



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

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

Pre-session working group

Forty-third session

19 January – 6 February 2008

**Responses to the list of issues and questions with regard to
the consideration of the sixth periodic report**

Germany*

* The present report is being issued without formal editing.

List of Topics and Questions Related to the Review of the Periodic Reports*

Federal Republic of Germany

The pre-session working group reviewed the Sixth Periodic Report of the Federal Republic of Germany (CEDAW/C/DEU/6).

General

1. Please provide further information on the process of preparation of the Sixth Periodic Report of Germany. This information should include whether non-governmental organizations, particularly women's organizations, were involved in the preparation of the report and the nature and extent of their involvement and if the report was adopted by the Government and presented to Parliament.

The preparation of the report was undertaken under the auspices of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in extensive consultation with other departments of the Federal Government and the Länder. Non-governmental organizations were not involved in *preparing* and agreeing to the Sixth Periodic Report. According to our understanding, it is better to maintain a clear separation between the government and non-governmental organizations in preparing the report. This gives non-governmental organizations the opportunity to express their standpoints on – and criticism of – the findings presented in the government report independently in a parallel report.

The Federal Government is in favour of an on-going constructive dialogue with Civil Society, in which both sides can exchange opinions, allowing the Federal Government to earnestly assess the points criticized and take this criticism into consideration in their political action.

The Sixth Periodic Report was adopted by the Federal Government on 6 June 2007. On 7 March 2008 a debate on the Sixth CEDAW Report took place in the German Bundestag.

Within the context of a meeting with representatives of non-governmental organizations staged by the German Institute for Human Rights on 6 December 2007, the Sixth Periodic Report was presented by high-ranking representatives of the Federal Government, and various standpoints on topics related to equality were discussed.

Visibility of the Convention and the Optional Protocol

2. Since Germany ratified the Optional Protocol to the Convention on 15 January 2002, please provide information on measures undertaken to make the Convention and the Optional Protocol widely known and accessible, especially for law professionals and the judiciary. Please provide information on whether Convention rights have been invoked or referred to before national courts, including the Constitutional Court.

In November 2007 the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth published a “CEDAW Brochure”, which contains the texts of the Convention, the Optional Protocol, additional background information, and some new general recommendations. The brochure is clearly laid out. In a foreword, the Minister emphasizes the importance of making the text of the Convention available. The brochure is distributed by the Federal Government free of charge. It has been provided to experts in the field, in particular, for example those who attended the meeting staged by the German Institute for Human Rights mentioned above. There has been and still is a great deal of interest in the brochure among a

broad cross-section of the public. The Sixth Periodic Report and the “CEDAW Brochure” were posted on the Internet, making them widely known. Leading figures in the ministries have repeatedly drawn attention to the CEDAW when addressing various audiences and emphasized its importance in terms of national policy.

In addition, extensive information related to the CEDAW can be accessed through the website of the German Institute for Human Rights (Deutsches Institute für Menschenrechte = DIMR). The German Institute of Human Rights is funded through the federal budget. Its most important tasks, according to its statutes, are to promote information, documentation and education related to human rights.

The Optional Protocol includes a legal process through which complaints can be lodged under international law. There are no known decisions by national courts related to the Optional Protocol.

3. On page 10, the report states that the concept of gender mainstreaming “attracted resistance in some quarters, which prevented the sustainable establishment of the goal of gender equality in some contexts”. Please describe how this resistance has been expressed, and in which “quarters”? How, when, and in which context in particular did the State party realize that this would prevent achieving the goal of gender equality? In the same paragraph it is noted that “a new orientation with regard to the concept of gender mainstreaming is geared towards presenting equality policy as the result of a preventive process.” Please describe this new policy and explain why it is now “more attractive” and “a real strategy for success”.

According to recent experience by the Federal Government, the English concept of “gender mainstreaming” has – particularly since there is no generally accepted translation in German – often been misunderstood by the general public. Studies show that less than 10% of the population knows what gender mainstreaming means. The reticence that results is further enhanced by often-repeated reports in the press in which the approach is distortedly depicted or even caricaturized. Concrete charges of lodged by critics claim that gender mainstreaming is an ideology, or that gender mainstreaming refuses to acknowledge two different sexes. Some critics have attempted to pillory the policies adopted by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth to promote equality and the reconciliation of work and family life.

If the population is queried about the importance of gender equality rather than gender mainstreaming, then a large majority agrees that men and women should have equal opportunities in society.

If gender mainstreaming is to continue being pursued and successfully implemented in practice without the undesired political side-effects, then it would make sense to replace the term “gender mainstreaming” – as in other countries – with a native-language substitute. The Federal Government is being advised in this context by the Gender Competency Centre (GenderKompetenzZentrum) in Berlin. A new approach to communicating the idea of gender mainstreaming, which will make a case for the benefits of a policy that a) successfully includes the gender perspective in all fields of activity in an integrative and, therefore, preventive manner and that b) consciously focuses on women and men in equality policy. Understood in this manner, gender mainstreaming is a strategy for success, which is actively pursued by the Federal Government (cf. the joint rules of order of the federal ministries which

establish equality as a guiding principle in administrative action , Article 2 Equality of Women and Men).

4. On pages 12 to 14, the report describes the General Equal Treatment Act that came into force on 18 August 2006. Article 3 of the Act provides a new definition of the concept of direct and indirect discrimination, as well as of harassment and sexual harassment. Please indicate whether: a) All fields are covered, i.e. political, economic, social, civil, cultural or any other field in line with article 1 of the CEDAW Convention? b) The legal definition of discrimination includes discrimination against women and (sexual) harassment in the private or domestic sphere? c) The Act sets a time-limit for raising a claim? d) Relevant legal and administrative provisions have been screened to establish whether they comply with the new Act?

Re: a) With the adoption of the General Act on Equal Treatment (Allgemeine Gleichbehandlungsgesetz – AGG), the four existing European anti-discrimination directives were implemented (Anti-Racism Directive 2000/43/EC of 29 June 2000, Employment Framework Directive 2000/78/EC of 27 November 2000, Equal Treatment Amendment Directive 2002/73/EC of 23 September 2002, so-called “Unisex Directive” for Equal Treatment in Access to Goods and Services 2004/113/EC of 13 December 2004). In keeping with these provisions under European law, the General Act on Equal Treatment is applied primarily to labour and social law as well as to the civil law. The overall scope of the AGG is described in Article 2 of the AGG. This notwithstanding, the principle of equality applies in all other areas on the basis of the Basic Law (Article 3 Basic Law).

Re: b) The General Act on Equal Treatment protects women from discrimination and (sexual) harassment in the workplace and in business transactions. The AGG does not apply, on the other hand, in the domestic and private spheres. Grievous cases of harassment are, however, punishable under criminal law when considered as a form of insult (Article 185 Criminal Code).

Re: c) In cases of transgressions against the prohibition of discrimination, the victim is entitled to demand restitution under the General Act on Equal Treatment. In addition, civil law allows victims to apply for court orders to cease and desist in further discrimination. Under labour law, a right to refuse the performance of duties and services is an option in cases of harassment and sexual harassment. The General Act on Equal Treatment foresees a time limit of two months for the enforcement of this claim. However, the time limit is only calculated from the point in time at which the victim becomes aware of the discrimination and can determine the amount of compensation to be claimed. Even if an applicant only learns of a case of discrimination after more than two months, this will result in no legal disadvantages. Article 61b of the Labour Court Act foresees a deadline for making claims. It stipulates that claims made according to Article 15 of the General Act on Equal Treatment must be asserted in court within three months of the date on which they were submitted in writing.

Re: d) The need for implementation in the wake of the four European anti-discrimination directives has been reviewed within the framework of the General Act on Equal Treatment. The General Act on Equal Treatment defines the standards of conduct determined by the directives uniformly for the German legal system with effects on all existing standards. Thus, individual screening of all legal provisions was unnecessary.

5. Page 13 of the report describes measures undertaken to make it easier for victims to assert their rights, notably a shift in the burden of proof. What has been the effective impact of these measures? Has there been an increase in the number of complaints of discrimination, based on sex or gender, since the Act entered into force in August 2006?

The Federal Government has no statistics on the frequency of complaints or with regard to complaints within individual companies.

National machinery for the advancement of women

6. The adoption of the General Equal Treatment Act led to the setting up of the Anti Discrimination Office (ADS) within the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. Since the ADS does not have an explicit mandate to receive and proceed with complaints, please explain how victims of discrimination coming to the ADS are assured of obtaining remedies or accessing avenues of redress. On page 14, the report states that “the staffing of the ADS and recruitment of the advisory board members will be completed during the course of 2007”. Has staff been recruited and have the members of the advisory board been appointed? What measures have been taken to ensure the independence, effectiveness and transparency of the ADS, and the independence of the head of the Office in particular?*

*Since its establishment the designation “Federal Anti-Discrimination Agency” (FADA) has been introduced and will be used in the following.

