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Consideration of reports submitted by States parties in accordance with article 16 of the International Covenant on Economic, Social and Cultural Rights

Replies by the Government of Germany to the list of issues (E/C.12/DEU/Q/5) to be taken up in connection with the consideration of the fifth periodic report of Germany (E/C.12/DEU/5)*, **

[5 April 2011]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

** Annexes may be consulted in the files of the Secretariat.

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I. General information

Reply to the issues raised in paragraph 1 of the list of issues (E/C.12/DEU/Q/5)

With regard to article 6 (right to work) – unemployment statistics for migrants

1. In accordance with section 281, subsection 2 of the Third Book of the Social Code (*SGB III*) and the Ordinance on the Recording of Migration Backgrounds (*Migrationshintergrund-Erhebungsverordnung*) adopted in this regard on 29 September 2010, the Federal Employment Agency has to record the migration background and take it into account in its statistics. The legal ordinance of the Federal Ministry of Labour and Social Affairs is to set out the details of the characteristics which are to be collected and of the implementation of the procedure, in particular with regard to the recording, transmission and storage of the data collected. The implementation of this ordinance in the procedures of the Federal Employment Agency is currently being prepared for the Employment Agencies and in those the job centres which are run as jointly-managed facilities. Those job centres which are solely local authority institutions report the corresponding data to the statistical service of the Federal Agency via a separate channel. Authoritative results for the respective clientele cannot be expected until 2012 in view of the need to record. For this reason, the statistical service of the Federal Employment Agency is currently not yet able to fully depict the characteristic “migration background” in its unemployment statistics. The only breakdown provided here is by origin (German/foreigner). The annual average number of unemployed foreigners was roughly 501,800 persons in 2010, entailing a decrease of approximately 22 per cent against 2006. Further information on developments in unemployment among foreigners (also broken down by Federal *Länder*) is contained in annex 1.

2. Information on individuals’ migration backgrounds can however be obtained via the microcensus (Federal Statistical Office). It is necessary to take account of the different definitions of “unemployed” used by the Federal Employment Agency, on the one hand, and by the ILO, on the other, as applied in the microcensus (see methodical information contained in annex 2).

3. According to information from the microcensus 2009, there were a total of 3.233 million unemployed people in Germany, including 986,000 individuals with a migration background in the strict sense (see methodical information contained in annex 2). There were still 4.263 million unemployed people in 2006, including 1.223 million individuals with a migration background in the strict sense. Detailed information — also broken down by gender — is contained in annex 2.

With regard to article 6 (right to work) – statistics on specialist/vocational advice: statistics regarding advice by gender and national origin

4. There is currently no statistical reporting regarding advice/persons receiving advice from the Federal Employment Agency.

With regard to article 7 (conditions of work) – statistics on accidents at work

5. See annex 3.

With regard to article 8 (trade union involvement)

6. The trade union system in the Federal Republic of Germany is largely concentrated in the eight trade unions combined in the German Trade Union Confederation (DGB) and the German Civil Service Federation (DBB). Additionally, there are the Christian trade

unions, which are combined in the Christian Trade Union Confederation of Germany (CGB).

7. The number of members in the DGB trade unions at the end of 2009 was 6,264,923, and there were 6,193,252 at the end of 2010. A total of more than 1.25 million members are organised in the member trade unions of the DBB. The CGB has more than 300,000 members.

With regard to article 11 (adequate standard of living) – statistics on the poverty rate and long-term unemployment rate

8. See annex 4.

With regard to article 10 (protection and assistance) – statistics about forced marriages

9. There are so far no national figures on the numbers of forced marriages in Germany. Initial nationwide figures and a valid assessment of the magnitude of forced marriages in Germany are currently being drafted in a study which has been commissioned by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and is being managed by the Lawaetz Foundation in Hamburg. The study is to be published in the spring of 2011.

10. A working party of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has drafted a handout for youth welfare entitled “Fighting against forced marriage – Effectively protecting victims” and published it in 2009. The publication has the following to say, which is still topical, on p. 10 at “4. Figures on forced marriage”.

11. So far there are virtually no figures on the magnitude of the phenomenon of forced marriage. An indication can be provided by several questionnaires that have been carried out in support facilities. Hence 378 cases of impending forced marriages or those that had been carried out were recorded in Berlin in 2007. A survey in Baden-Württemberg revealed 215 victims of reported forced marriages for the period from January to October 2005. The focus here was on forced marriages between 1976 and 2005. Similar figures emerged from a survey in Hamburg. It should be noted here that these surveys only cover the few who came to be noticed because of a need of assistance, and that some may have been recorded twice. There has been a crisis telephone in Lower Saxony since December 2006; 152 persons affected or at risk had reported up until February 2008. The online advice promoted by the *Land* North Rhine-Westphalia to protect against forced marriage, organised by the Bielefeld Girls’ Refuge, advised 200 individuals by telephone or e-mail in the project’s first year up until 14 June 2008 and provided them with information on the assistance available.

With regard to article 12 (right to health) – statistics on neonatal mortality and stillbirths

12. See annexes 5 to 9.

With regard to Article 13 (right to education) – statistics on access to education and integration courses of the Federation

13. See annexes 10 to 14 for the data on access to education.

14. The integration course has become the most important integration policy promotion measure of the Federation since its introduction in 2005, and supports immigrants to become familiar with the language and customs of the host country. A total of roughly 900,000 new participation entitlements were issued from the time of its introduction in 2005 up until September 2010. Beneficiaries have up to two years to start a course. 670,000

new participants have availed themselves of this so far. These figures show that the integration course is anchored in practice as a centrepiece of the Federation's integration work and meets with a great degree of acceptance among the target groups (see integration course number statistics for the first three quarters of 2010 at www.bamf.de and annex 15 on developments from 2005–2008).

With regard to article 15 (participation in cultural life) – statistics on (pre-school) language advancement for migrant children

15. No information is available on the number of children able to benefit from pre-school language advancement. The total of 17 procedures used in the *Länder* for ascertaining the language level, as well as the structures of general and specific language advancement differ widely. The proportion of children diagnosed as being in need of language advancement varied between 13 per cent and 53 per cent in 2009 owing to these differences. The available data and the procedures used are shown in the 2010 Report on Education, in particular in Ch. C.4 (www.bildungsbericht.de).

16. The Federation and the *Länder* agree that, in addition to the promotional measures that have already been implemented in the *Länder*, a focus must be placed in future above all on language advancement measures tailored to a variety of ages and relating to everyday topics which are available from starting kindergarten, that is above all for children aged under three. Children with a migration background can also particularly benefit from this. It is key to this to suitably equip the facilities with qualified specialist staff. In this light, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has launched the “Early Opportunities” offensive and funded it to the tune of roughly Euro 400 million, so that approximately 4,000 day-care centres all over Germany are able to have additional staffing resources and be refined to become “language & integration focus day-care centres” by 2014.

Reply to the issues raised in paragraph 2 of the list of issues

17. There are currently no plans to broaden the mandate of the German Institute for Human Rights to include powers to conduct inquiries and investigations.

18. Germany has a comprehensive, extensive, independent judicial system providing protection to all against human rights violations. Moreover, there is a variety of other independent mechanisms to which citizens can turn to complain of an infringement of their human rights. These include above all the Petitions Committees of the Federal Parliament and of the *Länder* Parliaments. The right to petition is guaranteed in the Constitution (art. 17 of the Basic Law [GG]). Specialized mechanisms are for instance the Federal Agency and the Joint Commission of the *Länder* on the Prevention of Torture, the Federal Anti-Discrimination Agency or the Parliamentary Commissioner for the Armed Forces of the German Federal Parliament.

19. The German Institute for Human Rights, by contrast, was consciously established with a different goal. Its focus lies in research, policy advice and human rights education. These are the fields in which the Institute constitutes a real enrichment of the German political landscape. What is more, a monitoring function can be attributed to the Institute in connection with individual international agreements. This has already taken place with the United Nations Convention on the Rights of Persons with Disabilities.

Reply to the issues raised in paragraph 3 of the list of issues

20. We are not aware of court decisions referring to the Covenant and its provisions. As far as we know, there are no further training events specifically referring to economic, social and cultural rights. In more general terms, however, the rights and obligations

emerging from international (human rights) agreements are certainly an important topic in further training.

21. For instance, the German Judicial Academy — a national training facility funded jointly by the Federation and the *Länder* — regularly holds a conference organised by the Federal Ministry of Justice targeting judges of all branches of the court system as well as public prosecutors, and which provides an overview of international human rights protection. The focus here lies on the ECHR; it is however certainly conceivable to also integrate a block on United Nations Conventions into this conference programme should it be needed. A visit to the European Court of Human Rights in Strasbourg is planned to take place in addition to lectures, an exchange of experience and discussions. This conference will next be taking place in May 2011; Mr Stoltenberg — former Agent of the Federal Government for Matters Relating to Human Rights at the Federal Ministry of Justice — will be chairing the conference and will be responsible for shaping the programme.

22. Additionally, the Academy of European Law (ERA) in Trier offers conferences specifically targeting both the EU and its law and events on (other) international law. For instance, the ERA issues invitations to attend a seminar on the topic of “EU Disability Law and the United Nations Convention on Rights of Persons with Disabilities” in Trier from 20 to 21 June 2011 which the Federal Ministry of Justice has invited to the *Land* Administrations of Justice and the business area to attend.

II. Issues relating to the general provisions of the Covenant (arts. 1–5)

Article 2, paragraph 2 – Non-discrimination

Reply to the issues raised in paragraph 4 of the list of issues

Interim evaluation of the National Integration Plan (NIP)

23. The players involved (the Federation, the *Länder*, the local authority central associations, non-governmental players – including many migrants’ organizations) have concluded a total of 400 commitments in the ten working parties of the National Integration Plan. The state of implementation after one year was described in the First Progress Report, which was published in October 2008. This contains:

(a) A declaration on the part of the Federal Government on the state of implementation of the commitments with three detailed stocktakes in the topical fields of “training and labour market”, “grassroots integration” and “the media”;

(b) A joint declaration on the part of the *Länder* focussing on “early promotion” and “integration into working life”;

(c) A contribution from the National Association of German Cities and Municipalities;

(d) Five articles from civil society:

(i) Migrants’ organizations;

(ii) The Federal Association of Non-Statutory Welfare;

(iii) The German Olympic Sports Confederation and the German Football Association;

(iv) Federation of German Employers’ Associations;

(v) German Trade Union Confederation.

24. An overview table on the state of implementation of all commitments was published on the Internet on the website of the Federal Government Commissioner for Migration, Refugees and Integration.¹

25. To prepare for the action plan to implement the National Integration Plan, the Federal Government Commissioner for Migration, Refugees and Integration carried out a renewed inquiry on the state of implementation in September 2010. The results of this second stocktake were not published, but are to be used to form the basis for the further development of the National Integration Plan to become a plan of action. Here, the focus is to be placed more squarely on the introduction of binding objectives in order to make it possible to review the achievement of policy goals using standards in a clearly-defined period, and hence to make integration policy more binding. The dialogue principle is also adhered to when drafting the plan of action. For instance, non-governmental players — in particular migrants' organizations — are involved in all eleven dialogue fora. The 4th Integration Summit took place at the Federal Chancellery in Berlin on 3 November 2010 as a kick-off event on the plan of action.

Measures for the linguistic, vocational and social integration of immigrants

26. The Federal Government's integration policy is subject to the principle of "promote and challenge". Immigrants are obliged to learn German and to learn and respect the fundamental values of our society through their own efforts and supported by state services. German society is called upon to guarantee immigrants' access to all the important areas of society, industry and politics through equal opportunities and treatment by recognizing and reducing existing barriers.

27. The standard nationwide integration courses, introduced in 2005 with the Immigration Act (*Zuwanderungsgesetz*), are one of the most important integration policy tools of the Federation. They consist of a language course with up to 1,200 hours of lessons to impart sufficient language skills and an orientation course with 45 hours of lessons to impart knowledge on the legal system, history and culture in Germany.

28. In order to ensure that a high standard is attained in the integration courses and optimum success in integration among participants, the courses were evaluated from the outset and further improved with the revision of the Integration Course Ordinance (*Integrationskursverordnung*) at the end of 2007. The centrepieces of the new Integration Course Ordinance are as follows:

(a) In order to increase the success of the course, the Ordinance introduced flexible hour contingents up to a maximum duration of 1,200 hours and a possibility to repeat. This enables participants' respective promotion requirement to be better taken into account. The hours contingent for the language course can be increased to up to 900 hours of lessons for specific target groups, such as juveniles, women, the illiterate or individuals with a special language pedagogical promotion requirement. Intensive courses enable participants who are able to reach the goal of the course in fewer than the regular 645 hours of lessons to go through the integration course in only 430 hours;

(b) The regulations for taking the examination have been amended. Proper participation now also includes taking the examination. A scaled language test will be used

¹ http://www.bundesregierung.de/Content/DE/Artikel/IB/Artikel/Nationaler_20Integrationsplan/2008-11-06-umsetzung-der-selbstverpflichtungen.html.

from 1 January 2009 which documents the linguistic level reached, ranging from A2 to B1 of the Common European Framework of Reference for Languages;

(c) To increase participants' motivation to learn, financial incentives were created in the shape of a partial refund of the cost contributions on successful graduation.

29. The incentives and improvements that have been created have led to considerable ongoing demand. For instance, more than 900,000 participation entitlements have been issued since the courses were introduced. The Federation made roughly € 248 million available for the implementation of the courses in 2010, and has hence invested roughly € 1 billion between their establishment in 2005 and the end of 2010. Additional information on the Federation's integration courses is available in annex 15.

Social integration

Migration-specific advice services

30. In addition to the integration courses, migration-specific advice services constitute the second important pillar of the Federation's integration promotion. Whilst these migration-specific advice services were still worded in an optional provision of the Immigration Act (2005), sociopedagogical, migration-specific advice services have now been established by the Act to Transpose European Union Residence and Asylum Directives (*Gesetz zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union*) (2007) as an obligatory regulation for the Federation and the *Länder*. At the migration advice for adult immigrants promoted by the Federal Ministry of the Interior, adults aged from 27 receive the necessary professional, practical support as per their potentials through case management. The goal pursued by the advancement of migration advice for adult immigrants is to enable immigrants to engage in independent activity in all fields of daily life as soon as possible. Roughly 50,000 advice interviews per quarter demonstrate that there is considerable demand. Migration advice for adult immigrants is now available to new immigrants in the first three years after their arrival or after obtaining permanent residence status. If there is an appropriate need for integration, immigrants who have also been living in Germany for a prolonged period may approach an advice agency in catch-up integration, in concrete crisis situations or if free advisory resources are available. The advice network encompasses more than 600 advice agencies nationwide. Roughly € 25 million per year are available from federal funds for this purpose.

