

Follow-up report by the Federal Government to the International Covenant on Economic, Social and Cultural Rights

Recommendation 49

The Committee recommends that the State party intensify its efforts to secure a sufficient number of qualified caregivers for older persons, in accordance with the World Health Organization Global Code of Practice on the International Recruitment of Health Personnel, and ensure that such caregivers enjoy just and favourable conditions of work. It reiterates its previous recommendations (E/C.12/DEU/CO/5, para. 27) that the State party take immediate steps to improve the situation of older persons in nursing homes, allocate the necessary resources to training nursing care personnel and conduct more frequent and thorough inspections of nursing homes. The Committee draws the attention of the State party to its general comment No. 6 (1995) on the economic, social and cultural rights of older persons.

In 2018, the Federal Government launched the Concerted Action for Nursing Campaign¹ to appreciably improve working conditions in the nursing care sector in a social consensus with the relevant stakeholders and to encourage more people to enter or return to nursing or increase their part-time hours. The Campaign adopted measures focussing on training and skills development, HR management, occupational safety and health promotion, innovative care delivery, digitalisation, international recruitment of nurses, and pay conditions in the nursing care sector. Individual Campaign partners have sole responsibility for implementing all measures. A Federal Government monitoring system tracks implementation.

In keeping with the WHO Code of Practice, more closely coordinated procedures and central points of contact are to facilitate the faster and less bureaucratic recruitment of international nursing staff in Germany. DeFa² takes care of applications to the German authorities for visas, the recognition of professional qualifications and work permits for hospitals, nursing homes and other facilities. Recognition and visa procedures in Germany are being accelerated. For now, the international recruitment of nursing professionals has been largely suspended due to the coronavirus pandemic.

The Nursing Professions Act³, which entered into force on 1/1/2020, merges the previously separate training programmes for geriatric care, nursing and healthcare, and paediatric care into a free, standardised general training programme. The Federal Government has therefore fundamentally reformed training for nursing professionals to align it with current care-related challenges and make nursing a more attractive profession overall.

The financing of nursing training has also been reorganised and is now consistently provided through training funds in the *Länder*, thereby enabling quality-assured, close-to-home training nationwide. Details of the financing framework are defined in the Ordinance on the Financing of Training in Nursing Professions⁴. Nursing training reform is additionally supported by a joint vocational training initiatives and PR drive by the Concerted Action for Nursing Campaign stakeholders.

¹ German: Konzertierte Aktion Pflege

² Deutsche Fachkräfteagentur für Gesundheits- und Pflegeberufe (German Specialist Agency for Health and Care Professions).

³ German: Pflegeberufegesetz.

⁴ German: Pflegeberufe-Ausbildungsfinanzierungsverordnung.

⁵ German: Ausbildungsinitiative Pflege

All nursing services offered must respect human dignity and ensure quality management. All nursing homes and care services are audited annually with regard to this and many other quality aspects by the Medical Service of the German Health Insurance Funds and/or the Audit Service of the Association of Private Health Insurance Companies. The audit results are published; this helps to inform consumers and can result in corrective or punitive measures. Furthermore, repeat inspections or special audits with cause (e.g. due to a complaint) can be conducted at any time. Regular quality audits must be announced one day in advance to guarantee care provision during the audit; special audits with cause are performed unannounced. In the area of full-time institutional care, a new, recently developed and scientifically-based quality system is being introduced with a greater focus on the collection of indicators for care results. Quality assurance instruments in home care are currently being revised.

With the Nursing Staff Reinforcement Act⁶, which entered into force on 1/1/2019, the Federal Government introduced appreciable relief in the day-to-day life of nursing staff by improving staffing levels and working conditions in nursing and geriatric care. Under the "Immediate Action Programme on Nursing"⁷, every full-time inpatient geriatric nursing facility will receive additional nursing staff, fully financed by the SHI⁸ on a flat-rate basis, to take account of the time and effort required for medical treatment care. These additional 13.000 full-time equivalent positions in geriatric care, and the new reporting and auditing system to ensure nursing home quality, have significantly improved the situation for people requiring care and nursing staff in nursing homes. Furthermore, financial support is given to measures to reconcile work and family commitments and investments in the digitalisation of inpatient and community geriatric nursing facilities. Simultaneously, the health insurance funds have been required to additionally provide over €70 million for workplace health promotion services in clinics and nursing homes.

