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I. General information about the Federal Republic of Germany

A. Geographical, historical, demographic, social, cultural, economic, and judicial characteristics

1. Geographical category

1. In 2014, the Federal Republic of Germany had an area of 357,376 km², including the entire German-Luxembourg sovereign territory. It stretches from the North Sea and the Baltic Sea in the north to the Alps in the south.

2. The average temperatures of the coldest month of the year (January) range from + 1.5 °C to - 0.5 °C in the plain to below - 6 °C in the mountains, depending on the altitude. The average July temperatures are up to between + 17 °C and + 18 °C on the North German Plain, up to + 20 °C in the Upper Rhine Valley. The average annual temperature is + 9 °C.

2. Historical background

3 Fundamental and human rights were entrenched in the Federal Republic of Germany at the federal level for the first time in the 1919 Weimar Reich Constitution, which contained a comprehensive list of basic rights. General, free suffrage was introduced in November 1918; women were able to vote and stand for office for the first time in January 1919. In terms of the organisation of the State, the German Reich was structured as a democratic republic and as a federal state. The authority of the State was vested in the people.

4. However, the Weimar Reich Constitution was not to last long. Especially the up to then insignificant National Socialist German Workers' Party (NSDAP) of Adolf Hitler, which combined an anti-democratic attitude with radical anti-Semitism and agitated unscrupulously against the Republic and the middle-class and social-democratic parties representing it, gained strength at the beginning of the 1930s, and became the strongest party in Parliament. The difficult circumstances prevailing at that time enabled Adolf Hitler to be appointed as Reich Chancellor within an exceptionally short period of time, on 30 January 1933. Only a few weeks thereafter, a process was launched to gradually make the Weimar Reich Constitution invalid. By means of the so-called "Decree to protect the people and the State," first of all the basic rights which had just been included in the constitution, such as freedom of opinion, freedom of the press, freedom of association and assembly, and the inviolability of the home, were suspended. Likewise, the privacy of correspondence and telecommunications was suspended. Parallel to this, the criminal provisions were tightened, which was particularly reflected in the introduction of the death penalty for the offences of high treason and arson.

5. The adoption of the Enabling Act of 24 March 1933, finally, totally abolished the separation of powers between the Reich Government and the Reichstag; the federal structures of the German Reich were dissolved only a short time later, and the tyrannical National Socialist regime had become definitively established. The NS regime from 1933 to 1945 was a time of total disregard of basic and human rights. National Socialist rule was based on persecution and suppression. It pursued the mass extermination of Jewish people and others outlawed for political or ideological, particularly racist, reasons. Only the capitulation of the German Wehrmacht on 8 May 1945 enabled the return to a constitutional order based on respect for human rights.

6. On 23 May 1949, the Basic Law (GG), which had been drafted by the Parliamentary Council, entered into force for the Western German *Länder*. The constitutional deliberations that had preceded the adoption of the Basic Law (GG) were guided by the

experience not only from 1919 to 1933 in the area of application of the Weimar Reich Constitution, but also by the signals going out from the Universal Declaration of Human Rights of the United Nations, which was proclaimed on 10 December 1948. What is more, the composition of the Parliamentary Council had a major influence on the contents of the Basic Law (GG). It had four women among its members. These “mothers of the Basic Law (GG)” successfully campaigned for equal rights for women and men to be included in the list of basic rights.

7. By contrast, the development in the eastern part of the Federal Republic of Germany was characterised by convergence with the state system of the Soviet Union. The Constitution of the German Democratic Republic (GDR), founded in 1949, paid lip service to the basic rights; however, in actual practice it did not guarantee individual freedom and defensive rights against the State’s powers. Political persecution, infringements of human rights and the “wall” between East and West Berlin, with its life-threatening border protection, formed the public image of the state system of the GDR as perceived throughout the world.

8. In September 1989, Hungary opened its borders, permitting thousands of GDR citizens who wished to leave to pass through to Austria and from there to the West. In the GDR itself, more and more people took part in protest activities, firstly within, and then increasingly also outside the Churches. When early in October 1989 the GDR leaders celebrated the 40th anniversary of the founding of the GDR with great pomp and ceremony, mass demonstrations were held, primarily in Leipzig. This led to the resignation of Erich Honecker, long-term Chairman of the Council of State of the GDR. Continued pressure from the people finally led to the opening of the Berlin Wall on 9 November 1989. Following the first free elections to the GDR Peoples’ Chamber on 18 March 1990, negotiations were started between the Governments of the Federal Republic of Germany and the GDR with the aim of agreeing on the details of the unification of both partial states.

9. The German-German Treaty Establishing a Monetary, Economic, and Social Union entered into force on 30 June 1990 as did, on 3 September 1990, the German-German Agreement on the preparation and implementation of the first all-German election to the *Bundestag* (the parliament of the Federal Republic of Germany). The reunification process was ensured as regards foreign policy with the Agreement of 12 September 1990 on the final regulations with respect to the Federal Republic of Germany, the so-called “Two Plus Four Treaty,” which was concluded between both German states, France, the Soviet Union, the United Kingdom, and the United States of America. The *Länder* Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt, and Thuringia, which had been abolished in 1950 with the conversion of the GDR into a united state, were reintroduced with effect from 3 October 1990 by a statute of the GDR of 22 July 1990. On 23 August 1990 the People’s Chamber in Berlin proclaimed the accession of the GDR to the area of application of the Basic Law (GG) of the Federal Republic of Germany. Upon entry into effect of the Unification Treaty between the GDR and the Federal Republic of Germany on 3 October 1990, the two German states were reunited.

3. Demographic characteristics

(a) General information

10. The Federal Republic of Germany had 81.198 million inhabitants on 31 December 2014. The population hence increased by 0.5 per cent in comparison to the previous year. There was also a slight increase with regard to population density, which rose to 227 inhabitants per sq km in 2014. The comparative figures of the preceding years are contained in the table below:

<i>Year</i>	<i>Population size (in millions)</i>	<i>Population growth rate (in per cent)</i>	<i>Inhabitants(per km²)</i>
2014	81.198	+0.53	227
2013	80.767	+0.30	226
2012	80.524	+0.24	225
2011	80.328	x	225

11. In 2014, a total of 35.5 per cent of the population of the Federal Republic of Germany lived in densely populated areas pursuant to the degree of urbanisation (classification indicating the character of an area pursuant to Eurostat). In intermediate density areas, the population share was 41.6 per cent, while the population share was 22.9 per cent in the thinly populated areas. The degree of urbanisation classifies the local administrative units as follows: Densely populated areas are cities or metropolitan regions in which at least 50 per cent of the local population lives in very densely populated urban clusters (urban centres). Intermediate density areas are towns and suburbs or the areas of small towns, in which less than 50 per cent of the population lives in rural grid cells and less than 50 per cent of the population lives in very densely populated urban clusters (urban centres). Thinly populated areas are rural areas in which more than 50 per cent of the population lives in rural grid cells.

12. The number of persons under 15 was 10.687 million (male: 5.484 million, female: 5.203 million) in the same year as per 31 December 2014; that of 65-year-olds and older was 17.089 million persons (male: 7.384 million, female: 9.705 millions). The population groups named above can be compared with 53.422 million persons in the age group of 15- to 64-year-olds (male: 26.968 million, female: 26.454 million). For 2014, this leads to a quotient of dependants (the ratio of the population under 15 and from 65 upwards to the population aged from 15 to 64) of 52.0.

13. 8.8 live births, as well as 10.7 deaths, per 1,000 inhabitants were recorded in the Federal Republic of Germany in 2014. The number of births and deaths of the preceding years can be found in the table below:

<i>Year</i>	<i>Birth-rate (live births per 1,000 inhabitants)</i>	<i>Mortality (deaths per 1,000 inhabitants)</i>
2014	8.8	10.7
2013	8.5	11.1
2012 ¹	8.4	10.8
2011	8.3	10.6
2010	8.3	10.5
2009	8.1	10.4

14. The birth-rate (total fertility rate) in 2014 was 1.47 children per woman of child-bearing age. The current average life expectancy of newborn girls is 83.1; the average life expectancy of newborn boys is 78.1.²

¹ Results based on the 2011 Census.

² The average life expectancy stated relates to the period under report from 2012-2014. The calculation is performed in each case for a three-year period.

(b) *Shares of the population with foreign nationality*

15. Statistical data on the ethnic composition of the population living in the Federal Republic of Germany are not collected; this is the consequence of the persecution of ethnic minorities during the tyrannical National Socialist regime. The table below however provides information on the composition of the foreign population living in the Federal Republic of Germany. The numbers relate to the year under report 2014:

<i>Continent/nationality</i>	<i>Number of individuals</i>		
	<i>Total</i>	<i>Male</i>	<i>Female</i>
Europe	5 948 896	3 053 978	2 894 918
EU States	3 475 492	1 859 416	1 616 076
Greece	304 633	163 054	141 579
Italy	537 618	313 520	224 098
Poland	640 292	333 641	306 651
Turkey	1 372 113	691 361	680 752
Africa	323 505	189 449	134 056
America	227 542	105 682	121 860
Asia	980 628	496 676	483 952
Australia and Oceania	14 030	7 844	6 186

Source: Statistisches Bundesamt (2015): Intercensal population update on the basis of the 2011 Census.

16. Hence, the share of the foreign population among the total population in the year under report 2014 was roughly 10.04 per cent (of whom male: 5.25 per cent, female: 4.79 per cent).

<i>Year</i>	<i>Share of the foreign population among the total population</i>		
	<i>Total (in 1,000 persons)</i>	<i>Male (in 1,000 persons)</i>	<i>Female (in 1,000 persons)</i>
2014	7 539.8	3 880.2	3 659.6
2013	7 015.2	3 575.1	3 440.2
2012	6 643.7	3 363.4	3 280.3
2011	6 342.4	3 190.7	3 151.7

Source: Federal Statistical Office (2015): Intercensal population update on the basis of the 2011 Census.

The share of the population with a migrant background among the total population amounts to around 20.3 per cent (of whom male: 10.2 per cent, female: 10.1 per cent). As is the situation for the year-over-year comparison of the previous years, the share of the population with a migrant background is subject to marked changes from 2013 to 2014 as well.

Share of the population with a migrant background among the total population			
Year	Total (in 1,000 persons)	Male (in 1,000 persons)	Female (in 1,000 persons)
2014	16 386	8 227	8 159
2013	15 913	7 984	7 930
2012	15 330	7 668	7 662
2011	14 853	7 403	7 451

Source: Federal Statistical Office (2015): Population and gainful employment 2014. Population with a migrant background. Results of the Micro-Census.

(c) *Religious affiliation*

17. The following figures on the religious affiliation of the population living in the Federal Republic of Germany relate to the year 2014, to the exception of the information provided regarding the number of Muslims.

Religious community	Number of adherents (in persons)	Number of adherents (in per cent)
Roman Catholic Church	23 939 472	29.5
Protestant Church	22 629 286	27.9
Islam	approximately 4 000 000	approximately 5
Jewish religious community	100 437	0.12

18. The statement of the number of members of the Roman Catholic Church, the Protestant Church, and the Jewish religious community are based on the respective religious communities' own statistical data. The number of Muslims is based on a comprehensive survey of Muslim life in the Federal Republic of Germany performed in 2008 in the context of the German Islam Conference.³ It follows from the calculations of the *Forschungsgruppe Weltanschauungen in Deutschland* (Research Group on World Views in Germany — fowid) that non-denominationals now account for the largest share of the population. It was 34 per cent in 2014.

4. Social and cultural characteristics

(a) *Most frequent causes of death*

19. The ten most important causes of death in the Federal Republic of Germany are broken down in the table below:⁴

	2014 (deaths)	2013 (deaths)	2012 (deaths)	2011 (deaths)	2010 (deaths)
Chronic ischaemic cardiopathy	69 890 (m: 35 399) (f: 34 491)	73 176 (m: 36 049) (f: 37 127)	71 655 (m: 34 937) (f: 36 718)	70 557 (m: 33 482) (f: 37 075)	72 734 (m: 33 846) (f: 38 888)

³ *Muslimisches Leben in Deutschland* (Muslim Life in Germany), Nuremberg 2009.

⁴ The information not in brackets relates to all deaths; the information in brackets distinguishes between male (m) and female (f).

	2014 (deaths)	2013 (deaths)	2012 (deaths)	2011 (deaths)	2010 (deaths)
Acute myocardial infarct	48 181 (m: 27 188) (f: 20 993)	52 044 (m: 28 991) (f: 23 053)	52 516 (m: 28 951) (f: 23 565)	52 113 (m: 28 621) (f: 23 492)	55 541 (m: 30 651) (f: 24 890)
Heart failure	44 551 (m: 16 038) (f: 28 513)	45 815 (m: 15 842) (f: 29 973)	46 410 (m: 15 560) (f: 30 850)	45 428 (m: 14 807) (f: 30 621)	48 306 (m: 15 816) (f: 32 490)
Malignant tumour of the bronchials and the lung	45 049 (m: 29 536) (f: 15 513)	44 813 (m: 29 684) (f: 15 129)	44 433 (m: 29 695) (f: 14 738)	43 908 (m: 29 627) (f: 14 281)	42 972 (m: 29 357) (f: 13 615)
Other chronic obstructive pulmonary disease	27 008 (m: 15 364) (f: 11 644)	28 882 (m: 16 170) (f: 12 712)	26 654 (m: 15 163) (f: 11 491)	26 018 (m: 14 970) (f: 11 048)	25 675 (m: 14 730) (f: 10 945)
Unspecified dementia	24 867 (m: 7 457) (f: 17 410)	24 738 (m: 7 511) (f: 17 227)	20 400 (m: 5 978) (f: 14 422)	17 243 (m: 5 143) (f: 12 100)	15 591 (m: 4 558) (f: 11 033)
Hypertensive heart disease	22 859 (m: 6 406) (f: 16 453)	24 669 (m: 6 798) (f: 17 871)	22 562 (m: 6 200) (f: 16 362)	21 047 (m: 5 696) (f: 15 351)	20 604 (m: 5 453) (f: 15 151)
Malignant tumour of the mammary gland	17 804 (m: 134) (f: 17 670)	18 009 (m: 156) (f: 17 853)	17 898 (m: 150) (f: 17 748)	17 974 (m: 159) (f: 17 815)	17 573 (m: 107) (f: 17 466)
Malignant tumour of the colon	16 899 (m: 8 578) (f: 8 321)	17 108 (m: 8 658) (f: 8 450)	17 219 (m: 8 724) (f: 8 495)	17 293 (m: 8 630) (f: 8 663)	17 161 (m: 8 479) (f: 8 682)
Stroke, not specified as haemorrhaging or infarction	16 753 (m: 6 132) (f: 10 621)	18 883 (m: 6 805) (f: 12 078)	20 387 (m: 7 492) (f: 12 895)	21 594 (m: 7 717) (f: 13 877)	23 675 (m: 8 422) (f: 15 253)

(b) *Infant and maternal mortality rate*

20. The mortality of infants dying in the first year of life per 1,000 live births reached a level of 3.2 infants in 2014. There were 4.3 deaths of mothers per 100,000 live births in the same period.

(c) *Use of birth control*

21. No regular data are kept in the Federal Republic of Germany on the use of birth control by women of child-bearing age or their partners. However, a topical telephone survey of the birth-control conduct of adults revealed that in 2011 a total of 76 per cent of sexually active women use birth control. 75 per cent of sexually active men stated that they themselves use birth control, respectively that their partner uses birth control.⁵

⁵ The information relates to 997 women and men interviewed on the telephone aged from 19 to 49, who had been sexually active in the past twelve months or who are currently sexually active.

(d) Number of medically indicated abortions

22. The number of medically indicated abortions in 2014 was 5.0 cases per 1,000 live births as compared to 5.4 cases in 2013. Whilst in 2012 and 2011 an average of 4.9 and 5.3 medically indicated abortions per 1,000 live births, respectively, were recorded, the abortion rate in 2010 and 2009 averaged 4.5 and 4.8 cases per 1,000 live births, respectively.

(e) Numbers of cases of reportable infectious disease

23. All infectious diseases listed in section 6 of the Infection Protection Act (*Infektionsschutzgesetz*) and the evidence of pathogens named in section 7 are reportable in the Federal Republic of Germany. The following case numbers were given in the last five years as to these reportable illnesses:

	2013	2013	2013	2014	2014	2014
	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>
Adenovirus in the conjunctival smear	1 986	933	1 047	1 141	574	565
Botulism	6	3	3	6	5	1
Brucellosis	28	9	19	47	25	22
Campylobacter enteritis	63 649	33 064	30 527	70 972	36 844	34 006
Cholera	1	0	1	1	0	1
CJD	114	44	70	86	41	45
Dengue fever	878	463	414	626	328	297
Diphtheria	4	2	2	9	6	3
E. coli enteritis	7 844	4 024	3 798	8 415	4 274	4 082
Ebola fever	0	0	0	3	3	0
Echinococcosis	127	63	62	112	50	62
EHEC (not incl. HUS)	1 618	722	889	1 650	730	913
Fleck typhus	0	0	0	0	0	0
FSME	420	262	157	265	168	97
Yellow fever	0	0	0	0	0	0
Giardiasis	4 143	2 262	1 855	4 019	2 201	1 803
Haem. influenzae	417	203	212	461	231	230
Hantavirus	161	99	62	571	394	177
Hepatitis A	779	372	406	681	342	338
Hepatitis B	687	446	235	755	512	239
Hepatitis C	5 169	3 281	1 865	5 817	3 733	2 045
Hepatitis D	32	25	6	17	12	5
Hepatitis E	458	284	173	670	425	245
Hepatitis Non A-E	0	0	0	0	0	0
HUS enteropathic	77	32	45	85	48	37
Influenza	70 222	34 836	35 180	7 501	3 787	3 674

	2013	2013	2013	2014	2014	2014
	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>
Pertussis				12 260	5 178	7 037
Cryptosporidiosis	1 565	764	801	1 725	823	901
Lassa fever	0	0	0	0	0	0
Louse-borne relapsing fever	0	0	0	0	0	0
Legionellosis	923	635	287	860	594	262
Leprosy	1	1	0	2	2	0
Leptospirosis	80	58	22	160	127	33
Listeriosis	468	251	216	609	368	241
Malaria	637	446	185	1 022	776	236
Marburg fever	0	0	0	0	0	0
Measles	1 769	877	883	443	232	211
Invasive meningococcus	345	176	169	275	144	130
Anthrax	0	0	0	0	0	0
Mumps				837	428	406
Norovirus gastroenteritis	89 308	40 217	48 894	75 040	33 673	41 154
Ornithosis	10	8	2	9	7	2
Paratyphoid fever	56	36	20	26	14	12
Plague	0	0	0	0	0	0
Poliomyelitis	0	0	0	0	0	0
Query fever	115	73	41	262	141	121
Rotavirus	48 308	22 874	25 280	32 399	15 734	16 477
Rubella connatal infection	1	1	0			
Rubella				38	19	19
Salmonellosis	18 985	9 720	9 233	16 222	8 287	7 904
Shigellosis	578	291	283	552	300	250
Syphilis	5 018	4 640	374	5 722	5 350	363
Rabies	0	0	0	0	0	0
Toxoplasmosis connatal infection	10	5	4	6	4	2
Trichinellosis	14	8	6	1	1	0
Tularaemia	20	13	7	21	18	3
Abdominal typhus	90	43	47	58	31	25
Atrial fibrillation	16	5	11	162	63	99
Chicken pox			0	22 128	11 382	10 612
Yersiniosis	2 591	1 429	1 160	2 485	1 378	1 105
Total	329 728	164 000	164 953	277 234	139 807	136 492

