



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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Committee on the Elimination of Discrimination  
against Women (CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States parties

FEDERAL REPUBLIC OF GERMANY

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Convention of the United Nations on the Elimination of  
All Forms of Discrimination against Women  
Report of the Federal Republic of Germany

B a s i s

(1) The Government of the Federal Republic of Germany attaches major importance to the elimination of all forms of discrimination against women. This view is shared unconditionally by all social and political groups in the Federal Republic of Germany.

(2) In 1985, the Federal Republic of Germany ratified the Convention on the Elimination of All Forms of Discrimination against Women, dated 18 December 1979, in order also to demonstrate in contractually binding form its contribution towards equal rights for men and women throughout the world. The Act was promulgated in the Federal Law Gazette on 25 April 1985 and came into force on the following day. The Convention was ratified with the proviso that Article 7, letter b of the Convention should not be applied, insofar as it contradicts Article 12 a, Para. 4, second sentence, of the Basic Law. Apart from this restriction, the provisions of the Act (and thus of the Convention) are directly enforceable law.

(3) The obligations to be derived from the Convention correspond to the declared policy of the Federal Government of turning the equal rights of women and men into a social reality. The Federal Government is countering remaining discrimination with a package of measures in the individual spheres of life.

(4) The Federal Republic of Germany is submitting its first report in accordance with Article 18 of the Convention. It provides a detailed description of the legislative, judicial, administrative and other measures adopted with the aim of achieving equal rights for women.



Part I: L i v i n g   c o n d i t i o n s   o f  
w o m e n   i n   t h e   F e d e r a l  
R e p u b l i c   o f   G e r m a n y

1.   Legal and political background conditions

(5) In view of their major social importance, fundamental provisions on the equal rights of men and women have been included in the constitution, that is to say in the Basic Law of the Federal Republic of Germany, dated 23 May 1949. Article 3, Para. 2 states:

"Men and women shall have equal rights".

(6) Furthermore, Article 3, Para. 3, of the Basic Law affords protection against discrimination by specifying that no one may be prejudiced or favoured "because of their sex".

(7) Article 3 of the Basic Law belongs to the basic rights guaranteed in the constitution and, therefore, to the provisions which, as specified in Article 1, Para. 3, of the Basic Law, bind the legislature, the executive and the judiciary as directly enforceable law. This means that Article 3 contains - like the other basic rights in the Basic Law - not simply a programmatic statement, but that it is legally binding. Every national or foreign citizen is equally entitled to invoke Article 3 of the Basic Law. Parliaments, administrative authorities and courts are obliged to give direct consideration to this basic right (and all other basic rights) in all decisions taken by them.

(8) Since family law, in particular, did not comply with the requirement for equal rights when the Basic Law came into force, and since wide-ranging amendments were necessary, the temporary ruling of Article 117, Para 1, of the Basic Law ordered that law which conflicted with Article 3, Para. 2, of the Basic Law should remain in force, allowing the legislature a period up to 31 March 1953 to make the necessary adaptations of the national law. When it proved impossible to adapt the legislation within this period, the equal rights of the sexes in matrimonial and family law was implemented by judicial law due to the direct applicability of Article 3, Para. 2, of the Basic Law until entry into force of the Equal Rights Act on 18 July 1957.

2. Economic and social background conditions

(9) Regardless of the tense situation in the labour market, the gainful employment of women has continued to increase over the last few years. Thus, the number of gainfully employed women rose from 9.6 million in 1975 to approx. 9.9 million in 1986 (+ 268,000 or 2.7%), while the number of gainfully employed men fell by roughly 1.8% over the same period. The share of women in the total working population increased from 37.2% in 1975 to 38.3% in 1986. The employment ratio of women (share of employed persons, i.e. gainfully employed and unemployed persons aged between 15 and 65 years, in the corresponding resident population) rose from 49.0% in 1960 to a value of 52.7% in 1985, following a drop to 46.2% in 1970 (the figure for men fell from 94.9% to 81.9%).

(10) The number of women engaged in employment subject to social insurance contributions also rose from 7.7 million at the end of 1978 to approx. 8.4 million (+ 8.3%) at the end of 1986, the figure for men declining from 12.6 million to 12.4 million (- 1%).

(11) There was a pronounced increase in part-time employment. While roughly 1 million persons were engaged in part-time employment in 1960, the figure had already risen to some 3.1 million by 1984. Some 93% of this total are women. The number of women in part-time employment subject to social insurance contributions increased from 1.4 million on the annual average for 1978 to over 1.8 million at the end of 1986.

(12) The growth in employment in the years 1983 to 1986 mainly benefited women, with an increase of some 281,000 (63.3%). The number of employed men only rose by roughly 174,000 (36.7%). This development was favoured by the growth in employment in the service industries and retail trade, together with the fact that the branches of industry traditionally employing a high percentage of women, such as the electrical engineering industry and manufacturers of electronic data processing equipment, took on a particularly large number of new employees.

(13) In 1985, the number of gainfully employed women increased far more rapidly than would have been expected on the basis of population growth. This indicates a clearly growing inclination for women to enter into gainful employment.

(14) Despite the fact that the number of working women is growing more rapidly than that of men, the unemployment ratio of women has for many years been higher than that of men. In 1986, it was 10.5%, as compared to 8.0%

for men. There are various reasons for this situation. In addition to the general lack of jobs, the main causes are the continuing concentration of women on a relatively narrow spectrum of "typical" women's occupations, the above average number of semi-skilled and unskilled women, the insufficient number of part-time employment posts, as well as prejudices and reservations in relation to working women, particularly working wives.

(15) The higher unemployment level among women can no longer be attributed solely to poorer qualifications. Both the educational and occupational qualifications of women have increased considerably in the last 20 years. The improved qualifications were accompanied by an improvement in the occupational status. There are fewer younger women than older in unskilled employment.

(16) Of the women aged between 25 and 35 years in 1985, 58.0% had completed an apprenticeship or training period (for comparison: 26.2% of all women over 65 years of age). The number of female trainees in the dual system (i.e. training company and vocational school) rose from 35.4% in 1975 to 41% in 1986.

(17) Since 1980, there has been a tendency of female trainees not to concentrate on just a few occupations. In 1985, 67.9% of the women were training in the 15 most frequently chosen occupations, this being 3.8% less than in 1980 (for comparison: 48.2% of male trainees, or -2.6%).

(18) A major contribution towards this development was made by a wide-ranging model programme of the Federal Government for training young women in industrial and technical occupations, as well as corresponding promotion programmes in most of the Federal Laender. In 1977, one

year before the start of the Federal programme, only 2.6% of all female trainees were learning a so-called "man's occupation" (less than 20% women); by 1986, this figure had already risen to 8.2%.

(19) The positive experience gained with the model programme is being intensified by means of target-oriented public relations work and various regional measures for wider implementation of the results. There has since been a pronounced increase in the number of women applying for training posts in "man's occupations". Similarly, the companies have become more willing to train young women in what were previously atypical occupations.

(20) Unfortunately, it has been found that the young women trained in "man's occupations" sometimes have difficulties in crossing the so-called second threshold, that is to say the transition from training to full employment. Consequently, the Federal Government is using every possibility open to it in its attempts to eliminate the difficulties encountered by young women with industrial and technical training when trying to find gainful employment.

(21) A complete re-orientation of the vocational goals of girls and young women is not to be expected, nor would it be desirable. Therefore, the Federal Government considers it necessary to adapt the occupations so far preferred by women, e.g. in the service industries, to the changed requirements of the labour market by incorporating new material, particularly concerning information and communication technology, into the training courses. The action programme "New Technologies in Occupational Training" launched by the Federal Government is just one of the measures aimed at achieving this objective.

(22) The model programmes carried out within the framework of this action programme, concentrating on office systems, control systems and computer-aided design and manufacturing (CAD/CAM), largely affect occupations traditionally practised by women.

(23) Measures relating to advanced occupational training and re-training are of special importance in countering qualitative discrepancies on the labour market and for more easily coping with structural changes.

(24) The provisions of the Act for the Promotion of Employment relating to the promotion of advanced occupational training, re-training and vocational adjustment also apply unconditionally to women. Unemployed women, women at risk of becoming unemployed and unskilled women are also granted the higher benefits, regardless of their marital status, if they take part in occupational training measures, provided that they fulfil the other prerequisites demanded by the law.

(25) According to the statistics of the Federal Labour Office on the participants in occupational training measures, the share of women has increased steadily in recent years. While they only made up 31.9% of the total in 1982, 35% of the new participants in occupational training measures in 1986 were women. This upward trend is continuing.

(26) In view of the special difficulties which women, in particular, face after a period of caring for their children, the Federal Government has considerably improved the regulations relating to promotion in the interests of facilitating the re-integration of women into working life.

(27) In addition, special programmes are planned for women returning to gainful employment. They are to be implemented in close coordination with the Federal Labour Office, the companies and the providers of advanced occupational training.

(28) The Federal Government is of the opinion that further programmes and campaigns to improve the educational and training level of women are necessary, but that these measures alone are not enough to bring about a lasting improvement in women's opportunities in working life. Despite the enormous increase in the level of qualifications, it can be seen that women still mainly carry out lower-ranking and less well paid activities. Even if they have the same qualifications as men, they have less chance of promotion and are only very rarely to be found in managerial positions.