Under the Act for Better Wages in the Nursing Sector⁹ of 29/11/2019, the Federal Government established the legal foundation for better pay in the nursing care sector. For one, the Posted Workers Act¹⁰ was amended to allow the Federal Labour Minister, with the involvement of "third-option"¹¹ labour law commissions, to apply collective agreements to the entire nursing care sector in future. Furthermore, the Act makes provisions for the possibility of increasing pay in the nursing care sector overall by introducing higher wage floors. In this respect, a distinction must be drawn in future between the type of work and the workers' qualifications. The current distinction is between unskilled nursing assistants (nursing auxiliaries), skilled nursing assistants and health care professionals.

The aforementioned Act for Better Wages in the Nursing Sector also strengthens the capacity for action of the Nursing Commission. As a permanent committee appointed for a five-year term and comprising two representatives each from trade unions, employers, ecclesiastical employees and ecclesiastical employers, this Commission is to develop recommendations for minimum working conditions (e.g. minimum remuneration or holiday entitlements) in future. If legal conditions are met, the Federal Labour Minister can apply these recommendations to the entire nursing care sector by statutory order.

With the Fourth Ordinance on Mandatory Nursing Care Sector Working Conditions¹², the Federal Ministry of Labour and Social Affairs made the Nursing Commission's recommendations of 28/1/2020 binding for the entire nursing care sector from 1/5/2020 to 30/4/2022. For the first time, minimum wages are set and scaled according to the type of work and worker qualifications. Minimum wages in eastern

⁶ German: Pflegepersonal-Stärkungsgesetz

⁷ German: Sofortprogramm Pflege

⁸ Statutory health insurance system

⁹ German: Pflegelöhneverbesserungsgesetz

¹⁰ German: Arbeitnehmer-Entsendegesetz

¹¹ German: Dritter Weg

¹² German: Vierte Verordnung über zwingende Arbeitsbedingungen für die Pflegebranche

and western Germany will also be gradually aligned by 1/9/2021. Additional paid leave of five days is introduced for 2020, and of six days for both 2021 and 2022. A detailed overview of the planned increases in care-sector minimum wages, based on the Nursing Commission's recommendations, is provided in Annex 1.

Given the very demanding situation in geriatric care in the wake of the COVID-19 pandemic, two pieces of legislation¹³ introduced rules to support caregivers and stabilise the situation in the nursing care sector, specifically:

- Increased coronavirus testing in environments with particularly vulnerable groups, e.g. nursing homes, enabling early infection detection and effectively breaking the infection chain.
- Scope to deviate from legal and contractual requirements and framework conditions regarding staffing to maintain care delivery. Long-term care insurance funds are also granted generous leeway to prevent care delivery gaps in home care.
- Limited-term extension and/or flexibilisation of several long-term care insurance benefits for at-home care to guarantee care provision, particularly by caregiving relatives.
- Requirement of licensed nursing facilities and other care-sector employers to pay their staff an additional tax- and contribution-free bonus of up to €1,000 ("corona bonus"). The one-time payments are also not considered as income for individuals claiming supplementary unemployment benefit II. The *Länder* and employers can increase the bonus to a maximum of €1,500.
- Nursing facilities are reimbursed via the long-term care insurance system for additional spending or lost revenue owing to the pandemic.
- Given the importance of adequate PPE¹⁴, the Federal Ministry of Health became involved in the procurement process early on (masks, disinfectants etc.). The *Länder* distribute the procured PPE to consumers, e.g. inpatient and community care facilities, as regionally required.

¹³ The Hospital Relief Act (Krankenhausentlastungsgesetz) and the Second Act on the Protection of the Population in the Event of an Epidemic Situation of National Significance (Zweites Gesetz zum Schutz der Bevölkerung bei einer epidemischen Lage von nationaler Tragweite)

¹⁴Personal protective equipment

Recommendation 51

The Committee recommends that the State party continuously review the adequacy of the child benefit schemes, including standard child benefits, supplementary child allowances and the education and participation package, with a view to eradicating child poverty. It also recommends that the State party collect data on child benefits schemes, including take-up rates, and take the measures necessary to address the difficulties faced by eligible households in accessing the benefits.

