REHABILITATION
UND TEILHABE
von Menschen mit Behinderungen

REHABILITATION
AND PARTICIPATION
of Persons with Disabilities

RÉADAPTION ET
PARTICIPATION
des personnes handicapées
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Overview

German social law provisions concerning persons with or at risk of disabilities were revised and codified in Book IX of the Social Code (SGB IX), which came into force on 1 July 2001. SGB IX aims to eliminate disability-related discrimination and to promote self-determination and equal participation in the life of the community for persons with or at risk of disabilities by providing specific categories of assistance (participation assistance). The Federal Participation Act (Bundesteilhabegesetz, or BTHG) adopted in December 2016 marked a further milestone in this direction. The main purpose of the Federal Participation Act is to enact a major revision of SGB IX.

The focus in the new SGB IX is on the person with disabilities and shifts the emphasis from care and provision to self-determined participation in society. A wide range of new stipulations provide for involvement and participation of persons with disabilities and of disability organisations. For example, participation assistance expressly addresses the right of claimants to express their wishes and have a choice.

The Federal Participation Act introduced a new definition of disability. Under SGB IX, a person has a disability if they have a physical, psychological, intellectual or sensory impairment that, in interaction with attitudinal and environmental barriers, is highly likely to impair their equal participation in society for longer than six months.
This new definition of disability corresponds with that applied in the Convention on the Rights of Persons with Disabilities (CRPD). The CRPD definition in turn is based on the World Health Organisation (WHO) International Classification of Functioning, Disability and Health (ICF). The new SGB IX retains the distinction between disability and severe disability.

An example of self-determined participation is the ‘personal budget’. In place of non-cash benefits or services, assistance can also be provided in the form of cash or vouchers. Persons with disabilities know their own needs better than anyone else and are thus able to buy the assistance they need. This is a further step for persons with disabilities towards greater self-determination, greater independence and greater self-confidence.

SGB IX covers a broad range of benefits and services to promote participation:

- Medical rehabilitation assistance
- Occupational participation assistance
- Income support and other supplementary assistance
- Educational participation assistance
- Social participation assistance

The previous assistance to promote participation in the life of the community is specified in greater detail in the new SGB IX and grouped under social participation assistance. Educational participation assistance is a new category of assistance introduced in the Federal Participation Act. It brings together various categories of assistance that were previously grouped elsewhere.
These comprise support to enable persons with disabilities to make equal use of educational opportunities.

Assistance under SGB IX is delivered by the various rehabilitation providers except where the assistance and benefit laws governing them stipulate otherwise. Many other provisions of benefit law have been amended, aligned and standardised by the Federal Participation Act. A range of additional provisions serve to coordinate procedures and are cross-sectional in nature. These are binding for all rehabilitation providers. Their purpose is to improve cooperation among providers and with persons with disabilities. To this end, they have been redrafted for greater precision and to prevent divergence. Most of all, the new participation plan system helps overcome the disadvantages of the multi-provider system and enables assistance to be provided on a cross-provider, ‘one stop’ basis. The newly introduced participation system report aims to enhance transparency in cooperation between providers and in rehabilitation provision and to improve the scope for evaluation and control.
General

Legal framework

1 Persons with or at risk of disabilities can of course claim the same social benefits and kinds of assistance available to other persons. This principle is underpinned by Article 3 (3), second sentence, of the Basic Law (Grundgesetz), which provides that no one may be disfavoured because of disability. As an individual basic right, this provision is directly binding on the legislature, executive and judiciary, not only at federal level but also in the Länder and municipalities, and in other institutions and organisations exercising public authority. Legal relations between private individuals are indirectly affected by the prohibition of prejudicial treatment in so far as it has to be taken into account in the interpretation and application of civil law.

Moreover, the UN Convention on the Rights of Persons with Disabilities (CRPD) entered into force in Germany on 26 March 2009. The UN Convention has equal status with ordinary German federal law and, under Article 4 (5) of the Convention, is binding on the Federal Government and the Länder. It also serves authorities and the courts as an interpretation aid for national law. This applies not only to ordinary legislation, but notably also to constitutional law. The Convention serves as an aid to interpretation for the purpose of determining the substance and scope of basic rights and constitutional guarantees laid down in the Basic Law. The aim of the Convention is to promote equal opportunities for persons with disabilities and eliminate discrimination against
them in society. In Germany as elsewhere, the UN Convention has thus become a central yardstick and provides impetus for policies that are in conformity with human rights and committed to the idea of inclusion. Article 5(2) CRPD that prohibits all discrimination on the basis of disability corresponds in its essence to the prohibition of discrimination in Article 3 (3), second sentence, of the Basic Law.

2 With effect from 1 July 2001, the special social law provisions for the benefit of persons with or at risk of disabilities were consolidated and revised in Book IX of the Social Code – Rehabilitation and Participation of Persons with Disabilities (SGB IX). The most recent major revision of SGB IX came with the Federal Participation Act. Section 1 of SGB IX provides that persons with or at risk of disabilities receive benefits under SGB IX and under the assistance and benefit laws applicable to the various rehabilitation providers in order to promote self-determination and full, effective and equal participation in society and to prevent or counteract any discrimination. Consideration is also given to the special needs of women and children with or at risk of disabilities and of persons with or at risk of psychological disabilities.

3 The 2002 Act on Equal Opportunities for Persons with Disabilities (Behindertengleichstellungsgesetz) underwent a major revision with effect from 27 July 2016 to take account of the UN Convention on the Rights of Persons with Disabilities (CRPD). The definition of disability and the prohibition on discrimination for public authorities were brought into line
with the Convention. Clarifying the prohibition of discrimination for public authorities, failure to provide reasonable accommodation was expressly made a form of discrimination.

The new Act also represented a key step forward in terms of accessibility within the public sector. The Act contains a number of provisions to improve accessibility in Federal Government institutions. Federal agencies must progressively implement accessibility in existing buildings and also in information technology used by staff (such as information provided on intranets and electronically assisted administrative procedures).

To remove language barriers for people with learning, intellectual and psychological disabilities, the use of easy-to-read language is stipulated in the Act and in the Social Code. Public agencies are therefore to further increase the provision of information in easy-to-read language. From 2018, forms and decision notices are to be explained free of charge – as needed – either orally in simple, plain language or, if that is not sufficient, in writing in easy-to-read language. This is important for persons with disabilities, especially in administrative proceedings under the Social Code.

The new Act also provided for the establishment of a Federal Centre of Expertise on Accessibility (Bundesfachstelle für Barrierefreiheit), whose main purpose is to advise and support public agencies. The Federal Centre of Expertise is also able to advise business enterprises, industry associations and civil society, for example on agreeing targets to implement or improve accessibility. Organisationally, the Federal Centre of Expertise is attached to Deutsche Rentenversicherung Knappschaft-Bahn-See, the miners’, railway workers’ and seafarers’ pension insurance institution.
In the event of a dispute, persons with disabilities and associations recognised pursuant to the Act can now turn to an Arbitration Service set up under the Federal Government Commissioner for Matters Relating to Persons with Disabilities. Persons with disabilities are thus provided under the Act with a means of obtaining rapid, extrajudicial dispute resolution.

Finally, the new Act makes provision for improving the participation of disabled persons’ organisations with financial support for activities, with the aim of enabling self-advocacy organisations in particular to actively participate in shaping public affairs. Funding in the amount of €1 million a year is allocated for this purpose.

4 The General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz/AGG) entered into force on 18 August 2006. With this Act, the Federal Government transposed into national law a total of four EU directives banning discrimination on grounds of race, ethnic origin and gender. For persons with disabilities, the Act also provides protection from disability-based discrimination at work and in large areas of everyday life.

The Act protects persons with disabilities from discrimination in everyday transactions such as contracts of sale, hotel bookings and entering into insurance policies. The provisions of the Act require, for example, that in case of dispute, private insurance companies must provide proof that their insurance premiums and the prices for their services and products have been calculated in relation to the risk involved and according to generally accepted actuarial principles, and that persons with disabilities are not arbitrarily placed at a disadvantage.
Protection afforded under the General Equal Treatment Act also encompasses all areas of working life, from vocational education and training to job applications to rules on ending an employment relationship. Persons with disabilities may thus not be discriminated against because of disability when applying selection criteria and recruitment requirements or in the provision of access to vocational education and training and upward mobility. The labour law anti-discrimination provision laid down in SGB IX, which previously applied only to persons with severe disabilities, now applies to all persons with disabilities.

5 The UN Convention on the Rights of Persons with Disabilities (CRPD) has also applied in Germany since 26 March 2009. The Convention builds on the Universal Declaration of Human Rights and the UN covenants on human rights and formulates the key provisions of these documents for the situation of persons with disabilities. The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. In other words, rather than creating any special rights, it casts the universal human rights in more concrete and specific terms for persons with disabilities in light of their situation. It acknowledges disability as part of human diversity. The rights specified include the right to education, the right to work and the right to participation in cultural life.

For the purpose of implementing the Convention, the Federal Cabinet adopted a National Action Plan (NAP) on 15 June 2011. In the NAP, the Federal Government committed itself among other things to taking into account the special needs of persons
with disabilities in all policy-making and law-making initiatives from the outset (disability mainstreaming) and to closing existing gaps between the legal position and actual practice. The National Action Plan comprises some 200 smaller and larger measures in all areas of life. Inclusion is its central theme and policy principle. The aim is an inclusive society where persons with disabilities are not just provided for but fully participate.

On 26 and 27 March 2015 the presentation of the first German country report to the Committee on the Rights of Persons with Disabilities took place in Geneva. It became clear there that the Convention had set in motion a very important debate in German society about the topic of inclusion and also that progress had been made towards an inclusive society. On the other hand, the Committee highlighted more than 60 concrete areas where action was required and which needed to be constructively addressed at all levels of the state in Germany.


NAP 2.0 succeeded in taking the cross-cutting policy approach to a new level. All federal ministries contributed to the measures in the new National Action Plan. As a result, NAP 2.0 gives greater prominence to the concept of disability mainstreaming than in the first NAP. NAP 2.0 gives substantially greater emphasis to legislative measures than its predecessor. The new Action Plan also features an additional action area (awareness-raising).
The Federal Government Action Plan is supplemented with further action plans of the Länder, municipalities, welfare organisations as well as service providers and private sector enterprises.


The legal definition of disability was thus revised to match that used in the Convention and a large number of provisions were adopted to enable persons with disabilities to lead a self-determined life.

A central element of the Federal Participation Act is the separating-out of integration assistance from the ‘welfare’ system based around social assistance. This, too, serves to enhance individual self-determination by means of a modern right to participation.

**Persons with disabilities**

Under Section 2 (1) of SGB IX, ‘persons with disabilities’ are individuals who have a physical, psychological, intellectual or sensory impairment that, in interaction with attitudinal and environmental barriers, is highly likely to impair their equal participation in society for longer than six months. A person has an impairment if their physical and health condition diverges from that typical for their age.

This definition, which follows proposals issued by the World Health Organisation, focuses on participation in different areas
of life. Disability manifests itself not in a physical, intellectual, psychological or sensory impairment, but in the impaired or undeveloped interaction between the individual and their social surroundings. A deviation from the ‘typical condition’ means the loss or impairment of physical, intellectual or psychological structures normally present at the respective age. There is a disability if such an impairment restricts participation and thus affects one or several areas of life. The requirement that the impairment to participation must have a probable duration of at least six months rules out temporary impediments but not interventions to be taken as early as necessary in individual cases; this applies in particular for children with or at risk of disabilities.

The same deviation from the age-typical condition and the same functional restriction can lead to very different restrictions when it comes to participating in everyday life. The loss of the left middle finger would hardly prevent an administrative civil servant from going about their work, but it would seriously affect a professional violinist. Even severe impairments and limitations mostly do not have the same effects in all areas of life; a person with health impairments suffers only from certain functional restrictions, which means they have a ‘disability’ only in respect of certain activities and areas of participation, while their performance and capacity to participate may be undiminished or even exceptional in other areas of life. Accordingly, it is important to first consider a person’s individual abilities and to keep in mind that the individual assistance required by persons with disabilities may differ greatly even though the restrictions may be the same.
This differentiation by individual impairment to participation has become more and more important in the past and will continue to do so. In 2001, the WHO General Assembly, with German involvement, adopted and recommended that its members should implement the International Classification of Functioning, Disability and Health (ICF). The ICF is an interdisciplinary classification system that goes beyond the disease or disorder to describe its implications and takes more systematic account of the person’s entire background. To this end, the ICF integrates the medical and social dimension of functioning and disability and applies a biopsychosocial approach. This provides a cross-cutting view not only of the medical, but also of the individual and social levels of disability. In addition to the disease or disorder, the ICF also takes into account an individual’s personal and environmental context (facilitators and barriers) and thus the individual’s entire background. It defines functional health in terms of an individual’s personal interactions between health disorders (e.g. poor sight) and the personal and environmental ‘context factors’ (e.g. provision of spectacles, long cane, guide dog, tactile guidance systems, acoustic traffic signals or assistance by sighted persons). The ICF makes it possible not only to describe consequences of health conditions and disability by reference to the resulting deficits (‘nearly blind’), but also to incorporate the resources (currently) available to the individual (spectacles enable full participation) or their surroundings. Both positive and negative contextual factors are included in the analysis as they can increase or reduce the success of rehabilitation. This resource-oriented approach in the ICF supports person-centric planning of rehabilitation processes and the tailor-made design and development of aids and assistance.
The Federal Ministry of Labour and Social Affairs is funding a project to establish a basic approach for assessing needs in vocational rehabilitation. The project is based on a feasibility study on the current state and potential of needs assessment of support for participation in working life using the ICF. Its aim is to develop a cross-funder and cross-provider basic approach for assessing a person’s need of support for participation in working life. It uses the WHO biopsychosocial model, which promotes information exchange between all parties, more effectively structures the rehabilitation process and focuses on people and their personal needs in all needs assessment activities. The project is scheduled for completion in 2018.