(29) This is why the Federal Government is supporting affirmative action measures for women with the aim of achieving a gradual rise in the proportion of women in those areas and levels where they have so far been under-represented. It commissioned a scientific study, in the framework of which specific measures for the promotion of women were developed and tested in cooperation with some 30 well-known large companies. These promotion measures relate to the selection and employment of female staff, their basic and advanced training, opportunities for promotion and possibilities for maintaining contact with their occupation during the period when they are bringing up children. On the basis of this study, a "Guideline for the Promotion of Women in Companies" was developed, which gives practical information for companies wishing to implement such measures on a voluntary basis. The Guideline was printed in large numbers and is still meeting with great interest.

(30) In addition, the Federal Government is attempting to improve the situation of women in the labour market by discussing relevant topics with the collective bargaining parties.

(31) Within the framework of regional economic promotion, industrial production companies can receive grants towards investment costs for establishing and expanding plants. This promotion, which is usually limited to centres in structurally weak areas, can, under certain conditions, also be granted in other regions if, for example, the investment will mainly create permanent jobs for women.

(32) For the civil service sector, the Federal Government put the "Guideline for the Professional Advancement of Women" into force on 1 March 1986. It contains concrete rulings for improving employment and promotion opportunities for women and for increasing their proportion in advanced training measures, as well as rulings making it easier to reconcile family and working life. This Guideline is binding for the personnel administration departments and is intended to lead to a continual increase in the proportion of women in those professions and hierarchical levels where they have so far been under-represented. A first survey carried out as part of the answer to a parliamentary enquiry showed that the Guideline is already having positive effects. The proportion of women taken on is increasingly corresponding to their share of the applications received. This means that the proportion of women is also growing, particularly at the higher levels of the civil service. The proportion of women holding posts as heads of divisions has also increased. However, it is still too early to give a detailed assessment of the effects of the Guideline.



(33) Changes in working conditions play an important role in the target-oriented professional advancement of women. It is the aim of the Federal Government to change working conditions in such a way as to make it easier for both men and women to reconcile profession and family.

(34) The Employment Promotion Act of 1985 upgraded part-time work (particularly by requiring that it be put on an equal footing with full-time employment). Certain forms of part-time work (work on call, job-sharing) have been made more socially compatible.

(35) In a broadly-based information campaign on part-time employment, the Federal Government not only gave information on the various forms of part-time work, but also appealed to the companies not to offer part-time work to women only, and not to limit it to jobs requiring little qualification. The objective is to counteract the consolidation of a traditional distribution of roles in family and working life. There are also plans for a part-time work campaign in the civil service, the objective of which will again be to offer part-time employment to men and women in qualified jobs and to evaluate such a system.

3. Situation of women in agriculture

(36) The agricultural sector in the Federal Republic of Germany is characterized by family farms. Women play a major role in ensuring the survival of these family-run farms. Just under 650,000 women, or 53% of the female members of farming families, work not only in the household, but also on the farm. Women perform almost 32% of the work to be handled. Almost all farms would be incapable of surviving without the help of the women.

(37) The radical structural change in the agricultural sector led to the number of agricultural workers falling from roughly 2.8 million to only 1.9 million in the relatively short period between 1970 and 1986.

(38) Between 1980 and 1985, the proportion of smallholdings in the total number of agricultural enterprises rose from 39% to 41%. In more than half of all agricultural operations, the income from farming is already supplemented by income from other sources of gainful employment. In 1985, roughly 450,000 female members of farming families were working on the farm and in the home in those families which earn less than 50% of their income from farming. Of this total, 141,000 women were additionally in full or part-time employment off the farm.

(39) Women are the owners of over 60,000 family-run farms (of a total of roughly 740,000 operations). The work load of the self-employed women increased more than that of their male counterparts between 1970 and 1985.

(40) Given the background conditions prevailing in the Federal Republic of Germany, farming women participate in rural developments on a basis of equality with men. The rights specified in Article 14, Paras. 2 a to h, are guaranteed.

(41) The Federal Government promotes the social structures which are still prevalent in the country, in particular: mutual assistance among neighbours, care for older relatives and the preservation of nature, as well as the partnership of man and wife in running the farm and in their social security as well as the provision of housing suitable for families.

(42) It has launched a model programme aimed at promoting mutual assistance between neighbours, which is also being implemented in rural areas. It is also supporting a project entitled "Self-help for Parents in Rural Areas". Women have a major involvement in these projects.

(43) The focal points of women's affairs policy also include better opportunities for women in rural areas. In particular, the programmes are to be developed to improve the re-integration of women into the labour market, and they are to give special consideration to rural areas. A study is being carried out to investigate the living and employment conditions of women in the country. Above all, data are to be acquired on the material situation of rural women, their opportunities in relation to schooling and vocational education, their participation in advanced training, their family situation and their social security situation.

4. Institutions and authorities for enforcing equal rights

(44) In June 1986, The Federal Government extended the Federal Ministry for Youth, Family Affairs and Health to form the Federal Ministry for Youth, Family Affairs, Women and Health. Thus, a Ministry for Women was established for the first time in German history. The newly created Department for Women's Affairs has the task of creating the background conditions required for achieving equality between men and women. The former "Directorate on Women's Affairs" with three divisions and 15 employees was extended into a Department with eight divisions and a staff of 33 women and men.

(45) In July 1987, the Ministry for Women was given new responsibilities and competences. The responsibilities for the protection of working mothers, for general measures aimed at achieving equality of the sexes - including the advancement of women in the Federal administration - and, in addition, the assignment of joint responsibility for a number of important projects relating to women's affairs, clearly reflect the importance attached to the policy for women by the Federal Government. The Ministry for Women was also granted additional rights in the rules of procedure of the Federal Government, and greater consideration is now also given to the needs of policies for women in the joint rules of procedure of the Federal Ministries.

(46) The other Ministries also have specially appointed persons or divisions to deal with women's affairs. In addition, an increasing number of administrative authorities is setting up similar offices.

(47) All Federal Laender have in the meantime appointed commissioners for women's affairs or central women's affairs offices. They act as central coordination points

for matters affecting women. Numerous equal rights offices with comparable tasks have been set up at municipal level.

(48) The activities of the equal rights offices are characterized by four spheres of work:

1. Participation in statutory regulations,
2. Initiation and implementation of measures aimed at improving the situation of women,
3. Gathering suggestions and complaints from the public,
4. Promoting the change of attitude in favour of the equal rights of women and men.

(49) When it comes to eliminating disadvantages for women, the equal rights offices try not only to find general solutions, but also to provide individual assistance in specific cases. Target-oriented public relations work - brochures, meetings, presentations, press reports - is intended to put women in a better position to assert their rights themselves. Cooperation with women's associations and groups is of major importance in this context.

(50) Some companies have appointed "equal opportunities" or "women's affairs" commissioners to deal with matters relating to equal rights for men and women.

## 5. Means of enforcing equal rights

(51) The statutory regulations for eliminating discrimination include, for example, the crediting of parental leave periods in the statutory pensions insurance system and the granting of parental allowance and parental leave for mothers or fathers.

(52) As a result of its newly assigned responsibilities and competences, the Federal Ministry for Women has various possibilities for turning the equal rights of women and men into social reality:

1. In areas where the Ministry for Women is competent, it can develop and design new measures for implementing the equality of the sexes.
2. Due to its increased rights of participation, it can introduce aspects relating to women's affairs in important projects in many sectors.
3. The Federal Minister for Women - also a woman - has the right to propose measures and, following agreement with the Federal Chancellor, a right of deferment in matters of importance for women's affairs. She has the right to speak during the reading of a bill relating to matters of particular importance for women's affairs before the Bundestag and the Bundesrat, including their committees, in agreement with the responsible Federal Minister.
4. The reasons submitted with cabinet proposals and bills must state what effects are to be expected in relation to women's affairs.

(53) At the Laender and municipal levels, the local equal rights offices also have rights of participation in matters relating to women's affairs - although in varying forms.

(54) The political parties have taken decisions expressing their will to increase the proportion of women in leading positions in the foreseeable future in such a way that it corresponds at least to their proportion of the total membership of the party.

Part II: T h e p r o v i s i o n s o f t h e  
C o n v e n t i o n a n d t h e i r  
i m p l e m e n t a t i o n i n t h e  
F e d e r a l R e p u b l i c o f G e r m a n y

1. Legislative measures to eliminate discrimination against women (Article 2)

1.1 Equality before the law and ban on discrimination (letters a and b)

(55) Due to the existence of Article 3, Paras. 2 and 3, of the Basic Law, the legislation of the Federal Republic of Germany already complies with the obligations arising from Article 2 of the Convention.

1.2 Protection of women by the courts (letter c)

(56) Like the parliaments and the executive, the courts in the Federal Republic of Germany are bound by the directly enforceable basic rights, including Article 3, Paras. 2 and 3, of the Basic Law. According to Article 20, Para. 3, of the Basic Law, the judiciary is bound by "law and justice". This binding is one of the foundations of a constitutional state. Recourse to the courts is guaranteed by Article 19, Para. 4, of the Basic Law.

(57) The "constitutional complaint" is a particularly important instrument for the protection of basic rights, including the basic rights of women arising from Article 3, Paras. 2 and 3, of the Basic Law. If all normal legal remedies fail, anyone can lodge such a complaint by maintaining that one of their constitutionally guaranteed basic rights, as set forth in Article 3, Paras. 2 and 3, or any other provision of the Basic Law has been violated by an act of state.

(58) Independently thereof, all judges must, by virtue of their office, examine whether the statutory regulations to be applied by them are compatible with the basic rights guaranteed in the Basic Law. If the court considers a statutory regulation which is vital for the decision to be taken by it to be unconstitutional, it must suspend the proceedings and ask for a decision from the Federal Constitutional Court.