31. Promotional guidelines for migration advice for adult immigrants came into force with effect from 1 March 2010. What is new is amongst other things the increased participation of migrants' organizations, as well as the controlling system which is to be introduced on a blanket basis in 2011.

Measures for the social integration of immigrants

32. In addition to the statutory integration services of the Federation, projects are promoted to integrate immigrants into society. The Federal Government supports integration in residential environments and communities with such projects. Project promotion aims to approximate to existing integration services, as well as to network grassroots integration work. The target group is new immigrants, as well as immigrants who have been living in Germany for some time. The Federal Ministry of the Interior is promoting projects for adults aged from 27 and projects with no age restrictions in cooperation with large numbers of associations, clubs, foundations, initiatives as well as authorities at federal, Land and local authority level. Even greater inclusion of migrants' organizations as players of integration promotion is striven towards here. The conceptual foci of the promoted projects are to strengthen intercultural skills, inherent skills, parents' child-rearing skills, civil commitment and preventive work (crime, violence and addiction

prevention, increasing acceptance and avoidance of xenophobia). The largest individual measure is the programme entitled “Integration through Sport” of the German Olympic Sports Confederation, with a share of € 5.4 million per year, which has now also been opened to disadvantaged German juveniles to improve coexistence. 214 projects with no age restrictions and 21 multiplier training courses were promoted in 2010 with roughly € 13.9 million.

Reply to the issues raised in paragraph 5 of the list of issues

33. The General Equal Treatment Law serves to transpose the four European equal treatment directives (Council Directives 2000/43/EC and 2000/78/EC, Directive 2002/73/EC of the European Parliament and of the Council and Council Directive 2004/113/EC). These EU directives aim to prevent or remedy disadvantages on grounds of racial or ethnic origin, of sex, religion or belief, disability, age or sexual orientation. The characteristics listed in section 1 of the General Equal Treatment Law are owed to these requirements of European law and can be traced back to article 13 of the EC Treaty (now article 19 TFEU).

34. In addition to the provisions contained in the General Equal Treatment Law, there are other specific, and in some cases further-reaching, bans on discrimination contained in German law. The Constitution guarantees the general principle of equality in accordance with article 3, paragraph 1 of the Basic Law, protection against arbitrary unequal treatment by the law (equality of the law) and in the application of laws (equality before the law). Special equality principles are then contained in article 3, paragraphs 2 and 3 of the Basic Law, in which explicit bans on discrimination are set out because of sex, parentage, race, language, homeland and origin, faith, religious or political opinions, as well as because of disability.

Article 3 – Equal rights of men and women

Reply to the issues raised in paragraph 6 of the list of issues

35. The Federal Anti-Discrimination Agency supports in an independent manner individuals who have suffered disadvantages which are racially motivated or on grounds of ethnic origin, of sex, religion or belief, of a disability, of age or sexual identity.

36. An advisory council was appointed to the Agency to promote dialogue with groups and organizations within society which have adopted the goal of protecting the disadvantaged. The members of this advisory council include Romani Rose of the Central Council of German Sinti and Roma. His deputy is Thede Boysen of the Minority Office of Germany’s four national minorities. The advisory council advises the Agency in presenting reports and recommendations to the German Federal Parliament, and can submit recommendations on them and on academic studies.

37. Approximately 70,000 German Sinti and Roma live in Germany and are well integrated into society. Alongside the Danes, Frisians and Sorbs, they are recognized by the German legislature as a national minority within the meaning of the Council of Europe’s Framework Convention for the Protection of National Minorities. The Convention, which came into force in Germany in 1998, prohibits any discrimination based on belonging to a national minority, as well as assimilation against their will. Furthermore, it obliges the Contracting States to protect the rights and freedoms of persons belonging to those minorities.

Education/employment

38. The children of Sinti and Roma are overrepresented in special support schools and underrepresented in secondary schools. The *Länder* deploy advice facilities and programmes to promote and supplement attendance by Sinti and Roma at normal schools. They train members of the minority as mentors in order to improve cooperation between those concerned: For instance, the *Land* Government of Schleswig-Holstein is supporting a project already commenced in 1995 to care for children of Sinti and Roma through the deployment of mediators at schools in Kiel. Three mediators and one sociopedagogic assistant are currently working in the care measure. The goal of the project is to enhance the children's educational opportunities. The programme was awarded for exemplary integration work in 2006 with the "Otto Pankok Prize" by the "Foundation for the Romany People".

39. The Free and Hanseatic City of Hamburg is working with the participation of the Sinti Associations of Baden-Württemberg and Schleswig-Holstein and the Regional Centre for Education, Integration and Democracy (RAA), Berlin, on a concept for pedagogical training for Roma and Sinti who have not graduated high school. This is to facilitate a specific promotional measure for young Sinti and Roma.

40. In accordance with a resolution of the German Federal Parliament in response to a motion by the CDU/CSU and SPD (Federal Parliament printed paper [BT-Drs.] 16/5736, 20 June 2007), the situation of female Sinti and Roma is also to be particularly taken into account in measures to promote equal opportunities.

Housing standards and standard of living of Roma

41. Statistical information on an ethnic basis is not collected in the Federal Republic of Germany. The acknowledgement of belonging to a national minority is free in accordance with article 3 of the Framework Convention for the Protection of National Minorities. Affiliation to a minority is the personal decision of each individual, and is not registered, examined or disputed by the State. It is hence only ascertained that the majority of German Sinti and Roma live in geographical terms in the capital cities of Germany's old Federal *Länder*, including Berlin and surrounding area, as well as in the conglomerations of the Hamburg area, of the Rhine-Ruhr area, centred on Düsseldorf/Cologne, of the Rhine-Main and the Rhine-Neckar conglomeration, as well as in the Kiel area.

42. Some German Sinti and Roma also live in regions of smaller towns which are geographically not far apart, such as in medium-sized and small towns in Eastern Freesia and Oldenburg, Hesse, the Palatinate, Baden and Bavaria.

43. In civil law, in which the constitutional prohibition of discrimination entrenched in Article 3 of the Basic Law does not apply directly, discrimination against Sinti and Roma is countered by the General Equal Treatment Law. The Act was created amongst other things to transpose Anti-Racism Directive 2000/43/EC, and contains a ban on discrimination, so that for instance as a matter of principle no one may be placed at a disadvantage as a tenant because of his/her ethnic origin.

Contact bodies

44. The Federal Government has appointed a Commissioner for Repatriation Issues and National Minorities which is the contact for all interests concerned with national minorities. Moreover, the national minorities in Germany maintain a joint minorities secretariat in Berlin which represents their interests vis-à-vis the Federal Parliament, the Federal Council and the Federal Government and which is funded via a grant from the Federal Government.

45. Further, the German Federal Parliament has a working party on minority issues whose members include Members of the Federal Parliament, government representatives and representatives of the national minorities' associations. The Federal Ministry of the Interior regularly organises implementation conferences with representatives of national minorities and of the competent Federal and *Länder* Ministries, in which the implementation of the Council of Europe's Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages is continually discussed and refined.

Reply to the issues raised in paragraph 7 of the list of issues

46. Senior positions in Germany continue to be dominated by men. Women are underrepresented in senior positions, both in private industry (at 27 per cent) and in the public service (at 29 per cent). The situation is serious in supervisory councils (10.6 per cent) and on boards (3.2 per cent) in private industry. A slow, marginal increase has taken place in comparison to previous years. The DAX-30 companies have been invited to a summit talk with the Federal Minister for Family Affairs, Senior Citizens, Women and Youth, the Federal Minister of Justice, the Federal Minister of Labour and Social Affairs and the Federal Minister of Economics and Technology to be held on 30 March 2011.

47. Equal participation of women in senior positions is not only desirable in societal terms, but is also necessary for the present and the future in economic terms, not lastly because of demographic change. A recent study by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth ("Women in senior positions – Bridges and Barriers") makes it clear that today's managers are convinced that enterprises cannot afford to do without the potential of highly-qualified women.

48. The Federal Government was tasked in the Coalition Agreement with drafting a graduated plan aiming to increase the share of women in senior positions, namely in supervisory councils and boards in private industry and in the public sector. In a first stage, the graduated plan aims to initiate voluntary commitments and to create transparency by activating binding duties to report in order thus to create an awareness of the distribution of women and men at the various levels of the hierarchy. That this is necessary is shown by the General Assemblies project of the German Women Lawyers Association (djv). With promotion from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, representatives of the Association attend general meetings of listed public limited companies. They use the existing statutory obligation to provide information contained in section 131 of the Companies Act (*Aktiengesetz*) and enquire as to what efforts the respective enterprise has undertaken in order to occupy senior positions with women. The enterprises are frequently relatively unwilling to provide information. For the field of the public service, moreover, transparency was created via the Experience Report on the Federal Equal Opportunities Act (*Bundesgleichstellungsgesetz*), which was adopted by the Federal Cabinet, and the bodies report on the Act on Appointments to Federal Bodies (*Bundsgremienbesetzungsgesetz*). The recommendations which the report makes are to be implemented from 2011 onwards. A further focus lies in coordinating the fight against the causes of the underrepresentation of women in senior positions. Here, for instance, new approaches to avoid typical career interruptions of female managers are being developed and women equipped with further skills for working in supervisory council bodies.

III. Issues relating to the specific provisions of the Covenant (arts. 6–15)

Article 6 – The right to work

Reply to the issues raised in paragraph 8 of the list of issues

Unemployment statistics and measures to combat unemployment

49. The national number of unemployed (annual average) was roughly 3.244 million individuals in 2010. The number of unemployed has fallen by 27.7 per cent as against 2006. Unemployment has fallen in all Federal *Länder*, the strongest percentage reduction as against 2006 being recorded in Thuringia, at -37.8 per cent. Further information on developments in unemployment in the individual Federal *Länder*, as well as in Germany as a whole, is contained in annex 1, which also contains a breakdown by sex and age.

50. Large numbers of reforms in Germany, including the four Acts on the Provision of Modern Services on the Labour Market (*Gesetze für moderne Dienstleistungen am Arbeitsmarkt*), have considerably improved the structural adaptability of the labour market, and hence improved the employment policy framework.

51. The Federal Employment Agency has been reorganised to become a modern service-provider and decentralised scope for action has been considerably increased, whilst at the same time unemployed people's individual responsibility assumes a higher status ("promote and challenge"). The labour market is hence better equipped than was the case years ago to react to changes in economic developments. Since greater scope has been granted to the local employment agencies in the course of the conversion of the Federal Agency, and they have also been able to take on greater responsibility of their own, it is possible to react more flexibly to regional particularities on the labour market.

52. The funds for benefits of active labour market policy are spread in the fields of both work promotion and in basic security benefits for job seekers, taking account of the receptibility and of the problem-related pressure on the regional labour markets. Hence, regions are supported which have a weaker structure. The support for safeguarding or creating jobs is the field of action of the joint task to "improve regional economic structure".

53. During the latest worldwide financial crisis, the Federal Government relied on intensive dialogue between the collective bargaining parties and policy-makers, linked with a massive, unbureaucratic expansion of the labour policy tool of short-time working in cyclical downturns and several stimulus packages. Short-time working in particular has helped to ensure that virtually no workers had to be made redundant in those branches of industry which were particularly affected by the crisis, above all in the manufacturing industries. Short-time working was used above all in the traditionally economically strong regions of Germany in the South and South West of the country.

54. See also current data on the long-term unemployment rate in annex 4.

Integration of migrants on the labour market

55. Against the background of demographic development and of the shortage of specialists to be anticipated in the future, integration policy has considerably increased in importance in recent years, starting with the Residence Act. Integration became established in the policy of the Federal Government during the 16th legislative term (2005–2009) as a central cross-sectional topic. Integration of migrants is also specified as a core topic in the Coalition Agreement for the 17th legislative term (from 2009 onwards).

56. The integration measures taken by the Federation, the *Länder* and the local authorities, as well as those of major civil society stakeholders, were placed on a joint footing for the first time in the framework of the National Integration Plan (NIP). With the refinement of the NIP to become a plan of action, the integration of migrants was to be advanced by means of measurable, binding objectives within a defined timeframe (see detailed information on the implementation of the NIP in the reply to the issues raised in paragraph 4 of the list of issues).

“Integration through Qualification – IQ” promotional programme

57. The nationwide “Integration through Qualification – IQ” promotional programme aims to improve the labour market integration of adult migrants. On behalf of the Federal Ministry of Labour and Social Affairs, the IQ network has been developing, since 2005, new approaches for improved labour market integration of adults with a migration background on the basis of the refining and migration-sensitive structure of the labour market policy tools. Recommendations have been submitted by the IQ network in the central fields of action (recognition of foreign educational qualifications, work-related language advancement, skill-building, business start-ups as well as intercultural openings which are to be placed on a broader footing within the framework of this promotional programme.

58. The overall structure of the promotion programme provides for the gradual establishment and expansion of regional networks which, including local players who are relevant to the labour market, develop and implement measures and strategies for improved labour market integration of adult migrants and ensure the support structure for the regional implementation of the planned Recognition Act (*Anerkennungsgesetz*).

59. It aims to establish and expand the migration-sensitive, intercultural skills of the standard institutions such as agencies, basic security agencies, responsible agencies in the recognition procedure, the language course and training facilities and enterprises. Over and above this, specialist agencies are to be established which collect specialist expertise on migration-specific focal topics (e.g. recognition of foreign vocational qualifications, work-related language advancement, etc.) which is available to the regional networks (e.g. development of quality standards and training materials, etc.) and refine them in a spirit of cooperation.

60. As an accompaniment to the work process of the regional networks, a political process is being initiated at federal level in order to supplement and lend political support to the operative work of the promotional programme. Integration policy goals and measures are to be formulated in this context and their implementation reviewed at regular intervals. This is taking place at federal level through the “Labour market and working life” dialogue forum organised in the context of the National Action Plan. Concrete agreements are also to be formulated and implemented at regional level by the regional networks.

Recognition of foreign vocational qualifications

61. A large number of persons in employment with foreign qualifications are working below their qualification level. Only a restricted amount of statistical information is available on the nature and scope of these qualifications and on previous recognition procedures and results. The Federal Government has hence introduced a legislative project (meeting of the Federal Cabinet on 23 March 2011) in order to improve the labour market recognition of vocational qualifications and work-relevant qualifications acquired abroad. Everyone – regardless of their origin and nationality – is to have a legal right to have the vocational and other qualifications which they brought with them evaluated. The procedure is to clarify the degree to which qualifications acquired abroad correspond to German training. The *Länder* have announced their intention to also improve the existing

regulations on the recognition of the vocational statutes and ordinances falling under their jurisdiction. Improved recognition of foreign vocational qualifications makes a contribution, on the one hand, towards further integration on the labour market, and on the other towards ensuring the medium- and long-term base of specialists.