	2010			2011			2012		
	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>
Adenovirus in the conjunctival smear	489	259	229	673	328	345	2 141	995	1 142
Botulism	4	2	2	9	5	4	0	0	0
Brucellosis	22	14	8	24	10	14	28	12	16
Campylobacter enteritis	65 742	34 184	31 503	71 313	37 392	33 851	62 925	32 619	30 240
Cholera	6	3	3	4	0	4	0	0	0
CJD	128	54	74	134	58	76	124	63	61
Dengue fever	595	311	284	288	171	117	616	321	293
Diphtheria	8	4	4	4	1	3	9	8	1
E. coli enteritis	5 843	2 963	2 862	8 297	4 186	4 086	7 073	3 618	3 437
Ebola fever	0	0	0	0	0	0	0	0	0
Echinococcosis	123	58	65	146	69	77	118	65	52
EHEC (not incl. HUS)	918	423	494	4 907	2 119	2 781	1 532	658	872
Fleck typhus	0	0	0	0	0	0	0	0	0
FSME	260	160	100	424	269	154	195	123	72
Yellow fever	0	0	0	0	0	0	0	0	0
Giardiasis	3 993	2 250	1 738	4 263	2 354	1 898	4 238	2 302	1 920
Haem. influenzae	211	108	103	274	145	128	325	154	171
Hantavirus	2 016	1 436	575	305	228	76	2 825	1 975	845
Hepatitis A	791	387	401	832	440	391	832	410	420
Hepatitis B	768	514	250	810	556	247	676	476	194
Hepatitis C	5 303	3 266	2 018	5 057	3 142	1 893	5 014	3 139	1 847
Hepatitis D	10	10	0	17	13	4	18	11	7
Hepatitis E	221	137	84	238	132	105	388	245	143
Hepatitis Non A-E	0	0	0	0	0	0	0	0	0
HUS, enteropathic	65	30	35	880	287	592	70	31	39
Influenza	3 468	1 798	1 658	43 769	22 120	21 528	11 575	5 774	5 733
Pertussis									
Cryptosporidiosis	934	449	485	942	482	459	1 390	688	701
Lassa fever	0	0	0	0	0	0	0	0	0
Lice relapsing fever	0	0	0	0	0	0	0	0	0
Legionellosis	693	489	204	644	463	180	656	453	202
Leprosy	2	2	0	2	2	0	5	2	3
Leptospirosis	70	60	10	51	38	13	85	55	30
Listeriosis	390	214	176	338	185	153	430	226	204
Malaria	633	432	200	563	383	179	551	378	169
Marburg fever	0	0	0	0	0	0	0	0	0
Measles	780	406	374	1 608	770	834	165	79	86
Invasive meningococcus	387	194	193	369	201	167	354	193	161

	2010			2011			2012		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
Anthrax	1	1	0	0	0	0	4	2	2
Mumps									
Norovirus gastroenteritis	140 636	61 860	78 545	116 259	51 443	64 638	113 326	50 566	62 583
Ornithosis	25	18	7	16	9	7	16	10	6
Paratyphoid fever	57	35	22	58	34	24	43	25	18
Plague	0	0	0	0	0	0	0	0	0
Poliomyelitis	0	0	0	0	0	0	0	0	0
Query fever	361	217	144	285	154	131	200	143	57
Rotavirus	54 050	26 545	27 324	54 469	26 220	28 061	39 346	19 163	20 051
Rubella, connatal infection	0	0	0	0	0	0	1	1	0
Rubella									
Salmonellosis	25 310	12 734	12 535	24 521	12 368	12 108	20 864	10 719	10 111
Shigellosis	731	412	318	680	420	259	531	287	243
Syphilis	3 033	2 820	207	3 705	3 462	236	4 419	4 117	298
Rabies	0	0	0	0	0	0	0	0	0
Toxoplasmosis, connatal infection	14	7	7	15	8	7	20	8	11
Trichinellosis	3	2	1	3	2	1	2	2	0
Tularaemia	31	23	8	17	8	9	21	18	3
Abdominal typhus	71	37	34	59	31	27	58	37	21
Atrial fibrillation	37	20	17	13	4	9	9	6	3
Chicken pox									
Yersiniosis	3 369	1 918	1 450	3 397	1 945	1 451	2 709	1 497	1 210
Total	322 602	157 266	164 751	350 682	172 657	177 327	285 927	141 674	143 678

24. The incidence rates for new HIV infections can only be estimated. The following incidence rates of new HIV infections in the Federal Republic of Germany result from such estimates:⁶

Year	Cases	Incidence rate Cases per 100,000 inhabitants
2013	3,200 (95% CI: 3,000 — 3,400)	4.6 (95% CI: 4.4 — 4.8)
2012	3,200 (95% CI: 3,000 — 3,500)	4.6 (95% CI: 4.4 — 4.9)
2011	3,100 (95% CI: 2,900 — 3,400)	4.4 (95% CI: 4.1 — 4.7)
2010	3,000 (95% CI: 2,700 — 3,300)	4.2 (95% CI: 3.9 — 4.5)
2009	3,000 (95% CI: 2,700 — 3,200)	4.2 (95% CI: 3.9 — 4.5)

⁶ The figures do not include infections diagnosed in the Federal Republic of Germany among migrants from so-called high-prevalence regions.

It is estimated that 86 per cent of the numbers from 2013 relate to persons of male gender and 14 per cent to persons of female gender.

25. The number of instances in which HIV is diagnosed with an advanced immunodeficiency (clinical AIDS or CD4 cell count below 200 cells/ μ l of blood) are estimated as follows:

<i>Year</i>	<i>Cases</i>	<i>Incidence rate Cases per 100,000 inhabitants</i>
2013	1,100 (95% CI: 1,100 — 1,300)	1.6 (95% CI: 1,6 — 1,7)
2012	1,000 (95% CI: 950 — 1,100)	1.5 (95% CI: 1,4 — 1,5)
2011	1,000 (95% CI: 940 — 1,100)	1.4 (95% CI: 1,3 — 1,5)
2010	960 (95% CI: 910 — 1,100)	1.4 (95% CI: 1,3 — 1,5)
2009	1,000 (95% CI: 960 — 1,200)	1.5 (95% CI: 1,4 — 1,6)

It is estimated that 78 per cent of the numbers from 2013 relate to persons of male gender and 22 per cent to persons of female gender.

26. The incidence rates of newly-diagnosed tuberculosis cases have been distributed as follows in recent years:⁷

<i>Year</i>	<i>Cases</i>	<i>Incidence rate (cases per 100,000 inhabitants)</i>
	4,393	5.4
2010	(m: 2,662) (f: 1,718)	(m: 6.6) (f: 4.1)
	4,310	5.3
2011	(m: 2,543) (f: 1,756)	(m: 6.3) (f: 4.2)
	4,210	5.2
2012	(m: 2,588) (f: 1,617)	(m: 6.6) (f: 3.9)
	4,319	5.4
2013	(m: 2,657) (f: 1,648)	(m: 6.7) (f: 4.0)
	4,488	5.6
2014	(m: 2,840) (f: 1,642)	(m: 7.2) (f: 4.0)

27. No case of endemic malaria was recorded in the Federal Republic of Germany during 2010 to 2014.

(f) *Education system*

28. The education system in the Federal Republic of Germany is sub-divided into elementary, primary and secondary as well as tertiary areas, and the field of ongoing professional training. Whilst the primary area mainly includes primary schools, the

⁷ The information not in brackets relates to all cases; the information in brackets distinguishes between men (m) and women (f).

secondary schools mainly include secondary general schools (*Hauptschulen*) and intermediate schools (*Realschulen*), types of school with several streams, as well as the lower grades of the grammar schools (lower secondary). Upper secondary, which follows on from lower secondary, is continued in the general schooling area, including the upper grades of the grammar schools (the so-called upper grammar school level), as well as in vocational training. Such vocational training is based mainly on the dual system. Once pupils have completed their compulsory, full-time schooling, they will have access to training as a trainee or apprentice (duration: generally three years), which training is provided at two places of learning — the enterprise hiring the trainee or apprentice and the vocational school. In this context, the proximity to vocational practice and to the employment system frequently ensures a seamless transition from training to employment. The fact that around half of an age cohort in the Federal Republic of Germany will enter a course of dual vocational training demonstrates that this training method is highly attractive and popular.

29. The public funds in the educational sector are not only spent on public schools, as certain state-recognised, private replacement or supplementary schools also receive state support.

30. There is a differentiated system of grants for education and training advancement. Pupils at institutes of further education and vocational schools, as well as students at universities, receive assistance according to the Federal Education Promotion Act (*Bundesausbildungsförderungsgesetz*) if the funds required for their living expenses and education are not available from other sources. The promotion of education is a key element of the equalisation of family burdens, by means of which the state aims to equalise social differences by means of a differentiated social system. Its purpose is to create equal opportunities in education and to make full use of education reserves. The obligation to create equality of opportunity is a constitutional principle laid down in the social state principle of the Basic Law (GG).

31. A total of 925,000 pupils and students in the Federal Republic of Germany received assistance under the Federal Education Promotion Act in 2014. Euro 3.1 billion was spent on these benefits in the same year. Of this sum, Euro 861 million was accounted for by grants accorded to pupils, and roughly Euro 2.28 billion by the grants accorded to students. Pupils received an average of Euro 418, and students Euro 448 per month.

32. The Federal Republic of Germany has no figures on net school starting rates in the primary and secondary schools. The lack of data collection is a result of the existing obligation to attend school. In order to be able to nonetheless provide an overview of the attendance rates in the general schools, the current school attendance rates in this educational sector are shown below. They are broken down as follows:

Age as per 31 December 2014			Year of birth	Population (preliminary data) on 31 Dec. 2014 in 1,000	Pupils at general schools 2014/15									
					School kindergartens, preliminary classes	Primary schools	Orientation level, independent of the type of school	Secondary general schools	Types of school with several streams	Intermediate schools	Grammar schools	Integrated comprehensives	Free Waldorf	Schools for children with learning difficulties
		total	679	1.46	0.23	-	-	-	-	-	0.01	0.00	-	-
5 years	2009	m	349	1.59	0.17	-	-	-	-	-	0.01	0.00	-	-
		f	330	1.31	0.29	-	-	-	-	-	0.01	0.00	-	-
		total	698	2.16	62.39	-	-	-	-	-	1.33	0.49	1.67	-
6 years	2008	m	358	2.60	59.61	-	-	-	-	-	1.26	0.45	2.16	-
		f	340	1.71	65.32	-	-	-	-	-	1.41	0.53	1.16	-
		total	696	0.25	94.47	-	-	-	-	-	1.95	0.88	3.15	-
7 years	2007	m	358	0.31	93.37	-	-	-	-	-	1.94	0.86	4.16	-
		f	338	0.18	95.63	-	-	-	-	-	1.97	0.90	2.08	-
		total	684	-	94.54	0.04	0.00	-	0.00	0.00	1.95	0.90	3.66	-
8 years	2006	m	352	-	93.39	0.04	0.00	-	0.00	0.00	1.96	0.88	4.84	-
		f	332	-	95.76	0.04	0.00	-	-	0.00	1.95	0.93	2.42	-
		total	698	-	92.96	0.20	0.01	0.01	0.03	0.45	1.94	0.93	3.98	-
9 years	2005	m	358	-	91.88	0.19	0.01	0.01	0.02	0.42	1.92	0.90	5.19	-
		f	340	-	94.10	0.21	0.01	0.01	0.03	0.48	1.96	0.96	2.70	-
		total	722	-	40.18	4.34	3.52	4.63	9.25	24.18	8.43	0.94	4.11	-
10 years	2004	m	371	-	42.20	4.18	3.52	4.61	8.72	21.96	8.31	0.88	5.28	-
		f	352	-	38.05	4.51	3.51	4.66	9.81	26.53	8.56	1.01	2.87	-
		total	723	-	3.75	6.29	7.13	10.00	15.97	37.13	14.10	0.94	4.18	-
11 years	2003	m	371	-	4.19	6.29	7.55	10.32	15.72	35.01	14.31	0.87	5.28	-
		f	352	-	3.28	6.30	6.68	9.67	16.23	39.37	13.89	1.02	3.01	-
		total	736	-	0.17	2.50	8.91	11.11	18.10	38.44	15.13	0.95	4.27	-
12 years	2002	m	378	-	0.19	2.70	9.69	11.59	17.82	35.84	15.44	0.91	5.36	-
		f	358	-	0.15	2.28	8.08	10.60	18.39	41.18	14.81	0.99	3.12	-
		total	753	-	-	0.31	10.96	11.06	19.82	37.27	14.74	0.92	4.53	-
13 years	2001	m	387	-	-	0.37	12.04	11.64	19.50	34.54	15.03	0.86	5.66	-
		f	366	-	-	0.24	9.82	10.46	20.17	40.16	14.43	0.98	3.33	-
		total	787	-	-	0.00	12.60	10.32	21.35	36.08	13.91	0.87	4.60	-
14 years	2000	m	403	-	-	0.02	13.99	10.92	20.94	33.18	14.15	0.81	5.67	-
		f	383	-	-	0.01	11.14	9.69	21.78	39.12	13.64	0.94	3.48	-
		total	789	-	-	0.00	12.18	9.09	22.19	34.31	13.04	0.86	4.47	-
15 years	1999	m	406	-	-	0.00	13.58	9.54	21.74	31.47	13.19	0.80	5.43	-
		f	383	-	-	0.00	10.69	8.61	22.66	37.30	12.88	0.93	3.44	-
		total	808	-	-	0.00	7.73	5.25	13.67	33.64	9.31	0.80	3.12	-
16 years	1998	m	415	-	-	0.00	8.75	5.63	14.21	30.52	9.30	0.75	3.74	-
		f	393	-	-	-	6.65	4.85	13.09	36.94	9.33	0.86	2.46	-

Age as per 31 December 2014		Year of birth	Population (preliminary data) on 31 Dec. 2014 in 1,000	Pupils at general schools 2014/15										
				School kindergartens, preliminary classes	Primary schools	Orientation level, independent of the type of school	Secondary general schools	Types of school with several streams	Intermediate schools	Grammar schools	Integrated comprehensives	Free Waldorf	Schools for children with learning difficulties	Evening schools and university entrance preparation colleges
		total	834	-	-	0.00	2.49	1.15	3.33	32.34	5.30	0.71	1.65	-
17 years	1997	m	429	-	-	0.00	2.88	1.31	3.78	29.01	4.97	0.65	1.91	-
		f	405	-	-	-	2.08	0.97	2.85	35.86	5.66	0.78	1.38	-
		total	826	-	-	-	0.47	0.16	0.56	18.81	3.97	0.56	1.06	0.57
18 years	1996	m	426	-	-	-	0.55	0.18	0.67	17.71	3.56	0.51	1.20	0.59
		f	400	-	-	-	0.39	0.13	0.45	19.99	4.39	0.61	0.91	0.54
		total	812	-	-	-	-	-	-	4.56	2.08	0.27	0.30	0.52
19 years	1995	m	419	-	-	-	-	-	-	4.65	1.97	0.25	0.33	0.53
		f	392	-	-	-	-	-	-	4.45	2.21	0.30	0.26	0.51
		total	828	-	-	-	-	-	-	0.55	0.47	0.03	0.10	0.55
20 years	1994	m	427	-	-	-	-	-	-	0.75	0.49	0.03	0.12	0.57
		f	401	-	-	-	-	-	-	0.56	0.45	0.02	0.09	0.53
		total	861	-	-	-	-	-	-	0.09	0.08	0.00	0.08	0.60
21 years	1993	m	443	-	-	-	-	-	-	0.10	0.09	0.00	0.10	0.64
		f	417	-	-	-	-	-	-	0.07	0.07	0.00	0.06	0.57
		total	903	-	-	-	-	-	-	0.01	0.01	0.00	-	0.63
22 years	1992	m	464	-	-	-	-	-	-	0.02	0.02	0.00	-	.065
		f	440	-	-	-	-	-	-	0.0	0.01	0.00	-	0.61
		total	944	-	-	-	-	-	-	0.00	0.00	0.00	-	0.55
23 years	1991	m	485	-	-	-	-	-	-	0.00	0.00	0.00	-	0.59
		f	459	-	-	-	-	-	-	0.01	0.00	-	-	0.51
		total	1 040	-	-	-	-	-	-	-	-	-	-	0.47
24 years	1990	m	535	-	-	-	-	-	-	-	-	-	-	0.51
		f	505	-	-	-	-	-	-	-	-	-	-	0.44

33. 17.6 per cent of graduates of general schools obtained a secondary general school qualification (142,169) in the leaving year 2014. The intermediate school qualification was obtained by 45.9 per cent of graduates (373,777). Entitlement to attend a *Fachhochschule* (higher education institution offering highly practice-related study courses of a scientific nature) was obtained by 0.1 per cent (734), and the general qualification to attend a university was obtained by 34.7 per cent of graduates (280,162).⁸ In the same period, 5.8 per cent of the pupils left the secondary general school without a suitable qualification (46,921). The comparative figures of the previous years are found in the table below:

⁸ Including the two age cohorts leaving school at the same time (grades 13 and 12) in North Rhine-Westphalia.

Year	<i>Leavers without secondary general school qualification</i> (Share of the same age cohort)	<i>Graduates with secondary general school qualification</i> (Share of the same age cohort)	<i>Graduates with intermediate school qualification</i> (Share of the same age cohort)	<i>Graduates entitled to attend a Fachhochschule⁹</i> (Share of the same age cohort)	<i>Graduates entitled to attend a university¹⁰</i> (Share of the same age cohort)
2014	5.8	17.6	45.9	0.1	34.7
2013	5.7	18.2	46.4	0.1	39.8
2012	6.0	19.2	44.7	0.2	37.0
2011	6.1	20.5	42.3	1.5	35.7
2010	6.5	21.4	42.6	1.4	28.8
2009	6.9	22.3	42.3	1.4	27.8

34. The ratio between teachers and pupils is broken down as to educational field and type of school. For instance, there were an average of 16.3 pupils per teacher in the primary area of the general schools in 2014. In the secondary general schools, it was one teacher per 11.4 pupils, in the intermediate schools 16.3 pupils and in the lower grades of grammar school an average of 15.0 pupils. Furthermore, there were an average of 12.3 pupils per teacher in the upper secondary section of the general schools. The following pupil-teacher ratios have emerged in previous years:

Year	<i>Primary schools</i> (pupils per teacher)	<i>Orientation level, independent of the type of school</i> (pupils per teacher)	<i>Secondary general schools</i> (pupils per teacher)	<i>Types of school with several streams</i> (pupils per teacher)	<i>Intermediate schools</i> (pupils per teacher)	<i>Grammar schools (lower secondary)</i> (pupils per teacher)	<i>Integrated comprehensives (lower secondary)</i> (pupils per teacher)	<i>Free Waldorf schools (lower secondary)</i> (pupils per teacher)	<i>Upper secondary at general schools</i> (pupils per teacher)
2014	16.3	12.7	11.4	12.1	16.3	15.0	12.8	12.3	12.3
2013	16.4	13.2	11.4	12.3	16.5	15.0	13.1	12.4	12.4
2012	16.6	13.2	11.6	12.3	16.8	15.3	13.3	12.7	12.6
2011	17.0	13.2	11.8	12.2	17.3	15.7	13.6	12.9	13.0
2010	17.4	13.9	12.1	11.8	17.6	16.2	13.9	13.3	13.2
2009	17.8	14.1	12.4	11.7	18.0	16.7	14.2	13.4	13.4

35. The class size in the general school sector was an average of 20.7 pupils per class in the same year under report (2014) in primary schools, and 19.6 pupils per class in secondary general schools. The average class size is somewhat larger in intermediate schools and grammar schools (lower secondary), at 25.6 and 26.0 pupils, respectively, per class. The comparative data of the previous years are listed in the table below:

⁹ From 2012, the procedure has changed: does not include graduates who have only acquired the schooling part of the diploma qualifying them for entrance to a university of applied sciences.

¹⁰ The age cohorts leaving school at the same time (grades 13 and 12) result in higher quota: Saarland (2009), Hamburg (2010), Bavaria and Lower Saxony (2011), Baden-Wuerttemberg, Berlin, Brandenburg and Bremen (2012) and North Rhine-Westphalia (2013).

Year	Primary schools	Secondary general schools	Types of school with several streams	Intermediate schools	Grammar schools (lower secondary)	Grammar schools (upper secondary) ¹¹	Integrated comprehensives (lower secondary)
	(pupils per teacher)	(pupils per teacher)	(pupils per teacher)	(pupils per teacher)	(pupils per teacher)	(pupils per teacher)	(pupils per teacher)
2014	20.7	19.6	21.8	25.6	26.0	-	24.8
2013	20.7	19.7	21.5	25.8	26.1	-	25.0
2012	20.8	19.8	21.4	26.0	26.5	-	25.3
2011	21.0	19.8	21.2	26.1	26.7	-	25.5
2010	21.2	19.9	20.9	26.4	26.9	-	25.8
2009	21.5	20.0	20.7	26.6	27.1	-	26.1

(g) *Literacy rate*

36. As to the German population, the manifestation almost exclusively occurring in the Federal Republic of Germany is that of what is known as secondary illiteracy. This indicates that, despite having attended school, the person concerned does not have sufficient reading and writing abilities in order to participate in society without restrictions. Precise data on the illiteracy rate in the Federal Republic of Germany are available since the Level-One study was published by the University of Hamburg. According to this study, approximately 7.5 million people between the ages of 18 and 64 are affected, at varying levels, by functional illiteracy (0.3 million at Alpha Level 1: “parsing/writing words letter by letter,” 2 million at Alpha Level 2: “reading/writing one word at a time” and 5.2 million at Alpha Level 3: “reading/writing single sentences”). Borrowing from the United Nations Literacy Decade, the Federal Government initiated a National Strategy for Literacy and Adult Basic Skills 2012-2016 together with the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* in the Federal Republic of Germany (KMK) and focused its advancement efforts on literacy and basic skills programmes targeted at the work place. On 8 September 2015, the Federal Ministry of Education and Research (BMBWF) and the Standing Conference (KMK) launched a Literacy Decade, for which the Federal Ministry of Education and Research is making available a total of up to EUR 180 million for literacy projects.

