



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

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**Committee on the Elimination of Discrimination  
against Women**

**Consideration of reports submitted by States parties under  
article 18 of the Convention**

**Seventh and eighth periodic reports of States parties due in 2014**

**Germany\***

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*Note:* The present document is being circulated in English, French and Spanish only.

\* The present document is being issued without formal editing.

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**Recommendation 12: Parliaments**

1. The Länder were consulted. They, in turn, involved the municipalities.

**Recommendation 14: Previous concluding observations**

2. The Federal Government gave an account of progress made towards the realization of equal pay in its interim report of 2011.<sup>1</sup> Since that report was submitted work has in particular focused on improving equal pay. This issue will also be addressed in the present report (see the remarks concerning recommendation 40). Likewise, this report will document extensively the situation of women in the labour market and in leadership positions (see the remarks concerning recommendation 35 et. seq.).

**Recommendation 16: Accountability of the Federal Government**

3. The present report addresses, if possible within the word limit, also implementation at Länder and municipal level (see additionally the **Länder Exhibit**).

4. Not without reason did the Federal Republic of Germany choose a federal system in its Constitution (the Basic Law) after the end of the Second World War. This form of government has considerable advantages, in particular in view of sustaining democracy, respect for human rights and the balance of power. It also respects the cultural diversity of the various regions across Germany, which has evolved over time, and it does not intent to create uniformity in all areas of life. At the same time, when distributing powers between the Federation and the Länder, attention was paid to create the same legal and living conditions across Germany in important areas. The human and civil rights and Germany's constitutional order as enshrined in the Basic Law are the foundation for all those active within the federal system. Consequently, the Länder and the municipalities in some cases have different, in other cases overlapping competencies. Therefore, largely uniform results are achieved when implementing many areas of the Convention where federal competencies are concerned (e.g. in criminal law, which is based on federal legislation), but not always. Areas which are under the exclusive responsibility of the Länder (e.g. education) are governed by different legal bases, structures and policy approaches in each of the Länder. In these particular areas each Land is entitled to find its own way of implementing the Convention, and the Federal Government cannot dictate uniform regulations. This constitutional order has proved its worth in Germany. The Federal Government believes that implementation of the Convention is not only possible in a centralized state system.

**Recommendation 18: Anti-discrimination legislation**

5. The General Equal Treatment Act (AGG) protects women against discrimination and (sexual) harassment in the workplace and in business, amongst other things. The AGG does not, however, apply to the domestic and private spheres, since it merely serves to implement four European equal treatment directives into German law. In line with these European requirements, these spheres

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<sup>1</sup> Information Provided on Measures Taken to Implement the Recommendations Contained in paras. 40 and 62 of the Concluding Observations of the Committee of the United Nations on the Elimination of Discrimination against Women of 10 February 2009 (interim report).

were consciously excluded in order to protect privacy and family life. The Basic Law created a consummate balance between the right to equal treatment and non-discrimination (Article 3 Basic Law) and the right to free development of one's personality and the protection of privacy (Article 2 para. 1 Basic Law). Nevertheless, that does leave women without protection. Harassment of considerable gravity is already punishable under criminal law as an insult (section 185 Criminal Code). Further, the protective mechanisms laid down in the AGG take effect where work is carried out in the domestic sphere as part of an employment relationship.

6. In cases in which rights are asserted under the AGG, the facts supporting the right must be presented and proven. However, pursuant to section 22 AGG, relaxations of the burden of proof apply for the discriminated person. First, only mere indications must be presented from which it can be concluded that discrimination based on one of the grounds referred to in section 1 has occurred. This lowers the required standard of evidence in favour of the discriminated person. Where this evidence permits an assumption of discrimination on account of gender, the burden of proof is reversed: It is then up to the opposing party to prove no inadmissible discrimination has occurred.

7. The implementation of the AGG was effectively supported by the establishment of the independent Federal Anti-Discrimination Agency (the Agency).

### **Recommendation 20: Federal Anti-Discrimination Agency**

#### **1. Tasks of the Agency**

8. The Agency makes an important contribution towards achieving a non-discriminatory society. It supports people who have suffered discrimination on account of race, ethnic origin, gender, religion or belief, disability, age or sexual identity. It is able to provide information about rights, taking legal action based on statutory regulations which guarantee protection against discrimination, it can obtain statements from those involved in order to reach a friendly settlement, or can refer people to other agencies providing consultancy regarding litigation.

9. Further, under German law a party to proceedings is free to receive support from anti-discrimination associations. A party may also involve an anti-discrimination association in a court hearing. The party may consult the association before the proceedings, during a hearing in court (via a lawyer in litigation), and may request an interruption in order to consult the association, and also regularly discuss their legal position with a lawyer and with the association during recess. These available options, also regarding anti-discrimination associations do not require clarification. Moreover, anti-discrimination associations can also act as counsel to the discriminated party outside of proceedings.

#### **2. Resources of the Agency**

10. The Agency carries out public relations and preventive work and research at the general level. All federal authorities and other public authorities under federal control are obligated to support the Agency in the fulfilment of its tasks. Together with the Federal Government Commissioners for Integration, for Matters Relating to Disabled Persons and for National Minorities, whose competencies are affected, it reports to the German Bundestag every four years and makes recommendations.

The Agency thus has wide-ranging statutory powers and competencies to fulfil its tasks and take effective action against discrimination.

11. The Agency has sufficient human and financial resources, allocated each year under a separate chapter of the budget plan of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ). The results of an evaluation suggesting a substantial increase in its financial and human resources have been implemented.

12. The procedure for appointing the head of the Agency was established in line with the requirements of the corresponding European Union directives and has proved its worth, since it guarantees the independence of the head of the Agency. In accordance with section 26 (1), third sentence AGG, she is independent and subject only to the law in the exercise of her duties. The Federal Government is aware of no indications which doubt the independence of the head of the Agency. Therefore, neither factual nor legal reason exists to change this procedure.

## **Recommendation 22: Visibility of the Convention and its Optional Protocol**

### **1. Applicability of the Convention**

13. The Convention is an integral part of Germany's legal system. Each state institution must give the Convention effect (by means of ratifying legislation). This is a consequence of the commitment to international law enshrined in the Basic Law. Accordingly, the legislature must refrain from enacting legislation contrary to international law, and the other branches of government (executive and judiciary) must interpret domestic legislation according to international law and use the Convention as an aid to interpretation.

14. Direct applicability of the Convention in order to assert individual, subjective rights based on its wording is more difficult, since (unlike other human rights instruments) not all the articles of the Convention are sufficiently substantiated (concrete enough) to serve as the basis for a decision in an individual case with corresponding legal consequences. However, many of the provisions of the Convention have been detailed in domestic legislation in various legal areas and thus implemented to be enforced individually. For example, the obligations of the state party under Article 15 of the Convention can be found as individually enforceable rights in the Basic Law as well as under civil, criminal and public law.

### **2. Dissemination of the Convention**

15. BMFSFJ published a comprehensive information brochure on the Convention, the Optional Protocol and the general recommendations of the Committee in 2007 which has since been revised and the updated version disseminated at federal, Länder and municipal level. Detailed information regarding the legal provisions which implement the individual articles of the Convention has been provided in all recent periodic reports. Both the sixth periodic report of Germany and the Concluding Observations of the Committee were printed and published in German.

16. The Convention is dealt with in lectures on constitutional law, human rights protection and international law at many universities across Germany.

17. The German Judicial Academy, a facility for professional development funded by the Federation and the Länder, has an annual programme which includes regular

conferences on international human rights protection. They include a conference organized by the Federal Ministry of Justice and Consumer Protection (BMJV). The Academy of European Law in Trier also organizes conferences for judges and public prosecutors on various United Nations conventions.

#### **Recommendation 24: Gender mainstreaming and gender budgeting**

##### **1. Gender mainstreaming**

18. According to section 2 of the Joint Rules of Procedure of the Federal Ministries (GGO), equality between men and women is a consistent guiding principle (gender mainstreaming). It is to be promoted by all respective political, legislative and administrative activities of the federal ministries. The principle has also been laid down in the Federal Act on Gender Equality (BGleIG) since 30 November 2001. The Act obligates all those employed in the federal administration to apply gender mainstreaming in all policy areas. This principle is firmly established within the federal civil service and incorporated into all areas of responsibility of each agency and regarding the cooperation between agencies. Political decision-making processes and measures must be developed, organized and evaluated considering their gender impact.

##### **2. Gender budgeting**

19. Germany has a cameralistic (single-entry) budget system, which would have to be fundamentally restructured in order to be consistent with gender budgeting. Reorienting the budgetary system by gradually giving up the cameralistic approach met significant obstacles at federal, Länder and municipal level. It is an extremely lengthy process, not least because the tried and tested successes of the cameralistic budgetary system, and the resulting economic stability of public budgets, are not to be thrown into jeopardy. Nonetheless, federal authorities must all meet the obligation to apply gender mainstreaming under section 2 of the Joint Rules of Procedure of the Federal Ministries regarding their spending policy. Due to this mainstreaming approach, many of the Federal Government's budget titles also cover funding used to promote gender equality and women. Since the funding is allocated to various titles under various different headings, it is not possible to indicate which share in the national budget is used exclusively for gender equality policy purposes.

#### **Recommendation 26: Temporary special measures**

20. The Federal Government is aware that "temporary special measures" can be mechanisms to achieving substantial equality and that often targeted promotional measures are required to establish gender equality. Therefore, Article 3, para. 2 of the Basic Law stipulates that "[m]en and women shall have equal rights. The state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist."

21. However, the Committee's opinion is not shared that Article 4 of the Convention obligates the state party under international law to introduce certain specific special measures. Rather, in accordance with the Convention, the State parties have discretion which measures they choose to apply to achieve gender equality. If the state party decides to apply special measures in certain areas, they can then rely on Article 4 of the Convention as a justification clause for these temporary measures not constituting discrimination.

22. Germany made use of its margin of appreciation to implement temporary special measures in the period under review and will continue to do so in the future (see recommendation 38).

### **Recommendation 28: Stereotypes**

#### **1. Stereotypes in the mass media**

23. When encouraging the mass media not to perpetuate sexist role stereotypes, use is made at federal and Länder level of the existing strict constitutional framework, which guarantees freedom of opinion. Pursuant to section 4, No. 1 of the Act against Unfair Competition (UWG), sexist advertising, violating human dignity according to Article 1 of the European Union-Charter of Fundamental Rights or Article 1 of the Basic Law is unfair if it is suited to impairing the freedom of decision of consumers and other market participants in an inhuman manner. Pursuant to section 8 of that Act, the right exists to claim cessation or elimination against such advertising.

24. The German Advertising Council is a self-regulatory entity responsible for receiving and investigating complaints about sexist advertising. In accordance with its basic principles, images and text in commercial advertising may not contain statements which discriminate persons based on gender or allow dominant behaviour to appear acceptable. No assertions or images may be used reducing people to their sexuality or suggesting their sexual availability. Likewise, advertising of pornographic nature or of excessive nudity degrading one particular gender is not permitted.

25. Once the Council receives a complaint which is not a priori ill-founded, the company is given the opportunity to submit a counter-statement. If its presentation of the matter is unconvincing and the advertisement is still used although no changes have been made, a decision is taken. If the majority of the Council votes in favour of raising a formal objection to the advertisement, it notifies the company thereof and calls for change or withdrawal of the advertising. Otherwise, the company is publicly reprimanded for its advertising activities. In 2013, the general public and other agencies reported a total of 163 different advertising measures to the Council on account of their gender-discriminatory nature. The Council formally raised objections to 54 of them.

#### **2. Changing traditional role models in society**

26. In recent years, traditional role models have developed in a positive direction regarding gender equality. The study “Today’s Lifestyles — How Women and Men in Germany Want to Live their Lives” by Jutta Allmendinger and Julia Haarbrücker<sup>2</sup> describes how traditional role models are changing in Germany.

27. “A total of 6 per cent of women agreed with the traditional division of roles which can be described as “my partner should be responsible for providing for the family, I should be responsible for doing the housework and looking after our children”. Accordingly, 94 per cent of women assume they will contribute in providing for the family. “Contribution” is the operative word here, since women do not regard themselves as the sole provider. A total of 1 per cent of women agreed

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<sup>2</sup> Comments on the Results of the Survey 2012, Discussion Paper, September 2013, p. 27.

with the statement “I will be responsible for providing for the family, my partner for doing the housework and looking after our children”. The majority of women (62 per cent) desire the following model: “I want to find an appropriate balance between my career and family without neglecting either of these two areas.”

28. In reality, women make the major contribution to the family income in nearly one in five multi-person households: they are the breadwinners. The project “Women Breadwinners” conducted by BMFSFJ in strategic partnership with the DGB National Executive a roadmap was developed on improving the situation of women-breadwinners and on gender equality. One focal point was “Stereotypes are a thing of the past. Diverse roles for men and women”, since typical stereotypes prove an obstacle to women-breadwinners in everyday life. Business enterprises often regard women as supplementing a man’s income; they are treated accordingly and face family-unfriendly working conditions.<sup>3</sup>

29. The Division “Equality Policy for Boys and Men” in the Department of Gender Equality of BMFSFJ was established in 2009. It also deals with typical role models. Against the backdrop of changing role models, the Boys’ Advisory Council, which comprises representatives from academia, practitioners and boys, presented its results in 2013. Initially, a website was created by boys for boys (see recommendation 34).

### **3. Eliminating stereotypes in selection and promotion procedures**

30. Various federal authorities and Land personnel departments (e.g. in **Hamburg**) have published guidelines on selection procedures in the administration in order to introduce more equal opportunities. The guidelines contain information about the effect of gender-stereotypical roles. Likewise, mistakes made when giving staff reports (i.e. assessing men and women differently) were addressed and possibilities avoiding them were described. This issue is also addressed at training events on selection procedures.