Joint initiative for better labour market integration of migrants

62. The joint initiative of the Federal Ministry of Labour and Social Affairs, the Federal Government Commissioner for Integration and the Federal Employment Agency for better labour market integration of migrants covers a term of two years and encompasses the following programme elements:

- (a) Holistic integration coaching for juveniles in search of jobs and training and young adults with a migration background in facilities providing preparation for work (GINCO model);
- (b) (Intercultural) skill-building of unemployed pedagogical care staff as needed;
- (c) Enhancing advisory and placement skills sensitive to migration in the Employment Agencies and basic security agencies (recognition advice);
- (d) Improved profiling among people with a migration background;
- (e) Information/training and job exchanges for people with a migration background;
- (f) Intensification of cooperation with Turkish Consulates General.

Work-related language advancement (ESF-BAMF programme)

63. The “Programme for work-related language advancement for individuals with a migration background in the field of the Federation (ESF-BAMF Programme)”, which is co-funded by the European Social Fund, has been supporting the improvement of work-related knowledge of German since August 2008. Hence, the opportunities of people with a migration background to attain integration into the first labour market are to be enhanced. German lessons are linked with elements of vocational further training. A course has a maximum of 730 contact hours and, if it is taken on a full-time basis, lasts six months, and twelve months as a part-time course. The offer primarily targets job seekers (Second and Third Books of the Social Code). However, those in employment can on principle be promoted to maintain their employability. The basic promotional services of the Federation are sensibly supplemented by interlinking the work-related measures to enhance language skills with the integration courses in accordance with the Residence Act.

XENOS – Integration and diversity

64. The ESF Federation XENOS programme – Integration and diversity promotes measures against marginalisation and discrimination in the fields of companies, administration, training, schools and skill-building. The focus is in particular on disadvantaged juveniles and young adults with and without a migration background whose access to school, training and jobs is made more difficult. The programme aims to improve access opportunities and the chances of this target group for a training place or job in companies and public administration through measures of intercultural opening and through work-related and intercultural skill-building, and hence to support their integration on the labour market and in society. Planned in April 2011, a new call to submit projects will be published. The programme is to be promoted with € 159 million from the ESF and € 51 million in federal funds from the budget of the Federal Ministry of Labour and Social Affairs.

Special XENOS programme – labour market support for persons with a right to remain and for refugees

65. The first call for tenders of the programme for labour market support of persons with a right to remain and refugees with access to the labour market was published in April 2008. The programme aims to sustainably integrate persons with a right to remain and refugees in the labour market, helped by advice networks of the target group, to become placed in employment more quickly. The projects of the first round of promotion ran out in October 2010. All in all, 11,400 people received assistance, 54 per cent of whom were placed in work or training. A second round of promotion has been underway since July 2010. In the two rounds of promotion, a total of € 47 million is available for the programme in ESF funds and € 29 million in funds provided by the Federal Ministry of Labour and Social Affairs.

Article 7 – The right to just and favourable conditions of work

Reply to the issues raised in paragraph 9 of the list of issues

66. As was already explained in the answer to recommendation No. 38 of the Committee in the context of the fifth periodic report in 2008, the general provisions of employment legislation apply in principle to illegal workers in Germany. Illegal workers are also entitled to the minimum statutory leave, to receive sick pay and holiday pay and to be paid the wages agreed, just like other employees. In addition, this category of worker also benefits from protection under the statutory accident insurance scheme. Consequently, it is not the legal situation, in terms of employment legislation, that causes these illegal workers problems, but the fact that the individuals concerned often fail to assert their rights. The problem would not, therefore, be resolved by strengthening the rights of workers in the shadow economy. The Federal Government attaches great importance to combating illegal working and employment. The many measures which it has adopted in recent years illustrate that concern. For example, to combat illegal working and employment effectively, responsibilities for control and prosecution have been brought together at federal level and assigned to the customs authorities.

67. The new provisions of the Second Act on the Provision of Modern Services on the Labour Market (*Zweites Gesetz für moderne Dienstleistungen am Arbeitsmarkt*), which entered into force on 1 April 2003, provide particular support for “mini-jobs” in private households in an effort to combat illegal working. For the first time, the Fourth Book of the Social Code (*SGB IV*) introduces specific rules on marginal employment in private households. In the case of persons employed exclusively in private households, the employer pays flat-rate contributions of 12 per cent, 5 per cent of which covers statutory pension insurance and 5 per cent statutory health insurance. (For mini-jobs in the commercial sphere, by contrast, the employer pays 30 per cent in flat-rate contributions: 15 per cent to statutory pension insurance and 13 per cent to health insurance, as well as a 2 per cent flat-rate tax.)

68. Moreover, the Act Stepping up the Prevention of Illegal Working and Associated Tax Evasion (*Gesetz zur Intensivierung der Bekämpfung der Schwarzarbeit und damit zusammenhängender Steuerhinterziehung*), which entered into force on 1 August 2004, established new and much improved bases for combating illegal working and employment by providing a detailed definition of illegal work, enhancing the powers of the customs authorities in relation to monitoring and investigation, closing legal loopholes in relation to punishability and extending cooperation with the authorities responsible for combating illegal working and employment. As a result of their checks and investigations, the customs authorities have already brought to light serious harm resulting from illegal working and employment.

69. In a new development, the 2nd Act Amending the Fourth Book of the Social Code and other Statutes of 21 December 2008 (*2. Gesetz zur Änderung des Vierten Buches Sozialgesetzbuch und andere Gesetze*), introduced an emergency report. Employers must comply with the obligation to immediately report employment relationships at the latest on employees taking up employment if they employ workers in industries or economic activities listed in section 28a, subsection 4 of the Fourth Book of the Social Code. Should it emerge in a check by the Department for financial control of illegal labour or the German Pensions Insurance that an employee was not registered, this may incur an administrative fine.

Reply to the issues raised in paragraph 10 of the list of issues

70. In order to improve the reconciliation of work and family, the Federal Government has been working since 2006 towards more family-friendly working conditions in the enterprise programme “Success factor family”, together with industry associations and trade unions. The goal of the enterprise programme is to use family-aware personnel policy as a strategic management instrument in company management and to make family friendliness a hallmark of German industry. With its activities, it targets personnel managers and managers in companies, as well as employees’ representatives. The activities of the programme include in particular the target group-specific processing and addressing of key topics and the provision of diverse, innovative best practice examples.

71. The related “Success factor family” company network is the central platform for companies interested in or already committed to family-aware personnel policy. The echo from companies is rising constantly. More than 3,300 companies acknowledging family-friendly personnel policy are already members of the “Success factor family” company network.

72. The content focus of the company programme currently lies in the field of family-friendly working hours arrangements. With the “Family-friendly working hours” initiative, employers are motivated and supported towards offering more flexible, family-friendly working hours models, opening up more opportunities for mothers to have a career and enabling fathers to spend more time with their families.

73. Furthermore, by advancing the promotion of the Company-promoted childcare programme, the Federal Family Ministry promotes the establishment of new, nationally company-supported childcare places from funds provided by the European Social Fund. Hence, companies and parents are to be supported to find individual, tailored solutions for the joint concerns of the reconciliation of family and work.

74. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has furthermore been supporting the audit on work and family, an initiative of the charitable Hertie Foundation, since 2004. With the aid of the audit as a management tool to promote family-friendly personnel policy, enterprises are developing an individual concept to bring corporate interests and employers’ interests into a tenable balance. The number of employers using the audit as a quality seal for their family-friendly personnel policy is increasing continually. More than 900 companies, institutions and higher education institutes have now undergone the audit, also including the entire Federal Government. All in all, roughly 1.3 million employees and 1 million students are benefiting from the audit.

75. The commitment of companies in the field of family friendliness has demonstrably increased as a result of the activities of the company programme. Almost 80 per cent of companies now appreciate family friendliness as important for their own well-being. Only 46.5 per cent of companies considered family-friendly personnel policy to be highly important in 2003. Family-friendly measures are now a central component of personnel development in almost 60 per cent of companies.

76. The Federation, the *Länder* and local authorities agreed at the “crèche summit” in April 2007 that an as-needed expansion of the care services for the under-threes should take place in Germany on the basis of achieving a national average care rate of 35 per cent by 2013. The costs incurred here are to be shared by the Federation, the *Länder* and the local authorities. The Encouragement and Care of Children Aged under Three Bill (*Kinderförderungsgesetz*) mentioned in the periodic report came into force in December 2008 and creates the statutory basis for the expansion with the legal right to a care place for children from the first year, which will enter into force in August 2013. The childcare funding investment programme, with which the Federation is contributing towards the coming investment costs, has already been available since early 2008. More than 150,000 new care places for children under three were created all over Germany between 15 March 2007 and 15 March 2010. The care rate increased by 7.6 percentage points in this period, reaching 23.1 per cent [The detailed data on the expansion of care are contained in the enclosed table]. If — as the Federation — all concerned make the contributions which they have promised, one may presume today that the legal right will enter into force in 2013 on a solid foundation.

77. Recent studies in the further training initiative for early learning specialists promoted by the Federation furthermore show that the expansion of care that has been tackled will not fail because too few qualified specialists are available everywhere by 2013. There is however a need to act in some regions of Western Germany with regard to increasing the training capacities for kindergarten teachers.

78. In principle, there is a broad consensus that the promotion of increasing employment of male specialists is an important measure – and that this is not lastly in the interest of the children. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has initiated the model programme “More men in day-care centres” to this end. It is to make boys and men interested in the job of kindergarten teacher, to support them in opting for the profession of kindergarten teacher and improve the prospects for men in child day-care centres.

Table 1

Children in childcare (in facilities and child day care) by age groups in Germany

	<i>Children aged under 3</i>		
	<i>In the population</i>	<i>In day care (facilities + child day care)</i>	<i>Rate among the population</i>
2006	2 104 594	286 905	13.6
2007	2 069 988	321 323	15.5
2008	2 050 818	364 190	17.8
2009	2 048 350	417 190	20.4
2010	2 042 457	472 157	23.1
	<i>Children aged 3 to under 6</i>		
	<i>In the population</i>	<i>In day care (facilities+ child day care)</i>	<i>Rate among the population</i>
2006	2 241 551	1 953 150	87.1
2007	2 175 175	1 943 289	89.3
2008	2 141 500	1 951 130	91.1
2009	2 105 783	1 938 064	92.0
2010	2 074 882	1 922 168	92.6

Source: Federal Statistical Office: *Kinder in Tageseinrichtungen und Kindertagespflege 2006 bis 2010, Wiesbaden various years; compiled and calculated by the Dortmund Agency for Statistics on Children's and Youth Welfare.*

Reply to the issues raised in paragraph 11 of the list of issues

79. The Federal Government has been undertaking additional efforts in recent years to close the gender pay gap which is, with on average 23 per cent, still particularly wide in Germany. After various studies have introduced greater clarity with regard to the complex causes, the Federal Government has been counting on a governance strategy to overcome the pay gap in line with the causes which includes all stakeholders. In addition to the enterprises and social partners, these include other state agencies, Federal Ministries as well as *Länder* and local authorities. With the aid of networking and mutual support, it is possible at the same time to increase the understanding of the positive effects and the need for political measures.

80. Cooperation between all partners, that is policy-makers, partners to collective agreements, employers and female employees and the associations (Equal Pay Day), is key in order to improve the framework through cooperation with industry and social institutions (the company programme "Success factor family", audit work and family, the "Company-supported childcare" (ESF) promotion programme. The new parental leave with its partner months also contributes, as does the expansion of childcare and the "Prospects for getting back to work" action programme and the "Get in, re-train, get on" (KDFB) project with advice for returning to work, which helps shorten women's career interruptions caused by their families. The reform of the personnel structures in companies is promoted through Logib-D. The General Equal Treatment Law offers new possibilities to check promotion and preference decisions in court. The graduated plan is being developed to improve women's career opportunities. The spectrum of job choices is to be expanded by improving the framework conditions through cooperation with industry and social institutions (Girls' Day, New Ways for Boys, MINT initiatives).

81. The Federal Government's goal is therefore to bring together the various players so that everyone can be active where they can bring about changes.

82. The following changes are to be carried out in future in the field of minimum wage regulations:

(a) Introduction of an absolute wage threshold for temporary work in the Act on the Commercial Provision of Labour (*Arbeitnehmerüberlassungsgesetz*) for hiring periods and periods when workers are not hired;

(b) If the equal pay mark in a hiring company is below the minimum wage threshold to be established in the hiring-out of workers and in temporary work, the minimum wage of temporary work is to apply to the remuneration of the temporary worker.

83. Additionally, the existing legal basis for the issuance of sector-specific minimum wages is to continue to apply.

Article 8 – Trade union rights

Reply to the issues raised in paragraph 12 of the list of issues

84. The Federal Government would like to stress that the prohibition of the right to strike for German established civil servants is in concordance with the wording of article. 8 paragraph 1 (d) and paragraph 2 of the Covenant, and does not constitute an infringement of rights. These provisions make it clear that the right to strike is to be ensured, provided that it is exercised in conformity with the laws of the particular country, and that lawful

restrictions may be imposed on the exercise of these rights by members amongst of the administration, inter alia.

85. The fundamental right to form associations under article 9, paragraph 3 of the Basic Law is guaranteed to every individual in Germany, including to established civil servants. Trade union activities are hence also permitted in employment as an established civil servant. An exception is the right to strike, to which established civil servants are not entitled as a matter of principle.

86. The prohibition of the right to strike for this group of individuals is one of the traditional principles of the professional civil service which are to be complied with by the legislature and the executive in accordance with article 33, paragraph 5 of the Basic Law and which restrict the right to form associations. This is a mandatory consequence of article 33, paragraph 4 of the Basic Law, which provides for the transfer of sovereign tasks to established civil servants as a constant task – that is in particular in principle also to be carried out with no time interruption. In view of their constitutionally-entrenched duties and rights vis-à-vis the public, established civil servants may hence not take any collective economic action to enforce their joint professional interests. The long-term obligation to uninterruptedly carry out public tasks in the service of the whole people takes priority for them over pursuing their group interests. In accordance with the Basic Law, they are outside the system of collective agreements and industrial action.

87. The Basic Law only provides for a uniform civil service status, and hence does not distinguish by functions when it comes to the prohibition of strikes. Civil service status is therefore not divisible. Constitutionally, it is one of the major characteristics of German civil service law that it does not recognize “first” and “second” class status.