(h) *Social security*

37. No statistical data are available in the Federal Republic of Germany with regard to the proportion of the population whose food intake is below the minimum necessary amount. The same applies to the share of underweight children under the age of five. It follows, however, from the provision contained in Article 20 paragraph 1 of the Basic Law (GG) (*Grundgesetz* — GG) that the Federal Republic of Germany is a social state, meaning that the State is obliged to create the minimum preconditions for the dignified existence for its citizens.¹² Social disadvantages are hence cushioned by a comprehensive social security system which guarantees a level of subsistence in keeping with human dignity, regardless of the circumstances, and hence as a matter of principle prevents poverty, as well as malnutrition resulting from poverty.

¹¹ No information is provided regarding the sizes of classes in the upper secondary level (*Sekundarstufe II*) as the pupils are no longer divided up into classes.

¹² Decisions of the Federal Constitutional Court (*Entscheidungen des Bundesverfassungsgerichts* — BVerfGE 82, 60, 80).

38. A closely-meshed system of social transfers ensures that citizens who are unable to secure their livelihood, in spite of earning an income or owning assets or having been granted other welfare benefits of prior rank, will be granted benefits to ensure they have a subsistence level in keeping with human dignity. Thus, employable persons may receive basic security benefits in accordance with Book II of the Social Code (*Sozialgesetzbuch II — SGB II*). Social assistance in accordance with Book XII of the Social Code (*Sozialgesetzbuch — SGB XII*) is received by all persons in need of assistance who are not capable of pursuing gainful employment, as well as persons in need of assistance, from the time at which they reach the statutory retirement age. Social assistance is the lowest social network for all people who do not receive sufficient income from other sources. It covers assistance with securing people's livelihood, respectively the basic security benefits in old age and in cases of reduced earning capacity, assistance for health, integration assistance for persons with disabilities, assistance for long-term care, and assistance in overcoming special social difficulties.

39. At the end of 2013, the number of persons eligible for benefits in terms of minimum income transfers totalled around 7.38 million persons. This corresponds — in relation to a population of 80.77 million — to a share of a good 9.1 per cent. Since the persons eligible for benefits in terms of minimum income transfers receive an income amounting to the socio-cultural subsistence level, they are not to be designated as poor.

40. The at-risk-of-poverty rate describes the share of the population occupying a relatively low position in the income distribution scale. In 2014, 16.7 per cent of the population was at risk of poverty. This rate has slightly increased since 2008, according to these statistics. The basis for the stated percentages is formed by the official survey entitled "*Leben in Europa*" (Life in Europe). In the calculation, in line with the concept of relative income poverty, the total population is sub-divided into a part which is at risk of poverty and a part which is not. In this context, the share of those at risk of poverty have at their disposal less than 60 per cent of the median net equivalence income (weighted in accordance with the new OECD scale) of the total population.

41. Measured in line with gross domestic product (GDP), the following social protection benefits were granted in recent years in the Federal Republic of Germany, measured in accordance with the methods of the European system of integrated social protection statistics (ESSPROS):

<i>Social protection benefits (by functions)</i>	<i>2010 (share of GDP in per cent)</i>	<i>2011 (share of GDP in per cent)</i>	<i>2012 (share of GDP in per cent)</i>	<i>2013 (share of GDP in per cent)</i>	<i>2014 (share of GDP in per cent)</i>
Illness	9.2	9.1	9.3	9.6	9.8
Disability	2.2	2.1	2.2	2.2	2.2
Age	9.4	9.1	9.1	9.1	9.0
Surviving dependants	2.0	2.0	1.9	1.9	1.9
Family and children	3.1	3.0	3.1	3.1	3.1
Unemployment	1.6	1.3	1.1	1.2	1.1
Housing	0.7	0.6	0.6	0.6	0.6
Other functions	0.1	0.1	0.2	0.2	0.2
Total	28.5	27.3	27.5	27.8	28.0

42. In billions of Euros, the social protection benefits provided in recent years are broken down as follows:

<i>Social protection</i>					
<i>benefits (by functions)</i>	<i>2010(in bill. Euro)</i>	<i>2011(in bill. Euro)</i>	<i>2012(in bill. Euro)</i>	<i>2013(in bill. Euro)</i>	<i>2014(in bill. Euro)</i>
Illness	238.3	245.8	255.1	268.9	284.4
Disability	56.9	57.9	60.1	62.9	65.0
Age	242.5	244.9	250.1	254.5	262.6
Surviving dependants	52.8	52.9	53.6	54.1	54.9
Family and children	80.1	81.8	84.2	87.6	90.9
Unemployment	42.3	34.3	31.5	32.4	31.9
Housing	17.0	16.5	16.2	16.6	16.8
Other functions	3.7	3.9	4.3	5.0	5.8
Total	733.5	738.0	755.2	781.9	812.3

(i) *Composition and consumer behaviour of households*

43. Average household size in the Federal Republic of Germany was 2.01 members per household in 2014. The share of single parents among all families was 23.7 per cent in the same year; among all households the share of households with a female main income earner was 35.4 per cent. Household composition was as follows in the previous years:

<i>Year</i>	<i>Average household size(in persons)</i>	<i>Share of single parents among all families(in per cent)</i>	<i>Share of households with female main income earners among all households (in per cent)</i>
2014	2.01	23.7	35.4
2013	2.02	23.4	35.2
2012	2.02	23.4	35.1
2011	2.03	23.1	35.2
2010	2.03	22.5	34.8

Prognosis from 2011 onwards, based on the intercensal population update performed on the basis of the 2011 Census.

44. The households' average consumption expenditure in the last years under report was sub-divided as follows among the areas below:

<i>Year</i>	<i>Food (not incl. alcoholic beverages, tobacco) (in per cent)</i>	<i>Housing (in per cent)</i>	<i>Health (in per cent)</i>	<i>Education (in per cent)</i>
2014	12.0	36.0	3.9	0.7
2012	12.2	34.5	4.2	0.7
2011	12.1	34.4	4.1	0.7
2010	12.3	34.1	4.2	0.8

45. Median net equivalence income was Euro 19,733 in 2014; the Gini coefficient, which reflects the inequality of the income spread, was 30.7 per cent.

5. Economic characteristics

(a) Gainful employment

46. Related to the total population aged 15 to (not including) 65 years, the rate of gainful employment (according to the EU's Labour Force Survey), in the Federal Republic of Germany was 73.8 per cent in 2014. Rates of gainful employment of 73.5 (2013), 73.0 (2012), 72.7 (2011), and of 71.1 per cent (2010) had been recorded in the previous years.

47. The rate of gainful employment among women was 69.5 per cent in 2014 and is now lower than the rate of gainful employment among men by 8.6 percentage points (78.1 per cent). It is conspicuous that the rate of gainful employment among mothers in the Federal Republic of Germany depends greatly on the age of the youngest child. Whilst in the year 2014 it was 31.5 per cent among mothers of children below the age of three years, as many as 62.6 per cent of mothers with children aged three up to, but not including, six years old and 68.1 per cent of mothers with children aged six up to, but not including, ten years old were pursuing gainful employment.

48. 1.5 per cent of all persons in gainful employment were employed in the economic sector of agriculture and forestry, as well as fishery, in the year under report 2014 according to the employment accounts performed in the context of the national accounts. Just under one-quarter of all persons in gainful employment (24.6 per cent) belonged to the economic sector of the production industries. By far the largest share was, however, recorded in the service sector. This economic sector accounted for a total of 73.9 per cent of all persons in gainful employment. The following shares of persons in gainful employment emerged in the years covered by the report:

<i>Year</i>	<i>Agriculture and forestry, fishery (in per cent)</i>	<i>Production industries (in per cent)</i>	<i>Service sector (in per cent)</i>
2013	1.5	24.7	73.8
2012	1.6	24.7	73.7
2011	1.6	24.6	73.8
2010	1.6	24.5	73.9

49. There are no official statistical surveys of the share of trade union members among persons in gainful employment. The basic right of coalition freedom entrenched in the constitution in Article 9 paragraph 3 of the Basic Law (GG), however, grants the option to each individual to form and participate in associations for the purpose of maintaining and supporting working and economic conditions. This basic right constitutes an obligation not only for all public legal entities, but also for legal entities subject to private law. Trade union members hence enjoy comprehensive protection in the Federal Republic of Germany.

50. The unemployment rate related to all persons in gainful employment (according to the EU's Labour Force Survey) was 5.0 per cent in 2014, whilst it was 5.2 per cent (2013), 5.4 per cent (2012), 5.8 per cent (2011) and 7.0 per cent (2010), respectively, in the previous years.

(b) Economic power

51. Per capita income (national income per inhabitant) amounted to Euro 27.717 per inhabitant in 2015. The following income per capita was earned in the Federal Republic of Germany between 2011 and 2014:

<i>Year</i>	<i>Per capita income (in Euro per inhabitant)</i>
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<i>Year</i>	<i>Per capita income (in Euro per inhabitant)</i>
2014	26 872
2013	25 998
2012	25 510
2011	25 264

52. The value of all the finished goods and services produced within Germany reached a volume of Euro 3,025,900 billion in 2015 (gross domestic product). Hence, the annual growth rate of the gross domestic product recorded an increase of 3.8 per cent in a year-over-year comparison. The development of the gross domestic product in the previous years was as follows:

<i>Year</i>	<i>Gross domestic product (GDP) (in billion Euro)</i>	<i>Growth rate of GDP (in per cent)</i>
2014	2 915.650	3.4
2013	2 820.820	2.4
2012	2 754.860	1.9
2011	2 703.120	4.8

53. The gross national income — previously referred to as gross national product — reached a value of Euro 3,091,500 billion in 2015. The following development in gross national income took place between 2011 and 2014:

<i>Year</i>	<i>Gross national income (in billion Euro)</i>
2014	2 982.444
2013	2 882.035
2012	2 820.408
2011	2 771.333

54. In the year under report 2014, the overall public budget incurred debts amounting to Euro 2,049 billion. They include the debt under securities as well as bank lendings and loans with non-public institutions, and had developed over the course of the previous years as follows:

<i>Year</i>	<i>Debt (in billion Euro)</i>
2013	2 043
2012	2 068
2011	2 025
2010	2 012

55. In 2014, the foreign debt of the central, state and local governments amounted to the values set out below:¹³

<i>Quarter</i>	<i>Foreign debt (in billion Euro)</i>
2014.4	1 134.4
2014.3	1 117.6
2014.2	1 129.4
2014.1	1 131.7

56. Consumer prices (consumer price index) in Germany are characterised by an average inflation rate in 2014 of 0.9 per cent as compared to 2013 and in 2015, as compared to 2014, of 0.3 per cent.

(c) *Public development cooperation*

57. The expenditure of the Federal Republic of Germany on public development cooperation increased from Euro 8.7 billion in 2009 to Euro 12.49 billion in 2014. The share of public development cooperation as a part of gross national income (GNI) can be found in the table below:

	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>
Public development cooperation (in millions Euro)	9 803.9	10 135.6	10 066.9	10 716.7	12 485.9
Bilateral	6 081.8	6 256.1	6 678.4	7 118.6	8 734.9
Multilateral	3 722.1	3 879.5	3 388.6	3 598.1	3 751.1
ODA rate (share of GNI) (in per cent)	0.39	0.39	0.37	0.38	0.42

58. The bilateral gross benefits were broken down from 2012 to 2014 among the following funding areas (sectors):

<i>Funding areas (by sector)</i>	<i>2012</i>		<i>2013</i>		<i>2014</i>	
	<i>in millions Euro</i>	<i>in per cent</i>	<i>in millions Euro</i>	<i>in per cent</i>	<i>in millions Euro</i>	<i>in per cent</i>
Total	7 946.6	100.0	8 607.2	100.0	10 830.9	100.0
Social infrastructure and services	3 396.6	42.7	3 469.0	40.3	3 885.6	35.9
Education	1 337.2	16.8	1 304.0	15.1	1 362.5	12.6
of which: fundamental education	146.8	1.8	112.2	1.3	125.7	1.2
Health care	199.6	2.5	259.6	3.0	269.8	2.5
of which: basic healthcare	114.4	1.4	176.1	2.0	196.3	1.8
Population policy/programmes and reproductive health	131.2	1.7	117.4	1.4	120.8	1.1
Water supply and sewage/refuse disposal	450.5	5.7	487.9	5.7	686.9	6.3

¹³ Source: German Federal Bank, Statistics, Time Series BBK01.BQ1715: Central, state and local government debt by creditor — foreign creditors.

<i>Funding areas (by sector)</i>	2012		2013		2014	
	<i>in millions Euro</i>	<i>in per cent</i>	<i>in millions Euro</i>	<i>in per cent</i>	<i>in millions Euro</i>	<i>in per cent</i>
State and civil society	1 132.6	14.3	1 169.2	13.6	1 298.3	12.0
Other social infrastructure and services	145.5	1.8	130.9	1.5	147.4	1.4

<i>Funding areas (by sector)</i>	2012		2013		2014	
	<i>in millions Euro</i>	<i>in per cent</i>	<i>in millions Euro</i>	<i>in per cent</i>	<i>in millions Euro</i>	<i>in per cent</i>
Economic infrastructure and services	1 488.2	18.7	2 045.9	23.8	2 918.9	26.9
Transport and storage	163.6	2.1	276.1	3.2	106.0	1.0
Communications	5.4	0.1	22.8	0.3	57.1	0.5
Energy generation and supply	614.4	7.7	923.8	10.7	1 221.9	11.3
Finance	533.2	6.7	661.5	7.7	1 387.5	12.8
Private economy and other services	171.4	2.2	161.7	1.9	146.5	1.4
Production areas	435.1	5.5	542.7	6.3	520.4	4.8
Agriculture and forestry, fishery	298.6	3.8	386.0	4.5	333.0	3.1
Industry, mineral resources and mining, construction	108.9	1.4	129.6	1.5	154.7	1.4
Trade policy and trade regulations, trade-related adjustment measures, tourism	27.7	0.3	27.0	0.3	30.6	0.3
Multisectoral funding/ funding provided across a wide variety of policy fields	1 010.5	12.7	991.3	11.5	1 242.2	11.5
Environmental protection in general	479.0	6.0	475.1	5.5	544.3	5.0
Other multisectoral measures	531.6	6.7	516.2	6.0	697.9	6.4
Goods assistance and general programme assistance	140.7	1.8	70.4	0.8	107.0	1.0
General budget assistance	45.1	0.6	27.7	0.3	29.2	0.3
Development food aid/aid in food and nutrition security	95.6	1.2	42.7	0.5	77.9	0.7
Other commodity aid	-	-	-	-	-	-
Debt relief	660.9	8.3	461.1	5.4	836.3	7.7
Humanitarian assistance	307.0	3.9	437.6	5.1	659.0	6.1
Other	507.6	6.4	589.3	6.8	661.4	6.1
Administrative costs in the donor country	382.8	4.8	415.2	4.8	452.8	4.2
Refugee assistance in the donor country	59.1	0.7	104.5	1.2	129.2	1.2
Measures which cannot be attributed	65.8	0.8	69.5	0.8	79.4	0.7

6. Crime statistics and judicial characteristics

(a) Data from the judiciary and public security

59. On average, there were 6.34 public prosecutors, 18.37 judges at courts of general jurisdiction, as well as 5.49 judges of the various specialist jurisdictions in 2013 for every

100,000 inhabitants in the Federal Republic of Germany. A differentiated breakdown — including for the previous years — is shown in the statistics below:

<i>Staff</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Public prosecutors	5 091.81	5 145.50	5 131.33	5 132.32	5 123.57
Judges at courts of general jurisdiction	14 833.46	14 929.35	14 897.23	14 903.32	14 835.42
Criminal judges	4 250.68	4 238.28	4 236.34	4 201.23	4 193.07
Other judges	10 582.78	10 691.07	10 660.89	10 702.09	10 642.35
Judges at specialised courts	3 924.26	4 528.30	4 520.27	4 512.92	4 434.49
Administrative courts	1 561.92	1 827.70	1 818.98	1 806.13	1 760.39
Finance courts	456.66	548.60	538.43	538.98	532.55
Labour courts	718.80	779.52	761.87	753.13	752.48
Social courts	1 186.88	1 372.48	1 400.99	1 414.68	1 389.07
Public prosecutors/judges in total	23 849.53	24 603.15	24 548.83	24 548.56	24 393.48

<i>Ratios (per 100,000 inhabitants)</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Public prosecutors	6.22	6.29	6.27	6.37	6.34
Judges at courts of general jurisdiction	18.13	18.26	18.20	18.51	18.37
Criminal judges	5.20	5.18	5.18	5.22	5.19
Other judges	12.94	13.08	13.03	13.29	13.18
Judges at specialised courts	4.80	5.54	5.52	5.60	5.49
Administrative courts	1.91	2.24	2.22	2.24	2.18
Finance courts	0.56	0.67	0.66	0.67	0.66
Labour courts	0.88	0.95	0.93	0.94	0.93
Social courts	1.45	1.68	1.71	1.76	1.72
Public prosecutors/judges in total	29.16	30.10	29.99	30.49	30.20

60. The average number of non-completed cases per judge at a court of general jurisdiction at the various levels of the justice system relates to labour shares.¹⁴ The following values were reached 2009 to 2013:

<i>Instance Type of court</i>	<i>2009 (per labour share of 1.0)</i>	<i>2010 (per labour share of 1.0)</i>	<i>2011 (per labour share of 1.0)</i>	<i>2012 (per labour share of 1.0)</i>	<i>2013 (per labour share of 1.0)</i>
Criminal proceedings					
Initial instance					
Local courts	121.7	116.6	116.2	114.8	115.4
Regional courts	6.8	6.8	6.9	7.0	7.2
Higher regional courts	no information available				

¹⁴ This information does not relate to numbers of individuals, but to “labour shares.” A labour share of 1.0 can for instance be composed of one full-time worker or of two part-time workers, each of whom are counted with a labour share of 0.5.

<i>Instance Type of court</i>	<i>2009 (per labour share of 1.0)</i>	<i>2010 (per labour share of 1.0)</i>	<i>2011 (per labour share of 1.0)</i>	<i>2012 (per labour share of 1.0)</i>	<i>2013 (per labour share of 1.0)</i>
Appeals					
Regional courts	57.3	59.0	59.4	57.7	61.1
Higher regional courts	14.2	13.5	12.3	13.5	13.0
Fine proceedings					
Initial instance					
Local courts	280.3	277.3	276.9	257.0	262.2
Appeals					
Higher regional courts	no information available				
Civil cases					
Initial instance					
Local courts	254.7	258.7	254.4	249.3	252.2
Regional courts	132.8	133.9	136.1	136.5	142.0
Appeals					
Regional courts	90.4	94.0	94.4	92.0	93.2
Higher regional courts	44.8	47.4	47.7	50.1	49.4
Family cases					
Initial instance					
Local courts	288.6	320.3	290.8	276.2	264.2
Appeals					
Higher regional courts	33.3	32.5	35.4	31.7	29.7
Commercial cases					
Initial instance					
Regional courts	115.0	110.4	108.7	111.3	111.8

61. No information is available on the number of victims who received compensation of damages as a result of a court ruling. The statistical surveys also do not cover the share of respondents and detainees requesting legal aid for the costs of the proceedings.

62. The full-time equivalents of public servants employed in the sector of public security and order amounted to 430,177 as per 30 June 2014. In the area of police tasks forming part of the above sector, the full-time equivalents of public servants as per that cut-off date totalled 299,175 for the Federation and the *Länder* together.

63. The share of expenditures by the public budgets for the tasks entailed by public security and order, as well as for the field of legal protection, is set out in the table below. In this context, the information on public security and order separately itemises the expenditures for the police of the Federation and the *Länder*. The information listed for legal protection primarily covers the court system and the prisons.

