In the field of agricultural aid the Federal Government has made substantial contributions to international co-operation, including international projects of the World Bank and IDA, UNDP, FAO as well as IFAD. The Federal Government attaches great importance to international agricultural research and finances about 8 per cent of the over-all budget of the international research institutions of the World Bank Advisory Group;

As far as food aid is concerned, the Federal Government has from the very beginning participated in the UN/FAO World Food Programme (WFP) with constantly increasing contributions. This year its contribution amounts to 36 m DM. Of this amount, 24 m DM represents a commodity basket primarily containing food-stuffs with a high protein and fat content (milk powder, butter oil, dry fish, tinned fish and meat). The German contribution within the over-all commitment of the European Communities under the International Food Aid Convention amounts to 148,000 tons of cereals every year. This aid is primarily given to developing countries with a heavy dependence on imports. The Federal Republic of Germany finances approximately 30 per cent of the total food aid granted by the European Communities;

(b) Following the World Food Conference, international co-operation has been substantially increased. The Federal Government is actively and constructively participating in this work on all levels. This is true in particular for the World Food Council, the supreme steering and co-ordinating organ for food and agriculture in the United Nations system and for FAO as the competent specialized agency. The

Federal Government particularly welcomes the fact that the security of food supply for which a special committee has been set up in FAO is intensively dealt with and that the comprehensive information and early warning system of FAO has been extended in order to recognize in time any shortage in individual countries or regions and to be able to take appropriate action;

(c) Together with the other member countries of the European Communities the Federal Government advocates that the suspended negotiations on the conclusion of a new Wheat Agreement and a new Food Aid Convention should soon be resumed and brought to a successful end. It regards the Wheat Agreement with its stock commitments and the stocking and de-stocking scheme as a suitable instrument contributing to a stabilization of market and prices and to the security of food supply on an international basis.

(10) See annex III.

C. Right to adequate clothing

No special comment to be made on this item. Reference is made to paragraph A.

D. Right to housing

(1) A detailed description of German housing policy is contained in the following reports previously submitted to the United Nations:

1. Paragraph III.C.2 of the report on economic, social and cultural legislation in the Federal Republic of Germany (1 July 1969 to 30 June 1973).
2. Paragraph K of the report on the implementation of the Declaration on Social Progress and Development.
3. Social progress in the Federal Republic of Germany in the past 20 years.

(2) Efforts to supply the population with adequate and sufficient housing initiated after the Second World War were continued on a large scale in the period under review. On the basis of the results achieved so far the following priorities have now been defined:

Housing promotion for special groups such as the elderly, severely disabled, young families and families with a large number of children with the particular aim of promoting ownership;

Since 1974 grants for the improvement of old houses have been stepped up under special programmes of the Federal Government and the Lander; these programmes at the same time ensure that rent increases due to modernization are kept within reasonable limits. Since 1978 these programmes have also provided for special grants in respect of measures to conserve heating energy;

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Tenants or owners incurring unproportionally high costs for housing compared with their disposable income are granted a housing allowance. The legal basis for the payment of subsidies in the form of rent allowances or cost subsidies has existed since 1960. There is a legal entitlement to rent allowances. The relevant provisions were improved by the Second Rent Allowance Act of 14 December 1970 and were last amended by an Act of Parliament dated 29 August 1977. Rent allowances are also granted to foreigners.

(3) On 1 January 1975 the Second Act to protect tenants from notice to leave entered into force, providing tenants with legal protection against unwarranted notice and unjustified rent increases. On the other hand the concern of the landlord to use his property economically and adequately is also taken account of.

The Act respecting old peoples' homes, old peoples' residential homes and nursing homes for adults establishes certain principles for the protection of home inmates. These principles are further elaborated by legal and administrative regulations. The Regulation regarding the participation of inmates of old peoples' homes, old peoples' residential homes and nursing homes for adults in decisions on day-to-day operation is particularly worth mentioning. The Regulation enables home inmates to participate in decisions affecting internal matters (such as accommodation, admission, food, recreational activities) by means of an elected home council. The underlying principle is that home inmates should have the possibility of participating in decisions affecting their sphere of life on the basis of partnership and co-operation with the management and the institution. The aforementioned Act and the related Regulations equally apply to foreign residents.

(4) Housing, water supply and sanitary conditions in rural areas did not require any specific measures for the solution of existing problems.