88. The function to be carried out is however not devoid of significance in the German public service: The nature of the task decides which of the two status groups, namely tenured and untenured civil servants, are able to carry them out. In accordance with article 33 paragraph 4 of the Basic Law, the exercise of sovereign authority as a rule is reserved for tenured civil servants, given that they are in a relationship of service and loyalty defined by public law which imposes particular rights and obligations on them. In addition to the prohibition of strikes, these are for instance the obligation to exercise their offices in an impartial, fair and loyal manner in support of the general good, the principle of party political neutrality in exercise of office or the duty to express reservations as to unlawful service instructions of the superior (obligation to remonstrate). These obligations are to guarantee the lawfulness of the actions of the administration and the reliability of the implementation of tasks. Civil servants who culpably violate these obligations hence commit misconduct in office. Misconduct in office is sanctioned in the Federation and the *Länder* by a system of disciplinary measures which — depending on the gravity of the misconduct — range from warnings, through administrative fines, to removal from employment as a civil servant. This is to provide a motivation to carry out the official obligations correctly. Disciplinary measures to sanction the prohibition of strikes among teachers have played a role in the past.

89. The Basic Law does not contain a list of which specific tasks are to be assigned to civil servants. It is however in particular recognized that they carry out tasks in areas in which, in the interest of the public, the State encroaches on the rights of the citizen, such as in the tasks of the police. It is a matter here of the particular binding to duties of these status groups. In areas in which tasks do not have to be specifically carried out by persons holding sovereign power, employees can be deployed in the German public service who are also permitted to strike. What use is made of the latitude provided by the Constitution is decided by the legislature and by each employer in its own responsibility. Thus, the latitude has been used in a variety of ways, particularly in the field of employment of teachers in the *Länder*.

90. All in all, the across-the-board ban on strikes can hence for constitutional reasons not be structured in a manner depending on functions, but the function can be taken into account when establishing the status group (tenured or untenured civil servants) the members of which are to carry out a task. The Federal Government hence rejects calls to relax the ban on strikes for tenured civil servants at both national and international level.

91. This also applies with regard to the judgment of the European Court of Human Rights of 21 April 2009 against Turkey. The European Convention on Human Rights has the status of a non-constitutional federal statute in Germany. Even if rulings against other Contracting States are not directly binding on Germany, they do provide one with an opportunity to review one's own legal system. In the result of this review, the Federal Government however holds to the constitutional ban on strikes for tenured civil servants for the above reasons.

Article 9 – The right to social security

Reply to the issues raised in paragraph 13 of the list of issues

92. The standard requirements for adults and children are assessed using the actual, statistically-ascertained consumption expenditure of households in Germany, the so-called statistical model. The statistical model assumes that the consumption habits ascertained for the total population on the basis of a representative official survey also apply to the ascertainment of consumption expenditure in the lower income bracket, and therefore are suitable for standard rate-relevant consumption.

93. This consumption expenditure is determined within the Sample Survey of Household Income and Expenditure (*Einkommens- und Verbrauchsstichprobe, EVS*). The Sample Survey records the actual, statistically ascertained consumption expenditure of households in Germany and is carried out every five years. There is no statutory obligation to take part, i.e. all of the households take part in the Sample Survey voluntarily. Approximately 0.2 per cent of all private households in Germany are surveyed for the Sample Survey at intervals of five years. The Sample Survey is the largest survey of this kind in the European Union. The Sample Survey has been taken in the old *Länder* since 1962/63, and in the new *Länder* and East Berlin since 1993. The Federal Constitutional Court expressly confirmed that the Sample Survey is a suitable basis for realistically determining the subsistence level.

94. The Sample Survey of Household Income and Expenditure only records private consumption expenditure according to types of household. Therefore, complete consumption expenditure can only be allotted unequivocally to the person living in the household in the case of single-person households. In multi-person households, by contrast, only a few items of consumption expenditure can be directly allocated to individuals living in the household. The expenditure items related to children are statistically included in the consumption expenditure of family households. In order to ascertain the consumption expenditure of a child relevant for the standard requirement, an appropriate breakdown of consumption expenditure between adults and children is only possible in families with one child. To this end, allocation formulas developed by specialists for this purpose are used.

95. Measurement of the standard requirement is based on the consumption expenditure of the lower quintile of households in the Sample Survey stratified according to their net income. This therefore means that the sum of the standard requirement corresponds to the actual consumption expenditure of households in the lower income bracket. In order to avoid measuring the standard requirement on the basis of the consumption habits of the group for which it is ascertained (circular reasoning problem), persons who exclusively draw benefits under the Second and Twelfth Books of the Social Code (*SGB II and SGB*

XII) are removed from the survey. The number of households that will be drawn upon as the control group for ascertaining the standard requirement is then determined. Hence, by determining the control group the objective is reached of enabling beneficiaries to lead lives like those of other persons in the lower income bracket who are not dependent on social benefits.

96. It was possible to eliminate the so-called circular-reasoning households more precisely by comparison to earlier measurements. The percentage of households excluded thereby differs by the type of household. This had to be taken into consideration when ascertaining the size of the control group, whereby the number of households eliminated in advance plus the number of households in the control group lie roughly within the lower fifth of the households stratified by income. Ascertaining the appropriate size of the control group also depends on the position of the control group within the income distribution.

97. The Federal Constitutional Court set a clear framework to delineate the control group (margin note 168 of the judgment dated 9 February 2010).

98. “The selection of the control group by whose expenditures the basic standard rate is assessed is not objectionable under constitutional law. Under section 2, subsection 3 of the Standard Rate Ordinance (*Regelsatzverordnung*), the consumption expenditure of the lowest 20 per cent of households stratified by their net income (lowest quintile) is to serve as the basis.

99. The legislator was additionally able to assume that the consumption expenditure of this lowest quintile supplies an appropriate data set. The Federal Constitutional Court need not review whether the choice of another control group, for example of the second tenth or decile, would have been more appropriate, given that the choice of the lowest quintile was based on the proper consideration to set the control group of recipients of low incomes as broadly as possible in order to make use of statistically reliable data. Moreover, the elimination of social assistance recipients serves to avoid circular reasoning that would arise if the consumption habits of assistance recipients themselves were used as the basis for the assessment of demand.”

100. As consequence, in the recent reassessment this led to the control groups being of different sizes based on the different types of households considered. For single-person households, 8.6 per cent of circular reasoning households were excluded in advance and of the remaining households, the control group was set at 15 per cent (equals 13.7 per cent of all single-person households) or roughly one-fifth of all single-person households, in this case exactly 22.3 per cent. Although the group extracted is smaller on the scale of households stratified by income, it also “slid upwards.” This means that fewer low-income households are taken into consideration and more households with medium incomes are included.

101. For households of couples with one child, 2.3 per cent of the circular-reasoning households were excluded in advance and of the remaining households the control group was set at 20 per cent (or 19.5 per cent in relation to all households of couples with one child), therefore again roughly one-fifth or in this case 21.8 per cent.

102. The most recent reassessment of standard requirements was carried out in 2010, based on the currently available 2008 Sample Survey of Household Income and Expenditure. This reassessment also took into consideration the development in income and the cost of living at the time of the survey and in comparison with the previous survey.

Reply to the issues raised in paragraph 14 of the list of issues

103. The payment rates set in the Asylum-Seeker Benefits Act (*Asylbewerberleistungsgesetz – AsylbLG*) for social benefits for asylum-seekers are

currently under review. This review is also examining with what adjustment mechanism the Asylum-Seeker Benefits Act is in compliance from the obligation resulting from German constitutional law for ongoing monitoring and further development of the set payments under changing economic circumstances. A statutory readjustment of the social benefits for asylum-seekers is expected to occur in 2011.

Reply to the issues raised in paragraph 15 of the list of issues

104. The statutory pension benefits are wage compensation benefits. The individual amount of pensions paid to those in statutory insurance is based on the insured income during the individual's gainful employment. The annual pension adjustment is oriented to the development of wages and salaries per employee. This mechanism ensures that the pensioner takes appropriate part in economic developments.

105. Old-age pensions are additionally flanked by needs-dependent basic security benefits that ensure that people do not fall into poverty. Only 2.4 per cent (percentage for 2009) of persons aged 65 and older are dependent on this benefit.

106. The Pension Reform Act passed in 2007 to raise the standard retirement age to 67 years was a reaction to the demographic developments and the emerging change in the age structure of the population. The Act provides for the standard retirement age to rise to 67 years in small steps over a period between 2012 and 2029. In the course of this reform, an additional new old-age pension was created for people who have been in insurance for a particularly long time. The insured parties under statutory pension insurance who made at least 45 years of compulsory contributions from employment, self-employment and long-term care or times of child rearing up to the child's tenth birthday can continue to begin receiving pension benefits at the age of 65 with no deductions. This arrangement particularly accommodates those insured persons whose working lives were of an exceedingly long duration and in many cases entailed particular strains. If women do not reach the 45 years of contributions to statutory pension insurance, note should be taken that in favour of women, 10 years of child-rearing times per child are taken into consideration to satisfy the 45-year qualifying period.

107. The introduction of this new type of pension benefit, or non-fulfilment of the required entrance requirement for it, does not entail benefit cuts either for women or for men.

108. The extension of the pension scheme in 1992 has meant that pensions in the new *Länder* are linked to wages there as a matter of principle. For this reason, the value of the pension benefits in the East and the West are also converging to the same extent that the income of employees in the new *Länder* are approximating those in the West. In order to prevent a disadvantageous effect of today's still lower earned income in the new *Länder* on later pension benefits, the standard earned income used to determine the earning points in the East are weighted so as to balance out the gap between average earnings in the East and those in the West. The combination of the up-valuing and the present pension value in the East produces an equally high pension level for pensioners with comparable earning biographies in the old and new *Länder*. Furthermore, the safeguard clause east introduced in 2005 contributes to the pension value (east) approximating the Western value more quickly than earnings under pension law. When the safeguard clause east is applied, the current pension value (east) is adjusted with the same rate of change as the current pension value.

109. The Federal Government agreed in its Coalition Agreement to overcome the existing differences in the calculation of pensions in east and west and to introduce a uniform pension system in East and West during this legislative term. The standardization of the pension system in the East and West is a highly complex task. Its effects on the up-valuing

of wages still applicable in the new *Länder* have to be considered, as do the different contribution assessment ceilings. A good solution to the benefit of all involved requires great care and sensitivity to find a result that can be accepted in both the East and in the West.

Reply to the issues raised in paragraph 16 of the list of issues

110. The “integration assistance for persons with disabilities” is a governmental welfare benefit (social assistance benefit) financed from taxes, which can usually only be claimed by those who cannot help themselves due to financial need and who, due to their disability, do not receive the necessary support for participating in life in society from another source (e.g. from the social benefit agencies with primary responsibility).

111. Under these prerequisites, the assistance is paid to all persons with emotional, physical or mental disabilities whose ability to participate in life in society is considerably restricted or who are at risk of considerable constraints on their ability to participate due to reasons caused by their disability.

Article 10 – Protection of the family, mothers and children

Reply to the issues raised in paragraph 17 of the list of issues

112. The Federal Government adopted the Second Plan of Action to Combat Violence against Women in September 2007. The Second Action Plan consolidates over 130 current and in part implemented measures of the Federal Government in the areas of prevention, federal lawmaking, a system of assistance to support and counsel women affected by violence, nationwide networking in the assistance system, cooperation between governmental institutions and non-governmental assistance programmes, work with perpetrators, training and sensitization, research, European and other international cooperation and support measures for women living overseas. The Second Action Plan follows up where particular need for action exists after the First Action Plan, for instance addressing greater consideration to the particular problems faced by women with disabilities who suffer violence. It activates health-care professions, primarily physicians, to support female patients who have experienced violence. Practice-oriented and suitable prevention measures begin even earlier than before and are optimally harmonized and implemented by facilities for children and teens and for the protection of women and health.

113. The Second Action Plan has a special focus with numerous measures on combating violence against women and girls with migration backgrounds. Measures protecting migrant women from violence are intensified and measures implemented concerning forms of violence such as human trafficking, particularly for the purpose of sexual exploitation, but also for workers, and genital mutilation. In addition, a number of measures are being funded for improving social and political participation among women with migration backgrounds, which aim to strengthen their self-reliance, and therefore serve to prevent violence. The Federal Government supports the fight against forced marriages with projects pursuing defined objectives.

114. Two research studies published in 2008 and 2009 provided important findings for targeted improvement of healthcare for affected women and girls. They also enabled more precise conclusions concerning the extent, severity and context of violence against women with migration backgrounds and their usage of support institutions. The studies made it possible to draw conclusions about specific groups of female migrants being more affected by violence. 38 per cent of women of Turkish origin and 28 per cent of women from the countries of the former Soviet Union or their successor states experienced far more cases of

physical or sexual violence than the average of the female population of Germany (25 per cent). It also revealed that women with a Turkish migration background undergo far greater trauma with regard to serious physical and/or sexual violence in conjunction with mental abuse, even in comparison to other women with migration backgrounds. Among other factors, the increased potentials for violence are often the consequence of the more difficult social circumstances and lack of educational and economic resources of the persons affected. Another important finding of these studies is that women with migration backgrounds affected by severe violence more seldom take advantage of support facilities than similarly affected women without migration backgrounds. They often do not know about or are not sufficiently well informed about the protection and assistance system in place in Germany.

115. However, with approximately 360 women's shelters and women's refuge flats, as well as over 150 crisis lines and more than 240 non-residential counselling facilities, by international comparison Germany possesses a very dense network of protection and assistance facilities that are available to all women affected by violence and their children. The establishment and maintenance of these assistance programmes and support facilities for women affected by violence falls within the portfolio of the *Länder* and local authorities.

116. The Federal Government promotes the network unit of women's shelters in Germany (*Vernetzungsstelle der Frauenhäuser in Deutschland*) and the network unit of women's counselling centres and women's crisis hotlines (*Vernetzungsstelle der Frauenberatungsstellen und Frauennotrufe*). Both network units carry out activities for the target group of migrant women in order to better reach this target group in future, increase the awareness level of protection and assistance facilities in migrant women's self-help organizations, sensitize this target group to the issue of violence against women and build up reliable cooperation contacts with migrant women's organizations. The Federal Government also finances the national coordination office for trafficking in women and violence against women in the migratory process.

117. As a focal point of the Action Plan, the Federal Government is presently planning to set up a nationwide telephone hotline to offer initial counselling and mediation for any form of violence against women. The need for counselling that is round-the-clock, multilingual and anonymous applies particularly to women who, for various reasons, have special difficulties taking advantage of the existing offers, hence also women and girls with migration backgrounds. In cases of further need, they should be given access to local support facilities and contact persons. The offer will also address persons in their immediate social environment and occupational groups that deal with this subject matter.

118. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has taken the following measures to ensure nationwide protection of girls and boys from violence and exploitation: It promotes the Federation of Child Protection Centres (*Bundesarbeitsgemeinschaft der Kinderschutz-Zentren*) with the central task of protecting children and juveniles from sexual violence. In addition, it promotes the nationwide hotline network "Number against Troubles" (*Nummer gegen Kummer e.V.*) with its nationwide, free-of-charge offers of counselling and advice for children and teenagers (*Kinder- und Jugendtelefon*) and for parents (*Elterntelefon*). The counselling programmes of the *Nummer gegen Kummer* are the first contacts for those with questions and problems, including in particularly critical situations such as violence.

Article 11 – The right to an adequate standard of living

Reply to the issues raised in paragraph 18 of the list of issues

119. In the scope of the extensive social security system in Germany, the contribution-financed benefits of the higher-ranking types of insurance provide protection from the risks of unemployment, illness, accidents, old age and long-term care. Furthermore, on principle all persons in Germany who are unable to help themselves on their own and who have no claims or only insufficient claims to benefits from the higher-ranking systems are entitled to government support benefits. This access is ensured in Germany through the two minimum security systems entrenched in the Second and Twelfth Books of the Social Code (*SGB II and SGB XII*). The benefits from these systems guarantee every citizen the right to lead a dignified life at the minimum socio-cultural level.

120. The daily subsistence necessary for this encompasses in particular food, clothing, personal hygiene, household effects, household energy, personal necessities for daily life, safeguards against illness as well as housing and heating. The personal necessities for daily life also include a reasonable degree of participation in social and cultural life in the community. This applies in particular to children and juveniles. The basic security benefits for job seekers (Second Book of the Social Code) additionally enable them to receive extensive support in vocational integration.

121. When defining poverty, we must emphasize its complexity. Not only a lack of income, but also a lack of opportunities to take part in society and a lack of individual resources, skills and abilities needed to actively lead a self-determined life lead to insecure living circumstances. Areas of participation in society that can be considered here include the material situation, health and safety, education, family and inclusion in social networks, housing and the residential environment, behaviour and risks as well as subjective well-being.

122. If we look solely at the relative dimension of income aimed at by the at-risk-of-poverty rate according to EU conventions, this results in the developments portrayed in annex 4. The time series from the German Socio-Economic Panel (SOEP) is no longer comparable with earlier publications based on this data due to a revision of data preparation by the German Institute for Economic Research (DIW). The major differences between the SOEP and other data sources, in particular also with regard to the risk of child poverty, have been adjusted in the new data. The data of the SOEP do not indicate any significant change to the at-risk-of-poverty rate of the total population since 2004. Otherwise, between each of the years there are occasionally fluctuating values, the progression of which is probably primarily caused by the random sampling.

Older persons

123. The development of the at-risk-of-poverty rates shows that the poverty risk for older persons in Germany is below average and has only risen moderately since 2004, while, in a longer time series, it has returned to 2001's level. Measured by the socio-cultural subsistence level, too, the group of persons aged 65 and older is comparatively less affected today compared with the rest of the population. At the end of 2009, only 2.4 per cent of the population aged 65 and older received basic security benefits in their old age. Therefore, the rate has remained roughly constant since 2005, the number of pensionable-age assistance beneficiaries dropped by somewhat more than 10,000 persons year-on-year (compared with 2008).

Persons with disabilities

124. The data basis in Germany does not currently allow any conclusions to be drawn concerning the at-risk-of-poverty rate of persons with disabilities. The Federal Government will act to improve the data basis over the course of the revision of reporting on the people with disabilities.

125. Benefits supporting the participation of persons with disabilities in working life promote both initial vocational integration and vocational re-integration. The number of employed persons with severe disabilities rose between 2004 and 2008 (the most recent period for which figures are available) by 10.7 per cent, and the number of women with severe disabilities who were in employment increased by 14.6 per cent. Approximately 990,000 persons with severe disabilities and persons with disabilities of equal status were employed on the general labour market in 2008. This development shows that the statutory support provided for the improved participation of persons with disabilities in working life is making an impact (in particular the obligation to employ persons with disabilities, the compensatory levy, special dismissal protection, integration grants and other financial benefits to employers and persons with severe disabilities). The steadily improving employment situation leads to more persons with severe disabilities being able to earn a living through their own work.

Single parents

126. Single parents and their children are at a high risk of poverty. Full-time gainful employment of the single parent lowers this risk considerably, however. For this type of family, the lack of gainful employment, or the fact of only working part-time, constitutes the chief reason for the increased risk of poverty for both parents and children.

127. According to a special assessment of the microcensus, 39.8 per cent of all unmarried minor-age children of single parents lived in an at-risk-of-poverty household in 2009. When the parents were in full-time employment, the relevant at-risk-of-poverty rate of the single minor children was only 14.3 per cent. This poverty risk is the same level as that of children from two-parent families when only one of the two partners is in full-time employment.

128. For these reasons, the Federal Government considers access to gainful employment for single parents to also play a central role in combating poverty risks. For this group in particular, the question arises of reconciling the demands of job and family even more than for two-parent households. The Federal Government is therefore presently extending and refining existing support structures in cooperation with the Federal Employment Agency and other stakeholders. The chief priority for single parents is to secure childcare of adequate quality and quantity. The *Gute Arbeit für Alleinerziehende* (Decent Work for Single Parents) programme is being implemented in specific regions, thus consolidating various activities such as vocational training, special job-placement efforts and childcare.

129. If the single parent is in gainful employment, both supplemental benefits from the basic security benefits for job seekers and, in particular, the higher-ranking social benefits, avert the risk of income poverty. Child benefit has since 2010 made up almost 22 per cent of net household income in single-parent households with more than one child. With the child benefit increase as per 1 January 2009 (increase and greater scaling to € 164 for the first and second children, € 170 for the third child and € 195 for the fourth and later children) and through the additional increase as per 1 January 2010 (by € 20 for each child) in the scope of the Growth Acceleration Act (*Wachstumsbeschleunigungsgesetz*), child benefit increased considerably as a percentage of household income in all types of households.

130. Along with the increase in the child allowance as per 1 January 2010, besides the minimum support amounts under civil law, the child support maintenance advance benefits

for children from 0 to 5 years also rose from € 117 to € 133 and for children aged from 6 to 11, from € 158 to € 180. Approximately 500,000 children of single parents receive these benefits. In addition, the supplementary child allowance targets families with low earned income, thus enabling them, in conjunction with the housing allowance, to become independent of basic security benefits for job seekers.

Long-term unemployed

131. An effective measure for countering poverty is the integration of job-seeking persons in the employment system with good working conditions. It is the job of labour market policy in Germany to support job-seeking persons unable to manage on their own in their transition to gainful employment and to grant them temporary unemployment benefits should they become unemployed (if they are entitled to benefits from unemployment insurance) or Unemployment Benefit II (in case of need), so that they are able to meet their daily subsistence.

132. On principle, the active benefits regulated by law do not focus on target groups. Instead, individual need for support is decisive. This makes the labour-market policy set of instruments available on principle to all job seekers or unemployed persons if they fulfil specific conditions. However, to better deal with specific problems, there are exceptions, for instance also for the long-term unemployed, which are those persons who are unemployed for at least twelve months, in some cases at least 24 months. These include the statutory employment subsidy, which in addition to long-term unemployment also identifies other placement impediments as subsidy requirements, as well as programmes aimed at the long-term unemployed. These are the *Kommunal-Kombi*, which is offered in regions with particularly high rates of and intense long-term unemployment, and *Bürgerarbeit*, which is implemented in the scope of responsibility of 197 job centres.

133. Successes have been achieved in Germany in recent years when it comes to breaking out of long-term unemployment or structural unemployment and reducing the number of long-term unemployed using various approaches and consistent activation policy. Therefore, the long-term unemployment rate dropped by 5.5 per cent to 3.4 per cent from 2004 to 2009 (see annex 4).

Persons with migration backgrounds

134. Persons with migration backgrounds have an at-risk-of-poverty rate that has remained at the same high level for years (see annex 4 based on the SOEP). The special assessments of the microcensus from 2005, 2006, 2007 and 2009 also reveal the weaker income statuses of persons with migration backgrounds and similarly high at-risk-of-poverty rates. However, only those persons who themselves have migratory experience have a significantly higher risk of being affected by income poverty. There is no longer a special poverty risk for the second generation who have not personally experienced migration if social-structural factors such as education, employment status and type of household are allowed for (see the First Integration Indicator Report of the Federal Government Commissioner for Migration, Refugees and Integration, June 2009).

135. The income situation of migrants is negatively influenced by a whole series of factors including, in particular, the lack of vocational qualifications or unrecognized vocational qualifications, language barriers, sector dependence as well as different employment behaviours. That is why educational and labour market policy measures also have an impact on this population group. In order to ensure the success of language-learning support, integration measures are offered in the areas of school and vocational training. The federally-funded counselling programmes for initial migration counselling and migration youth welfare services are being refined for this purpose. The vocational integration of young migrants in particular in their transition from school to vocational

training is improved, with assistance being provided during training and external education. The vocational integration of migrants is part of general labour-market integration measures. On principle, all benefit recipients with migration backgrounds who meet the individual requirements and are likely to satisfy the legal prerequisites for remaining in the country are able to access all the support instruments of the Second and Third Books of the Social Code. Migration-specific measures include the improvement of vocational language-learning support as well as the national Integration through Qualification – IQ support programme to advance the vocational integration of adults with migration backgrounds.

136. From this standpoint, and with regard to persons with personal migration experience, we can also cite measures that ease their access to dependent employment such as:

(a) The legal amendments brought about through the Labour Migration Control Act (*Arbeitsmigrationssteuerungsgesetz*);

(b) The shortening of required times in section 9 of the Ordinance on Official Procedures Enabling Resident Foreigners to Take up Employment (*Beschäftigungsverfahrensverordnung*);

(c) The inclusion of a statutory arrangement for existing cases in the Residence Act (*Aufenthaltsgesetz*) through section 104 a of that Act;

(d) The amendment of section 10 of the Ordinance on Official Procedures Enabling Resident Foreigners to Take Up Employment for persons whose deportation has been temporarily suspended, in particular section 10, subsection 2 of said Ordinance.

137. Problems with recognition of international educational qualifications are also of significance to those who have personally experienced migration (see reply to the issues raised in paragraph 8 of the list of issues).

Reply to the issues raised in paragraph 19 of the list of issues

138. “Refugee children”, including 16- and 17-year olds, have unrestricted claims to benefits under the Eighth Book of the Social Code – Child and Youth welfare (SGB VIII). The Eighth Book of the Social Code differentiates between “benefits” and “other tasks” of child and youth welfare. The implementation of “other tasks” as defined by section 2, subsection 3 of the Eighth Book of the Social Code (e.g. *taking into care*, section 2, subsection 3 No. 1 of the Eighth Book of the Social Code) is applied equally to minor-age foreigners and to Germans. With regard to the “benefits” of child and youth welfare as defined by section 2, subsection 2 of the Eighth Book of the Social Code, foreign minors are given equal consideration when they have their “habitual residence” in Germany either lawfully or in the form of temporary suspension of deportation under the law on immigration (section 6, subsection 2 of the Eighth Book of the Social Code). Section 6, subsection 4 of the Eighth Book of the Social Code expressly directs that supranational and intergovernmental law remains unaffected. If foreign minors do not already have their “habitual residence” through national law, they acquire this “habitual residence” at all events through the *Hague Convention Concerning the Jurisdiction of Authorities and the Law Applicable In Respect Of the Protection of Minors*. The Convention modifies the decisive term of “habitual residence” for the entitlements of foreigners to youth welfare. According to the Convention, the authorities of the state in which the (foreign) minors are resident must take the measures provided by their national law to protect minors. These also include measures of public youth welfare.

139. In order to respond to the special needs of minor-age asylum-seekers, “decision-makers”² have been appointed at the Federal Office for Migration and Refugees as specially trained asylum officials with special responsibilities for unaccompanied minors (also for 16- and 17-year-olds). All of the asylum officials with special responsibilities receive continuous and extensive legal, cultural and psychological training in basic and advanced training courses. The objective of these courses is, in particular, to sensitize the asylum officials with special responsibilities to the needs of those who require special protection in order to ensure that they are given the best possible protection. External expertise is drawn upon in the courses. Basic training courses for asylum officials with special responsibilities are carried out by external specialists, such as treatment centres for the victims of torture. With respect to unaccompanied minors, advanced training courses are held in consultation and cooperation with the Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband Unbegleitete Minderjährige Flüchtlinge e.V. [B-UMF]*). Staff members of the association provide their own training subject matter and function as lecturers. In addition to the special training courses for the asylum officials with special responsibilities for unaccompanied minors, courses are constantly held focusing on specific problems related to unaccompanied minors (e.g. dealing with traumatised persons, credibility testing, intercultural training, workshops on the countries of origin). These “special decision-makers” have also been appointed since 2008 for the 16- and 17-year old age group. The Federal Office for Migration and Refugees is presently working closely with the Association in the field of basic and further training of the specialized staff. Furthermore, the Federal Office took part between September 2008 and February 2010 in the international UNHCR Asylum Systems Quality Assurance and Evaluation Mechanism Project in its subsection entitled “Processing asylum applications of unaccompanied minors.” Lastly, the Federal Office is involved in the EU European Asylum Curriculum project, the objective of which is to put in place a European training system in the field of asylum in order to promote the quality of the asylum procedure in Europe through practical cooperation between the Member States and to improve it by establishing standardized training modules. Ten national trainers who can later take over the national advanced training programme have been successively instructed since early 2009.

140. The *Länder*, too, are taking measures to sensitize specialized staff coming into contact with “refugee children” for their specific situation. For example, during their education, students in the field of police enforcement services in North Rhine-Westphalia are familiarised with the problems and specific issues of dealing with minors, ethnic minorities and social marginal groups in such special fields as professional ethics and sociology. A broad spectrum of further training is available to law enforcement officers who deal with asylum-seeking minors and refugee children who were involved in armed conflicts. The advanced training includes subjects such as the law concerning foreigners, measures of the guard services, human trafficking, the conflicting areas of ethnic German repatriates and resettlers from the GDR, conflict prevention, intercultural anti-conflict training, training in hearings and interrogation of minor-age victims or witnesses, intercultural skills in police work and police victim protection.