<i>Expenditure of public budgets (by tasks)</i>	<i>2007 (in millions Euro)</i>	<i>2008 (in millions Euro)</i>	<i>2009 (in millions Euro)</i>	<i>2010 (in millions Euro)</i>	<i>2011 (in millions Euro)</i>
Total	1 017 532	1 055 965	1 113 124	1 105 876	1 110 165
Public security and order	22 271	23 220	24 730	25 287	25 952
of which: Federal Police/police	14 406	14 890	15 776	16 117	16 477
Legal protection	11 124	11 268	11 682	11 842	12 014

(b) *Data from crime statistics and statistics kept by the judiciary*

64. The table below provides an overview, inter alia, of how many criminal offences were registered by the police in 2014 under the headings of “violent deaths and life-threatening crimes” and “sexually motivated or gender-based violence” (such as rape, the mutilation of female genitals, crimes in the name of honour, acid attacks) and were solved:

<i>Type of criminal offence/criminal provision</i>	<i>Criminal offences coming to notice (No.)</i>	<i>Solved criminal offences (No.)</i>	<i>Solving rate (in per cent)</i>
Crimes against sexual self-determination (total) (sections 174-184f of the Criminal Code (<i>Strafgesetzbuch</i> — StGB))	46 982	36 864	78.5
of which:			
Sexual abuse of children (sections 176, 176a and 176b of the Criminal Code)	12 134	10 320	85.1
Rape sexual coercion (section 177 subs. 2-4 and section 178 of the Criminal Code)	7 345	5 952	81.0
Murder and manslaughter (sections 211-213 of the Criminal Code)	2 179	2 103	96.5
Dangerous and grievous bodily injury mutilation of female genitals (sections 224 226 and 231 of the Criminal Code)	125 752	103 615	82.4
Serious and simple theft (sections 242-244a 247 and 248a of the Criminal Code)	2 440 060	659 491	27.0
Robbery blackmail and use of force or threats against life or limb and assault on a motor vehicle driver resembling robbery (sections 249-252 255 and 316a of the Criminal Code)	45 475	23 460	51.6
Crimes against the environment (sections 324-330a of the Criminal Code)	13 553	8 044	59.4
Offences according to the Narcotics Act (<i>Betäubungsmittelgesetz</i> — BtMG)	276 734	261 201	94.4

65. The table below records the final and unappealable convictions handed down in the Federal Republic of Germany between 2010 and 2014 on the basis of the criminal offences listed. It relates to criminal offences governed by both the Criminal Code (*Strafgesetzbuch* — StGB) and the Narcotics Act (*Betäubungsmittelgesetz* — BtMG). The information covers German and foreign offenders.

<i>Type of criminal offence/criminal provision</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>
Criminal offences against the State, public order and in office (sections 80-168 and 331-357 of the Criminal Code, not including section 142 of the Criminal Code)	24 950	24 096	23 190	22 982	21 761
Criminal offences against sexual self-determination (total) (sections 174-184f of the Criminal Code)	7 616	6 867	7 038	6 713	6 812
of which:					
Sexual abuse of children (sections 176, 176a and 176b of the Criminal Code)	2 185	2 137	2 142	2 062	2 036
Rape (section 177 (2) No. 1 of the Criminal Code)	668	577	500	444	425
Other criminal offences against persons (total, not including traffic offences) (sections 169-173 and 185-241a of the Criminal Code)	122 932	120 745	117 099	112 740	10 6764
Breach of maintenance obligations (section 170 of the Criminal Code)	2 332	2 111	1 936	1 783	1 492
Murder and manslaughter (sections 211-213 of the Criminal Code)	617	570	558	506	535
Bodily injury (section 223 of the Criminal Code)	49 158	48 515	47 344	46 111	43 313
Dangerous and grievous bodily injury (section 224 (1), sections 226 and 227 of the Criminal Code)	29 877	28 372	25 779	22 865	20 334
Theft and misappropriation (total) (sections 242-248c of the Criminal Code)	144 598	144 446	138 970	140 546	138 423
Type of criminal offence/criminal provision	2010	2011	2012	2013	2014
Theft (section 242 of the Criminal Code)	110 223	110 932	105 631	107 141	106 339
Serious theft (sections 243, 244 and 244a of the Criminal Code)	25 698	25 298	25 397	25 386	24 553
Robbery and blackmail, assault on a motor vehicle driver resembling robbery (sections 249-255 and 316a of the Criminal Code)	10 407	10 183	9 603	9 177	8 404

<i>Type of criminal offence/criminal provision</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>
Other property crimes (total) (sections 257-305a of the Criminal Code)	220 706	220 117	205 833	199 998	204 680
Fraud (section 263 of the Criminal Code)	100 693	99 042	89 407	87 652	8 9497
Falsification of documents (sections 267 and 271-273 of the Criminal Code)	17 420	17 540	17 170	16 754	16 518
Crimes causing a public danger, including environmental crimes (sections 306-330a or 316a of the Criminal Code)	5 184	4 787	4 575	4 268	3 903
Criminal Code (total of listed criminal offences)	536 393	531 241	506 308	496 425	490 747
Narcotics Act (total)	55 391	55 391	53 544	53 075	55 793

66. Both forced marriage (section 237 of the Criminal Code (StGB)) and the mutilation of female genitals (section 226a of the Criminal Code (StGB)) in the meantime have been defined as criminal offences liable to punishment under law and therefore are separately itemised in the crime statistics maintained by the police. In 2013, there were 62 cases involving forced marriage, and in 2014 there were 58 cases. No case of genital mutilation was registered. For the years 2012 until 2014, the criminal prosecution statistic record one conviction in each year for forced marriage. For the year 2014, one conviction was handed down for the mutilation of female genitals.

(c) *Prison data*

67. 54,507 criminal convicts and 508 persons in preventive detention were in the State's care on 31 March 2014. The reasons for their criminal detention or preventive detention have been set out in the table below:

<i>Type of criminal offence</i>	<i>Number of criminal convicts and persons in preventive detention</i>		
	Total	Male	Female
Criminal offences against the State, public order, and in office (sections 80-168 and 331-357 of the Criminal Code, not including section 142 of the Criminal Code)	1 031	979	52
Criminal offences against sexual self-determination (sections 174-184g of the Criminal Code)	3 733	3 701	32
Insult (sections 185-200 of the Criminal Code)	301	290	11
Criminal offences against life (sections 211-222 of the Criminal Code)	4 043	3 792	251
Criminal offences against physical integrity (sections 223-231 of the Criminal Code)	6 996	6 757	239
Criminal offences against personal freedom (sections 232-241a of the Criminal Code)	657	633	24
Other criminal offences against individuals (sections 169-173 and 201-206 of the Criminal Code)	145	141	4

<i>Type of criminal offence</i>	<i>Number of criminal convicts and persons in preventive detention</i>		
	Total	Male	Female
Theft and misappropriation (sections 242-248c of the Criminal Code)	11 996	11 131	865
Robbery and blackmail, assault on a motor vehicle driver resembling robbery (sections 249-255 and 316a of the Criminal Code)	7 162	6 954	208
Aiding the perpetration of a crime and receivership (sections 257-261)	315	302	13
Fraud and breach of trust (section 263-266b of the Criminal Code)	6 271	5 511	760
Falsification of documents (sections 267-281 of the Criminal Code)	1 008	921	87
Other criminal offences against property (sections 283-305a of the Criminal Code)	336	322	14
Crimes causing a public danger (sections 306-323c not including 316a of the Criminal Code)	560	530	30
Crimes against the environment (sections 324-330a of the Criminal Code)	6	6	-
Crimes involving traffic circulation	2 076	2 030	46
Offences according to the Narcotics Act (BtMG)	7 144	6 702	442
Criminal offences governed by other acts (not including the Criminal Code (StGB) / Road Traffic Regulations (<i>Straßenverkehrsordnung</i> — StVO))	7 868	7 408	460

68. The duration of the individual detention sentences for convicted offenders serving their sentence was spread as follows as on the same key day:

<i>Likely duration of the term of imprisonment</i>	<i>Age group</i>								
	<i>Juveniles (14 but not yet 18)</i>			<i>Adolescents (18 but not yet 21)</i>			<i>Adults (from 21)</i>		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
No more than 1 month	-	-	-	14	14	-	782	717	65
1 month to up to no more than 3 months	-	-	-	32	29	3	5 026	4 580	446
3 months to up to no more 6 months	8	8	-	60	54	6	7 087	6 513	574
6 months to up to 9 months (inclusive)	63	51	12	194	182	12	6 106	5 721	385
More than 9 months to up to 1 year (inclusive)	64	59	5	233	219	14	4 530	4 277	253
More than 1 year to up to 2 years (inclusive)	215	203	12	876	837	39	9 282	8 822	460
More than 2 years to up to 5 years (inclusive)	147	141	6	883	869	14	12 180	11 651	529
More than 5 years to up to 10 years (inclusive)	3	3	-	49	47	2	3 583	3 452	131

Likely duration of the term of imprisonment	Age group								
	Juveniles (14 but not yet 18)			Adolescents (18 but not yet 21)			Adults (from 21)		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
More than 10 years to up to 15 years (inclusive)	-	-	-	-	-	-	637	614	23
Life	-	-	-	-	-	-	1 953	1 849	104

69. The numbers of deaths in detention has been set out in the table below — itemised by cause of death:

Year	Deaths		
	Total	of which	
		Accident	Suicide
2014	152	1	60
2013	122	0	50
2012	119	3	57
2011	128	2	53
2010	131	4	58
2009	160	5	64
2008	163	2	67

70. No executions take place in the Federal Republic of Germany. Article 102 of the Basic Law (GG) explicitly states that the death penalty is abolished.

71. No data are collected on the maximum or average duration of remand detention.

7. Other characteristics

(a) Media access among the population

72. Television, radio, printed media and the Internet all contribute in significant ways to ensuring participation in society and politics and are indispensable for democracy in the Federal Republic of Germany. Blanket coverage with media services is guaranteed. Persons who do not have their own Internet connection are able to obtain for themselves cheap, or even free, access to the desired information in Internet cafés or public libraries. Data regarding access by the population to the media are not covered in the Federal Republic of Germany's official statistics. However, the Federal Government regularly comprehensively reports to the *Bundestag* on the situation and the development of the media in the Federal Republic of Germany. The Media and Communication Report published by the Federal Government is available at www.kulturstaatsministerin.de. It also contains a large section about the media in the Federal Republic of Germany from data that are generally available.

(b) Non-governmental organisations

73. No official statistical data are collected regarding the number of non-governmental organisations headquartered in the Federal Republic of Germany.

B. The constitutional, political, and legal system

74. The Basic Law (GG) of 23 May 1949 continues to be the Constitution of the Federal Republic of Germany also after the achievement of German unity. Since reunification, completed in 1990, there have been a number of constitutional amendments, two of which should be emphasised here: Particular significance attaches first and foremost to the constitutional reform of 1994, which largely devoted itself to the questions arising in connection with German unity. The constitutional reform of 2006 served to modernise the federal structure as provided for by the Basic Law (GG). Both reforms, seen as a whole, resulted in strengthening the legislative competences of the *Länder*.

75. The political framework for action and organisation of the State is determined by the Basic Law (GG) via, on the one hand, the basic rights and, on the other hand, through the constitutional law relating to the organization of the State. The main principles of the Basic Law (GG) governing state structure include the republican principle, the principle of democracy, the federal state principle, the rule-of-law principle, and the social state principle, which has already been mentioned.

1. The state form of the republic

76. The structural principle of the state as enshrined in Article 20 paragraph 1 and Article 79 paragraph 3 of the Basic Law (GG) unmistakably rejects the state form of monarchy. A monarch as the head of state is not permissible. The head of state is elected.

2. Head of state and the state leadership

77. The head of state and the highest representative of the Federal Republic of Germany is the Federal President. He is elected by the Federal Assembly, which is convened in each case only for this election, and is made up of members of the *Bundestag* and an equal number of members elected by the *Land* parliaments. The Federal Assembly does not have any other tasks. The period of office of the Federal President is five years, and re-election is only possible once.

78. The constitutional powers of the Federal President are largely representative and integrative in nature. Thus, the Federal President represents the Federal Republic of Germany at home and abroad, certifies (signs) the federal laws and promulgates them, appoints and dismisses the Federal Chancellor, federal ministers, federal judges, federal civil servants, as well as officers and non-commissioned officers of the Federal Armed Forces. Above and beyond this, he has several extraordinary competences to which he is entitled in certain crisis situations. For instance, the Federal President in particular has the power to dissolve the *Bundestag* under certain preconditions and to declare a legislative state of emergency.

79. In terms of policy contents, however, the state leadership lies with the Federal Government, which is formed by the Federal Chancellor — currently by Federal Chancellor Dr Angela Merkel — and the Federal Ministers. The Federal Chancellor determines and is responsible for the general guidelines of policy. He/she is the only member of the Government who is elected by the *Bundestag*, and may also be removed by a vote of no confidence, where appropriate. The Federal Ministers, by contrast, are appointed or dismissed by the Federal President at the proposal of the Federal Chancellor. A vote of no confidence against one or more Federal Ministers is not possible.

3. Federal state principle

80. The Federal Republic of Germany is a federal state consisting of 16 *Länder*: Baden-Württemberg, Bavaria, Berlin, Brandenburg, Bremen, Hamburg, Hesse, Mecklenburg-

Western Pomerania, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, the Saarland, Saxony, Saxony-Anhalt, and Thuringia.

81. The *Länder* are members of the Federation, and as such play the role of states. This means that they have their own constitutions, parliaments, and governments. Under certain preconditions, they are even entitled to conclude international agreements with foreign states. Hence, the constitutional spheres of the Federation and the *Länder* are equivalent. Article 28 paragraph 1, first sentence, of the Basic Law (GG) states, however, that the constitutional system in the *Länder* must conform to the principles of a republican, democratic, and social state governed by the rule of law within the meaning of the Basic Law (GG). This so-called homogeneity principle ensures that the same constitutional principles apply in the Federation and the *Länder*.

82. In keeping with the character of a federal state, the Basic Law (GG) allocates the state competences among the Federation and the *Länder*. For instance, the Basic Law (GG) contains comprehensive lists of competences with regard to those areas where the Federation is allowed to enact legislation. If the Basic Law (GG) does not grant legislative competence to the Federation, the *Länder* have legislative competence. They may therefore in particular regulate by law matters of culture (schools, sections of higher education, radio and television), of local law, and concerning the police; since the constitutional reform of 2006, they are also entitled to regulate prison law. The constitutional practice of recent decades shows that for the most part, legislative competence is concentrated with the Federation. In the administration of justice and the implementation of statutes, the emphasis is, however, clearly on the *Länder*. The federal model thus lives on the tension between a unitarian tendency on the one hand and a federal tendency on the other.

83. In the final analysis, the federal principle combines a decentralised state structure with a vertical separation of powers, which supplements the traditional separation of the legislative, executive, and judicial powers. By dividing legislative, executive, and judicial competences between the Federation and the *Länder*, independent areas of competence, and thus of responsibility, are created.

4. Municipalities and associations of municipalities

84. Municipalities and associations of municipalities (counties, collective municipalities, regional associations of the towns of a greater metropolitan area) are part of the *Länder* in accordance with the Basic Law (GG). They form the lowest level of general public administration, and they are structured as self-governing bodies. Municipal self-government is guaranteed as an institution in the Basic Law (GG) (cf. Article 28 paragraph 1 of the Basic Law (GG)). Self-government comprises a cluster of sovereign rights including territorial, personnel, financial, planning, organisational, and legislative sovereignty. Municipalities and the associations of municipalities are subject to supervision by the *Länder*, which supervision is limited, however, in matters of self-government to the question of legality of administrative activities.

5. Democracy and the electoral system

85. A further major characteristic of the state structure is democracy. All state power in the Federal Republic of Germany is exercised by the people (Article 20 paragraph 2 of the Basic Law (GG)). In accordance with the Basic Law (GG), the resulting constitutional structural option for a democratic state is structured in the shape of representative and parliamentary democracy. The people hence exercises state power primarily through elections by forming representative organs in the Federation, *Länder*, and local authorities and giving them legitimacy. Outside elections, participation by the people in state policy-making at the federal level is only provided for in cases of a reorganisation of the *Länder* (Article 29 of the Basic Law (GG)) (referendum, petition for a referendum, advisory

referendum). The Basic Law (GG) does not provide for any other forms and cases of direct democracy at the federal level. However, such proceedings have been provided for in the laws of the *Länder* and are practiced to differing degrees in the *Länder* and at the local level.

(a) *Political parties*

86. In accordance with the Basic Law (GG), the political parties are constitutionally necessary tools serving the formation of a political intention by the people; while they are raised to the status of a constitutional institution, they are outside of the organised state structure. Parties represent a bridge between the people and the state by assisting, in all areas of public life, in the people's formation of political intentions, and by involving themselves in elections at the federal level to the *Bundestag* or to the European Parliament and, at the *Land* level, to the popular representations of the *Länder* and the local authorities.

87. The free formation of parties is constitutionally guaranteed. Their formation does not require state approval or any other state act of recognition. Also, the free activity of the parties is guaranteed by the Basic Law (GG). The parties decide freely, within the framework of what is stipulated generally by the law, as regards the legal form, name, internal organisation, manifesto, and the form in which they will become involved in politics. According to the Basic Law (GG), the internal order of the party must correspond to fundamental democratic principles. Pursuant to the Parties Act (*Parteiengesetz* — PartG), the political goals of the party are to be set out in a written manifesto and regulations adopted in statutes regarding its internal organisation.

88. The statutes and the manifesto, as well as the name of the members of the board, are to be submitted to the federal returning officer, who keeps these documents ready for inspection for everyone in the interest of ensuring the publicity of the circumstances given in the parties. The number of the parties developed as follows in the period under report:

<i>Year</i>	<i>No. of parties (documents deposited with the federal returning officer)</i>
2014	110
2013	111
2012	102
2011	111
2010	113
2009	116
2008	109

89. As associations of citizens, parties are financed primarily by members' contributions and donations. In light of the tasks entrusted to them by the Basic Law (GG) and the Parties Act (PartG) and due to the significant contribution they make to safeguarding the functioning of the democratic state system, the Parties Act (PartG) since 1994 contains provisions on partial state funding for the parties, the amount of which depends on the number of the votes cast in the elections to the *Bundestag* (the parliament of the Federal Republic of Germany), to the European parliament, and to the *Landtag* (the parliament of the respective *Land*) for the respective party, as well as the members' contributions and donations paid to the party.

90. Parties that in terms of their goals or by the conduct of their members aim to impair or eliminate the free democratic fundamental system of the Federal Republic of Germany or to endanger the existence of the Federal Republic are unconstitutional. The finding of unconstitutionality — which has been used twice in the history of the Federal Republic of

Germany — and the concomitant prohibition of a party is incumbent solely on the Federal Constitutional Court (*Bundesverfassungsgericht* — BVerfG). On 3 December 2013, the Bundesrat (Federal Council, the upper house of the German Federal Parliament) filed a petition for the prohibition of the NPD, which is currently still pending with the Federal Constitutional Court (BVerfG).

(b) *Election and tasks of the Bundestag*

91. At the federal level, the Members of the German *Bundestag*, the Parliament of the Federal Republic of Germany, are elected in general, direct, free, equal, and secret elections. These principles of electoral law, which are entrenched in the constitution (Article 38 of the Basic Law (GG)), also apply to elections in the *Länder* and municipalities (Article 28 paragraph 1, second sentence, of the Basic Law (GG)).

92. The Members of the *Bundestag* are representatives of the whole people, are not bound by mandates or instructions, and are subject only to their consciences. Accordingly, an elected Member does not lose his/her mandate if he/she leaves the party based on whose nomination as a candidate he/she was elected, or changes to another party. The popular representation has comprehensive legislative rights and monitors the Government. Furthermore, the *Bundestag* elects the Federal Chancellor and participates in the election of the Federal President as well as in the election of the judges of the Federal Constitutional Court (BVerfG). The decision-making principle in the *Bundestag* is the majority principle.