31. The pilot project “Anonymized Application Procedures” by the Agency showed that anonymized application procedures tend to increase women’s chances of being invited for an interview when compared to standard procedures, since stereotypical assumptions are avoided. A scientific evaluation of the project showed that anonymized application procedures have the potential to create equality of opportunity between male and female applicants. The procedure has since been introduced in several Länder for the recruitment of civil servants.

### **4. Migrants**

32. Modern gender equality policy ensures equitable opportunities for women and men during the course of their lives and aims to offer targeted support when people make crucial decisions regarding career and family life. It also considers women with migration background.

33. In 2013, the Federal Office for Migration and Refugees conducted a study on behalf of the German Islam Conference on “The Gender Role Models of German and Immigrant Members of Christian and Muslim Religious Communities”.<sup>4</sup> The

<sup>3</sup> [www.familienernaehrerin.de](http://www.familienernaehrerin.de).

<sup>4</sup> Authored by Inna Becher and Yasemin El-Menouar, Federal Office for Migration and Refugees 2014, Research Report 21.

primary focus of this survey was on gender roles in various groups in Germany, taking particular account of religious affiliation and origin. The Office conducted a representative survey of a total of more than 3,000 Muslims and Christians from select countries of origin. This provided an estimate of how widespread gender role models, which can have a detrimental effect for women, actually are. The study concludes that the majority of those interviewed, regardless of religion and origin, regard gender equality as a firmly established universal human right. Only a minority (11 per cent Christians and 17 per cent Muslims) expressed views which can be classed as partially discriminatory against women. This trend towards more liberal views does not apply to opinions on “chastity norms”: Around half of Muslims who were born or raised in Germany still attach great importance to chastity norms. By contrast, such norms are of hardly any significance for succeeding generations of Christians. Irrespective of their religious affiliation, those applying religious rules to their everyday lives hold more traditional views regarding gender roles.

34. The study suggested the key factor behind differences regarding gender equality is a person’s social situation. Those who acquired very low formal education outside of Germany less frequently agree with equal opportunities for women and men. The study disproves that migrants have stereotypical role models, and it thus contributes to raising awareness and dispelling prejudices.

35. Migrant women face special challenges in Germany when taking advantage of equal opportunities to participate in society and the labour market, since they are often the drivers of their own and their families’ integration process. In order to improve these women’s social participation support needs to be provided for them to form organizations and to represent their interests. BMFSFJ supports the National Umbrella Organization of Associations of Female Migrants (DAMIGRA) open to women of all origins that aims to represent the interests of migrant women and their organizations at federal level.

36. The Federal Government’s ESF-programme “Strong Careers — Mothers with a Migration Background Start Out” (see recommendation 37) aims to improve the careers and social integration of mothers with a migration background. It helps to counter stereotypes and outdated role models.

### **Recommendation 30: Reconciliation of family and work life**

#### **1. Equitable sharing of childcare responsibilities between parents**

37. The Federal Government has attached and still attaches great importance to promoting the fair sharing of professional and family tasks between the parents/partners by means of time, money as well as infrastructure. Sixty per cent of parents in Germany with children between one and three years aspire to a family model in which both parents work the same weekly hours and share responsibility for childcare and household chores. Only 14 per cent are currently able to put this model into practice.

38. Therefore, the Federal Act on Parental Allowance and Parental Leave was enacted in 2006. Fathers and mothers are entitled to the parental allowance for a maximum of 14 months if they stop working for a period after their child is born. They are free to divide that period between them. One parent can claim a minimum of two and a maximum of 12 months for him/herself; the other parent can then

claim two additional non-transferrable months. The parental allowance generally amounts to 65 per cent of net income, at least 300 euros and at most 1,800 euros.

39. The parental allowance is claimed by a relatively constant figure of 96 per cent of mothers for an average of 11.7 months. In 2012, an average of 29.3 per cent of fathers claimed parental allowance for children born in 2012 while only 23.6 per cent of fathers had claimed the allowance for children born in 2009. On average, fathers claimed parental allowance for 3.2 months in 2012.

40. Parental Allowance Plus, which represents an evolution of parental allowance, enables parents to combine it as optimally as possible with part-time work and thus makes it easier to return to work. Where previously parental allowance was paid for one month, parents are now paid Parental Allowance Plus for two months (at a maximum of half the statutory amount) if they work part time. A non-transferrable Partnership Bonus is paid additionally to the parental allowance. Where mothers and fathers both work between 25 and 30 hours part time per week for four months, each will be paid the Parental Allowance Plus for a further four months. Under the new regulations, cohabiting parents and single parents are entitled to the allowance.

41. Besides parental allowance, each parent is entitled to take parental leave, i.e. each parent has the right to interrupt their career until the child's third birthday to raise their child and then to return to the same job. The rules on parental leave have also been made more flexible: Parents can now claim parental leave for up to two years between the child's third and eighth year. Their employer's consent is no longer required.

42. The equitable status of both partners is achieved by means of symmetry in tax legislation. The committee of experts commissioned by the Federal Government with drawing up the First Equality Report in 2011 comprehensively investigated gender equality in Germany. The report concludes that the income splitting method "promotes an asymmetrical partnership model in which the husband is solely or primarily responsible for earning the couple's income during the marriage and the wife at most earns a supplementary income." The Federal Government attempted to counter this development by introducing what is known as the "factor method".<sup>5</sup>

## 2. Expanding childcare facilities

43. Another priority area is the creation of a needs-based, high-quality childcare infrastructure in order to establish equal educational opportunities for all children as early as possible and to improve reconciliation between work and family life. In April 2007 the Federation, Länder and municipalities reached agreement at the so called "Nursery Summit" that an adequate range of nursery places must be available for at least one third of children under the age of three. The legislature implemented this political agreement by means of the Childcare Funding Act. The Act establishes the legal right to a nursery place for all children from the age of one as of 1 August 2013. Considerable efforts were undertaken at federal and Länder level and by the cities and municipalities, so that by this date nursery places had been created for significantly more than one third of children in this age group. Between 2007 and 2012, demand for childcare for children under the age of three rose from 15.5 to 27.6 per cent. Non-school childcare for children between the age of three and six rose from 89.2 to 93.9 per cent in the same period.

<sup>5</sup> See the remarks concerning recommendation 40.

44. The Federal Government provided a significant amount of the funding towards expanding childcare facilities through two investment programmes and carrying a share of the running costs. A total of 5.4 billion euros was made available up to 2014. The Federation still provides funding from two investment programmes that can be used to create additional nursery places.

45. Further work is needed improving the quality of day care for children. Besides, the existing nationwide programmes (e.g. on language development and attracting qualified educational staff). Therefore, the Federal Government will provide funding from 2015 in the amount of 845 million euros annually to safeguard and improve the quality of childcare facilities on a permanent basis. Progress is made on gradually expanding full-day supervision for school children.

### **3. Family-friendly world of work**

46. Between 2007 and 2013 the employment rate of women rose from 66.7 to 72.5 per cent (that of men rose to 82.1 per cent, Eurostat, 20 to 64 years<sup>6</sup>). Women's average weekly working time totals 30.3 hours; men work an average of 40.4 hours per week. Approximately 70 per cent low-wage sector employees are women. Around one third of all women in dependent employment aged between 25 and 60 achieve a level of income not enough to secure their own livelihood (compared to one tenth of men). This is one reason why a general statutory minimum wage of 8.50 euros per hour was introduced as of 1 January 2015. Women especially benefit from the minimum wage, as two thirds of the estimated 3.7 million workers whose pay increased through the minimum wage are women.

47. The law regarding part-time work is to be developed further in order to make the transitions between full-time and part-time work phases easier. The law is to make provision so that those employees who have decided only to work part time because they are raising children or caring for relatives can return to their old working time. In order to ensure the "right to return" a right to reduce work to part-time only for a fixed-term has to be established.

48. Further, since 2006 Germany, together with business associations and trade unions, promotes a family-friendly work environment through the "Success Factor Family" programme. In 2010, the focus shifted to family-friendly working time models, in particular part-time employment of between 30 and 35 hours per week, which give women more career opportunities and enable men to spend more time with their families. The joint activities carried out under the programme have contributed to businesses increasingly regarding family-friendliness as a competitiveness factor. The share of companies, which regard family-friendliness as important rose from 46 per cent in 2003 to 80 per cent in 2012.

## **Recommendation 32: Political participation and participation in public life**

### **1. Women in politics**

49. At federal level, a comparatively large number of women hold political office. Of the Members of the current German Bundestag, 36.3 per cent are women (compared to 6.8 per cent in the first Bundestag in 1949). An average of 32.2 per cent of the members of the Land parliaments, are women. Germany again has a

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<sup>6</sup> The time series was interrupted: From 2011 onwards new projections were based on the results of the 2011 census.

female Chancellor, and five of the 14 federal ministries are headed by women. Women are still under-represented in the municipalities. The share of women honorary municipal representatives totals 24 per cent on average. Only 5 per cent of the full-time and voluntary mayors in municipalities with more than 2,000 inhabitants are women.

50. Therefore, BMFSFJ supports women who are active in local politics. The Helene Weber College was set up as the first national, cross-party platform focusing on promoting women in politics. The Helene Weber Prize has twice been awarded to outstanding local female politicians. According to the Coalition Agreement the Prize and the College will continue to receive funding for their activities. A rule which ensures that 50 per cent of posts are filled by women, 50 per cent by men (known as the parity rule) has repeatedly been discussed improving preconditions for statutory regulation on the equal participation of women in parliaments. In 2014, BMFSFJ organized a specialist conference on “Parity now!” with the objective to present the national and international situation and to develop recommendations for effective action.

## **2. Migrant women**

51. Two studies commissioned by the Federal Office for Migration and Refugees in 2007 and 2008 investigated the biographies of successful migrant women. One outcome was that the women included in the survey represent a considerable potential workforce and that good education makes a key contribution to migrant women to better integrate into the labour market. Teachers and trainers have a key role, since they pave the way to successful education and can help those on a less favourable path. Key elements include courses improving German language skills.

52. The project “Migrant Women in Leading Positions: Factors for Success on the Way to the Top”, funded by the Federal Ministry of Education and Research, investigates the key to success for and obstacles faced by highly qualified migrant women aspiring to leading positions in business and academia. It develops recommendations for effective action. General regulations, such as women’s quotas, and anonymized application procedures, may be useful. It is important to help businesses and organizations to learn intercultural openness and to promote a culture of welcoming international specialists and immigrants to Germany. Overcoming clichés and getting rid of stereotypical ideas about qualified migrant women are especially important. HR-decision-makers often associate a history of migration with low qualifications and language difficulties.<sup>7</sup>

## **3. Women in the public sector**

53. Since the Federal Act on Appointment to Bodies of 1994 (BGremBG) and on Gender Equality of 2001 (BGleiG), see the sixth report on Germany, women’s situation in federal public service has improved considerably in many respects. That applies particularly to the share of women in total employment, which rose from 45.6 per cent in 2001 to 52 per cent in 2012. Despite the notable rise in the share of women in management roles, from 18.5 per cent in 2001 to 30 per cent in 2012, equal participation has not yet been achieved. Women are still under-represented in management positions and in bodies under federal control (25.7 per cent in 2013).

<sup>7</sup> The final report is available at: [www.migrantinnen-in-fuehrung.de/](http://www.migrantinnen-in-fuehrung.de/).

Consequently, both Acts are proactively implemented in the federal public service and an Equality Index is developed. Hereto, Germany in 2014 launched a legislative proposal on the equal participation of women and men in leadership positions in the private and public sector. The new law enters into force in 2015.

54. The Coalition Agreement provides for continuation of the approach adopted in the National Action Plan on Integration. The share of people with a migration background in public service shall be increased. From 2015 onwards surveys into the share of migrants employed will be conducted on a voluntary basis in the federal ministries and authorities within their remit.

#### **4. Women in the judiciary**

55. There are a total of 106 women in the federal civil service who hold high-ranking positions in the judiciary, either as judges at federal courts or as public prosecutors with the Federal Public Prosecutor General. There are 30 female judges in the Federal Patent Court (25 in salary grade R2; five in salary grade R3), 30 female judges in the Federal Court of Justice (27 in salary grade R6, out of a total of 113; three are presiding judges in salary grade R8, out of a total of 14 presiding judges), 14 female judges in the Federal Administrative Court (13 in salary grade R6, out of 44 judges overall; one female presiding judge in salary grade R8, out of a total of nine presiding judges) and 13 female judges in the Federal Finance Court (11 in salary grade R6, out of 49 judges overall; two female presiding judges in salary grade R8, out of a total of eight presiding judges). There are currently 19 women working for the Federal Public Prosecutor General, six of whom are in salary grade R2, 10 in grade R3 and three in grade R6.<sup>8</sup>

56. The Federal Government has no statistics regarding the share of women in high-ranking positions in the judiciary at Land level. However, the Judiciary Statistics 2012 show that some 20,000 female judges are employed in the Länder, which equals a share of 40.16 per cent.

#### **5. Women in academia**

57. The second phase of a programme for female professors was launched in early 2013. The Federation and Länder aim to motivate young women to enter an academic career and at the same time to strengthen Germany's international competitiveness as a location for science. A total of 150 million euros is available for the period 2013 to 2017 (half paid by the Federation, half by the Länder). In the first phase (2008-2012), more than 260 female academics were appointed to tenured W2 and W3 professorships. The evaluation of the programme showed that it has achieved successes both in personnel and structural terms:

- numerous measures to promote gender equality have been developed and implemented at institutions of higher education;
- in 2012, women accounted for 52 per cent of those who gained a higher education entrance qualification; 45 per cent of all PhD degrees awarded in 2012 went to women. The share of women who gained their qualification to teach in higher education (Habilitation) in that same year was 27 per cent;

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<sup>8</sup> R2 is the lowest, R10 the highest salary grade.

