



Bundesministerium
für Arbeit und Soziales



REHABILITATION UND TEILHABE

von Menschen mit Behinderungen

REHABILITATION AND INTEGRATION

of Persons with Disabilities

RÉADAPTION ET PARTICIPATION

des personnes handicapées

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Overview

German social policy provisions for persons with disabilities or at risk of becoming disabled 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, promote self-determination for persons with disabilities and for those at risk of becoming disabled, and enhance their equal participation in society by providing targeted assistance (integration assistance).

A disability, as defined by law, exists when bodily functions, intellectual abilities or psychological health deviate, for more than six months, from the condition typical for a given age so that participation in society is impaired. As a general rule, it is not necessary for a person with disabilities to have been assessed as having a specific degree of disability in order to claim the help and assistance that their disability requires. The term severe disability is only used in relation to individuals who have been diagnosed as having at least a 50 percent disability. The provisions on integration for persons with severe disabilities and persons of equivalent status are set out in Part 2 of SGB IX.

The focus in SGB IX is on the person with disabilities. Self-determined integration into society takes precedence over care and provision. A wide range of rules provide for involvement and participation of persons with disabilities and of disability organisations. Integration assistance expressly addresses the right of claimants to express their wishes and have a choice.

This is also the objective of 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 can thus select and 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 integration assistance for which different providers are responsible in line with the division of responsibilities in the German system of social services. These benefits and services can be grouped as follows:

- Medical rehabilitation assistance
- Occupational integration assistance
- Assistance to cover living expenses and other supplementary assistance
- Social integration assistance

Assistance under SGB IX is delivered by the various rehabilitation providers except where the sections of benefit law that govern them stipulate otherwise. Many other provisions of benefit law have been amended, aligned and standardised to comply with SGB IX. A range of additional provisions serve to coordinate procedures and are cross-sectional in nature. These are binding for all rehabilitation providers and, among other things, govern cooperation among providers and with the persons with disabilities whom they serve. But despite these provisions, overlaps between the providers and the various benefits continue to exist. Coordination, cooperation and consistency among the rehabilitation providers need to be further improved. In doing so the legislature has to take account of the self-government rights and the constitutional restraints following from the seventh sentence of Article 87 (1) of the Basic Law.

The Federal Participation Act (BTHG) entered into effect on 1 January 2017. The Federal Participation Act serves to implement the UN Convention on the Rights of Persons with Disabilities (UNCRPD), which entered into effect in Germany on 26 March 2009 and whose central principles comprise protection from discrimination, full and effective participation in society, and inclusion in society.

The objective of the Federal Participation Act is to improve the life situation of people with disabilities and thus to pave the way to an inclusive society. Under the Federal Participation Act, integration assistance is taken out of the 'welfare' system of social assistance from 1 January 2020, thus enabling more individual self-determination by means of a modern right to participation.

The Federal Participation Act will enter into effect in its entirety in four reform phases.

The first phase, which came into force on 1 January 2017, notably includes a significant improvement in how income and assets are taken into account, primarily by increasing the exempt income amount by up to €260 a month and the exempt savings amount to €27,600.00.

Further improvements that have already entered into force in 2017 comprise a doubling of the employment promotion allowance from €26 to €52 and individual changes in the law concerning persons with severe disabilities.

The remaining reform steps will enter into force as of 1 January 2018, 2020 and 2023.

General

1 Persons with disabilities and persons who are at risk of becoming disabled can of course claim the same social benefits and kinds of assistance available to other citizens; the relevant stipulations apply equally to this group. This principle is reinforced by Article 3 (3), sentence 2, of the Basic Law, which provides that no one may be prejudiced on grounds 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 (UNCRPD) 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 also notably 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 their discrimination 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) of the UN Convention that prohibits all discrimination on the basis of disability corresponds in its essence to the prohibition of discrimination laid down in Article 3 (3), second sentence, of the Basic Law.

2 The following deals with additional special provisions of social law that are deliberately aimed at the self-determination and equal participation in society of persons with disabilities and persons at risk of becoming disabled. If, for example, retraining for a new occupation becomes necessary because the former occupation is no longer in demand on the labour market, persons with disabilities are entitled to the same benefits under Book III or Book II of the Social Code and under the same conditions as persons without disabilities. However, where retraining becomes necessary as a result of disability, such retraining is considered to be part of occupational integration assistance and includes special modalities for support, as required.

3 With effect from 1 July 2001, the special social law provisions for persons with disabilities and persons at risk of becoming disabled were consolidated and enhanced in Book IX of the Social Code – Rehabilitation and Participation of Persons with Disabilities (SGB IX). Section I of Book IX provides that persons with disabilities and persons at risk of becoming disabled receive benefits under this legislation and under the assistance and benefit laws applicable to the various rehabilitation providers in order to promote their self-determination and equal participation in society and to avoid or counteract any discrimination. The special needs of women and children who have disabilities or are at risk of becoming disabled are taken into account.