93. All elections in the Federal Republic of Germany are implemented in the context of the timeframe provided by the constitution and by statute. The legislative period at the federal level as a rule takes four years unless — as was the case in 2005 — it is terminated early by new elections. On the basis of the elections to the 18th *Bundestag* in 2013, the seats in the *Bundestag* were distributed as follows among the parties:

<i>Party</i>	<i>No. of seats</i>
Christian Democratic Union of Germany (<i>Christliche Demokratische Union Deutschlands</i> — CDU)	255
Social Democratic Party of Germany (<i>Sozialdemokratische Partei Deutschlands</i> — SPD)	193
The Linke (<i>DIE LINKE</i>)	64
Alliance 90/Greens (<i>Bündnis 90/DIE GRÜNEN</i> — GRÜNE)	63
Christian Social Union in Bavaria (<i>Christliche Soziale Union in Bayern e.V.</i> — CSU)	56

94. With regard to the distribution of seats listed here, it should be noted that only the lists of parties are taken into account in distributing the seats that received at least 5 per cent of all valid second votes cast in the election area or whose candidates have obtained the majority of votes in at least three constituencies (whereby an exception applies to the lists of parties representing national minorities). This is intended to counteract party splitting, which could endanger the scope for action and the stability of Parliament and endanger the Government, as occurred during the Weimar Republic.

95. The share of women in the current 18th *Bundestag* is 36.1 per cent, and hence has increased in comparison to the share of women in the 17th *Bundestag* — which was 32.8 per cent. It should be noted in this respect that all the parties represented in the *Bundestag* have imposed internal quota or quora regulations to obtain the equal participation of women. In an EU-wide comparison, but leaving aside a few exceptional states such as France, for example, the share of women in the *Bundestag* and in the Federal Cabinet is far above average.

(c) *Suffrage*

96. The people, in which all state power is vested, is formed by German nationals in accordance with the Basic Law (GG). The share of those with suffrage who have German nationality as against the German population and the total population in the elections at the federal level has developed as follows in the period under report:

Year ¹⁵	Share of those with suffrage (in per cent)	
	Among the German population	Among the total population
2014	83.46	75.72
2013	83.4	76.16
2012	83.37	76.49
2011	83.32	76.74
2010	83.40	76.05
2009	83.29	76.03
2008	83.13	75.84

97. There are two important exceptions to the fundamental principle that only German nationals are eligible to vote, which are made on the basis of the requirements of the Treaty Establishing the European Community and of the secondary Community law that is based on this. In elections to the European Parliament and in elections at the local level, nationals of the other Member States of the European Union who have a place of residence in the Federal Republic of Germany, or otherwise are habitually resident here, may also vote and be elected. Accordingly, 172,110 persons out of 3,168,638 foreign Union citizens (as per: 31 May 2014) of voting age were entered in a voting registry in the Federal Republic of Germany at the time of the 2014 European elections. This corresponds to a share of approximately 5.4 per cent of all eligible Union citizens in the Federal Republic of Germany. According to the regulations of European electoral law, however, Union citizens resident in the Federal Republic of Germany may continue to participate in the European elections also in Member State of their origin — either by postal vote or at the ballot-box set up in the polling stations of the other Member State in the Federal Republic of Germany; numerous Member States and Union citizens from other Member States have availed themselves of this opportunity.

(d) *Turnout*

98. The turnout in the elections to the *Bundestag* continues at a high level. 71.5 per cent of all those entitled to vote took part in the elections to the 18th *Bundestag* in 2013. This was higher by 0.7 percentage points than in the elections to the 17th *Bundestag* in 2009 (70.8 per cent).

99. Turnout at the elections to the Parliaments of the *Länder* averaged 57.8 per cent in the same period under report. A turnout of 49.4 percentage points was achieved at the elections to the local representative bodies. The details are set out in the table below:

¹⁵ From 2011: Results on the basis of the 2011 Census.

<i>Turnout with Land Parliament and local elections</i>		
<i>Land</i>	<i>Turnout</i>	<i>Turnout</i>
	<i>Land Parliament election</i>	<i>Local elections</i>
	<i>(year of the most recent election)</i>	<i>(year of the most recent election)</i>
Baden-Württemberg	66.3% (2011)	49.1% (2014)
Bayern	63.6% (2013)	54.7% (2014)
Berlin	60.2% (2011)	57.5% (2011)
Brandenburg	47.9% (2014)	46.2% (2014)
Bremen	50.2% (2015)	48.1% (2015)
Hamburg	56.5% (2015)	40.9% (2014)
Hesse	73.2% (2013)	47.7% (2011)
Mecklenburg-Western Pomerania	51.5% (2011)	46.3% (2014)
Lower Saxony	59.4% (2013)	52.5% (2011)
North Rhine-Westphalia	59.6% (2012)	50.0% (2014)
Rhineland-Palatinate	61.8% (2011)	55.6% (2014)
Saarland	61.6% (2012)	52.4% (2014)
Saxony	49.1% (2014)	48.7% (2014)
Saxony-Anhalt	51.2% (2011)	43.0% (2014)
Schleswig-Holstein	60.2% (2012)	46.7% (2013)
Thuringia	52.7% (2014)	51.4% (2014)

(e) *Proceedings applying to the scrutiny of an election*

100. The validity of an election is ruled on by way of performing a scrutiny of the election. In elections to the *Bundestag* and elections to the European parliament, this scrutiny is incumbent on the *Bundestag*, following preliminary review by the *Bundestag* Committee for the Scrutiny of Elections. It is permissible to lodge a complaint with the Federal Constitutional Court (BVerfG) against rulings by the *Bundestag* by filing objections concerning the validity of elections.

101. A total of 224 objections were received by the *Bundestag* following the 2013 *Bundestag* elections. In accordance with the recommendations for a resolution of the Committee for the Scrutiny of Elections, the *Bundestag* either discontinued the proceedings or dismissed the objections as inadmissible or ill-founded. A total of 58 complaints against these decisions were brought before the Federal Constitutional Court (BVerfG) by the objecting parties.

6. The Bundesrat

102. Another important constitutional body is the Bundesrat (the Federal Council or upper house of the Federal German Parliament), via which the *Länder* participate in the legislation of the Federation. The Bundesrat consists of members of the *Land* governments who are bound by instructions. It adopts its resolutions with a majority of votes. The number of votes to which a *Land* is entitled in the Bundesrat corresponds to the number of inhabitants of the *Land* in question. As to the contribution to the legislative procedure of the Federation, a distinction is to be made between the bills to which the Bundesrat may lodge an objection (*Einspruchsgesetz*) and bills requiring its consent (*Zustimmungsgesetz*). The positive approval of the Bundesrat is necessary for latter type of bill to be signed into law. Where the Bundesrat deliberates on a bill that allows only an objection to be raised, then

while the Bundesrat may lodge an objection to the planned statute, the *Bundestag* may dismiss such objection. Above and beyond this, it is the task of the Bundesrat to contribute towards the administration of the Federation (in particular by approving statutory instruments) and to assist in matters related to the European Union.

7. The principle of the rule of law

103. The principle of the rule-of-law governing the state structure calls for the separation of powers and commits all state powers to the principle of law and order, and in particular to the basic rights. Executive power and jurisdiction are bound by legal provisions of all kinds, including unwritten law. The provisions of the law take precedence over all other state acts. A special form of this priority of the law is constituted by the principle of the precedence of the constitution, according to which no state act may contradict the constitution. The legislature itself is also bound by the constitution.

104. Judicial independence, the guarantee is granted to all of legal protection before the courts against violations of their rights by public powers, and the establishment of constitutional jurisdiction are particular manifestations of the principle of the rule of law, and have been independently provided for by the Basic Law (GG). Additionally, the constitutional principles of legal certainty and of the obligation of Parliament to restrict basic rights only by or pursuant to a law (*Gesetzesvorbehalt*, proviso of legality), according to which the rights of the individual citizen may only be encroached upon by the state administration on the basis of statutes, as well as the principle of proportionality, are among the substantive guarantees provided by the principle of the rule of law.

8. Jurisdiction and the Federal Constitutional Court (BVerfG)

105. The Basic Law (GG) has granted the judicial power a particularly strong status among the separate powers under the system of the rule of law. This power is entrusted to judges who are independent and only subject to the law. Fundamentally, judges can be neither removed nor transferred during their period of office. Judicial power is broken down into the general jurisdiction (civil and criminal jurisdiction), as well as into four specialised jurisdictions: labour jurisdiction, general administrative jurisdiction, social jurisdiction, and finance jurisdiction. General jurisdiction is largely structured in a three-tiered arrangement among the Federation and the *Länder*. There are as a rule two instances within the specialised jurisdiction at the *Land* level. The third, supreme instance of the federal courts is added at the federal level.

106. In addition to the jurisdictions that have already been named, there is the Federal Patent Court, as well as the bodies of disciplinary and professional jurisdiction. The latter mainly sit on derelictions of duty committed by someone in their capacity as a civil servant, judge or soldier or in connection with his/her profession that is regulated by law (for instance as a lawyer, tax advisor, auditor, architect, physician, veterinarian or chemist).

107. A very special role is finally carried out by the constitutional jurisdiction. It is exercised at the federal level by the Federal Constitutional Court (BVerfG), and at the *Land* level by the *Land* Constitutional Courts. Constitutional jurisdiction is outside the system of instances of the specialised jurisdictions, and only deals with violations of specific constitutional law.

108. The Federal Constitutional Court (BVerfG) consists of two Senates comprised of eight judges each. The period of office of the judges is twelve years, but will not continue beyond the age limit of 68. Re-election is not possible. One-half of the judges of each Senate are elected by the *Bundestag* and one-half by the Bundesrat.

109. The Federal Constitutional Court (BVerfG) only acts upon recourse being taken to it. It performs its tasks as the supreme guardian of the constitution in different ways. It

monitors the legislature as to whether it has acted in accordance with the provisions of the Basic Law (GG) in formal and substantive terms in enacting the law. Once a constitutional complaint is lodged, which anyone may lodge asserting that their basic rights have been violated, it also monitors authorities and courts as to whether they have complied with the constitution in their measures and decisions. Above and beyond this remit, the court arbitrates in disputes between the supreme state bodies and rules in proceedings between the Federation and the *Länder*. Furthermore, it finds for instance on the validity of *Bundestag* elections, on the constitutionality of political parties, and on the forfeiture of basic rights.

9. The social state principle

110. A further major pillar of German constitutional law is formed by the social state principle. It places the State under obligation to act by establishing social policy and ensuring the welfare of people, while ensuring social equity. The principle primarily addresses the legislature which has the obligation to ensure freedom from need, an existence worthy of human beings, and suitable participation in the general prosperity. The guiding principle is to compensate for social differences and to resolve conflicts, to structure society by means of state planning, to ensure the provision of services for the public while ensuring economic growth and increasing prosperity. However, the principle of the social state is not intended to do away with all inequalities, nor does it contain any general obligation to maintain the status quo. Its objective rather consists of dealing with situations of social need and disadvantage, such as those caused by illness, age, disability, unemployment, and other disadvantageous circumstances.

111. The inclusion of this principle in the Basic Law (GG) is tantamount to a decision to guarantee social human rights by mandating the legislature with the creation of the corresponding political structures. The social state principle does not compete with the other four basic institutional principles of the state; instead, the principles are structured in such a way as to supplement and limit each other.

10. The fiscal administration

112. In order to guarantee the financial independence of the Federation and the *Länder*, and hence to guarantee that each of them carries out tasks on its own responsibility, the Basic Law (GG) ensures that they are provided with sufficient funds. The constitution therefore provides for the taxes to which the Federation, the *Länder* or both together are entitled (Article 105 paragraph 3 and Article 106 of the Basic Law (GG)). The Federation and the *Länder* jointly receive the income tax, corporate income tax, and turnover (value added) tax, which make up about 70 per cent of all taxes levied. The Federation alone has the right to most excise duties (such as mineral oil tax, tobacco tax, and coffee tax). The *Länder* alone receive, inter alia: revenue from gift/inheritance tax, *Land* acquisition tax, and beer tax. The municipal authorities keep for themselves the revenue from trade tax, land tax, and other municipal taxes such as revenue from dog licences. They are also entitled to a portion of the income and turnover tax collected. The municipal authorities also receive a share of the *Länder* revenue from the combined taxes and the other *Länder* taxes in accordance with the relevant legislation. The Federation and the *Länder* are given a share of the trade tax.

113. Above and beyond this distribution of the sources of tax, and as a result of the solidarity existing between the Federation and the *Länder*, the Basic Law (GG) has created the pre-requisites for a redistribution of the revenue generated to ensure that the conditions of life in the entire federal territory are equivalent. This means, for instance, that those *Länder* which have little tax revenue of their own are enabled to carry out their tasks. To this end, the Basic Law (GG) facilitates two special regulatory systems: the horizontal

financial equalisation between the financially strong *Länder* and those whose financial situation is weaker on the one hand, and supplemental grants to made by the Federation to financially weak *Länder* (Article 107 of the Basic Law (GG)) on the other. Accordingly, the differences in financial strength remaining after the distribution of fiscal income between the *Länder* are suitably compensated for.

11. Law governing the relationship between church and State

114. Another element of constitutional law is the law governing the relationship between church and State, which largely governs the guarantee of freedom of faith, the separation of the Church and the State, and the Church's right to self-determination.

115. The constitutional basis for guaranteeing individual and collective freedom of faith is set out in Article 4 paragraphs 1 and 2 of the Basic Law (GG). Accordingly, the individual freedom of faith encompasses the freedom to form a faith or belief and to act in accordance with its requirements, as well as the freedom to reject any religious or philosophical conviction. In contradistinction to this, collective freedom of faith concerns the liberties of a religious or philosophical community as such.

116. The separation of the Church and the State is enshrined in the Basic Law (GG), in particular in the prohibition of all legal forms that a state church may take, cf. Article 140 of the Basic Law (GG) and Article 137 paragraph 1 of the Weimar Reich Constitution (*Weimarer Reichsverfassung* — WRV). The fundamental principle of the separation of the State and the Church is subject, however, to a number of exceptions; these are reflected, for instance, by the reference to God contained in the Preamble, by the provisions on religious instruction in public schools (Article 7 paragraph 3 of the Basic Law (GG)), or by the right to levy church taxes. In any case, however, the State is obliged to observe neutrality in terms of any philosophical views vis-à-vis religious communities; this neutrality is not to be understood as a distancing from them, in terms of a strict separation of the State and the Church, and instead constitutes a position that is open and inclusive, promoting the freedom of faith for all denominations alike. Article 4 paragraphs 1 and 2 of the Basic Law (GG) also stipulates in a positive sense that the State must guarantee that it is possible to actively practice a religion and to realise one's philosophical and religious convictions as an autonomous personality. Concurrently, the Churches' right of self-determination, which is derived from Article 140 of the Basic Law (GG) and Article 137 paragraph 3 of the Weimar Reich Constitution (WRV), guarantees Churches the power to govern their own matters independently and free of state influence. The Churches' own matters include for instance questions of their organisation, membership, levying of contributions and fees or also the structure of their service relationships.

12. Recognition of non-governmental organisations

117. Non-governmental organisations do not require state approval in the Federal Republic of Germany. Many of them are structured as associations or as charitable limited liability companies (*gemeinnützige GmbH*). They are granted charitable status on the basis of sections 51 et seqq. of the Fiscal Code (*Abgabenordnung* — AO). Pursuant to section 52 (1), first sentence, of the Fiscal Code (AO), a corporation is deemed to be pursuing charitable purposes if its activity aims to lend support to the public in a selfless manner in financial, intellectual or moral terms.

13. Membership of the European Union

118. The Federal Republic of Germany is a member of the European Union (EU). The EU presently consists of 28 Member States. The political system of the EU as it has evolved over the course of European integration is based, since the Lisbon Treaty was concluded, on the Treaty on the European Union (TEU), the Treaty on the Functioning of

the European Union (TFEU), and the Charter of Fundamental Rights. Besides the EU, the European Atomic Energy Community is another independent community. The EU has its own bodies (the European Parliament, the European Council, and the European Commission), each of which have various legislative powers. The TFEU authorises the adoption of legal acts in many fields, especially in the form of regulations and directives. Regulations — like, in principle, the Treaties — are binding in all of their parts and are directly applicable in the Member States, while directives have to be transposed into national law. The founding treaties, in their respectively amended versions (TEU and TFEU), as well as the provisions passed on the basis of the Treaties, take precedence over the national law of the Member States. The European Court of Justice (ECJ) decides on the interpretation and application of Union law.

119. The law applicable in the Federal Republic of Germany is also largely influenced by European Union law. The legislature is obliged to properly transpose directives into German law, and to do so promptly. The legislature cannot pass any national law that would be in conflict with Union law. This is monitored by the Commission, which may initiate infringement proceedings before the European Court of Justice (ECJ) for violation of a treaty. The German courts must observe and apply Union law in their decisions, and they have to interpret German law in conformity with Union law. In cases of doubt they are entitled and in some cases even obliged to obtain a binding interpretation decision from the European Court of Justice (ECJ). The German executive is to enforce directly applicable Union law since the European Union will itself enforce Union law only as an exception, enforcement by the Member States being the rule.

14. Basic rights in the European Union

120. The protection of basic rights in the EU has been enshrined in Article 6 of the Treaty on the European Union (TEU). Pursuant to Article 6 paragraph 1 subparagraph 1, first sentence, of the Treaty on the European Union (TEU), the Charter of Fundamental Rights of the European Union is now directly applicable law, taking equal rank with the Treaty on the European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU). Said Charter of Fundamental Rights provides, in 54 Articles, for rights, freedoms, and principles and applies in all cases to the bodies and facilities of the Union, while it applies to Member States only where they are implementing the law of the Union. Accordingly, to the extent that the Federal Republic of Germany is implementing Union laws, the protection of basic rights by the Charter of Fundamental Rights — and the European Court of Justice (ECJ) — is guaranteed. Pursuant to Article 6 paragraph 2 of the Treaty on the European Union (TEU), the EU is seeking to accede to the European Convention on Human Rights (ECHR) in future.

II. General framework for the protection and promotion of basic rights in the Federal Republic of Germany

A. Acceptance and ratification of international and regional human rights agreements

1. Fundamental international human rights agreements

(a) The state of ratification

121. The Federal Republic of Germany has ratified the following fundamental international agreements and protocols involving human rights aspects:

- International Convention on the Elimination of All Forms of Racial Discrimination of 7 March 1966 (including the amendment of Article 8 of the International Convention of 1966 on the Elimination of All Forms of Racial Discrimination)
- International Covenant on Civil and Political Rights of 19 December 1966
- Optional Protocol to the International Covenant on Civil and Political Rights, on communications from individuals, of 19 December 1966
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, of 15 December 1989
- International Covenant on Economic, Social and Cultural Rights of 19 December 1966
- Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979 (including amendment of Article 20 paragraph 1 of the Convention on the Elimination of All Forms of Discrimination against Women)
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, regarding complaints by individuals and investigation procedures, of 6 October 1999
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (including amendment Article 17 paragraph 7 and Article 18 paragraph 5 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, regarding regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, of 18 December 2002
- Convention on the Rights of the Child of 20 November 1989 (including amendment of Article 43 paragraph 2 of the Convention on the Rights of the Child)
- Optional Protocol to the Convention on the Rights of the Child, on the involvement of children in armed conflict, of 25 May 2000
- Optional Protocol to the Convention on the Rights of the Child, on the sale of children, child prostitution, and child pornography, of 25 May 2000
- Convention of the United Nations on the Rights of Persons with Disabilities of 13 December 2006
- Optional Protocol to the Convention on the Rights of Persons with Disabilities of 13 December 2006
- International Convention for the Protection of All Persons from Enforced Disappearance, of 20 December 2006
- Optional Protocol on the Rights of the Child, on a communications procedure, of 19 December 2011

122. The Federal Republic of Germany has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990. Nor does it consider signing and ratifying this convention to be appropriate. The reasons for this were expressed at that time on adoption of the Convention at the UN General Assembly in a declaration, and continue to apply: The fundamental basic rights are already deposited in the International Covenant on Civil and Political Rights and in the International Covenant on Economic, Social and Cultural Rights.

123. A further major basis for the decision of the Federal Government not to ratify the Convention is that the term “migrant worker” used in the Convention lacks differentiation, and also includes persons who are in unauthorised residence and are in unauthorised employment. The position of illegally-resident migrant workers hence is protected in a manner which goes far beyond the undisputed need to grant them all of the basic rights. Accordingly, these regulations may be suited to increase the incentive to take up employment in the Federal Republic of Germany without having the requisite residence title.