- the share of female professors at German institutions of higher education has doubled over the last 10 years to 20.4 per cent (compared to 16.2 per cent when the sixth report was submitted in 2007).

58. Federation, Länder as the awarding authorities for non-university scientific organizations, are still committed to ensuring women are appropriately represented especially in leading positions in science. Based on a resolution by the Joint Science Conference in November 2011 (GWK), the scientific organizations set own targets for various career levels for 2017. Several measures aim at improving ways to reconcile work and family life, like childcare allowance or part-time vocational training.

59. The “Time for Money” programme launched in 2007 is still ongoing. It ensures that scholarship-holders with children can finance additional childcare measures by taking advantage of funding earlier, e.g. for the coverage of childcare costs at short notice. See recommendations 26 and 38 regarding temporary special measures.

#### **Recommendation 34: Education**

60. The Federal Government also makes efforts to counter traditional stereotyped roles regarding career choices and intends to:

- Expand the range of career options for women and to thus encourage more women to take up technical/scientific courses and professions and to study the MINT subjects (mathematics, information science, natural sciences and technology);
- Expand gender role models for girls and boys;
- Increase the share of women in leading positions in academia, higher education and non-university research institutions;
- Improve the reconciliation of training/work and family and to shape the framework conditions such that they support women in their careers.

61. The Federal Government initiated and continues various measures to implement these objectives since 2009.

62. The National Pact for Women in MINT Careers is a broad alliance of nearly 200 partners from trade, industry, science and the media, with participation of the Federation, Länder and Federal Employment Agency (BA). The National Pact comprises more than 1,000 activities and support measures for female pupils, students and academics, those in MINT jobs and many more. This has contributed to an above-average increase in the share of women studying one of the MINT subjects. Current figures show that since 2008 the number of women studying a MINT subject has risen over 70 per cent — from nearly 60,000 to more than 100,000.

63. The Federal Government supports the annual Girls’ Day since 2001, with the aim of expanding the range of career options for girls. It provides practical insights, into technical and scientific careers. More than 1.5 million girls have taken part since 2001. Attention is also paid to career options and life choices for boys and men: The nationwide network New Paths for Boys was launched in 2005. It currently comprises 207 partners which provide boys with help and support around

the topics of career orientation, traditional role expectations and teaching social skills. The nationwide Boys' Day was launched in 2011. Each year on that day boys have the opportunity to test gender-atypical professions, e.g. caregiving and education. Some 130,000 boys have taken part in the Boys' Day since 2011.

64. From 2015 BMFSFJ and the Federal Ministry for the Environment will be supporting socially disadvantaged young people as they make the transition from school to work in disadvantaged cities and regions through the project "Strengthening Youth". The key method applied in this work with adolescents is providing individual, social-educational support, known as case management. This examines young people's individual problems, resources or institutional conditions in a gender-differentiated manner. Giving due consideration to gender-specific issues is an important skill of the professionals involved in case management.

65. The road show "My Future: Female Bosses in the Trades" aims to recruit women and multipliers for careers as entrepreneurs in the trades. The interactive exhibition is shown in chambers of trade, equal opportunity offices, employment agencies, business development agencies.

66. The national programme "More Men in Nurseries" was launched in 2010. A whole package of measures is being used, to encourage young men to train as nursery school teachers including the "Professionals for Nurseries" campaign. As a result the number of male preschool teachers in nurseries rose by 51 per cent over the past three years. In 2013, more than 15,000 male professionals were working in the field, corresponding to a share of 3.4 per cent (2010: 2.6 per cent). It is not only possible to get young men interested in gender-atypical professions by means of targeted advertising but also to strengthen the positive images of the professions in question. It is men between 35 and 45 who are interested in changing careers and rethinking their generally gender-typical career choices. Since 2011 the Federal Government has therefore been looking into how to best organize preschool teacher training as part of life-long learning for this target group.

### **Recommendation 36: Discrimination in the labour market**

67. Discriminatory **termination of an employment contract** is permissible neither within nor outside of the scope of the Act on the Protection against Unfair Dismissal. In the event of an employment contract being terminated, protection against discrimination is ensured in Germany by provisions against unfair dismissal. Section 2 (4) of the AGG does not preclude the application of substantive prohibitions against discrimination and their more detailed implementation in that Act. Section 2 (1) No. 2 AGG provides that discrimination on one of the grounds referred to in section 1 of that Act is not permissible and very explicitly also applies to "conditions regarding dismissal".

68. If the Act on the Protection against Unfair Dismissal is applicable to an employment relationship, then the wording of section 1 (1) of that Act makes it clear that a dismissal is legally void if it is not justified under social aspects. A discriminatory dismissal is always unjustified under social aspects and thus void. Besides, the Federal Labour Court also explicitly clarified this issue in its decision of 6 November 2008 (file No.: 2 AZR 523/07).

69. The protection against discrimination provided under AGG is systematically extended under German law also to termination of employment contracts which are

not covered by the scope of application of the Act on the Protection against Unfair Dismissal (sections 138 and 242 Civil Code and its section 134 read in conjunction with Article 3 Basic Law). Therefore, sufficient protection is provided against discriminatory dismissal in conformity with European legislation. Accordingly, no amendments are needed to the AGG.

### **Recommendation 38: Equal Participation of women in the labour market**

70. De facto gender equality in the labour market is one of the Federal Government's key policy objectives. Germany has made significant changes since the last report was submitted, particularly in regards to reconciling work and family (including introducing the parental allowance, expanding childcare facilities, establishing the legal right to a nursery place from age one, as well as joint efforts undertaken by politics, business and the social partners to create a more family-friendly world of work). Nevertheless, further action is still necessary. Promoting women's equal participation in the labour market, both in terms of quantity and quality of the work, is a priority goal in the Federal Government's strategies for dealing with demographic change and ensuring the supply of skilled labour.<sup>9</sup>

#### **1. Volume of gainful employment**

71. Based on the results of a survey of the labour force, some 56 per cent of women aged between 15 and 64 were in gainful employment in 1992. Twenty years later that figure had already risen to 68 per cent. The share of women in the labour force aged over 45 rose particularly steeply between 2002 and 2012, namely from 51 to 68 per cent. The gap between men and women shrank continuously: 46 per cent of all those in gainful employment in 2012 were women. The increase in the share of women in gainful employment has gone hand in hand with an increase in the number of women in part-time jobs. In 1992 the share of women working part time was 30 per cent, in 2002 39 per cent, and in 2012 that figure was 45 per cent. In 2012, 9 per cent of men were working part time.<sup>10</sup>

72. In regards to the concerns expressed by the Committee that women are primarily employed in part-time, fixed-term and low-paid jobs: The increase in recent years in the number of women in dependent employment is first and foremost due to the increase in women in normal employment relationships. Their number increased by 5.1 per cent to some 9.9 million in 2013 (compared to 2011). That figure includes women in substantial part-time jobs (more than 20 hours per week), whose share increased by more than 9 per cent. In the same period the number of women in atypical employment relationships dropped by 2.2 per cent to 5.4 million. The number of women in part-time jobs working up to 20 hours per week has remained relatively constant (-0.6 per cent), the number of women in marginal employment dropped by some 7 per cent and the number of women in fixed-term jobs by just over 10 per cent. In total, around two thirds of women in dependent

<sup>9</sup> For objectives, measures and past successes, please see [www.bundesregierung.de/Webs/Breg/DE/Themen/Demografiestrategie/\\_node.html](http://www.bundesregierung.de/Webs/Breg/DE/Themen/Demografiestrategie/_node.html) and [www.bmas.de/DE/Service/Presse/Pressemitteilungen/fortschrittsbericht-fachkraefte-fuer-2013.html?nn=31846](http://www.bmas.de/DE/Service/Presse/Pressemitteilungen/fortschrittsbericht-fachkraefte-fuer-2013.html?nn=31846); regarding special support for single parents, see BMAS-Report 2013 "Supporting Single Mothers, Gaining Skilled Workers" at: [www.bmas.de/DE/Service/Publikationen/a858-alleinerziehende.html](http://www.bmas.de/DE/Service/Publikationen/a858-alleinerziehende.html).

<sup>10</sup> See "On the Way to Equality? Education, Work and Social Affairs", Roderich Egeler, 30 July 2014, p. 6.

employment in 2013 were in normal employment relationships of more than 20 hours per week.

## **2. Active labour market policy**

73. The legislature attaches great importance to gender equality in active labour market policy and made that clear by undertaking the relevant amendments to the law on employment promotion under the Third Book of the Social Code (SGBIII) and in regard to basic security benefits for job-seekers in accordance with the Second Book of the Social Code (SGBII). The Act on the Reorientation of Labour Market Policy Instruments of 21 December 2008 more clearly than before establishes gender equality as a principle to be applied to employment promotion overall within the legal sphere of SGBIII. The Act on the Further Development of the Organization of Basic Security Benefits for Job-Seekers of 3 August 2010 created the basis, for the legal sphere of SGBII that all job centres — like the employment agencies — are to employ full-time “Commissioners for Equal Opportunities in the Labour Market”. Their key task is to advise and support their management and professional experts on this issue to ensure that equality of women and men in the labour market, the statutory task of promoting women, and reconciliation of work and family life are implemented when services are provided. They also provide advice and support on overarching issues to women seeking employment or to women who are entitled to benefits and are fit for work, as well as to employers.

## **3. Basic social benefits for job-seekers**

74. The concept of the “needs unit” which is applied to basic social benefits for job-seekers is directed at people who are living together and supporting each other as a family unit. The underlying assumption is that family members who live together in one household typically support each other. That is why partners’ income and assets are reciprocally credited. People who are living together and who pool their incomes save on expenses as a result. At the same time, in view of the objective of providing pro-active support by means of labour market policy and local government services, SGBII also has the goal of supporting need units as a whole. The obstacles to placing job-seekers in suitable jobs often result from the family structures and not from a person’s individual problems. This makes it clear that evaluating the “needs unit” exclusively from the perspective of crediting income and assets does justice neither to the objectives of the law nor to real life.

## **4. Reintegration into the labour market**

75. Another key concern of the policies adopted by the Federal Government is to improve the reintegration of women into the labour market. Consequently, BMFSFJ, in cooperation with the BA, in 2008 launched the programme of action “Towards Reintegration — Tapping into Potentials”. The programme comprises various levels which support women’s reintegration into employment with full social security coverage which is suited to their qualifications following a longer career break during which they cared for their children or relatives. Thus, it also makes a key

contribution to reconciling family life with a career, including through an Internet portal which acts as a navigation tool.<sup>11</sup>

76. A total of 6,886 women benefitted from the intensive support management provided at the sites where the model project is run; 25,000 women received information and advice. Another focus is on incorporating women's partners to provide support during the reintegration process and on raising awareness of the family-support and household-related services they can draw on. The aim is thereby to open up job opportunities by means of suitable training measures for women with few qualifications wishing to re-integrate into the labour market.

77. The programme will be continued from July 2015 with new priority areas (reintegration and caregiving tasks, potentials inherent in women in "mini-jobs", prospects in people- and household-related services, expanding online qualifications and a greater emphasis on employers).

#### **5. Women in leading positions: the facts**

78. The previous outcome of non-legislative measures aimed at increasing the share of women on supervisory boards, executive boards and in higher-level management posts is unsatisfactory. In 2014, the share of women on the supervisory boards of the 200 largest private enterprises in Germany was only 18.4 per cent; the share of women on the executive boards of these companies was only 5.4 per cent.<sup>12</sup> The share of women in executive positions in the 65 largest companies with more than a 50 per cent government stake was approximately.

79. 20.7 per cent on supervisory boards and approximately 13.9 per cent in top management bodies (as of 1 January 2014).

80. With regard to the Federal Public Service, statutory regulations on the equal participation of men and women have applied for 20 years to federal administrative authorities, courts and companies, as well as bodies to which the Federation appoints members. However, the share of women in leading positions in the federal public service is still only 30 per cent and in bodies under Federal control that share is only 25.7 per cent (as at: 2013).

#### **6. Women in leading positions: temporary special measures**

81. Because of the above the Federal Government in 2014 tabled a draft law on the Equal Participation of Women and Men in Leadership Positions in the Private and the Public Sector. According to the draft, listed and fully co-determined companies will, firstly, be obligated to achieve a gender quota of 30 per cent women on their supervisory boards as from 2016. Secondly, from 2015 listed or co-determined companies will have to set themselves targets regarding the share of women as well as deadlines by which those targets must be achieved. Such targets must be set regarding the supervisory board, the executive board and the two top management levels below the executive board. They only apply to those supervisory boards to which the fixed gender quota is not already applicable. To ensure that the

<sup>11</sup> E.g. [www.perspektive-wiedereinstieg.de](http://www.perspektive-wiedereinstieg.de).

<sup>12</sup> DIW Berlin, Women Executive Barometer 2015.

Federation sets a good example, the BGremBG and the BGleiG are updated in this context.<sup>13</sup>

#### **7. Women in leading positions: avoiding career breaks**

82. The legislative process regarding the new law was accompanied by other, non-legislative, measures and projects aimed at eliminating vertical segregation in the labour market. A project “Changing Company Culture — Avoiding Career Breaks” suggests that the widespread culture in Germany of having to be constantly on-site represents a particular obstacle to women’s promotion. Time commitment, to be constantly available during and outside of working hours, is often regarded as a performance indicator. Part-time jobs, which women still more frequently opt for due to their family commitments, often become a career obstacle. Fathers who would like to work less in order to spend more time with their family are likewise afraid this may prove a career obstacle.