In this 19th legislative term, Germany has implemented several measures to tackle child poverty by improving and restructuring existing legislation.

The three core approaches to reducing child poverty are: 1) enabling parents to engage in paid employment by improving conditions to reconcile work and family, 2) targeted financial family benefits for the material security and social participation of children 3) the provision of education and childcare infrastructures.

In Germany, the risk of child poverty depends greatly on parental labour market participation: it is 70% if neither parent is in gainful employment but only around 15% if one parent is in full-time employment. If both parents are gainfully employed and one parent works full-time, the risk of child poverty drops to 4%.¹⁵

The child benefit, child supplement and benefits for education and participation are particularly important for families, as they guarantee the minimum subsistence level for children - together with benefits under basic income support, where applicable - and enable social participation. As of 1/7/2019, the child benefit was increased by €10 monthly (1st and 2nd child: €204 per child; 3rd child: €210; as of 4th child: €235 per child). An additional monthly increase of €15 from the start of 2021 is agreed in the Coalition Agreement.

The Strong Families Act¹⁶, which entered into force in part in 2019 and fully on 1/1/2020, also improved the child supplement and the education and participation package (Education Package) for children and young people. The Act aims to protect low-income families more effectively against poverty, safeguard children's needs and ensure that entering or increasing gainful employment is worthwhile even for low-income earners. Single parents also benefit more than before from the child supplement, as it is better dovetailed with other benefits. For example, only 45% of child support or maintenance advances, rather than the full amount, is offset against the child supplement. Child supplement expenditure amounted to €431.5 million in 2019, and €382.7 million in 2018.

The Strong Families Act increased the child supplement amount from the previous maximum of €170 to €185 per child/month starting from 1/7/2019. The supplement amount is such that the child supplement and the child benefit together cover the average needs of a child – at the amount of the material subsistence level which is to be tax-free – excluding the amount for education and participation. Education and participation benefits are provided to children separately. The child supplement is therefore index-linked to the development of the minimum subsistence level with due consideration to the (first) child benefit.

Linking the child supplement to the tax-free material subsistence level amount, which the Federal Government announces regularly in the Subsistence Level Report¹⁷, guarantees that - together with the

¹⁵ SOEP v34 (survey year 2017, income from 2016), own calculations Prognos AG.

¹⁶ German: *Starke-Familien-Gesetz*

¹⁷ Federal Ministry of Finance (BMF): Report on the subsistence level amount, which is to be tax-free, for adults and children for 2020 (12th Subsistence Level Report). Accessible at:

child benefit - the subsistence level is provided for children from low-income families. A continuous review process ensures the subsistence level is updated.

The Education Package is designed to safeguard the specific socio-cultural subsistence level of children, teenagers and young adults. With effect from 1/8/2019, benefits under this package were significantly improved by the Strong Families Act. In addition to higher individual benefits (e.g. the back-to-school allowance increased from €100 to €150 per school year, and the monthly participation amount (e.g. for sport, music and leisure activities) from €10 to €15) and the abolition of the personal share towards group lunches in school, child day-care and child-minding facilities, all benefits can now also be provided as a cash benefit.

The Act on Good Early Childhood Education and Care¹⁸ improves quality in child day-care and child-minding facilities and relieves the fee burden on parents. For this purpose, total additional funding of approximately €5.5 billion, which will go to the *Länder*, will be provided in the 2019-2022 period. Subsidised childcare has a particularly positive impact on families' economic stability: it relieves the burden on disposable household income, enables (increased) gainful employment of both parents, and thereby helps raise income and lower the risk of poverty.

The maintenance advance framework was expanded significantly with effect from 1/7/2017 with the age limit raised and restrictions on the benefit duration abolished, and since then has ensured that the material subsistence level is available for all minors in single-parent families. Under the Act on Advance Maintenance Payments,¹⁹ some 820,000 children receive benefits totalling €2.18 billion. Around twice as many children are supported than before the expansion with approximately three times the amount.