(59) However, those involved in making the laws must, of course, also always examine whether a proposed law is constitutional and capable of withstanding the scrutiny of the Federal Constitutional Court, although it sometimes happens that opinions are divided on this question. In the event of such differences of opinion or doubts as to the compatibility of statutory regulations with, for example, the basic right of equal opportunities for men and women, a decision is again reached by the Federal Constitutional Court, provided that the Federal Government, or the Government of a Federal Land, or one third of the members of the Bundestag submit a corresponding application.

(60) Thus, like the protection of all other basic rights, the enforcement of the basic right to equality and to protection against discrimination for reasons of sex is designed to be highly effective in the Federal Republic of Germany.



1.3 Protection against discrimination (letter d)

(61) From the constitutional situation described and in combination with the system of legal protection, including the instrument of the constitutional complaint, it can be seen that, in accordance with Article 2, letter d, of the Convention, actions and practices which discriminate against women are forbidden and that "all state authorities and public institutions" must act in compliance with this obligation since they, in particular, are directly bound by the basic rights specified in the Basic Law, as provided for in Article 1, Para. 3, of the Basic Law.

1.4 Protection against discrimination by private persons (letter e)

(62) The provisions of the Basic Law relating to basic rights in principle only cover the relationship between the citizen and the state. In contrast, the principle of equal rights and the ban on discrimination do not apply directly to the relationship between citizens.

(63) However, being objective values, the basic rights are also of importance in private law. Consequently, they must be taken into consideration when interpreting and applying the provisions of civil law.

(64) The indirect effect of the basic rights of Article 3, Paras. 2 and 3, of the Basic Law is of special importance in labour law. Here, the judgements of the labour courts, taking into account the basic rights guaranteed in the Basic Law, developed a principle of equality of the sexes in labour law at an early stage.

(65) In addition, it was later expressly stated in the law that an employer may not prejudice a male or female employee on account of their sex when signing a contract of employment, in their professional advancement, when issuing instructions or giving notice of termination. If an employment relationship has not been established due to an infringement of the prohibition of discrimination, the employer shall be liable for compensation (Art. 611a of the Code of Civil Law). In addition, an employer should not advertise a job either publicly or within the company as only for men (or only for women) (Art. 611b of the Code of Civil Law).

1.5 Abolition of discriminating legislation and customs  
(letter f)

(66) Following expiry of the transition periods allowed for the adaptation of contradicting laws under Article 3, Para. 2, of the Basic Law, the pre-constitutional law which contradicted the equality of the sexes was repealed on 1 April 1953. According to Article 1, Para. 3, of the Basic Law, legislature, executive and judiciary are bound by it as directly enforceable law. Any violation of the basic right of equality can be brought before national courts. In such cases, the Federal Constitutional Court may declare a law to be incompatible with the Basic Law or nullify the law in question. Such decisions of the Federal Constitutional Court have the force of law.

(67) It is considerably more difficult to alter discriminating customs and social practices which are not open to the direct intervention of the legislature in a free social order. After all, the problem here is to trigger a process of re-thinking and to overcome old prejudices and stereotype notions of roles in life. However, the laws and other national norms aimed at achieving equality of the sexes create or favour a social climate in which personal behaviour and customs characterized by discrimination against women may change. In this sense, the Federal Government also regards the ratification of the Convention on the Elimination of All Forms of Discrimination against Women and the submission of the report as a "suitable measure" for changing customs and practices which constitute discrimination against women.

1.6 Repeal of penal provisions discriminating against women  
(letter g)

(68) Penal provisions constituting discrimination against women do not exist in the law of the Federal Republic of Germany . However, its legal order does not accept the extreme viewpoint occasionally represented that the statutory offence of induced abortion constitutes a discriminatory or repressive measure against women. As stated by the Federal Constitutional Court, the constitutionally based obligation of the state to protect unborn life may under certain circumstances necessitate the use of penal measures to safeguard this life.

(69) With its comprehensive and differentiated penal provisions in relation to induced abortion, the legislature of the Federal Republic of Germany takes into account both its obligation to protect unborn life and the aspect expressly recognized by the Federal Constitutional Court that, in cases of real conflict situations, where the decision to terminate the pregnancy may have the status of an honourable decision of conscience, the state may not apply the instruments of penal law to enforce continuation of the pregnancy.

(70) Therefore, an abortion induced by a doctor with the consent of the pregnant woman is not punishable on legally defined grounds. This is the case, on the one hand, if an abortion is necessary in order to avert the risk of the pregnant woman either losing her life or being severely impaired in her physical or mental condition, and if the risk cannot be averted in any other way acceptable to her. On the other hand, medical necessity is irrefutably assumed if cogent reasons favour the assumption that the child would suffer from irreparable damage due to a genetic disposition or harmful influence prior to birth and if this damage would be so severe that the pregnant woman cannot be expected to continue the pregnancy. This is also the case if there are cogent reasons for assuming that the child is the result of a sex crime. In practice, social necessity arising from the risk of distress is particularly important. In such cases, abortion must be called for to protect the pregnant woman from risk of distress so severe that continuation of the pregnancy cannot be by rights expected, provided there is no possibility of averting the risk in any other way acceptable to the pregnant woman.

2. Measures to advance and safeguard the full development of women (Article 3)

(71) The objective of the policy for women of the Federal Government is to turn the legally guaranteed equal rights of women and men into a social reality. In this context, the policy of the Federal Government is based on the situation of all women in life, older and younger women, gainfully employed and non-working women, women farmers and helping relatives, unmarried, married and widowed women.

(72) This concept illustrates the complexity of the policy for women today. After all, the enforcement of equal rights for women also necessitates a change in the role of the man in his private, family and social life, a material upgrading of work in and for the family, greater flexibility in the working world, a reform of the internal structure of public institutions and a changed view of socio-political processes.

(73) Thus, policy for women becomes the central aspect of a social policy whose task it is to recognize achievements, eliminate political and social wrongs and create the preconditions for human beings to be able to exercise their rights and obligations as women and men.

(74) The obligation of Article 3 of the Convention is also taken into account at Laender level by way of effective policies for women.

3. Special measures of the States Parties (Article 4)

(75) The Maternity Protection Act and the specific industrial safety regulations for women are special regulations as defined by Article 4, Para. 2, of the Convention.

4. Elimination of stereotyped roles and promotion of the common responsibility of men and women in the upbringing and development of their children (Article 5)

(76) Public relations work and information campaigns are being carried out in an attempt to achieve a change in the awareness of the general public in order to enforce the equality of the sexes in practice. For example, an exhibition entitled "Girls in Picture Books" was compiled, which shows examples of sex-specific and neutral representations in picture books of the last 100 years. This travelling exhibition has met with a great response and is booked out until 1991. As regards the representation of women and men in school books, it is often the case that the educational content of school books has so far only been modified inadequately, even though various studies unanimously agree that the texts in school books still bear the stamp of the traditional picture of the woman's role and that women are represented far less frequently than men.

Various Federal Laender have therefore drawn up recommendations for school-book reviewers containing assessment criteria for the representation of women and men on an equal standing - without one-sided assignment of roles.

(77) The women's and family policy of the Federal Government is aimed at partnership between men and women. Women and men should be able freely to agree on tasks and their distribution. The Federal Child-Raising Allowances Act, which came into force on 1 January 1986, contributes towards promoting the division of labour in the family partnership. Under this Act, mothers or, optionally,

fathers, who take child-raising leave receive a child-raising allowance of DM 600.00 per month - in 1986 and 1987 for the first ten months after the birth of a child, and for the full first year from 1988 onwards. The child-raising allowance, which is also paid to non-working mothers and fathers, is granted irrespective of income for the first six months of life of the child, after which time income limits apply. Protection against dismissal is afforded during child-raising leave. At the end of the child-raising leave, the claimant has a right to the former job, or a similar one.

5. Suppression of traffic in women and the exploitation of prostitution of women (Article 6)

(78) Traffic in women and the exploitation of prostitution of women are combatted in the Federal Republic of Germany in particular by the statutory offences of Articles 180 (Promotion of Sexual Acts of Minors), 180a (Promotion of Prostitution), 181 (Traffic in Human Beings) and 181a (Trading in Prostitution) of the Penal Code. Additional reference should be made to the provision of Article 237 of the Penal Code (Kidnapping against the Will of the Person Kidnapped), which can also be applied in connection with the exploitation of prostitution.

(79) The aforementioned penal regulations are primarily intended to protect the prostitute against those threats to her person or her personal freedom that are associated with prostitution. Those actions are punishable by which women are led to prostitution or which constitute a severe impairment of their personal self-determination and financial independence. Furthermore anyone is liable to prosecution who, for example, grants accommodation or business premises or a business abode to a person under the age of 18 for the purposes of prostitution, or who occasions or forces persons under the age of 21 to engage in, or continue to engage in prostitution.

(80) Prostitution as such is only threatened by sanctions if it is carried out in contravention of a ban issued in a statutory instrument with regard to certain places or certain times of the day. A single infringement is regarded as an administrative offence under Article 120, No. 1, of the Administrative Offences Act. Repeated infringement is considered to be a criminal offence (Article 184 a of the Penal Code), as is prostitution exercised in a manner morally harmful for adolescents (Article 184 b of the Penal Code).

(81) Offers of prostitution offensive to the public and soliciting are forbidden under threat of the penalties specified in Articles 119, Para. 1, and 120, No. 2, of the Administrative Offences Act. For fulfilling the statutory definition of the offence of soliciting, it is irrelevant whether prostitution in the Federal Republic of Germany or elsewhere is involved.