83. The project “Regional Alliances for Equal Opportunities” involved private and public companies, large as well as small- and medium-sized, in a broad range of sectors. Each of the companies set themselves specific targets for increasing the share of women in executive positions. To achieve those targets they initiated tailor-made measures, including offering executive positions as job-sharing-posts. Workshops for businesses and summits for individual branches of industry are being organized to provide businesses with the opportunity to share experience and to increase acceptance of flexible working-time-models for executives.

#### **8. Engaging fathers in caregiving tasks**

84. See remarks concerning recommendation 30.

#### **9. Single mothers and women-breadwinners**

85. Ever more women are the breadwinners in their families. In nearly one fifth of multi-person households in Germany women earn the majority of the income. Half of these women are single mothers, often because they are separated or divorced, in low-paid jobs, their partner is unemployed or in need of care. Women-breadwinners often have to carry a double burden: They take on responsibility for being the breadwinner and for household and child-raising duties. Often nobody can relieve them of the burden of family work. The majority of breadwinning women across Germany have middle to low qualifications and income levels. Around half of them have completed an apprenticeship or are skilled workers. Important issues are pay inequality and poorer opportunities in the labour market due to the lack of available childcare.

86. BMFSFJ undertook a project on women-breadwinners in cooperation with the German Trade Union Confederation (DGB). Between 2010 and March 2012 information was above all provided to trade union, political and other actors concerning the situation of breadwinning women. A website about women-breadwinners containing comprehensive information and interactive elements was launched. Recommendations for action were developed together with civil society

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<sup>13</sup> The Act on the Equal Participation of Women and Men in Leadership Positions in the Private and the Public Sector was adopted by the German Bundestag on 6 March 2015 and entered into force on 1 May 2015 (Federal Law Gazette I No. 17, 30 April 2015, p. 642).

and summarized in a road map.<sup>14</sup> The focus of activities between March 2012 and 2014 was on implementing the roadmap in the labour market and in businesses. Activities included conferences, events and training events across Germany for political and trade union multipliers and intensive information and public relations activities.

87. Federal Government, BA and Länder have jointly undertaken special efforts to optimise the support available locally to single mothers and to boost their integration into the labour market. They include the co-funded ESF-programmes “Good Work for Single Parents” (2009-2012) and “Networks of Effective Help for Single Parents” (2011-2013) and the campaign “Opening up Employment Opportunities for Single Parents” (2012-2013) as part of the campaign to attract skilled workers.<sup>15</sup> These approaches will be continued as part of everyday business of employment agencies and job centres wherever possible, and rolled out across Germany.

88. According to the coalition agreement single parents shall be taxed considerably less. To this extent the tax exemption amount (for single parents) shall be graded according to the amount of children. Currently, the parliament discusses a draft law for the increase of child allowances, child supplements and the tax exemption for dependent children. Single parents will benefit from these improvements as well.

## **10. Migrant women**

89. The Federal Government is aware that mothers with a migration background are much less frequently in gainful employment (and if mostly only a few hours a week) than mothers without a migration background, although half of them hold an intermediate school leaving certificate or a (subject-restricted) higher education entrance qualification, a certificate of apprenticeship/master craftsman’s certificate or a university or technical college degree (see Microcensus 2011). This group’s low labour-force participation rate indicates that labour market promotion instruments are not yet reaching many women and in particular not mothers with a migration background. The new ESF-programme “Strong Careers — Mothers with a Migration Background Start Out” offers career prospects for these women and makes it easier for them to find a job. The programme focuses on better coordinating access to assistance and benefits to the individual needs of this group, and on closing the gaps in the integration process. Reconciling work and family life has a key role to play. From early 2015 a total of some 80 model sites across Germany will receive support initially for four years (See also remarks concerning recommendation 60).

## **11. Women with disabilities**

90. Gender equality must be applied as a consistent guiding principle to employment promotion and basic social benefits for job-seekers (see above). The same also goes for unemployed women with disabilities and women with disabilities who are fit for work and entitled to social benefits. In the period under review the majority of job centres and joint facilities — like the employment agencies before

<sup>14</sup> [www.familiernaehrerin.de](http://www.familiernaehrerin.de).

<sup>15</sup> See 2013 BMAS Report, “Supporting Single Mothers, Gaining Skilled Workers”: [www.bmas.de/DE/Service/Publikationen/a858-alleinerziehende.html](http://www.bmas.de/DE/Service/Publikationen/a858-alleinerziehende.html).

them — had specialist integration experts who were responsible for looking after people with disabilities drawing basic social benefits. These naturally also raised questions regarding gender-typical situations which impose a burden on disabled women and women at risk of disability. The goal of all these activities is to permanently integrate these women into the labour market.

## **12. Income in old age and the pension system**

91. Like many industrialized nations, Germany is faced with demographic challenges when securing its current and future pensions. The circumstances of women and men often differ in old age. On account of women's higher life expectancy, they are much more likely to be living alone in retirement. This has an impact on their available income, as multi-person households can often achieve savings effects on account of several people living together. Comparing single women pensioners with single men pensioners, 25 per cent of single women pensioners in 2012, had a net income of less than 900 euros per month, compared to only 16 per cent of single male pensioners.<sup>16</sup> Women from the former West Germany rely more frequently on basic social benefits at age 65, one of the reasons being their different employment histories. In former West Germany, just fewer than 3.4 per cent of women and 2.5 per cent of men over the age of 65 were drawing basic social benefits in 2012. In former East Germany and Berlin, fewer pensioners were drawing these benefits and the gap between men and women was smaller: 2.1 per cent of women and 1.8 per cent of men over 65 were claiming basic social benefits.<sup>17</sup>

92. The Committee's suggestion that Germany examines making changes to the current German pension system is misplaced. On account of the fact that a pension serves to replace a wage or pay, the key to ensuring good old-age provision for women is above all permanent and well-paid employment. It would not be expedient to create incentives which lead to more women staying at home rather than engaging in gainful employment. That would result in fewer pension contributions being paid into the pension system. A high level of contributions is of essential importance when regarding the future financing of the pension system, given that it is already facing huge demographic challenges due to higher life expectancy and that a larger proportion of the population is now of pensionable age.

93. Moreover, the German law on the statutory pension insurance scheme already contains numerous regulations which are gender-neutral but de facto benefit women in particular because it is them who do the overwhelming majority of the family work: consideration of the time spent raising children in qualifying periods; crediting child-raising periods up to the child's tenth birthday; the increased value of contribution periods and credit for raising several children during a child-raising period (as from 1992); pensions being based on the minimum wage for those earning low wages in periods up to 1992; and including caregiving periods from 1992. Child raising periods for children born from 1992 onwards amount to three years. For children born before 1992, two years of child-raising time are credited as from 1 July 2014, i.e. one year more than was previously the case; this also applies to those already drawing a pension.

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<sup>16</sup> Federal Statistical Office, *On the Way to Equality? Education, Work and Social Affairs*, 30 July 2014, p. 15.

<sup>17</sup> *Ibid.*, p. 16.

### 13. Länder

94. The **Länder** are also committed to the equal participation of women in the labour market. The measures implemented by the Länder are additional to the programmes run by the BA across Germany as described in the above.

#### **Recommendation 40: Equal pay**

95. The following remarks are also made with reference to the follow-up letter of the committee dated 4 November 2011 (Annex 4) in respect of Germany's 2011 interim report.

#### **1. Facts and figures**

96. The non-adjusted pay gap, that is the difference between women's and men's average gross hourly wages, dropped only slightly in 2013 to 21.6 per cent. On 19 March 2013 figures for the adjusted pay gap were published. Compared to 2006, the adjusted pay gap dropped by only one percentage point to 7 per cent. The adjusted pay gap compares the wages of women and men with the same level of education, in the same professions and sectors, and in the same types of employment (full-time, part-time and casual employment). Since women and men often differ in regards to the aforementioned features, the differences may partly explain the non-adjusted pay gap:

- Women are under-represented in certain professions, sectors and on the upper rungs of the career ladder: horizontal and vertical segregation is still a reality in the labour market.
- Women interrupt and reduce their gainful employment more frequently and for longer periods for family reasons.
- Individual and collective pay negotiations did not have a lasting impact on "typical women's work" being valued less.

#### **2. Equal pay for equal work or work of equal value (Follow-up items a and b)**

97. As already set out in the 2011 Interim Report to the Committee, the Federal Government, in line with the European Commission, is still committed to implementing a strategy which is suited to overcoming the gender pay gap: In its 2008 progress report entitled "For a Sustainable Germany" it therefore defined "Gender Pay Gap" as an indicator to be used to measure pay differences and equality in the labour force. Accordingly, pay differences are to be reduced to 10 per cent by 2020. The Coalition Agreement of the Federal Government contains further briefs and new (including statutory) measures for the Federal Government to implement:

98. Wage discrimination is already prohibited under the AGG. No-one shall be directly or indirectly discriminated against in terms of their pay on account of gender. The Federal Government's aim in granting employees a statutory right to information is to make the existing requirement more effective in court. Employees have an individual right to information about pay differences in an enterprise. Furthermore, businesses with more than 500 employees are to be under the obligation pursuant to statutory criteria to include statements on positive action for women and equal pay in their annual reports in accordance with the Commercial Code.

99. In the future, businesses are to use binding procedures to determine where pay gaps exist and to involve employees and their representatives into these procedures. They are to examine wage differences, detect wage discrimination and to serve as the basis for introducing non-discriminatory job evaluation procedures.

100. A general minimum wage of 8.50 euros per hour was introduced on 1 January 2015. It will also contribute to further reducing the gender pay gap. Around two thirds of the 3.7 million people whose pay will presumably increase on account of the minimum wage are women.

### **3. Initiatives with civil society and the social partners**

101. Equal Pay Day is an annual campaign which aims to draw attention in civil society to the problems associated with gender-specific wage disparities. The number of activities (more than 1,000 so far) and media interest are growing steadily. The EVA-List introduced in 2014 which the social partners can easily apply during negotiations, helps to identify discrimination during collective bargaining or in-company regulations and suggests possible alternatives.

102. The research project “Collective Bargaining & Equal Pay” uses simulated experiments to identify the impacts of collective wage negotiations on the pay gap to raise more awareness among the social partners for the issue of equal pay during collective bargaining processes by role playing negotiations in bargaining committees as part of simulation experiments. A project is undertaken together with the German-Rural-Women’s Association focusing on the pay gap in rural regions.

### **4. “Logib-D” results (Follow-up item f)**

103. In October 2009, BMFSFJ launched the pay analysis software “Logib-D”, which helps to identify hidden wage disparities between women and men in businesses. The model project was successfully completed in late 2013. A total of 200 out of 400 businesses were given consultancy support, committed themselves to equal opportunities-oriented personnel management and were then awarded the “Logib-D tested ” label. The model project will be evaluated in 2014 and 2015 and a decision will then be taken whether to continue the project, possibly in combination with “eg-check”, a tool for investigating potentials for discrimination based on specific job characteristics.

### **5. Tax legislation (Follow-up item c)**

104. The German income splitting method means that jointly taxed spouses or civil partners are classed as if they each earned half of the total taxable income they generate together and would have to pay tax as if they were assessed as a single person in accordance with the standard income tax bracket. This means that the income tax burden on spouses/civil partners is not dependent on how gainful employment is distributed in the marriage or civil partnership. However, if spouses or civil partners do not wish to apply the splitting method, they can request to each be assessed individually for income tax purposes.

105. The “factor method” was introduced in 2010. Spouses/civil partners who take up this option can distribute the amount of tax deducted between them by means of an individual “factor”. In particular, when the difference in income between them is large, this means taxes will be more fairly distributed. The current Coalition

Agreement provides that acceptance of this new tax assessment method is to be boosted. In future, the factor will not be determined on an annual basis but for several years in advance. Moreover, suitable measures are to be implemented to make the factor method more widely known.

**6. Recognition of foreign professional and educational qualifications (Follow-up item c)**

106. The large share of unemployed people or people in casual employment with a migration background is also a consequence of qualifications not being recognized in Germany. According to the IAB-SOEP Migration Sample, a joint project of the Institute for Employment Research (IAB) and the Socio-Economic Panel (SOEP), the risk of being employed below one's level of qualification drops by nearly 32 per cent when qualifications are fully recognized. Wages rise by 28 per cent in that group whose qualifications are fully recognized compared to those who do not apply for recognition. The entry into force of the new Federal Recognition Act in April 2012 further opened up the German qualified labour market to immigrants. In the period between August 2012 and late 2014 the "Integration through Qualification" (IQ) funding programme advised some 38,000 people across Germany regarding the recognition of their foreign professional qualifications. Funding has been available for adaptive training measures since January 2015. Consequently, professional qualifications acquired abroad now more frequently lead to appropriate employment opportunities. See remarks concerning recommendations 38 et. seq. and 60.

**7. Public procurement legislation (Follow-up item d)**

107. Germany undertook a comprehensive reform of its public procurement law in 2009, thereby introducing the new section 97 (4), second sentence, into the Act against Restraints of Competition. This regulation enables additional requirements (e.g. regarding gender equality) to be made of a contractor in federal or Länder provisions on the execution of the order where these can be linked to the subject matter of the contract. Pursuant to section 97 (4), third sentence, of the Act Against Restraints of Competition, additional requirements may also be made (on the basis of federal or Land law regulations) in regards to placing a contract. These can include gender equality policy requirements in regards to equal pay, as the Rapporteur for Follow-up suggests in her follow-up letter to Germany's 2011 interim report.