When the General Act on Equal Treatment (AGG) came into force, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth established the Federal Anti-Discrimination Agency (FADA) in keeping with Article 25 para. 1 of the AGG. The head of the Federal Anti-Discrimination Agency stands in a special employment relationship with regard to public law and can independently fulfil duties, while subject only to legal restrictions. The head of the Office is not influenced by the state, nor integrated into hierarchies, nor subject to dictates in terms of substance.

In addition to the female director, the Federal Anti-Discrimination Agency has 21 employees, for whom 17 permanent positions are funded in the 2008 budget.

In October 2007 the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth named the members of the advisory board in agreement with the director of the Federal Anti-Discrimination Agency and representatives of the Federal Government and the German Bundestag responsible for such questions. The advisory board consists of representatives of various social groups and organizations as well as experts on questions of discrimination.

The counselling service provided by the Federal Anti-Discrimination Agency, which can be informally contacted by victims per telephone, in writing, or via the Internet, is in high demand. We refer in this conjunction to the counselling statistics found in the **Appendix** to this document. Within the framework of their counselling services, which the Federal Anti-Discrimination Agency provides independently, the office can inform victims about claims they are entitled to lodge and options for taking legal action, or can refer victims to other institutions for counselling, or ultimately seek an amicable agreement between the parties in question. In addition to counselling, the Federal Anti-Discrimination Agency also provides information via the Internet and in training sessions on what victims are entitled to and the

steps they can take to enforce their rights in cases of discrimination. An extensive brochure is currently being prepared.

7. The report states that the quota rules found in Article 8 of the Federal Equality Act (which stipulates that women are to be given preference in areas in which they are underrepresented, under provision of equal qualification) “is rarely applied in actual practice“. Why are temporary special measures rarely applied in actual practice, despite the acknowledged fact that there is a need to increase the number of women with leadership responsibilities in the public administration? Considering the reluctance of the Administration to make use of temporary special measures, have other measures been envisaged to achieve such equality?

Article 8 of the Federal Equality Act is not applied when women are better, but instead when they are only equally well qualified in terms of performance, ability, and qualification. Hence, it is a general measure employed additionally.

In this context it should be considered that in Article 9 para. 2 of the Federal Equality Act criteria were defined which cannot be judged negatively in comparative assessments, because they generally benefit male candidates. These are, for example, interruptions in gainful employment, years of active service, and reductions in working hours. This regulation, which is already applied at the level of performance, ability and qualification assessments, often has a positive effect for women, with the consequence that Article 8 of the Federal Equality Act does not need to be invoked.

Reconciliation of work and family life

8. On page 48, the report states that “women represent the majority of the part-time employees, accounting for 83.9 per cent.” The Committee, in its previous concluding observations, expressed concern about the increase in the number of women in part-time work (A/59/38, part 1, para. 388). Has there been a change in the ratio of women to men working part-time since the previous concluding observations? Are incentives planned to encourage men to make use of part-time employment?

The regulations contained in the Act on Part-Time and Fixed-Term Employment (Teilzeit und Befristungsgesetz = TzBfG) encourages men to also make use of the option of working part-time. Both men and women can take advantage of the law.

In order to provide additional information, the figures on part-time employment from the Sixth CEDAW Report (11.6 Part-Time Employment) have been updated in the following text (Federal Statistical Office, Microcensus 2007):

Since the Act on Part-Time and Limited-Term Employment entered into force in 2001, the number of part-time employees has risen by approx. 2.4 million to a total of 8.8 million. Consequently, the part-time quota increased by 6.5 percentage points to 26.3 per cent in 2007 (Federal Statistical Office, Microcensus 2007). The increased proportion of part-time employment is above all a result of the greater number of women pursuing part-time employment. Approx. 46.2 per cent of the women who worked as employees in 2007 worked part-time. This figure is approx. 8 per cent higher than in 2000. In this conjunction, approx. 53 per cent of the women who worked part-time did so for personal or family reasons. The proportion of men working part-time has also continued to rise. Since April 1991 their part-

time quota had risen by 6.8 percentage points to 8.9 per cent; during the same period, the proportion of men among all part-time employees rose from 8.5 per cent to 18.1 per cent. On the whole, women account for the majority of the part-time employed with a figure of 81.9 per cent (Federal Statistical Office, Microcensus 2007).

These figures confirm that the Part-Time Employment Act has also promoted equality between men and women and promoted a better reconciliation of work and family life.

The family-friendly objectives of these regulations makes if possible for women and men, to better reconcile work and family life and to better realize their individual life plans.

9. In view of the low proportion of fathers taking parental leave — only 5 per cent - further measures have been adopted, as referred to on pages 81 and 82 of the report. Please provide information on the effectiveness and impact of such measures.

On 1 January 2007 the parental allowance was introduced; it can be collected for a total of 14 months. For two of these months, however, the allowance can only be collected if the parent who is not the primary caregiver takes charge of the child while reducing the amount of time spent working.

The parental allowance, and especially the introduction of these partner months, has proved to be surprisingly effective in increasing fathers' participation in childcare since it was introduced in January 2007. Of the 685,000 children born in 2007, 15 per cent have a father who opted for a parental allowance.

The likelihood of a partner application being submitted is particularly high if there are no older children, the mother was employed during the year before the birth of the child, the father is well-educated and older than 30. When fathers also take advantage of the parental allowance, mothers take child-care leave for a month and a half less, on average, than mothers who take advantage of the parental allowance alone. In addition, the likelihood that the mother will be working within a year and a half of the birth of the child is 12 per cent higher if the father takes advantage of the parental allowance. In this context fathers make use of the flexibility of the parental allowance, namely the different possibilities for dividing it up, as well as the option of working part-time while collecting the parental allowance. A total of 21.5 per cent of the men taking advantage of the parental allowance are doing so part-time, so that the attitude towards part-time work will be transformed in the near future. To date, part-time work was considered something women did, usually in the mornings, on a dead-end street in terms of their career. More men working part-time will lead to new patterns and career options in part-time work.

Personnel managers are now also increasingly inclined to accept a father's decision to work part-time while caring for children. In the meantime, 80 per cent of Germany's top managers see the parental allowance as a "good solution" and roughly a third consider a reduction or interruption in a father's career to be "no problem". The Federal Government's Parental Allowance Report of 29 October 2008 provides more extensive information on the subject.

Migrant women

10. At an Integration Summit in July 2007, the Federal Chancellor presented a National Integration Plan (page 68 of the report). Has this plan been adopted and is it currently being

implemented? Please elaborate on the provisions of the plan relevant to women and girls with migrant backgrounds.

In keeping with the cabinet decision reached by the Federal Government on 12 July 2006, ten working groups on topics related to integration policy were established which include representatives of migrant women and men, the Federal Government, the Länder and municipal governments, and many non-governmental participants; they submitted their findings in late March 2007.

The ten different areas include the following: “Early childhood education: promoting the German language from the beginning”, “Ensuring good education and vocational training, better opportunities in the labour market.” All of the working groups were instructed to consider the situation of women and girls. Working Group 4 “Improving the living situations of women and girls, realizing equality” split up into the sub-working groups: 1 “Integration through law and participation”, which focused on forced marriage, and sub-working group 2 “Empowering migrant women in the family and the social setting, sex education, health and help for the elderly”.

The National Integration Plan, which was presented to the Second Integration Summit Meeting by the Chancellor on 12 July 2007, contains roughly 400 measures and voluntary commitments by many of the different representatives of the state and civil society who took part in the integration summit process. It was developed by the Federal Government, the Länder, municipal governments and numerous non-governmental organizations, including women’s and migrant women’s organizations. The Federal Government and the heads of the Länder governments, the Conference of Minister Presidents and the Federation of German

Local Authority Associations agreed upon each of their contributions to the plan and adopted it by passing a formal resolution. The contributions of the non-governmental organizations were subsumed in the report section of the plan, thereby becoming part of the plan.

More information on the results of the working groups, participants, measures and voluntary commitments can be found under the National Integration Plan at www.integrationsbeauftragte.de.

The implementation phase began with the presentation of the National Integration Plan in July 2007. A first interim assessment of the plan was undertaken on 6 November 2008.

11. As mentioned on page 9 of the report, “migrant women often face a double disadvantage in the labour market: as women and because of their ethnic backgrounds.” What are the specific measures in place targeting this double discrimination? Please provide data on the number of working migrant women living in Germany in comparison with German women, German men and migrant men.

In her Seventh Report on the Integration of Foreigners in Germany the Federal Government Commissioner for Migration, Refugees and Integration reported on important trends regarding the integration of persons with migrant backgrounds into the labour market; in the context the situation of women was taken into consideration wherever possible (cf. Part II.3 of the 7th Report under http://www.bundesregierung.de/nn_56708/Content/DE/Publikation/IB/7-auslaenderbericht.html). It refers to data from the 2005 Microcensus, which were assessed by the Federal Statistical Office at the request of the Commissioner

Discrimination against migrant women in the German labour market is counteracted by such measures as the special consideration of labour market target groups according to Books II and III of the Social Code.