It is important to ensure that the language and definitions used in relation to persons with disabilities do not contribute to conceptual, social or other forms of exclusion. They are to be understood as an indication of individual problems and opportunities and how each person can gain access to the assistance they need to participate in society. A further objective is to enable all persons with disabilities and their families to lead their lives as a natural and equal part of society.

The Federal Participation Act introduced an important change in the law with regard to needs assessment: Under Section 13 of SGB IX, rehabilitation providers are now required to deploy systematic processes and standardised assessment instruments. This enables uniform and verifiable assessment of rehabilitation needs by each rehabilitation provider. The stipulation is closely linked with those on cross-provider coordination of assistance under SGB IX, which were likewise revised by the Federal
Participation Act and entered into force on 1 January 2018. Seamless provision of assistance and effective implementation of the new participation plan system would not be possible without uniform and verifiable needs assessment instruments.

**Persons with severe disabilities**

9 The Federal Participation Act has made no difference with regard to the distinction between persons with disabilities and persons with severe disabilities. Persons with severe disabilities are defined as persons with disabilities whose degree of disability is determined to be at least 50 percent and who either lawfully reside, have their ordinary place of residence or are employed in the Federal Republic of Germany (Section 2 (2) of SGB IX). There are approximately 7.6 million persons with severe disabilities living in Germany.

10 The specific, very different forms of support and assistance (relative to the type and degree of disability) that persons with disabilities require in order to participate in working life and in society in general are not usually dependent upon whether a (severe) disability has been officially diagnosed. Rather, the presence of a disability is one of several criteria that determine eligibility for assistance and is subject to assessment by the responsible rehabilitation provider when deciding on the provision of social benefits. The determination of the degree of disability by means of a formal procedure provided for by the law on persons with severe disabilities (Part 3 of SGB IX) is only relevant for the special forms of assistance and rights it specifies (see No. 92 onwards) and for tax relief and other forms of compensation for disadvantages.
Participation assistance

Under Section 4 (1) of SGB IX, participation assistance comprises social benefits that, regardless of the cause of a person’s disability, are necessary in order to:

- Avert, eliminate, or mitigate a disability, or prevent the further progression or mitigate the effects of a disability;
- Prevent, eliminate or mitigate reductions in earning capacity or a need for long-term care, or prevent their further progression, prevent other social benefits from being claimed prematurely, or reduce amounts claimed;
- Secure lasting participation in employment in accordance with a person’s interests and skills;
- Promote an individual’s personal development in a holistic approach and enable or help them to participate in social life and to live a life that is as independent and self-determined as possible.

The same objectives are listed in Section 10 of SGB I, which creates a ‘general right of participation’ that must be respected across all social benefit sectors.

These requirements not only help in the interpretation and application of social law but are also generally recognised as guidelines for disability policy in the Federal Republic of Germany. Of the principles derived from them, the following require special emphasis:

- The objective of equal participation of persons with disabilities in society on the basis of self-determination and individual responsibility;
• The principle of finality according to which the necessary assistance must be offered to every person with or at risk of disabilities regardless of the cause of the disability, even when responsibility for this assistance lies with different providers and institutions having differing eligibility requirements;

• The principle of intervention at the earliest possible stage in order to minimise the degree and effects of disability and to compensate as far as possible for unavoidable effects with due regard to what is possible and necessary in each individual case;

• The principle of providing individual assistance that must be tailored to the actual needs of each person with or at risk of disabilities and must meet their needs by suitable means.

13 Participation assistance with the objectives specified in Section 4 of SGB IX is provided in the following categories:

• Medical rehabilitation assistance

• Occupational participation assistance

• Educational participation assistance

• Social participation assistance

Medical rehabilitation assistance and occupational participation assistance are supplemented by a further assistance category: ‘income support and other supplementary assistance’; this does not apply to youth welfare and social assistance.
No single social benefit sector is responsible for participation assistance as a whole or for specific categories of participation assistance. Instead, it forms part of the responsibilities of various providers which for the purposes of participation assistance are collectively referred to as rehabilitation providers. Under Section 6 of SGB IX, assistance is provided as follows:

- Medical rehabilitation assistance by statutory health insurance, pension insurance and occupational accident insurance funds and by providers of social compensation in the event of health impairments;

- Occupational participation assistance by the Federal Employment Agency and the providers of basic income support for job seekers, statutory pension and occupational accident insurance funds, and providers of social compensation in the event of health impairments;

- Educational participation assistance by statutory occupational accident insurance funds and (for certain groups of insured individuals) providers of social compensation in the event of health impairment, youth welfare providers and integration assistance providers;

- Social participation assistance by statutory occupational accident insurance funds, providers of social compensation in the event of health impairment, youth welfare providers and integration assistance providers.

From 2020, integration assistance providers take the place of social assistance providers where the latter are designated under Länder law for the provision of benefits and services for persons with disabilities. Until then, integration assistance continues to come under social assistance.

Because of their comprehensive remit, public youth welfare and social assistance providers step in as subsidiary providers for all types of participation assistance where the required assistance
cannot be obtained from the primary providers because eligibility requirements are not met in individual cases. In total, integration benefits are provided by eight categories of rehabilitation provider (see chart).

<table>
<thead>
<tr>
<th>Assistance category</th>
<th>Occupational accident insurance</th>
<th>Social compensation</th>
<th>Health insurance</th>
<th>Pension insurance</th>
<th>Federal Employment Agency</th>
<th>Basic income support for job seekers</th>
<th>Youth welfare</th>
<th>Integration assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical rehabilitation</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Occupational participation</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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</tr>
<tr>
<td>Educational participation</td>
<td>X</td>
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<td>X</td>
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<tr>
<td>Social participation</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

15 The principle of intervention at the earliest possible stage applies. Medical rehabilitation assistance and occupational integration assistance therefore take precedence over pension provision where, in the event that participation assistance is successful, there will be no pension payment or a pension payment is not expected to arise until some future time (Section 8 (2) of SGB IX and Section 9 (1) of SGB VI). This is referred to as the principle of participation assistance before a pension. The same applies if participation assistance helps to prevent, overcome, mitigate or prevent a worsening of the need.
for long-term care, referred to as the principle of participation assistance before care (Section 8 (3) of SGB IX and Section 5 of SGB XI). Where participation needs arise, the rehabilitation provider must actively encourage applications.

Model projects

In light of ongoing large numbers of new claimants for reduced earning capacity pensions and integration assistance/social assistance, the revised Section 11 of SGB IX introduced by the Federal Participation Act mandates the Federal Ministry of Labour and Social Affairs to carry out model projects to promote rehabilitation (‘Rehapro’ projects).

The purpose of these model projects is to try out innovative measures, approaches, methods and organisational models to support the principles of prevention before rehabilitation and rehabilitation before a pension, to maintain or restore work capability and to bring about a lasting reduction in the numbers of new claimants for reduced earning capacity pensions and integration assistance/social assistance. With regard to basic income support for job seekers (SGB II) and statutory pension insurance (SGB VI), the purpose of the model projects is to try out innovative approaches for supporting people with health impairments and to further improve collaboration between the parties involved in medical rehabilitation and occupational participation assistance. The greatest possible diversity of approaches and ideas are to be generated in order to set in motion a shared learning and discovery process that delivers ways of translating the outcomes of the model projects into practice for the long term. This may lead to future revision of the legal framework.
The question of what participation assistance is provided by which rehabilitation provider and under what conditions depends on the laws applicable to the individual rehabilitation providers (Section 7 of SGB IX); this takes account of the fact that the established system consists of various branches. Thus, assistance under statutory pension insurance can only be provided to individuals who are subject to statutory pension insurance, and integration assistance can only be provided to individuals who meet the eligibility requirements for that category of assistance; the relevant provisions are laid down in the respective Books of the Social Code and in other laws on the provision of assistance.

In contrast, provisions on the nature and objectives of participation assistance that can be similar for various social benefit sectors are to be found in one place – in SGB IX. This illustrates that the common objective of the greatest possible participation of persons with or at risk of disabilities is pursued in fundamentally the same way by all rehabilitation providers.

By bringing together provisions that apply uniformly to several social benefit sectors, SGB IX applies across the board in a similar way to the provisions of SGB I, IV and X that were already in place.

Given the particularities of the multi-branch system, however, these uniform provisions can only apply if the assistance legislation applicable to the individual rehabilitation providers does not stipulate otherwise; when drafting SGB IX, however, many earlier special provisions contained in individual assistance laws were repealed, replaced by references to SGB IX or amended in substance.
Rehabilitation providers are under obligation to cooperate. As a result, despite the distribution of responsibilities among agencies, participation assistance is provided on a one-stop shop basis. This cooperation is ensured by the new participation plan system which entered into force on 1 January 2018.

Under this system, it is no longer important for an application to be made with the ‘right’ agency. Even if a rehabilitation provider is not responsible, it must accept an application and independently work in consultation with the other rehabilitation providers to determine who processes and approves the application.

The participation plan system greatly simplifies matters for applicants, especially for people in complex situations involving multiple forms of assistance and multiple agencies. The agency accepting an application, and that agency alone, remains responsible for the applicant from then on. By law, agencies are no longer allowed to turn applicants away because they are not responsible for them.

Under Section 26 of SGB IX, questions regarding the internal administrative division of responsibilities between rehabilitation providers with regard to applications are to be solved wherever possible by mutual agreement in the form of joint recommendations (issued by the Federal Working Group on Rehabilitation). These are published on the website of the Federal Working Group on Rehabilitation (Bundesarbeitsgemeinschaft für Rehabilitation).

Disability associations, including voluntary welfare organisations, self-help groups, interest groups of women with disabilities and the central associations representing the interests of outpatient and inpatient rehabilitation institutions are
involved in the drafting of such joint recommendations and their needs must be taken into account in the recommendations wherever possible. The recommendations must also take account of the special needs of women and children with or at risk of disabilities.

A number of joint recommendations on cooperation between rehabilitation providers are already in force – for example on quality assurance, prevention and integration services – and more are in preparation. One recommendation governs the clarification of responsibilities and the participation plan system (rehabilitation process) in accordance with the Federal Participation Act; up-to-date information on the current status can be found on the website of the Federal Working Group on Rehabilitation at www.bar-frankfurt.de/publikationen/gemeinsame-empfehlungen/.

18 How, and to what extent, the objectives specified in Section 4 of SGB IX and Section 10 of SGB I can be attained for specific persons with or at risk of disabilities – their participation potential – must be determined individually. This requires a prognosis of the progress achievable with the best possible support. As the opportunities and problems of persons with or at risk of disabilities are not restricted to individual areas such as the medical or occupational sector, any assistance provided must take account of the specific circumstances of a person’s life which make up the framework within which rehabilitation and participation are to be achieved and which, due to their ‘functional restriction’, persons with disabilities do not approach in the same way as persons without disabilities.

The comprehensive concept of participation and holistic support resulting from Section 4 of SGB IX is supplemented by
further provisions of fundamental importance. These include:

- The priority of prevention (Section 3 of SGB IX);

- The entitled individual’s right of choice (Section 8 of SGB IX);

- Rapid, efficient and economic provision and coordination of participation assistance (Sections 19 et seq. and 28 (2) of SGB IX);

- Interaction between the types of assistance provided and cooperation between rehabilitation providers (Sections 19 et seq. and 25 et seq. of SGB IX).

Participation assistance must be deemed to be necessary to achieving the rehabilitation objectives. It is only deemed to be necessary if it helps achieve the objectives laid down in Section 4 of SGB IX. There must be no other suitable means available with which to achieve them. Alternative ways that negate the need for participation assistance include:

- Attaining the objectives with the help of the other social benefits (Section 4 (2) of SGB IX);

- Accessible environments;

- The willingness of employers, for instance, to provide at their own initiative and at their own cost vocational training for persons with disabilities.