(82) Article 181 of the Penal Code (Traffic in human beings) relates to those matters in which the Federal Republic of Germany has accepted an obligation to punish by signing

- the International Convention for Guaranteeing Effective Protection against Traffic in Young Women, dated 18 May 1904, in the version of the protocol dated 4 May 1949;
- the International Convention on the Elimination of Traffic in Young Women, dated 4 May 1910, in the version of the protocol dated 4 May 1949;
- the Convention on the Suppression of Traffic in Women and Children, dated 30 September 1921, in the version of the protocol dated 12 November 1947.



(83) In contrast, the Federal Republic of Germany did not sign the Convention on the Suppression of Traffic in Human Beings and the Exploitation of the Prostitution of Others, dated 2 December 1949, since, in its experience, the more extensive punishment of prostitution provided for in that Convention would not be a suitable means of achieving the desired goal. The general penalization of the letting and hiring of rooms for the purpose of prostitution is not considered desirable by the Federal Government, because this would only drive prostitution into the underworld beyond the control of the police, and the women and adolescents affected would become dependent on procurers.

(84) The legal instruments mentioned have on the whole proven successful in combatting traffic in women and the exploitation of prostitution of women. However, new challenges demand new responses of the competent police and regulatory authorities.

(85) In the Federal Republic of Germany, the problem of prostitution tourism which has developed in recent years has mainly been countered by specific information. Within the framework of educational work on development policy, the Federal Minister for Economic Cooperation has implemented special information campaigns to sensitize the public as regards the problems of prostitution in developing nations. The cooperative development work of the Federal Government also helps to combat the poverty-induced causes of prostitution by way of measures creating income for poor sectors of the population.

(86) The Federal Ministry for Youth, Family Affairs, Women and Health has urged travel organizers and their associations not to support such enterprises. In early 1988, it also started a research project on the subjects of prostitution tourism and procurement of marriages for foreign girls and women by agencies in the Federal Republic of Germany. In addition, by way of a pilot project, the Federal Ministry for Youth, Family Affairs, Women and Health plans to support a contact office and advisory service for foreign involuntary prostitutes and women for whom marriages have been procured. The project is due to start in 1988. The competent authorities in the Federal Republic of Germany counter the illegal entry of prostitutes from abroad by applying the existing instruments of criminal, administrative and, in particular, aliens law.

6. Elimination of discrimination in political and public life (Article 7)

(87) In the Federal Republic of Germany, fulfilment of the obligations arising from Article 7 of the Convention is legally guaranteed by Article 3, Paras. 2 and 3, Article 9, Article 33 and Article 38 of the Basic Law, in conjunction with the Federal Electoral Act and the Electoral Acts of the Laender, the Political Parties Act, the General Public Service Act and the Civil Service Acts of the Federation and of the Laender, the Judiciary Act, etc.

(88) Like men, women have the right to vote in all elections, as well as the right to be elected. According to Article 33, Para. 2, of the Basic Law, any German is equally eligible for any public office according to their aptitude, qualifications and professional achievements. Thus, women have the same access to public offices as men.

(89) However, in view of the possibly wide-ranging interpretation of the terms "public office" and "fulfilment of public tasks", the following reservation had to be declared when ratifying the convention: "Article 7, letter (b) will not be applied insofar as it contradicts Article 12 a, Para. 4, second sentence, of the Basic Law of the Federal Republic of Germany. According to this constitutional provision, women may on no account render service involving the use of arms."

(90) The basic right of freedom of association in Article 9, Para. 3, of our constitution (the Basic Law) guarantees everyone the right to form associations (trade unions and employer associations) to safeguard and improve working and economic conditions and to join such associations. The basic right of freedom of association also guarantees the aforementioned associations the right to settle matters of internal organization freely, under their own responsibility, in accordance with democratic principles. Thus, an influence of the Federal Government on the structure and composition of the bodies of these associations is precluded by law.

7. Participation of women at the international level  
(Article 8)

(91) Like men, women have the opportunity of representing the Government at international level and of participating in the work of international organizations. The appointment of six women as Ministers or Parliamentary State Secretaries in the Federal Government after the last elections to the Bundestag is an expression of a policy which gives women equal involvement in all important socio-political decisions - also at international level. This is also confirmed by the responsibilities of

these women politicians, e.g. in the Federal Chancellery, Federal Foreign Office, Federal Ministry of Defence, Federal Ministry for Intra-German Relations, Federal Ministry of Education, and Federal Ministry for Youth, Family Affairs, Women and Health.

(92) Women's associations, such as the German Council of Women, which has observer status with ECOSOC, or the women's organizations of the political parties, are also involved in the growing international cooperation. As long ago as 1955, women members of the Christian-Democratic Union (CDU) have been active at the Western-European level in the European Women's Union (EFU), an association of the women members of the Christian-democratic and conservative parties. Since 1974, they have also been involved in the newly formed worldwide Union of Christian-Democratic Women (UCDF). The Association of Social-Democratic Women (ASF) is also active at the international level in the International Council of Social-Democratic Women. Female members of the Free Democratic Party (FDP), who do not have an organization of their own, are attempting to achieve greater international cooperation via their party.

(93) An increasing number of women have been appointed or promoted to leading positions in the Federal Foreign Office, whose primary objective is to achieve good and fruitful international relations. The growing involvement of women results, for example, from the appointment of women as the heads of ten diplomatic missions abroad. In recent years, more than 20% of the vacancies in the higher career echelons were also filled with women. In the intermediate career echelons, the proportion of women has increased from under 20% before 1980 to over 50% since 1981.

8. Nationality of women and children (Article 9)

(94) According to Article 9, Para. 1, of the Convention, men and women must be treated equally as regards the acquisition, loss (change) or retention of nationality. Neither marriage to an alien nor the change of nationality by the husband may deprive the wife of her own nationality or force upon her the nationality of the husband. The Federal Republic of Germany already accepted corresponding obligations under international law by signing the Convention of the United Nations on the Nationality of Married Women, dated 20 February 1957.

(95) According to Article 9, Para. 2 of the Convention, women must be granted equal rights with men as regards the nationality of their children. In the case of legitimate children acquiring nationality by birth, national law makes no distinction between children born of a German father or a German mother (Article 4, Para. 1, No. 1, of the Nationality Act). For illegitimate children, however, the statutory acquisition of German nationality by birth is limited to children born of a German mother (Article 4, Para. 1, No. 2, of the Nationality Act). Illegitimate children of German fathers have a claim to citizenship once paternity has been established and if the child is to remain in the country. The applicable ruling of national law does not violate the ban on discrimination contained in the Convention.

9. Equality of men and women in the field of education (Article 10)

(96) Men and women have equal opportunities as regards access to education and acquisition of certificates at all types of educational institutions and vocational counselling. Today, girls have the same standard of general education as boys. Parents nowadays also consider qualified education and training to be just as necessary for their daughters as for their sons. The frequently

better and more qualified school-leaving grades of girls show that good education and training has become a matter of course for girls. In order also to help women with low professional qualifications, the Federal Government has implemented several qualification measures in recent years. In addition, it has made re-integration of women into their professions a central aspect of its policy for women.

#### 9.1 Return to working life

(97) One central aspect of the policy for women is the improvement of the education and training offered to help women to return to working life.

The following are implemented:

- Advanced training measures during the family phase;
- Information courses and orientation aids for housewives who have worked in the home for a long time;
- Adaptation courses to enable women to keep up with progress in their original occupation;
- Advanced training courses not related to the profession originally exercised, such courses being based on the knowledge and skills acquired during the family phase, turning them to good use in a new paid job or honorary activity.

#### 9.2 Professional qualification measures

(98) New, demanding spheres of activity have been opened up in the area of modern information and communications technologies with the aim of qualifying women for professional advancement and taking effective steps towards reducing the level of female unemployment. Correspondence courses combined with practical job training enable female participants to take up qualified promising jobs as software, communications and CIM assistants.

(99) With a view to eliminating stereotyped concepts of the roles of men and women in working life and to improving the opportunities for women in the labour market, nation-wide pilot projects aimed at opening up industrial and technical occupations to women were undertaken between 1978 and 1985 at the initiative of the Federal Government.

(100) Among other things, the pilot projects produced some favourable experiences for the companies as regards the aptitude of women for industrial and technical occupations, and no notable differences between the examination results of male and female candidates were found. Although the current situation in the labour market has made it harder for young women to find employment after completing their training, the majority of the participants in the pilot projects succeeded in finding professional employment. Thus, 64.7% of the young women found jobs in the trades they had learned, although only with limited-term employment contracts in some cases.

(101) In addition, between 1976 and 1983, unemployed women with no appropriate qualifications were successfully integrated into the working world with the aid of re-training measures for 24 occupations.

(102) Measures aimed at allowing women without school or professional qualifications to catch up on vocational training are currently being developed and tested. A sum of DM 1.2 million was made available in 1986 for implementing and propagating the results of vocational training projects for women.

(103) A study commissioned by the Federal Government in summer 1985 to determine the reasons for premature termination of apprenticeship contracts revealed no significant differences between men and women as regards the

termination ratio (11% for women, 10% for men). In contrast, women appear far less inclined prematurely to terminate their apprenticeships suddenly or at short notice (43% of the women, 52% of the men).

### 9.3 Women at university

(104) The proportion of female students at universities in the Federal Republic of Germany was 37.9% in 1986. In the past, the applications from female students at scientific and technical universities for grants under the Federal Student Aid Act developed almost in parallel with the participation of women in university education.

(105) Insofar as the proportion of women is lower among the scholarship holders in scholarship programmes subject to certain qualification requirements - e.g. the corresponding programmes of the institutions for the advancement of gifted persons, of the Laender and the German Research Society - this is partly due to the response of the female applicants, who concentrate on some few disciplines.