They determine that women and men fundamentally have the same access to all measures introduced within the context of labour market policy. This also applies to persons with migrant backgrounds. Wherever necessary and possible, consideration is taken of the special needs of women with regard to measures for integration in the labour market. Thus, within the framework of integration courses (Development of Language Competency in German), to name one example, courses specifically for women with migrant backgrounds also provide childcare.

According to the 2006 Microcensus, the participation of persons between the ages of 25 and 65 with immigrant backgrounds is 75%, a figure that is markedly lower than that for persons without migrant backgrounds (81%). While there was no difference among men, where the quota both in cases of those with migrant backgrounds and those without was 87%, the data for women is highly divergent. Only 63% of the women with migrant backgrounds are employed, in comparison to 75% of the women without migrant backgrounds.

The European Social Fund (ESF) Federal Programme in Germany represents an essential mechanism for promoting employment among migrant women in order to combat the double discrimination to which they are subject in the labour market. During the funding period 2007-2013, the ESF will support the integration of persons with migrant backgrounds and women through various measures related to education and further training. These include both measures related to the specific situations of migrant women and men (i.e. employment

related language courses offered by the Federal Office for Migration and Refugees) and measures to increase the participation of persons with migrant backgrounds and women in all support measures offered by the ESF in keeping with the mainstreaming approach. Currently, a monitoring system is being developed for the ESF Federal Programme, through which information will be available on participation according to migrant background, age, sex, educational background, etc. In future, programme data on funding will be continuously collected in order to monitor how it is actually distributed between men and women over the years.

12. In his country visit's report (A/HRC/4/29/Add.3), the Special Rapporteur on the Right to Education notes in para. 74 that "The demographic make-up of the country is undergoing radical change and it is possible that, in some 20 or 30 years, more than one third of all schoolchildren will be of immigrant origin. Given this reality, the Special Rapporteur stresses the need for a decisive and creative response, since, if the inequality which currently prevails in the educational system is to persist, unemployment levels will rise, increasing the burden of State assistance for the unemployed with the resulting consequences. The creation of educational opportunities for all members of the population is therefore a fundamental political and economic need in Germany" What specific measures addressing women and girls of disadvantaged minorities have been taken or are planned in order to overcome the difficulties they experience in the field of education?

According to the Basic Law of the Federal Republic of Germany, education is solely a responsibility of the Länder. However, the Federal Government is active in various contexts, for example by launching model projects. Thus, it supports measures to further develop the structural transition from schools into the dual system of vocational training or vocational

training for the disadvantaged; which includes girls and women from disadvantaged minorities.

It also supports a series of projects to aid in the integration of women with migrant backgrounds into the labour market. One example, cited here, is the project NetWork 21. This mentoring programme co-financed through the European Social Fund (ESF) is primarily directed towards women with migrant backgrounds and serves as a support network to help them orient themselves in the labour market and their careers.

In “Seventh Report on the Situation of Foreigners in Germany” the Federal Government Commissioner for Migration, Refugees and Integration describes the situation of girls and young women with migrant backgrounds in the fields of education and vocational training, professional qualification and integration into the labour market (cf. Part II.2.2 and especially II.2.3.2 on participation in education and training).

One specific measure by the Federal Government, cited in this context, is the increase in the number of hours for integration courses for girls and women with migrant backgrounds.

All young women are expected to benefit from the National Pact for more Women in MINT Professions (Mathematics, Information Technology, Natural Sciences and Technology), which the Federal Ministry of Education and Research launched under the motto “Komm, mach MINT!” (Come, take part) along with partners from the fields of business, research, and politics in June 2008.

Employment

13. In its previous concluding observations, the Committee expressed concern that some aspects of the Federal Government's reform policy might have a particularly negative impact on women (A/59138, part 1, para. 392). On page 43 of the report, reference is made to the evaluation of the Fourth Law for Modern Services, which replaced the old system of unemployment and social assistance, and introduced basic support for job seekers. Have the initial results of this evaluation been made available? If so, what has been the impact of this law on women?

With regard to the legally mandated evaluation of the so-called Experimental Clause in the Subsistence Guarantee for Job Seekers, according to Article 6 c Book II of the Social Code, it is not the assessment of individual instruments of labour market policy that is of primary importance, but rather the question as to whether the Federal Employment Agencies or authorized municipal organizations are more successful in promoting the integration objectives of Book II of the Social Code and why. The results of the extensive research will be assessed together with the Länder and submitted to the Federal Government and the Bundesrat (Federal Council) by 31 December 2008. The results will be published in early 2009.

The Institute for Employment Research (Institut für Arbeitsmarkt- und Berufsforschung = IAB) of the Federal Employment Agency conducts extensive, timely and ongoing research on the effects of the benefits to cover the cost of living offered under the subsistence guarantee for job seekers and of the benefits to aid integration. In this context, gender mainstreaming is always taken into consideration. The IAB has released a number of publications on the

projects that have been completed thus far. A comprehensive publication summarizing all of research findings thus far is planned for early 2009. In addition to the general evaluation of the effects of the subsistence guarantee for job seekers, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has commissioned an additional study on the central question of how the regulations in Book II of the Social Code related to the concept of the “community of need” have affected certain key groups of unemployed women, and to what extent the model of the one-breadwinner family or equal participation of women and men in the labour market is promoted by it.

The key groups are divided into:

- a) Single parents with children in need of care
- b) Female partners of recipients of long-term unemployment compensation
- c) Women registered as unemployed, but not receiving benefits

The project is scheduled to run from January 2008 to February 2009; hence the results will not be available until 2009.

A research consortium commissioned by the Federal Government is currently conducting a study to assess the implementation of Book II of the Social Code in terms of equality policy (*Bewertung der SGB II-Umsetzung aus gleichstellungspolitischer Sicht*). In this context an extensive re-analysis of economic data and data from various independent studies on the effects is being undertaken along with case studies. The final report will be submitted in 2009.

Despite a strong employment orientation – in comparison to the rest of Europe – single parents in Germany are a population group with a particularly high risk of poverty. In

addition, single parents and their children represent a relatively stable “core group” of those in need of aid through the basic subsistence guarantee for job seekers (Book II of the Social Code). Single parents are disproportionately represented among those who are employed but still need to collect supplemental benefits under long-term unemployment compensation, who have only a so-called “mini job”, or one that is subject to social insurance contributions, but which still pays less than 800 €per month.

Therefore, as of 2009, the Federal Government will support the promotion of examples of “best practice” among the organizations that administer the subsistence guarantee for job seekers under the umbrella of the Framework Directive in the ESF Federal Programme. Two projects are currently being prepared

- enhancement of the measures to activate single parents in need of support, integrate them into employment, and provide flanking measures for stabilisation, as well as
- implementation of gender equality questions and gender mainstreaming among organizations that administer long-term unemployment.

The promotion measures are, on the one hand, related to projects launched by agencies that administer long-term unemployment and include the participation of local and regional networks. In such cases it is a question of promoting local activities, in which the legally anchored help for single parents provided by the Federal Employment Agency (Measures for Integration into the Labour Market) and the municipal governments (e.g. childcare, programmes to support children and adolescents) can be effectively combined in order to reduce or eliminate single-parent households’ dependency on aid in the long run.

In addition, model projects are to be launched to establish structures within the agencies providing benefits under the subsistence guarantee for job seekers that ensure the promotion of equality/women and create operational processes and networks with relevant (social) institution and protagonists in the regional labour markets.

14. According to page 48 of the report, the adoption in 2007 of the Earning Statistics Act “will provide a clearly improved database for research on the development and the causes of pay inequality and thereby create new possibilities for counterstrategies that can appropriately target the causes.” Has an assessment been made on the basis of this database and have the results, if any, been incorporated in a policy strategy?

The survey of earnings that has previously been used to calculate the pay inequality between women and men has never included pay in the public service sector. Currently, the survey of earnings is now being expanded to include further analyses of inequality in pay within the context of the project “Pay Inequality between Women and Men (*Verdienstunterschiede zwischen Frauen und Männern*) conducted by the Federal Statistical Office.

In addition, further measures and research studies, surveys of data (e.g. survey of pay structures), and scientific analyses have been commissioned to determine and comprehensibly illustrate the causes of the pay discrepancy between women and men in order to possibly eliminate existing pay discrimination in a systematic manner.

Following this, strategic measures are to be initiated and measures by other strategic partners (e.g. women’s organizations, employers’ associations, or the Confederation of German Trade Unions) to combat pay inequality and to raise awareness in this context in the general

population are to be supported. Reaching an understanding of essential causes will make it possible to adopt appropriate strategies for overcoming pay inequality; in them, all protagonists will need to take measures within their spheres of influence in order to overcome or eliminate these causes.