108. Some **Länder** have used this option and enacted relevant regulations in their legislation. Nevertheless, business-oriented public authorities and associations have repeatedly voiced considerable resistance to incorporating gender equality criteria in the procurement process. Gender equality concerns are often presented as being "extraneous" to public procurement. During the amendment of European Union-procurement-legislation this led to restrictions of the possibilities to consider gender equality when awarding contracts. Currently, the consequences of the implementation in domestic law are not predictable.

**8. Results of the measures to reconcile family and working life (Follow-up item g)**

109. The fact that more women are now in gainful employment (see the remarks concerning recommendation 38) is also a result of the introduction of the parental allowance, of the expansion of childcare across Germany, the introduction of more

flexible working hours in the public service and in the private sector, further engaging fathers in child-rearing tasks, and the services available to women when it comes to re-integrating into the labour market after interrupting their career to have and raise children (see the remarks concerning recommendation 38).

**9. Part-time employment in leading positions (Follow-up item h)**

110. In principle, it is possible for heads of division posts in federal authorities to be exercised part-time, possibly also to have “dual leadership” (resolution of the State Secretaries’ Committee for Sustainable Development of 13 August 2012), although this option is used relatively rarely. There are some federal ministries in which up to 20 per cent of all heads of division work part time. BMFSFJ will in the future, specifically open up job postings for heads of division positions to job-sharing models.

111. Guidelines for the federal personnel services on introducing part-time leadership positions are currently being drawn up as part of the Federal Government’s demography strategy. The aim is to increase part-time employment in leading positions as well as their acceptance in HR practice.

**Recommendation 42: Violence against women**

**1. Action Plan II to Combat Violence against Women**

112. In September 2007, the Federal Government, led by BMFSFJ adopted its Action Plan II to Combat Violence against Women. The Action Plan II bundles more than 130 measures in various areas of activity which have already been implemented. It includes preventive measures, systematic assistance available to support and advice victims of violence, and cooperation between governmental institutions and the range of non-governmental support available. The Action Plan II also addresses work with offenders, European and other international cooperation, and support measures for women abroad. Since the Second Victims’ Rights Reform Act in 2009, the state now assumes lawyers’ fees for victims of criminal offences such as bodily harm, robbery or stalking with serious physical consequences, and injured parties and witnesses are afforded even better protection in criminal proceedings. Further improvements are made to protect victims by implementing a European Union directive.

**2. Measures against sexual assault**

113. In its Coalition Agreement the Federal Government agreed that gaps in the protection provided under the law of sexual offences are to be closed. BMJV is currently examining legislative measures for better protecting women against sexual assaults in particular.

**3. Helpline**

114. In March 2013 the Federal Government launched a “Violence against Women” telephone helpline, thereby closing a significant gap in the system of help available. The toll-free hotline (08000 116 016) is available across Germany, anonymously, around the clock in 15 different languages, and provides easy access to initial counselling on all forms of violence against women for victims and survivors, their friends and families, or professionals in the field. In the course of its first 380 days a

total of 47,504 calls led to some 18,800 counselling appointments. The first annual report also presented the experience gained during consultancy work. The helpline's female counsellors can be contacted via a secure, barrier-free website ([www.hilfetelefon.de](http://www.hilfetelefon.de)); sign language interpreters are also available. Social workers, doctors, psychologists and the police can provide victims and survivors with further support on site.

#### **4. Risk assessment**

115. Assessing the risk posed by an offender is of particular relevance when protecting victims of domestic violence. Based on the risk analyses which are part of the intervention strategies of the Länder police, the level of danger posed by the offender, the risk of further and, possibly, more serious crimes must be assessed at each stage in the criminal prosecution process. The risk of how far the situation may escalate is examined, and what measures are sensible and necessary in order to prevent escalation. The escalation risk can be countered based on this assessment by making a provisional arrest and applying for an arrest warrant, issuing a barring order, banning the offender from the common dwelling and/or contacting the victim or issuing a warning. These intervention measures are important in order to stop the escalation of violence within the family or within the relationship. The National Weapons Register, introduced in Germany on 1 January 2013, is an electronic record of all weapons in Germany subject to licensing as well as their owners and allows checking whether perpetrators are legally in possession of a weapon.

#### **5. Contact and custody rights**

116. Section 1697a of the German Civil Code provides that the principle of the best interests of the child must be applied to all measures and decisions taken by a family court in contact and custody litigation cases. The court must take measures to avert threats to the child concerned if the parents are not able to do so either themselves or with governmental help. The family court can restrict or rule out contact to the extent that this is necessary in the best interests of the child (section 1684 (4), first sentence, German Civil Code).

117. The general clause in section 1666 (1) of the German Civil Code requires that the family court must take those measures which are necessary to avert danger to the child where the physical, mental or psychological best interests of the child or his or her property are endangered and the parents cannot or are not willing to avoid the danger.

118. Pursuant to section 26 of the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction, the court is obligated under procedural law to carry out all the necessary investigations *ex officio* (i.e. without the parties to the proceedings filing a request) in order to establish facts which are relevant to the decision. These facts generally also include decisions in proceedings under the Protection against Violence Act and any criminal conviction on account of violent assaults by any member of the family. Where the domestic violence protection proceedings revolve around who is to remain in the previously shared home, the family court must hear and, upon its request, involve the youth welfare office if there is a child living in the household (sections 213, 212 Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction).

119. Under applicable law, the family court can take a proper and suitable decision in an individual case after hearing the parties to the proceedings and together with the youth welfare office as the competent specialist authority, as well as the guardian ad litem, who represents the interests of the child.

## **6. Measures against forced marriage**

120. BMFSFJ published its study “Forced Marriage in Germany — Number and Analysis of Advice Centres” in November 2011 which builds upon the findings of the “Forced Marriage in Germany” anthology BMFSFJ published in 2007 in cooperation with the German Institute for Human Rights. It shows that girls and women in particular are vulnerable to be victims of forced marriage; nearly 30 per cent of those receiving advice are aged 17 years and under. Approximately 40 per cent of those seeking advice are aged 18 to 21 years. However, the advice centres included in the survey also reported that 6.6 per cent of the victims are boys and men. Nearly all those receiving advice have a migration background. The study also shows that forced marriage goes hand in hand with domestic violence: More than half of those seeking advice stated that they were subjected to physical assaults so that the forced marriage could be carried out; 27 per cent were threatened with weapons and/or murder.

121. At the initiative of BMFSFJ it was agreed at the Integration Summit that a working group will examine problems which arise in the application of the law of child and youth welfare (Eighth Book of the Social Code) when supporting victims of forced marriage. The working group drew up recommendations for effective action. One focus is on the situation of young people of majority age who are victims of domestic violence. Additionally, between 2007 and 2010 BMFSFJ funded a model project by an intercultural online advice facility dealing with cases of forced marriage. The project evaluation contains important information on the new online advisory service for crisis intervention purposes.<sup>18</sup> Victims of forced marriage can also receive support via the national “Violence against Women” telephone helpline under a toll-free number (08000 116 016).

122. All the Länder have facilities for girls and women who are vulnerable to or victims of forced marriage which are funded by various programmes for combating violence against women and to which victims of forced marriage can turn for help (see also under recommendation 44).

### **Recommendation 44: Shelters and help for women in distress**

#### **1. Shelters for women**

123. Women victims of violence and their children need different and easily accessible help and support. Depending on a woman’s particular situation, she may require immediate protection, a safe refuge, qualified psychosocial and legal counselling, or support dealing with the consequences of violence.

124. The Federal Government’s Report on the Situation Regarding Shelters for Women, Specialist Advice Centres and other Support Available to Women who are Victims of Violence and their Children of 15 August 2012 (BT Drs.17/10500). The report takes comprehensive stock of the overall system of help available to women

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<sup>18</sup> For studies and recommendations, see [www.bmfsfj.de/BMFSFJ/gleichstellung,did=88292.html](http://www.bmfsfj.de/BMFSFJ/gleichstellung,did=88292.html).

victims of violence. Germany has a dense and very broad network of different facilities that provide support to women victims and their children: More than 350 women's shelters and over 40 "safe apartments" providing more than 6,000 places offer protection and advice to between approximately 15,000 and 17,000 women and their children each year (i.e. between approx. 30,000 and 34,000 people). There are also more than 750 specialist advice centres.

125. Nevertheless, not all those women who suffer violence receive the help they need: certain target groups, e.g. women with mental illnesses and women with disabilities, sometimes have difficulty accessing help or face gaps in the supply of help. The Federal Government already examines what steps are needed to close the gaps in the system of help. It will also continue its dialogue with the Länder and specialist organizations funding the support. It continues to fund the work of national networking offices, namely the Shelter Coordination (FHK e. V.), the Federal Association of Women's Advice Centres and Women's Hotlines (bff) and the German NGO network against trafficking in human beings (KOK e. V.). It thus contributes to further enhancing the quality of services available to women.

126. The Federation has a mainly indirect influence on the local system of help available to women who are victims of violence and their children and the financing of that system via legislative provisions regarding social benefits under the Second the Twelfth and the Eighth Book of the Social Code and the Asylum Seekers Benefits Act. These individual laws on social benefits are important to help victims of violence and their children. However, the aforementioned federal report identified several concrete problems regarding how these laws interact.

127. Federation, Länder and municipalities are responsible safeguarding the framework for reliably support to women victims of violence and their children according to their competencies under the Basic Law (see Länder Exhibit).

128. The current Coalition Agreement provides that inter-ministerial measures to combat violence against children and women shall be pooled and gaps shall be closed. When reshaping the law of social compensation, account is taken, e.g., of the concerns of women victims of violence and their children. The Federal Ministry of Labour and Social Affairs (BMAS) currently has overall responsibility reforming the Act on Compensation for Victims of Violent Crime and developing it into a modern law of social compensation.

## **2. Especially vulnerable groups of women**

129. Despite the fact that special consideration is given to the concerns of migrant women (restrictions under residency law, possibly language barriers, cultural obstacles to access etc.), many migrant women do not appear to benefit from measures against domestic violence or to receive information about possible protection. Therefore, it is important to make the available help and support more accessible to migrant women by overcoming their inhibitions about seeking help and providing them with information about available help through targeted measures. Additionally, various migrant communities which have in the past been rather reticent to take part in the debate on combating domestic violence must be incorporated more fully into these discussions. Firstly, a debate needs to be initiated or rather stepped up on removing the taboos associated with the problem. Secondly, this will help to reach out to those women who have so far not been able to acquire information.

**Recommendation 46: Statistical data on violence against women****1. Domestic violence**

130. Detected cases of violence against women are recorded in the Police Crime Statistics in the Länder. According to a 2007 resolution of the Standing Conference of Ministers and Senators of the Interior of the Länder, since 2011 further information regarding suspects, victims and the relationship between them is recorded at federal level as standardized procedure. This allows domestic violence offences by current/former partners in a relationship to be documented in a differentiated manner.

131. Consequently, data are comparable regarding crimes against life (homicide), against sexual self-determination (e.g. rape, sexual coercion), against bodily integrity (e.g. bodily harm) and offences against personal liberty (e.g. deprivation of liberty, stalking) across Germany:

- current and/or former partners in a relationship (disaggregated according to spouses, registered civil partners, cohabiting partners and, in sum, former partners);
- according to the criterion of spatial/social proximity (in joint household, etc.);
- according to what is known as “injured party specifics” in regards to vulnerability (e.g. on account of alcohol/drug abuse or disability/illness/age), for instance.

132. The first set of data was available for the year 2012, according to which 13,858 women were the victim of violent crime committed by their intimate partner, 5,112 of whom suffered violence at the hands of their spouse, 4,503 at the hands of cohabiting partners and 4,184 from former spouses or civil partners. There were 333 women victims of homicide offences committed by their intimate partners, 176 of whom were killed by their spouse, 81 by a cohabiting partner and 76 by a former spouse or civil partner.

133. If one considers the share of “intimate partner victims” of the overall number of victims of individual offences, 20.1 per cent of the female victims of violent crime suffered violence at the hands of their intimate partners. That share is 2.6 per cent in the case of men. A large proportion of female victims (40.8 per cent) were the victims of homicide offences. The share of male victims of homicide offences (5.7 per cent) is likewise considerably lower than that of women and girls. The same goes for rape and sexual coercion (women: 23.9 per cent; men: 4.5 per cent) and dangerous and serious bodily harm (women: 25.7 per cent, men: 3.3 per cent).<sup>19</sup>

134. To further improve data collection and expand insights into those cases which go undetected, the establishment of a monitoring system in the area of violence against women was elaborated. The “Exploratory Study on Gaining Data and Indicators on Violence in Relationships and Sexual Violence against Women and Men in View of Long-Term Monitoring at National Level” is a first proposal for developing a national instrument to regularly and long-term record the extent, forms and consequences of violence against women and men as well as the impacts of

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<sup>19</sup> Mischkowitz, Robert, Neue Ansätze zur Erfassung „häuslicher Gewalt“ in der Polizeilichen Kriminalstatistik (PKS), Archiv für Wissenschaft und Praxis der sozialen Arbeit 4/2013, p. 2, 7 et. seqq.

anti-violence policy in institutions, organizations and victims at federal and Länder level in Germany. The monitoring system is the precondition for placing the specialist policy of the Federation, Länder and support systems on a sound and systematic data- and knowledge-based foundation. The monitoring results from the “Report of the Federal Government on the Situation of Women’s Shelters, Specialist Advice Centres and Other Offers of Support Available to Women Who are Victims of Violence and Their Children” (August 2012) and the monitoring obligations set out in the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

135. All the Länder have strategies for combating domestic violence (see Länder exhibit).

## 2. Female genital mutilation

136. Female genital mutilation (FGM) has always been punishable in Germany as serious/dangerous bodily harm. Additionally, it was made a specific category of offence in September 2013 raising further awareness among the public for the injustice which each act of FGM represents and contributing to combat this crime. Migrant men and women are informed upon arrival that this practice is punishable in Germany.