(106) However, women are considerably under-represented among the university staff. Thus, the proportion of women in the full-time academic staff of the technological universities in 1985 was 5.1% of the professors (only 2.4% of the professors in salary grade C 4) and 24% of the junior scientists with doctorates. Appointment practice in the middle academic levels has altered in favour of women in recent years. In 1985, the proportion of newly appointed female junior scientists with doctorates and academic assistants exceeded their proportion in the corresponding professional groups. The professional prospects of female scientists in university research and teaching must be further improved in future. The following concrete steps have been taken in this context:



- (107) Term Contracts Act

The 1985 Term Contracts Act contains a special provision to protect female academic assistants with term contracts against the loss of claims to employment in the event of bringing up a child or caring for relatives. The same protection is afforded female academic assistants with term contracts in case of pregnancy during a period of leave of absence or a ban on employment in accordance with the Maternity Protection Act.

- (108) Article 2, Para. 2, of the General University Act (HRG)

According to a new provision (Article 2, Para. 2) added to the General University Act in 1985, the universities must, in the fulfilment of their duties, attempt to eliminate the existing disadvantages for female academic staff. This provision does not simply have the nature of an appeal, but obliges the universities to attempt to eliminate existing disadvantages in the fulfillment of their tasks. The measures open to consideration in each individual case are decided upon by the Laender and the individual universities.

- (109) Improvement of the staff structure in the university sector

The special needs of female academic staff members are furthermore to be taken into account by improving the staff structure in accordance with the amended General University Act. For example, the provisions of the Term Contracts Act, whereby term contracts of female academic assistants are prolonged in the event of maternity, bringing up a child or caring for relatives, have been extended to cover professors, university lecturers, senior assistants and academic assistants with limited-term employment contracts.

The same applies to professors, university lecturers, senior assistants, academic assistants and academic employees who are temporary civil servants, unless operational reasons forbid (Article 50, Paras. 3 and 4, General University Act).

- (110) Research project "Situation of women as junior researchers and university lecturers"

With a particular view to the new ruling in Article 2, Para. 2, of the General University Act, the Federal Government intends to commission a study of the employment prospects and conditions of women as full-time academic staff in universities. The questions will relate both to junior researchers and appointments as professors.

#### 9.4 Women in sports

(111) In the promotion of the German Youth Sports Association and its member associations, as well as in the athletic education of young people and at the Federal Youth Games, no distinction is made between male and female participants.

### 10. Equality of men and women in working life (Article 11)

#### 10.1 Right to work and application of identical selection criteria for employment (letters a and b)

(112) In the field of employment contract law, the requirement for equal treatment of men and women is specified in Articles 611a ff. of the Civil Code. The main points of these provisions are as follows:

- (113) The employer is forbidden to discriminate against employees because of their sex. This provision covers all aspects of the employment relationship, from engagement and implementation of the employment contract to termination.
- (114) A lower wage may not be paid on the basis of sex for identical or equivalent work. Protective regulations existing because of the sex of the employee (e.g. Maternity Protection Act) do not justify agreement on a lower remuneration.
- (115) If the employer violates the ban on discrimination, the employee can demand elimination of the discrimination or claim damages. If employment or promotion to which no entitlement existed is refused, only damages can be claimed. Since it is based on an EC Directive, two decisions of the European Court dated 10 April 1984 (cases 79/83 and 14/83) are of major importance for the interpretation of this provision. According to the case law of the European Court, damages must be such as to guarantee their effectiveness and deterrent effect. Following the decisions of the European Court and acting along this line, labour courts in the Federal Republic of Germany have awarded damages amounting to five or six months' wages to women who had applied for posts and were rejected because of their sex.
- (116) The Act provides for the following in relation to the burden of proof in the event of a case before a labour court: if an employee can bring forth credible grounds indicating discrimination because of sex, the employer bears the burden of proving that the different treatment was justified not by sex-specific reasons, but by objective reasons.

- (117) Any victimization such as termination of a contract or other discrimination against employees for asserting their rights is prohibited.
- (118) The employer is not to advertise vacancies exclusively for men or exclusively for women, either in public or within the company.
- (119) The employer is to post the regulations on equal rights in the company premises, or have them available for inspection.

(120) With these regulations, the Federal Republic of Germany fulfils the obligations arising from the Convention as regards the equality of men and women in employment contract law. The Federal Government is at present considering an amendment of the Act to harmonize labour legislation in the EC.

(121) According to Article 75 of the Employees Representation Act, employer and works council must ensure that all persons working in the company are treated in a just and equitable manner and particularly that no persons are treated differently in any way because of their sex.

(122) The principle of equality of opportunities laid down in Article 33, Para. 2, of the Basic Law is specified in detail in Article 7 of the General Public Service Act, Article 8, Para. 1, of the Federal Civil Service Act, as well as in the corresponding Civil Service Acts of the Laender. They state that the selection of applicants for civil service must be based on aptitude, qualifications and professional achievements.

(123) The Federal Government is making a determined effort to improve the situation of women in the civil service and to employ more women. The Guideline for the Professional Advancement of Women in the Federal Administration, issued in February 1986, is also aimed at this objective. It states that women must be given due consideration, taking into account the principle of achievement, when employing persons for the civil service. At the Laender level, initiatives have also been started to give women due consideration when employing persons for the civil service.

(124) The proportion of the total number of employees in the civil service accounted for by women has risen constantly. According to the figures of the Federal Statistics Office, 1.9 million women were employed in the public sector in mid-1986, 65,000 (3.7%) more than three years previously and, at the same time, the highest number ever recorded. The share of the total staff accounted for by women has thus risen from 40.2% to 40.8%.

(125) In 1986, the Federal Ministries took on 726 male and female applicants: 402 women (55.4%) and 324 men (44.6%). Almost one third of the new staff members in the higher levels were women, and almost 50% at the intermediate level. On the whole, the proportion of women newly employed was just as high as the share of applications accounted for by them. Since the proportion of women employed at the higher levels of the civil service was only 8.5%, the ratio of new employees, at 30%, is a major step forwards.

10.2 Right of free choice of profession and right to promotion, vocational training, re-training, advanced vocational training, etc. (letter c)

(126) According to Article 12, Para. 1, of the Basic Law, all Germans have the right freely to choose their occupation or profession, their place of work and their place of training.

(127) The efforts of the Federal Government in the field of vocational policy concentrate on achieving high availability of training posts and jobs. In view of their exemplary function, the employers in the public sector bear special responsibility in this context. Consequently, the Federation has ensured that its companies, research institutions, authorities and organizations increased the number of training posts offered. In 1985, roughly 90,000 young women and men (roughly 84,000 in 1984) were being trained by the Federation. These are training posts pursuant to the Vocational Training Act, i.e. excluding service career training for the intermediate and higher levels of the civil service.

(128) Some 34% of the new trainees taken on in 1985 in accordance with the Vocational Training Act (including service career training for the lower and middle levels of the civil service) were women. The following table summarizes the number of new appointments in the period from 1982 to 1985 and the proportion of female trainees in this period.

	For training under the Vocational Training Act		For service career training at the lower and middle levels or other employee training	
	Total	Women	Total	Women
	Number	%	Number	%
1982	18,313	25.5	7,822	23.9
1983	19,616	25.8	9,116	32.0
1984	22,094	28.9	8,112	39.9
1985	21,644	27.5	9,507	49.4

(129) The Federal Government has also called on companies offering training to give more consideration to young women when deciding on appointments.

(130) Of the roughly 383 state-approved occupations in which vocational training is offered, only 20 are not open to young women because of statutory regulations (industrial safety legislation).

(131) Equal opportunities for promotion are guaranteed both in civil service legislation and in the collective agreements for the public sector. The question whether part-time employment impedes professional advancement to the managerial level remains unanswered. There is no firm evidence available on this matter. However, the Federal Government is trying to promote the opportunities of part-time employees for professional advancement.

(132) The advanced training offered by the Federal Government is open to all members of the public administration services of the Federation. The advanced training courses are available to all employees - men and women alike.

(133) An expert meeting organized by the Federal Government in Bonn in early 1986 was specifically dedicated to the advanced training (and basic training) of women. The effects of new technologies on the training and employment of women were among the subjects debated.

(134) The principles of public employment placement services, careers advice and placement in training posts, the promotion of vocational education and unemployment insurance are set forth in the Employment Promotion Act of 25 June 1969. Essentially the same regulations apply to men and women.

(135) Because women have to give up gainful employment for family reasons, disadvantages may arise for women insofar as they fail more frequently than men to fulfil the necessary conditions entitling them to receive benefits under the Employment Promotion Act.

(136) The Federal Government took this possible disadvantage into account in the Recruitment Promotion Act, which makes it easier for women to gain access to advanced vocational training and re-training measures, as well as job creation schemes, after periods of bringing up children: women who were in employment subject to social insurance contributions for at least two years before interrupting their occupation can now interrupt their professional activity for five years for each child without forfeiting the previously acquired rights to furtherance of their advanced vocational training and re-training.



(137) In addition, by the 7th amendment to the Employment Promotion Act, access to vocational education measures has been additionally facilitated for women in that they are now also entitled to claim partial maintenance if they quit gainful employment temporarily in order to bring up children and can only participate in a training scheme on a part-time basis due to continuing domestic ties. However, even women who have exceeded the maximum creditable period for bringing up children (five years per child) can receive maintenance payments while participating in vocational education if they are compelled to take up employment in order to secure their livelihood. In this case, the prerequisite is again that the woman was employed and paid social insurance contributions for at least two years before quitting gainful employment.

### 10.3 Right to equal remuneration (letter d)

(138) Equal remuneration for men and women is legally guaranteed by salary laws in the field of employment contracts in the public sector.