(5) In the Federal Republic of Germany the existing rent law protects tenants from unwarranted notice. Under section 564 b of the German Civil Code the landlord may not terminate a rent contract unless he has a justified interest in the termination. In legal proceedings the landlord must prove that justified motives for his giving notice exist.

Section 564 b paragraph 2 of the Civil Code specifies that a justified interest in the termination of a rent contract exists in particular if the following reasons for giving notice are stated and proved if necessary:

If the tenant, by his own fault, has substantially neglected his contractual obligations (item 1);

If the landlord needs the housing for himself, for persons living in his household or for family members (item 2);

If a continuation of the rent contract would prevent the landlord from an adequate economic utilization of his property, thus entailing considerable disadvantage for him (item 3).

Apart from the above-mentioned reasons for giving notice to leave, the landlord may assert other justified motives for the termination of the rent contract, provided that they may be assimilated to those referred to in the legal provisions as far as their nature and severity are concerned.

However, it is expressly stated that notice to leave for the purpose of rent increases is excluded. Thus it has been made clear that the frequently used threat with notice to leave or the actual notice for the purpose of rent increases are ineffective.

An extension of the rent contract is possible on the basis of a court decision even in cases where the landlord has proved that justified grounds for his giving notice to leave exist. The tenant may object to the notice and demand the continuation of the rent contract in cases where the termination would involve hardship for the tenant or his family, which even considering the justified interest of the landlord, would not be acceptable. Hardship, in this context, means any burden exceeding the normal disadvantages, inconvenience and extra cost arising when a tenant has to move. By virtue of the above-mentioned social clause the tenant has the right to a continuation of the rent contract. He may demand the continuation for the entire period during which hardship would be caused.

Tenants are protected also against unfair rent increases and against the landlord taking advantage of a housing shortage by demanding excessive rents. Such exploitation of a shortage of housing may be punished as an irregularity under paragraph 5 of the Economic Criminal Code. Under civil law such rents are ineffective on the grounds that a statutory prohibition has been violated (sect. 134 Civil Code). In court decisions on section 5 of the Economic Criminal Code rents are deemed to be excessive if they exceed comparable rents in the same community by more than 20 to 30 per cent. In all other respects the rent may be freely agreed between the contracting parties. Where an agreement is not found, the landlord may require the tenant to accept an increase in the rent amount not exceeding the rent normally paid in the same or any comparable community for housing which is not subject to rent control and is of comparable nature, size, standard, quality and similarly situated.

ARTICLE 12. THE RIGHT TO PHYSICAL AND MENTAL HEALTH

A

By virtue of the Basic Law the Federal Government has no responsibility for the organization and implementation of public health care. But in order to guarantee comparable living conditions throughout the country the Federal Government is anxious to achieve a uniform implementation and - wherever possible - organization of public health care.

The legal basis for the public health care system, which has to implement a considerable amount of federal legislation is the Act with respect to the uniformity of the health care system of 3 July 1934, which has, however, been abolished in some of the Lander. The Lander are now trying to find a new legal basis for the operation of the public health care system. In late 1972 a directive for health legislation at the level of the Lander was unanimously adopted and the principles laid down therein will be incorporated in health legislation to be enacted by the Lander. In some of the Lander a Bill has already been submitted to Parliament. In Schleswig-Holstein the Act has already been passed.

Statutory sickness insurance operates on the following legal basis:

Reich Insurance Code, Act with respect to sickness insurance for farmers, Guidelines of the Federal Commission of Doctors and Sickness Funds concerning medical care during pregnancy and after confinement (maternity guidelines), Guidelines of the Federal Commission of Doctors and Sickness Funds on early detection of diseases of children under the age of four (children guidelines), Guidelines of the Federal Commission of Doctors and Sickness Funds on early detection of cancer (early detection of cancer guidelines).

The Federal Republic of Germany ratified the ILO Convention No. 130 concerning medical care and sickness benefit.

In this context the Federal Social Assistance Act should also be mentioned. Social assistance, and more particularly the special form of assistance in special circumstances, makes provision for typical risks in life such as sickness, disability or infirmity. Social assistance becomes effective in cases where the person concerned does not receive the necessary assistance from any other sources, for example if he is not affiliated with a sickness fund and has no means of coping with the situation himself.