It is common practice in Germany to assess the effectiveness of individual family benefits. Family benefits undergo continuous development based on existing findings, and research gaps are closed by targeted studies.

Reforms under the Strong Families Act significantly freed the child supplement and the Education Package of red tape. The child supplement is generally granted for a fixed period of six months. No monthly checks, e.g. of income and housing costs, are conducted during this time. The child supplement is therefore a reliable benefit for families. Improved application forms have made the application process more straightforward and significantly easier.

Separate application requirements for benefits arising from the Education Package have been largely abolished. For take-up rates, please refer to the statistics on basic income support for job-seekers under Social Code Book II. These statistics report on individuals under Book II with an established entitlement, i.e. whose request for education and participation benefits is granted. These data are available from the reporting month of May 2015 and are accessible online²⁰. Approaches to improve statistics reporting on the scope of Book II are being examined.

To simplify access to family benefits and cut red tape, another priority is the digitalisation of certain family benefits. The first digitalised family benefit, Parental Allowance Digital²¹, has been in place in

https://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/2018-10-31-12-existenzminimumbericht-anl.pdf?__blob=publicationFile&v=2

¹⁸ German: Gute-KiTa-Gesetz

¹⁹ German: Unterhaltsvorschussgesetz

²⁰ Federal Employment Agency (BA): Education and Participation - Germany, West/East, *Länder* and Counties (Monthly Figures). Accessible at: https://statistik.arbeitsagentur.de/nn_10256/Statischer-Content/Rubriken/Grundsicherung-fuer-Arbeitsuchende-SGBII/Leistungen-Einkommen-Bedarfe-Wohnkosten/Bildung-Teilhabe-Daten-mit-Wartezeit-von-3-Monaten.html

²¹ German: ElterngeldDigital

individual *Länder* since 2018, with nationwide roll-out planned by the end of 2020. Child Supplement Digital²² has been online since the start of 2020. Furthermore, the Federal Employment Agency's Family Benefits Office has introduced several support measures, such as child supplement guides or advisory videos, to make it easier for eligible parties to access the child supplement.

In the wake of the COVID-19 pandemic, the child supplement temporarily became an "emergency child supplement" under the Act to Facilitate Access to Social Security and on the Deployment and Protection of Social Service Providers due to the Coronavirus SARS-CoV-2-²³ (Social Protection Package I) of 27/3/2020. This is designed to particularly help families who earn less for a limited period due to the crisis and therefore require assistance.

The Act on Social Measures to Combat the Coronavirus Pandemic²⁴ (Social Protection Package II) of 20/5/2020 provides a limited-term guarantee that the costs for providing lunch to children and teenagers affected by the closure of schools and child-minding/childcare facilities due to the pandemic are absorbed by the education package even if the lunch requires special delivery channels and cannot be taken in a group.

Furthermore, a €300 child bonus for each child entitled to the child benefit in 2020 was adopted with the Second Coronavirus Tax Assistance Act²⁵. By strengthening families' purchasing power, this bonus specifically provides a short-term additional economic stimulus and particularly benefits low- and medium-income families.

²² German: KinderzuschlagDigital

²³ German: Gesetz für den erleichterten Zugang zu sozialer Sicherung und zum Einsatz und zur Absicherung sozialer Dienstleister aufgrund des Coronavirus SARS-CoV-2

²⁴ German: Gesetz zu sozialen Maßnahmen zur Bekämpfung der Corona-Pandemie

²⁵ German: Zweites Corona-Steuerhilfegesetz

Recommendation 55 (b)

The Committee recommends that the State party:

Continue to increase the level of public funding in the housing sector

At the Housing Summit of 21/9/2018, the Federal Government adopted a joint Housing Campaign with the *Länder* and municipalities. Alongside stimulus for investment in new-build construction and steps to safeguard affordability, the broad package of measures also comprises actions to reduce construction costs and to secure the supply of skilled labour. The aim is to create more affordable housing. Implementation of the Housing Campaign has been extremely successful, with the Federal Government reporting that all central decisions of the Housing Summit have been implemented or initiated.