Such alternative ways to attain the objectives must be practicable and viable. A rehabilitation provider that in view of such alternatives does not consider it necessary to provide assistance
must help the entitled individuals to identify and implement the most suitable alternatives and, if necessary, take the initiative itself. If alternative ways fail, participation assistance is still necessary within the meaning of the law. Where the prognosis indicates that there are several different ways to attain the objectives specified with equally good results, the entitled individual’s right of choice under Section 8 of SGB IX must be observed first. If there is still any scope for discretion, the principles of cost-efficiency and economy apply. Section 26 (2) of SGB VII, which applies to occupational accident insurance and stipulates that the objectives specified there are to be attained ‘by all suitable means’, is substantively identical. Where social assistance is concerned, Section 13 of SGB XII must be observed where the right of choice of persons with disabilities is restricted in certain circumstances. Similar provisions apply in connection with public youth welfare under Section 5 of SGB VIII.

20 Where assistance from different assistance categories or several rehabilitation providers is necessary, Section 19 (1) of SGB IX provides that, in consultation with each other and the persons entitled to assistance, the rehabilitation providers involved are required to identify the forms of assistance – by type, objective and scope in relation to their function – that are likely to be necessary to meet the person’s needs and to document them in written in electronic form (a participation plan) so that they can be delivered in a seamlessly integrated manner.

The required content of a participation plan is detailed in Section 19 (2) of SGB IX, which entered into force on 1 January 2018. With the consent of the person entitled to assistance, a participation plan meeting can be convened where the person is allowed to bring along authorised representatives and advisers within the meaning of Section 13 of SGB X together with other persons they trust (Section 20 of SGB IX).
A participation plan centres on identifying the forms of assistance that are needed in the individual case in relation to their function (Section 13 (2) of SGB IX). Thus, rather than being defined in general terms, assistance is provided in accordance with individual needs and the individual participation objectives to be attained with its help. Assistance must be adjusted as the rehabilitation process progresses and must be aimed at helping the person attain full participation in social life (corresponding to the objectives in Section 1 and Section 4 (1) of SGB IX) in a rapid, efficient and economical way and on a lasting basis while taking account of the particular features of the individual case. The rehabilitation providers must support the process from start to finish in accordance with the person’s needs (participation management).

Persons with illnesses, persons with disabilities and persons in need of long-term care must be supported to enable them to lead a life that is as independent and self-determined as possible. This is the purpose served by personal budgets, which can also be provided in the form of an overall cross-provider budget for all relevant assistance and benefits.

Under a personal budget, which is available on application, persons with disabilities or in need of long-term care receive regular or one-off cash payments instead of benefits in kind and can use the payments to organise and buy the services they need. This replaces the traditional assistance triangle of rehabilitation provider, claimant and service provider; services are replaced by cash payments and vouchers.

Specific items of budget expenditure are set out in detail in a target agreement drawn up with the claimant. This provides for quality assurance in respect of the services received. There has been a legal entitlement to this form of provision since
1 January 2008, meaning that on application, all rehabilitation providers must approve the provision of assistance in the form of a personal budget. Experience so far has shown that personal budgets are mostly applied for in respect of integration assistance and, as a rule, involve ongoing assistance in kind being replaced with financial assistance.

22 Under section 10 of SGB IX, where appropriate in the individual case, the responsible rehabilitation provider must, at the inception, during the provision and on completion of medical rehabilitation assistance, assess whether the earning capacity of a person with or at risk of disabilities can be maintained, improved or restored by means of appropriate occupational participation assistance. If during the provision of medical rehabilitation assistance it becomes evident that it may be difficult for a person to keep their current employment, the need for occupational participation assistance must be assessed without delay, both in consultations with the person concerned and with the responsible rehabilitation provider.

23 In addition to occupational participation assistance, persons with severe disabilities may, if the requirements are fulfilled, also receive special assistance and other support under Part 3 of SGB IX (further details are given in No. 91 onwards).

This assistance is financed from the compensatory levy that employers have to pay if they fail to meet their obligation to employ persons with severe disabilities.

Assistance provided by statutory long-term care insurance funds, which are not among the rehabilitation providers, will be covered in greater detail in No. 44.
**Prevention**

In accordance with the objective in Section 3 of SGB IX, the priority aim is targeted prevention across all age groups and areas of life so that disabilities and chronic illnesses are avoided wherever possible. Key areas here include occupational safety and health, accident prevention, workplace integration management, environmental protection and preventive health care, in particular with regard to chronic degenerative diseases. With the current state of science and technology, however, measures to prevent disability will only every have partial success. Firstly, a large number of potential risks affect people and their development where the factors that cause disease and disability are not fully known, individually or in combination. Secondly, continuously changing living conditions make it harder to recognise and eliminate factors whose effects only become apparent in the longer term. For example, there is broad consensus that psychological stress is increasing with changes in the world of employment. With ongoing globalisation, economisation, technological developments and structural change towards a service and knowledge-based society, the world of work is changing and becoming more complex and dynamic. The demographic shift in the age structure of the working population – with fewer younger workers and more older workers who will work longer – is paralleled by larger numbers of chronically ill workers and workers with disabilities. Health conditions, disabilities and their impacts are also changing. A growing share of the workforce is already chronically ill due to stress, burnout and depression. New prevention mechanisms need to be developed to address these trends.
Prevention is important from the outset. In particular, women and men who are known to have hereditary risk factors can benefit from genetic advisory services that allow them to consider and weigh the risks of pregnancy. Medical supervision during pregnancy, including regular preventive check-ups to detect and eliminate risk factors, are among the services provided by health insurance and social assistance. Making use of such services is increasingly a matter of course.

The earlier in a child’s development an abnormality or impairment is detected, the easier it is to prevent or treat successfully. Measures introduced in early childhood development phases can be especially effective in many cases. A series of medical examinations for the early detection of disease and abnormalities in newborn babies and children up to the age of six, plus an additional one after the tenth birthday, are mandatory under the statutory health insurance and social assistance schemes. A total of ten examinations are intended to detect symptoms that may indicate the existence or risk of a disability and help decide further measures to avert or eliminate it or at least mitigate its effects. These examinations are preferentially performed by paediatricians and suitably trained general practitioners. The results are recorded in an examination booklet that is kept by the parents. Each of these examinations is an essential component of a holistic prevention approach for the early detection of disabilities, and the last of them remain essential even if no health abnormalities have been detected in the child previously. The importance of nationwide protective immunisation (such as against polio) as an effective means of disability prevention is undisputed and the vaccination of infants is usually carried out during the preventive examinations. As children grow older, the school doctor service assumes the important tasks of early detection and prophylaxis.
**Early detection and early intervention**

27 A comprehensive support system exists to provide the best possible support for children with or at risk of disabilities. The necessary support is provided by registered paediatricians, specialised therapists, out-patient interdisciplinary early intervention centres and sociopaediatric centres serving larger catchment areas.

First-time medical consultation and treatment is normally provided by registered paediatricians who are supported in their work by experts at health offices and by Länder-appointed specialists for persons with disabilities. Early treatment and early intervention often require an interdisciplinary range of medical, remedial education, psychological, educational and social services within easy reach of the family home. The networks of regional early intervention centres and of sociopaediatric centres serving larger catchment areas complement each other here.

Sociopaediatric centres offer a wide range of diagnostic and medical-therapeutic services for children who are in need of intensive treatment and support. Early intervention centres provide above all remedial education, psychological, educational and social services for children and parents. The various facilities available in the field of early intervention vary in terms of the services they offer but also in terms of their organisation and working methods between the individual Länder and also regionally.
With regard to **early intervention measures** before a child goes to school, Sections 46 and 79 of SGB IX in conjunction with the Ordinance on Early Detection and Early Intervention for Children with and at Risk of Disabilities (Early Intervention Ordinance), which entered into force in 2003, stipulate that such measures must be provided in a uniform way and jointly as a single block of assistance on the basis of a therapy plan. As set out in Section 46 of SGB IX – introduced by way of the Federal Participation Act – this single block of assistance in the field of early intervention includes medical-therapeutic, psychological, remedial education, special educational and psychosocial services and counselling for parents and guardians together with assistance to ensure interdisciplinary cooperation. Definitions of the forms of assistance covered are contained in the Early Intervention Ordinance.

The costs of necessary medical and remedial education-related early detection and early intervention measures for children with or at risk of disabilities are covered by statutory health insurance funds, social assistance providers and youth welfare providers. Statutory provisions on the allocation of costs among providers entered into force on 1 January 2018 (Section 46 (5) of SGB IX).

**Under Section 20 of SGB V**, statutory health insurance funds must cooperate with occupational accident insurance funds on the prevention of occupational health risks. Persons covered by statutory health insurance are also entitled to regular medical check-ups from the age of 35 for early detection of diseases, particularly cardiovascular and renal diseases and diabetes; annual cancer screening is also provided for women from age 20 and for men from age 45 (Section 25 of SGB V).
30 Under Section 23 of SGB V, persons covered by statutory health insurance funds are entitled to medical prevention services, where necessary, in order to:

- Treat a health problem that would be likely to lead to a disease in the foreseeable future;

- Counteract risks to the healthy development of a child;

- Prevent disease or its progression;

- Prevent the need for long-term care.

If required, services such as these are provided in the form of preventive health cures at a health resort on an out-patient basis.

Under Section 14 of SGB VI, statutory pension insurance funds provide medical assistance to secure the work capability of insured persons who have incipient health impairments. This is in accordance with the principle of prevention before rehabilitation and rehabilitation before a pension. Pension insurance funds are to trial voluntary, occupation-specific health checks for insured persons from age 45 on a model basis.

31 Also of relevance for prevention are the provisions regarding the prevention of occupational accidents and diseases (Sections 14 et seq. of SGB VII and the accident prevention regulations of occupational accident insurance funds) and numerous statutory and collectively agreed provisions on occupational safety and health, where the increasing number of working substances that are harmful to health constantly demands the incorporation of new activities. New approaches to prevention at workplace level are also laid down in Section
147 of SGB IX. If difficulties arise in an employment relationship that could jeopardise employment, subsection 1 of that section requires the employer to involve the representative for persons with severe disabilities, the staff representations and the integration office as early as possible to discuss with them all possibilities and forms of assistance suited to resolve the difficulties and, if possible, to help continue the employment relationship on a permanent basis.

Under Section 167 (2) of SGB IX, all employers are required to implement integration management, meaning that they must provide targeted assistance and support services for employees with a longer-term health condition. Through early intervention pursuing the objectives of prevention and rehabilitation, employees retain their employability rather than facing dismissal or early retirement. If employees are unfit for work for more than six weeks in a given a year, either continuously or recurrently, with the consent and participation of the persons concerned the employer consults the staff representation and, if appropriate, the representative for persons with severe disabilities to identify ways to overcome the employee’s unfitness to work and the type of assistance or aids needed in doing so. External bodies may also be called in. Employers who introduce integration management measures may receive incentives from rehabilitation providers and integration offices in the form of awards and bonus payments. While failure to introduce integration management measures is not subject to sanctions, employers who fail to meet the requirement find it significantly more difficult to enforce illness-related terminations of employment against the will of the employee concerned.
Medical rehabilitation assistance

According to Section 42 of SGB IX medical rehabilitation assistance is provided in order to avert, eliminate, mitigate or compensate for a disability or prevent the further progression of a disability, to prevent, eliminate or mitigate reductions in earning capacity or a need for long-term care, or prevent their further progression, prevent other social benefits from being claimed prematurely or reduce amounts claimed.

Medical rehabilitation assistance includes:

- Treatment by doctors, dentists and members of other health professions provided that their services are delivered under medical supervision or on medical prescription; this includes help in developing self-healing potential;

- Early detection and early intervention for children with or at risk of disabilities;

- Medicines and dressings;

- Therapeutic remedies including physical therapy, speech therapy and occupational therapy;

- Psychotherapy as medical and psychotherapeutic treatment;

- Medical aids;

- Tolerance-level testing and occupational therapy.
Only a few of these services are specific to rehabilitation; since prevention, acute treatment and medical rehabilitation tend to overlap in terms of aims and the specific medical or medically prescribed measures involved, the majority of services are very much the same as those required to treat an illness, for example under the health insurance system. On the one hand, preventive measures and participation assistance are intended to eliminate the need for acute treatment at a later date. On the other hand, however, acute treatment must be designed in such a way that no disability or only the lowest possible degree of disability remains once the treatment is ended. Where a functional restriction remains, the treatment should prepare the individual, for example through training with aids, to live with the restriction and its consequences. For this reason, Section 11 of SGB V makes it clear that statutory health insurance must provide medical rehabilitation assistance with the aim of averting, eliminating, mitigating or compensating for disability or the need for long-term care, preventing the further progression or mitigating the effects of disability; according to Section 27 of SGB IX, acute treatment must always be in line with the aims of rehabilitation as laid down in Section 42 of SGB IX.