Assistance in special circumstances essentially comprises sickness assistance, resettlement assistance for persons with a substantial physical, mental or psychological handicap and preventive health care such as medically prescribed health cures.

In the case of assistance in special circumstances the subsidiary character of social assistance is limited to a certain extent. Income limits have been provided

for, below which income may not be taken into account for social assistance purposes. This is to ensure that in a period of acute difficulty, such as sickness, persons receiving social assistance are not forced to use up all financial reserves.

Provisions to guarantee physical and mental health are also contained in youth assistance legislation. Provision has been made for the education and care of babies, infants, children and juveniles in the context of health assistance and the permission to act as foster parents, which may only be granted if the foster home offers sufficient guarantees for the physical, mental and psychological well-being of the foster child.

B

In the Federal Republic of Germany the public health service is implemented at the lower administrative level by the city and district health offices. It provides social and hygienic services free of charge, including family planning, sexual guidance and human genetics, health information and education as well as health and leisure time programmes. The health offices are also active in the field of mental hygiene and epidemiology in the light of public health aspects.

A medical service for children and juveniles is also available free of charge. It includes maternity and child welfare advice, infant care, guidance for parents with risk children as well as school doctors, child psychologists and sports doctors. A free dental service provides dental hygiene for children, preventive dentistry and the necessary education in this field. The health offices are also responsible for counselling services and care for the disabled, addicts, potential addicts and the elderly.

In this field the Federal Republic of Germany closely co-operates on an international level with WHO, the Council of Europe and other international organizations. Within such co-operation a substantial amount of resources and know-how is transferred to third world countries in order to create the necessary pre-conditions for the improvement of physical and mental health.

(1) and (2) In order to bring down the rate of still-birth, women who are affiliated to a statutory sickness insurance in their own right or as a family member are granted maternity benefits (see comments on Article 10 B (2)). For a reduction in the infant mortality rate, children up to the age of four are entitled, under the statutory sickness insurance, to medical examinations for an early detection of diseases which particularly affect the normal physical and mental development of a child such as congenital heart insufficiencies, defects of the sense organs and the nervous system.

On the basis of the provisions of the Federal Epidemics Act of 18 July 1961 which is going to be brought up to date in view of recent scientific findings, the Lander have been recommending German measles vaccinations for girls in order to avoid embriopathies.

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In order to promote the healthy development of children the Standing Vaccination Committee of the Federal Health Office in 1976 worked out a vaccination schedule for children and juveniles which, with minor amendments, has been incorporated by the Lander into their public vaccination recommendations.

(3) In the Federal Republic of Germany, great importance is attached to environmental hygiene. For environmental policy, see comments on Article 12, paragraph A. As far as individual aspects of environmental hygiene are concerned, the following comments can be added:

With a higher standard of living and a varied and more extensive water utilization, water demand has heavily increased. Public water management and industry have so far had sufficient water supply. However, public water management had to make increasing use of surface water for the purpose of drinking water extraction, a factor which adds to the existing level of pollution. Water pollution is primarily caused by:

Domestic and industrial effluents;

Cooling water from industrial plants and power stations;

Chemicals, such as biocides, detergents or fertilizers;

Wastes

Water protection from additional pollution is of utmost importance. Substantial efforts are necessary to maintain or restore the ecological balance of waters, to ensure a water supply and guarantee other important types of water utilization. Water with no or minor pollution must be kept clean, whereas highly polluted waters must be purified. Therefore, more improved sewage plants must be constructed for the treatment of industrial and domestic waste waters before they are discharged. Moreover, industry should apply environmentally safe production processes and produce non-polluting products, thus reducing the amount of waste water and limiting the emission of pollutants. A number of statutory provisions have been introduced to this effect, e.g. minimum requirements for the discharge of waste waters, and from 1981 charges will be levied for waste water discharge. Furthermore, the Federal Government gives subsidies and loans for the construction of sewage plants. The legal basis for water management planning has been improved. Finally, the Federal Government strongly encouraged the conclusion of important international conventions on water protection.

Changes in our way of life, an increase in consumption accompanied by rapid production growth, the use of non-durable consumer goods, more sophisticated packaging and one-way products have all led to a substantial increase in waste. Also environmental measures to combat air and water pollution have tangibly increased the amount of waste produced. Waste containing a high level of pollutants presents important problems to the environment.