(b) *Reservations and declarations*

124. The Federal Republic of Germany has submitted reservations and declarations to the following international basic right agreements:¹⁶

<i>Convention</i>	<i>Reservation/declaration</i>	<i>Content</i>	<i>Reasoning for the reservation/declaration</i>
International Covenant on Civil and Political Rights	Reservation (17 December 1973, upon ratification)	<p>1. Articles 19, 21, and 22 in conjunction with Article 2 paragraph 1 of the Covenant shall be applied within the scope of Article 16 of the Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms.</p> <p>2. Article 14 paragraph 3 (d) of the Covenant shall be applied in such manner that it is for the court to decide whether an accused person held in custody has to appear in person at a hearing held as part of appellate proceedings on a point of law.</p> <p>3. Article 14 paragraph 5 of the Covenant shall be applied in such manner that:</p> <p>(a) No further remedy need be made available in all cases solely on the grounds that the accused person having been acquitted by the lower court was convicted for the first time in the proceedings before the</p>	<p>Re No. 1 of the reservation:</p> <p>Article 16 of the ECHR reads as follows: “Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.”</p> <p>The reservation was submitted and is upheld in order to monitor the political activities of a growing number of political foreigners’ organisations to protect internal security in the Federal Republic of Germany.</p> <p>Re No. 2 of the reservation:</p> <p>This reservation was submitted with regard to section 350 (2), second sentence, of the German Code of Criminal Procedure (<i>Strafprozessordnung</i> — StPO), according to which it is placed at the discretion of the court to decide whether, in proceedings concerning an appeal on points of law in criminal cases, the accused person who is not at liberty is called up for the hearing on the appeal. If he/she is not called up, defence counsel must be appointed for him/her on his request, cf. section 350 (2), first sentence, of the Code of Criminal Procedure (StPO).</p> <p>Re No. 3 (b) of the reservation: No. 3 (b) of the reservation is relevant with regard to the appeal on points of fact and law against refusal of acceptance for adjudication. In accordance with section 313 (1) of the Code of Criminal Procedure (StPO), in cases in which the defendant has been sentenced to a fine not exceeding fifteen daily units, where in the case of a warning the reserved fine does not exceed fifteen daily units, or where a regulatory fine has been imposed, an appeal on</p>

¹⁶ Declarations related to the applicability of the human rights agreements in the former West Berlin are obsolete, and are hence not included in the list below.

<i>Convention</i>	<i>Reservation/declaration</i>	<i>Content</i>	<i>Reasoning for the reservation/declaration</i>
		<p>appellate court.</p> <p>(b) In the case of criminal offences of minor gravity the review by a court of higher instance of a decision not imposing imprisonment does not have to be enabled in all cases.</p> <p>4. Article 15 paragraph 1 of the Covenant shall be applied in such manner that, where provision is made by law for the imposition of a lighter penalty than that provided for by the law thus far in force, the hitherto applicable law may remain applicable, in certain exceptional categories of cases, to criminal offences committed before the law was amended.</p>	<p>fact and law shall be admissible only if accepted for adjudication. Such appeal is accepted in accordance with section 313 (2) of the Code of Criminal Procedure (StPO) if it is not manifestly ill-founded. Section 313 of the Code of Criminal Procedure (StPO) hence restricts the admissibility of the appeal on points of fact and law for cases of petty crimes in order to reduce the burden on the judiciary.</p>
Optional Protocol of 1966 to the International Covenant on Civil and Political Rights, on communications from individuals	Reservation (25 August 1993)	<p>The Federal Republic of Germany formulates a reservation concerning Article 5 paragraph 2 (a) to the effect that the competence of the Committee shall not apply to communications,</p> <p>(a) which have already been considered under another international procedure of investigation or dispute resolution, or</p> <p>(b) by means of which a complaint is raised regarding a violation of rights that has its origin in events occurring prior to the entry into force of the Optional Protocol for the Federal Republic of Germany</p> <p>(c) by means of which a complaint is raised regarding a violation of article 26 of the [said Covenant], if and insofar</p>	<p>As regards letter (a) of the reservation, it should be pointed out that, given that the committee is not competent for complaints which have been examined by another international procedure of investigation or dispute resolution, the Federal Republic of Germany has complied with the recommendation of the Council of Europe by entering the reservation (Resolution of the Committee of Ministers (70) 17 of 15 May 1970). In this way, the duplication of international review proceedings, and therefore overlaps with the adjudication of the ECHR's bodies, were to be avoided, given that these may also lead to contradictory results. "Forum shopping" on the part of complainants was also to be avoided in the interest of ensuring the functioning of international bodies of human rights protection. This certainly applies if in international proceedings — such as here — an examination on the merits has already taken place.</p>

<i>Convention</i>	<i>Reservation/declaration</i>	<i>Content</i>	<i>Reasoning for the reservation/declaration</i>
		as the violation regarding which the complaint has been raised refers to rights other than those guaranteed under the aforementioned Covenant.	
International Convention on the Elimination of All Forms of Racial Discrimination	Declaration (30 August 2001)	The Federal Republic of Germany declares that pursuant to Article 14 paragraph 1 of the Convention it recognises the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within her jurisdiction claiming to be victims of a violation by the Federal Republic of Germany of any of the rights set forth in this Convention. However, this shall only apply insofar as the Committee has determined previously that the same matter is not being or has not been examined under another international procedure of investigation or dispute resolution.	By the second sentence of this declaration, the Federal Republic of Germany intends to avoid instances in which the race discrimination committee is to deal with those legal matters which have already been ruled on by the European Court of Human Rights, possibly reaching a different outcome. The content of this part of the declaration corresponds to the provisions in three important basic right agreements of the United Nations, namely the Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The majority of EU States which submitted a declaration regarding Article 14 of the Anti-Racism Convention have included the same restriction in their declarations.
International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Declaration with regard to Article 3 (1 October 1990, upon ratification)	This provision prohibits the transfer of a person directly to a State in which this person is exposed to a real danger of being subjected to torture. In the opinion of the Federal Republic of Germany, Article 3 as well as the other provisions of the Convention exclusively establish State obligations that are met by the detailed provisions of the domestic laws of the Federal Republic of Germany, which are in conformity with the	In the view of the Federal Government, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment exclusively establishes state obligations. However, whether or not this also applies to Article 3 of the Convention was cast into doubt in the international discussions preceding ratification. In order to create clarity in this respect, the German Government submitted the above clarifying declaration when depositing the ratification instrument. Courts and authorities accordingly do not apply the Convention, but instead apply German law, which is in conformity with it. Direct application of the Convention is prescribed in one exceptional case by special German legal provisions. Section 6 No 9 of the Criminal Code (StGB) stipulates that German criminal law is to apply, regardless of the laws governing at the

<i>Convention</i>	<i>Reservation/declaration</i>	<i>Content</i>	<i>Reasoning for the reservation/declaration</i>
		Convention.	<p>place of the offence, to acts committed abroad “which, on the basis of an international agreement binding on the Federal Republic of Germany, shall also be prosecuted if they are committed abroad.” When referring to section 6 No. 9 of the Criminal Code, German judges, taking as a basis the provisions of the Convention, hence must examine whether German criminal law applies to the act of torture committed abroad.</p> <p>With the declaration, the Federal Government would also like to clarify Article 3 paragraph 2 of the Convention against Torture: The judgment as to whether the person to be deported is at risk of torture, etc., in the state to which he/she is to be deported should always be examined based on the danger given in the individual case.</p>
Optional Protocol of 2000 to the Convention on the Rights of the Child on the involvement of children in armed conflict	Declaration (13 December 2004, upon ratification)	<p>“The Federal Republic of Germany declares that it considers a minimum age of 17 years to be binding for the voluntary enlistment of soldiers into its armed forces under the terms of Article 3 paragraph 2 of the Optional Protocol. Persons under the age of 18 years shall be recruited into the armed forces solely for the purpose of commencing military training.</p> <p>The protection afforded to voluntarily enlisting persons under the age of 18 years in connection with their decision to join the armed forces is ensured by the need to obtain the consent of their legal guardian and the indispensable requirement that they present an identification card or passport as reliable proof of their age.”</p>	
International Convention of 2006 for the Protection of All Persons from Enforced	Declarations (24 September 2009, upon ratification)	<p>Regarding Article 16:</p> <p>A prohibition of returning (“refouler”) a person to another State shall exist only if there is a real danger that the affected</p>	

<i>Convention</i>	<i>Reservation/declaration</i>	<i>Content</i>	<i>Reasoning for the reservation/declaration</i>
Disappearance		<p>person would be subjected to enforced disappearance.</p> <p>Regarding Article 17 paragraph 2 (f):</p> <p>German law guarantees that any deprivation of liberty will be lawful only if it is instructed by a court or is approved retroactively in exceptional cases. Article 104 paragraph 2 of the Basic Law (GG) (Grundgesetz — GG) includes the express stipulation: “Only a judge may rule upon the permissibility or continuation of any deprivation of liberty. If such a deprivation is not based on a judicial order, a judicial decision shall be obtained without delay.” Where a person is provisionally arrested for the suspicion of having committed an offence liable to punishment under law, then Article 104 paragraph 3 of the Basic Law (GG) stipulates that that person “shall be brought before a judge no later than the day following his arrest.”</p> <p>In the event of a person being held arbitrarily, in violation of Article 104 of the Basic Law (GG), anyone may obtain a court decision resulting in the release of that person by filing a petition with the local court (<i>Amtsgericht</i> — AG) having local competence to release the person being deprived of his or her liberty without undue delay. Where the person was deprived of his or her liberty for longer than the</p>	

Convention	Reservation/declaration	Content	Reasoning for the reservation/declaration
		<p>period permissible under the Basic Law (GG), then the court is to order that section 128 (2), first sentence, of the Code of Criminal Procedure (<i>Strafprozessordnung</i> — StPO).</p>	
		<p>Regarding Article 17 paragraph 3:</p>	
		<p>In the event of people suffering from an illness being placed by a custodian or agent, the court approving the placement will be aware of the information required under letters a) through h). The court has the possibility of obtaining the information required under letters a) through h) at any time from the custodian or agent, which information will then become documents in the case. These as well are to be considered court files within the meaning of Article 17 paragraph 3.</p>	
		<p>Regarding Article 18:</p>	
		<p>Under German law, any person able to demonstrate a legitimate interest in certain information shall be entitled to obtain such information from the court files. The restrictions under German law serving to protect the interests of the data subject or to safeguard the due process of the criminal proceedings are permissible pursuant to Article 20 paragraph 1 of the Convention.</p>	

<i>Convention</i>	<i>Reservation/declaration</i>	<i>Content</i>	<i>Reasoning for the reservation/declaration</i>
		Regarding Article 24 paragraph 4: Clarification is provided that the planned provision on reparation and compensation, the principle of sovereign immunity is not abolished.	

(c) *Abolitions, limitations, and restrictions*

125. There are no abolitions, limitations or restrictions with regard to the human rights conventions listed at B.I.1.a.

2. Other United Nations human rights conventions and associated conventions

126. The Federal Republic of Germany is a contracting party to the following other United Nations human rights conventions:

- Slavery Convention of 25 September 1926, in the version of the Protocol amending the Slavery Convention dated 7 December 1953
- Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948
- Convention relating to the Status of Refugees of 28 July 1951 and its Protocol of 31 January 1967
- Convention relating to the Status of Stateless Persons of 28 September 1954
- Convention on the Reduction of Statelessness of 30 August 1961
- Rome Statute of the International Criminal Court of 17 July 1998
- United Nations Convention against Transnational Organized Crime of 15 November 2000 and its Protocols of 15 November 2000 to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and against the Smuggling of Migrants by Land, Sea and Air

3. Other relevant international human rights conventions as well as treaties in the field of international law of armed conflict

127. Furthermore, the following conventions relevant to protection of human rights and humanitarian international law are in force for the Federal Republic of Germany:

(a) *Conventions of the International Labour Organisation*

All in all, the Federal Republic of Germany has ratified 85 conventions, of which 59 conventions are in force. These ratified conventions also include the eight core labour standards putting in specific terms the fundamental principles of the International Labour Organisation:

- Convention (No. 29) concerning Forced or Compulsory Labour, 1930, and the Protocol of 2014 to the Convention concerning Forced or Compulsory Labour, 1930
- Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise, 1948

- Convention (No. 98) concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, 1949
- Convention (No. 100) concerning Equal Remuneration, 1951
- Convention (No. 138) concerning Minimum Age for Admission to Employment, 1973
- Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999

Moreover, the Federal Government has ratified the following conventions in the past years:

- Convention (No. 187) concerning the Promotional Framework for Occupational Safety and Health, 2006
- Maritime Labour Convention, 2006
- Convention (No. 189) concerning Decent Work for Domestic Workers, 2011

(b) *Convention of the United Nations Educational, Scientific and Cultural Organization*

- Convention against Discrimination in Education of 15 December 1960

(c) *Conventions of the Hague Conference on Private International Law*

- Convention on the Law Applicable to Maintenance Obligations towards Children of 24 October 1956
- Convention Concerning the Recognition and Enforcement of Decisions Relating to Maintenance Obligations towards Children of 15 April 1958
- Convention concerning the powers of authorities and the law applicable in respect of the protection of infants of 5 October 1961
- Convention on the Law Applicable to Maintenance Obligations of 2 October 1973
- Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations of 2 October 1973
- Convention on the Civil Aspects of International Child Abduction of 25 October 1980
- Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption of 29 May 1993
- Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children of 19 October 1996
- Convention on the International Protection of Adults of 13 January 2000
- Convention on the International Recovery of Child Support and Other Forms of Family Maintenance of 23 November 2007
- Protocol on the Law Applicable to Maintenance Obligations of 23 November 2007

(d) *Geneva Conventions and other conventions in the field of the humanitarian international law*

- Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949

- Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949
- Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949
- Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949
- Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, with Regulations for the Execution of said Convention
- [First] Protocol of 14 May 1954 to the Convention for the Protection of Cultural Property in the Event of Armed Conflict
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction of 10 April 1972
- Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques of 18 May 1977 (Environmental Modification Convention, ENMOD)
- Protocol of 8 June 1977 Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)
- Protocol of 8 June 1977 Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects of 10 October 1980 (UN Convention on Certain Conventional Weapons, CCW)
 - Amendment of 21 December 2001 to Article 1 of the UN Convention on Certain Conventional Weapons
 - Protocol on Non-Detectable Fragments of 1980 (Protocol I)
 - Protocol on Prohibitions or Restriction on the Use of Mines, Booby-Traps and Other Devices of 1980 (Protocol II)
 - Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II as amended on 3 May 1996) [Amended Protocol II]
 - Protocol on Prohibitions or Restriction on the Use of Incendiary Weapons of 1980 (Protocol III)
 - Protocol on Blinding Laser Weapons of 13 October 1995 (Protocol IV)
 - Protocol on Explosive Remnants of War of 28 November 2003 (Protocol V)
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 13 January 1993
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction of 18 September 1997
- Protocol of 8 December 2005 Additional to the Geneva Conventions of 12 August 1949 and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)

- Convention on Cluster Munitions of 30 May 2008

4. Regional human rights conventions

128. At the regional level, the Federal Republic of Germany is a contracting party to the conventions listed below:

- Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950
- Protocol of 20 March 1952 Additional to the Convention for the Protection of Human Rights and Fundamental Freedoms
- Protocol No. 2 of 6 May 1953 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisory opinions
- Protocol No. 3 of 6 May 1953 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention
- Protocol No. 4 of 16 September 1963 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto
- Protocol No. 5 of 20 January 1966 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 22 and 40 of the Convention
- Protocol No. 6 of 28 April 1983 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty
- Protocol No. 8 of 19 March 1985 to the Convention for the Protection of Human Rights and Fundamental Freedoms
- Protocol No. 10 of 25 March 1992 to the Convention for the Protection of Human Rights and Fundamental Freedoms (while the Federal Republic of Germany has deposited its ratification instrument on 7 July 1994, the Protocol has not yet entered into force, however)
- Protocol No. 11 of 11 May 1994 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby
- Protocol No. 13 of 3 May 2002 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances
- Protocol No. 14 of 13 May 2004 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention
- Protocol No. 15 of 24 June 2013 amending the Convention on the Protection of Human Rights and Fundamental Freedoms (while the Federal Republic of Germany has deposited its ratification instrument on 15 April 2015, the Protocol has not yet entered into force, however)
- European Social Charter of 18 October 1961
- European Convention of 27 January 1977 on the Suppression of Terrorism
- Protocol of 15 May 2003 amending the European Convention on the Suppression of Terrorism (while the Federal Republic of Germany has deposited its ratification instrument on 13 July 2011, the Protocol has not yet entered into force, however)

- European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981
- Protocol of 8 November 2001 Additional to the Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows
- Convention on the Transfer of Sentenced Persons of 21 March 1983
- Protocol of 18 December 1997 Additional to the Convention of 21 March 1983 on the Transfer of Sentenced Persons
- European Convention on the Compensation of Victims of Violent Crimes of 24 November 1983
- Convention on Cybercrime of 23 November 2001
- Protocol of 28 January 2003 Additional to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems
- Council of Europe Convention of on the Prevention of Terrorism 16 May 2005
- Council of Europe Convention on Action against Trafficking in Human Beings of 16 May 2005
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987
- Protocol No. 1 of 4 November 1993 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- Protocol No. 2 of 4 November 1993 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- European Charter for Regional or Minority Languages of 5 November 1992
- Framework Convention for the Protection of National Minorities of 1 February 1995
- European Convention on the Exercise of Children's Rights of 25 January 1996
- European Agreement relating to persons participating in proceedings of the European Court of Human Rights of 5 March 1996
- Sixth Protocol of 5 March 1996 to the General Agreement on Privileges and Immunities of the Council of Europe of 1949
- Council of Europe Convention on action against trafficking in human beings of 16 May 2005
- Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse of 25 October 2007
- Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 2011 (signed on 11 May 2011, not yet ratified)

B. Legal and institutional framework for the protection and the promotion of human rights at the national level

129. The protection and the promotion of human rights frequently run in parallel in both legal and institutional terms. The framework to protect human rights and that for the promotion of human rights will therefore be addressed below in a joint section.

1. Structure of human rights in the German legal system and their enshrinement in law

(a) The list of basic rights contained in the Basic Law (GG)

130. The human rights enjoy special status in Germany's constitutional system. This is made clear by the fact that the Basic Law (GG) places them at the beginning of its provisions, thus documenting the understanding that Germany has of the role and tasks of a state. The list of basic rights contained in the Basic Law (GG) primarily concerns the guarantee of individual liberties protecting the people against encroachments on their freedom by the State. They are supplemented by basic rights to equality before the law.

(i) Individual liberties

131. The basic rights are guaranteed partly in the form of general human rights, and partly in the form of civil rights. Whilst each individual has a right to the former, the latter apply only to citizens of Germany. The distinction between civil and human rights does not however deny foreigners protection in the area governed by civil rights. In any case, the conduct of foreigners within the sphere protected by civil rights is protected by the general freedom to act (Article 2 paragraph 1 of the Basic Law (GG)).

132. In addition to the primary principle of human dignity, which is not subject to any state restriction (Article 1 paragraph 1 of the Basic Law (GG)), general human rights are in particular the right to free development of the personality (Article 2 paragraph 1 of the Basic Law (GG)), the right to life, physical integrity and freedom of the person (Article 2 paragraph 2 of the Basic Law (GG)), the right to freedom of faith, freedom of philosophical convictions, and freedom of conscience (Article 4 of the Basic Law (GG)), including the right to refuse to render military service on grounds of conscience, as well as the right freely to express and disseminate opinions and freely to inform oneself, which includes the guarantee of freedom of the press (Article 5 paragraph 1 of the Basic Law (GG)). Article 5 paragraph 3 of the Basic Law (GG) guarantees the freedom of the arts and sciences, research and teaching. Article 9 paragraph 3 of the Basic Law (GG) guarantees for all, and for all professions, freedom of coalition, and therefore the right to form and participate in associations to safeguard and improve working and economic conditions. Whilst Article 10 of the Basic Law (GG) ensures for everyone the inviolability of privacy of letters, posts, and telecommunications, Article 13 of the Basic Law (GG) protects the inviolability of the home. Property enjoys protection under Articles 14 and 15 of the Basic Law (GG). Article 17 gives to everyone the right to file petitions. Furthermore, there are special guarantees benefiting marriage and the family (Article 6 of the Basic Law (GG)), as well as the school system (Article 7 of the Basic Law (GG)).

133. Freedom of assembly (Article 8 of the Basic Law (GG)) and of association is reserved for citizens of Germany — unless already protected by Article 9 paragraph 3 of the Basic Law (GG) (Article 9 paragraph 1 of the Basic Law (GG)), as are the right to freedom of movement (Article 11 of the Basic Law (GG)) and the basic right freely to choose an occupation and place of work (Article 12 of the Basic Law (GG)). There is also a restriction to German citizens as regards equal access of men and women to the Armed Forces (Article 12a of the Basic Law (GG)). Finally, in accordance with Article 16 of the

Basic Law (GG), Germans enjoy both protection of their citizenship and protection against extradition to another country.