Systematic List of Measures:

1. Equal Pay Day on 15 April 2008, Business and Professional Women e.V.
2. A project by the Hans Böckler Foundation entitled *Lohnspiegel - Lohnunterschiede beim Berufsanfang* (Pay Survey – Pay Differences at Entry Level) scheduled from April 2008 to August 2008.
3. The guideline entitled *Fair P(l)ay - Entgeltgleichheit für Frauen und Männer* (Fair P(l)ay – Pay Equality for Women and Men), which was published in 2007.
4. The research project *Die Lohnlücke zwischen Frauen und Männern in Deutschland* (The Pay Gap between Women and Men in Germany), Institut der Deutschen Wirtschaft (Cologne Institute for Business Research).
5. Conference with the Confederation of German Employers' Associations on the topic of pay equality on 30 September 2008.
6. Feasibility study on a voluntary pay test (analogous to Logib, Switzerland).

7. On the initiative and with the support of the Federal Government, the Federal Statistical Office is conducting a project intended to sustainably improve the availability of data on pay equality through various measures by also including public servants in the pay survey system, thereby facilitating comparisons between the private sector and public service, and in order to undertake a special evaluation of the new survey of pay structures with the goal of analyzing the causes of pay differences between women and men in detail. This project is scheduled from April 2008 to November 2009.

Additional activities on the topic of pay equality will be conceived anew on the basis of the information gained through the ongoing projects.

New legislation will be adopted (new orientation of instruments of labour market policy) in reaction to the results of the analysis of data on pay inequality. The principle of equality and the promotion of women will be anchored as a more central objective in the overall promotion of employment than was previously the case. Long interruptions in gainful employment, often resulting in a loss of skills, along with a tendency, on the part of women, to choose certain professions are important causes of the continuing inequality in pay levels. Through benefits to actively promote employment, efforts are to be made to eliminate existing disadvantages and to overcome gender-specific markets in vocational training and employment. Women and men returning to the labour market are to receive the benefits that they require to aid in their return to the labour market through measures to actively promote employment. Foremost among these benefits are counselling and placement services, as well as support for further training by covering the cost of training and childcare for the duration of such measures. Since the different lengths of the interruptions by women and men are to be seen as a

fundamental cause of pay differences, support for re-entry into the labour market takes on great importance in this context.

Attempts will be made to influence career choices made by women and girls at an early stage through career counselling. Attention will be drawn to professions with a long-term perspective and careers with good prospects for development with regard to earnings and personal growth.

Many projects within the framework of the ESF Federal Program include important impulses for the promotion of equality between women and men and to promote pay equality between women and men.

Not just since the introduction of the General Act on Equal Treatment have there been legal options for taking action with regard to unequal pay. The Federal Anti-Discrimination Agency will make the public more aware of the possibilities that his law offers.

The voluntary agreement between the Federal Government and the Central Associations of German Business of 2001 designated four fields of action – reconciliation of work and family, better educational and training opportunities, more women in leadership positions, and overcoming the wage gap. The third assessment of equality between women and men in the private sector in 2008 showed that there was still a need to act with regard to the fields of action cited above. The Federal Government and the representatives of business agree that the dynamism in the first two of these fields should be introduced into the field of “pay equality”.

15. In response to the Committee's previous concluding observations (A/59/38, part 1, para. 396), the report states on page 86 that the Foreign Office has adopted a number of measures to enhance the rights of domestic workers in diplomatic households. Please indicate whether the minimum wage all embassies must pay to domestic workers is equal to the minimum wage paid in Germany generally for domestic work. Are the minimum standards in terms of labour laws and social regulations equivalent to general German standards?

Within the framework of the process of attaining approval to take up work in a private household for a member of an accredited foreign diplomatic mission or professional consulate in the Federal Republic of Germany, it is now necessary for prospective employers to convincingly demonstrate that they are willing, without qualification, to uphold minimum standards in terms of German social and labour law (most importantly, a written contract, minimum wages, health insurance, free food and lodging) for the duration of the period of employment. This entails the diplomatic mission or professional consulate's submitting a *note verbale*, in which the adherence to minimum standards on the part of the employer is ensured. An important element in this process is a meeting between the prospective domestic worker and a representative of the German diplomatic mission in the country from which the worker is recruited in order to ensure that she or he is aware of his or her rights and obligations under social and labour law if they are hired, as well as of the minimum wage. In this conjunction, an instructional brochure printed with support from the foreign office is distributed.

Private domestic workers are only allowed to enter the country when the conditions that must be fulfilled in hiring a private domestic worker by a member of a diplomatic mission or of a professional consulate accredited in Germany have been assessed positively by the German Foreign Office.

The procedure devised by the Foreign Office is aimed at assuring the adherence to minimum standards in terms of German labour and social law by using all available legal options. Consequently, domestic workers employed by members of diplomatic missions or professional consulates are not at a fundamental disadvantage when compared with domestic workers in Germany.

Participation of women in public life and decision-making

16. In its previous concluding observations (A159138, part 1, para. 396), the Committee noted with appreciation the rate of women's participation in political life, but also expressed concern that women are underrepresented in the higher echelons of several other sectors of public life, particularly in the civil service, the diplomatic Service, science, research and academia. On pages 87 to 89, the report describes a range of measures undertaken in these sectors, namely under the Federal Equality Act, to address underrepresentation of women in leadership positions. In this respect, has an evaluation been made of the progress achieved in the Public and Federal Administration and in Science and Research Institutions? Please elaborate on the fact that the proportion of women among the junior professors is currently 30 per cent (p. 88), whereas in 2004 the ratio between men and women receiving university degrees was almost equal, and 39 per cent of the doctorates were awarded to women (p. 36). What kind of temporary special measures have been adopted to promote women's participation in the Foreign Service? Could you please provide information on the participation of women in the judiciary?

The Federal Government regularly evaluates developments with regard to women in leadership positions in public service. In addition to the progress reports by the Federal Government on the Federal Equality Act (first progress report on 7 December 2006, BT-DRs. 16/3776, the next report will be submitted in 2010), the fourth report provided information on the proportion of women in important bodies within the Federal Government's sphere of influence (from 16 February 2007, BT-Drs. 16/4385), while the first progress report on female soldiers and the Equal Opportunity Act for Soldiers (January 2008, BT-Drs. 16/7920) outlines developments in recent years. A new brochure published by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, "Equality of Women and Men in Federal Administration and the Federal Courts" (*Gleichstellung von Frauen und Männern in der Bundesverwaltung und in den Gerichten des Bundes*), has clearly illustrated the long-term development since 1986/96 and addressed the topic of differences in the various levels of leadership in federal authorities and subordinate areas. The Federal Statistical Office conducts annual surveys of progress based on the Federal Equality Act.

The fact that Germany does relatively well with regard to the participation of women in political leadership positions (cabinet, parliament), but is in only third-to-last place in the participation of women in leadership positions in public service, when compared to other EU countries (cf. *Women and men in decision making 2007. Analysis of the situation and trends*, published by the European Commission, Brussels 2008) indicates that action is needed. The fact that a woman is again going to become a permanent state secretary in a federal ministry on 1 November 2008, thereby ending a period of nearly six years in which not a single woman held a permanent state secretary position, is a positive sign. With the designation of women as department heads in the Foreign Office and in the Federal Ministry of the Interior, women reached the leadership level in these departments for the first time during this legislative period.

With a view to increased employment of women in conjunction with the preparation of the first Progress Report on the Federal Equality Act, many departments expressed their expectation that women in leading positions would “grow into” positions from the pool already available. On the one hand, this development is already reflected in the statistical data. On the other hand, studies show that women, because of leave and part-time employment during the course of their careers, still experience disadvantages in terms of their career development (BT Drucksache 16/3776).

Diplomatic Service

In the Second Equality Plan of the Foreign Office 2008-2011, the progress made thus far is evaluated. Measured on the Equality Plan 2004-2007, the Foreign Office has already made important progress towards a balanced participation of women and men: in many of the areas in which women have been underrepresented up until now, the share of women has been increased. In 2006, the first female departmental head in the history of the Foreign Office was instated. There have also been improvements in terms of hiring. However, in the past three years it has not always been possible to hire 50% women on higher levels of service.

The younger the age of the group taken into consideration, the higher the proportion of women. Thus, on higher levels of service one finds a proportion of women in the age group forty and under of nearly 40%. At the same time, the Foreign Office has become more partner and family friendly: the option of job sharing and part-time employment – with pilot projects both in Germany and abroad – has been expanded and now includes leadership positions on the level of department heads for the first time.

With regard to promotion into top positions, the objectives of the equality plan 2004-2007 have not yet been achieved. Women are still underrepresented in leadership functions with a high degree of visibility both in Germany and abroad. The foreign office is making every effort to implement the target objectives as soon as possible.

In order to reduce the underrepresentation of women, the Foreign Office has set concrete objectives in the Equality Plan 2008-2011 to entrust women with leadership functions or with functions that prepare them for leadership. During the period in which the Equality Plan 2008-2011 is in effect, the Foreign Office also intends to adopt a series of measures in order to prepare women specifically for leadership roles through personnel development measures, by making it easier for them to gain access to leadership positions, by negating disadvantages resulting from assessment procedures, by making working hours both in Germany and abroad as flexible as possible within the framework of foreign service operations, and by facilitating the re-integration of mothers and fathers returning from parental leave.