Waste management policy in the Federal Republic of Germany is based on the

waste management programme launched in October 1975 by the Federal Government. The aim of this medium-term programme is:

- To reduce or prevent the production of waste;
- To increase waste treatment;
- To guarantee an orderly waste disposal.

The waste management programme of the Federal Government is an important step towards the establishment and development of systematic waste management. Based on a careful analysis of the existing situation, it contains guidelines for consumers, producers and public authorities on environmentally acceptable practices.

Priority is given to the recycling of the products and materials used in the production process.

The domestic waste of over 90 per cent of the population is regularly collected and disposed of.

Expansion of industrial production, widespread automation as well as the increasing use of motor-cars have aggravated air pollution over the past few years. Pollutants may be even more harmful due to factors like toxicity, long-term exposure, concentration in conurbations and unfavourable climatic conditions. Together with the manifold negative effects civilization can have on man, air pollution must be considered as a considerable health hazard.

In its 1971 Environment Programme the Federal Government demanded a fundamental reorganization of the immission control legislation, providing not only instruments for risk control but also for preventive environmental strategy. The legislative part of the reorganization was completed with the entry into force of the Federal Immission Control Act on 1 April 1974. Provision is made in particular for the maintenance of air purity and noise abatement. The instruments include authorization procedures, plans for the maintenance of air purity and emission registers as well as new organization models including the appointment of a factory expert for immission control.

Air purity maintenance was particularly successful in the reduction of lead immission in urban systems with high traffic density and in the reduction of sulphur dioxide. This was achieved by the restriction of the lead content in petrol (Petrol Lead Act) and the restriction of the sulphur content in light heating fuel and diesel fuel (Light Heating Fuel Regulation).

Priority is given to the improvement of conurbations. The most important instrument in this respect is the plan for air purity maintenance, which is to be given greater weight by the forthcoming amendment of the Federal Immission Control Act. In less polluted areas it is important to maintain the eco-systems intact and in particular to conserve the sensitive flora.

In the past decades, automation and urbanization have steadily increased noise levels and led to a proliferation of sources of noise. Noise pollution is caused above all by traffic noise and noise from industrial plants.

The legal basis for aircraft noise control is the Act for the protection against aircraft noise dated 30 March 1979. This Act and supportive measures have been effectively implemented and are constantly followed up.

Besides the Aircraft Noise Control Act, the Federal Immission Control Act of 15 March 1979 provides in particular for protection against noise from road and rail traffic. These provisions, some of which were inserted into the Bill on the initiative of the German Parliament, are concerned with the design and operation of vehicles on the one hand and with planning, construction and changes in the road and railroad network on the other.

A Bill on traffic noise control which contains i.e. limit values for traffic noise, is at present under discussion in Parliament.

Even before the Environment Programme of 1971 was introduced, the problem of noise in the private field and in particular in leisure-time had been recognized and tackled. A number of measures were taken for the protection of leisure time and the domestic environment. For this purpose the Federal Government has adopted the following instruments:

Regulation for the protection against building noise of 1970;

Regulation concerning temporary restrictions on the operation of light planes and power gliders;

Regulation concerning the protection from noise caused by lawn mowers.

Incidents in chemical industry have shown again and again that the risk for people living in the neighbourhood of chemical plants, caused by the high toxicity of many substances, has often been underestimated.

On the basis of the Federal Immission Control Act a Draft Regulation concerning technical incidents has been drawn up, covering plants for the operation of which a licence is required and where dangerous chemicals are handled or where such chemicals may be produced in the case of operational disturbances.

The crucial point in the proposed Regulation is that plant operators will be obliged to submit a safety report setting out all measures envisaged in order to prevent any operational disturbances and dangerous immissions caused thereby. All incidents must be reported without delay to the supervisory authority.

In recent years environmental disasters have shown that chemical products present serious hazards to man and the environment. The increasing number of chemical products which are brought on the market and the extension of chemical production capacities have further aggravated these hazards. In order to avert

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hazards caused by chemical products the Federal Government submitted a Bill concerning the protection from dangerous substances (Chemical Substances Act) to the Federal Parliament.

Currently more than 60,000 different chemical substances are available on the market to which several hundreds of new substances are added every year. Only few substances have been sufficiently examined as to their effect on man and the environment. With the present state of science and technology laboratory tests can be carried out in order to detect harmful properties before substances are marketed. The draft legislation on chemicals intends to ensure above all that in future new substances may not be marketed in an uncontrolled way.