4 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. The definition of disability and the prohibition of discrimination for public authorities were brought into line with the Convention. Clarifying the prohibition of discrimination for public authorities, failure to make adequate provision as a form of discrimination within the meaning of the UNCRPD was expressly incorporated in the Act. The new Act notably represents a key step forward in terms of accessibility within the public sector. Accordingly, the Act contains a number of provisions to improve accessibility in the Federal Government. Federal agencies must now additionally make existing buildings accessible over time, as well as 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 plain language has been enshrined in the Act and in the Social Code. Public agencies are therefore to further increase the provision of information in plain language. Commencing as early as 2018, decision notices, too, are to be explained free of charge – as needed – either orally in simple, easy-to-understand language or in writing in plain language. This is important for persons with disabilities, especially in administrative proceedings under the Social Code.

The new provisions introduced in the Act are to be evaluated within six years.

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 industry associations recognised pursuant to the Act can now turn to an ombuds 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 organisations representing persons with disabilities with financial support for activities, with the aim of enabling self-advocacy organisations in particular to actively participate in shaping public affairs. €1 million in annual funding is available for this purpose from 2017.

5 Along with the Act on Equal Opportunities for Persons with Disabilities (Behindertengleichstellungsgesetz, or BGG), the General Equal Treatment Act (AGG) is also worth mentioning. Long referred to as the Anti-Discrimination Act, this 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 parts 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 the generally accepted actuarial principles, and that persons with disabilities are not arbitrarily placed at a disadvantage.

Protection afforded under the General Equal Treatment Act (AGG) also encompasses all areas of working life, from vocational education and training to job applications to rules on ending an employment relationship. Under the Act, persons with disabilities may not be discriminated against on grounds of their disability when applying selection criteria and recruitment requirements or in the provision of access to vocational education and training and upward mobility. The anti-discrimination provision contained in SGB IX, which previously applied only to persons with severe disabilities, now applies to all persons with disabilities.

This gave Germany its first piece of full-blown anti-discrimination legislation, a key legal prerequisite in providing equal participation in society.

6 The UN Convention on the Rights of Persons with Disabilities 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 from the perspective of persons with disabilities and in light of their situation, which must be taken into account in the protection of human rights. It acknowledges disability as part of human diversity. The rights specified in the Convention include the right to education, the right to work and the right to participation in cultural life. In this context, the individual articles apply the abstract concept of participation to specific spheres of life, describing concrete measures and objectives for the implementation of equal opportunities.

For the purpose of implementing the Convention, the Federal Cabinet adopted a National Action Plan (NAP) on 15 June 2011. In this Action Plan, the Federal Government committed itself among other things to taking into account the special needs of persons with disabilities in all political projects and legislative 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 with disabled people right in the middle and not only just there.

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 UNCRPD has started a very important debate in German society about the topic of inclusion and also that progress has been

made towards an inclusive society. On the other hand, in its concluding observations, the Committee highlighted more than 60 concrete areas where action needs to be taken and that need to be constructively addressed at all levels of the state in Germany.

The second, revised National Action Plan (NAP 2.0), adopted by the Federal Government on 28 June 2016, builds on the large package of measures 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, and the findings of the Participation Report published by the Federal Government in 2013. Like the first NAP, which applied from 2011, NAP 2.0 is the outcome of intensive consultation with all relevant stakeholders, and most of all persons with disabilities and their advocacy organisations. 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 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.

Persons with disabilities

7 Under Section 2 (1) of Book IX of the Social Code, ‘persons with disabilities’ are individuals whose bodily functions, intellectual abilities or psychological health are highly likely to deviate for more than six months from the state that is typical for their age and whose participation in society is therefore impaired. This definition, which follows proposals issued by the World Health Organisation, is not based on real or supposed deficits. Instead it focuses on participation in different areas of life. A deviation from the ‘typical condition’ means the loss or impairment of physical, intellectual or psychological structures normally present at the respective age. A disability exists if this impairment restricts participation and thus affects one or several areas of life. The requirement that the restriction must have a probable duration of at least six months excludes temporary impediments but not interventions to be taken as early as necessary in individual cases; this applies in particular if children have disabilities or are at risk of becoming disabled.

8 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 a civil servant from going about his or her work, but it would seriously affect a violinist’s ability to play. Even severe impairments and limitations do not normally 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 participation capacity may be undiminished or even unusually high 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.

9 This differentiation by individual ability 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 a new instrument for classification of functional health that also takes into account an individual's personal and general context (facilitators and barriers). It defines functional health in terms of an individual's personal interactions between health disorders (e.g. very poor sight in excess of nine dioptries) and context factors (e.g. provision of spectacles). 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). Contextual factors can act positively or negatively and can increase or reduce the success of rehabilitation. Application of the ICF supports person-centric planning of rehabilitation processes and the tailor-made design and development of aids and assistance.

Building on the potential for optimisation identified by a study on the current state and potential of needs assessment of support for participation in working life taking into account the ICF (feasibility study), the BMAS is funding a project to establish a basic plan for assessing needs in vocational rehabilitation. The

aim of the project is to develop an overarching basic plan spanning those who fund and provide support to assess needs for support for participation in working life using the bio-psycho-social model of the World Health Organisation (WHO). The plan will promote the exchange of information between all parties, more effectively structure the rehabilitation process and focus on people and their personal needs in all needs assessment activities.