Public spending on housing has significantly increased with the Housing Campaign measures. According to the 27th Federal Subsidy Report, federal financial assistance and tax privileges at the Federal Government's expense in the area of housing and urban development more than doubled between 2017 and 2020 (government draft of federal budget). Financial assistance by the *Länder* for housing and urban development rose by roughly 60% between 2017 and 2019.

The Federal Government is providing over €13 billion in this legislative term for social housing, the home-buyers' child benefit²⁶, the housing allowance and urban development assistance alone.

In the 2018-2021 period, the Federal Government is providing the *Länder* with €5 billion in total to support the promotion of social housing. Furthermore, the discontinuation of unbundling funds from 2020 is offset in the context of the restructured Federation/*Länder* fiscal relations, including through additional *Länder* shares in VAT revenue. This will help households that are unable to independently provide themselves with suitable housing on the market.

The home-buyers' child benefit of €1,200 per child and year, and provided for a 10-year period, supports homeownership among families and single parents with children retroactively in the period from 1/1/2018 to 31/12/2020. With approx. 230,000 applications submitted by the end of May 2020, this instrument is very successful, and specifically reaches those families with children who genuinely need support to achieve homeownership. Analyses show that around 60% of recipient households so far have a taxable income of up to €40,000. This is an effective contribution to increasing the relatively low homeownership rate in Germany compared with other countries.

The housing allowance relieves the burden of accommodation expenses on low-income households. With effect from 1/1/2020, the housing allowance reform strengthened this important instrument to safeguard housing affordability by increasing the allowance amount and reach. Furthermore, the allowance will be adapted biennially to income and rent developments, thereby ensuring it continues to provide relief over time. Also, housing allowance expenditure will be increased by 10% from 2021 following the introduction of the carbon pricing mechanism to provide targeted relief towards heating costs for households receiving the allowance.

Other investment measures include urban development assistance of €790 million annually, or tax incentives for the privately-financed construction of rented accommodation and energy retrofitting. The KfW²⁷ funding programmes for age-appropriate conversions, burglar-proofing and energy retrofitting have also been strengthened.

²⁶ German: Baukindergeld

²⁷ Kreditanstalt für Wiederaufbau, the German development bank

An overview of all the measures under the Housing Campaign is provided in the Housing Summit Outcome Paper²⁸ and a brochure on progress in the implementation of the Housing Campaign²⁹. Information on the latest results is also available at www.die-wohnraumoffensive.de.

Due to the COVID-19 pandemic, additional spending on housing-related social benefits is likely. The housing allowance and the absorption of housing costs under the basic income support system act as automatic stabilisers for tenants and owner-occupiers when income drops. The general assistance programmes under the coronavirus pandemic protective shield of the Federal Government and the *Länder* are open to companies in the housing industry and commercially active private-sector landlords. Additional measures, particularly civil-law measures, to protect tenants and private-sector landlords during the COVID-19 pandemic are not associated with an increase in public spending on housing.

Recommendation 55 (c)

The Committee recommends that the State party:

Increase the threshold for housing reimbursement under the basic social benefits to reflect market prices

Within the framework of basic income support for job-seekers under Social Code Book II and social assistance under Book XII, accommodation and heating needs aim to safeguard the need for accommodation and heating that is vital to existence. To protect "housing" as a basic need, and the role of housing as a centre point in a person's life, the competent municipal providers pay housing and heating costs - in the amount actually incurred - provided such costs are appropriate. Under Section 22 (1) sentence 3, Social Code Book II and Section 35 (2) sentence 1, Social Code Book XII, the appropriateness of such expenditure must be gauged based on the particularities of the individual case.

Case-law has defined the vague legal term "appropriateness" of housing expenditure in more concrete terms; accordingly, a "coherent and logical approach" must be applied to determine the abstract appropriateness. This involves examining how much must be spent on the housing market relevant for the beneficiary for accommodation abstractly deemed appropriate in terms of size and standard, and not only considers accommodation actually available on the market but also the rent in existing rental agreements. Here, case-law supports the "product theory", i.e. that both factors - the apartment size and standard expressed in the square meter price - do not each need to be appropriate in their own right. Rather, it suffices if the product of the living space and appropriate square meter price produces an appropriate rent overall (e.g. ruling of Federal Social Court of 19/2/2009, Ref.: B 4 AS 30/08 R). Here, living space is based on *Länder* reference values for social housing.