Industrial hygiene is guaranteed by a series of statutory regulations and accident prevention regulations issued by the accident insurance institutions. In the Work Places Regulation provision is made, for example, for the design, ventilation, lighting and heating of work rooms, the suction of vapours, fumes and dusts, the protection from noise, the cleaning of workplaces as well as the availability of changing rooms, washrooms and toilets. The Work Substances Regulation includes provisions on hygiene measures to be taken in the handling of dangerous work substances. Under the Industrial Safety Act, the factory doctor to be appointed by the employer is also concerned with matters of work hygiene in the factory and must advise or assist the employer in the design of work places and the working environment. The Occupational Diseases Regulation has been extended, now including a list of 55 diseases which may be occupational diseases.

A close network of hospitals and special wards operated by the accident insurance institutions ensures the best possible treatment of occupational diseases.

The prevention and early recognition of occupational diseases is in particular dealt with by the Industrial Safety Act and the related accident prevention regulations concerning factory doctors. In 1978, some 8,000 factory doctors were working on the basis of these provisions.

Factory doctors are employed by establishments with an average of more than 100 workers, the total number of workers covered being approximately 10 million. Efforts are made to intensify factory doctor services for small and very small establishments.

In the field of accident and health hazard control the works council, elected by the workers of the establishment, has to assist the authorities responsible for industrial safety, the accident insurance institutions and any other bodies involved, by submitting suggestions, advice and information and it has to see to it that industrial safety and accident prevention regulations are implemented in the establishment. For this purpose the works council has a number of rights. The employer and the industrial safety authorities, for example, are obliged to consult the works council in all matters connected with industrial safety or accident prevention, including factory visits and accident investigations. The works council has a real right to co-determination in arrangements at the factory level for the prevention of industrial accidents and occupational diseases and for the protection of health on the basis of legislation or accident prevention regulations (Works Constitution Act, sect. 87, para. 1, No. 7).

The work organization taking account of human needs also contributes to health protection. In this context sections 90 and 91 of the Works Constitution Act of 1972 are of fundamental importance. They stipulate that the employer shall inform the works council in due time of any plans concerning jobs, as well as of any plans concerning the construction, alteration or extension of works, offices and other premises belonging to the establishment, concerning technical plants, working processes or operations and consult the works council on the action envisaged, taking particular account of its impact on the nature of the work and the demands made on the workers. In their consultations the employer and the works council shall have regard to the established findings of ergonomics relating to the tailoring of jobs to meet human requirements. A criterion for the interpretation of this term is, inter alia, the observance of the limits to human performance and the prevention of chronic or acute impairments of health.

Where a special burden is imposed on the workers as a result of changes in jobs, operations or the working environment that are in obvious contradiction to the established findings of ergonomics relating to the tailoring of jobs to meet human requirements, the works council may request appropriate action to obviate, relieve or compensate for the additional stress thus imposed. If no agreement can be reached the matter shall be decided by the conciliation committee.

Moreover, the works council shall see to it and take appropriate action to ensure that statutory provisions to the benefit of workers are implemented in the establishment.

Another aspect of health protection and environmental improvement is the protection of non-smokers. For this purpose, the Federal Government and the Ministers and Senators responsible for health at the level of the Lander have launched a special non-smoker protection programme.

(4) Specific vaccination programmes on a voluntary basis are carried out in order to combat influenza and poliomyelitis. Thus, screening examinations for an early detection of tuberculosis are offered to the population.

People travelling overseas are not only given the internationally prescribed vaccinations, but - depending on their destination - are also offered typhoid vaccinations and precautionary measures against malaria and infectious hepatitis.

Besides the above-mentioned improvement of statutory safety regulations for the prevention of occupational diseases and health protection at work places, the accident insurance institutions have also increased their efforts in this field on the basis of sections 546 and 708 of the Reich Insurance Code.

On the basis of existing accident prevention regulations 3,500 doctors authorized by the accident insurance institutions carried out 900,000 medical check-ups. The results were to be submitted to the employer and were often accompanied by the request to take specific industrial safety measures at a given workplace.