Where medical rehabilitation assistance is concerned, special emphasis is given to the provision of aids under Section 47 of SGB IX. Accordingly, a person is entitled to the aids required in their individual case if they can be worn or carried by the person or taken with them if they move house – for example, a wheelchair with special fittings. The entitlement includes any necessary alterations, repairs and replacements and training in the use of the aids. Special counselling provided by the medical review board of the statutory health insurance funds in cooperation with orthopaedic supply centres (Section 275 (3) of SGB V) is also intended to ensure that the supply of disability aids is adapted to individual needs. Details concerning
the supply of aids are governed by the guidelines of the national associations of health insurance funds. For occupational accident insurance, there are provisions governing the supply of orthopaedic aids to people injured in accidents. The provision of compensation is regulated by the Orthopaedics Ordinance (Orthopädieverordnung).

35 According to Sections 64 et seq. of SGB IX and supplementary provisions in individual laws governing benefits, medical rehabilitation assistance is provided together with income support and other supplementary assistance, in particular cash subsistence benefits (sickness benefit, bridging allowance, injury benefit and compensation for loss of income), home help (Section 74 of SGB IX) and travel expenses (Section 73 of SGB IX). Travel expenses include necessary travel, food and accommodation expenses.

36 Statutory pension insurance funds provide (in addition to pensions) rehabilitation and participation assistance on a discretionary basis; with other providers, there is a legal entitlement to such assistance.

37 Under statutory health insurance:

- Children with disabilities are (co-)insured for an indefinite period if one parent is insured and the child cannot provide for itself;

- Persons with severe disabilities have an autonomous right to become members under certain conditions (Section 9 (1), No. 4, of SGB V).

38 The provision of effective medical rehabilitation services requires a sufficient range of (functionally) suitable facilities. The rehabilitation providers adopted a joint recommendation
for this purpose in 2003, ‘Quality assurance in accordance with Section 37 (1) of SGB IX’. In addition, they have adopted an agreement on internal quality management in accordance with Section 37 (3) of SGB IX for quality assurance and continuous quality improvement in rehabilitation services provided by facilities. This requires institutional medical rehabilitation facilities to take part in a standardised and independent certification procedure to demonstrate successful implementation of quality management at regular intervals.

For health insurance, Section 107 (2) of SGB V additionally lays down essential requirements for institutional medical rehabilitation facilities. Both these and out-patient facilities must obtain certification (Section 137d of SGB V).

39 As a rule, out-patient measures are to be given priority over in-patient measures if the required measures can be provided with the same effectiveness. The individuals concerned receive financial support and social insurance coverage for the duration of rehabilitation measures implemented on an out-patient basis. Employees are generally entitled to continued payment of wages by their employer if they are prevented from working when receiving medical rehabilitation; this applies irrespective of whether the rehabilitation measures are provided on an in-patient or an out-patient basis. Depending on the provider involved, continued payment of wages may be followed by the payment of sickness benefits, compensation for loss of income, injury benefits or bridging allowances; this also leads to compulsory social insurance coverage and payment of contributions by the rehabilitation providers.
According to Section 41 of SGB V, however, the principle of giving preference to out-patient over in-patient measures does not apply to rehabilitation measures provided for mothers in facilities of the Müttergenesungswerk or similar facilities, because institutional care for mothers of children with disabilities provides considerable relief.

Gradual reintegration into employment as set out in Section 44 of SGB IX and Section 74 of SGB V (the ‘Hamburg model’) is primarily meant for people with chronic illnesses and those undergoing rehabilitation who, despite of their unfitness for work, are considered by their doctor to be able to perform their previous employment to a certain extent. Depending on the type of illness and the treatment needed, weekly working hours begin with a few hours and gradually extend to a normal working week; this phase of adjustment may take up to several months. The gradual resumption of employment is not intended to make a person work while they are still unfit for work (and must in no way interfere with the process of convalescence) but is exclusively intended to serve the purposes of rehabilitation.

With chronic illnesses, as with other illnesses, it is often sufficient and appropriate to provide treatment and rehabilitation close to the patient’s home rather than on an in-patient basis. Advantages include avoiding incapacity for work, involvement of family and friends, and in most cases lower costs compared with in-patient treatment. Generally, however, options for rehabilitation in the context of out-patient treatment are still far from being fully exploited. It is therefore necessary to find ways of moving away from the intermittent therapy practised to date and towards ongoing long-term rehabilitation. In cooperation with rehabilitation provider organisations, the Federal Working Group on Rehabilitation publishes written guidance for doctors and other rehabilitation
professionals that can help improve the level of knowledge regarding the options for rehabilitation.

43 An increasingly important role in medical rehabilitation is played by (in some cases voluntary) care services, disability organisations and self-help groups. These work in close cooperation with rehabilitation providers and represent an important complement to the professional healthcare system, for example in dealing with chronic degenerative diseases (Section 20 (4) of SGB V and Section 45 of SGB IX).

*Participation assistance before care*

44 In order to avoid elderly people becoming in need of long-term care, professional geriatric rehabilitative treatment is usually necessary. Intensive therapy (including physiotherapy, kinesiotherapy, speech and occupational therapy) is often successful in rehabilitating elderly people to such an extent that they can either return to live with their relatives or can live in a senior citizens’ home where they retain a large degree of independence. It may also be possible to improve their condition to such an extent that they are able to run their own household and be wholly or partly independent of outside help. Here, as elsewhere, the priority is on non-institutional over institutional care. Long-term care insurance funds must provisionally provide medical rehabilitation to counteract a present or impending need for long-term care. If a person who claims benefits from a long-term care insurance fund is in hospital or in a rehabilitation institution and there are indications that an assessment by the statutory health insurance medical review board is required to ensure ongoing provision of out-patient or in-patient care, the assessment must be made no later than within one week.
The principle of participation assistance before care is implemented in practice by a three-tiered system of rehabilitative facilities (Section 9 (3) of SGB IX, Sections 11 and 23 of SGB V and Section 5 of SGB XI):

• Geriatric out-patient departments in hospitals and social centres with mobile services (particularly physiotherapy and occupational therapy), also intended for continued intensive rehabilitative treatment following a stay in an in-patient institution;

• Day clinics as partial in-patient institutions for patients for whom out-patient rehabilitative care is insufficient, but for whom in-patient treatment is not or no longer necessary;

• Institutions to provide adequate in-patient care for people suffering from age-related disease and of people with long-term illness. Among other things, these offer skin care, bladder training, physiotherapy, occupational therapy with self-help training programmes, psychological care and speech therapy;

• In addition, general out-patient and in-patient medical care and institutional assistance for senior citizens have been remodelled with a greater emphasis on rehabilitation.

In order for doctors to make extensive use of elderly patients’ participation capacity, they need to be aware of that capacity and embrace the conviction that elderly people have the right to lead a dignified life as independently as possible of outside help. Even in severe cases, if a patient can at least be enabled to swallow without help and feed themselves in place of intubation, or use the toilet unaided, then an important rehabilitation aim has been achieved.
**Rehabilitative sport and sport for persons with disabilities**

47 Rehabilitative sport prescribed as a form of supplementary assistance was primarily regarded in the past as a means of helping a person with disabilities improve performance and resilience. Today it is also seen as a contribution towards social and psychological stabilisation and social participation as a whole. Assistance in the form of rehabilitative sport is also provided to help women and girls with disabilities boost their self-confidence (Section 64 (1), No. 3 of SGB IX). Guidelines on the application of rehabilitative sport and functional training have been compiled in a framework agreement by the health insurance, pension insurance and occupational accident insurance funds, social compensation providers, the National Paralympic Committee Germany, the German Association for the Prevention and Rehabilitation of Cardiovascular Diseases and the German Rheumatic League with the involvement of the women’s advocacy network Weibernetz and the National Association of Statutory Health Insurance Physicians.

48 According to the Federal War Victims Relief Act (Bundesversorgungsgesetz), persons who have suffered damage to their health are entitled to participate in exercises for persons with disabilities to allow them to regain and sustain physical capability. The same applies to those who are provided for in accordance with laws under which the Federal War Victims Relief Act applies. Like rehabilitative sport, exercises for persons with disabilities are carried out in exercise groups under medical supervision and with specialist guidance as part of the regular local exercise activities of suitable sports clubs. Rehabilitative sport is also provided as integration assistance for persons with disabilities, which is a component of social assistance.
Education and training for persons with disabilities

49 Education is vitally important for all children and adults, with or without disabilities. It enables people to develop a self-reliant personality and has a decisive influence on opportunities for participation in social and working life.

50 It is the primary task of the education system to promote the development of skills with due regard to the aptitudes and abilities of each individual. To the extent necessary and possible, persons with disabilities should be provided with forms of assistance specific to their disability so as to support a successful educational process. The aim is not only to teach and acquire knowledge, skills and capacities but in very concrete terms also the provision of practical individual assistance along with social integration measures, not only in pre-school education and schools, in vocational training and in colleges and universities but also in further education and training. Article 24 CRPD regards inclusive schooling of children with and without disabilities as the norm. The Convention does not, however, provide an individual legal entitlement for children with disabilities and their parents.

51 In the first few years of a child’s life, basic dispositions are developed, for example with regard to language, social behaviour and openness to the world. It is especially important for children with disabilities to make the best possible use of the development opportunities of this early stage of life until the
commencement of nursery schooling. As far as possible, day-care centres for children should nurture children with disabilities together with children without disabilities (section 22a (4) of SGB VIII).

Many nurseries offer favourable conditions for joint education of children with and without disabilities as they are able to be flexible in providing children with individual support and children can learn social skills in a setting where achieving uniform standards of performance is not an issue as it is in later schooling. Various organisational forms have been developed with the aim of providing joint education at pre-school age for children with and without disabilities:

- Individual integration/inclusion of children with disabilities in neighbourhood nurseries;
- Integrative/inclusive groups in regular nurseries (alongside non-special-needs groups);
- Integrative/inclusive groups in special nurseries/school nurseries for children with disabilities (alongside special-needs groups);
- Integrative nurseries following the regular principle of joint education in all groups;
- Special and general nurseries as separate forms of nursery, including the ‘additive’ model where a special and a general nursery under different responsibility share the same premises.

School education is regulated in Länder education acts, secondary legislation under those acts, and decrees (details of which may differ from state to state). It is law in all Länder that children with disabilities (including the most severe disabilities) are subject to compulsory schooling like all other children.
Children with disabilities are required to be given as much educational support as possible to ensure they can achieve the educational aims of ordinary schools. Efforts are also made to educate as many children with disabilities as possible in regular schools and to provide additional special teaching aids and other suitable support as required. However, the Länder education acts do not generally confer a legal entitlement to specific additional assistance.

53 If other types of schools are generally or temporarily unable to provide adequate support for children with disabilities, special educational counselling and support services (known as mobile services) are often available, or the children are provided with special education at a special school that help them to achieve the educational aims that are within their capabilities. Like regular schools, special schools aim to help children with disabilities obtain a regular school-leaving qualification if they have the ability to do so. The Länder have different types of special schools focusing on the various special needs. In some Länder, certain forms of special education at special schools are being phased out. In those Länder, all children with special education needs or an assessed entitlement to special education attend regular schools.

54 Germany has a sophisticated and well-developed special needs school system. Different types of special schools focus on different needs:

• Learning

• Sight
• Hearing

• Language

• Physical and motor development

• Intellectual development

• Emotional and social development

• Chronic illness

In the 2015/2016 school year, a total of 517,000 children were taught with special educational intervention in both regular schools and special needs schools. For about a third of these (approximately 190,000), the focus was on learning assistance. Over the years, the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder adopted a series of recommendations for education in different types of special schools. In addition, in 2011, the Conference adopted a recommendation on inclusive school education that outlines conditions for increasingly inclusive educational practice in regular and vocational schools.

Special needs schools are normally legally obliged to assess each pupil at the end of every school year to determine whether it is necessary for the pupil to continue attending the special school. They are required to cooperate with other schools to work towards integrating pupils into classes with children without disabilities wherever possible or seek other forms of cooperation with regular schools.
56 Much has already been done to expand integrative support at school level so that joint schooling of pupils with special education needs and those without such needs can continue beyond the nursery stage. Many children with disabilities can receive very effective assistance in regular schools as long as they are provided with additional special needs teaching by specially trained teachers, a suitable degree of additional care, and facilities suited to users with disabilities; many Länder have already tested such models and amended their education acts accordingly.