137. So far these crimes have only rarely been reported to the police. Therefore, no reliable statistical data is available on how many girls and women in Germany have undergone FGM. Collecting data on FGM is extremely difficult, as it needs to be reported by those affected, their legal representatives or third parties.<sup>20</sup>

138. New data regarding the number of undetected cases of violence against women in Germany was made available in March 2014 in a study by the European Union’s Fundamental Rights Agency (FRA). FRA compiled the largest study worldwide on violence against women.<sup>21</sup>

139. On the agenda of the “Working Group of the Federation of Länder and non-governmental organizations on Eliminating Female Genital Mutilation in Germany” is the introduction of statistical surveys on FGM in Germany. The aim is to make reliable data available in this area. Accordingly, representatives of five federal ministries met with the Federal Criminal Police Office and civil society representatives to discuss further process. BMFSFJ will commission a study to collect data on women and girls who are victims or potential victims of FGM. Insights gained on this issue in the study published by the European Institute for Gender Equality (EIGE) will also be considered. From September 2013 FGM has been included in the medical diagnosis coding system, which makes it easier for doctors to bill the necessary treatment. As little time has elapsed since the diagnosis coding system was introduced, statistics are not yet available.

<sup>20</sup> Only one estimate, by the women’s rights organization Terre des Femmes e. V., is available. Accordingly some 35,000 women and girls have undergone FGM living in Germany, and 6,000 are potential victims. This is based on information supplied by the Federal Statistical Office on the number of migrant women living in Germany who originally come from countries in which, according to United Nations organizations and the World Health Organization (WHO), FGM is practiced.

<sup>21</sup> A total of 42,000 women from all the 28 Member States aged between 18 and 74 were surveyed in personal interviews about their experience of violence at home, at work and in public.

### 3. Violence against women with disabilities

140. The study published by BMFSFJ “The Situation and Burdens of Women with Impairments and Disabilities in Germany” supplied representative data on women with disabilities who experience violence and discrimination. Women with various disabilities aged between 16 and 65 years living at home or in institutions were surveyed. Key findings of the study are:

- women with disabilities are twice as likely to suffer physical violence as adults (between 58 per cent and 75 per cent) than the average female population (35 per cent);
- those women surveyed suffered sexual violence around two to three times more frequently than the average female population (21 to 44 per cent compared to 13 per cent);
- experiencing violence as children and adolescents contributes significantly to subsequent health and mental problems: Between 20 and 34 per cent of the women interviewed cited experiences of sexual assaults by adults during childhood and adolescence. That is around 2-3 times more than the average female population (10 per cent);
- 50 to 60 per cent of the women interviewed said they had experienced psychological violence and psychologically damaging acts in childhood and adolescence at the hands of their parents (compared to 36 per cent women in the general population).

141. Since deaf and institutionalized women are especially vulnerable, secondary analyses were carried out on behalf of BMFSFJ in order to obtain further insights into causes and risk factors and to develop suitable preventive and intervention measures. Results of the special analysis “Institutionalized Women with Disabilities’ Experience of Violence — Extent, Risk Factors, Prevention” and “Deaf Women’s Experience of Discrimination and Violence.” are published in 2015.

#### **Recommendation 48: Trafficking in human beings**

##### 1. Data and facts

142. Germany began the monitoring procedure under the Council of Europe Convention on Action against Trafficking in Human Beings on 3 February 2014. The questionnaire sent out by the independent Council of Europe’s Group of Experts on Action against Trafficking in Human Beings (GRETA) was completed by the federal and Länder ministries in 2014 and subsequently returned. GRETA’s report includes detailed information about all forms of trafficking in humans and measures taken in Germany; of which a brief overview will be provided here:<sup>22</sup>

143. According to the Police Crime Statistics 2013, 340 victims of human trafficking for the purposes of sexual exploitation were brought to the attention of the police. Of these, 21 were men and 319 were women. In 2007, there were a total of 791 known victims. Of these, 44 were men and 747 were women. The Federal Criminal Police Office (BKA) publishes an annual national Situation Report on

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<sup>22</sup> GRETA’s final report is expected to be completed by summer 2015. When available a copy will be forwarded to the Committee.

Trafficking in Human Beings, which presents initial police statistics regarding human trafficking along with additional information.<sup>23</sup>

144. The following information can be provided regarding convictions:

<i>Convictions under Year</i>	<i>Section 232 Criminal Code (Human trafficking for the purpose of sexual exploitation)</i>	<i>Section 233 Criminal Code (Human trafficking for the purpose of work exploitation)</i>	<i>Section 233a Criminal Code (Assisting in human trafficking)</i>
2007	123	8	2
2008	138	16	1
2009	135	10	3
2010	115	13	3
2011	117	4	–
2012	115	10	3
2013	77	14	2

145. In April 2013 the European Commission published its first European Union-wide report on human trafficking. It contains comparable figures for all European Union Member States, including Germany.<sup>24</sup>

## 2. Legal measures

146. The Act to Implement Directives of the European Union on the Law of Residency and Asylum of 19 August 2007 added a new section 25 (4a) to the Residence Act in 2007. The provision introduces a temporary right of residence for victims of human trafficking. On 3 December 2014, the Federal Cabinet adopted a draft law on redefining the right to stay and the termination of residence. The draft proposes making three key improvements to benefit the victims of human trafficking:

- Section 25 (4a), first sentence Residence Act (residence permits for victims of human trafficking) is changed from a discretionary into a directory provision. This increases legal certainty and clarifies that people cooperating with the criminal prosecution authorities generally have a right to a residence permit;
- Section 25 (4a), third sentence Residence Act introduces the possibility of extending a residence title for humanitarian or personal reasons or in the public interest after the victim is involved in the criminal proceedings against the perpetrators. This creates legal certainty for victims;
- Subsequent immigration of dependents will be permitted.

147. Other amendments have also been proposed: The duration or the extension of the residence title during the criminal proceedings shall be increased to one year; following the end of the proceedings the title shall be granted or extended for two years in each case. Likewise, this increases legal certainty for victims. The special

<sup>23</sup> [www.bka.de/nn\\_193360/DE/Publikationen/JahresberichteUndLagebilder/Menschenhandel/menschenhandel\\_\\_node.html?\\_\\_nnn=true](http://www.bka.de/nn_193360/DE/Publikationen/JahresberichteUndLagebilder/Menschenhandel/menschenhandel__node.html?__nnn=true).

<sup>24</sup> [http://ec.europa.eu/anti-trafficking/EU+Policy/Report\\_DGHome\\_Eurostat;jsessionid=XDILT7hYfpky1GQ2XZK1pzSfFPGfDqRnLTLjXLTB8hHpTlrbs14J!268741469](http://ec.europa.eu/anti-trafficking/EU+Policy/Report_DGHome_Eurostat;jsessionid=XDILT7hYfpky1GQ2XZK1pzSfFPGfDqRnLTLjXLTB8hHpTlrbs14J!268741469).

right of revocation set out in section 52 (5) No. 3 Residence Act (revocation upon termination of the criminal proceedings) will be deleted. Therefore, in those cases in which no criminal proceedings were initiated although the person concerned cooperated with criminal prosecution authorities (e.g. the accused fled) victims shall be granted a residence permit:

- Victims of human trafficking with a residence title granted in accordance with section 25 (4a), third sentence Residence Act will be entitled to take part in an integration course;
- Finally, victims of human trafficking will be protected against expulsion if there is a (especially) serious interest for them to remain.

148. The Act to Amend the Asylum Seekers Benefits Act and the Social Courts Act of 1 March 2015, further improve the legal situation for those holding a residence title according to section 25 (4a) Residence Act. Henceforth, they will not be covered by the Asylum Seekers Benefits Act. If they still qualify for assistance, they will instead be covered by the Second and Twelfth Book of the Social Code, which guarantee more comprehensive assistance.

149. The Coalition Agreement also stipulates that “action will be taken against those who knowingly and willingly exploit the plight of victims of human trafficking and forced prostitution and abuse them to carry out sexual acts”. The relevant assessment is still ongoing; possible solutions are discussed in the political, specialist and social realm. The Länder have numerous programmes for preventing human trafficking, helping victims and convicting perpetrators (see Länder exhibit and 2014 Beijing Report<sup>25</sup>).

## **Recommendation 50: Exploitation of prostitution**

### **1. Legal measures**

150. The Federal Government already stated in its report on the impact of the Prostitution Act (BT-Drs. 16/4146) that a more broad-based approach needs to apply to prostitution. It must consistently incorporate the combating of human trafficking, forced prostitution and prostitution of minors and must aim to provide the greatest protection possible to prostitutes against violence and exploitation.

151. Therefore, a series of measures were introduced in 2007 to improve the combat against and criminal prosecution of human trafficking and of minors suffering sexual abuse in prostitution. Additionally, the expert public and political debate about measures to improve conditions for legalized prostitution has accelerated recently. For instance, BMFSFJ published the results of an expert event “Regulation of Prostitution and Places of Prostitution — A Practicable Way to Improve the Situation of Prostitutes and Combat Human Trafficking?”<sup>26</sup>

152. The Federal Government will present an ambitious package of measures for combating human trafficking and forced prostitution more effectively and imposing stricter regulations on legal forms of prostitution. Core elements of the planned

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<sup>25</sup> Response of the Government of the Federal Republic of Germany to the United Nations Economic Commission for Europe Questionnaire on the Implementation of the Beijing Declaration and Platform for Action (1995) and the Outcome Document of the twenty-third special session of the General Assembly (2000) (Annex 1).

<sup>26</sup> See [www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationen,did=125706.html](http://www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationen,did=125706.html).

legislation are the need to obtain a licence for places of prostitution, a background check for those operating prostitution businesses, and minimum health and safety requirements for prostitutes. Business models which violate human dignity or are directed at exploiting prostitutes, such as “flat-rate brothels”, will not be granted a licence. Prostitutes will be obliged to register their activity and to present proof they have undergone medical consultation. At the same time this provides opportunity to inform prostitutes about their rights and support available.

## 2. Support

153. Besides legislative measures, target group-specific advice and counselling are important when supporting those involved in prostitution and the victims of human trafficking. Therefore, Germany has been promoting a model project since 2009 to support those wishing to drop out of prostitution, which is being conducted at various locations. The results of the academic support, expected to be published in autumn 2015, will provide valuable insights into what kind of support this specific target group needs that can be provided by the Länder and municipalities.

154. A number of advice centres across Germany with different specializations are geared to the psychosocial or health needs of people working in prostitution. Responsibility for the existence of and resources available in the advice centres, drop-out programmes for prostitutes and specialist advice centres for the victims of human trafficking lies with the Länder and municipalities. Federal funding provided to the KOK e.V. contributes to the national networking and quality development of specialist advice centres for the victims of human trafficking. The nationwide helpline for women victims of violence (08000 116 016) is also available to victims of human trafficking, their friends and families. It represents a nationwide, multilingual, anonymous and easy-to-access initial counselling service. Each year the BKA compiles a National Situation Report on Human Trafficking, which includes human trafficking cases (of all types, including sexual exploitation) reported to the police.<sup>27</sup> See also remarks concerning recommendation 48.

155. The Länder are developing both programmes and strategies for preventing women from entering prostitution, support and advice to make it easier and encourage women to leave.

### **Recommendation 52: Security Council resolution 1325**

#### **1. Implementation of Security Council resolution 1325**

156. The Federal Government adopted its First National Action Plan to Implement Security Council resolution 1325 (NAP 1325) on 19 December 2012 and passed it to the German Bundestag. The Action Plan covers the period 2013 to 2016. Together with the Action Plan for Civilian Crisis Prevention and the Development Policy Gender Action Plan, the NAP 1325 considers the role of women and girls in conflict-prone regions. Therefore, Germany has more firmly established “women, peace and security” as a cross-cutting issue in its foreign, security and development policy and created a uniform frame of reference for all its measures. It hopes this will lead to more synergy and mobilization effects.

<sup>27</sup> [www.bka.de/nn\\_193360/DE/Publikationen/JahresberichteUndLagebilder/Menschenhandel/menschenhandel\\_\\_node.html?\\_\\_nnn=true](http://www.bka.de/nn_193360/DE/Publikationen/JahresberichteUndLagebilder/Menschenhandel/menschenhandel__node.html?__nnn=true).

157. In analogy with the phases of a conflict, NAP 1325 sets six priorities when planning and implementing relevant measures: prevention, mission preparation (basic, advanced and continuing training), involvement, protection, reconstruction and criminal prosecution. When elaborating the NAP 1325 ideas provided by civil society (by the “Allianz 1325”) were incorporated, especially regarding the priority areas “mission preparation” and “criminal prosecution”.

158. Six federal ministries are involved in implementing NAP 1325. The chapter “Mission Preparation; Basic, Advanced and Continuing Training” includes concrete goals for raising awareness of gender-specific issues for all training courses. The courses in particular teach participants about the causes of conflicts, their course, and the social, political and cultural situation on the ground. Measures to protect people against sexual offences, their rights and, particularly, the needs of women and children are addressed.

## **2. Mission preparation training courses**

159. The Federal Ministry of Defence (BMVg) attaches particular importance to gender-related aspects within the context of intercultural and cultural preparations for foreign missions. Taking a gender perspective while actively participating in national and international peace-keeping and peace-making activities undertaken by the Federal Government, is a basic part of mission and operational planning for German personnel.