(5) Currently, about 92 per cent of the German resident population are covered by the statutory sickness insurance. Persons insured in the statutory sickness insurance in their own right or as family members are granted benefits in kind for the early detection of diseases and for the prevention of diseases, partly by way of obligatory benefits and partly by way of additional benefits specified in the sickness insurance statutes. The catalogue of benefits granted by sickness funds includes pharmaceuticals, dressings, medicines and glasses, orthopaedic supplies, tolerance tests and work therapy, treatment in hospital, sanatoria and specialized institutions, home nursing where hospital treatment is necessary but not feasible, complementary rehabilitation benefits, maternity benefits and other assistance in the field of family planning, legal sterilization and difficult pregnancies. Apart from this, travel expenses arising in connexion with the provision of sickness benefits are refunded by the sickness fund, provided that they exceed the amount of 3.50 DM. In cases where a person is in hospital for treatment, childbirth or undergoes spa treatment, the sickness fund grants a household assistance if the spouse or any other family member is unable to keep house and if there is a child under eight or a disabled or invalid child.

In the case of incapacity for work due to sickness and in the case of a special leave to look after a sick child (up to five days), the insured person, unless he is entitled to the continuation of wages or to a special child nursing leave to be paid by the employer, is granted sickness benefit to the amount of 80 per cent of the regular remuneration. The purpose of this provision is to maintain the living standard and to compensate for the loss of earnings. Sickness benefit may not exceed the previous net income. It is granted for a maximum of 78 weeks within three years for the same disease. Old-age pensioners, students, trainees and persons insured as family members are not entitled to sickness benefit. In the event of maternity, maternity benefit is paid instead of sickness benefit according to the principles set out in the comments on Article 10.

The Act on Sickness Insurance for Farmers which entered into force on 1 October 1972 extended sickness coverage to farmers, their spouses and unpaid family assistants or dependents. Sickness insurance also covers retired farmers. Agricultural sickness benefits largely correspond to benefits granted under the second book of the Reich Insurance Code, with allowance made for the special situation in agriculture. Thus, the provision for a deputy for the farm and a household aid was introduced as a benefit to take account of the special requirement of self-employed farmers. In the case of self-employed farmers and their spouses this benefit replaces sickness benefit. It is to compensate for the loss of manpower, and ensure a continued operation of the farm. Therefore, sickness benefit is granted only to unpaid family assistants liable to compulsory insurance.

(6) In the statutory sickness insurance insured persons and their family members receive medical care in the form of benefits in kind. In as far as medical care requires out-patient treatment, it is given by panel doctors, panel dentists, hospital doctors associated with the panel doctor system as well as by doctors with special authorization in particular cases. Panel doctors and panel dentists are independent doctors who, in a special procedure, are admitted for treatment of persons insured under the statutory sickness scheme. The associations of panel

doctors have the statutory task of ensuring out-patient treatment of the persons insured and their family members (dental care to be ensured by the associations of panel dentists). The associations of panel doctors and panel dentists, like the sickness insurance institutions, are subject to legal supervision by the State. Normally, there is one panel doctors' association and one panel dentists' association for each Land. On the federal level these associations are organized in the Federal Panel Doctors' Association and the Federal Dentists' Association, both again body corporates under public law. In order to ensure out-patient treatment the panel doctors' associations and the associations of sickness funds conclude contracts defining inter alia the fees for medical and dental services. There is no direct economic relationship between the individual panel doctor and the insured person. Sickness funds pay a global amount to the associations of panel doctors, covering all medical services and calculated on the basis of a legally sanctioned system. The lump sum payment is then distributed to individual panel doctors by their association according to a specific distribution key. The panel doctors' associations have established advisory committees where doctors and sickness funds are equally represented and which are to ensure economical treatment and prescription practices. Where no agreement is reached between the panel doctors' associations and sickness funds on fees to be paid for medical services, the matter is referred to an arbitration board composed of doctors, representatives of sickness funds and neutral members.

Where the nature and severity of an illness require hospitalization, the patient is referred to a hospital or special clinic by the attending doctor. The sickness funds must ensure hospital treatment in university hospitals and other hospitals included in the hospital requirement schedule or in hospitals which have agreed to admit sickness fund members. Generally speaking, the insured person has a free choice of hospitals. Sickness funds may restrict the choice of hospitals, with the proviso that hospitals providing adequate, suitable and economical treatment at reasonable prices may not be excluded unless there are justified reasons for doing so.