141. In accordance with section 61, subsection 2 of the Residence Act, the *Länder* are permitted to create exit facilities for foreigners whose order to leave the country has become legally final. Assistance and counselling in the exit facilities is intended to promote a willingness to exit the country voluntarily and ensure accessibility for authorities and courts as well as the implementation of the exit. Three of the 16 German *Länder* (Rhineland-Palatinate, Lower Saxony, Saxony-Anhalt) offer active “*Ausreisezentren*”. The responsible authorities in all *Länder* grant foreign children the social benefits to which they

² There are currently 59.

are entitled such as benefits under the Asylum-Seeker Benefits Act and the Twelfth and Eighth Books of the Social Code in the scope of the relevant legal provisions. They take account of the asylum-seekers' respective needs (according to religion, age, nationality, etc.) and ensure that relevant provisions are implemented in practice with suitable accommodation, information work, counselling programmes, assistance and appeals.

142. The following table provides information about *Ausreisezentren* in German *Länder* and additionally contains information relevant to the specific *Land* concerning implementation measures with regard to social benefits for foreign children.

<i>Federal Land</i>	<i>Measures</i>
Rhineland-Palatinate	<ul style="list-style-type: none"> • <i>Ausreisezentrum</i> available, but does not provide accommodation for minors • The local Youth Welfare Office that is responsible as defined in the Eighth Book of the Social Code decides on taking unaccompanied minors into care.
Saxony	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • Reception facilities are aligned to the special needs of the various groups of individuals pursuant to the administrative rule "Housing and social care" dated June 2009.
Saarland	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> and no refugee centre available • As a general rule, asylum-seekers and refugees are housed in the <i>Land</i> collective housing centre, provided for and extensively counselled and cared for by, among others, social welfare entities subsidised by the <i>Land</i>. • In specific cases (also in cases of humanitarian hardship) there is the possibility of being housed outside of the <i>Land</i> collective housing centre, e.g. in case of serious illness or family reunification. • Unaccompanied minors in the Saarland are always taken into the care of the youth welfare entities, i.e. housed and cared for outside of the <i>Land</i> collective housing centre. • Additional funds have been earmarked for 2011 to improve the living conditions in the <i>Land</i> collective housing centre.
North Rhine-Westphalia	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • Initial reception facilities are aligned to the needs of various groups of individuals (food and furnishings suited to religion and age, sanitary installations, nationality).
Mecklenburg-Western Pomerania	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • Uniform standards for housing and care of foreign refugees have been created, and these are inspected by the Office of Migration and Refugee Affairs.

<i>Federal Land</i>	<i>Measures</i>
Brandenburg	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • Projects for mobile at-home counselling support through information, counselling and conflict mediation (e.g. FaZIT project) • Day-care centre is available upon initial reception, nurse cares for children 24 hours a day. • Chapels for Christians and Muslims • Procedural counselling and support for voluntary returns • Interpreters/language mediators made available
Berlin	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • Housing places are adapted to personal needs, however rental of private housing is given preference. • Availability of information, training and newsletters, also with regard to minors • Additional clearing offices support minor-age refugees
Bremen	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • Language courses and homework tutoring for schoolchildren • Housing in joint facilities, then in private residential units after 36 months
Hamburg	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • The reception facilities of the <i>Land</i> comply with all relevant provisions.
Hesse	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • Housing in institutions of the local authorities (accordingly reviewed) • Special attention paid to unaccompanied minors (clearing office, full care) • Programme for integration in vocational and working life
Saxony-Anhalt	<ul style="list-style-type: none"> • <i>Ausreisezentrum</i> available, however no accommodation of minors • Clearing office for unaccompanied minors as well as support for a guardianship association for this group of individuals • Asylum-seekers and refugees are counselled and cared for by social welfare entities subsidised by the <i>Land</i>. • Day-care centre and nurse available in the initial reception facility

<i>Federal Land</i>	<i>Measures</i>
Lower Saxony	<ul style="list-style-type: none"> • <i>Ausreisezentren</i> available which far exceed the demands for equipment, care and provisions • Controlled inspections and adjustments made when required
Thuringia	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • Optimization of housing for refugees through the Thuringian Ordinance on Collective Housing and Social Affairs (<i>Thüringer Gemeinschaftsunterkunfts- und Sozialverordnung – ThürGUSVO</i>) dated July 2010
Baden-Württemberg	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • Refugee Reception Act (<i>Flüchtlingsaufnahmegesetz</i>) regulates reception, housing and care • Minors are cared for by the Youth Welfare Office. • Adherence to relevant minimum standards
Schleswig-Holstein	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available • Care of asylum-seekers by social welfare association • Special area for women and children • Qualified training/language support • Recreational programmes (film evenings, games, workshops, sport club)
Bavaria	<ul style="list-style-type: none"> • No <i>Ausreisezentrum</i> pursuant to section 61, subsection 2 of the Residence Act available (<i>Ausreisezentrum</i> in Fürth was closed at the end of 2009.) • Uniform guidelines for collective housing from April 2010 • Although initial reception facilities are not subject to these provisions, they are nonetheless adequately equipped. • There is a four-stage scheme for minor-age, unaccompanied refugees.

Reply to the issues raised in paragraph 20 of the list of issues

143. The Federal Republic of Germany does not have any official statistics concerning the number of homeless persons. Therefore — as previously reported — estimations are made by the publicly-funded *Bundesarbeitsgemeinschaft Wohnungslosenhilfe*. According to this, the following figures for the number of homeless persons are estimated:

- 2006: 256,000 persons (updated estimation compared to earlier figures of 254,000 persons)
- 2007: 242,000 persons
- 2008: 227,000 persons

- Estimations for 2009 and 2010 are not yet available

144. Concerning the question of evictions, according to the Third Report on Poverty and Wealth by the Federal Government of 2008, loss of housing among 15 per cent of persons affected by homelessness was caused by evictions due to unpaid rent, and among 16 per cent by other reasons.

145. As reported earlier, a court that receives a suit for eviction from living quarters in cases of termination of tenancy immediately notifies the competent local basic security benefits entity or social assistance entity or the office commissioned by it to administer tasks to secure housing. Unpaid rent can be paid on behalf of persons on a low income, unemployment benefit recipients or self-employed persons under the Twelfth Book of the Social Code if this is necessary to secure their housing, is justified and the person is otherwise at risk of homelessness. The benefits for individuals with an entitlement under the Second Book of the Social Code are provided only as a loan, and for beneficiaries and assistance seekers under the Twelfth Book of the Social Code as a grant or a loan.

146. The bailiffs' business statistics only contain the figures laid down nationally under the so-called "Bad Nauheim schedule" to ascertain bailiffs' business costs. This does not differentiate evictions in the compulsory enforcement measures. Therefore, there are no figures concerning evictions carried out since 2006.

147. When enforcing evictions, bailiffs must adhere to such rules as the Code of Practice for Bailiffs (*Geschäftsanweisung für Gerichtsvollzieher*), which came into standard national force in all *Länder* as per 1 April 1980. According to this Code of Practice, the bailiff must promptly notify the administrative authority responsible for housing homeless persons if it is anticipated that the evicted debtor will become homeless through enforcement of the eviction order. Subject to precisely-defined provisos, the bailiff is also authorised to delay the compulsory enforcement at short notice, for example if the compulsory enforcement measure would directly endanger the life or the health of the debtor or his/her family.

148. If the authority responsible for housing homeless persons assumes at its cost the previous living quarters of the debtor in full or in part for their preliminary housing, the bailiff must desist from the compulsory enforced eviction from the quarters.

Reply to the issues raised in paragraph 21 of the list of issues

149. Section 19, subsection 3 of the General Equal Treatment Act has not previously played any role in the counselling activities of the Federal Government's antidiscrimination office.

Article 12 – The right to physical and mental health

Reply to the issues raised in paragraph 22 of the list of issues

150. The entire population in Germany has had access to coverage against the risk of illness since 2007, whether through statutory or private health insurance or through special systems. Just under 90 per cent of all citizens in Germany are covered by statutory health insurance, for which contribution rates linked to income and co-payment restrictions ensure that no one is financially overextended. Another approximately 10 per cent of the population (civil servants, self-employed persons and higher-earning salaried employees) have substitutive private full-coverage health insurance. Health care for disadvantaged persons and socially disadvantaged groups is funded through social assistance.

151. Prior to 2007, approximately 0.2 per cent of the population did not have health insurance or had no other kind of coverage in case of illness for various reasons. The 2007 Health Reform created the conditions so that no one in Germany has since then needed to

go without health insurance protection. The new statutory compulsory insurance has applied since 1 April 2007 to those persons not otherwise entitled to coverage in case of illness, who are allocated to statutory health insurance. Since then, a total of more than 150,000 persons have been provided with health insurance protection on the basis of this revision. The revisions enacted by this reform also mean that private health insurance companies are obligated to grant to persons who are not otherwise entitled to coverage in case of illness, and who are allocated to private full-coverage, health insurance protection at the basic rate that all companies have had to offer since 1 January 2009. The scope of benefits covered by this rate is similar to that of statutory health insurance; in addition, the legal obligation to accept contracts applies here and exclusions and extra fees based on risk are not permitted. Additionally, there has been since 1 January 2009 an obligation to be insured for persons allocated to private full-coverage health insurance. The insurance protection must cover at least outpatient and inpatient health treatment.

152. The comprehensive benefit entitlements of the insured in Germany that are laid down by force of law are ensured through a broad array of medical services. In a European comparison, the German health care system continues to be distinguished by a high density of physicians, hospital beds and prevention and rehabilitation institutions. 326,000 physicians (139,300 of them in private practice), 84,400 dentists (approx. 55,200 of them in private practice), 2,083 hospitals with 503,400 beds, 1,239 prevention and rehabilitation facilities with 171,000 beds as well as 22,000 pharmacies ensure the provision of health care (data status per 2008).

153. Approximately 4.6 million persons are employed by the health system. Regional differences endure despite the generally high density of supply. This selective supply shortfall (primarily in rural regions) is currently the subject of public debate. However, the 2006 Amendment to the Law Governing the Activities of Physicians in Free Practice (*Vertragsarztrechtsänderungsgesetz – VÄndG*) and the 2007 reform resolved measures and created incentives to counteract any supply bottlenecks. Germany will examine what further measures are necessary.

154. All parties with statutory health insurance continue to have equal treatment entitlement regardless of their income or the contributions they pay, i.e. there are neither waiting lists nor regional or income-related inequalities. Therefore, access to health care, including the services of specialists, is provided equally and comprehensively by statutory health insurance for all of the insured members according to the principle of solidarity. Contribution ceilings continue to protect lower-income and chronically ill patients from excessive financial demands as long as co-payments are required by law. This ensures that no citizen need suffer social difficulties due to illness.

Reply to the issues raised in paragraph 23 of the list of issues

Children in psychiatric institutions

155. Paediatric psychiatry is an independent medical field in Germany with separate inpatient institutions and specialist departments. According to the figures from the health reporting system of the Federal Government, this field provided 5,168 inpatient beds in 133 specialist departments nationwide in 2008. The Federal Government does not know of any cases in which children are housed together with adults in psychiatric institutions.

Combating drug, alcohol and nicotine abuse among children

156. From Germany's standpoint, there is no "widespread abuse of addictive substances", either in relation to other EU States or in a worldwide comparison. This applies equally to both children and juveniles. Comparative figures can be extracted both from the EU drug reports of the EMCDDA and from the annual reports of the UNODC on the worldwide

drug situation. It would be instrumental if the ambiguous term “widespread” could be defined or the source of this claim cited.

157. The low prevalence in abuse of nicotine, alcohol and illegal drugs among children and juveniles is partly due to the extensive and diversified addiction prevention measures in place in Germany. Current activities in this sphere of activity can be found in the “Overview of drug and addiction prevention projects for children and young people” in annex 16.

Number of street children

158. The claim that there are increasing numbers of so-called “street children” does not apply to Germany. Hardly any “children” under the age of 14 are living on the streets in Germany; those who do are predominantly juveniles and young adults. Furthermore, there is no generally valid definition of “street children in Germany”, so that we cannot state whether the number of young persons living on the streets is increasing. So far, there are merely estimated figures of the number of young people living on the streets in Germany on the basis of quite differing and disparate definitions.

159. The Youth Welfare Offices and youth authorities in the Federal *Länder* as well as the nongovernmental agencies in the respective regions and local authorities are responsible as a matter of principle for providing assistance and care to children and juveniles “on the streets” and taking them into care in the scope of the Eighth Book of the Social Code (Child and Youth welfare Act [*Kinder- und Jugendhilfegesetz*]). Alongside these, there are assistance organizations working nationally that are committed to helping young people on the streets. Outreach programmes such as street work and drop-in centres offering opportunities for psychosocial counselling and medical as well as other basic services (meals, washing, showers, and beds) have proven successful. These programmes for young persons living on the streets have existed for over 20 years in many cities and regions in Germany for different target groups (e.g. only for girls or only for boys, for young people on the streets in general, but also for young prostitutes). There is evidence in many places in Germany that such personal assistance has helped the juveniles “on the streets” to stabilize their lives and gradually become integrated into other supportive programmes.

Reply to the issues raised in paragraph 24 of the list of issues

160. Mental health has become a great challenge for public health in Germany, as it has in most other highly-developed countries. The reasons for this are complex and require continued study. The health reporting system of the Federal Government at the Robert Koch Institute and the reinforcement of health services research within the Federal Government’s health research programme both contribute to these studies. In addition, the Federal Government relies on the implementation of suitable prevention and health promotion measures at the national, *Länder* and local levels and such measures by statutory health insurance. Since so-called work-related mental disorders are of particular relevance, the Federal Government ascribes special status to in-company health promotion.

161. The health care schemes of medical and scientific specialists according to the principles of evidence-based medicine continue to be refined and implemented by the stakeholders in joint self-administration, consideration being given to aspects of quality and efficiency. The Federal Government supports the necessary developments in health care with accompanying project and model funding.

162. The educational regulations for the medical and other healthcare professions include instruction in general knowledge of occupational studies, legal studies and civic education, under which this subject matter can be subsumed.

Reply to the issues raised in paragraph 25 of the list of issues

163. Insured persons are entitled to medical care during pregnancy and during and after childbirth, including examinations to ascertain pregnancy and care of pregnant women as well as to midwife care. Medical care also encompasses counselling pregnant women on the importance of oral health for mother and child, including on the links between nutrition and the risk of disease as well as understanding or determining the risk of the transmission of caries.

164. Insured persons are entitled to medical counselling on issues of contraception. Medical counselling also includes the required examination and prescription of contraceptives. Until the age of 20, insured persons are entitled to be supplied with contraceptives if prescribed by a physician.

165. In addition to medical services promoting sexual and reproductive health, Germany provides pluralistic, nationwide pregnancy counselling services.