134. In accordance with Article 16a of the Basic Law (GG), those who are politically persecuted have a right to asylum.

135. Some of the basic rights enshrined in the constitution correspond to internationally protected human rights; some of them, such as the right to refuse, on grounds of conscience, to render military service, and the right of asylum, for instance, extend beyond the standard contained in the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

(ii) Equality rights

136. The general constitutional principle of equal treatment is guaranteed in Article 3 paragraph 1 of the Basic Law (GG). Additionally, Article 3 paragraph 2 of the Basic Law (GG) sets out the principle of equal rights for men and women, joined to the obligation of the State to promote the actual implementation of equal rights for women and men and to take steps to eliminate disadvantages that now exist. Furthermore, a prohibition of discrimination is entrenched in Article 3 paragraph 3 of the Basic Law (GG), stating that no one may be placed at a disadvantage (or be advantaged) for reasons of gender, parentage, race, language, homeland and origin, faith, or religious or political opinions, and that no one may be placed at a disadvantage (or be advantaged) because of disability. Article 33 paragraph 1 and 2 of the Basic Law (GG) also stipulates that every German has the same civil rights and duties and is equally eligible for any public office according to his/her aptitude, qualifications and professional achievements.

(iii) Rights having a status equivalent to basic rights

137. In addition to the basic rights described above, the constitution concurrently protects so-called rights which have a status equivalent to basic rights, which for the most part are also established as human rights in the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the International Covenant on Civil and Political Rights. Individually, these are the right to resist any person seeking to abolish the constitutional order (Article 20 paragraph 4 of the Basic Law (GG)), the right to vote and to be elected (Article 38 of the Basic Law (GG)), and elementary guarantees of court procedure. The latter are also referred to as basic judicial rights. Pursuant to Article 19 paragraph 4 of the Basic Law (GG), anyone whose rights have been violated by public authority shall have recourse to the courts. The following rights are also guaranteed: the right to one's lawful judge (Article 101 of the Basic Law (GG)), the right to a hearing in accordance with the law, the ban on retroactive punishment and on multiple punishment (Article 103 of the Basic Law (GG)), as well as certain legal guarantees in the event of deprivation of liberty (Article 104 of the Basic Law (GG)).

(iv) Social rights

138. The social state principle already explained at I.B.9 is interdependent on the freedom and equality rights accorded by the Basic Law (GG). Particular significance attaches here to the elementary basic right contained in Article 1 paragraph 1 of the Basic Law (GG) (human dignity). Thus, Article 1 paragraph 1 of the Basic Law (GG) in conjunction with the social state principle serve as the constitutional basis for the guarantee of a minimum subsistence level. One should further mention the mandate of the State to protect marriage and the family and the welfare obligation towards mothers (Article 6 paragraph 1 and 4 of the Basic Law (GG)), as well as the mandate to the legislature to create, for children born out of wedlock, the same conditions for their physical and mental development and their

status in society as for those born in wedlock (Article 6 paragraph 5 of the Basic Law (GG)).

(b) *Further development of basic rights*

139. The basic rights contained in the Basic Law (GG) are given concrete form and are developed further by the decisions given by the domestic courts, especially by the Federal Constitutional Court (BVerfG). An example of the further development of the basic rights by such adjudication is the right to informational self-determination derived from the right to free development of the personality in conjunction with Article 1 paragraph 1 of the Basic Law (GG), and the resulting power of individuals to fundamentally decide for themselves about when, and within which limits, to disclose information regarding their lives. Another example is the right to integrity and confidentiality of information technology systems, developed by the Federal Constitutional Court (BVerfG) in 2008 which, in the view of the Court, is also derived from the general right of personality. Both rights play an increasingly important role in a modern information society.

(c) *Relationship between basic rights and human rights*

140. The commitment to human rights as the basis of every human community, as embodied in the Basic Law (GG), not only means that the Federal Republic of Germany is bound to human rights — it is also under the legal obligation to contribute to the worldwide implementation of human rights. Accordingly, the Federal Republic of Germany has ratified the fundamental international conventions for the protection of human rights. The Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, as well as the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the protocols thereto, formulate political participation rights and individual liberties in general terms. By virtue of Article 25 of the Basic Law (GG), these rights take precedence over sub-constitutional law and directly create rights and duties for the inhabitants of the entire territory of the Federal Republic, to the extent that they can be interpreted as general rules of international law. The international instruments for the protection of human rights serve as a guideline for national legislation. They must also be taken into account in interpreting the Basic Law (GG), i.e. in determining the content and the scope of the principle of the rule of law and of the basic rights, as well as in interpreting sub-constitutional law. In addition to ratification and national implementation, the Federal Government is also committed to establishing international norms in the field of human rights. Thus, for instance, it supports clarification of legal issues in connection with individual economic, social, and cultural rights, such as the right to adequate housing and education. In this way, international human rights and basic rights complement and support one another.

(d) *Safeguarding basic rights*

141. The Basic Law (GG) may only be amended by a qualified majority of the *Bundestag* and the *Bundesrat*. An amendment to the Basic Law (GG) is inadmissible if it affects the structure of the Federation in *Länder*, the fundamental participation of the *Länder* in the legislation or the basic principles laid down in Articles 1 and 20 of the Basic Law (GG). Since the commitment to inviolable and inalienable human rights (Article 1 paragraph 2 of the Basic Law (GG)) is among these basic principles, they are protected against their abolition or a reduction of their core content by way of a constitutional amendment.

142. The basic rights may however be restricted by ordinary legislation to the extent explicitly permitted by the constitution. However, Article 19 paragraph 2 of the Basic Law (GG) prohibits the legislature in any case from encroaching on the essence of a basic right.

2. Enforcement of basic rights in the German legal system

(a) Powers of the state bound by basic rights

143. The basic rights set out in the Basic Law (GG) constitute directly applicable law. Article 1 paragraph 3 of the Basic Law (GG) stipulates that they are directly binding on the legislature, the executive and the judiciary. Independent courts ensure the protection of basic rights. In particular, any person whose basic rights have been violated by public authority has the right of recourse to the courts in accordance with Article 19 paragraph 4 of the Basic Law (GG).

144. The basic rights not only have direct effect. They are binding upon the legislature and they also influence the application of statutes. These must be interpreted in the light of the constitutionally protected basic rights. As this applies to all statutes, the legislature, the governmental agencies, and the courts are continuously and directly concerned with the protection of these rights and bound by them. Respect for basic rights is thus not only at the heart of the written Constitution, it also underpins the actions taken by the state in practice.

145. Thus, the courts must examine *ex officio* whether the statutory provisions which they are to apply are in compliance with the basic rights protected by the Basic Law (GG). Where a court considers that a statute on whose validity the court's decision depends is in breach of the Basic Law (GG), in accordance with Article 100 paragraph 1 of the Basic Law (GG), it must stay the proceedings and obtain a decision from the Federal Constitutional Court (BVerfG). However, Article 1 paragraph 3 of the Basic Law (GG) is also binding on the legislature, so that the bodies contributing to legislation must examine in detail whether a bill which is in preparation is constitutional. Where there are differences of opinion or doubts as to the compatibility of statutory provisions with the Basic Law (GG), the Federal Constitutional Court (BVerfG) takes a decision once the statute has been passed if the Federal Government, the government of a *Land* or one quarter of the members of the *Bundestag* apply for it to do so. Seen from a general perspective, then, the Federal Constitutional Court (BVerfG) has a prominent status in the enforcement of human rights, which above all is supplemented by the fact that the decisions of the Federal Constitutional Court (BVerfG) are binding on the constitutional bodies of the Federation and the *Länder*, as well as on all courts and authorities, and indeed have the force of law subsequent to more detailed statutory provision.

(b) The constitutional complaint as a special instrument serving to protect basic rights

146. A further important instrument serving the protection of basic rights is given in the constitutional complaint. This allows anyone to turn to the Federal Constitutional Court (BVerfG) claiming that one of his/her basic rights guaranteed by the Basic Law (GG) or one of the rights under Article 20 paragraph 4, Articles 33, 38, 101, 103 and 104 of the Basic Law (GG) has been infringed by public authority. Basically, all sovereign acts of the legislature, the executive, and the judiciary powers may be challenged by this legal remedy. As an extraordinary legal remedy, it is fundamentally admissible only if the applicant has previously exhausted all other legal remedies in respect of the alleged violation of rights. However, a constitutional complaint will be admissible immediately on an exceptional basis in cases, for instance, in which there is no other legal remedy, namely in the case of a statute which directly affects a citizen's rights.

147. A constitutional complaint is conditional on it being accepted for adjudication by the Federal Constitutional Court (BVerfG). It must be accepted for adjudication if it is of fundamental constitutional significance or if it is necessary in order to enforce basic rights or rights which have a status equivalent to basic rights.

(c) *The binding nature of basic rights under civil law*

148. The basic rights have been created primarily in order to protect the individual against the exercise of state power. But the basic rights must be considered also in interpreting and applying the sub-constitutional law applicable between private individuals (so-called indirect effect of basic rights on third parties). In reaching their decisions, judges must interpret statutes, particularly blanket clauses and concepts of law that have not been defined, in compliance with the general value system of the basic rights. The prohibitions of discrimination under the basic rights are put in more specific terms by special anti-discrimination provisions in civil law.

(d) *Provisions on compensation*

149. Under German law, no separate compensation system exists for cases in which basic rights are violated; in such event, the general provisions apply. For instance, should any person culpably act in dereliction of his or her duties vis-à-vis a third party while exercising a public office with which he or she has been entrusted, then the State or the public body employing that person fundamentally will be liable (Article 34, first sentence, of the Basic Law (GG) and section 839 of the Civil Code (*Bürgerliches Gesetzbuch* — BGB). The aggrieved party may then demand compensation from the State.

3. Other governmental bodies responsible for the protection and promotion of human rights

150. Because of the comprehensive protection afforded by the courts, no special governmental body having general competence for the protection of human rights is considered necessary. Under the German legal system, individuals basically must themselves claim a violation of their rights. Assistance is provided by a highly developed network of legal professions and special interest groups. Provision has been made in specific areas for special procedures and institutions, such as petition committees, which also serve to protect basic rights.

(a) *Petition committees*

151. Pursuant to Article 17 of the Basic Law (GG), everyone has the right individually or jointly with others to address written requests or complaints to the competent agencies and to bodies of popular representation. Anyone submitting such a petition has the right to have it processed and to receive a reply. Therefore, special petition committees have been instituted in the *Bundestag* and in the *Länder* parliaments; members of the *Bundestag* or of the *Land* parliament will deal with the matters brought forward by the petitioners.

(b) *Commission in accordance with the Act relating to Article 10 of the Basic Law (GG)*

152. A democratic, constitutional state also relies on the activity of the intelligence services to protect its citizens. The *Bundestag* has appointed a commission in accordance with Article 10 paragraph 2, second sentence, of the Basic Law (GG) in order to maintain the privacy of letters, posts, and telecommunications protected by Article 10 of the Basic Law (GG). This review body reviews and issues notices regarding complaints filed by citizens claiming a violation of rights under Article 10 of the Basic Law (GG) by surveillance measures taken by the intelligence services of the Federation. At the level of the *Länder*, this task is performed by the regulatory bodies correspondingly instituted by the *Land* parliaments. This arrangement constitutes an exception for the sphere of intelligence services, exempting them from the fundamental power of the judge to order interferences with the privacy of letters, posts and telecommunications. Moreover, submissions from citizens to the *Bundestag* concerning actions in their regard taken by the

Federation's intelligence services may be forwarded for information purposes to a special committee instituted as a supervisory body over the intelligence services.

(c) *Bundestag Committee for Human Rights and Humanitarian Aid; human rights reports of the Federal Government*

153. The *Bundestag* established a Committee on Human Rights and Humanitarian Aid for the first time in autumn of 1998. It regards human rights policy to be a task cutting across a wide variety of policy fields, and is therefore involved in an extremely wide range of human rights aspects, covering foreign policy, foreign economic policy as well as development policy and domestic policy. It also constantly receives information from the Federal Government on the human rights situation in different countries, on centres of crisis for humanitarian aid, and on the Federal Government's policy in these fields. In a dialogue with the Federal Government, the Committee also contributes to the further development of national, European, and international instruments serving the protection of human rights and in the legal and political scrutiny of human rights infringements.

154. In its resolution of 5 December 1991, the *Bundestag* asked the Federal Government "to provide specific information on its human rights policy at regular intervals, and at least every two years." On 4 April 2001, the *Bundestag* asked the Federal Government to include in its human rights reports the policy areas given domestically to a greater extent than in the past. On 4 December 2014, the "Eleventh Report of the Federal Government on its Human Rights Policy" was submitted to the *Bundestag* on 16 July 2008. It is retrievable on the website of the *Bundestag* (www.Bundestag.de) under printed matter number 18/3494.

(d) *Parliamentary Commissioner for the Armed Forces*

155. Article 45b of the Basic Law (GG) has created a special supervisory body for the federal armed forces in the form of the Parliamentary Commissioner for the Armed Forces. He is appointed by the *Bundestag* to safeguard the basic rights of soldiers and to assist the *Bundestag* in exercising parliamentary control. The Act on the Parliamentary Commissioner for the Armed Forces (*Gesetz über den Wehrbeauftragten — WBeauftrG*) sets out the detailed provisions regarding his appointment, legal position, and tasks. The Parliamentary Commissioner for the Armed Forces acts on instruction of the *Bundestag* or the Defence Committee in order to review certain events or processes. Furthermore, he will take action on his own cognizance, after having duly assessed the circumstances, should he become aware of circumstances indicating a violation of the basic rights of soldiers or of the principles of leadership development and civic education (*innere Führung*). He must inform the *Bundestag* of his findings by means of individual reports or in an annual report.

(e) *Federal Commissioner for Data Protection and Freedom of Information*

156. The Federal Commissioner for Data Protection and Freedom of Information is elected at the proposal of the Federal Government by the *Bundestag* and is to monitor compliance with the stipulations of the Federal Data Protection Act (*Bundesdatenschutzgesetz — BDSG*) and other provisions concerning data protection by federal public agencies and by certain non-public bodies, and is to provide consultancy to these bodies. The certain non-public bodies include the enterprises providing telecommunications and postal services as well as private companies governed by the Act on Prerequisites and Procedures for Security Clearance Checks Undertaken by the Federal Government (*Sicherheitsüberprüfungsgesetz*). In exercising her office, the Federal Commissioner for Data Protection and Freedom of Information is independent and subject only to the law. Since 1 January 2016, the Federal Commissioner is a supreme federal authority in its own right; the supervision as to the question of legality of administrative activities previously incumbent on the Federal Government and the Commissioner's

subjection to the administrative supervision by the Federal Ministry of the Interior as the superior authority have been abolished since that point in time. The Federal Commissioner reports on the work done by her authority to the *Bundestag* every two years. The compliance with data protection provisions by the authorities of the *Länder* and by the non-public bodies is supervised by the Commissioners for Data Protection at the *Land* level (With one exception: In Bavaria, the Bavarian Data Protection Authority (*Bayerisches Landesamt für Datenschutzaufsicht* — BayLDA) is responsible for monitoring compliance by the other non-public bodies). By Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/64/EC (General Data Protection Regulation), new provisions on data protection will apply in the European Union from 25 May 2018 onwards. The independence of the Federal Commissioner for Data Protection and Freedom of Information and of the bodies responsible at the level of the *Länder* will be safeguarded.

(f) *Federal Government Commissioner for Human Rights Policy and Humanitarian Aid*

157. The Federal Government Commissioner for Human Rights Policy and Humanitarian Aid in the Foreign Office is tasked with observing developments in the field of human rights world-wide and with participating in the bilateral and multilateral human rights dialogue. She contributes to shaping human rights policy in international relations and maintains close contacts both in Germany and abroad with institutions and groups active in this field. The commissioner heads the German delegation to the United Nations Commission on Human Rights.

158. The Federal Government Commissioner for Human Rights Issues in the Federal Ministry of Justice and for Consumer Protection is the agent of the Federal Government at the European Court of Human Rights in Strasbourg. Furthermore, she is responsible for applications filed under the Anti-Torture Convention, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention for the Protection of All Persons from Enforced Disappearance, and the International Covenant on Civil and Political Rights. In addition, the Commissioner for Human Rights Issues is responsible for several of the state reports on human rights to be submitted to the United Nations, namely the report on civil and political rights, the report on the elimination of all forms of racial discrimination, the report on the protection of all persons from enforced disappearance, the anti-torture report, and the Common Core Document. She is also involved in the work of the intergovernmental committees of the Council of Europe to improve the protection of human rights.

(g) *Federal Government Commissioner for Migration, Refugees, and Integration*

159. The Commissioner for Migration, Refugees, and Integration supports the Federal Government in its efforts in respect of its policy on foreigners and submits proposals for the further development of national and European integration policy. She serves as the contact for foreign citizens and Germans when it comes to creating the conditions enabling them to live together without tension. In particular, she also suggests initiatives for integration to be taken by the *Länder* and local communities, as well as by the societal groups, and supports them in their efforts at furthering the mutual understanding of Germans and foreigners.

(h) *Federal Government Commissioner for Repatriation Issues and National Minorities in Germany*

160. The Federal Government Commissioner is responsible for ethnic German resettlers and late repatriates from Eastern European countries, for the German minorities in the

resettlers' areas of origin, as well as for the national minorities in the Federal Republic of Germany.

161. For ethnic German resettlers and late repatriates, he is a central contact at the federal level, and is responsible for coordinating measures related to resettlers, in particular acceptance in accordance with the Federal Expellees Act (*Bundesvertriebenengesetz*) and for integration.

162. His tasks include promoting the understanding for the history and situation of ethnic Germans from the countries of Central and Eastern Europe, and from the successor states of the Soviet Union, and looks after the ethnic German minorities in these countries.

163. The Commissioner is also the central point of call at the federal level for the national minorities in the Federal Republic of Germany — Danes, Frisians, Sorbs as well as Sinti and Roma holding German citizenship — as well as the regional language of Low German.

(i) *Federal Government Commissioner for Matters relating to Disabled Persons*

164. The task of the Federal Government Commissioner for Matters relating to Disabled Persons consists of working towards the fulfilment, in all spheres of life within German society, of the Federation's obligation to ensure equivalent living conditions for people with or without disabilities. In performing her duties, she ensures that the different living conditions of disabled men and women are taken into account and that gender-specific disadvantages are eliminated. The federal ministries involve the Federal Government Commissioner for Matters relating to Disabled Persons in all legislative proposals, draft regulations and ordinances, as well as all other major projects inasmuch as they concern people with disabilities. By structuring the activities pursued by the Commissioner as an inter-ministerial task, the intention was to introduce the many and varied concerns of people with disabilities into the various policy areas and spheres of responsibility. Moreover, all federal agencies and other public bodies of the Federation are under obligation to support the Commissioner in the fulfilment of her tasks, in particular to provide her with the necessary information and to grant access to their files.

165. The state coordination agency pursuant to Article 33 of United Nations Convention on the Rights of Persons with Disabilities forms part of the department headed by the Commissioner. This is one of the three national agencies serving to implement the Convention. Its task consists of looking after the implementation of the Convention over the long term, while providing strategic guidance and involving civil society and in particular people with disabilities. For this purpose, an Advisory Council on Inclusion (*Inklusionsbeirat*) was formed, which is currently being supported by three special committees responsible for different aspects (accessibility, liberties and statutory protection, as well as communications and the media).

(j) *Federal Anti-Discrimination Agency*

166. The Federal Anti-Discrimination Agency (*Antidiskriminierungsstelle des Bundes* — ADS) is an independent federal agency serving to protect people against racist discrimination or disadvantage because of their ethnic origin, disability, age, religion or belief, gender or sexual identity. It was established on the entry into force of the General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz* — AGG) in August 2006.

167. The Federal Anti-Discrimination Agency is an independent point of contact to which persons affected by discrimination may turn. Its consultants provide information on the legal situation, on potential claims, and on the applicable deadlines. The Federal Anti-Discrimination Agency has the authority to obtain statements of position from the parties involved in a matter, with the objective of achieving an amicable settlement, and where this fails, will put people filing a complaint in contact with other bodies providing advice for

court and other proceedings. The barrier-free website www.antidiskriminierungsstelle.de provides information both to parties affected by discrimination and to people interested in learning more about equal treatment and the offerings available from the Anti-Discrimination Agency. Employers, owners of residential units, economic associations, trade unions, scientists and researchers as well as anti-discrimination leagues will find this a useful resource for information regarding the application and implementation of the General Equal Treatment Act (AGG).