(139) The salaries of civil servants and judges are governed by law. Here, the legislature must observe the constitutional precept of equal treatment in the same way as for all other aspects of legislation covering the public service. In addition, salary legislation is based on the principle of payment according to function. All functions of civil servants are statutorily assessed according to the requirements attached to them; they are assigned a public office, which, in turn, is tied to a salary group. Public offices are tied to salary groups by an abstract process (before a post is filled). This system eliminates the possibility of payment being based on standards other than the functional significance of the office held, such as sex.

(140) The rulings on other benefits not defined in the Federal Salaries Act, such as welfare benefits and reimbursements of expenses, also apply regardless of sex.

(141) There are no indications that the collective bargaining partners systematically discriminate against women in wage agreements. Only in relation to the so-called "light wage groups" - i.e. wage groups which, for physically light work, usually carried out by women, provide for a wage lower than the next higher groups for physically heavy labour - have the Bundestag, the Federal Government and the collective bargaining parties been trying for years to find an answer to the question how any discrimination against women that may be associated with this situation can be eliminated. At the moment, the main task is to ascertain whether and to what extent the collective bargaining parties have complied with the repeated appeals of the Bundestag - most recently in 1985 - to improve the situation of women in this sector. The Federal Government submitted a report on this subject to the Bundestag in November 1986. It states that the controversial light wage groups today only exist in a few collective wage agreements.

(142) The pertinent ILO Convention No. 100 on the Equality of the Remuneration of Male and Female Employees for Equivalent Work (to which Article 4, Para. 3, of the European Social Charter, ratified by the Federal Republic of Germany, corresponds - also in relation to this provision) was ratified by the Federal Republic of Germany in 1956.

10.4 Right to social security (letter e)

(143) According to the decisive provisions of the collective wage agreements, female employees in the public service of the Federation have the same rights as their male colleagues. Female and male employees thus have the same claim to severance pay when going into retirement (Articles 62 ff. Federal Employees' Collective Salary Agreement (BAT), Articles 65 ff. Framework Collective Agreement for Civil Servants (MTB II)), continuation of wage payments during illness (Article 37 BAT / Article 42 MTB II) and paid holidays (Articles 47 ff. BAT, Articles 48 ff. MTB II). This also applies to the civil service pension (additional pension) to be paid in the event of vocational disability, total disability or upon reaching retirement age. Female employees are privileged in that they are granted earlier benefits from the additional pension scheme when they claim the earlier old-age pension provided for women only (from the age of 60, as opposed to 65 for men) under the statutory pensions insurance scheme. The Federal Constitutional Court has declared this differentiating treatment to be compatible with the Basic Law until such time as existing disadvantages for women have been eliminated.

(144) In the field of civil service pensions, the principle of equality of men and women has been fully implemented.

(145) The laws governing the holidays of male and female civil servants also contain no discrimination against women. The only holiday ruling in civil service legislation which differentiates between the sexes in the approval of applications for leave is a ruling in favour of female civil servants. This is the provision of Article 4 of the Ordinance on Special Leave, which provides for leave to be granted for training as an assistant nurse.

(146) As in all other fields of law, the right to social security is subject to the rule of equality in Article 3, Paras. 2 and 3, of the Basic Law. Unequal treatment still existing in this field (as regards the claim of the widower to a widower's pension after the death of the insured wife) was eliminated by the Act of 11 July 1985 on the Reorganization of Surviving Dependents' Pensions and the Recognition of the Periods Devoted to the Upbringing of Children. Whereas the wife had previously always received a widow's pension after the death of the insured husband, the man only received a pension after the death of the insured wife if the deceased had earned the greater part of the family income. According to the new ruling, the surviving dependent - either widow or widower - always receives the surviving dependent's pension of the deceased spouse, although the personal income of the surviving dependent is offset, taking into account a tax allowance.

(147) At the same time, it was ruled that mothers or fathers born in or after 1921 who have brought up a child within the domestic territory, or will do so in future, are to be credited for each child with one insurance year establishing and increasing a pension claim. The child-raising year is rated at 75% of the average income of all insureds. If the period devoted to the upbringing of children coincides with another creditable period, i.e. a contributory, substituted, lost or accountable period, and if this period is rated more highly than at 75% of the average income of all persons insured, the child-raising period is not credited. If the other period has a lower rating, it is upgraded to 75% by the period devoted to the upbringing of children. Step-parents, foster parents or adoptive parents may be credited with child-raising periods, rather than the natural parents, if they brought up the child during the first 12 months of life. The recognition of periods devoted to the upbringing of children made a major contribution towards improving the independent social security of those mothers or fathers who temporarily or completely gave up their gainful em-

ployment in order to bring up their children. The Surviving Dependents and Child-Raising Periods Act came into force on 1 January 1986 with effect for the insurance claims occurring since that time.

(148) The Act on Benefits of the Statutory Pensions Scheme for Child-Raising for Mothers Born before 1921 came into effect on 1 October 1987. Mothers born before 1921 are to receive child-raising benefits in several stages according to a timetable. All women who have born at least one living child will benefit. This also includes those mothers who were previously never insured under the statutory pensions scheme, such as housewives, farmers' wives, civil servants and members of a professional welfare institution. Fathers are not included. In drawing up this law, it was assumed that, in view of the family roles in those days, the fathers, as a rule, did not bear the burden of bringing up the children. In addition, if it were possible at all after tens of years, it would take a great deal of administrative effort to establish who actually brought up the child. It is for this reason that the ruling also does not apply to adoptive, foster and step-mothers.

(149) Apart from this, the principle of equal treatment for men and women in the field of social security is also laid down in Directive 79/7/EEC of the Commission of the European Communities, dated 19 December 1978. Directive 86/378/EEC, dated 24 July 1986, additionally governs the equal treatment of men and women in the organizational systems of social security. Applicable legislation of the Federal Republic of Germany complies with the requirements of both Directives.

10.5 Right to protection of health (letter f)

(150) In the view of the Federal Government, its special industrial safety regulations, giving consideration to the protection of the health of women demanded in Article 11, Para. 1, letter f, of the Convention, are not discriminatory in the sense of the Convention. In addition to the Act on the Protection of Working Mothers already mentioned, these include Articles 92 and 93 of the Mariners Act, which specify that female crew members may not be engaged in work exceeding their physical strength and that they must be granted special rest breaks and special free times.

(151) Even before the Convention came into force, the Federal Government had undertaken to examine all the other industrial safety regulations for women with a view to finding any discriminatory provisions which then would be brought into line with modern conditions. In particular, this includes:

1. The general ban on employing women in underground mining, in coking plants, in blast furnace plants and steel works, metalworks and rolling mills, press and hammer works for iron, steel and other metals where these metals cannot be processed cold (Article 16 of the Ordinance on Working Hours (AZO), No. 20 of the Implementing Ordinance to the Ordinance on Working Hours (AVAZO)).
2. The general ban on employing women in the building industry (Article 16, Para. 2, AZO, No. 20 AVAZO).
3. The ban on employing women in jobs with preparatory and closing work taking longer than a maximum of one hour in excess of the working hours permissible for the company in question (Article 17, Para. 1, AZO).
4. The daily maximum working time of 10 hours for female employees (Article 17, Para. 2, AZO).

5. Longer minimum rest breaks for female employees than for male employees (Article 18, Para. 1, AZO).
6. The ban on employing female staff after 5.00 p.m. on days preceding Sundays and public holidays (Article 19, Para. 1, AZO).
7. The Ordinance on the Employment of Women on Motor Vehicles (which prescribes medical examinations and a certain condition and equipment for the vehicle where women are employed on trucks and buses).
8. The Ordinance on Free Time, according to which women with a household of their own who are employed for at least 48 hours per week are entitled to one unpaid day per month for domestic work.
9. The Domestic Work Act of several Federal Laender, according to which women with a household of their own are entitled to a paid day for domestic work.

(152) The Federal Government has submitted a ministerial draft for an act on working hours to the Bundestag (Bundestag publication 11/360) which proposes that the aforementioned industrial safety regulations for women be repealed or restricted to the necessary extent. The individual proposals are as follows:

Re 1:

Employment in underground mining is to remain forbidden. Women are only banned from working in the furnace areas of coking plants. Similarly, women working in blast furnace plants and steelworks, as well as in metalworks, must not be employed in smelting, casting or other physically demanding jobs.

Re 2:

Women may be employed in the building industry if they have undergone an industrial medical examination by a doctor within the six weeks prior to their first employment and present the employer with a certificate issued by this doctor, stating that there are no health reasons against such employment.

Re 3 to 6:

These special rulings for women are to be repealed and replaced by rulings applying to both men and women.

Re 7:

This Ordinance is to be repealed. The only ban to remain in effect is that on employing women in work where not only occasionally loads weighing more than 10 kgs have to be lifted or carried without mechanical means.

Re 8 and 9:

These regulations are to be repealed.

(153) The Federal Government also recognized the special right of female employees to protection by ratifying Article 8, Paras. 1 and 3, of the European Social Charter.

10.6 Paid maternity leave (Para. 2, letter b)

(154) The demand for introduction of paid maternity leave without loss of previous employment is fulfilled by the Federal Child-Raising Allowances Act of 6 December 1985. It states that, following the maternity protection period after delivery, every mother may take child-raising leave up to the tenth month of life of the child. The



employer is not allowed to give notice during this period. Child-raising leave can also be taken by the father, instead of the mother. Female employees are granted paid leave during the maternity protection period on the basis of the Act on the Protection of Working Mothers.