10 Persons with severe disabilities are 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 Book IX of the Social Code). At the end of 2015, there were 7.615 million persons with severe disabilities living in Germany; this represents 9.3 percent of the population. It is worth of note that compared with this overall total, the percentage of persons with severe disabilities is clearly higher in the group aged 60 and over and clearly lower among younger people.

11 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 existence of a disability is one of several criteria that determine eligibility for assistance and is subject to assessment by the responsible rehabilitation provider when it decides on the granting 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 2 of Book IX of the Social Code) is only relevant for the special forms of assistance and rights it specifies (for details see No. 99 onwards) and for tax relief and other forms of compensation for disadvantages.

12 It is important that definitions should not further the conceptual and social exclusion of persons with disabilities, but instead serve as an indication of their individual problems and opportunities. They should also indicate how each person can gain access to the assistance they require to participate in everyday society. The aim is also to help other groups achieve the same degree of progress and the standards achieved by individual groups of persons with disabilities and to enable all persons with disabilities and their families to lead a life that is 'as normal as possible'.

Participation assistance

13 Under Section 4 (1) of Book IX of the Social Code, participation assistance includes social benefits that, regardless of the cause of a person's disability, are necessary:

- To avert, eliminate, or alleviate a disability, to prevent its aggravation or to reduce its effects
- To avoid, overcome or alleviate reductions in earning capacity or the need for long-term care or prevent an aggravation and to avoid other social benefits being claimed prematurely or to reduce amounts claimed
- To secure permanent participation in working life in accordance with a person's leanings and abilities
- To promote an individual's personal development in a holistic approach, enable their participation in the life of society and facilitate a life as autonomous and self-determined as possible

A corresponding provision is laid down in Section 10 of Book I of the Social Code as a 'general right of integration' to be observed in all social benefit sectors.

14 These requirements not only help to interpret and apply 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 aim of participation, based on self-determination and individual responsibility, of persons with disabilities in Society
- The principle of finality according to which the necessary assistance must be offered to every person with disabilities and person at risk of becoming disabled regardless of the cause of their disability, even when responsibility for this assistance is held by a number of different providers and institutions whose eligibility requirements for the provision of assistance vary;
- 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 while taking into account what is possible and necessary in each individual case
- The principle of providing individual assistance, which must be tailored to the actual needs of each person with disabilities or person at risk of becoming disabled and meet their needs by suitable means.

15 When account is taken of the principle of intervention at the earliest possible stage, as laid down in the provision of Section 4 of Book IX of the Social Code, it becomes clear that the most suitable time for intervention in individual cases is always at the earliest possible stage.

Disability and Intervention

(Prevention to the greatest possible extent)



Physical, intellectual or psychological condition deviates from the condition which is typical for the respective age



(Intervention to the greatest possible extent)



Restrictions of activity which are not merely of a temporary nature



(Intervention to the greatest possible extent)



Restrictions on participation in the life of society



(Compensation by means of care/pensions/other assistance as necessary)

The incorporation into German law of the three-tiered concept of disability as defined by the World Health Organisation indicates the different levels on which assistance may be provided:

- Where threatening or existing impairments are involved, by means of prevention measures, e.g. healthy living, accident prevention and other ways of avoiding or reducing risk, use of prophylactic measures, and the provision of rescue services or medical treatment and rehabilitation
- Where limited activity is concerned, by providing assistance to compensate for functional restrictions, e.g. orthopaedic appliances, functional training or technical aids to equip the workplace
- In the case of restricted participation, by avoiding or removing barriers or by choosing an occupation that permits or facilitates employment despite the functional restrictions.

An important case for the application of the principle of intervention at the earliest possible stage is that medical rehabilitation assistance and occupational integration assistance take priority over payments of pensions if no pension is to be paid or is not to be paid until a later date as a result of successful integration assistance (Section 8 (2) of Book IX of the Social Code, Section 9 (1) of Book VI of the Social Code) – known as the principle of ‘integration assistance before pension payments’. The same applies if integration assistance helps to avoid, overcome or alleviate the need for long-term care or prevent its aggravation – under the principle of ‘integration assistance before long-term care’ (Section 8 (3) of Book IX of the Social Code, Section 5 of Book XI of the Social Code).

16 Integration assistance with the aims specified in Section 4 of Book IX of the Social Code is provided in the following categories:

- Medical rehabilitation assistance
- Occupational integration assistance
- Social integration assistance to aid participation in community life

Medical rehabilitation assistance and occupational integration assistance are supplemented by a further assistance category: 'income support and other supplementary assistance'; this does not apply to youth welfare and social assistance.

17 There is no single independent social benefit sector responsible for integration assistance as a whole or for specific assistance categories. Instead it is part of the other responsibilities of various providers which, where integration assistance is concerned, are referred to as rehabilitation providers. Under Section 6 of Book IX of the Social Code, the following assistance and benefits are provided:

- Medical rehabilitation assistance is provided by the health insurance, pension insurance and occupational accident insurance funds and by the providers of compensation in the event of health impairment.
- Occupational integration assistance is provided by the Federal Employment Agency and the providers of basic security benefits for job seekers, the pension and occupational accident insurance funds and the providers of compensation in the event of health impairment.

- Social integration assistance is provided by the occupational accident insurance funds and by the providers of compensation in the event of health impairment.