²⁸ Federal Ministry of the Interior, Building and the Community (BMI): Housing Summit Outcomes. Accessible at: https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/2018/ergebnisse-wohngipfel.pdf?__blob=publicationFile&v=6

²⁹ Federal Ministry of the Interior, Building and the Community (BMI): The Housing Campaign and Progress towards Implementation. Accessible at: https://www.die-wohnraumoffensive.de/fileadmin/user_upload/aktivitaeten/veroeffentlichungen/Wohnraumoffensive_Umsetzungstand.pdf

The identified appropriate reference rent or the maximum rent must be such that it enables the beneficiary to rent an "appropriate" apartment in the specific reference area. Market prices are therefore already factored in under current rules.

Due to the impact of the COVID-19 pandemic, it was decided to recognise actual amounts spent on housing and heating as a need for appropriation periods beginning from 1/3/2020 to 30/9/2020. The reason is that those affected should not risk losing their accommodation due to short-term loss of income.

To safeguard affordable housing, the Federal Government also introduced the rent control mechanism³⁰ in the last legislative term. Since June 2015, the rent charged in new rental agreements in areas with a tight housing market may not exceed the standard local comparative rent by more than 10%. On 1/1/2019, the Act to Amend Tenancy Law³¹ introduced changes to regulations surrounding the rental increase cap, particularly a rule requiring landlords to inform tenants, before entering into the rental agreement, about any exemption from the rental increase cap (e.g. higher previous rent) they wish to invoke.

Improved conditions for tenants to claim a rent refund were adopted under the Act to Extend and Improve Regulations on the Permitted Rental Price at the Start of a Rental Agreement³² of 19/3/2020. For rental agreements commencing after 31/3/2020, tenants can claim back all excess rent paid from the start of the rental agreement if they make a complaint about breached rent cap rules within the first 30 months of the start of the rental agreement.

The joint Housing Campaign of the Federation, *Länder* and municipalities also provides for the extension of the reference period for the standard local comparative rent from four to six years. This was implemented with the Act to Extend the Reference Period for Standard Local Comparative Rents,³³ which entered into force on 1/1/2020.

³⁰ German: Mietpreisbremse

³¹ German: Mietrechtsanpassungsgesetz

³² German: Gesetz zur Verlängerung und Verbesserung der Regelungen über die zulässige Miethöhe bei Mietbeginn

³³ German: Gesetz zur Verlängerung des Betrachtungszeitraums für die ortsübliche Vergleichsmiete

Annex 1

Details of the planned increases in minimum wages in the nursing care sector, based on the recommendations of the Nursing Commission:

For unskilled nursing assistants

	Baden-Württemberg, Bavaria, Berlin, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Saarland and Schleswig-Holstein		Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia	
	Amount	Increase	Amount	Increase
From 1/5/2020*	€11.35	-	€10.85	-
From 1/7/2020	€11.60	2.20 %	€11.20	3.23 %
From 1/4/2021	€11.80	1.72 %	€11.50	2.68 %
From 1/9/2021	€12.00	1.69 %	€12.00	4.35 %
From 1/4/2022	€12.55	4.58 %	€12.55	4.58 %

For skilled nursing assistants (nursing staff with at least one year of training and corresponding job)

	Baden-Württemberg, Bavaria, Berlin, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Saarland and Schleswig-Holstein		Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia	
	Amount	Increase	Amount	Increase
From 1/4/2021	€12.50	-	€12.20	-
From 1/9/2021	€12.50	-	€12.50	2.46 %
From 1/4/2022	€13.20	5.60 %	€13.20	5.60 %

For health care professionals

	Baden-Württemberg, Bavaria, Berlin, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Saarland and Schleswig-Holstein		Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia	
	Amount	Increase	Amount	Increase
From 1/7/2021	€15.00		€15.00	-
From 1/4/2022	€15.40	2.67 %	€15.40	2.67 %