(155) A child-raising allowance of DM 600 per month of life of the child is paid during the child-raising leave. The child-raising allowance is dependent on income from the seventh month onwards. Furthermore, the mother or father remains insured in the statutory health and unemployment insurance schemes on a non-contributory basis during the child-raising leave.

(156) Since the Federal Child-Raising Allowances Act came into force, one million mothers and fathers have received a child-raising allowance. 97% of all parents made a claim -almost 100% of the non-working mothers and approx. 94% of the gainfully employed mothers. The child-raising allowance and child-raising leave have been extended by two months for parents of children born after 1 January 1988. These benefits are available up to the first 12 months of life of the child. This further improves the compatibility of family and working life. In addition, there are plans to extend the child-raising allowance and child-raising leave into the second year.

(157) In addition to child-raising leave, there is also the possibility of leave for family reasons in the public service. A male or female civil servant may apply for leave without salary, if he or she shares a common household with at least one child under the age of 18 and actually looks after this child. The Fifth Act to Amend Civil Service Regulations, which came into effect on 1 August 1984, extended the maximum permissible duration of this leave from six to nine years. Since this is a case of leave, it is associated with a job guarantee.

10.7 Provision of child-care facilities (letter c)

(158) The provision of daytime child-care facilities (kindergartens, crèches) is, according to Article 5, Para. 1, first sentence, of the Youth Welfare Act (JWG), one of the tasks which are the responsibility of the Youth Welfare Offices and non-governmental welfare institutions. Within the framework of the desired reorganization of youth welfare legislation, the Federal Government is attempting to expand the forms of child care supported by public funds. Since the implementation of youth welfare legislation and, therefore, financing of the corresponding facilities is the responsibility of the Laender and communities, according to the division of tasks between the Federation and the Laender specified in the Basic Law, corresponding statutory regulations can only be achieved in close coordination with the Laender and the local authority associations. Apart from this, employers are entirely free to set up company-run kindergartens, whose facilities must comply with the relevant Land regulations and which are subject to supervisory control in accordance with the Youth Welfare Act.

11. Equality of men and women in health care (Article 12)

(159) In the Federal Republic of Germany, there are no restrictions on women going to a freely practising doctor or to a hospital for treatment. There are no regulations restricting the access of women to health care services. The free services during pregnancy prescribed by Para. 2 are provided by the free maternity advice services laid down in the legislation.

12. Equality of men and women in the financial and cultural fields (Article 13)

(160) Women have the same right as men to family allowances, the taking out of bank loans, mortgages and other financial credits. Women also have the same rights in cultural life (e.g. participation in leisure activities, sports).

13. Equality of rural men and women (Article 14)

13.1 Right of participation (letters a and f)

(161) There are no constitutional, statutory or administrative provisions which exclude women, including rural women, from participating in the elaboration and implementation of development plans at all levels. Women have the same access to community activities.

13.2 Access to health-care services (letter b)

(162) Women in rural areas also have access to adequate health-care services, including information and counselling services.

13.3 Social security (letter c)

(163) As of 1 January 1986, the 3rd Agro-social Amendment Act of 20 December 1985 has made it possible for farmers' wives in the Federal Republic of Germany to receive a direct payment of one third of the old-age pension granted to the spouse.

(164) The social security of farmers' wives was improved decisively by the Act on Surviving Dependents' Pensions and Child-Raising Periods, which came into force on

1 January 1986. Mothers or fathers will be granted an extra year's pension entitlement, where, after the 1st of January 1986, they reach the age of 65 or take advantage of the early retirement scheme and where, instead of pursuing other employment, they look after their own child during the first year of its life. The period devoted to the upbringing of children has the effect of establishing and increasing a pension claim. For farmers' wives, child-raising periods are also recognized in the statutory pensions insurance scheme. If the beneficiary was never insured, she can choose between the workers' or employees' pensions insurance schemes.

(165) In addition, some Federal Laender have instituted the following measures to improve the social security of farmers' wives:

- Promotion of village help and industrial assistance to avoid distress situations in families and companies if the farmer's wife or the manager of the agricultural undertaking is unable to work.
- Promotion of counselling of farming families in the social field by corresponding grants to the professional organizations.
- Promotion of recuperation facilities for farmers' wives as a contribution towards preventive health care for rural women.

#### 13.4 Access to formal and non-formal education and training (letter d)

(166) Men and women have equal access to agricultural training occupations. Nor are there any legal provisions constituting a discrimination against women within the framework of vocational advanced training in the agricultural sector (technical schools, technical colleges and universities).

13.5 Organization of self-help groups (letter e)

(167) Rural women have the right to form self-help groups of any kind and to form or join organizations. With over 550,000 members, the German Association of Rural Women is one of the largest women's associations in the Federal Republic of Germany and one of the most important providers of further education for rural women. Its events are aimed at farmers' wives and women living in the country in order to encourage them to take up technical further education and activities for the good of the community.

13.6 Access to loans, marketing facilities, etc. (letter g)

(168) All women, including women in rural areas, have access to credits and loans, marketing facilities or appropriate technologies. They receive equal treatment in land and agrarian reforms and land resettlement schemes.

13.7 Adequate living conditions (letter h)

(169) The increasing activity of women on farms makes it necessary to take measures allowing rationalization of work in the home.

(170) The "Programme for Farmers' Wives" of the early 60s and, subsequently, the "Improvement of Living Conditions" scheme within the framework of the joint task "Improvement of the Agrarian Structure and Coastal Protection" in the early 70s were major contributions towards improving living conditions in the country, particularly as regards housing, sanitation and (hot) water supply.

(171) It may be assumed that there are today hardly any differences between households in the country and in the town. The order of succession to a farm is guaranteed in the same way for both sexes.

14. Equality with men as regards legal capacity, contractual capacity and choice of domicile (Article 15)

(172) The legal principles relating to the equality of men and women before the law in the Federal Republic of Germany have already been described in detail in conjunction with Article 2 of the Convention. Consequently, reference can be made to this information in order to avoid repetition.

(173) Under the legal system of the Federal Republic of Germany, women have the same legal capacity as men in matters of civil law and the same opportunity of exercising this legal capacity. A woman can conclude contracts, manage her assets and have recourse to the courts in the same way as a man. Contracts or other private documents whose legal effect is aimed at restricting the legal capacity of women are forbidden.

(174) In addition, women - like men - are guaranteed the basic right of freedom of movement (Article 11, Para. 1, of the Basic Law). As regards the restriction of this right by virtue of Article 11, Para. 2, of the Basic Law, women are subject to the same restrictions as men. They also have the same rights as men as regards the choice of their domicile. The former right of the husband to determine the domicile of his wife was abolished by the Equal Rights Act of 18 June 1957 with effect from 1 July 1958.

15. Equality of men and women in matters relating to marriage and family relations (Article 16)

(175) According to Article 6 of the Basic Law, marriage and family enjoy the special protection of the state in the Federal Republic of Germany. Legislation on marriage and family must, in particular, be based on Article 3, Para. 2, of the Basic Law, according to which men and women have equal rights. The Federal Republic of Germany has already reported on the requirements for matrimonial and family law, as well as their normative implementation, arising from the aforementioned constitutional provisions, in its two national reports on the national implementation of the rights recognized in the International Pact on Civil and Political Rights (Doc. CCPR/C/1/Add. 18, dated 30 November 1977, and Doc. CCPR/C/28/Add. 6, dated 12 November 1985, corrected version). Reference is made to the statements in the reports on Articles 3, 23 and 26 of this Pact, and also to the general explanations of the content and development of the constitutional and legal position in the Federal Republic given above in relation to Article 2 of the Convention.

(176) Under the legal system of the Federal Republic of Germany, marriage is basically regarded as a life-long community of two persons of different sexes. In this community, the principle of partnership applies. Both partners have the same rights and the same responsibilities towards each other and towards their children. The following applies in relation to the individual items addressed in Article 16:

15.1 Same right to enter into marriage and free choice of spouse (letters a and b)

(177) Article 6, Para. 1, of the Basic Law contains the basic right of entering into marriage with a self-chosen partner of the opposite sex. This human right applies equally for men and women. The matrimonial law of the Federal Republic of Germany contains no provisions differentiating between the sexes as regards the prerequisites for the right to enter into marriage and to choose the partner freely. The declaration of two persons engaged to marry that they wish to enter into marriage with one another must be made in person and by both simultaneously in front of a registrar. This form of entering into marriage safeguards the freedom of marriage (in relation to the prerequisites for marriage, also refer to the statements on Para. 2 of Article 16 of the Convention). Marriages are recorded by the competent registrar in the register of marriages.

15.2 Same rights and responsibilities during marriage and at its dissolution (letter c)

(178) According to Article 1353, Para. 1, of the Civil Code (BGB), husband and wife are equally and mutually committed to conjugal life. Since neither of the spouses has preferential rights, all decisions affecting married life must be reached in partnership by mutual agreement.

(179) The equality of the spouses in marriage is reflected, inter alia, in the statutory regulations on household management, maintenance, choice of family name, employment (cf. Para. 1, letter g) and property in marriage (cf. Para. 1, letter h). According to Article 1356, Para. 1, of the Civil Code (BGB), the spouses mutually agree on household management. According to Article



1360 BGB, the spouses are mutually committed to maintain the family appropriately through their work and with their assets. If household management is left to the responsibility of one of the spouses, this management of the household usually represents fulfilment of the obligation to contribute towards the maintenance of the family by work.