Under the Act on Assistance to Avoid and Cope with Conflicts in Pregnancy (*Schwangerschaftskonfliktgesetz – SchKG*), patients have a comprehensive entitlement to information and psychosocial counselling in particular:

- (a) For all questions directly or indirectly pertaining to pregnancy;
- (b) Concerning existing family benefits and assistance for families and children, including specific rights in working life;
- (c) Concerning preventive medical checkups during pregnancy and the costs of childbirth;
- (d) Concerning social and economic assistance for pregnant women, in particular financial benefits as well as assistance in the search for or keeping of housing, jobs or training positions;
- (e) Concerning possibilities for assistance for persons with disabilities and their families available before and after the birth of a physically, mentally or emotionally impaired child;
- (f) Concerning solutions to psychosocial conflicts arising from pregnancy.

166. The entitlement to counselling in the scope of general counselling for pregnant women also encompasses aftercare after the birth of a child or after an abortion. Applications can also be made at the pregnancy counselling offices for financial assistance from the federal “Mother and Child – Protection of the Unborn” foundation.

167. Pregnancy counselling offices have an important function in networking health care and child and youth welfare, for they are frequently the first contact points for overburdened, socially disadvantaged pregnant women.

168. It is the responsibility of the *Länder* to provide a sufficiently pluralistic range of counselling offices.

169. The promotion of sexual and reproductive health is supported by measures of the Federal Government, some of which are carried out in cooperation with the Federal Centre for Health Education (*BZgA*). The Centre’s primarily mass-media-based and individual communicative measures aim to enable men and women, girls and boys to make self-determined, health-conscious, informed decisions concerning family planning and contraception. The media and measures in the field of family planning and sexual education are being further developed with increased cultural sensitivity and special consideration to difficult-to-reach groups with social disadvantages and migration backgrounds.

Articles 13 and 14 – The right to education

Reply to the issues raised in paragraph 26 of the list of issues

School dropouts

170. There are no figures compiled on school dropouts in the classical sense. Instead, persons leaving general-education schools without a compulsory school (*Hauptschule*) certificate are illustrated, broken down by *Länder*, in annex 17 (excerpt from the Statistical Publication of the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* No 190 *Schüler, Klassen, Lehrer und Absolventen 2000 bis 2009*, – SKL 2009 (Pupils, Classes, Teachers and Graduates 2000–2009)). SKL 2009 does not break down pupils by gender and ethnic affiliation. In the Federal Statistical Office publication *Fachserie 11 Reihe 1*, school-leavers are broken down by *Länder*, type of school, gender, German and foreign leavers (see annex 18). For ethnic origin, we can refer to the 2010 Report on Education, which reports on school-leaving certificates according to migration backgrounds on page 92 et seq. (see annex 19). However, the Report on Education also does not disaggregate according to *Länder*, gender and the respective ethnic groups.

Number of pupils by types of school

171. Pupils broken down by school types and *Länder* are contained in annex 20 (excerpt from “SKL 2009”). Here too, a breakdown by gender and German and foreign pupils is only done in *Fachserie 11 Reihe 1* (see annex 21). Again, we refer to the Report on Education with regard to ethnic origins. It reports on social disparities by school types attended on page 65 et seq., as well as in the annexed table on page 247 (see annex 22). The Report on Education does not break pupils down by *Länder*, gender and their respective ethnic groups.

Measures taken to reduce the number of students who finish school without a diploma

172. Most recently, the Federal Government and the *Länder* have dealt with issues on reducing the number of school dropouts and, closely related to this, with restructuring and more efficiently devising transitional systems in various contexts.

173. In their Qualification Initiative for Germany (QID), the Federal and State Governments are jointly committed to reduce the school dropout rate by half by 2015 and to enable every juvenile to obtain a school and vocational certificate. In 2008, the number of school leavers without lower secondary school certificate reached 65,000, which is 7.5 per cent of the relevant age group 15–17. In 2006, the corresponding figure was 7.9 per cent; in 2004 it stood at 8.5 per cent. Corresponding accompanying measures were set down in the Qualification Initiative. These aim, for instance, for a distinct reduction in the number of school dropouts by creating stronger links between school and practical experience, targeted enhancement of supportive instruction for young persons who are unable to reach the required level of skill in their academic performance, as well as improvement in the transition from school to vocational training.

174. The Training Pact adopted in 2004 by the central industrial organizations and the then-Federal Government aims to offer a training place to all young persons who are willing and able to be trained. The Training Pact for 2010 to 2014, which was agreed in October 2010 with the Standing Conference of the Ministers of Education and Cultural Affairs and the Integration Commissioners of the Federal Government as the new partners of the Pact, focuses more strongly on underperforming juveniles in order to better develop their potentials. The focus is therefore on, in particular, juveniles with migration backgrounds, on unplaced applicants from previous years as well as on juveniles who have learning disabilities or are socially disadvantaged or disabled.

175. The Standing Conference agreed in March 2010 on a joint support strategy aimed at decisively promoting measures supporting underperforming pupils. This strategy pursues the objective of improving advancement for this group to significantly reduce the number of pupils who do not achieve a minimum level of skills on completing their education. In doing so, the chances for all pupils to receive a diploma can be increased as well as their successful participation in vocational and social life.

Individual diagnosis, documentation of individual levels of performance and courses of development

176. The *Länder* have undertaken intensive efforts in recent years to establish diagnostic methods as the basis for individual advancement. These include language-skill assessments prior to school enrolment, learning level surveys upon beginning school as well as learning progress assessments, comparative or orientation tests, skill analyses in the various forms of primary school and lower secondary level as well as further instruments for individual diagnosis. Based on these, the necessary individual advancement measures can be initiated, which are systematically developed in individual learning or advancement plans.

Individual counselling, support and monitoring

177. Counselling and monitoring of underperforming pupils' individual educational process is realised through such measures as the deployment of teacher-counsellors, the development of (pupil-specific) advancement plans and work with learning target agreements. Supplemental support is given to the pupils for example through juvenile social work at schools and school-internal educational help in the form of individual case assistance and group training.

Targeted advancement of pupils with special needs

178. The *Länder* organise targeted advancement of pupils with special needs not only in the scope of performance-differentiated regular lessons, but also with additional support. This leads, for example, to supportive instruction for pupils in the core subjects of mathematics, German or the first foreign language as well as supplementary language assistance. In recent years, the *Länder* have set up the organizational, financial and staffing prerequisites and general conditions for this.

Language-learning support

179. Mastery of the German language is considered key to a successful school and vocational career for children and juveniles and is an important prerequisite for their social participation. The diverse initiatives for language-learning support in the *Länder* range from methods for preschool language-skill assessments such as *DELFIN 4*, language development monitoring such as *SISMik – Sprachverhalten und Interesse an Sprache bei Migrantenkindern in Kindertageseinrichtungen* (Language Behaviour and Interest in Language among Migrant Children in Child Day-care Facilities) and *SELDAK – Sprachentwicklung und Literacy bei deutschsprachig aufwachsenden Kindern* (Language Development and Literacy among Children Raised Speaking German) to language-learning support at primary and lower secondary school level, for instance in German remedial courses or classes, as well as in native-language lessons, all the way to vocational field-related and subject-related language-learning support in vocational preparation and at vocational schools.

180. The research initiative for linguistic diagnosis and language-learning support in the Framework Programme for the Advancement of Empirical Education Research (*Rahmenprogramm zur Förderung der empirischen Bildungsforschung*) compiles and provides substantiated knowledge to support and advance children and juveniles with and

without migration backgrounds in acquiring and using complex linguistic skills according to their language and development levels. In addition, the Federal Ministry of Education and Research is preparing a research programme on language-learning support in coordination with the *Länder* and the departments. The programme's objective is to promote compulsory, nationwide, comparative language-level testing for all children aged four and, if necessary, compulsory targeted pre-school language-learning support as well as further-reaching, lesson-related language programmes (through assured knowledge).

Advancement of children and juveniles with migration backgrounds

181. The 2007 joint declaration of the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* and of the organizations of persons with migration backgrounds *Integration als Chance — gemeinsam für mehr Chancengerechtigkeit* (The Opportunity of Integration — Working Together for More Equal Opportunities) agreed measures implementing the National Integration Plan, for example to improve cooperation between parents and educational facilities as well as to inform parents of the significance of early childhood education, of support measures and educational pathways. The educational opportunities open to children and juveniles with migration backgrounds cannot be improved solely by means of educational policy measures, therefore cooperation with partners from the fields of youth, families, labour or industry are increasingly sought. The relevant voluntary commitments for this have been set down in the National Integration Plan.

Steps taken to integrate children with disabilities into mainstream education

182. Last year, the *Länder* forcefully dealt with further development of special-education advancement and implementation of the United Nations Convention on the Rights of Persons with Disabilities. With the resolution of the Standing Conference of the Ministers of Education and Cultural Affairs dated 18 November 2010, they passed a fundamental contribution to the pedagogical and legal aspects of the implementation of the Convention in school education (see <http://www.kmk.org/bildung-schule/allgemeine-bildung/sonder-paedagogische-foerderung.html>), which focuses on the rights of children and juveniles with disabilities to education and expanding joint learning of children and juveniles with and without disabilities.

183. Furthermore, at a professional congress held by the Standing Conference in Bremen in autumn 2010, professionals from schools, associations, academia and the political arena discussed pedagogical and legal aspects of the practical implementation of the UN Convention on the Rights of Persons with Disabilities in German schools. Their expertise will be input in a joint *Länder* recommendation which is scheduled to be passed this year. Public hearings on the delegates' draft have been held since mid-February.

Reply to the issues raised in paragraph 27 of the list of issues

184. All of the *Länder* in the Federal Republic of Germany regard education in respect for human dignity as a substantial duty and fundamental objective of schools. Since human rights education is regarded as a principle of schools and instruction in general, it is not the object of a separate subject or taught only in specific class levels, but the subject matter is firmly anchored in the curricula of the pertinent subjects of all school types and school levels and is additionally realised in numerous extracurricular projects and initiatives. In this way, human rights education is placed on broad foundations in the Federal Republic of Germany.

185. The curricula drafted by the *Länder* determine in which subjects and for how many annual hours per week special emphasis can be and is laid on the above subject matter. It can be found in particular in school subjects such as religion, ethics, philosophy, history,

civics, social studies and even in economics/politics, geography and German. Hence, the subject matter is somewhat differently distributed than in Anglo-Saxon curricula.

186. The objective of human rights education in schools is the development of esteem, tolerance and respect for other cultures, as well as a fundamental responsibility towards society. On this foundation, schools enable the free development of each individual's personality and attempt within the scope of their capabilities to counteract inequalities in opportunities, as well as to eliminate disadvantages.

187. The website <http://www.kmk.org/bildung-schule/allgemeine-bildung/faecher-und-unterrichtsinhalte/weitere-unterrichtsinhalte/menschenrechtsbildung.html> contains a detailed and extensive compilation on the anchoring of human rights education in the school legislation of the *Länder*, the prescribed extent of hours taught in the individual subjects, the assistance provided by school administrations, the school books used, the role of human rights education in the school programmes and cooperation with out-of-school partners.

188. In its most recent agreements, the Standing Conference of the Ministers of Education and Cultural Affairs adopted resolutions concerning the overall range of topics which will be implemented in provisions by each of the *Länder*. These include:

- (a) Strengthening democracy education (Resolution of the Standing Conference dated 6 March 2009);
- (b) European education in schools (Resolution of the Standing Conference dated 8 June 1978, updated 5 May 2008);
- (c) Orientation framework for the field of Global Development (June 2007).

189. The Federal Ministry of Education and Research funds the nationwide school competition "*Demokratisch handeln*" (democratic action), which awards prizes to exemplary school and extracurricular initiatives and projects for democratic education.

Reply to the issues raised in paragraph 28 of the list of issues

190. Up to now, school materials that are absolutely necessary for school attendance must be granted to benefit recipients under the Asylum-Seeker Benefits Act as a discretionary benefit according to section 6, subsection 1, third alternative, of the Asylum-Seeker Benefits Act (Benefits Covering the Special Needs of Children). At present, assessments are being made as to whether, in future, pupils should be furnished with personal school materials in the form of a lump-sum mandatory benefit. This would correspond to the provision contained in the Second Book of the Social Code – Basic Security Benefits for Job-Seekers (*SGB II*), under which pupils receive a total of € 100 per annum for personal school materials. The relevant legal amendments would likely be made in 2011 in the scope of the legislative procedure for the revision of social benefits for asylum-seekers.

191. In a relevant survey, none of the 16 *Länder* reported cases of children of asylum-seekers having difficulties attending school due to the geographical remoteness of a reception facility.

- (a) As a city-state, Hamburg has such a dense public transport system that schools with preparatory classes as well as schools of all types are easily reachable. Primary schools are usually reachable by foot. Pupils fulfilling the requirements of the pupil transportation expenses provisions receive pupils' tickets;
- (b) In the Saarland there are no reception facilities that are not in close proximity to schools;

(c) School attendance is compulsory for children of asylum-seekers in the Free State of Saxony; this also entails an obligation to ensure their transport to school;

(d) Special busses are employed to ensure school attendance for school-age children of German families living in remote regions in Thuringia. Of course, these school busses are also made available to children with asylum-seeking parents.

192. We refer to the enclosed annex 23 for information regarding measures by the *Länder* for reducing the financial burden of asylum-seeking parents in conjunction with school materials.

Reply to the issues raised in paragraph 29 of the list of issues

193. The right to school education for children of asylum-seekers and of foreigners whose deportation has been temporarily suspended exists in all of the *Länder*. Furthermore, these children are required to attend school in the overwhelming majority of the *Länder*.

194. Authorities, institutions and citizens are committed to providing these “refugee children” as much support as possible. Their situation has been considerably improved, in particular also with regard to access to school and to vocational educational programmes, in the period under report: With the exception of Hesse, school attendance is now also compulsory in all of the Federal *Länder* for children whose deportation has been temporarily suspended and those still going through the asylum process. Associations such as the Federal Association for Unaccompanied Minor Refugees (*Bundesfachverband Unbegleitete Minderjährige Flüchtlinge*) particularly advocate the interests of unaccompanied minors in Germany.

195. The situation has been improved for children without proper papers. The general administrative rules contained in the Residence Act (*Aufenthaltsgesetz*) were amended in 2009 to elucidate that the staff of schools and school authorities of the immigration authority must only notify illegal residence if inquiries concerning status under immigration law or the existence of a registration card are among their official duties. Whether this is legally the case differs from *Land* to *Land*. In some *Länder* (e.g. Hesse and Berlin), presentation of registration cards is expressly waived with regard to children without proper papers so that these children can be registered for school without the parents needing to fear this leading to their detection.