Justice

The most recent figures on the proportion of women in the field of justice are from 31 December 2006. Since statistics are collected every two years, new data will first be available after 31 December 2008. Among judges, the proportion of women on the survey date was 33.23%. Among public prosecutors, the proportion of women was approx. 36%.

Universities and Research Institutions

In Germany, data has been regularly collected, augmented, and published for roughly two decades on women in leadership positions at universities and non-university research institutions (*Frauen in Führungspositionen an Hochschulen und außerhochschulischen*

Forschungseinrichtungen) by the Joint Science Conference (Gemeinsamen Wissenschaftskonferenz – GWK, www.gwk-bonn.de) and has been assessed by the bodies of the Federal Government and the Länder.

Proportion of Female Professors

In 1992, women accounted for 6.5% of all professors at German universities. This proportion has since been continually increased. In 2000 it was 10.5%, in 2005 it was 14.4%, and in 2007 it was 16.2% (preliminary value). The number of female professors on the C 4/W 3 level (highest) has risen from 458 (3.5%) in 1992 to 1,368 (11.0%) in 2006, thereby nearly tripling. Particularly worth mentioning is the fact that the number of professorships held by men during this period remained nearly equal. With the joint “Female Professor Programme” for 2008 to 2012, the Federal Government and the Länder are pursuing the goal of achieving equality between women and men at German universities, and sustainably improving the representation of women on all qualification levels, and increasing the number of female academics in leading functions. It is a case of a special temporary measure in the sense of Article 4 of the Convention.

Universities are responsible for naming professors; they are able to independently choose suitable candidates according to academic excellence, regardless of gender, for positions as professors or junior professors. There is no quota for naming women as junior professors, so that the proportions of women can vary each year.

Research Institutes Outside of Universities

In 2006 the proportion of women among all research personnel at research institutes outside of the universities was 28.2%, in 2007 this figure rose to 29.7%. The proportion of women in leadership positions in research institutes outside of universities has risen continually since 1992; in 2006 the figure was 7.2%, and 2007 it was 8.3%.

In public service in the Länder, the proportion of women in higher levels has increased markedly, and therefore also the number of women who may potentially assume leadership positions. It has also been possible to gradually, but continually, increase the number of women in leadership positions in recent years. Nevertheless they are still frequently underrepresented – in general, the proportion of women sinks with each higher level of pay. Equality oriented personnel policy aimed at increasing the proportion of women in leadership positions is therefore still viewed as a necessity by the Länder and augmented by measures to improve family friendliness.

A catalogue with 28 gender indicators to illustrate social progress with regard to equality between women and men was submitted to the 18th Conference of Länder Equality and Women's Ministers and Senators. One of the indicators refers to the participation of women and men in leadership positions in departments on the Länder level. A group of experts is to be established in order to decide whether junior professorships should be included in this list of indicators.

Violence against women

17. According to the study on women's experience with violence (mentioned on page 20), women in Germany have a median to high level of experience with violence, compared to

international data. Moreover, migrant women in Germany experience physical and sexual violence at a higher rate than non-migrant German women, and refugee women experience violence with an even higher frequency (p. 78). Has the State party conducted a study on the reasons for this higher rate and frequency of violence against migrant and refugee women? If so, what measures, if any, have been undertaken in this respect?

In the meantime, a secondary analysis of the representative study “Living Situation, Security and Health of Women in Germany” (*Lebenssituation, Sicherheit und Gesundheit von Frauen in Deutschland*), is available; its focus on the relationship between health, violence and migration is reflected in the title: Health – Violence – Migration (*Gesundheit – Gewalt – Migration*). The results clearly show that being a victim of violence is a considerable detriment to women’s health – across all social strata and ethnic backgrounds. Based on what was learned from this study, it is possible to make more specific improvements in health care for women and girls affected, especially for affected migrant women. The results shall therefore be made available to those responsible for health care and preventative care.

Within the framework of the Federal Health Monitoring System, the Robert Koch Institute (RKI) published a brochure at the end of October 2008 on “The Consequences of Violence on Health – with a special focus on domestic violence” (*Gesundheitlichen Folgen von Gewalt – unter besonderer Berücksichtigung von häuslicher Gewalt*), which also discusses the topic of “Violence within the Context of Migration and Flight”. In the brochures published by the RKI within the context of the Health Monitoring System, specific information on the health condition of the population and the health care system are presented in a practical manner. Through the Health Monitoring System, information is made available to both experts and the population at large.

18. What concrete steps will the Government take together with its state and municipal counterparts to provide sustainable, adequate and timely funding for comprehensive, accessible protection for women and girls affected by violence, as well as their children, and in particular free access to women's shelters, counselling, and legal and social support?

According to the distribution of responsibilities determined in the Basic Law, the Länder and municipal governments are responsible for funding and providing an appropriate infrastructure in the form of support facilities for women affected by violence and their children.

Within the limits of its financial responsibilities, the Federal Government especially supports the development of networks established between structures for providing aid to women affected by violence, including funding for three national administrative offices to coordinate women's shelters (*Bundesgeschäftsstellen der Frauenhauskoordination*), for the Federation of Women's Counselling Offices and Women's Hotlines (*Bundesverbandes der Frauenberatungsstellen und Frauennotrufe - bff*), and for the Nation Circle of Coordination against Trafficking in Women and Violence against Women in the Process of Migration (*Bundesweiter Koordinierungskreis gegen Frauenhandel und Gewalt an Frauen im Migrationsprozess - KOK*), thereby contributing – as well as through funding for expert meetings, research projects and innovative model projects – in considerable measure to improving the quality of support programmes.

The infrastructure of support for women affected by violence and their children funded by the Länder and municipal governments includes not only women's shelters as a proven component, but also women's counselling offices and hotlines, as well as an increasing number of intervention and cooperation offices and other institutionalized forms of linking these programmes.

Women's shelters represent an indispensable means of support, one that is basically open to all women seeking protection and their children.

Overall it can be reliably maintained, on the basis of available information, that there are currently roughly 400 women's shelter facilities in Germany (shelters both in houses and flats), which offer a total of at least 7,000 places open to women affected by violence and their children.

Women's shelters are funded both by the Association of Independent Welfare Services as well as by local non-profit organizations, and municipal and district governments.

The number of places available in women's shelters is considered to be commensurate with demand by all of the Länder.

Public funding is provided for women's shelters and other means of support for women affected by violence in all of the Länder. Shelters for women affected by violence and their children receive continuous funding from both Länder and municipal governments. In this context, individual Länder adopt different approaches to the question of funding.

While staying at a women's shelter, women affected by violence and their children who become needy as a result of a lack of income are also able to claim social benefits, thereby ensuring that they have money to cover their living costs, a secure domicile in a women's shelter, and, if needed, additional psycho-social support.

In a working group established by the German Association for Private and Public Welfare, questions related to funding women's shelters are currently being deliberated by representatives of the Federal and Länder governments, the Federation of German Local Authority Associations, and the associations that organize women's shelters. Most recently, in June 2008, "Recommendations by the German Association for Private and Public Welfare on Aid Benefits to Women affected by Domestic Violence and their Children particularly among those legally affected by Book II of the Social Code" (*Empfehlungen des Deutschen Vereins zu Hilfeleistungen an von häuslicher Gewalt betroffene Frauen und ihre Kinder insbesondere im Rechtskreis des SGB II*) were adopted. They are directed towards the organizations responsible for providing benefits in the given context.

19. Please provide data on the occurrence of female genital mutilation amongst girls who reside in Germany. Are all German residents who arrange for, or perform, female genital mutilation, regardless of where it is performed, penalized? Please provide information on follow-up measures undertaken to implement the recommendations of the Committee on the Rights of the Child in respect of female genital mutilation (CRC/C/15/Add.226, para. 46).

According to Article 223 and following of the Penal Code, genital mutilation is punishable as an offence against physical integrity. The Penal Code foresees imprisonment of up to fifteen years for this statutory offence. In addition to the offence of battery (Article 223 of the Penal

Code), aggravated battery (Article 224 of the Penal Code), and grievous bodily harm (Article 226 of the Penal Code), such offences can also be punished as a qualified form of abuse of a legal ward (Article 225 of the Penal Code) if the physical or psychological development of the victim is in danger of considerable impairment.

The question as to the applicability of German criminal law must be closely assessed in each individual case. It is impossible to make any generally valid assessments in this context because of the great number of constellations possible in individual cases. However, all genital mutilations conducted outside of Germany are punishable by German law provided aid in committing the crime was provided as an accomplice before the fact or in the form of incitement or abetment in Germany. Thus, foreign parents resident in Germany who bring a daughter abroad in order to have a genital mutilation performed, are generally punishable, along with the person who conducts the mutilation, as accessories, or at least for inciting or abetting the offence cited.

Germany has no national statistics on the number of women and girls affected by genital mutilation. The Federal Statistical Office and the women's rights organization Terre des Femmes e.V. estimate that there are some 30,000 women and girls in Germany who are affected by, or threatened with, genital mutilation. This number is a projection based on figures provided by the Federal Statistical Office regarding the number of migrant women from countries in which genital mutilation is practiced, according to information from UN organizations and the World Health Organization.