Given their comprehensive range of responsibilities, the providers of public youth welfare and social assistance step in as subsidiary providers of all types of integration assistance where the required assistance cannot be obtained from the providers primarily responsible because the respective eligibility requirements are not met in individual cases. On the whole, integration benefits are provided by eight categories of rehabilitation provider (see chart).

benefits aimed at	Occupational accident insurance	Social compensation	Health insurance	Pension insurance	Federal Employment Agency	Security benefits for jobseeker	Youth welfare	Social assistance
medical rehabilitation	X	X	X	X			X	X
participation in working life	X	X		X	X	X	X	X
participation in community life	X	X					X	X

18 The question as to what integration assistance is provided by which rehabilitation provider and under what conditions depends on the assistance laws applicable to the individual rehabilitation providers (Section 7, sentence 2, of Book IX of the Social Code); this takes account of the fact that the established system consists of various branches. Thus, pension insurance assistance may only be granted to persons who are covered by that scheme and social assistance only to those who meet the

requirements of that particular scheme; 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 integration assistance that can be similar for various social benefit sectors are to be found in a single piece of legislation – in Book IX of the Social Code. This is meant to illustrate that the common objective of integrating persons with disabilities and persons who are at risk of becoming disabled into society to the greatest possible extent is generally pursued in the same way by all rehabilitation providers responsible in individual cases. Due to the consolidation of provisions that apply uniformly to several social benefit sectors, Book IX of the Social Code applies across the board in a similar way to the provisions of Books I, IV and X of the Social Code that were already in place. Given the particularities of a multi-branch system, these uniform provisions can only apply if the assistance legislation applicable to the individual rehabilitation providers does not stipulate otherwise; when drafting Book IX of the Social Code, however, many earlier special provisions contained in individual assistance laws were repealed, replaced by references to Book IX of the Social Code or amended in substance.

19 The rehabilitation providers are under obligation to cooperate. Under Section 13 of Book IX of the Social Code, questions regarding the division of responsibilities between the various rehabilitation providers are to be solved wherever possible by mutual agreement in the form of joint recommendations (issued by the Federal Working Group on Rehabilitation). The disability associations, including voluntary welfare organisations, self-help groups, interest groups for women with disabilities and the central associations representing the interests of outpatient and inpatient rehabilitation institutions are involved in the preparation of such joint recommendations. Where possible, the recommendations take account of their concerns. They also take account of the special needs of women

and children who have disabilities or are at risk of becoming disabled.

Joint recommendations on cooperation between the various rehabilitation providers, for example in quality assurance, assessment procedures and integration services, are already in force and further recommendations are in preparation; up-to-date information on the current status can be found at www.bar-frankfurt.de/publikationen/gemeinsame-empfehlungen/.

20 The extent to which and how the objectives specified in Section 4 of Book IX of the Social Code and Section 10 of Book I of the Social Code can be attained for specific persons with disabilities or persons at risk of becoming disabled (i.e. their participation potential) must be determined individually by means of a prognosis of the progress achievable with the best possible support. As the opportunities and problems of persons with disabilities and persons at risk of becoming disabled 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 integration 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 is supplemented by further provisions of fundamental importance. These include:

- The priority of prevention (Section 3 of Book IX of the Social Code)
- The right of beneficiaries to express wishes and to choose (Section 9 of Book IX of the Social Code). The speedy, efficient and economic provision of integration assistance (Section 10 of Book IX of the Social Code)

- Interaction between the types of assistance provided and cooperation between rehabilitation providers (Sections 11 and 12 of Book IX of the Social Code).

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

- Attaining the objectives with the help of the other forms of assistance referred to in No. 2
- 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 sustainable. A rehabilitation provider that in view of such alternatives does not consider it necessary to provide benefits must help the persons entitled to benefits identify and implement the most suitable alternatives and, if necessary, take the initiative itself. If alternative ways fail, integration assistance is still necessary in legal terms. Where the prognosis indicates that there are several different ways to attain the objectives specified with equally good results, the right of the person concerned to express wishes and to choose as laid down in Section 9 of Book IX of the Social Code must be observed first. If there is still any scope for discretion, the principles of cost-efficiency and economy apply. Section 26 (2) of Book VII of the Social Code, which applies

to occupational accident insurance and stipulates that the objectives specified there are to be attained 'by all suitable means', does not provide otherwise in terms of the substance. Where social assistance is concerned, Section 13 of Book XII of the Social Code must be observed where the rights of persons with disabilities to express wishes and to choose are restricted under certain circumstances. Similar provisions apply in connection with public youth welfare under Section 5 of Book VIII of the Social Code.

22 Where assistance from different assistance categories or several rehabilitation providers is necessary, Section 10 (1) of Book IX of the Social Code provides that, in consultation with each other and the persons entitled to assistance, the rehabilitation providers involved are required to combine the benefits that are likely to be necessary to meet the individual needs in such a way that a smooth and continuous process is ensured. Assistance is to be provided in relation to its function, which means that there are no general assistance descriptions; rather, assistance is granted in accordance with individual needs and the individual integration objectives to be attained with their help. The assistance must be adjusted to the progress of the rehabilitation process and must be aimed at helping the persons concerned attain full participation in the life of society (which corresponds to the objectives of Section 1 and Section 4 (1) of Book IX of the Social Code) in a speedy, efficient and economical way and on a permanent basis while taking account of the particular features of individual cases. The rehabilitation providers have to ensure a continuous process in line with the respective needs (integration management).