Reply to the issues raised in paragraph 30 of the list of issues

196. According to the allocation of rights and duties of the Basic Law, the decision to charge and the amount of higher-education tuition fees is the responsibility of the individual *Länder*. Currently, five *Länder* in Germany — Bavaria, Baden-Württemberg, Hamburg, Lower Saxony and North-Rhine Westphalia (where it was abolished by cabinet decision as per winter semester 2011/2012) — charge general higher-education tuition fees at a maximum of € 500 per semester. The fee amounts have not changed since they were introduced. The *Länder* which charge higher-education tuition fees have enacted provisions that make it possible to exempt or release students from the fee obligation (e.g. for students with children, for those with health impairments, for students with two or more siblings). In addition, each of these *Länder* also offers low-interest loans regardless of parental income alongside the higher-education tuition fees to make them more socially acceptable.

Article 15 – Cultural rights

Reply to the issues raised in paragraph 31 of the list of issues

Asylum-Seeker Benefits Act

197. The assessment of the social benefit rates for asylum-seekers laid down in the Asylum-Seeker Benefits Act (*Asylbewerberleistungsgesetz – AsylbLG*) will also encompass the assessment of benefits that ensure the so-called socio-cultural subsistence level. A statutory revision of the social benefits for asylum-seekers is likely to take place in 2011.

Consequences of the Act on the Assessment of the Standard Requirements and Amending the Second Book of the Social Code and the Twelfth Book of the Social Code

198. The Mediation Committee agreed on 23 February to a reassessment of standard requirements and to an amendment of the Second and Twelfth Books of the Social Code. The Federal Parliament and the Federal Council concurred with the result in a special session held on 25 February 2011.

199. The Act implements the judgment of the Federal Constitutional Court dated 9 February 2010, by which the Court ordered the legislature to reassess the standard benefits according to the Second Book of the Social Code and the Twelfth Book of the Social Code in line with constitutional requirements. The Court's judgment did not object to the amount of the standard rates, but to the untransparent manner in which the standard rates are determined. It set the legislators a deadline to carry out this reassessment by 31 December 2010.

200. The Act implements the requirements of the Federal Constitutional Court for reassessment of the standard rate by:

- (a) Transparently and comprehensibly recalculating the standard requirements for adults and children on the basis of the 2008 Sample Survey of Household Income and Expenditure (*Einkommens- und Verbrauchsstichprobe*);
- (b) Ascertaining child-specific requirements for the first time;
- (c) Adjusting the standard requirements using a combined index of standard rate-relevant price trends (70 per cent) and net wage trends (30 per cent) in the years in which no reassessment of the standard requirements is carried out on the basis of a new Sample Survey of Household Income and Expenditure.

201. Six new standard requirement levels are planned to come into effect in future: The standard rate for single persons and single parents (standard requirement level 1) will be raised retroactively by five Euros as per 1 January 2011, and by another three Euros on 1 January 2012, the latter increase if one takes the changed adjustment periods into consideration (1 January rather than 1 July previously). Notwithstanding this development, the standard requirement levels will also be updated as per 1 January 2012 as scheduled on the basis of the wage and price trends between July 2010 and June 2011 compared to the same period of the previous year.

202. Educational and participatory benefits for children and juveniles are a fixed element of the upcoming reform. In its decision dated 9 February 2010, the Federal Constitutional Court also enhanced the rights of children. The Court guaranteed them education and participation in society as part of the subsistence level and required that the State pay greater attention to this. As a consequence of this decision, children and juveniles will be given more targeted support.

203. The following seven targeted benefits for children and juveniles in families receiving long-term unemployment benefit II, supplementary child allowance or housing allowance will therefore be provided retroactively as of 1 January 2011:

- (a) Costs of one-day school or day-care excursions;
- (b) Benefits for school trips of several days' duration;
- (c) Benefits for school supplies amounting to € 70 as of 1 August and € 30 as of 1 February;
- (d) Costs for pupil transportation, if necessary and not already covered by third parties;
- (e) Benefits for tutoring in the school environment, subject to certain provisos;
- (f) Extra costs for collective school lunches;
- (g) A monthly participation package amounting to € 10 for social participation.

204. In order to ensure that the educational and participatory benefits actually reach the children, with the exception of those for school supplies and travel to school, the benefits will be provided as benefits in kind and services, i.e. in the form of vouchers and direct payments.

205. The local authorities are the providers of the educational and participatory benefits. The educational package is funded by the Federal Government. The compensation volume paid to the local authorities is € 1.6 billion (beginning in 2014: € 1.2 billion) per year (including administrative costs and hot water costs).

Access to cultural assets and respect for the cultural diversity of ethnic groups

206. Cultural education is a central focus of cultural policy in the Federal Republic of Germany. It creates a basic foundation for access to the arts and to culture, since participation in cultural life is part of active involvement in society. The studies on poverty in Germany now being debated rightfully point out that poverty is not merely a material problem in our nation. In fact, poverty in Germany is frequently accompanied by social and cultural exclusion; it stems from a lack of participation in education and culture. For this reason, the governing parties' current Coalition Agreement cited as its overarching cultural policy objective to facilitate "in co-operation with the federal states (*Länder*) ... access to cultural activities irrespective of financial standing or social background. Cultural education is also a way to promote integration."*

207. Due to the federal structure of the Federal Republic of Germany, however, the responsibility for cultural support is primarily that of the *Länder*. The latter adopted a recommendation at their Standing Conference of the Ministers of Education and Cultural Affairs on 1 February 2007, concerning cultural child and youth education. The essence of this recommendation is to propose a joint agenda for all social forces involved in cultural child and youth education to promote the cultural skills of youth in spite of scant public funds. Here, the task of policymakers is to improve or create the framework conditions for the involvement of the individual initiatives, to ensure the sustainability of suitable approaches by means of tangible governmental measures, and to take up a role model function. At present, work is being done to more closely define this recommendation. It is the objective of the Federal Government to provide targeted support to the *Länder* and local

* Translator's note: English translation of "The coalition agreement between the CDU, CSU and FDP for the 17th legislative period", p. 134 (<http://www.cdu.de/doc/pdfc/091215-koalitionsvertrag-2009-2013-englisch.pdf>). Retrieved on 29 March 2012.

authorities for activities in this regard. For this, it is necessary to understand cultural education as a cross-sectional responsibility that is part of the core mission of each cultural institution and each cultural project. An increased focus will be put on those target groups whose cultural participation has been inadequate to the present. This means that persons from socially disadvantaged segments of society who are out of reach of the educational process will become the particular focus of cultural support, contributing to more equal opportunities by means of targeted communication.

208. The Standing Conference of Ministers of Youth and Families (*JFMK*), held in Bremen on 4–5 June 2009, also produced a resolution on cultural child and youth education. The youth and family ministers and senators of the *Länder* consider programmes in cultural youth education opportunities to better reach the previously hard-to-reach target group of children and juveniles with migration backgrounds as well as children and juveniles from socially disadvantaged families and families with little access to the educational process. In their resolution, they call upon the agencies and entities operating in the field of cultural youth education to design schemes specifically addressing this target group.

209. The activities of the Federal Government Commissioner for Culture and the Media (*BKM*) in this context have focussed on the following measures in recent years:

(a) Since 2008, all cultural facilities that are funded on a sustained basis have been called upon by the Commissioner in their payment notifications to allot special status to persons who have previously taken little or no advantage of the programmes offered by public cultural facilities and to ensure that their supervisory bodies reconsider and review the quality of their cultural mediation on a regular basis;

(b) The Minister of State for Culture has offered an additional award of € 60,000 for cultural education since 2009. The selection criteria include focusing on target groups that have previously had little or no access to the programmes of the public cultural facilities. This particularly also benefits children from disadvantaged and marginalized segments of society.

(c) The Commissioner has also been providing financial support since 2010 to cultural and arts mediation projects all over the country that serve as a model. The funding criteria also include orientation of these projects to those groups of individuals that have virtually no access to relevant cultural programmes. One million Euros per year are earmarked for this in the medium-term financial budget of the Federal Government Commissioner for Culture and the Media;

(d) The Genshagen Foundation, funded by the Commissioner, has been engaged in European exchange in cultural education since 2009, both by implementing actual cooperation projects and through the cross-border exchange of experts and knowledge transfer.

210. In addition, the Federal Government Commissioner for Culture and the Media and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth promote a large number of competitions, awards and projects that especially benefit children from disadvantaged and marginalised segments of society. Not least, persons with different ethnic roots also profit from these.

211. Besides various contests, the Federal Ministry of Education and Research (*BMBF*) promotes:

(a) Individual cultural projects devoted especially to enhancing the educational participation of disadvantaged children and juveniles in the cultural sector (e.g. *InPop*) or to ensuring respect for the cultural diversity of ethnic groups (e.g. *Schulen im Dialog*);

(b) Academic production of strategies and actions in the cultural sector for improving the participation of disadvantaged persons in relevant educational programmes. The 2012 Federal Report on Education, with its focus on Cultural Education, will provide important stimulus for this;

(c) Structural development of the educational system at the local level with the *Lernen vor Ort* programme, which involves the cultural sector as well as all other educational sectors and which is key to the creation of greater equity in education.

212. We would furthermore like to point out that these activities in Germany are also linked to pan-European activities. 2010 was the European Year for Combating Poverty and Social Exclusion. The European culture and media ministers passed corresponding Council conclusions concerning on 18 November 2010 “The contribution of culture to the fight against poverty and social exclusion”. The objective of these Council conclusions is the Europe-wide fight against disadvantages caused by poverty and social exclusion as well as sensitisation to their causes and effects. Cultural education is also a focal issue in a European context.

213. We note the following with regard to participation and access to cultural monuments and cultural sites.

214. Historic cultural monuments and cultural sites such as publicly owned museums or museums owned by private non-profit institutions are open to the general public. The same also applies to many privately-owned cultural monuments, although the owners are not obligated to grant access to them. Special cultural events underscore the significance of the protection of cultural heritage and access to it. These include the *Tag des offenen Denkmals* (Open Monument Day) in the scope of the European Heritage Days or the *Lange Nacht der Museen* (Long Museum Night), offering access to local cultural institutions outside normal opening hours. Germany has taken part in the *Tage des offenen Denkmals* since 1993. These days also offer opportunities to view cultural monuments that are otherwise not accessible. An event calendar is published for this purpose every year, containing opening hours and guided tour times. The *Tag des offenen Denkmals* programme is accompanied by reports in the local and regional media. Such events are intended to sensitize the public to the importance of cultural heritage. It is a declared objective of the Federal Government to join with the *Länder* in facilitating access to cultural programmes regardless of a person’s financial situation and social origin, and to intensify activities in the sector of cultural education.

215. Protection of national minorities in Germany encompasses special cultural rights for the respective population groups (education, language, access to cultural heritage). The Framework Convention for the Protection of National Minorities, which came into force in Germany on 1 February 1998, and the European Charter for Regional or Minority Languages, which came into force in Germany on 1 January 1999, ensure protection and advancement for the national minorities in Germany and the Low German language group protected by the Language Charter. The recognized national minorities in Germany are the Sinti and Roma, the Sorbs, the Danes and the Frisian ethnic groups. In addition to the minority languages, the only other language under the protection of the Language Charter in Germany is Low German. On the basis of these legal foundations, the national minorities and the Low German language group are supported — by the responsible Federal *Länder*, which bear primary responsibility, but also by the Federal Government — in preserving their languages and perpetuating their cultures and traditions. For the Federal Government, this support expresses the conviction that the national minorities make a major contribution to Germany’s cultural diversity and its cultural assets.

216. In the scope of the National Integration Plan, Chapter 6 on “Culture and integration” contains objectives for better integration of people with migration backgrounds. The

National Integration Plan is currently being upgraded to an Action Plan with clearly-defined and monitored objectives.

217. Intercultural education is an established element of the curricula of the *Länder* and additionally frequently anchored in the school programmes. Furthermore, aspects of intercultural education are increasingly integrated in the educational programmes of the *Länder* for teacher training.

218. In the joint declaration *Integration als Chance – gemeinsam für mehr Chancengerechtigkeit* (The opportunity of integration – working together for more equal opportunities) (resolution by the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* in the Federal Republic of Germany dated 13 December 2007), the ministers of education and culture agreed to advocate anchoring intercultural learning more strongly than before in lessons and in extracurricular activities. The organizations of people with migration backgrounds have pledged to support the educational facilities in shaping intercultural school life. This also includes increased participation in school life by parents. The parties of the joint declaration are aware that intercultural skills must be adopted as a learning target in curricula and educational plans, and that awareness of the important events of all cultures are part of intercultural school life.

219. The ministers of education and culture recommend that all schools, in particular those with a large percentage of pupils with migration backgrounds, develop special profiles with regard to their intercultural character and set down these objectives in school programmes and internal school curricula. The languages of the migrants could also play a special role as regular school subjects in this context.

220. In the contribution of the *Länder* to the National Integration Plan (2007) as well as in the above-mentioned joint declaration, the *Länder* stress the importance of German as the language of instruction and pledge to grant to all children demonstrating deficiencies in German language skills the advancement they need to enable them to take equal part in lessons and education.

221. In addition to acquiring German language skills, the *Länder* also recognize the importance of multilingualism for all children and juveniles. This includes the inherited and family languages of children and juveniles with migration backgrounds. The *Länder* have pledged to suitably establish the principle of multilingualism in everyday school life.

222. Germany acceded to the Council of Europe's European Charter of Regional and Minority Languages in 1998 and applies this agreement to Danish, Frisian, Sorbian, Romany and Low German. The children of the Danish minority in Schleswig-Holstein can attend privately-maintained *Ersatzschulen* (alternative schools) instead of the general education schools of the public sector, as long as the educational objectives of these schools essentially correspond to those of the school types provided for in the Schleswig-Holstein Education Act (*Schulgesetz*). Lessons in these schools are taught in Danish. As a rule, German is a compulsory subject as of grade 2. Children of ethnic Sorbian descent in the settlement area of the Sorbs in Brandenburg and Saxony, in particular, have the opportunity of learning Sorbian at Sorbian or other schools and are also taught in Sorbian in certain subjects as well as at certain grades or levels of education. All schools in Saxony and those in the Sorbian settlement area in Brandenburg also impart a basic knowledge of Sorbian history and culture. Parents may decide freely whether their children are to attend the Sorbian schools where Sorbian is a compulsory subject and sometimes also the language of instruction. Romany, the language of the German Sinti and Roma, as well as Frisian and Low German in the *Länder* of Northern Germany, are also catered for to varying degrees in schools, higher education institutions and in adult education.