In April 2005, UNICEF Germany published the results of a survey among gynaecologists conducted by UNICEF, Terre des Femmes, and the National Association of Gynaecologists

on the situation of mutilated girls and women in Germany. The rate of return on the questionnaires sent was 3.73%. Of the doctors who did answer, 43% (in absolute terms 212) had already treated a mutilated woman in their practices. One in four of these women approached the doctors in connection with a pregnancy or impending birth, 16.8% (83) approached the doctors in conjunction with a preventive examination, and 15.2% (75) reported chronic pain. A third of the gynaecologists (30.4% or a total of 150) indicated that they had already cared for a mutilated woman during childbirth, while 69% (340), on the other hand, had no experience in this context. Some 7.1% (35) of the doctors were confronted with the request to perform a reinfibulation, i.e. to sew up the vagina again with the exception of a very small opening. Three gynaecologists (0.6%) had been asked whether they would perform a genital mutilation themselves. A total of 48 (9.7%) indicated that they had heard reports of mutilations that were undertaken in Germany. A total of 35 of the gynaecologists surveyed (7.1%) knew of patients who had the intention to send their daughters to their native countries in order to have genital mutilation performed on them. There are no specific figures regarding girls, because the data in the UNICEF survey are related to adult women.

Prompted by the Federal Ministry of Health, and through the initiative of the German Medical Association, recommendations by an interdisciplinary working group on dealing with patients who have been subjected to female genital mutilation have been published. The recommendations have been translated into English and French and distributed both nationally and internationally.

Within the context of a joint symposium of experts in Bonn on 30-31 October 2008, which was organized by the WHO, the German Medical Association, and the Federal Ministry of Health under the title “Violence makes people ill – Challenges to the European Health Care

System” (*Gewalt macht krank – Herausforderungen an das europäische Gesundheitssystem*), the focus was on the topic of “Female Genital Mutilation”. In this conjunction, the experience of women who were affected and organizations that were involved in the field were discussed along with findings by doctors. International aspects were also taken into consideration.

With the Action Plan of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth “For a Germany Fit for Children 2005-2010” (*Für ein kindergerechtes Deutschland 2005 – 2010*), Germany is improving the living conditions and development opportunities for the country’s children and adolescents.

A part of the programme includes the following fields of action:

- The Federal Government will enhance efforts to increase gender equality and active participation by girls (empowerment), especially through qualitative measures to effect social integration, by adhering to the gender equality approach in planning and executing all measures (gender mainstreaming), and launching specific projects against gender-specific discrimination.
- The Federal Government will adapt its information policy on the topic of the “genital mutilation of girls” to current needs and continue to regularly publish updated reports. Within the framework of developmental cooperation measures, it will provide political and financial support for measures to combat female genital mutilation especially in Western Africa.
- The Federal Government will ensure protection for girls who have sought refuge from the threat of genital mutilation by coming to Germany.

The following implementation measures have already taken place in these fields of action:

Within the context of developmental cooperation, the Federal Government has participated in international efforts to overcome female genital mutilation (FGM) through the supra-regional initiative “Overcoming Female Genital Mutilation” since 1999. This project was extended until 2011. Plans also include tying financial cooperation more strongly to the demand to combat FGM. In addition, updated information and recommendations for action are being made available.

Furthermore, in light of sexual violence against children, the Federal Government has adopted an “Action Plan to Protect Children and Youth against Sexual Violence and Exploitation” which will be implemented and developed in successive steps. Worth mentioning are programmes providing aid, counselling, and intervention through the hotline for children and adolescents called the *Nummer gegen Kummer* (Number against Sorrows/Worries), the databank called www.hinsehen-handeln-helfen.de (look-act-help), as well as support for Internet platforms for young people.

20. On page 25, the report refers to the draft law intended to implement the EU Council Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography, which increases the age under which children are to be protected. Did this law come into force in 2007, as envisaged?

Some of the most important changes to result from the law to implement the EU Council Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography are listed below:

- The age under which children are to be protected under Article 182 para. 1 of the Penal Code (Sexual abuse of adolescents in lieu of remuneration or through the exploitation of

dependency) will be raised from sixteen to eighteen years of age, and in cases of sexual abuse through the exploitation of dependency, the currently valid age under which perpetrators are protected (eighteen) has been abolished. Furthermore, in the case of Article 182 Penal Code, the act of attempt has been introduced as a punishable act.

- The new Article 184c of the Penal Code introduces a penal provision against the dissemination, acquisition, and possession of youth pornography (pornography in the form of print or other media, the subject of which are sexual acts by, with, or before persons between the ages of fourteen and eighteen years of age). The punishment threatened here is not as extensive as in Article 184b of the Penal Code (dissemination, acquisition, and possession of child pornography in the form of print or other media), beyond this, the possession of youth pornography in the form of print or other media is not as extensively sanctioned as the possession of child pornography in the form of print or other media. Thus, the possession of youth pornography is only punishable when the subject of said print or other media is a real act (possession of child pornography in the form of print or other media is also punishable when the subject is a realistic act). Furthermore, the possession of youth pornography in the form of print or other media is not subject to punishment in cases where the person in possession produced the pornography while still an adolescent and with the consent of any adolescents depicted, even if the person is now an adult.

The law implementing the EU Council Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography was adopted by the Bundestag on 20 June 2008. On 19 September 2008 the Bundesrat decided not to request that the Mediation Committee be convened to deliberate this law. Hence, it can be assumed that it will come into force during the course of this year (2008).

21. In response to the Committee's request to provide data and information on violence against women (A/59138, part 1, para. 386), the report states at page 77 that "data and information on the type and extent of violence against women are available". However, it seems that "there is no differentiation as to whether cases prosecuted under the Protection Against Violence Act resulted from complaints lodged against a woman or a man" and "the age and ethnic background of the victims are also not separately registered." What measures are planned to gather disaggregated data on the sex, age and ethnicity of victims and perpetrators and the relationship between them? Please provide information on the number of women murdered by their husbands, partners or ex-partners in the past few years. Has the Government ensured that relevant professional groups on domestic violence receive comprehensive training?

Police crime statistics provide information on the number of homicide victims who were related to, or familiar with, the perpetrator. Figures regarding the type of relationship (partners, ex-partners, and the like) are not, however, available. It is also impossible to determine the number of cases in which women were victims.

In addition to the data available in the form of criminal statistics, the results of recent research on these questions are also available in Germany. Thus, in 2004 the Federal Government published the results of the first representative survey in Germany on the prevalence of violence against women (Living Situation, Security, and Health of Women in Germany - *Lebenssituation, Sicherheit und Gesundheit von Frauen in Deutschland*). Within the framework of this survey, women between the ages of 16 and 75 were questioned as to their experience with violence. The data gathered in this study of prevalence is being expanded upon in a number of secondary analytical studies. (In this conjunction see also the answer to Question 17.)

The Federal-Länder Working Group against Domestic Violence, which was established in 2000 in order to accompany and oversee the Action Plan of the Federal Government to Combat Violence Against Women, and in which representatives of the responsible Federal and Länder Ministries, as well as the municipal governments and non-governmental organizations, work together, has drafted and published standards for education and further training on domestic violence for various professions affected by the topic. They can be accessed on the homepage of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth under

<http://www.bmfsfj.de/bmfsfj/generator/RedaktionBMFSFJ/Abteilung4/Pdf-Anlagen/gewalt-standards-aus-und-fortbildung-haeusliche,property=pdf,bereich=,sprache=de,rwb=true.pdf>).

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has published “New Material for Further Training for Employees of Women’s Shelters” (*Neue Fortbildungsmaterialien für Mitarbeiterinnen im Frauenhaus*), which was developed by the German Social Science Infrastructure Services as a practice-oriented ongoing training programme for employees in women’s shelters. The four volumes cover the areas of “Violence in the Relationship between the Sexes”, “Between Women’s Solidarity and Being Overtaxed”, “Legal Questions in Women’s Shelter Counselling” and “Management in Women’s Shelters”.

With regard to further training for judges and public prosecutors on the topic of domestic violence, the German Judicial Academy, with its conference sites in Trier and Wustrau, plays an important role. The German Judicial Academy is funded jointly by the Federal Government and the Länder and provides ongoing supra-regional training for judges and public prosecutors. In the present context, the training programme on “Violence in the Family

– Aspects of Family and Penal Law Pertaining to Stalking and Child Abuse” (*Gewalt in der Familie - familien- und strafrechtliche Aspekte, Stalking und Kindesmissbrauch*) should be mentioned. In addition, the Länder also conduct corresponding training programmes for judges and public prosecutors.

The ongoing and additional training of professional groups working within the field of domestic violence is fundamentally a responsibility of the Länder and municipal governments.

22. *The report notes on page 22 that a “study on the extent and scope of violence against disabled women and girls will be commissioned” in 2007. Are the results of this study already available? If so, what are the most relevant findings and the measures envisaged to implement them?*

A comprehensive study on the “Extent and Scope of Violence against Disabled Women and Girls” will be commissioned very soon.