23 The paradigm shift already mentioned, namely to provide greater support for people who are ill, have disabilities or are in need of long-term care to enable them to lead as autonomous and self-determined a life as possible, is being continued and further developed. In particular, the introduction of so-called personal

budgets is designed to serve this purpose, including in the form of an overall cross-provider budget for all relevant assistance and benefits. Accordingly, persons with disabilities or who are in need of long-term care will, in place of benefits in kind, receive regular or one-off cash payments on application that they can use to organise and buy required services themselves. This replaces the traditional assistance triangle of rehabilitation provider, claimant and service provider; services are replaced by cash payments and vouchers. Supplementary to Section 17 of Book IX of the Social Code and the provisions applicable to the individual assistance sectors, the Budget Ordinance regulates the procedure in detail. In target agreements drawn up with the claimant, specific items of budget expenditure are set out in detail. This provides for quality assurance in respect of the services received. During a trial phase, the assistance providers decided upon personal budgets at their own discretion. A legal entitlement to this form of provision has been in effect since 1 January 2008, meaning that when requested to do so, all rehabilitation providers must award a personal budget to a claimant for the acquisition of the necessary services. The final results of the scientific research accompanying a pilot project conducted from 2004 to 2007 in eight selected regions of Germany and a programme, co-funded by the Federal Ministry of Labour and Social Affairs from 2008 to 2010, for strengthening the structure and expanding the personal budget comprising 30 individual projects throughout the country and the research project “Umsetzung und Akzeptanz des Persönlichen Budgets” (Implementation and Acceptance of the Personal Budget) clearly indicate that the personal budget is a step in the right direction. This is also evident from the constantly increasing number of people awarded a personal budget. Whereas, in 2007, the number of people receiving personal budgets was estimated at just over 4,500, well over 14,000 had been recorded at the end of 2010 and, at the turn of the year 2016/2017, the number of recipients was expected to be over 50,000. It is also shown that in the past, personal budgets were largely applied for in connection with

integration assistance (see also Chapter 12, nos. 282 onwards). It can be expected, however, that the personal budget will now be used for all forms of assistance provided by the various rehabilitation providers. The cross-provider personal budget is the most effective way of preventing overlaps and closing gaps that occur when assistance is claimed from several different rehabilitation providers.

24 Section 11 of Book IX of the Social Code provides that, where appropriate in individual cases, the responsible rehabilitation provider assesses when medical rehabilitation assistance is initiated, during its provision and following its completion, whether the earning capacity of a person with disabilities or at risk of becoming disabled may be maintained, improved or restored by means of appropriate integration assistance. If it becomes evident during the provision of medical rehabilitation assistance that it may be difficult for a person to keep their current job, the question of whether occupational integration assistance is necessary must be clarified without delay, both in consultations with the person concerned and with the responsible rehabilitation provider.

25 In addition to the occupational integration assistance granted if the requirements are fulfilled, persons with severe disabilities may also receive special assistance and other support under Part 2 of Book IX of the Social Code to attain the same objective (further details are given in No. 98 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 the statutory long-term care insurance whose funds do not belong to the rehabilitation providers is described separately.

26 In international comparison and despite the existing need for improvement, the Federal Republic of Germany has a comprehensive social benefits system that, although differentiated in its structure, provides continuous coverage – particularly for persons with disabilities. The significance of social benefits to enable persons with disabilities and persons at risk of becoming disabled to participate in the life of society is also demonstrated by their financial scale:

**Expenditure on integration assistance from 2009 to 2015
(by rehabilitation providers in million euros)**

	Health insurance	Pension insurance	Occu- pational accident insurance	Federal Employ- ment Agency	Social Assistance
2009	2.588	5.435	3.453	2.392	13.287
2010	2.657	5.561	3.677	2.415	13.842
2011	2.701	5.658	3.798	2.341	14.402
2012	2.749	5.862	3.850	2.269	15.129
2013	2.819	5.841	3.997	2.234	15.575
2014	2.961	6.031	4.152	2.266	16.358
2015	3.067	6.208	4.271	2.278	17.044

27 Under the German approach, in addition to the elimination of existing and the prevention of new forms of discrimination, integration assistance – as a social benefit – lies at the core of efforts aimed at enabling persons with disabilities and persons at risk of becoming disabled to participate in working life and in society as a whole. However, ensuring that social integration is as far-reaching and effective as possible requires that this assistance be supplemented by:

- Focus on the individual abilities and development potential of persons with disabilities (away from a focus on deficits and towards a focus on resources)
- Disability-friendly design of environments to which persons with disabilities are exposed and with which they have to cope (e.g. in transport or when communicating with others)
- Sufficient willingness among persons with disabilities and in society to do everything they can to ensure full integration;
- An integration-friendly climate in society as a whole.