57 Länder legislation notably contains provisions governing the – in many cases extended – duration of compulsory schooling for the individual types of special needs, special forms taken by the initial year of vocational training in schools, and satisfaction of the requirement to attend compulsory vocational education. For example, young people with intellectual disabilities meet this requirement in the vocational school/workshop stage of a special school; this stage prepares for employment subject to compulsory social insurance in the general labour market or transition to a workshop for persons with disabilities, which in many cases is the next step. Special needs schools generally have the task of preparing pupils to select a career during their final years at school; in this they cooperate closely with career counsellors (rehabilitation counselling service) at local employment centres. Preparation of young persons with significant disabilities for, and their integration into, the primary labour market is supported under action areas 1 and 2 of the Inclusion Initiative.

58 If a school cannot provide the disability-specific assistance required by a child with disabilities in order for them to attend a regular school, integration assistance for persons with disabil-
Integration assistance for persons with disabilities to ensure that they receive appropriate school education and training for a suitable occupation goes far beyond assistance to attend secondary schooling through to higher education (Section 54 of SGB XII and Sections 12 and 13 of the Integration Assistance Ordinance). If no other provider is responsible (such as a health insurance fund), social assistance also pays for additional therapy services during school education. For young persons with disabilities, it pays for measures aimed at providing training in practical everyday skills and to help them cope with everyday life.

Measures to compensate for disadvantages of persons with disabilities are also needed in respect of higher education. Nobody may be prevented from studying at the higher education institution of their choice on account of disability or chronic illness. Under Länder law, higher education institutions are required to take account of the special needs of students with disabilities. They must ensure that students with disabilities have access to courses and amenities on an equal footing and without discrimination. Higher education institutions and student services invest in accessible structures to this end. To improve their study opportunities, Deutsches Studentenwerk (DSW, the German National Association for Student Affairs) has set up IBS, an information and advice centre on studying with disabilities. Targeting both enrolled and prospective students, IBS collates study options for persons with disabilities throughout the country and also offers information and counselling.
Students with disabilities need enhanced scope for adjusting their studies to their individual needs. In individual cases, distance learning courses and flexible part-time study can be an alternative to on-campus studies.

Under the Federal Education and Training Assistance Act (Bundesausbildungsförderungsgesetz/BAföG), students with and without disabilities have equal access to assistance to promote academic study. The Act contains a number of specific provisions to compensate for disadvantages due to disability. Thus, in addition to the normal maximum period of assistance, students with disabilities receive additional assistance for the length of time by which a course of study is extended to accommodate their disability. The additional period of assistance on grounds of disability is granted as a subsidy and not as a fifty percent loan as in normal circumstances. Where the parents’ or spouse’s income is taken into account when assessing needs, to avoid undue hardship persons with disabilities may claim expenses that exceed the fixed allowance rates.

The need for education lasts a lifetime, both for persons with disabilities and for persons without disabilities. To integrate persons with disabilities into further education, ideas are devised and tested for improving specific training for further education lecturers and models are developed to promote suitable further education courses. However, while the Federal Education and Training Assistance Act takes account of disadvantages that are due to a disability, it does not take account of any additional needs due to a disability. In many cases, disability-specific assistance for studies is financed through integration assistance.
Careers counselling

It is important for persons with disabilities to have access to employment as far as possible in accordance with the same principles and criteria and at the same learning venues as persons without disabilities. All vocational options and possibilities available to persons without disabilities are fundamentally also open to persons with disabilities. The principle of integration has therefore always had high priority in vocational training and employment for persons with disabilities.

The transition from school to training, employment or study is crucial to ongoing participation and is therefore an especially important step for young persons with disabilities. Choosing a career or course of study calls for thorough preparation starting as early as possible; schools, career counsellors and parents must work closely with the individuals with disabilities themselves. Preparatory measures begin in school (regular school or special needs school for the various categories of disability), with specific subjects (such as employment studies, technical skills/crafts, and commerce/economics) intended to convey basic knowledge about working and professional life. The detailed arrangements are the responsibility of and vary among the Länder. Vocational guidance is of particular importance for the transition to working life. For young persons with disabilities to make an initial career choice for the path that best fits their skills, wishes and desires, it is necessary that they be shown all possible alternatives for future careers such as supported employment while they are still in school. In order to establish and expand vocational guidance structures in schools, the €80 million of federal funding is being provided in an Inclusion Initiative programme. Practical occupational orientation is also provided by way of, for example, further Länder funding programmes and work placements. Vocational guidance
includes career planning meetings and internships. Schools make use of informational material of the Federal Employment Service.

66 The Federal Employment Agency is required by law to work with schools and other bodies in the provision of career counselling (Section 29 et seq. of SGB III). Details are governed by a framework agreement on cooperation between schools and career counselling centres entered into between the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder and the Federal Employment Agency on 15 October 2004, and by relevant provisions of Länder law. There is regular contact at federal and Länder level between the authorities for education and cultural affairs and the Federal Employment Agency.

67 The Federal Employment Agency is required to offer professional career counselling in accordance with the principles laid down in Sections 29 et seq. of SGB III. Specialised career counselling centres for persons with disabilities are provided by local employment agencies under Section 104 (4) of SGB IX and cover:

- Advice and information on career choice, including on change of occupation;
- Vocational information (vocational orientation);
- Information on the assistance available for vocational training in individual cases;
- Placement in vocational training places.
The career counselling service also provides information about the financial benefits aimed at integrating persons with disabilities into working life.

The use of career counselling at employment agencies is voluntary and free of charge. Where necessary, career counsellors for persons with disabilities will consult the specialist medical and psychological services run by the employment agencies in order to assess the aptitude and interests of the young person and to obtain an indication of possible vocational assistance needs. For young blind persons, the Federal Employment Agency offers a special information package on career choice. Career counselling and placement in vocational training can also be provided by third parties if it is in the interests of the individual.

For young people with learning disabilities especially, it has proved useful for (special needs) schools and career counselling centres to compile a joint assessment of options for participation in working life and the education and training measures needed for the purpose; this practice has already been universally adopted in some regions. As well as providing guidance for young persons with disabilities and their families, this also helps document regional needs for assistance.

Before making a final decision on the nature and scope of necessary training measures, it has proved useful in cases of doubt to reexamine the aptitude and interests of a young person with disabilities for a particular vocational area. In many cases it is also necessary to prepare persons with disabilities for the type of training planned by giving them preparatory assistance specific to the training they will receive. The following come into question alongside the training itself:
• Vocational assessment and work testing;

• Educational measures to prepare for vocational training or employment;

• Specific types of basic training for blind persons and comparable types of training;

• Preparatory measures in advance of vocational further education and training.
Occupational participation assistance

71 It is an education and social policy priority, especially in the face of problems on the labour market, to provide comprehensive training opportunities for persons with disabilities so that, to the greatest extent possible, they have the same opportunities as persons without disabilities in the competition for permanent vacancies.

72 Under Section 49 of SGB IX, occupational participation assistance is required to take in all forms of assistance needed to sustain, enhance, generate or restore the earning capacity of persons with or at risk of disabilities while taking account of their abilities. The ultimate aim is to ensure their uninterrupted participation in working life wherever possible. When selecting options for occupational participation assistance, appropriate account must be given to the aptitudes, interests and earlier occupation of the individual with disabilities and of the current and future situation in the labour market. Women with disabilities are given equal opportunities in the workplace.

73 In addition to those mentioned under Nos. 64–70, other forms of occupational participation assistance include:

• Assistance to retain or obtain employment, including activation and occupational integration;

• Preparation for employment, including basic training necessitated by the disability;
• Individual workplace training as part of supported employment;

• Vocational adaptation and further training, including the obtaining of an educational qualification required to take part in the vocational adaptation or further training;

• Vocational training, including courses that are not predominantly school-based;

• Assistance becoming self-employed provided by the rehabilitation providers as laid down in Section 6 (1), Nos. 2–5 of SGB IX;

• Other forms of assistance to promote participation in working life in order to allow persons with disabilities to obtain and remain in appropriate employment or self-employment.

In some instances there is a legal entitlement to occupational participation assistance deemed to be necessary in an individual case; in other instances it is discretionary.

74 In many cases, the rehabilitation objective can be attained by means such as technical aids for the workplace, assistance for disability-specific adaptation of the workplace or the purchase of a motor vehicle under the Motor Vehicle Assistance Ordinance (Kraftfahrzeughilfe-Verordnung), or training subsidies and integration assistance paid to employers. However, the main focus in occupational participation assistance is on vocational training.

75 Under Section 64 of the Vocational Training Act (Berufsbildungsgesetz) and Section 42k of the Crafts and Trade Code (Handwerksordnung), the primary objective of vocational
training for persons with disabilities is training in an officially recognised training occupation. Wherever possible, such training should take place together with persons without disabilities in an enterprise or public-sector entity. Under the Länder education acts, workplace-based training is supplemented with attendance at a vocational school (dual system). On-the-job training is made possible in many cases by paying training subsidies to employers.

76 The special circumstances of persons with disabilities are taken into account where necessary during training in an officially recognised training occupation. This is provided for under Section 65 (1) of the Vocational Training Act and Section 42l (1) of the Crafts and Trade Code. Recommendations adopted by the Board of the Federal Institute for Vocational Training and Education (BIBB) provide guidance on how the special concerns of persons with disabilities may be taken into account in intermediate, final and apprenticeship examinations. For instance, individual training units may be dispensed if they are of secondary importance in subsequent employment. If there is a need to modify the standard required in examinations due to a candidate’s disability, this will be recorded on the certificate.

77 Section 66 of the Vocational Training Act and Section 42m of the Crafts and Trade Code provide that for young people who cannot be trained in officially recognised training occupations because of the nature or severity of their disability (despite extra assistance and the possibility of derogating from the training regulations), the competent regional authorities must provide training arrangements on the basis of recognised training occupations and in line with the recommendations of the BIBB Board. The training takes the special needs of persons with disabilities into account and generally includes less theory. The adapted training courses are required to lead to a final qualifica-
tion that can be used to seek employment in the labour market and guarantees access to officially recognised training occupations. A large proportion of the adapted training courses for persons with disabilities are accounted for by training in home economics, followed by farming, metalworking trades, and building and allied trades.

78 The stated principles governing the vocational training of persons with disabilities also apply to the further training of adults as rendered necessary by a disability; it is however possible for adults to be retrained in professions other than the officially recognised training occupations. Under Section 53 (2) of SGB IX, full-time vocational further training assistance is not normally paid for longer than two years.

79 Where circumstances permit, persons with disabilities should train together with persons without disabilities in enterprises and public-sector entities; the same applies to further training of adults with or at risk of disabilities. Experience shows that such training offers particularly favourable prospects of lasting participation in working life since it enables the trainees to grow accustomed to the conditions and demands of everyday working life, and trainees are normally taken directly into employment afterwards. Where enterprises and vocational schools are willing and able to provide training while taking adequate account of disabilities, priority is also given to such training for persons with disabilities.

80 Where due to the nature or severity of the disability or to ensure successful participation, workplace training makes it necessary to accommodate persons with disabilities away from
their own or parental home, expenses are paid for board and lodging (Section 49 (7), No. 1 of SGB IX).

81 Where necessary due to the nature or severity of the disability or to ensure successful participation, vocational training measures are provided in special centres for vocational rehabilitation (Section 51 of SGB IX). These centres for the initial vocational training of young persons with disabilities (vocational training centres) and the retraining of adults with disabilities (vocational retraining centres) and comparable occupational rehabilitation institutions are equipped with the necessary specialist services (medical, psychological, educational and social). The costs of such rehabilitation measures are borne by the responsible rehabilitation providers. The training programmes must take account of the personal interests and abilities of persons undergoing rehabilitation, be geared to the changing demands of the labour market and adapt to developments in technology.

82 Integrated vocational training is often used to boost the rate of success of such measures and ease the transition into non-workplace training. In integrated vocational training, workplace and external vocational education and training are integrated in such a way that young persons with disabilities who are trained in a vocational training centre or another external education centre are encouraged to complete certain elements of their training in an enterprise or public-sector entity. During the workplace phases, the young trainees remain rehabilitation patients of the responsible institutions and these in turn remain responsible for providing vocational education and training as a form of vocational training assistance and are under obligation to support employers in training and supervising their trainees. Rehabilitation providers thus bear the
costs of vocational education and training during this time, something that is of key importance to the institutions and to the businesses involved because the enterprise providing the training incurs no costs in providing training for young persons with disabilities. Also, during their training in enterprises and public-sector entities, the young persons with disabilities are classed as holding two mandatory quota places (see No. 93).

83 In addition to the vocational training centres and vocational retraining centres, particular importance is assigned to centres for **medical and occupational rehabilitation** where, in the case of certain illnesses (such as neurological illnesses), initial steps of vocational assistance (such as assessment of aptitude for work and work testing, assistance for further training) are begun while medical rehabilitation assistance is still underway. These centres bridge the gap between purely medical-based centres for acute treatment and primary care and occupational rehabilitation centres that provide training and further training.