23. *Please describe the possibilities for asylum-seeking women, women holding toleration permits, and women holding temporary residence permits after having been granted subsidiary protection, to seek protection in women’s shelters when suffering from domestic violence. Please also describe the standard of accommodation, especially regarding physical security, in reception centres and community and federal state refugee hostels for female asylum-seekers and holders of toleration permits or temporary residence permits after they have been granted subsidiary protection.*

Women's shelters and refuge facilities are, according to their own self-perception, basically open to every woman affected by violence, especially domestic violence. According to information available to the Federal Government, it is therefore also standard practice in most women's shelters to also take in migrant women and their children when they seek shelter, regardless of their residence permit status.

As a rule, employees of women's shelters grant admission to the shelter without making it contingent upon a clarification of residence permit status, a woman's ability to cover the costs of staying in the shelter, or a woman's entitlement to social benefits; instead the clarification of individual claims is undertaken (e.g. according to Act on Benefits for Asylum Seekers or, where applicable, according to Book II of the Social Code or Book XII of the Social Code) only after admission to the women's shelter.

Whenever an individual claim can be made based on Book II of the Social Code, Book XII of the Social Code, or the Act on Benefits for Asylum Seekers by the woman seeking refuge, the cost of the stay is covered by the benefit agency legally responsible. The reason that some women's shelters have adopted limits with regard to the admission or long-term residence of migrant women, especially women in the process of applying for asylum, is the difficulty in determining which authorities are responsible for the reimbursement of the costs for their housing and care, in some cases this is a consequence of their having been assigned to a place of residence. The financing of women's shelters is otherwise the responsibility of the Länder and municipal governments, which take different approaches in this conjunction.

A woman is only expected to remain in an admissions facility or in group housing for asylum seekers and refugees if the woman's special need for protection can be ensured by an adequate security concept.

24. Please provide information on the situation of women who have had their gender identity reassigned upon medical decision.

The Committee's question cannot be answered, since the Federal Government does not currently have any relevant information.

Forced marriages

25. On page 71 of the report, reference is made to the 37th Amendment to the Penal Code, dated 11 February 2005, which expressly defines forced marriage as being a very serious case of coercion, subject to prosecution (punishable by imprisonment from six months to five years). The report further notes that the Federal Government is examining whether additional amendments are needed to prevent forced marriage and to protect the victims. What is the outcome of this examination? Has the draft law classifying forced marriage as a separate criminal offence been adopted (page 86)?

The law implementing the EU directives with regard to visa and asylum laws includes the following measures, which are also intended to prevent forced marriages.

- Raising the minimum age of spouses permitted to immigrate to Germany to 18;

- Requiring a knowledge of German before entering Germany for the purpose of family reunification;
- Refusal to allow family reunification in cases where there is real evidence of forced marriage;
- Forced marriage is considered a definitional element providing grounds for discretionary expulsion.

The Federal Government is examining whether additional amendments are advisable, e.g. improvements with regard to the right to return after abduction to a foreign country for the purposes of forced marriage.

The Bundesrat adopted a draft “Law to Combat Forced Marriage and to Improve Protection for Victims of Forced Marriage” (*Gesetz zur Bekämpfung der Zwangsheirat und zum besseren Schutz der Opfer von Zwangsheirat*) in 2006 and sent it on to the Bundestag. Deliberations in the Bundestag have not yet taken place.

In addition, there was a federal initiative for a “Law to Improve the Protection of Victims of Forced Marriage and ‘grievous stalking’”. Corresponding draft legislation was adopted by the Bundesrat in April of 2008 and sent on to the Bundestag for deliberation.

26. In view of the lack of reliable qualitative and quantitative analyses on forced marriages, the Government has commissioned a number of studies; a hearing on the subject took place in the Bundestag; and bodies are examining measures to be taken to prevent forced marriages and to provide support for the victims (page 72 of the report). What are the concrete

outcomes of these initiatives? Have any policy measures been adopted as a result?

With regard to the amended law cf. Question 25.

The national integration plan contains a series of measures and voluntary commitments to combat forced marriage (s. Question 10).

The further development of counselling and support facilities is the responsibility of the Länder and municipal governments.

The Federal Government is supporting a model project for online counselling in cases of forced marriage for three years. With this low-threshold and anonymous online counselling programme it is easier to reach those affected. Within the framework of the model project, counselling programmes for friends of those affected, professional helpers, and people likely to disseminate information will also be created. The programme will also be extended beyond Berlin, Frankfurt and Stuttgart. The counselling is based in Berlin. The evaluation of the project is expected to provide additional information about the group affected by this phenomenon, as well as an effective means of reaching them, and measures for prevention and support.

With support from the Federal Government, Terre des Femmes has developed an emergency aid flyer informing migrant women who are threatened with – or affected by – forced marriage about their rights and available help.

There continues to be a great demand for reliable figures that indicate the scope of the phenomenon of forced marriage in Germany in public and political discussions. Using the collection of studies on forced marriage in Germany already available (*Zwangsverheiratung in Deutschland*) as a starting point, a scientific study of the extent and scope of forced marriage in Germany shall now be compiled in order to attain as plausible an assessment as possible of the extent of this problem, which is very difficult to document. The results are expected to be available in late 2010.

Within the framework of Working Group 4 of the Integration Summit, a working group was established on the initiative of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth on problems related to the application of the Children and Youth Services Act (Book VIII of the Social Code) in supporting victims of forced marriage. The working group intends to develop recommendations for action for youth services offices by the autumn of 2008. The Federal Ministry for Family Affairs, Senior Citizens, Family and Youth, the Federal Ministry of Justice, the Commissioner for Integration, representatives of the Länder and municipal governments, and NGOs are included in this working group.

The Second Action Plan to Combat Violence Against Women by the Federal Government places the emphasis on combating violence against women with migrant backgrounds. In this context, it also includes measures against forced marriage. The Action Plan was adopted by the Federal Cabinet in September 2007 and is being implemented step-by-step.

The Länder are also adopting various additional measures to prevent forced marriages and to protect victims in addition to legislative initiatives cited under Question 25. These operational concepts include counselling and support programmes targeted at specific groups, as well as

workshops and recommendations for action to be taken by experts in the field, and public education and information campaigns, along with prevention programmes in the schools.

Exploitation through prostitution and trafficking in women and girls

27. The report acknowledges that the Prostitution Act has only succeeded to a very limited extent in realizing its intended goals (pages 30 to 32 and 89 to 91). The report mentions a number of measures that were to be examined, notably to improve the protection of adolescents against sexual abuse, to help women in prostitution who wish to extricate themselves from prostitution, and to control more efficiently commercial activities in connection with sexual services. Have these measures been undertaken or planned for achieving the goals set in the Prostitution Act?

In the Federal Government's report on the effects of the Prostitution Act, the Federal Government announced that it would increase the protection of adolescents against abuse under criminal law. Within the framework of the law to implement the EU Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography, Article 182 of the Penal Code was correspondingly amended so that the provisions now also apply to the age group between 16 and 18. In the meantime, the corresponding legislative process in the Bundestag and Bundesrat has been completed and the new regulation will presumably come into force by the end of the year.

Furthermore, the Federal Government, in consultation with the Länder, announced plans to examine if, and if so how, instruments of commercial law can be used to more efficiently control commercial activities in conjunction with sexual services.

The Federal Government and Länder Committee on Commercial Law has considered the topic and is attentively following the discussion. In order to ensure a broad basis of expertise for the discussion process on the Federal Government and Länder level, and to represent a broad spectrum of opinions on this question, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth staged a workshop in March 2008 with experts from Federal ministries, the Länder, the police, and prosecuting authorities, as well as representative of specialized counselling services. There was consensus with regard to the importance of effectively cooperating with the responsible local authorities. The contributions to this discussion will soon be published in a reader.

The Länder and municipal governments have the primary responsibility for providing aid programmes for prostitutes interested in extricating themselves from prostitution. Such aid programmes are currently offered by a number of counselling offices for prostitutes, some of them in cooperation with the Employment Agencies, agencies offering further training, and other agencies.

To improve the help offered, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth staged a workshop among experts in the field in December 2007; it facilitated a national exchange regarding experience with existing models of support for those attempting to extricate themselves from prostitution, the analysis of existing weaknesses as well as the identification of beneficial and detrimental conditions for supporting their extrication from prostitution. In order to contribute to the improvement of support programmes for prostitutes interested in extricating themselves from prostitution, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth also intends, within the

limits of its competence, to introduce new approaches to working with prostitutes in supporting their extrication from prostitution in a model project which is slated to begin in 2009.

The Federal Government will examine to what extent the protection of victims of trafficking and forced prostitution can be improved; in particular an adequate solution is to be sought as to how the punishment of customers of forced prostitutes can be regulated. In this conjunction, the Federal Government is also assessing to what extent the so-called landlord's privilege should be abolished. The evaluations in this context have not yet been completed.