28 An equally wide-ranging system of facilities and services is in place to ensure compliance with the different legal principles and their practical implementation. This makes it possible to provide assistance according to individual needs using means and measures that are especially tailored to those needs. It is important that the support necessary for participation in society is combined with the sustained and adequate further development of existing social relations. For this reason, where it is possible to provide effective support by means of out-patient assistance, such assistance is preferred, especially since it gives those affected greater scope in managing their own situation. Assistance measures that facilitate contact with persons without disabilities also take priority; the amount of assistance provided within special institutions for persons with disabilities must be limited to that strictly necessary. The underlying principle of 'out-patient before in-patient services' applies, although the specific type of support needed in each individual case must be guaranteed.

29 The task of ensuring that persons with disabilities participate in society ‘as normally as possible’ is not solely a matter for the State. It is the joint responsibility of society as a whole. Social benefits and other forms of support cannot provide a guarantee: they can only facilitate and foster the ability of persons with disabilities and persons at risk of becoming disabled to participate in the everyday life of society; where such efforts are rendered unnecessary by dedicated personal and social involvement, the outcome is not only integration but also a reduction in the degree of assistance needed.

30 Legal provisions, facilities and services can only be seen as providing openings and opportunities for participation; the aims specified in Section 4 of Book IX of the Social Code can only be achieved where persons with disabilities or persons who are at risk of becoming disabled have the corresponding self-motivation. Advice and integration assistance must thus be linked to the individual motivation of each person with disabilities, and their motivation must be reinforced in line with the rehabilitation options that exist in each individual case. The provision of integration assistance therefore requires the consent of the person with disabilities (Section 9 (4) of Book IX of the Social Code); they must become involved in the implementation of the measures and legitimate wishes concerning the type of assistance to be provided must be met (Section 9 (1), sentence 1, of Book IX of the Social Code). Since personal development is much more difficult for persons with disabilities, it is important that the assistance, benefits, services and facilities leave them as much scope as possible to make their own arrangements in life and promote their self-determination.

Prevention, early detection and early intervention

31 According to the objective enshrined in Section 3 of Book IX of the Social Code, the primary aim is to avoid as far as

possible the manifestation of disabilities and chronic diseases by implementing targeted prevention in all age groups and areas of life. Key areas include health and safety at work, accident prevention, workplace integration management, environmental protection and health protection, especially with regard to chronic, degenerative diseases. Efforts aimed at avoiding disability can, however, only have partial success given the present state of knowledge and technology. On the one hand, a large number of potential risks may affect people and their development whereby the factors that cause disease and disability do not become fully apparent either individually or in combination. On the other hand, the constant change in living conditions renders it more difficult to recognise and eliminate precisely those factors of influence whose effects only become apparent in the longer term. There is wide agreement that psychological strain increases as the world of work changes. With ongoing globalisation, economisation, technological developments and a structural change towards a service and knowledge-based society, the world of work is changing and becoming more complex and dynamic. The demography-driven 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.

32 Prevention is important from the outset. In particular, men and women who are known to have hereditary risk factors can benefit from genetic advisory services that allow them to consider and weigh up the risks of pregnancy. Supervision by a doctor during pregnancy, including regular preventive check-

ups intended to detect and eliminate risk factors, are part of the services provided by health insurance and social assistance. Taking advantage of these opportunities has increasingly become established practice.

33 The earlier in a child's development an irregularity or a problem 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 10 examinations are intended to detect symptoms that may indicate existing or threatening disabilities and provide starting points for more extensive measures intended to avert a threatening disability, eliminate a recognisable disability or at minimum to alleviate the effects of the disability. It is preferable that these examinations be performed by paediatricians and general practitioners with the relevant qualifications. The results are recorded in an examination booklet that is kept by the parents. Each examination is an essential component of a holistic concept of prevention for the early detection of disabilities, and the last examination is of equal importance to the first, even if no health abnormalities have been detected in the child by this time. The particular importance of nationwide protective immunisation (e.g. 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 the children grow older, the school doctor service assumes the important tasks of early detection and prophylaxis.

34 A comprehensive support scheme exists to provide the best possible support for children with disabilities and children who are at risk of becoming disabled. The necessary support is provided by registered paediatricians and specialised therapeutic staff, 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 the health offices and by doctors for persons with disabilities appointed at Länder level. Often early treatment and early intervention require an interdisciplinary range of medical, remedial education, psychological, educational and social services within easy reach of the family home. Here the networks of regional early intervention centres and of socio-paediatric centres serving larger catchment areas complement each other.

Socio-paediatric 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.

35 With regard to early intervention measures that are taken before a child goes to school, sections 30 and 56 of Book IX of the Social Code in conjunction with the Early Intervention Ordinance that entered into force in 2003 and the joint circular by the Federal Health and the Federal Labour Ministries of 24 June 2009 stipulate that they should be provided in a uniform way and jointly as a single block of assistance on the basis of a

therapy plan. 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 those raising the children.

The costs of the necessary medical and remedial education early detection and early intervention measures for children with disabilities and children who are at risk of becoming disabled are covered by the health insurance funds, the social assistance providers and the youth welfare system. The Early Intervention Ordinance includes the provisions required to classify the assistance and to regulate the division of costs between the rehabilitation providers.