Medical care granted by sickness funds is financed by contributions to be paid by members. Contributions payable by employees may, up to a certain amount, be taken into account for income tax purposes. Contributions are equally shared between employees and employers. The contributions for old-age pensioners liable to compulsory insurance are partly financed by the respective old-age pension insurance and partly by sickness fund contributors in general.

In sickness insurance for farmers, contributions are paid in full by the persons insured. However, the cost for sickness insurance of retired farmers is financed by the Federal Government (for further information, reference is made to the comments under B. (Public health care system) and A. (Social assistance)).

Medical rehabilitation of disabled persons is particularly worth mentioning. In recent years a number of medical and occupational centres have gone into operation, where from the very beginning medical therapy goes hand in hand with occupational rehabilitation - described in the report on Articles 6 to 9 of the Pact - with the objective to facilitate the return to work as much as possible. These methods have proved their worth and have contributed to rapid integration.

Particular attention is given to the best possible prevention of disabilities: for example by developing a need-oriented network of institutions for early detection and treatment, particularly social pediatric centres.

Rehabilitation facilities are increasingly offered in general hospitals, thus integrating them more and more into the over-all rehabilitation concept.

Substantial efforts have been made by the Federal Government to realize the objective of comprehensive individual rehabilitation by developing a complete system of up-to-date rehabilitation institutions in order to close existing gaps as soon as possible.

Special centres for certain categories of disabled persons (persons suffering from brain injuries, paraplegics, victims of severe accidents, persons suffering from burn injuries) are currently under construction to take account of the special rehabilitation need of these categories. Gaps in the psychiatric field are then closed in particular by increasing the number of transitional institutions (such as day hospitals, night hospitals, sheltered residential facilities).

C

For the food consumption per inhabitant in the Federal Republic of Germany, see annex III.

COMMENTS CONCERNING THE RELATION BETWEEN ARTICLES 10 TO 12
AND ARTICLES 1 TO 5 OF THE COVENANT

(1) The rights covered by the Articles 10 to 12 can be exercised in the Federal Republic of Germany without discrimination on account of race, colour, sex, language, creed, political or other opinion, national or social origin, property, birth and other status. This results from the Acts safeguarding these rights and largely also from the Basic Law which does not only contain basic rights and other constitutional principles serving as a whole the same purpose as the Covenant with respect to the social human rights, but also concrete prohibitions of discrimination which largely correspond to those laid down in Article 2, paragraph 2, of the Covenant.

It is the task of the courts to see to it that these constitutional principles are complied with.

The participation and co-determination rights of the works council in social, personnel and economic matters, as laid down in the Works Constitution Act of 15 January 1972, also guarantee the rights covered by Articles 10 to 12. According to this act the employer and the works council have to ensure that every person employed in the establishment is treated in accordance with the principles of law and equity and in particular that there is no discrimination against persons on account of their race, creed, nationality, origin, political or trade union activity, convictions or sex. They have to make sure that employees do not suffer any prejudice because they have exceeded a certain age; in general they have to promote the unhindered development of the personality of the employees of the establishment.

(2) As regards the exercise of the rights mentioned in Articles 10 to 12 of the Covenant by foreigners, reference is made to the comments under the various items. In addition it may be pointed out that neither labour law nor social security legislation discriminate in the relevant areas between Germans and foreigners.

Foreign workers enjoy equality of status with the German workers and have therefore, for example, the right to vote and to be elected in works council elections. The promotion of their integration into the establishment is one of the tasks of the works council and as such explicitly mentioned in the Works Constitution Act. The works council and the employer have to see to it that there is no discrimination against persons on account of their nationality.

The Federal Republic of Germany has always put particular emphasis on the principle of equal rights for men and women which is also laid down in the Charter of the United Nations. In Article 3, paragraph 2, of the Basic Law the constitution of the Federal Republic of Germany guarantees equality of treatment for men and women as a special basic right (CCPR/C/1/Add.18, p. 34 ff.). According to Article 117, paragraph 1, of the Basic Law this basic right became fully effective on 1 April 1953 after a short transitional period; the consequence was that, as of this date, any older provisions contrary to the basic principle of