28. According to the January 2005 Amendment to the Immigration Act, a residence permit is to be granted if there are grounds to assume that there is a considerable and concrete threat to the body, life and freedom of a victim or witness in his or her native country (page 29 of the report). What is the statistical data available on the number of such residence permits granted since the Amendment to the Immigration Act?

Only limited statistical data are available. From 1 January 2006 to 30 June 2008, roughly 37,500 residence permits were granted or extended under Article 25 para. 3 of the Residence Act (deportation ban), whereby no differentiation was made with regard to gender. In 2005 these data were not yet collected.

On the survey date, 30 June 2008, 24,209 people were registered in Germany as resident with a permit granted under Article 25 para. 3 of the Residence Act; 12,713 of these were female.

With regard to these data, it should be noted that the residence permits granted under Article 25 para. 3 of the Residence Act are not only granted to the group in question (considerable and concrete threat to body, life and freedom), but also to persons for whom deportation is prohibited according to Article 60 para. 2, 3 or 5 of the Residence Act. The collection of data is not undertaken separately in this conjunction, so that there is no way of determining how many of the residence permits were granted to each of the groups.

Stereotypes and education

29. In its previous concluding observations (A/59/38, part 1, para. 384), the Committee expressed concern that women are sometimes depicted by the media and in advertising as sex objects, and depicted in traditional roles. On page 76, the report notes that Germany's democratic constitution prohibits the federal government from requiring the media to transmit a positive image of women. It further noted that in 2005, 216 complaints related to sexist advertising were registered. What are federal and Länder possibilities for more targeted action against Sex stereotyping in the media and in society at large, including through awareness-raising campaigns and widespread public discussion? What influence can the Government exercise in state-subsidized media, namely to prevent sexist advertising? What are the number of complaints registered for 2006 and 2007, and the sanctions levied against the media?

The Federal Government and the Länder make use of the possibilities of counteracting gender stereotypes through public relations measures in newsletters, websites, projects (e.g. an exhibition on role models in transition: *Ausstellung Rollenbilder im Wandel*, www.rollenbilder.de together with the Federal Employment Agency), conferences (e.g. Role

Models and Realities in Europe: Legal Economic and Cultural Dimensions, October 20078), and brochures (e.g. *Neue Wege – Porträts von Männern im Aufbruch* – New Paths – Portraits of Men Breaking out of the Mould).

Within the framework of the 18th Conference of Länder Equality and Women's Ministers and Senators on 23 to 24 October 2008, the topic of "Role Models in the Media" was discussed. The goal of this discussion was to deliberate and agree upon initiatives that serve to dispel gender-specific role models. The Land in charge of hosting the Conference of Länder Equality and Women's Ministers and Senators, Baden-Württemberg, has conducted a preliminary conference on the topic and developed concrete proposals (e.g. scheduling a week of programming, a proposal already submitted to ARD television).

The Länder have another option of working against gender stereotypes in the media long-term by ensuring consistent gender parity in naming members of the bodies responsible for programming and voluntary self-control in public radio and television companies, as is already possible through the SWR State Charter in Rhineland-Palatinate and the Länder Media Act. The representatives of these bodies should, however, be trained in dealing with this problem through further education measures.

In 2006 the German Advertising council registered 201 complaints of discrimination against women; in 2007 the figure dropped to 137. The Advertising Council's leverage is based on the fact that advertising that is placed on an index can no longer be used.

Economic consequences of divorce

30. Please provide information on the type of property that is distributed on dissolution of relationships, and indicate, in particular, whether the law recognizes intangible property (i.e. pension funds; insurance) as part of the property to be distributed on dissolution. Please also indicate whether the law provides for the distribution of future earning capacity and human capital, or considers enhanced earning capacity or human capital in any manner upon the distribution of property on dissolution (e.g. through a lump-sum award reflecting the other spouse's estimated share in this type of asset, or by allowing for an award of compensatory spousal payment).

In cases of divorce or the dissolution of a registered partnership, German law foresees a multiple-component procedure for determining the distribution of property between the two partners:

1. Distribution of surplus
2. Adjustment of pension claims
3. Maintenance after the marriage.

A distribution of surplus takes place when the spouses were living in a community of accrued gain. When the accrued surplus is distributed, all of the spouses' property on a certain date, which was separate during the marriage, is assessed, and the monetary value of the property accrued by each is determined. The difference that results is distributed equally between each of the spouses. In making this assessment, all forms of property are considered, i.e. immaterial property is also taken into account. An exception is made here with regard to pension claims related to old age or invalidity. These are distributed within the context of

statutory pension equalisation. Future earning capacity and human capital are taken into consideration under maintenance laws.

Through the pension equalisation process all of the claims to a pension related to old age or invalidity established during the marriage are distributed equally between the spouses (regulated in Articles 1587, and following, of the Civil Code, as well as in a number of auxiliary acts). The spouse who accrued a smaller claim to a pension during the period of the marriage profits most from this regulation. This is usually still the wife, because she still often refrains from working, or working full-time, in order to care for children. This allows the spouse entitled to equalisation to attain an independent pension claim, thus the spouse is accorded a status equivalent to having acquired the pension claim her- or himself. The claim of the spouse obliged to contribute to the equalisation is correspondingly reduced. The legal institution of pension equalisation has existed since 1977. Since 2005 pension equalisation has also taken place in cases of the dissolution of a registered partnership. A reform of pension equalisation is currently being deliberated in the Bundestag. The reform is intended to simplify the system of equalisation, but still adheres to the principle of equally distributing the claims established during the marriage between the two partners.

Maintenance after the marriage is due when, and to the extent that, a spouse is not able to provide for herself or himself after a divorce. Maintenance is only due in cases such as those cited under Articles 1570 to 1576 of the Civil Code. Of these, the most important case in practice is maintenance for childcare according to Article 1570. According to this principle, the parent who cares for a child of both partners is entitled to support from the other spouse until the child is at least three years old. Maintenance for childcare must be paid, in addition to minimum maintenance payments, when in individual cases the parent caring for the child

cannot be expected to pursue gainful employment. This can be assumed to be both a result of conditions related to the child (lack of childcare options) or related to the marriage (no gainful employment by a spouse during a very long marriage). In addition, maintenance can be due as a result of the age or illness of a spouse, as well as because of unemployment, education, further training, or other grounds for equity (Articles 1571 to 1576).

Since the reform that came into force on 1 January 2008, the recognition of entitlements to maintenance after divorce is more strongly based on the principle of individual responsibility. This is also made more concrete through the option granted the courts under Article 1578b Civil Code to place a limit on the duration of claims to maintenance and the amount of the maintenance payments. According to Article 1578, the amount of maintenance claimed is basically measured according to the standard of living, i.e. the lifestyle typical of the married couple at the point of separation. The spouse entitled to equalisation can basically claim half of the family income, minus income of her or his own, as maintenance. The claim to maintenance is nil and void when it appears to be grossly unfair in the sense of Article 1579 Civil Code. This can be assumed particularly in cases where a spouse objectively lives in a new, stable partnership with a third party.

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is conducting the project entitled *Was kommt nach dem Ernährermodell?* (What comes after the breadwinner model?) together with the Max-Planck Institute for Foreign and International Social Law in Munich; its objective is to academically accompany and publicly discuss the transformation of role models from the single-breadwinner system to economically independent of men and women.

Initially, a conference of experts with a German-Italian focus on the topic of “Individual Responsibility, Private and Public Solidarity – Role Models in Families – and Social Law in European Comparison” was staged at the Villa Vigoni in Como, Italy from 4-6 October 2007. The focus was on social and family law in different European countries (Denmark, Germany, France, Great Britain and Italy). The point of departure was the question as to whether certain constellations in both areas of law promote economic independence and ensure the individual livelihood of women as well as what alternatives to the breadwinner model might look like. The focus was also on the situation after a divorce. The international perspective is to be made fruitful for Germany during the further course of the project. An extensive documentation of the conference is available. In October 2008, a subsequent conference took place to assess and further pursue questions from the first conference, it will also deal with questions of post-marital maintenance, the distribution of wealth in cases of divorce, and security in old age. A documentation is planned.



Antidiskriminierungsstelle des Bundes

Federal Anti-Discrimination Agency

Cumulative Statistics since August 2006

Period: August 2006 to August 2008-11-11

| | |
|-----------------------------|--------------|
| Total number of contacts: | <u>5100</u> |
| of those multiple contacts: | 1726 |
| = new contacts | 3374 |
| Other queries - | <u>- 734</u> |
| Queries on the AGG* | 2640 |

Characteristics of Victims as defined in the AGG*

| Characteristics | Number | % |
|-------------------------|--------|--------|
| Age | 390 | 20.08% |
| Sex | 486 | 25.03% |
| Disability | 520 | 26.78% |
| Sexual Identity | 87 | 4.48% |
| Beliefs | 3 | 0.15% |
| Religion | 56 | 2.88% |
| Ethnic Background | 272 | 14.01% |
| Multiple Discrimination | 128 | 6.59% |

*AGG = Allgemeine Gleichbehandlungsgesetz / General Equal Treatment Act