(180) As regards dissolution of marriage, the equal rights of men and women are ensured by the fact that either partner can apply for a divorce under the same legal preconditions if the marriage has irreparably broken down (Articles 1564 ff. BGB). If the man or wife cannot support himself or herself after the divorce, each has the right to claim maintenance from the other spouse in accordance with regulations applying in the same way to both. (Articles 1569 ff. BGB). As regards conflicts arising in relation to property rights after the divorce, the law again makes no distinction between men and women. If the spouses lived in the statutory matrimonial property regime of accrued gains (cf. Para. 1, letter h, in this context), the spouse with the lower matrimonial property accrual can demand equalization of the accrued gains from the other spouse (Articles 1372 ff. BGB). Pensions are also equalized in a manner similar to the equalization of accrued gains (Articles 1587 ff. BGB). The spouse acquiring higher pension entitlements than the other during the marriage is obliged to pay the equalization sum. The other spouse is entitled to claim one half of the difference in value as compensation.

15.3 Same rights and responsibilities as parents (letter d)

(181) According to Article 1626, Para. 1, BGB, father and mother have the same rights and responsibilities for their minor children. The parents must jointly exercise this parental care. If differences of opinion exist between them, they must try to reach agreement. If the differences cannot be settled, neither of them has priority in making decisions. If an important matter on which the parents cannot agree is concerned, they can call upon the guardianship court in accordance with Article 1628 BGB; however, this court does not make a decision itself, but first tries to mediate an agreement between the parents, otherwise awarding the competence to decide to one of the parents, if this is necessary for the good of the child. A ruling introduced by the Equal Rights Act in 1958, whereby, in contrast to former law, the father no longer had general precedence in relation to parental power, but still had a right to make a final decision, was declared void by the Federal Constitutional Court as it violates the principle of equality of men and women.

(182) According to Article 1629, Para. 1, BGB, parents can only jointly act as legal representatives of their children. The sole representation right of the father, introduced by the Equal Rights Act in 1958, was also nullified by the Federal Constitutional Court as it violates the principle of equality of men and women.

(183) Basically, both parents have equal rights and responsibilities in matters relating to their children even after dissolution of the marriage. According to Article 1671, Para. 1, BGB, the family court decides in such cases which parent is to be given the parental custody of

the children born from the dissolved marriage. Termination of the family community usually destroys the basis for joint exercise of parental care and custody. The court must take the decision which will be best for the good of the child. Here, the right of custody can be given to either the father or the mother. According to a decision reached by the Federal Constitutional Court in 1982, parental care and custody may be left with both parents in exceptional cases, if this is compatible with the good of the child and both parents are willing and able to exercise the joint right of care and custody.

(184) The mother is entitled to the parental care and custody of an illegitimate child in accordance with Article 1705 BGB. She is assisted by the Youth Welfare Office as official guardian (Articles 1706, 1709 BGB) in certain individual matters (establishment of paternity, assertion of maintenance claims, settlement of inheritance rights). This ruling is designed to afford special protection for the interests of an illegitimate child.

(185) In all other respects, the interests of the children are "paramount" in the sense of Article 16, Para. 1, letter d, final sub-clause of the Convention. In this context, attention should be drawn, for example, to the ruling in Article 1626, Para. 2, BGB, according to which the parents must take into account the growing capacity and growing need of the child to act independently on his or her own responsibility, and also discuss matters of parental care and custody with the child, insofar as he or she has reached an appropriate stage of development, and try to reach agreement with the child. According to Article 1631 a BGB, the parents must give particular consideration to the aptitude and inclination of their children in matters relating to training and profession.

In cases of doubt, they should ask a teacher or other suitable person for advice. If this is not done, and if there are justified reasons for fearing that the development of the child may be lastingly and severely impaired, the guardianship court decides on the action to be taken. The law also repeatedly refers to the good of the child as the guiding principle in other contexts (cf., for example, Articles 1628, Para. 1, and 1671, Paras. 2, 3 and 5, BGB). In case of risk to the physical, mental or spiritual well-being of the child, the guardianship court must, in accordance with Article 1666, Para. 1, BGB, take the necessary action to avert the danger. However, according to Article 1666 a, Para. 2, BGB, it may only completely withdraw the right of care and custody if all other measures have proven unsuccessful or if it is to be assumed that they will not suffice to avert the danger.

15.4 Same right to decide on the number and spacing of children (letter e)

(186) The decision as to the number and spacing of their children must also be taken by the parents jointly and on their own responsibility. Family planning and birth control are entirely the personal responsibility of husband and wife. Both are reliant on reaching agreement on this matter in accordance with the principle of partnership. In the Federal Republic of Germany, the information necessary for practising responsible parenthood is available to anyone so interested. Anyone can receive medical advice on these questions. Information on family planning and birth control is also offered in information brochures accessible to the general public.

15.5 Same rights and responsibilities with regard to guardianship, wardship, adoption, etc. (letter f)

(187) In the Federal Republic of Germany, there are essentially no differences between men and women with regard to guardianship (Articles 1773 ff. BGB), wardship (Articles 1909 ff. BGB) and adoption (Articles 1741 ff. BGB) of children. They are equally entitled to make use of these legal institutions within the framework of the statutory prerequisites. In this context, the interests of the child are always given priority consideration on the basis of the highly differentiated pertinent rules. According to Article 1741, Para. 1, BGB, adoption is only permissible if it is for the good of the child.

(188) The right of care and custody of a child and the statutory duty of care for a child's property are, according to Article 1626, Para. 1, second sentence, BGB, part of parental care and custody. This aspect has already been commented on.

15.6 Same rights in choosing a family name, a profession and an occupation (letter g)

(189) From the principle of equal rights of husband and wife, it also follows that they are entitled to exercise their own personal rights in the same way during the marriage. This applies in particular to the choice of the family name. The bonds between the spouses are manifested publicly in the Federal Republic of Germany by the use of a common family name, the married name. Until 1976, the rule applied that the name of the husband always became the married and family name. This ruling was changed with effect from 1 July 1976 by the First Act to Reform Matrimonial and Family Law, dated 14 June 1976 (Federal Law Gazette I, Page 1421). According to Article 1355 BGB, the

spouses can today choose whether they wish to use the name of the wife or that of the husband as their married name. This requires a corresponding declaration, to be made to the registrar at the time of marriage. The spouse whose birth name does not become the married name has the right to put that name in front of the married name.

(190) Article 1356 BGB, also pursuant to the First Act to Reform Matrimonial and Family Law, states that both spouses are entitled to engage in gainful employment. This ruling is connected with the shift of matrimonial law away from the so-called "housewife's marriage". In this context, the law formerly prescribed that the wife alone managed the household on her own responsibility and that she was only entitled to engage in gainful employment if this did not conflict with her marital and family responsibilities. On the other hand, the wife was obliged to take up gainful employment if the working capacity of the husband and the income of the spouses were insufficient to maintain the family. The difference now is that the spouses can settle matters of household management by mutual agreement without legal compulsion; both have the right to engage in gainful employment, but both must also give due consideration to each other and the family, i.e. particularly to the needs of the children; in choosing and engaging in gainful employment.

#### 15.7 Same property rights (letter h)

The spouses are also put on an equal standing in relation to property rights. Matrimonial property law provides them with a choice of three regimes: accrued gains, separation of goods and community of goods. In the accrued gains regime, each spouse retains the property held before the marriage, as well as that acquired during the marriage, as their personal property, also managing it

independently. However, in the interests of the other spouse, they are subject to certain restrictions in disposing of their property. Each spouse is liable only for his or her own debts. In the event of dissolution of the marriage by divorce or death, the one spouse receives a share in the accrued gains (increase in assets) acquired by the other spouse during the marriage (except acquisition mortis causa, by gift or similar). Here, the law assumes that the gains accrued by one spouse were also made possible by the work of the other - e.g. by managing the household - meaning that it is justified to give the other spouse a share of these gains. In case of divorce, the spouse with the smaller accrued gains in the marriage can demand equalization of the gains from the other spouse (cf. Articles 1372 ff. BGB). Following the death of one spouse, equalization is usually accomplished by a global increase in the share of the inheritance (Article 1371 BGB).

(192) In the case of separation of goods, which can be agreed in marriage articles, each spouse again retains the property brought into the marriage or acquired by him or her, manages it independently and is liable only for his or her own debts. There are no restrictions on disposal. There is no equalization of accrued gains if the marriage is dissolved.

(193) Community of goods can also be agreed on in marriage articles. In this case, the property brought into the marriage by the spouses, and that acquired during the marriage, becomes the joint property of both. The spouses can also possess property of their own.

(194) In all the legally possible forms of matrimonial property regime, no differences are made on the basis of sex. Rather, the various rights and obligations of the spouses are designed to be independent.

15.8 Minimum age for marriage and registration of marriages  
(Para. 2)

(195) Under the laws of the Federal Republic of Germany, engagement and marriage of minor children is impermissible. The prerequisites for marriage must always be fulfilled for engagements, the latter being a declaration of intent to marry subsequently. A marriage (and engagement) can only be entered into by a person of marriageable age. "Of marriageable age" essentially means of full age, i.e. over 18 years of age for Germans. An exemption from the requirement of full age can be granted if the applicant is at least 16 years old and his or her future spouse is of full age. A person under full age entering into a marriage also requires the consent of the legal representative and the person having care and custody, although this can be substituted by the guardianship court if refused without good reason. The Federal Republic of Germany has also accepted international obligations in this field by signing the Convention on the Declaration of the Will to Marry, the Minimum Age for Marriage and the Registration of Marriages, dated 10 December 1962.

(196) According to Articles 9 and 12 of the Marital Status Act,

- every marriage must be recorded in the register of marriages in the presence of the spouses and the witnesses, and
- following the marriage, a family record of births and deaths must be established, the marriage being entered in columns 1 to 3.

(197) The regulations contain no discrimination against women.