84 **Supported employment** involves individual on-the-job training and vocational support for persons with disabilities. Special focus is placed on integration into employment in enterprises on the general labour market. This instrument was introduced in 2009 with the express aim that more persons with disabilities should have the opportunity to work outside of a workshop for persons with disabilities. A path to the primary labour market will be opened for people whose performance potential is located in the area between general labour market and a workshop via a company ‘training period’ of two years with intensive socio-pedagogical support. For persons with disabilities with a special need for support, Supported Employment is an alternative for employment in the general labour
market; in particular, it may also be possible for young persons with disabilities within the framework of vocational orientation as a career path after leaving school.

The Federal Participation Act created new alternatives for employment alongside recognised workshops for persons with disabilities. Other providers are now permitted (Section 60 of SGB IX) and the budget for work has been introduced (Section 61 of SGB IX). All providers that meet the functional requirements can serve as other providers. Without being an employer, they provide vocational education and training or employment in the same way as a workshop for persons with disabilities. The persons with disabilities whom they employ have the same rights as they would have in a workshop. Persons with disabilities who are entitled to employment in a workshop for persons with disabilities are also entitled to a budget for work. The budget for work comprises a wage subsidy for the employer and necessary instruction and assistance in the workplace.

When providing occupational participation assistance, the rehabilitation provider responsible usually provides cash benefits (training allowance for initial training and bridging allowance to ensure subsistence) – provided that the eligibility criteria for that particular provider are met – and also pays social security contributions (Section 64 (1), No. 2, of SGB IX). The bridging allowance usually amounts to 68 per cent of previous regular earnings (80 per cent of previous earnings, but no more than the full amount of previous net earnings), rising to 75 per cent if the beneficiary has at least one child as defined in Section 32 (1) and (3) to (5) of the Income Tax Act or if the
spouse with whom the person with disabilities shares a home is unable to obtain gainful employment because of serving as the entitled person’s carer or because the spouse is in need of care and is not entitled to assistance from long-term care insurance. The same applies to beneficiaries who have a stepchild living in their household (Section 56 (2), No. 1 of SGB I). Income support and other supplementary assistance is also available, such as:

- Medically prescribed rehabilitation sports or functional training (Section 64 (1), Nos. 3 and 4 of SGB IX);
- Travel expenses (Section 73 of SGB IX);
- Domestic help or help at work (Section 74 (1), (2) and (4) of SGB IX);
- Costs of childcare (Section 74 (3) of SGB IX).

86 Persons with disabilities studying at a higher education institution normally qualify only for assistance under the Federal Education and Training Assistance Act (Bundesausbildungsförderungsgesetz/BaFöG). To finance disability-related additional needs in a course of study, however, social assistance has to step in in many instances; in the social assistance scheme, a course of study is supported as vocational training for persons with disabilities (section 13 of the Integration Assistance Ordinance).

87 Special forms of assistance are often required to facilitate participation in working life – for example, immediately after successful completion of some form of vocational training. To facilitate the taking up of employment, the relevant provisions in Section 49 of SGB IX provide for assistance either to persons with disabilities themselves or to their employers. Forms of assistance available to the individuals concerned include:
• Coverage of costs associated with course fees, examination fees, expenses for study aids, working clothes and working equipment;

• Motor vehicle assistance as provided for under the Motor Vehicle Assistance Ordinance;

• Compensation of unavoidable loss of income arising for the person with severe disabilities or a person accompanying them due to travelling to and from training measures and job interviews;

• Costs of work assistance that the person with disabilities may need in order to find a job;

• Costs of aids that may be necessary due to the type or severity of the disability in order to go about a particular job, participate in occupational participation assistance or increase the safety of the person with disabilities travelling to and from the workplace and at the workplace itself, unless the employer has an obligation in this respect or such assistance can be granted as medical assistance;

• Costs of technical aids necessary to go about an occupation due to the type or severity of the disability

• Reasonable costs of procuring, equipping and maintaining a home fit for persons with disabilities.

88 Of the rehabilitation providers providing occupational participation assistance, primary mention is made of the Federal Employment Agency, which provides occupational participation assistance under SGB III. The Federal Employment Agency is also responsible for rehabilitation benefits concerning participation in working life for employable persons with disabilities entitled to benefits within the scope of
SGB II, provided that no other institution is responsible for rehabilitation. Further providers responsible for basic income support for job seekers include local bodies that are authorised, under SGB II, to provide occupational participation assistance for employable persons with disabilities in need of help. The Federal Employment Agency promotes the occupational integration of persons with disabilities by means of general and special assistance (Section 113 of SGB III).

General assistance includes:

• Activation and employment integration assistance;

• Pre-training and vocational training support, including vocational training allowance and assisted training.

Special assistance includes:

• Costs of taking part in a scheme in a special facility for persons with disabilities, and bridging allowance;

• Training allowance.

Under the rule that special assistance is only provided if occupational integration cannot be achieved on the basis of general assistance (Section 113 (2) of SGB III):

• General assistance has priority over special assistance;

• Workplace measures have priority over non-workplace-based measures;

• Measures close to the individual’s home have priority over live-in measures;
• Regular training (Section 4 of the Vocational Training Act/Section 25 of the Crafts and Trade Code) has priority over disability-specific training courses (Section 66 of the Vocational Training Act/Section 42m of the Crafts and Trade Code).

Accident insurance and compensation funds likewise provide occupational participation assistance. In line with their remit, they serve a clearly defined group. Pension insurance funds provide discretionary occupational participation assistance in cases where the earning capacity of an insured person (after 15 years of paying contributions) is substantially threatened due to a potential disability, where a pension is paid on account of reduced earning capacity or would have to be paid without participation assistance, or where such assistance is to be provided following medical rehabilitation assistance already granted by the pension insurance fund.

89 Given the comprehensive nature of occupational participation assistance from other providers, vocational rehabilitation assistance provided by way of integration assistance for persons with disabilities is only relevant in certain cases. This assistance is, however, of great importance in workshops for persons with disabilities (see also No. 105 onwards).

90 With regard to occupational participation assistance as a whole, the Federal Employment Agency also has the special task (over and above its function as one of the providers responsible for rehabilitation) of producing when requested by another rehabilitation provider a report on the need for assistance and its type and scope while taking into account its labour market utility (Section 54 of SGB IX).
Special forms of occupational participation assistance for persons with severe disabilities

To improve the opportunities for persons with severe disabilities in working life, special forms of assistance are available in addition to the occupational participation assistance that can also be claimed by persons with severe disabilities under Part 3 of SGB IX. The following is provided for to secure employment for the persons with disabilities covered by this legislation and improve the situation in each specific case:

- An obligation for public and private employers to fill five percent of positions with persons with severe disabilities or pay a compensatory levy for unfilled mandatory quota places (Sections 154 et seq. of SGB IX);

- Prohibition of discrimination and other responsibilities for employers toward employees with severe disabilities (Sections 164 et seq. of SGB IX);

- Special protection against dismissal for employees with severe disabilities once they have been employed for six months (Sections 168 et seq. of SGB IX);

- The rule that the dismissal of a person with severe disabilities is invalid if made without involving the representative for employees with severe disabilities as is required (Section 178 (2), second sentence, of SGB IX);

- Protection of the interests of persons with severe disabilities in the workplace by a representative for employees with severe disabilities (Sections 93 et seq. of SGB IX);
• Supplementary assistance granted by the Federal Employment Agency and integration offices to persons with severe disabilities to facilitate their participation in working life (Sections 176 et seq. of SGB IX).

92 Determination of who is to be classified as a person with severe disabilities is carried out by the social affairs office (Versorgungsamt) on the basis of the Social Affairs Medical Ordinance (Versorgungsmedizinverordnung). The extent to which participation is impaired is expressed as a ‘degree of disability’ in increments of ten between 20 and 100. Persons with severe disabilities may apply for a pass that verifies the assessed degree of disability and makes it easier to claim their rights and obtain compensation for disadvantages. If persons with disabilities whose degree of disability is less than 50 but at least 30 are unable, because of their disability, to find or retain suitable employment, they may apply to the employment agency to be given equivalent status to that afforded to persons with severe disabilities.

93 Section 164 (1) of SGB IX requires all employers to examine whether persons with severe disabilities or persons of equivalent status can be employed when vacancies are to be filled. The same legislation also provides for work to be adapted to accommodate disabilities by:

• Equipping workplaces with the requisite technical equipment;

• Designing and maintaining the working environment, facilities, machinery and appliances with the aim of allowing the largest possible number of persons with severe disabilities to be employed;

• Employing persons with severe disabilities in such a way that they are able to fully develop and use their knowledge and skills;
• Promoting occupational advancement and facilitating participation in ongoing vocational further education and training.

The special rules and principles for filling civil service and judicial posts are also required to be formulated in such a way that the recruitment and deployment of persons with severe disabilities is promoted and there is an appropriate percentage of persons with severe disabilities amongst civil servants and judges.

94 The mandatory employment quota is of particular importance in securing the integration of persons with severe disabilities into employment and training. Employers with a workforce of 20 or more are required to ensure that at least five percent of the workforce is made up of persons with severe disabilities. This applies to private and public-sector employers alike. In calculating quota places, the employment agency may take into account more than one but no more than three quota places for one person with severe disabilities if integrating that person into working life is particularly difficult.

95 A compensatory levy has to be paid for each mandatory quota place not filled with a person with severe disabilities. The compensatory levy amounts to:

• €125 if the employer reaches an annual average employment quota of three percent and less than five percent;

• €220 if the employer reaches an annual average employment quota of two percent and less than three percent;

• €320 if the employer reaches an annual average employment quota of less than two per cent.

Revenue from the compensatory levy may only be used for the purpose of promoting the occupational participation of persons
with severe disabilities, as governed by the Ordinance on Compensatory Levies for Persons with Severe Disabilities (Schwerbehinderten-Ausgleichsabgabeverordnung).

96 Revenue from the compensatory levy amounts to approximately half a billion euros annually. Integration offices in the Länder receive 80 percent of this total, 16 percent goes to the Federal Employment Agency and four percent to the compensation fund at the Federal Ministry of Labour and Social Affairs.

97 Persons with severe disabilities who have particular difficulties in the labour or training market because of their disability, old age or other reasons receive special support. This includes persons with severe disabilities:

- Who require a special assistant or other exceptional expenses to enable them to work;

- Whose employment will permanently cause exceptional expenses for the employer on account of their disability;

- Whose performance is clearly significantly reduced on a permanent basis because of their disability;

- Who are deemed to have at least a 50 percent disability purely on grounds of an intellectual or psychological disability or because they suffer from fits and blackouts;

- Who given the nature and severity of their disability do not have a vocational training diploma as defined under the Vocational Training Act;
• Who have severe disabilities and are aged 50 and over (Section 155 (1) of SGB IX).

Where employers who fulfil or are not subject to the mandatory employment quota employ persons with severe disabilities from the above groups, they may be entitled under Section 90 of SGB III to receive wage-cost subsidies from the Federal Employment Agency. Subsidies may be paid in an amount up to 70 per cent of the wage paid to the person with severe disabilities for up to three years and for up to eight years in the case of older persons with severe disabilities.

98 Supplementary occupational assistance is managed by the integration offices or – on their behalf – by local welfare offices in close cooperation with the Federal Employment Agency. The aim of this assistance is to ensure that the social status of persons with severe disabilities does not decline, that they are employed in jobs in which they are able to fully use and develop their skills and knowledge. They are to be empowered to hold their own at work and in competition with persons without disabilities.

99 In addition to the financial assistance provided by the integration offices, particularly regarding disability-specific design or equipping of training places and workplaces and to compensate for exceptional difficulties resulting from the employment of persons with very severe disabilities, the other forms of assistance they offer also play an important role. This includes counselling of persons with severe disabilities, most of all at work, and company visits. In supporting persons with severe disabilities in finding, performing and keeping employment that is as long-term as possible, the integration offices involve specialist integration services that have been set up nationwide. The integration offices may also involve independent providers of psychological and social care as part of their pro-
gramme to provide supplementary assistance in the workplace. Such care is important not only for persons with psychological disabilities but for all persons with severe disabilities and persons of equivalent status (in the latter instance, the need for this type of care will depend on the circumstances in each individual case).

100 Special protection against dismissal, which commences six months after the start of employment, is another important instrument for securing and preserving jobs for persons with severe disabilities. The employer’s obligation to obtain the approval of the integration office before giving notice of dismissal is intended primarily to examine all forms of assistance that might secure continued employment and to weigh the interests of both parties. If these measures show that continued employment of the person with severe disabilities is unreasonable given the circumstances of the individual case, the dismissal is approved. This is what happens in the majority of proceedings initiated. Protection against dismissal is hence no obstacle to recruitment – thus contradicting a view still held by many employers.