36 According to Section 20 of Book V of the Social Code, the statutory health insurance funds must cooperate with the occupational accident insurance funds in the prevention of work-related health risks. Members of statutory health insurance funds are also entitled to regular medical check-ups from the age of 35 to allow early detection of disease, particularly heart disease, circulatory disease and kidney disease, and diabetes; added to these examinations come annual cancer-screening examinations for women over the age of 20 and for men over 45 (Section 25 of Book V of the Social Code).

37 Under Section 23 of Book V of the Social Code, members of 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 avoid its aggravation, or
- Avoid the need for long-term care.

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

38 Also of relevance for prevention are the provisions regarding the prevention of work-related accidents and occupational diseases (Sections 14 et seq. of Book VII of the Social Code and the accident prevention regulations of occupational accident insurance funds) and numerous statutory and collectively agreed provisions on safety and health at work, 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 84 of Book IX of the Social Code. Accordingly, if difficulties arise in the employment relationship that could jeopardise it, subsection 1 of that section requires the employer to involve the representation 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 to help continue the employment relationship on a permanent basis, if possible.

Under Section 84 (2) of Book IX of the Social Code, all employers are required to introduce integration management, i.e. they must provide targeted assistance and support services for employees with a 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 year, either continuously or repeatedly, with the consent and participation of the persons concerned the employer

consults the staff representation and, if appropriate, the representation for severely disabled persons 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

39 According to Section 26 of Book IX of the Social Code medical rehabilitation assistance is provided in order to avert, eliminate, alleviate or compensate for a disability or prevent its aggravation, to avoid, overcome or alleviate reductions in earning capacity or the need for long-term care, prevent an aggravation of the conditions, avoid other social benefits being claimed prematurely or reduce amounts claimed. In addition to early detection and early intervention measures for children with disabilities or at risk of becoming disabled, 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
- 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.

40 Only a few of these services are specific to rehabilitation; since prevention, acute treatment and medical rehabilitation tend to overlap in terms of their aims and the specific medical or medically prescribed measures, 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 integration 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 Book V of the Social Code makes it clear that statutory health insurance must provide medical rehabilitation assistance with the aim of averting, eliminating, alleviating or compensating for disability or the need for long-term care, preventing an aggravation or mitigating the effects of disability; according to Section 27 of Book IX of the Social Code, acute treatment must always be in line with the aims of rehabilitation as laid down in Sections 26 and 10 of Book IX of the Social Code.

41 Where medical rehabilitation assistance is concerned, special emphasis is given to the provision of aids under Section 31 of Book IX of the Social Code. Accordingly, entitlement is given to the aids required in each individual case if these can be worn or carried by the beneficiaries or taken with them if they move house, e.g. a wheelchair with special fittings. The entitlement includes any alterations, repairs and replacements required and training in the use of the aids. Special counselling provided by the medical service of the statutory health insurance funds in cooperation with orthopaedic supply centres (Section 275 (3) of Book V of the Social Code) 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. In occupational accident insurance, reference is made to provisions governing the supply of orthopaedic aids to people injured in accidents. The provision of compensation is regulated by the Orthopaedics Ordinance.

42 According to Sections 44 et seq. of Book IX of the Social Code and supplementary provisions in individual laws governing benefits, medical rehabilitation assistance is provided together with income assistance and other supplementary assistance, in particular cash benefits to guarantee subsistence (sickness benefit, bridging allowance, injury benefit and compensation for loss of income), help at home (Section 54 of Book IX of the Social Code) and travel expenses (Section 53 of Book IX of the Social Code). Travel expenses include necessary travel, subsistence and accommodation expenses.

43 Rehabilitation providers that provide medical services are fully responsible for all services from acute treatment through to rehabilitation. Pension insurance funds provide (in addition to pensions) rehabilitation and integration assistance, which they grant according to their best judgement. Claimants have a legal right to claim assistance from other providers, however.

44 Under the 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 Book V of the Social Code).

45 The provision of effective medical rehabilitation services requires a sufficient range of (technically) suitable facilities. In addition to a joint recommendation, “Quality assurance in accordance with section 20 (1) of Book IX of the Social Code”, adopted in 2003, the rehabilitation providers have come to an agreement on internal quality management in accordance with section 20 (2a) of Book IX of the Social Code to ensure and continuously improve the quality of the rehabilitation services provided by facilities. Accordingly, institutional medical rehabilitation facilities are required to take part in a standardised and independent certification procedure to demonstrate successful implementation of their quality management at regular intervals. The agreement concluded between the rehabilitation providers for this purpose took effect on 1 October 2009. After a three-year transition period, rehabilitation providers may only enter into contracts with certified institutional rehabilitation facilities.

The above-mentioned legal provision in section 20 (1) of Book IX of the Social Code, and the agreement concluded on this basis in accordance with section 20 (2a) of Book IX of the Social Code, apply directly to the health, pension and occupational accident insurance schemes and the assistance to war victims scheme. For health insurance, section 107 (2) of Book V of the Social Code lays down essential requirements for institutional rehabilitation facilities. These facilities must likewise obtain certification (see section 137d of Book V of the Social Code).

46 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 insurance fund 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 mandatory social insurance coverage and payment of contributions by the rehabilitation providers.