equality of treatment of men and women, insofar as they had not already been repealed, became obsolete. This basic right of equal treatment is enforceable at law and compliance with this right (as compliance with all other basic rights laid down in the Basic Law) is monitored by the Federal Constitutional Court. This may take place in the framework of a constitutional complaint before the Constitutional Court, or upon application of an individual citizen who feels that his basic right guaranteed in Article 3, paragraph 2, of the Basic Law has been violated (CCPR/C/1/Add.18, p. 4). In such proceedings the Federal Constitutional Court has passed authoritative rulings on the interpretation of Article 3, paragraph 2, of the Basic Law and thus helped to enforce the principle of equality of treatment of men and women in the Federal Republic of Germany even in the traditionally conservative fields such as family law. Thus the court decided in its judgement of 29 July 1959 that, in the light of the principle of equal rights, the life companionship between parents means that both parents are equal in exercising parental care (BVerfGE 10, p. 59 ff.). In this sense the principle of equal rights for men and women applies to all fields including those covered by Articles 10 to 12 of the Covenant and not only for Germans but for all persons invoking Article 3, paragraph 2, irrespective of their nationality.

In order to enhance the equality of rights of women in working life, the Federal Government adopted a Bill on equality of treatment of men and women at the place of work. The essential provision of this Bill is the prohibition for employers to discriminate against a person on account of sex in any agreements or measures in particular as regards recruitment, advancement, instructions or dismissal. It is equally important that this Bill contains the principle of equality of wages according to which it is not admissible to pay a lower wage for equal work or work of equal value on account of the sex of the employee concerned.

It has been made easier for employees to claim enforcement of this principle as the burden of proof has been reversed, as the employee has the right to demand the abolishment of the discrimination and is entitled to damages if the principle of non-discrimination has been violated; moreover employers are not allowed to discriminate against a worker on the grounds that he claimed the enforcement of his rights.

Annex I

ACTIVE PERSONS BETWEEN 15 AND 20 YEARS BY SECTORS OF THE ECONOMY
AND BY OCCUPATIONAL STATUS POSITION APRIL 1978

(In thousands)

Agriculture and forestry, animal husbandry and fishery

Self-employed	/
Unpaid family assistants	32
Employees	43
Total	76

Manufacturing industry

Self-employed	/
Unpaid family assistants	/
Employees	1 080
Total	1 085

Commerce and transport

Self-employed	/
Unpaid family assistants	/
Employees	398
Total	401

Other sectors of the economy (services)

Self-employed	/
Unpaid family assistants	/
Employees	647
Total	652

Sum total

Self-employed	8
Unpaid family assistants	39
Employees	2 168
Total	2 215

Annex II

Law of of 15 August 1974 for the Revision and Emendation of the Legislation on Trade in Food-stuffs, Tobacco Products, Cosmetics and other Commodities. a/

a/ The text of this law is available for consultation in the files of the Secretariat.

Annex IV

I. GLOBAL INFANT MORTALITY AND INFANT MORTALITY
 BY NATIONALITY

(Infants died in their first year of life per 1,000 live births a/ b/)

Year	Total	Germans	Non-Germans
1970	23.4	23.1	26.1
1971	23.1	22.9	25.8
1972	22.4	21.9	26.0
1973	22.7	22.5	23.6
1974	21.1	20.9	21.8
1975	19.7	19.5	20.8
1976	17.4	17.1	19.4
1977	15.4	15.1	17.7
1978	14.7	14.4	16.6

a/ Taking account of the development of the birth rate.

b/ Germans and foreigners according to the new provisions of 1 January 1975.

II. DEATHS IN 1976 BY AGE GROUPS

Age	Male	Female
0-1 year	6 092	4 414
1-5 years	1 058	808
5-10 years	1 061	688
10-15 years	1 005	622
15-20 years	3 300	1 299

III. PRACTISING DOCTORS

Year	Doctors total	Inhabitants per doctor	Doctors per 100,000 inhabitants
1965	85 801	691	145
1970	99 654	612	163
1971	103 910	592	169
1972	107 403	575	174
1973	110 980	560	179
1974	114 661	541	185
1975	118 726	519	193
1976	122 075	504	199
1977	125 274	490	204

IV. HOSPITALS AND HOSPITAL BEDS

Year	Hospitals	Scheduled beds
1960	3 604	584 313
1965	3 639	631 447
1970	3 587	683 254
1971	3 545	690 236
1972	3 519	701 263
1973	3 494	707 460
1974	3 483	716 530
1975	3 481	729 791
1976	3 436	726 846
1977	3 416	722 953