101 The special interests of persons with severe disabilities in enterprises and public-sector entities are looked after by works and staff councils. If more than five members of permanent staff have severe disabilities, a spokesperson must be elected as the representative for employees with severe disabilities. The representative’s main task is to monitor compliance with all provisions in favour of employees with disabilities and to support employees with disabilities by providing advice and assistance. Based on their specialist knowledge and experience of procedures in enterprises and public-sector entities, the representatives of employees with severe disabilities make a valuable contribution to improving employment integration for persons with severe disabilities.
As a rule, employers are required to ensure that the representatives are consulted when determining whether vacant jobs or training places might be suitable for persons with severe disabilities, particularly those who are registered with the employment agency as unemployed or seeking employment.

- The representatives are entitled to be fully informed and to be heard. If a measure has been adopted without their involvement, its implementation or enforcement must be suspended until they have been consulted. Notice of dismissal is ineffective if it is issued without previously involving the representative for employees with severe disabilities.

- They must be included in all monthly meetings between the employer and the works or staff councils, since these may deal with matters affecting persons with severe disabilities.

- They must maintain constant contact with the local employment agency and with the integration office and cooperate closely with these authorities (Section 182, second sentence, of SGB IX).

Details of the election of representatives for employees with severe disabilities are set out in the Ordinance on the Election of Persons with Severe Disabilities (SchwbVWO).

Under Section 187 of SGB IX, the Federal Employment Agency provides vocational guidance for the placement of persons with severe disabilities in training and employment. It is also responsible for counselling employers in cases where persons with severe disabilities may be recruited to fill vacant jobs or training places. Special counselling and placement centres have been set up at local employment agencies to promote employment of and provide vocational assistance to persons with disabilities.
Compensation for disadvantages experienced by persons with severe disabilities includes entitlement to paid supplementary leave of five days per year (Section 208 of SGB IX). Also, persons with severe disabilities must be exempted from working overtime if they so request (Section 207 of SGB IX).

**Workshops for persons with disabilities**

For persons with disabilities who due to the nature or severity of their disability and despite every assistance are unable or not yet able to enter or re-enter the general labour market, workshops for persons with disabilities offer suitable vocational training and employment while paying wages commensurate with performance (Section 219 of SGB IX). According to this provision, workshops for persons with disabilities are open to all persons with disabilities, irrespective of the nature and severity of their disability, who are capable of doing a minimum amount of economically useful work, at the latest after having participated in measures in the vocational training section. The workshops must make it possible for employees with disabilities to develop, enhance or recover their skills, abilities and earning capacity and, in so doing, further develop their personality and character. The technical requirements to be met by workshops for persons with disabilities together with details of the approval procedure are set out in the Workshops Ordinance. There are some 700 officially approved workshops employing around 312,000 persons with disabilities.

Workshops for persons with disabilities are also designed to serve persons whose disability requires the presence of special personnel to provide care and individual assistance for them and who thus receive care and assistance in special support groups. Persons with disabilities who do not meet or have yet to meet the requirements for employment in a work-
To prepare for employment in the work section of a workshop for persons with disabilities, assistance is provided in accordance with Section 57 of SGB IX for a period of up to three months to promote participation in measures as part of the entry process in approved workshops. Assistance provided in the vocational training section of a workshop for persons with disabilities is awarded for up to two years, mostly by the Federal Employment Agency. It is the duty of the workshops to assist persons with disabilities in such a way that by the time they have completed the vocational training measures, they are in a position to deliver a minimum amount of economically useful work; beyond this primary aim, the workshops' task is to assist and encourage each individual in such a way that they attain their full potential. To fulfil these duties, workshops for persons with disabilities must offer the widest possible range of vocational training and work opportunities.

Assistance given in the work section is generally one of the functions of integration assistance for persons with disabilities as defined in Sections 54 and 140 of SGB XII in conjunction with Section 58 of SGB IX. Under Section 97 of SGB XII, the bodies responsible are the social assistance providers (unless otherwise provided by Länder law). In 2015, social assistance providers put up a total of €4.4 billion to fund assistance provided in the work section of officially approved workshops for persons with disabilities. Wages for persons with disabilities working in the workshops amount to an average €181 per month. In addition, those working in workshops and earning up to €351 receive an employment promotion allowance of €52 per month. The worker participation of employees with disabilities in workshops for persons with disabilities is governed by the Workshop Employee Participation Ordinance (Werkstätten-Mitwirkungsverordnung).
108 Under Section 221 of SGB IX, persons with disabilities who are employed in the work section of workshops for persons with disabilities normally have a legal status similar to that of employees. They are compulsorily insured in statutory health insurance, long-term care insurance, pension insurance and occupational accident insurance. If the prerequisites are met, they receive basic income support in old age and also in the case of reduced earning capacity as defined in Chapter 4 of SGB XII. After a period of employment of at least 20 years they receive a statutory pension on account of full reduced earning capacity.
Social participation assistance

109 In accordance with the basic provisions contained in Sections 1 et seq. and 4 of SGB IX and Section 10 of SGB I, the aim of all types of provision and efforts is for persons with or at risk of disabilities to fully participate in society. Specific social participation assistance is provided by the public youth welfare and integration assistance providers in their capacities as the rehabilitation providers with the widest range of responsibilities. In line with social compensation law, occupational accident insurance funds and the war victims' assistance funds can also be providers of social participation assistance. From 2020, integration assistance providers take the place of social assistance providers as rehabilitation providers to the extent that the latter are designated under Länder law for the provision of benefits and services for persons with disabilities. Until then, integration assistance continues to come under social assistance.

110 Integration assistance for persons with disabilities as laid down in Sections 53 et seq. of SGB XII, in conjunction with the Integration Assistance Ordinance issued in accordance with Section 60 of SGB XII, covers all groups of persons with significant disabilities, while the youth welfare providers provide integration assistance only to children and adolescents with or at risk of psychological disabilities within the meaning of Section 35a of SGB VIII.

111 Under the Federal Participation Act, ‘assistance for participation in community life’ is defined in more concrete terms as social participation assistance, restructured and combined while retaining the open-ended assistance categories. It notably includes:
• Assistance with living accommodation;

• Assistance;

• Remedial education assistance for pre-school children;

• Assistance for care in a foster family;

• Assistance in developing and maintaining practical knowledge and skills;

• Assistance in promoting contact and communication;

• Mobility assistance;

• Medical aids.

Note: Since 1 January 2013, persons with disabilities are normally also required to pay radio and television fees. Exemptions from the mandatory radio and television fees are only possible in cases of financial or social hardship. In return, programming accessibility has been improved for persons with disabilities.

Provision of appliances and technical aids in the broadest sense serves the objective of achieving the greatest possible degree of self-reliance and independence. This mainly relates to communication and mobility aids for persons with hearing, sight and speech disabilities, but can also include everyday necessities. These are supplemented by aids and concessions with regard to postal and telecommunications services (notably reduced fees, special communications equipment and so on).
A precondition for the integration of persons with disabilities is the planning and design of the surrounding environment to take into account their special needs. This includes the building of housing that accommodates disability, allows as much independence as possible, makes it easier to mix with persons without disabilities and is suited to providing care in the home if needed. In accordance with the provisions of the Second Housing Act (Zweites Wohungsbaugesetz), housing for persons with severe disabilities benefits from special promotion measures. The Housing Benefit Act (Wohngeldgesetz) also contains special concessions for persons with severe disabilities. The Act to Reform Tenancy Law (Mietrechtsreformgesetz) makes it easier for persons with disabilities to use rented property and facilitates the necessary structural alterations.

For persons with disabilities living in homes, Länder legislation on residential homes and subordinate legislation set out the legal, architectural and care-related minimum requirements and provide for residents’ involvement.

Social participation is also promoted by the elimination of barriers to mobility. Various pieces of legislation make it possible to take adequate account of the concerns of persons with disabilities with regard to building, housing and transport. These include the Act on Equal Opportunities for Persons with Disabilities (Behindertengleichstellungsgesetz/BGG), corresponding acts passed by most of the German Länder, DIN standards and funding stipulations. The aim is to create an accessible, safe environment for persons with disabilities, and in doing so to make it possible for them to live their lives as independently as possible of outside help. As a result, many roads, paths and squares have been designed to be accessible and most public buildings are now accessible for persons with disabilities. By considering the interests of persons with disabilities when building and modernising railway stations (e.g. by
installing ramps and lifts) and use on the German railways of service carriages that provide places for people in wheelchairs, it is now becoming possible or easier for persons with severe physical disabilities to travel by rail.

116 The provisions regarding the free conveyance of persons with severe disabilities on local public transport, as laid down in Sections 228 et seq. of SGB IX, serve to improve the mobility of persons with severe disabilities who because of their disability are significantly restricted in this regard. In addition to recognition of the relevant disabilities by the integration office, a condition for free conveyance is that the person with disabilities contributes €80 per year towards an annual travel pass. Persons with severe disabilities who are blind, fully incapacitated or have very limited financial means receive a travel pass free of charge. Where a person with disabilities needs to be accompanied at all times, the companion always travels free of charge, including in the case of long-distance travel by rail. Transportation companies are required to transport persons with severe disabilities, who are entitled to free travel without charge. They are refunded the revenue they lose as a result. The Federal Government and the Länder spend some €500 million a year for this purpose.

117 People who because of their disability are unable to use either public transport or taxis are offered special transport services by local authority institutions, disability service organisations and welfare associations. The rules for their use differ from place to place and are laid down by the towns and districts that mostly cover the costs.

118 Persons with disabilities who because of the nature and severity of their disability are reliant on the regular use of a
motor vehicle to aid their integration may receive as a form of integration assistance an appropriate amount of assistance towards the purchase of a motor vehicle, to help obtain a driving licence and to run and maintain the vehicle (Sections 8 and 10 of the Integration Assistance Ordinance). Apart from occupational participation assistance granted under the provisions of the Motor Vehicle Assistance Ordinance, motor vehicle assistance of this kind is only granted in certain circumstances.

119 Leisure time and holidays spent with persons without disabilities contribute greatly to the social participation of persons with disabilities. Public funding is used to provide persons with disabilities and their relatives with specific information on leisure activities and holidays. In addition, the building and equipping of not-for-profit family holiday homes is supported by funding at federal and Länder level. The broad framework of benefits granted as part of the integration assistance provided for persons with disabilities makes it possible in some cases for disability-related costs associated with leisure activities and holidays to be assumed by the assistance provider.

120 Social participation is particularly well-served by sports for persons with disabilities, be it leisure activity, popular sports or competitive sports. The Federal Government and the Länder work together to improve the provision and funding of sports for persons with disabilities.
**Education, information and advice**

121 Education, information services and advice from social assistance providers are the main source of information. Express general provisions on this subject are contained in Sections 13, 14 and 15 of SGB I.

The Federal Participation Act introduced a new stipulation in SGB IX requiring all rehabilitation providers to designate points of contact that provide suitable, accessible information. The information must cover the nature and objectives of participation assistance, the possibility of assistance being provided as a personal budget, and the procedure for claiming participation assistance and counselling, including complementary independent participation counselling (ergänzende unabhängige Teilhabeberatung/EUTB) under Section 32 of SGB IX.

As the points of contact are required to link up regardless of responsibilities, people no longer need to worry about submitting applications to the ‘right’ agency. When an application for participation assistance is submitted to an agency, the responsible rehabilitation providers must decide among themselves who processes the application. By law, an application cannot be turned down on grounds of the receiving agency not being responsible.

In view of the many different categories of assistance and other support available for the participation of persons with or at risk of disabilities, reference must also be made to Section 16 of SGB I. This stipulates that assistance providers must ensure that applications are clear and fit for purpose,
that they are made without delay, and that any missing information is added.

Other institutions involved in providing benefits and services for persons with disabilities – such as job centres, integration offices and statutory long-term care insurance funds – must likewise designate points of contact. Not only individuals entitled to assistance have a right to information from points of contact, but also employers and other agencies. This serves to implement the integrated multi-agency approach.

Persons with or at risk of disabilities and their families are to be provided with low-threshold counselling throughout the country.

On 30 May 2017, the Federal Ministry of Labour and Social Affairs issued a directive on funding for the provision of complementary independent participation counselling (ergänzende unabhängige Teilhabeberatung/EUTB) under which several hundred counselling services have been provided with funding since 1 January 2018. Information on participation counselling has been available on a dedicated website, www.teilhabeberatung.de, since 2 January 2018.

Funding is provided for independent regional counselling centres which are independent of funding agencies and service providers and which complement existing advice and counselling services. Complementary independent participation counselling is primarily intended to provide those seeking advice with the guidance they need on identifying their participation options before applying for specific benefits and services. The funding, in the amount of €58 million a year, is provided out of federal funds and is initially provided for a limited period until 31 December 2022.
In addition, the following have special obligations to provide advice to persons with disabilities:

- Doctors, including Länder-appointed specialists for persons with disabilities, as laid down in Sections 34 and 35 of SGB IX, Section 92 (1), No. 8, and Section 112 (2), No. 4 of SGB V;

- Social assistance offices in accordance with Section 10 of SGB XII.