168. The Federal Anti-Discrimination Agency raises the public's awareness as to equal treatment being a basic right by way of publications, events, and campaigns. Above and beyond this, the Anti-Discrimination Agency collects and analyses the research done on the topic of discrimination/equal treatment, identifies instances in which further research is required, and awards contracts for expert opinions and the implementation of studies. Once per legislative period, the Anti-Discrimination Agency submits a report to the Federal Government and the *Bundestag* on instances of discrimination regarding the aspects listed in the General Equal Treatment Act (AGG).

4. German Institute for Human Rights

169. The German Institute for Human Rights (*Deutsches Institut für Menschenrechte* — DIMR) has been in existence since 2003 as an independent national human rights institution. The statutory basis on which it was founded (Act on the Legal Status and the Tasks of the German Institute for Human Rights (*Gesetz über die Rechtsstellung und Aufgaben des Deutschen Instituts für Menschenrechte* — DIMRG)) entered into force on 17 July 2015. Through publications, academic research projects, public seminars, educational programmes, specialist discussions, and other formats of advising policy-makers, the institute provides substantial contributions towards the public opinion-forming process in topical areas relevant to human rights. The field of human rights education takes up a prominent place in the work of the Institute. This includes general information and educational services, as well as offers for work with children and youth and for specific occupational areas, such as the police, the media or development cooperation. The Institute also focuses on strengthening the European and international human rights mechanisms. Thus, the National CRPD Monitoring Mechanism was made a part of the German Institute for Human Rights (DIMR) in 2009, with the National Monitoring Mechanism for the UN Convention on the Rights of the Child being integrated in 2015.

170. Pursuant to section 1 (1) of the Act on the Legal Status and the Tasks of the German Institute for Human Rights (DIMRG), the German Institute for Human Rights (DIMR) receives its basic financing from the budget of the *Bundestag*. However, it determines its work projects independently of any state influence. Its managerial board is composed of personalities from non-governmental organisations, academia and politics. The representatives of the federal ministries and the Bundesrat have no right to vote.

5. European Court of Human Rights

171. The Federal Republic of Germany has not only taken on extensive obligations to protect human rights, but has also granted powers to international control bodies. Particular significance is assumed here by the European Court of Human Rights, which monitors compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms. Complaints regarding breaches of the Convention may be filed both by individual applicants and by the contracting states themselves. The Committee of Ministers exercises supervision over the enforcement of the judgments, as undertaken by the contracting states. The number of judgments against the Federal Republic of Germany by the European Court of Human Rights is low, both in absolute numbers (2015: 6), and when seen against the number of inhabitants. The European Court of Human Rights makes

available in its annual reports extensive statistical data regarding the cases with which it has dealt. The reports also provide the corresponding information regarding the German proceedings. They are available for downloading on the Court's website (<http://www.echr.coe.int/Pages/home.aspx?p=home&c>).

6. Information and publications on human rights

172. The Basic Law (GG) and the basic rights are covered in detail in school. Each pupil receives a copy of the Basic Law (GG) and of the Constitution of his/her Land. Teaching materials in the field of human rights are supplied for non-school education by the German UNESCO Commission in Bonn.

173. The work of the Federal Central Agency for Political Education (Bundeszentrale für politische Bildung) is of particular significance. This agency distributes documents and declarations of the United Nations and of the Council of Europe to all enquirers free of charge or for a small fee, as well as portrayals of the protection and support of human rights. A collection of the texts of human rights conventions and other documents adopted by the United Nations and the Council of Europe has appeared as a supplement to the Federal Gazette (*Bundesanzeiger*). The text of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Additional Protocols is also distributed in various languages, including German, by the Council of Europe in Strasbourg, and will also be sent by postal mail on request. These texts are also available via the Federal Ministry of Justice and for Consumer Protection.

174. The Federal Government publishes the reports which it submits to the United Nations in compliance with its obligations arising from the individual conventions. Some of these reports are distributed in brochure form, and the reports, including the final observations of the UN committees, are also published on the Internet in German and English (www.auswaertiges-amt.de, <http://www.bmas.de/DE/Startseite/start.html>, <http://www.bmfsfj.de/> and www.bmjv.bund.de). The Eleventh Report of the Federal Government on its Human Rights Policy in foreign relations and other policy fields is available on the Internet. In addition, a print version has been published.

7. Awareness-raising of human rights issues by the mass media

175. The media have special functions and tasks in society. They serve the free formation of opinion, both by individuals and by the general public, and strongly influence people's attitudes and modes of conduct. This also applies with regard to human rights, which are regularly addressed by the media in various forms and genres. Thus, human rights issues are not only the subject of current reporting, but are also dealt with in detail in documentations, fictional productions, discussion programmes, as well as discussion fora. In television and radio, many weekly magazine programmes at regular slots broadcast contributions from Germany and abroad on human rights topics, such as social standards or cultural self-determination rights. Above and beyond this, all media take major sporting events — such as the Olympic Games — as an opportunity to impart to the users of these media the cultural, social, and societal situation of the host country.

176. Finally, Deutsche Welle, the foreign broadcasting service of the Federal Republic of Germany, is a global advocate for human rights in all of the formats in which its offerings are available (television, internet, radio, and social media) and thus makes a major contribution to giving human rights weight and to implementing them in as many countries of this world as possible. Deutsche Welle's international training institute, the *DW-Akademie*, supports the worldwide promotion of freedom of opinion by its cooperation programmes as regards the improvement of the political and legal framework conditions for freedom of expression and access to information, the promotion of social inclusion, the qualification of stakeholders, and on the professionalization of the media industry while

ensuring it is economically viable. Its projects make a contribution towards greater openness, transparency and participation in the electronic media of developing countries and countries in transformation.

8. Development cooperation

177. Human rights are the guiding principle of German development policy. They are the relevant factor for the objectives, programmes, and the working practices with the counterpart countries and at the international level. The human rights concept published in 2011 by the Federal Ministry for Economic Cooperation and Development (*Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung* — BMZ) sets out binding requirements for the state implementing organisations (GIZ¹⁷, KfW¹⁸ Entwicklungsbank, BGR¹⁹, and PTB²⁰). For any institutions pursuing business at their own risk, the human rights concept developed by KfW Entwicklungsbank and its subsidiary DEG²¹ will serve as a guideline, as will that put in place by GIZ in its business unit International Services. Moreover, the Federal Ministry for Economic Cooperation and Development (BMZ) enacted a guideline in February 2013 on how to take account of human rights standards and principles in preparing programme proposals for cooperation projects with German governmental bodies. This guideline calls for the mandatory, express review of effects and risks in terms of human rights when planning bilateral development policy projects. German development policy supports its state partners in complying with their human rights obligations. Concurrently, it supports the people in the counterpart countries in claiming their human rights and contributing to shaping the development of their country. In a dual approach, the Federal Ministry for Economic Cooperation and Development (BMZ) seeks to ensure that human rights are anchored throughout a wide variety of policy fields in all focus areas and sectors of development policy, while also promoting specific human rights projects.

178. A particular focus is placed on strategies for promoting disadvantaged population groups. The implementation of the rights of children, youth, women, and people with disabilities as well as the furtherance of indigenous populations carry great weight in the projects pursued as part of German development cooperation. Besides the human rights concept of the Federal Ministry for Economic Cooperation and Development (BMZ), the following are foundational documents in this regard: the position paper “Junge Menschen in der deutschen Entwicklungspolitik” (2011, Young People in German Development Policy) on the rights of children and youth, the action plan of the Federal Ministry for Economic Cooperation and Development (BMZ) for the inclusion of people with disabilities (2013) and the concept of the Federal Ministry for Economic Cooperation and Development (BMZ) “Gleichberechtigung der Geschlechter in der deutschen Entwicklungspolitik” (2014, Gender Equality in German Development Policy), the latter of which pursues a three-pronged approach consisting of policy dialogues, empowerment, and gender mainstreaming.

¹⁷ *Deutsche Gesellschaft für internationale Zusammenarbeit*, German Society for International Cooperation.

¹⁸ *Kreditanstalt für Wiederaufbau*, Reconstruction Loan Corporation, Germany’s state-owned development bank.

¹⁹ *Bundesanstalt für Geowissenschaften und Rohstoffe*, Federal Institute for Geosciences and Natural Resources.

²⁰ *Physikalisch-Technische Bundesanstalt*, National Metrology Institute of Germany.

²¹ *Deutsche Investitions und Entwicklungsgesellschaft*, German Investment and Development Company.

C. Reporting process at the national level

1. Reporting

179. The drafting of this report was coordinated in the Federal Ministry of Justice and for Consumer Protection with the participation of the other federal ministries and the authorities of the Federation within their remit. It is based on contributions respectively data provided by a range of federal ministries, federal offices, Commissioners of the Federal Government, committees, churches, religious communities, and scientific institutions.

180. The report will be sent for information to the respective committees of the *Bundestag* and of the Bundesrat, the German Institute for Human Rights and the Human Rights Forum, once it has been adopted by the Federal Government. Furthermore, the Common Core Document will be publicly available on the Internet in German and English at (www.auswaertiges-amt.de and www.bmjv.bund.de).

2. Measures following up on the Concluding Observations of the Treaty Bodies

181. The Concluding Observations of the Treaty Bodies are systematised and analysed in the preparation for the drafting of the respective subsequent state report. If the individual recommendations require corresponding implementation measures, these will be carried out. The results of the corresponding measures will then be input into the respective state reports.

III. Information regarding non-discrimination and equality

A. Enshrinement of the protection of equality and of non-discrimination in legal provisions

1. Constitutional law

182. The principles of equality and non-discrimination are guaranteed by the constitution of the Federal Republic of Germany. Thus, the principle of equality contained in Article 3 paragraph 1 of the Basic Law (GG) explicitly provides that all persons are equal before the law. It is supplemented by various specific equality principles, including the prohibition of discrimination contained in Article 3 paragraph 3 of the Basic Law (GG) (on this, see the observations above on liberties and equality rights, as well as the rights having a status equivalent to basic rights and the social rights at II.B.1.a.i./ii./iii./iv.). Both principles are structured as basic rights and directly-applicable law. The legislature, the executive, and the judiciary are directly bound by them on the basis of the binding clause contained in Article 1 paragraph 3 of the Basic Law (GG). Article 3 paragraph 1 and Article 3 paragraph 3 of the Basic Law (GG) do not distinguish between those who have been discriminated against in a single instance or in several instances, its protection covering both groups of individuals. Moreover, Article 3 paragraph 2 of the Basic Law (GG) includes a duty of the state to promote the enforcement of gender equality.

183. With regard to the exercise of political rights, the specific principle of equality of elections gains significance in particular (cf. on this the information on the principles of electoral law of Article 38 of the Basic Law (GG) dealt with at I.B.5.b). It typifies both the active and passive right to vote.

184. It is possible to counteract economic, social, and geographical disparities in the context of federal legislation. However, the protection of the legislative powers of the *Länder* means that the use of federal legislative competences must be partly contingent on a

provision of federal law being required to create equivalent circumstances on federal territory or to safeguard legal or economic unity. This applies for instance to the field of public services, the laws governing the economy, or state liability law.

2. Sub-constitutional law

185. The constitutional principles of equality are manifested in many forms in sub-constitutional law. Some examples are the provisions of the Life Partnership Act (*Lebenspartnerschaftsgesetz*), which applies to same-sex civil unions, or the provisions of the Act on Equal Rights of Persons with Disabilities (*Behindertengleichstellungsgesetz*). Where criminal law is concerned, the stipulations made in section 46 of the Criminal Code (StGB) on the determination of the measure of a sentence address the protection against discrimination, since they enable the ruling court to consider racist, xenophobic or other motivations of the offender that show contempt for human dignity as incriminating circumstances.

186. A special position in protection of equality and against discrimination is assumed by the General Equal Treatment Act (AGG), which serves the implementation of four European anti-discrimination directives²² and entered into force on 18 August 2006. The General Equal Treatment Act (AGG), which in terms of its scope of application extends to cover labour law and, in some parts, civil law, amongst other things, hence creates a comprehensive anti-discrimination law in the Federal Republic of Germany for the first time.

187. The first Part of the General Equal Treatment Act (AGG) formulates the objective of preventing and eliminating disadvantages for reasons of race or of ethnic origin, of gender, religion or philosophical belief, of disability, of age or sexual identity. Further, the Act determines the scope of its application and defines direct and indirect discrimination, harassment, and sexual harassment. Part 2 of the Act contains labour law provisions on the protection of employees against discrimination. At the same time, the measures to be taken by the employer and its duties, as well as the rights of employees, are described therein. The core is formed by the provisions on compensation and damages (section 15 of the General Equal Treatment Act (AGG)), which link the requirements of the EU directives to the German laws governing the compensation of damages. The third Part of the Act contains provisions on protection against discrimination in legal relations governed by civil law. As stipulated by the requirements of the Antiracism Directive 2000/43/EC and the Unisex Directive 2004/113/EC on gender equality outside employment, the Act prohibits specific discriminations under civil law and includes provisions regarding the claims of those being discriminated against. In this context, the prohibition of discrimination in the sphere governed by civil law likewise covers all aspects of discrimination, above and beyond the two directives, to the exception of belief (section 19 of the General Equal Treatment Act (AGG)). The fourth Part of the Act, finally, deals with the legal protection afforded to those being discriminated against, which has been substantially improved by virtue of the introduction of the General Equal Treatment Act (AGG). Thus, those who have been discriminated against are now able to claim the support of the anti-discrimination associations. Anti-discrimination associations are empowered, in the context of their

²² Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Anti-Racism Directive), Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (Framework Directive), Directive 2002/73/EC amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions and Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

statutes, to appear in the hearing or court proceedings as counsel for the parties who have been discriminated against. However, the General Equal Treatment Act (AGG) does not provide for a right of associations to take legal action. Furthermore, in the case of gross violations of the General Equal Treatment Act (AGG), the works council and the trade union represented in the company have recourse to the labour court (section 17 (2) of the General Equal Treatment Act (AGG)). Lastly, Section 22 of the General Equal Treatment Act (AGG) has introduced a new approach by relieving the parties being discriminated against of the obligation to provide evidence. If circumstantial evidence is put forward and substantiated that discrimination has taken place, then the other party bears the burden of proof that there has been no violation. The fifth Part of the Act contains special regulations for employment under public law. Finally, the legal status, tasks, and powers of the Antidiscrimination Agency of the Federation are enshrined in the sixth Part of the Act.

B. Institutional enshrinement of the protection of equality and non-discrimination

188. The protection of equality and of non-discrimination is guaranteed by a variety of different agencies in the Federal Republic of Germany. At the federal level, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (Bundesministerium für Familie, Senioren, Frauen und Jugend — BMFSFJ), the Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales — BMAS) and the Federal Ministry of Justice and for Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz — BMJV) all deal with questions relating to the protection of equality and of non-discrimination. Moreover, all proposed bills and all draft regulations or ordinances prepared by the Federal Government are examined by the Federal Ministry of Justice and for Consumer Protection (BMJV) for their compatibility with constitutional, international, and European law. This examination also addresses compliance with the principles of equality and non-discrimination.

189. The Federal Government Commissioner for Migration, Refugees, and Integration is entrusted with the task of combating any unequal treatment of foreigners, whilst the Federal Government Commissioner for Repatriation Issues and National Minorities protects the interests of ethnic German late repatriates and members of the national minorities in the Federal Republic of Germany as well as of the German minorities in the countries of Central and Eastern Europe and the successor states of the Soviet Union. The Commissioner of the Federal Government for the Interests of the Disabled is committed to bringing about equivalent living conditions for people with or without disabilities. Likewise, the Antidiscrimination Agency of the Federation has a major role in combating discrimination, whose function as an ombudsman and advisor has already been discussed at II.B.3.j. It is supported in its advisory function by the work of the local anti-discrimination agencies.

C. Educational programmes, information campaigns, and further measures

190. At the federal level, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) makes available a large amount of information material on the topic of equality which can be acquired free of charge, either via the Internet (www.bmfsfj.de) or by contacting the publications mailing service of the Federal Government. These materials, some of which have also been translated into several languages, cover topics such as pregnancy and birth, violence against women, women in managerial positions, the reconciliation of work and private responsibilities for women and

men, labour market, choice of profession, boys and men in gender equality policy, gender stereotypes, etc.

191. Moreover, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) promotes associations active in the field of gender equality such as the *Deutscher Frauenrat* (German Council of Women), the *Bundesforum Männer* (Federal Men's Forum), Business and Professional Women, *Bundesarbeitsgemeinschaft Kommunalen Frauenbüros* (Federal Working Group of Municipal Women's Offices) and gender equality bodies, as well as numerous projects (such as Girls' Day, Boys' Day, the gender magazine www.meintestgelaende.de, "*Perspektive Wiedereinstieg*" for people re-entering their professions, "*Quereinstieg — Männer und Frauen in Kitas*", a federal model programme for men and women to learn the profession of educator), all of whom make available a wide range of informational material on the respective topics, both in electronic format and as printed copies.

192. A further example of the human rights work done the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) is the assistance hotline for issues entailed by violence against women, "*Gewalt gegen Frauen*" — 08000 116 016 —, that was launched in March 2013. This free-of-charge, anonymous, barrier-free advice hotline is available 24/7 throughout Germany and will also guide callers to the system of help available locally. The launching of this assistance hotline was a key measure of the Action Plan II instituted by the Federal Government to combat violence towards women, which entered into force in 2007 following the implementation of the first Action Plan of 1999; the second Action Plan in the meantime has also been fully implemented.

193. The Federal Anti-Discrimination Agency has published a guideline regarding the General Equal Treatment Act (AGG) containing explanations and examples. This can be ordered free of charge at www.antidiskriminierungsstelle.de. Additionally, the website regularly informs on the adjudication by the German courts on the protection against discrimination in the Federal Republic of Germany and in Europe and makes available for downloading as PDF documents other information material. Since 2012, the Federal Anti-Discrimination Agency has focused its public relations work on several topics, which likewise are published on its website. The Federal Anti-Discrimination Agency prepared guidelines setting out recommendations for the protection against discrimination in a variety of circumstances, such as at the workplace, on the housing market, or at institutions of higher learning. Moreover, the agency most recently performed a comprehensive survey on how discrimination is experienced in the Federal Republic of Germany. The people surveyed had either themselves experienced discrimination, or had observed it taking place. The results of the survey are to serve as a basis for developing an action plan for policymakers and for the work done in the field of anti-discrimination. The initial results of the survey were presented on 19 April 2016. The comprehensive results are expected to be published in the spring of 2017.

194. In order to implement the UN Convention on the Rights of Persons with Disabilities, the Federal Government adopted a National Action Plan (NAP) on 15 June 2011. The NAP establishes a long-term overall strategy for the implementation of the Convention. The Federal Ministry of Labour and Social Affairs (BMAS) has taken on the function of Focal Point and involves all other departments. People with disabilities and their concerns are actively included, for example, by the NAP committee or the Advisory Council on Inclusion with the Commissioner for Matters relating to Disabled Persons. The NAP sets out, in twelve areas of intervention, more than 200 plans, projects, and measures in all circumstances of people with disabilities. On the basis of a scientifically supported evaluation, the Federal Government will adopt, in June 2016, a new, updated National Action Plan 2.0 regarding the UN Convention on the Rights of Persons with Disabilities. The NAP 2.0 as well will place a particular focus on measures serving to promote the

integration of people with disabilities into employment on the general labour market. In this context, the Federal Government will emphasise amendments of the law that will particularly pursue the objective of an even greater number of people with disabilities being enabled to find employment opportunities on the general labour market and outside of the workshops. This will be supplemented by labour policy programmes for which funding will be made available from the compensation fund in the coming years in the amount of approximately Euro 230 million.

195. The Federal Ministry of Labour and Social Affairs (BMAS) provides extensive information on the equality of people with disabilities which can be obtained directly from the Ministry (brochure “*Ratgeber für Menschen mit Behinderungen*” (Guidebook for People with Disabilities)) or via the internet portal (www.einfach-teilhaben.de). The internet portal in particular provides extensive information on all circumstances of people with disabilities, for example regarding preventive care and early diagnosis, rehabilitation and benefits ensuring social inclusion, schooling and vocational training, vocational advancement, and tax privileges.

D. Legal recourse

196. Reference is made to the information provided at II.B.2.a.-d with regard to the implementation of the protection of equality and the protection against discrimination.