160. Suitable cross-ministerial advanced training measures organized by those funding the training preparatory to a mission ensures that gender-specific aspects are incorporated into the basic, advanced and continuing training of teaching staff and simultaneously harmonises the training. For instance, in July 2012 the Centre for International Peace-Missions, the police and the Federal Armed Forces for the first time ran a training course on “Women, Peace and Security” at the Police Academy in Baden-Württemberg. This course is open to participants from civil society, the Federal Armed Forces and the police. It focuses primarily on gender-specific needs in conflicts.

161. Police officers are also prepared for their foreign missions as part of the standardized United Nations pre-deployment training, which includes training modules on the Code of Conduct and “Women, Peace and Security”.

## **3. Administrative supervision**

162. The Act on the Legal Status of Soldiers already contains comprehensive provisions applicable to military staff in the area of responsibility of the BMVg. Soldiers are informed about their rights and duties at the beginning of their military training. Monitoring compliance with these regulations is the task and obligation of all superiors in the context of their supervisory duty. It is enshrined in the Act on the Legal Status of Soldiers and common practice. Consequently, introducing a special “national code of conduct” or a special, strict “national monitoring system” is not necessary in our opinion.

## **4. Criminal prosecution**

163. Germany endeavours to guarantee efficient criminal prosecution of any criminal offences committed by German soldiers on a foreign mission. In

accordance with section 1a (2) Military Criminal Code, German criminal law also applies, irrespective of the law of the place of commission, to acts committed by soldiers during a period of service abroad or in relation to service abroad. In order to guarantee efficient criminal prosecution where German soldiers do in fact commit criminal offences while on a foreign mission, section 11a Code of Criminal Procedure of 1 April 2013, created a special jurisdiction with the court competent for the City of Kempten for soldiers of the Federal Armed Forces under special deployment abroad.

#### **Recommendation 54: Health**

##### **1. Gendered health**

164. The following questions arise regarding gender-specific health policy:

- What makes women and men healthy and what makes them ill?
- What does that mean for prevention and for diagnosis, treatment or rehabilitation in case of illness?

165. The Federal Ministry of Health (BMG) has taken up these questions regarding men and women. As regards women's health it looks at health risks and illnesses which only or more frequently affect women or have a more serious disease course. Moreover, it looks at the influence of social factors on health. The different phases and stages of men's and women's lives are addressed. Gendered approaches to prevention, health promotion and health care are also supported by regular women's and men's health conferences to disseminate these approaches and encourage new activities in this field. Challenges as regards exercise, addiction prevention, statutory health insurance and in-company health promotion are addressed and gender-sensitive preventive and health promotion methods are presented and discussed.

166. Several of the Länder have adopted a gendered approach in their health policy (see Länder Exhibit).

##### **2. Women in leading positions in the health sector**

167. In 2014, the share of women working as physicians was approximately 45 per cent and 26 per cent of leading positions in German hospitals were held by women; the share of female head physicians was estimated between 8 and 10 per cent.<sup>28</sup> Implementation of the equal participation of women in leading positions in the health sector is generally the responsibility of local funding bodies. Since the number of female students of medicine exceeds that of male students and women in leading positions and reconciling work and family life are now discussed across society, it is expected that in the future more qualified women will obtain positions of leadership in the health sector. The Federal Government thus hopes that the Act on the Equal Participation of Women and Men in Leadership Positions in the Private and the Public Sector will have a positive impact (see remarks concerning recommendation 38).

<sup>28</sup> [www.aerztinnenbund.de/Die-Zukunft-der-Medizin-ist-noch-lange-nicht.2223.0.2.html](http://www.aerztinnenbund.de/Die-Zukunft-der-Medizin-ist-noch-lange-nicht.2223.0.2.html).

### 3. Combating HIV

168. Germany's HIV strategy is based on a positive understanding of sexuality and has for years been incorporating HIV and other sexually transmitted diseases. As part of the Action Plan to Combat HIV/AIDS the reach of HIV prevention campaigns has been further extended in recent years in Germany and prevention activities have been expanded. Gender-specific education measures for various age groups in the general population and for especially vulnerable groups, such as sex workers, are implemented as part of mass and individual communication. Women-specific help and support has become an established part of advisory services, testing, treatment and self-help in Germany.

169. Annual studies prove that public knowledge about transmission risks and protection methods has continuously risen and reached a very high level recently. The use of condoms has increased considerably since HIV/AIDS awareness campaigns were first launched: In 1988, 67 per cent of women had experience of using condoms; in 2011 that figure had risen to 91 per cent. The graph in Annex 2 illustrates this development in detail.

170. The high-quality health care available in Germany means that fewer people are dying of AIDS. According to estimates, in late 2012 78,000 people in Germany were HIV positive, 15,000 of them women. The share of HIV-positive women (19 per cent) has remained practically constant in recent years. The estimated number of new infections in women in 2012 (410), shows that the share of women out of total new infections is still very low (12 per cent). In 2008, the number of new HIV infections in women was 350, i.e. approximately 12 per cent of all new infections. Since 2007 the annual number of new HIV diagnoses in women has varied between 402 and 465. Annex 2 includes a list of statistical data for the period between 2003 and 2012.

171. Since 2008 all women are offered a free HIV test as part of prenatal care. In 2012, the mother-child transmission rate amounted to less than 10 cases. Since 2010, HIV-positive spouses have been able to claim statutory health services for artificial insemination measures. Guidelines were drawn up regarding HIV treatment during pregnancy, new-borns exposed to HIV, and on the diagnosis and treatment of couples with HIV who wish to have children. This is evidence of the successful implementation of the HIV strategy, the high level of which has been safeguarded for more than 25 years by means of sustainable financing, and of the good cooperation between governmental and non-governmental actors and strong commitment from the voluntary sector.<sup>29</sup>

### 4. Pregnant women in conflict situations and reproductive medical treatment

172. The Federal Centre for Health Education (BZgA) has the legal mandate to draw up and disseminate free sex education and family planning strategies for various ages and groups of people in order to prevent pregnant women finding themselves in conflict situations. Current strategies include "Migrants as a Target Group of Sex Education and Family Planning" and "Sex Education for People with

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<sup>29</sup> Additional sources: [www.frauengesundheitsportal.de/themen/hiv-aids/](http://www.frauengesundheitsportal.de/themen/hiv-aids/); [www.netzwerkfrauenund aids.de/](http://www.netzwerkfrauenund aids.de/); [www.bzga.de/forschung/studienuntersuchungen/studien/aidspraevention/](http://www.bzga.de/forschung/studienuntersuchungen/studien/aidspraevention/); [www.rki.de/DE/Content/Infekt/EpidBull/Archiv/2013/Ausgaben/24\\_13.pdf?\\_\\_blob=publicationFile](http://www.rki.de/DE/Content/Infekt/EpidBull/Archiv/2013/Ausgaben/24_13.pdf?__blob=publicationFile) and [www.daignet.de/site-content/hiv-therapie/leitlinien-1](http://www.daignet.de/site-content/hiv-therapie/leitlinien-1).

Impairments”. They aim to support girls and boys in a gender-sensitive and age-appropriate manner in finding their own way of dealing responsibly with love, relationship and sexuality. Other measures cover topics such as relationship, parenthood and infertility, based on the framework-strategy on sex education drawn up by consulting the Länder and representatives of family counselling centres. All strategies apply the gendered approach and are based on key findings of scientific evaluations, such as the BZgA’s study on sexuality of adolescents.

173. According to official abortion statistics, 99,715 abortions were performed Germany in 2014. Continuing the downward trend, this is the lowest figure since the law was amended in 1996. The number of underage abortions has also dropped steadily: In 2014, there were 3,560 abortions by girls under the age of 18, which are less than half the figure for 2005 (7,247). A study called “women’s lives 3”, commissioned by BMFSFJ and compiled by BZgA showed, that a stable relationship and a woman’s professional and financial security are key factors when those dealing with an unwanted pregnancy ultimately choose to have the child. The legal survey characteristics in official statistics do not refer to features such as origin, nationality and ethnicity. The Länder also recognize that pregnancy and reproductive medicine are key elements (see Länder Exhibit).

#### **5. Health of migrants, refugees and asylum seekers**

174. Based on select health indicators, such as the rate of staff sickness, obesity, smoking behaviour and causes of death, the Federal Government’s Social Report 2013 comes to the conclusion that in all sections of the population, including migrant women, a person’s social situation is a key determinant of their general health and health-related quality of life. Migrants are not generally at a disadvantage regarding their health. Concerning prevention in particular, studies prove that migrants take advantage, i.e. of vaccinations and prenatal care equally as frequently as people without a migration background. Projects run by Germany, measures taken by the Länder, municipalities and voluntary organizations aim to improve health-care provision for refugees and immigrants.

175. Before the end of the current legislative term, health-care services set out in the Asylum Seekers Benefits Act will be improved for especially vulnerable persons in particular, thereby implementing European Union-Directive 2013/33/EU of 26 June 2013 that requires standards for the reception of applicants for international protection (known as the “Reception Directive”). People being especially vulnerable include, for example, women victims of violence.

176. BMG will examine, in cooperation with the Länder, how interested non-city Länder can be helped to introduce the electronic health card for asylum seekers. This would give those entitled to health services easier direct access to doctors.

#### **Recommendation 56: Economic consequences of divorce**

177. The Federal Government believes that the law of maintenance, which is as a matter of principle gender neutral, does justice to today’s understanding of the gender roles of men and women in modern German society. Apart from those provisions which concern the specific protection afforded to women in their role as mothers (see section 1615 (1) of the German Civil Code), the law of maintenance has therefore consciously been worded in a gender-neutral manner. Promoting self-reliance after divorce has been a feature of German divorce law since 1977; the

reform of 1 January 2008 did not change this basic principle. In accordance with section 1570 of the German Civil Code, a divorced spouse may demand maintenance from the other for the care and the upbringing of a child for at least three years after the child's birth. The duration of the claim to maintenance is extended as long as and to the extent that this is equitable. Account must be taken of the concerns of the child and the existing possibilities of childcare. The duration of the maintenance claim is further extended if this is equitable, taking into account the arrangements for childcare and gainful employment in the marriage and the duration of the marriage.

178. A large proportion of single mothers are in employment: 70.4 per cent of all single mothers were in gainful employment in 2013, 42.1 per cent of them in full-time jobs. Single working mothers (to lesser extent single fathers) are in effect subject to stresses and strains on account of raising their children, which the law of maintenance generally neither reduces nor can reduce.

179. The statutory matrimonial property regime of the community of accrued gains, takes account already of the distribution of roles between spouses especially in the case of divorce and provides for financial compensation in favour of that spouse who had less opportunity during the marriage to accrue wealth. This rule represents a matrimonial property regime of separate property and the equalization of accrued gains upon termination of the matrimonial property regime (section 1371 et. seq. German Civil Code). The regulations were reformed and expanded by means of the Act to Amend the Law of the Equalization of Accrued Gain and of Guardianship of 6 July 2009 in order to improve the protection of that spouse who is in a structurally weaker position.

180. The Federal Government is in continuous contact with practitioners. BMJV is aware, based on its diverse contacts, reports, conferences etc., what impact the reform of 2008 has had on all practitioners, and most especially on those affected. The Ministry receives a few hundred letters and petitions every year on this matter. It not only answers but also evaluates them. The Ministry intends to continue this close contact with practitioners and is always willing to react to difficulties when they arise.

**Recommendation 58: Vulnerable groups of women — girls in the juvenile justice system**

181. The German criminal justice system already guarantees the international minimum standards and regulations concerning juvenile justice referred to in the recommendation. Reference is in particular made to the special Youth Courts Act, which has provisions on the special courts responsible for criminal proceedings against juveniles, special provisions applicable to criminal proceedings involving juveniles (considering age, developmental state and need for protection of juvenile offenders) and on the sanctioning and restricting of deprivation of liberty, whose main goal is not to punish wrongs committed but reintegration and prevention of reoffending.<sup>30</sup>

182. As regards the recommendation to take all necessary means that persons below 18, including girls, are deprived of their liberty only as a last resort, even before 2007 under the Youth Courts Act a youth custody sentence could only be imposed as

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<sup>30</sup> See [www.gesetze-im-internet.de/englisch\\_jgg/index.html](http://www.gesetze-im-internet.de/englisch_jgg/index.html).

a last resort: It represents the upper end of the range of sanctions under the law applicable to juvenile offenders, and pursuant to section 5 (2), section 13 (1) and section 17 (2) Youth Courts Act, it may only be imposed in cases where more ancillary educational measures and educationally-oriented disciplinary sanctions without a penal nature do not suffice. Furthermore, some 70 per cent of all criminal proceedings involving juveniles in Germany are closed without a conviction. Even where convictions are made, only a small proportion of the juveniles receive a sentence of detention in a youth facility, which is often suspended on probation in the judgment.

183. As regards the penal system for young female detainees in the Länder Baden-Württemberg, Bavaria, Berlin, Bremen, Hesse, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Saarland, Saxony, Saxony-Anhalt and Thuringia, the family problems described by the Committee do not hold true. On the contrary, the Länder provide for generous visiting rights in order to foster young detainees' relationships with their families. This applies especially where girls and young women from Hamburg, Lower Saxony and Schleswig-Holstein are placed in a central facility (Vechta Prison in Lower Saxony) to serve youth custody sentences. Absolute numbers as regards detained young female detainees are consistently low, which shows that deprivation of liberty is used only as a measure of last resort. The juvenile justice system applies an educational, gender-specific and age-appropriate approach.