Information is also provided on the [www.einfach-teilhaben.de](http://www.einfach-teilhaben.de) web portal. This is operated by the Federal Ministry of Labour and Social Affairs and offers information specially for persons with disabilities, their relatives and employers. As assistance for persons with disabilities, their relatives and employers is provided by various agencies at all levels of the state, the portal brings together all information on the topic of disability in one place. The information is provided in everyday German, simple German and German sign language, and is divided into thematic areas such as children and family, school and university, old age, and housing.
Historical development

When a coherent body of social law first began to develop in Germany in the late 19th century, provisions were laid down in law for individual groups of people and their specific problems.

Thus, the competent funds soon began, on the basis of the 1884 Occupational Accident Insurance Act, to provide medical services as quickly as possible – from 1890 in fund-owned accident hospitals – with the aim of effectively limiting the consequences of accidents at work and reducing the volume of pensions that would otherwise have been payable.

With regard to pension insurance, it was legally possible as early as 1889 for funds to assume the costs of medical care if illness or accident threatened to cause incapacity for work and a subsequent need for an invalidity pension. The principle of ‘rehabilitation before pension’ was clearly already in operation. The uniform legislation on war victims’ welfare (first issued in 1919) was also intended to reintegrate war victims into gainful employment wherever possible. This was supplemented by provisions, likewise dating back to 1919, that required employers to employ persons with severe disabilities who were victims of war and accidents. For the integration of persons with disabilities not belonging to the groups mentioned above, the first special uniform legislation was introduced in 1924 in line with the principles of welfare, with persons with disabilities regarded as the ‘healable poor’.

Similarly, from the very beginning, the duties of placement in employment and providing unemployment insurance that were enshrined in law in 1927 included counselling and
placement services for persons with disabilities. These were supplemented in 1969 by extensive duties related to vocational rehabilitation as part of ‘proactive labour market policy’.

126 In the decades that followed:

- The objective of integrating persons with or at risk of disabilities into working life and into society as a whole was pursued with increasing vigour before and after the era of National Socialism;

- Thus, the principle of earliest possible intervention was observed to an increasing degree;

- Positive approaches, experience and examples from individual social benefit sectors were transferred to an increasing degree to other sectors.

127 In the early 1970s, the various approaches and traditions were consolidated and, in accordance with the principle of finality, social participation assistance measures for (ideally) all persons with disabilities were harmonised to the greatest possible extent. This was effected by means of:

- A 1974 act on further development of the law relating to persons with disabilities, which, along with a range of other improvements:

  - Extended the protected group of people to include all persons with severe disabilities, largely regardless of the nature or cause of their disability;
- Introduced standardised basic requirements for workshops for persons with disabilities to employ persons with disabilities unable to be employed in the general labour market due to the nature or severity of their disability.

- A 1974 act aligning rehabilitation assistance and benefits, which:
  - Included health insurance funds in the group of rehabilitation providers;
  - Largely standardised and substantively enhanced, for all social insurance providers, the war victims’ assistance fund and the Federal Employment Agency, the benefits in kind for medical and vocational rehabilitation and wage replacement benefits payable during rehabilitation;
  - Established a set of standard principles for all social benefit sectors and providers with the objective of lasting and effective integration of persons with or at risk of disabilities.

A ‘social right’ of persons with disabilities to integration was then incorporated in the General Part (Book I) of the Social Code (SGB I) in 1975.

128 With the Unification Treaty of 3 October 1990, the law applicable in the Federal Republic of Germany also became effective in former East Germany. Except for transitional provisions, the law previously in force in East Germany ceased to have effect.

129 It became clear during the law-making process for the laws mentioned so far, and even more so after they came into effect and in their application, that the task of creating a
uniform legal basis for social benefits granted on account of
disability and of better coordinating such assistance in the
interests of persons with disabilities had only been partially
achieved. Apart from the many minor discrepancies, which
tended to multiply rather than being eliminated as the law
developed in subsequent years:

• The provisions governing the various assistance sectors covered
  by the Rehabilitation Harmonisation Act were not fully aligned
  with each other and showed no correspondence at all to the
  provisions on social assistance;

• The provisions of the Severely Disabled Persons Act (Schwerbe-
  hindertengesetz) were not aligned with those for rehabilitation.

The German Bundestag called on several occasions for
the law on integration of persons with disabilities to be consoli-
dated in a uniform, clear format for incorporation into the
Social Code as soon as possible.

Policy for persons with disabilities had also undergone a
paradigm shift. An inter-party motion proclaiming that “The
integration of persons with disabilities is an urgent political and
societal task” was unanimously adopted by the Bundestag on 19
May 2000 (Bundestags-Drucksache 14/2913) and brought about
a far-reaching transformation of the self-image of persons with
disabilities and of the basis of disability policy. “Welfare and
care for persons with disabilities no longer constitute the focus
of political efforts, but rather the individual’s self-determined
participation in the life of society and the removal of all barriers
that conflict with their equal access and opportunities”. By
adding a second sentence to Article 3(3) of the Basic Law in
1994, the Bundestag had “created a political and societal
obligation to actively undertake efforts to integrate persons with disabilities into family, professional and everyday life. Honouring this obligation is an urgent political and legislative task, especially given the ethical background and historical experience in Germany”. The proposal saw a need for “legislation that satisfies the right of persons with disabilities to support and solidarity” – these being unquestioned and universal civil rights – as a prerequisite for the objective of “enabling persons with disabilities to lead an independent life”. SGB IX is designed to “overcome divergence and complexity by introducing citizen-oriented approaches and greater efficiency in existing rehabilitation legislation based on a common law and uniform rehabilitation and disability policy practice.”

131 SGB IX, which has been in force since 1 July 2001, meets these requirements. It was adopted by the German Bundestag and approved unanimously by the upper chamber of parliament, the Bundesrat. The law is characterised by a strong focus on individual and on self-help approaches. It moves the individual into the focus of attention, along with the ideas of participation and self-determination. It gives persons with or at risk of disabilities the opportunity to manage their affairs on their own and under their own responsibility to the greatest possible extent. The special medical rehabilitation, occupational participation and social participation assistance they receive provides the kind of support and solidarity they need in order to avoid, compensate for or overcome disabilities and to enjoy equal participation in society. To this end, SGB IX has improved the various legal options concerning rehabilitation and integration of persons with disabilities.
In 2001 the United Nations General Assembly resolved to develop proposals for a comprehensive international treaty to promote and protect the rights of persons with disabilities. The result is the UN Convention on the Rights of Persons with Disabilities (CRPD), which was passed in 2006. Germany ratified the Convention and its Protocol on 24 February 2009. The Convention entered in force in Germany on 26 March 2009.

The CRPD lends concrete form to universal human rights for the special needs and circumstances of persons with disabilities. Inclusion is the universal position and the central principle for action. Henceforward, the principle of inclusion becomes the guideline and a clear orientation for the practical implementation of the Convention.

The goal is for persons with and without disabilities to live in a self-determined manner and to live together in all areas of life from the beginning. On the basis of the principle of equal participation, the same quality and the same standard are expected to apply in the respective areas of life for persons with disabilities as for persons without disabilities. The focus is on equal participation in political, social, economic and cultural life, equal opportunities in education, vocational integration and the task of giving all people the opportunity to have a self-determined place in an accessible society. This includes support that is tailored to individual needs and to the individual’s life situation.

Inclusion means being on common ground from the beginning. It puts an end to the cumbersome trade-off between exclusion and integration.
In the shape of the National Action Plan (NAP 2011), the Federal Government, for the first time, created an instrument to systematically advance the implementation of the UN Convention on the Rights of Persons with Disabilities over a ten-year period.

In the NAP, the Federal Government clearly demonstrated that policy-making for persons with disabilities is not only a field of social policy, but must find its place in all government departments as a cross-cutting task in the form of disability mainstreaming. This understanding is also reflected in the over 200 measures contained in that first NAP (now referred to as NAP 1.0). To illustrate the broad challenges of an inclusive society, the action plan is structured into twelve fields of action and seven cross-cutting issues. The seven cross-cutting issues – assistance needs, accessibility, gender mainstreaming, gender equality, migration, self-determined living and the variety of disabilities – are taken into account in the relevant fields for action.

The first NAP was developed in constructive and critical dialogue with citizens, and especially persons with disabilities. This participation was institutionalised through the Committee on the National Action Plan, which consists of representatives of persons with disabilities, social and welfare organisations as well as the social partners and the scientific community.

The development of the first National Action Plan was also an important first step towards an inter-ministerial joint disability policy agenda at federal level. The development process of the Action Plan alone meant that the ministries that do not have lead responsibility for implementation of the Convention engaged intensively with the needs of persons with disabilities in their respective policy fields. In addition, all ministries have appointed their own focal points
that serve as central contact points and coordination partners of the CRPD.

The Action Plan was not to be understood as a stand-alone document, but as a dynamic, living disability policy programme whose processes and content need to be regularly evaluated and further developed. At the end of September 2013, the Federal Ministry of Labour and Social Affairs therefore commissioned an initial evaluation of the NAP by academics. The evaluation's findings related to progress in implementing the Action Plan and its measures, including in the context of the CRPD, and on the functioning and effect of the related processes. They were incorporated in the revision of the Action Plan resulting in NAP 2.0 during the course of 2015/2016, with extensive participation of persons with disabilities and their organisations. The second, revised National Action Plan (NAP 2.0), adopted by the Federal Government on 28 June 2016, builds on the large, 200-measure package in the first National Action Plan with 175 additional measures. It takes into account recent developments and notably the findings of the scientific evaluation of the first NAP, the first German periodic review by the UN Committee on the Rights of Persons with Disabilities, and the findings of the Participation Report published by the Federal Government in 2013. Like its predecessor, NAP 2.0 is the outcome of intensive consultation with all relevant stakeholders, and most of all persons with disabilities and their advocacy organisations, among other things on Inclusion Day 2014 and 2015. Held every year since 2013, Inclusion Day is an event participated in by representatives of social, welfare and disabled persons' associations, the academic community, business enterprises, the Länder, federal ministries, and most of all persons with disabilities themselves.
NAP 2.0 also succeeded in taking the cross-cutting policy approach to a new level. All federal ministries contributed to the measures in the new National Action Plan. As a result, NAP 2.0 gives greater prominence to the concept of disability mainstreaming than the first NAP. NAP 2.0 has a total of 13 action areas based on corresponding goals under the CRPD (such as work and employment, education, and privacy). An additional action area not included in NAP 1.0 is awareness-raising. It also retains the cross-cutting issues familiar from the first NAP. The breadth of issues covered by the measures and their diversity are also reflected in the system of targets selected by the Federal Government for NAP 2.0. Whereas the Federal Government’s first Action Plan focused on the use of suitable measures to close gaps between the law and practice, NAP 2.0 includes important legislative initiatives aiming to improve the opportunities and scope for persons with disabilities to lead a self-determined life. The legislative evaluations agreed upon in the first NAP contributed in giving key impetus for these legislative initiatives. Responsibility for implementing the individual measures in the NAP lies first and foremost with the relevant federal ministries. These are in charge of implementing the projects and measures listed in the NAP within the stated timeframe and where applicable with the involvement of additional parties. This process is coordinated by the Federal Ministry of Labour and Social Affairs.

NAP 2.0 is linked to regular monitoring to collate information on measures that is of relevance to control and implementation of the Action Plan. Points of interest in this connection include implementation progress on all measures and information on the evaluation of measures and on target attainment. This information is incorporated in a report by the
federal ministries on progress in implementing the NAP measures, which is submitted to the steering group of directorates-general responsible in the various federal ministries. The steering group was already instrumental in supporting in the revision of the NAP.

The participation report on the living conditions of persons with disabilities appears in each electoral term. It describes the different situations with meaningful indicators by means of which the degree of participation and the perception of opportunities for participation of persons with disabilities can be seen. The report is based on data from representative studies. So the participation report provides information on the following areas of life: Family and social network, education and training, employment and income, everyday life, health, leisure, culture and sport, security and protection from violence, and politics and the public.

134 The Federal Participation Act (Bundesteilhabegesetz/BTHG), adopted at the end of 2016, enacted one of the major social policy reforms of the preceding electoral term after nearly ten years of preparation. The Federal Participation Act creates more opportunities and greater self-determination for persons with disabilities. Its aim is to improve the situation of persons with disabilities and thus to set a further milestone on the road to an inclusive society. At the same time, it implements stipulations made in the Federal Government’s coalition agreement for the 18th electoral term that, among other things, serve to improve the situation of persons with disabilities in the direction of more participation and greater self-determination and to reform integration assistance with a fully developed right to participation. The Federal Participation Act has also revised the law concerning persons with severe disabilities.
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Sie fragen – wir antworten

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