184. Under Germany's federal structure the 16 Länder are responsible for prison system legislation and its implementation. An overview of the diverse and individually tailored measures and programmes for (continuing) education, treatment, reintegration, sports and leisure-time activities for young female detainees available in the Länder is provided in Annex 3.

## **Recommendation 60: Immigrant, refugee, asylum-seeker and minority women**

### **1. Promoting integration and interests**

185. The Coalition Agreement sets out migrant women's organizations to be increasingly included as partners promoting integration, particularly national organizations active across Germany by means of training courses for multipliers and financial support for their establishment. BMFSFJ organized two national conventions for migrant women and their organizations Germany which looked into various key issues, e.g. equal opportunities in the labour market. The events were primarily geared to women with a migration background planning to get involved in a migrant women's organization. The convention offered up to 300 participants the opportunity to improve their qualifications and to network.

186. Following the second convention BMFSFJ, in cooperation with the Federal Office for Migration and Refugees, launched a three-year model project in November 2013 which supports DAMIGRA regarding its establishment, development and professionalization. The project goals include promoting the legal, political and social equality of migrant women, as well as representing migrant women in politics, in public and in the media. DAMIGRA was founded to engage in lobby and public relations work at federal level (See also recommendation 38). The online forum for migrant women ([www.migrantinnenforum.de](http://www.migrantinnenforum.de)), which BMFSFJ made available between December 2012 and 2014 and which DAMIGRA has now

taken over, offers interested migrant women the possibility to network, to learn about new developments and to provide information about their own organization.

## **2. Protection against violence**

187. The Action Plan II to Combat Violence against Women focuses in particular on women and girls with a migration background. Measures to protect migrant women against violence are increased. Special measures are being implemented regarding human trafficking, especially for the purpose of sexual exploitation and work exploitation, and for FGM. The social and political participation of women with a migration background is promoted in order to strengthen their autonomy and to thus prevent violence. Germany supports the fight against forced marriage through targeted projects (see also the remarks concerning recommendation 41). Networking offices supported by BMFSFJ, as the Shelter Coordination, the Federal Association of Women's Advice Centres, Women's Helplines and KOK e. V. also provide continuous measures for this target group.

188. The "Violence against Women" helpline is also available to migrant women (see recommendation 44). For migrant women to access the helpline's support, it is available in 15 different languages and takes account of their particular situation. Where required, the women are referred to facilities which can provide support via local contacts.

189. Furthermore, the Act to Combat Forced Marriage and to Better Protect Victims of Forced Marriage and to Amend Other Provisions of Asylum and Residence Law of 2011 created a separate offence against forced marriage. Additionally, it introduced a separate right of return for the victims of forced marriage into the Residence Act.

190. Finally, the new directives on asylum known as the Common European Asylum System (CEAS), especially the Reception Directive and the Asylum Procedure Directive contain additional provisions considering the specific situation of vulnerable persons upon reception and during implementation of the asylum procedure. "Vulnerable persons" include pregnant women, single mothers with children under the age of 18, and those who have suffered torture, rape or other serious forms of violence, including FGM. The directives are implemented in German law by July 2015.

191. The Federal Government funds low-threshold courses to integrate immigrant women ("women-courses"). They target immigrant women with a permanent residence title who need to integrate and who are difficult to reach by means of other integration services. These women are empowered to fulfil their function as bridges between their families and society, and they are informed about integration and counselling services.

192. Since their introduction in 2007, these courses have addressed prevention of violence, especially protection against domestic violence. However, this sensitive issue needs an atmosphere of trust. The topic of "non-violent communication in the family" is used to discuss different roles of women, questions regarding their rights, conflicts in the family and suitable conflict resolution strategies. The women teaching these courses take advanced training courses on domestic violence and forced marriage so they can refer victims to qualified advice centres and other assistance. The concept was updated in 2012 to include also "protection against

domestic violence”. Information materials, e.g. a flyer about forced marriage and online searches for specific counselling offices and shelters, were included. In 2012, information on forced marriage was offered to integration courses (German and orientation courses).

### **3. Measures to integrate migrant women into the labour market**

193. Promoting the integration of migrant women into the labour market and simultaneously countering discrimination are matters of great concern to the Federal Government. Emphasis is given to the national ESF-programme for job-related language courses for people with a migration background, launched in 2007 and. The share of women taking part in the programme is 60 per cent, which shows that it especially attracts women. Moreover, the national programme on labour market support for asylum seekers and refugees aims to integrate asylum seekers and refugees without a permanent residence title into the labour market (term: 2008-2014). Gender mainstreaming is respected when implementing these programmes.

194. Furthermore, the “Integration through Qualification (IQ)” programme, initiated by BMAS and implemented in cooperation with the Federal Ministry of Education and Research and the BA, has become one of Germany’s key labour market policy instruments. The focus during the current phase of the programme is on qualifying migrants under the Federal Recognition Act. The training courses on intercultural openness and diversity available under the programme consider gender-specific factors and are therefore particularly relevant in improving the situation of migrant women in the labour market. The employment rate of women with a migration background (between 20 and 64) rose from 54.8 per cent in 2007 to 60.4 per cent in 2012. Their employment rate is thus lower than that of men with a migration background (2007: 72.7 per cent; 2012: 77 per cent) and of women in general (2007: 66.7 per cent; 2012: 71.5 per cent). Nevertheless, it rose comparatively strongly by 5.6 percentage points.

195. The new ESF-programme “Strong Careers — Mothers with a Migration Background Start Out” that establishes career opportunities for women and helps them transition into the workforce, also contributes to integrating mothers with a migration background into the labour market. It focuses on better coordinating access to available measures and support to the individual needs of this group and to close gaps in the integration process (see also recommendation 38).

196. Unlike other groups of migrants, e.g. those from the European Union, asylum seekers and tolerated persons are subject to a waiting period during which they are not permitted to work in Germany. In November 2014 this waiting period was reduced to three months (compared to one year previously, then nine months, for asylum seekers and one year previously for persons with discretionary leave to remain). The “priority check”, where the BA examines whether a particular position can be filled with someone who is entitled, is dropped after 15 months.

### **4. Statistics and data**

197. In order to find out more about migrant women’s organizations and their needs, BMFSFJ commissioned the “Migrant Women’s Organizations in Germany”, which was published in November 2010. It presented various types of self-organizing bodies: education-oriented, politically-oriented, professional and leisure-time oriented. The study also provides information about the structure, tasks and

members of the organizations. Furthermore, it shows that migrant women's organizations often provide support to overcome discriminatory structures and build bridges to other parts of society.<sup>31</sup>

198. With BMFSFJ study "Forced Marriage in Germany — Number and Analysis of Advice Centres" the knowledge available in counselling facilities across Germany was for the first time surveyed and systematically analysed regarding people who are vulnerable to or victims of forced marriage.<sup>32</sup> Moreover, funding was provided to an intercultural online advice for victims of forced marriage. The project evaluation contains important information on the new instrument.<sup>33</sup>

199. The Länder are extremely interested in protecting and better integrating minorities into society.

### **Recommendation 62: Dialogue with NGOs regarding Intersexual and Transsexual People**

200. Germany complied with the Committee's request to social dialogue on intersexuality and transsexuality. Reference is made to the interim report which Germany already submitted to the Committee. On 17 December 2010 the Federal Government commissioned the German Ethics Council with drawing up a report on the situation of and challenges faced by intersex people. The Opinion, which the German Ethics Council published on 23 February 2012 (Bundestag Printed Paper 17/9088), was written with the participation of and after hearing experts and relevant organizations of intersex people. It deals comprehensively with the specific situation of intersex people in Germany. The Opinion summarises the current state of research and makes recommendations which the German Ethics Council feels would be suited to improving the situation of intersex people overall.

201. BMFSFJ has continued its dialogue with non-governmental organizations and in May 2013 organized a conference on "Living between the Sexes" together with the Konrad Adenauer Foundation. A total of 80 medical experts, political actors and intersex people were able to exchange their views on the German Ethics Council's Opinion at this event.

202. In response to the recommendations made by the German Ethics Council, the Federal Government, in a first step, amended the Civil Status Act in 2013. According to a new regulation, when registering a birth, parents need not enter the child's sex if this cannot unequivocally be established. The provision aims to relieve parents of the pressure of having to establish the sex of their child immediately after birth and thus of carrying out sex reassignment surgery hastily.

203. Under the Coalition Agreement it is agreed that this amendment to the law of civil status in favour of intersex people will be evaluated, possibly extended and the specific situation of transsexual and intersex people emphasized.

204. Hence, an Inter-Ministerial Working Group on Intersexuality/Transsexuality was founded in September 2014, for which BMFSFJ has overall responsibility. The Working Group will look in great detail into the demands of the German Ethics Council and resolutions drawn up on its basis (resolution of the Conference of Ministers of Health of 26 June 2013, motion of the German Bundesrat of 14 March

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<sup>31</sup> See [www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationen,did=164634.html](http://www.bmfsfj.de/BMFSFJ/Service/Publikationen/publikationen,did=164634.html).

<sup>32</sup> See also recommendation 42.

<sup>33</sup> All the reports are available at: <http://www.bmfsfj.de/BMFSFJ/gleichstellung,did=88292.html>.

2014, resolution of the Conference of Ministers of Youth and Family Affairs of 22/23 May 2014, resolution of the Conference of Ministers and Senators Responsible for Gender Equality of 1/2 October 2014), it will involve organizations of intersex and transsexual people and, if necessary, propose corresponding legislative amendments.

In a working arrangement the Working Group agreed to successively address the following:

- Medical treatment;
- Development and consolidation of counselling, educational and preventive structures;
- Examination of necessary legislative amendments;
- Analysis of the factual and legal situation of transgender persons.

205. In addition, BMFSFJ will be promoting several projects on combating transphobia and homophobia as part of its national “Living Democracy” programme.

#### **Recommendation 63: Implementation of the Beijing Declaration and Platform for Action**

206. The Platform for Action and its follow-up documents represent an important guideline regarding gender equality policy in Germany and the European Union. Its comprehensive approach is implemented by means of measures, legislation and activities. The Federal Government completes the Economic Commission for Europe Questionnaire on the Implementation of the Beijing Declaration and Platform for Action every five years. In the last questionnaire, submitted in June 2014, Germany reported on detailed progress made (Annex 1).

207. Furthermore, the various presidencies of the Council of the European Union have since 1999 developed quantitative and qualitative indicators for 11 out of the 12 areas of concern referred to in the Platform for Action in order to monitor progress made on implementing the goals of the Platform across the European Union. Each year, the Council has accepted the conclusions on these indicators. The European Institute for Gender Equality (EIGE) was founded in 2006 with key involvement of Germany as chair of its management board until 2012. The task of EIGE is, inter alia, to develop methods for improving the comparability and reliability of data related to gender equality. Since 2010 EIGE has given key support to the Council of the European Union and its presidencies regarding the follow-up measures to the Beijing Platform for Action by reviewing the area of concern selected by each respective presidency.

#### **Recommendation 64: Millennium Development Goals**

208. Germany has adopted the Millennium Declaration and undertaken to implement the Millennium Development Goals. German development policy makes important and substantial contributions to achieving the Goals. Promoting gender equality and empowering women is a binding goal and consistent principle applied to German development cooperation. All the measures implemented regarding gender equality and empowering women thus contribute directly or indirectly to achieving the Goals.

209. Germany is actively committed to improving the employment situation and working conditions of women (Goal 1 and Goal 3), access for girls and women to

education (Goal 2 and Goal 3), reducing maternal mortality and improving access to healthcare services (Goal 5). Additionally, strengthening the participation generally and in decision making as well as the representation of women, reducing school drop-out rates for girls, promoting the realization of sexual and reproductive rights, and supporting measures for preventing and combating gender-specific violence are key matters of concern for Germany.

210. In Guinea, for instance, Germany is involved in enabling socially disadvantaged girls in rural regions to successfully complete their primary education. They are given remedial lessons in French, mathematics and health education. Additionally, advanced training courses for teachers and better teaching materials contribute to girls and boys equally exercising their rights to education.

211. Germany is helping to improve the employment situation of women in the MENA region. Young women e.g. receive professional orientation support through mentoring projects in order to prepare their transition from higher education to working life.

212. Germany is committed to a transformative and human rights-based post-2015 agenda. It advocates a target system which systematically and consistently enshrines gender equality and implementation of the rights of women and girls in the post-2015 agenda for sustainable development. This includes combating gender-specific violence and realizing sexual and reproductive health and rights for women and girls. The Federal Government's report on Germany's position in negotiations on the post-2015 agenda was published in December 2014. It sets out that Germany will advocate maintaining the substance of the current proposal put forward by the Open Working Group on the Sustainable Development Goals: an independent gender goal and gender mainstreaming in other target areas.

#### **Recommendation 65: Ratification of other conventions**

213. Germany has already ratified the International Convention for the Protection of all Persons from Enforced Disappearance on 24 September 2009 and the United Nations Convention on the Rights of Persons with Disabilities on 24 February 2009.

#### **Recommendations 11, 66: Dissemination of the concluding observations**

214. The concluding observations were forwarded to all the relevant federal and Land ministries. The Convention, its Optional Protocol, the Committee's general recommendations and the other documents to which the Committee refers are widely disseminated by BMFSFJ via its website and brochures about the Convention. BMFSFJ also has new general recommendations made by the Committee translated and makes these translations available to non-governmental organizations. The Federal Government also provides financial support to the German Institute for Human Rights, which maintains a detailed website with links to all important documents relating to the Convention.

#### **Recommendation 67: Follow-up to the concluding observations**

215. Germany sent the Committee its interim report on 5 August 2011. The recommendations made by the Committee on 4 November 2011 were taken into account and commented on in the present report.