47 According to Section 41 of Book V of the Social Code, 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.

48 Gradual reintegration into working life as set out in Section 28 of Book IX of the Social Code and Section 74 of Book V of the Social Code is primarily meant for people with long-term illnesses and those undergoing rehabilitation who, despite of their unfitness for work, are considered by their doctor to be able to perform their previous activity 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 work 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 aims of rehabilitation.

49 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. Options for rehabilitation in the context of out-patient treatment are still far from being fully exploited, however. This requires a shift of emphasis 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 helps improve the level of knowledge regarding the options for rehabilitation.

50 An increasingly important role in medical rehabilitation is played by (partly voluntary) care services, disability organisations and self-help groups. These work in close cooperation with the rehabilitation providers and represent an important addition to the professional healthcare system, for example in dealing with chronic degenerative diseases (Section 20 (4) of Book V of the Social Code and Section 29 of Book IX of the Social Code).

Rehabilitation before care

51 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 condi-

tion 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 the long-term care insurance fund is in hospital or in a rehabilitation institution and there are indications that an assessment by the health insurance fund's medical service is required to ensure ongoing provision of out-patient or in-patient care, the assessment must be made no later than within one week.

52 To ensure that the principle of 'integration assistance before care' – as enshrined in Section 8 (3) of Book IX of the Social Code, Sections 11 and 23 of Book V of the Social Code and Section 5 of Book XI of the Social Code – is respected and that general out-patient and in-patient medical care and in-patient geriatric care places greater emphasis on rehabilitation, a three-tiered system of rehabilitative facilities has been set up:

- Geriatric out-patient departments in hospitals and social centres with mobile services (particularly physiotherapy and occupational therapy), also intended for continued intensive rehabilitation 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 of 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.

53 The willingness of doctors to utilise the potential for rehabilitation of elderly patients requires above all knowledge of the existence of such potential and a belief that an elderly person also has the right to lead a dignified life as independently as possible of outside help. Even in severe cases where those dependent on care can only be enabled to swallow without help and feed themselves in place of intubation, and to use the toilet unaided, it is considered that an important aim of rehabilitation has been achieved.

Rehabilitative sport and sport for disabled persons

54 Rehabilitative sport prescribed by a doctor as a form of supplementary assistance was primarily regarded in the past as a way to achieve improved performance and raise tolerance levels in a person with disabilities. Today it is also seen as a contribution towards social and psychological stabilisation, and towards integration into society as a whole. In the context of rehabilitative sport, women and girls with disabilities can also participate in exercises to boost their self-confidence (Section 44 (1), No. 3 of Book IX of the Social Code). 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, 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.

55 According to the Federal War Victims Relief Act, 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 looked after in accordance with laws that declare the Federal War Victims Relief Act to be applicable. 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 associations. Rehabilitative sport is provided as integration assistance for persons with disabilities, which is a component of social assistance.

Education and training for persons with disabilities

56 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.

57 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 of the UN Convention on the Rights of Persons with Disabilities 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.

58 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 Book VIII of the Social Code).

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 disabled children in neighbourhood nurseries
- Individual integration/inclusion of children with disabilities in neighbourhood nurseries
- 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

59 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.

60 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.

61 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
- Illness

In the 2015/2016 school year, a total of 517,000 children in need of special educational support attended both regular schools and special needs schools. The most widely spread type of such schools comprises those that concentrate on learning assistance; 190,000 pupils attended such schools in 2015/2016. 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 practices in regular and vocational schools.

62 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.

63 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.

64 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 social insurance contributions in the general labour market or transition to a sheltered workshop, 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.

65 If a school cannot provide the disability-specific assistance required by a child with disabilities in order for them to attend a regular school, social assistance steps in and helps in accordance with the procedures for providing integration assistance for persons with disabilities regardless of parental income and assets (Section 54 (1), first sentence, No. 1, and Section 92 (2), first sentence, No. 2 of Book XII of the Social Code).

66 Assistance provided by the social assistance providers as part of integration assistance for persons with disabilities to ensure they receive appropriate school education and training for a suitable occupation ranges from assistance to attend a secondary school right up to academic tertiary education (Section 54 of Book XII of the Social Code 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.

67 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 provides information and counselling.

68 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.

69 Under the Federal Education and Training Assistance Act, 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.

70 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, the Federal Education and Training Assistance Act does not take account of any additional needs that are due to a disability. In many cases, disability-specific assistance for studies is financed through integration assistance.

Careers counselling

71 It is important for persons with disabilities to have access to working life as far as possible in accordance with the same principles and criteria and at the same centres of learning 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.

72 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 various types 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 Federation is providing €80 million of funding within the framework of 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.

73 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 Book III of the Social Code). 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.

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

75 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 leanings 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.

76 The growing discrepancy between the personal qualifications of applicants and labour market requirements exacerbates the problems of entering into working life and makes the choice of a career more difficult. Since the possibilities for training and employment are limited by a person's disability, systematic and careful preparation is needed before making a career choice. In a practice already universally adopted in some regions, 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. As well as providing guidance for young persons with disabilities and their families, this also helps document regional needs for assistance.

77 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 leanings 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.

Employment integration

78 While vocational training cannot guarantee constant participation in working life, it is nonetheless vital because persons with disabilities can only hold their own in competition with persons without disabilities if they have the best possible vocational qualifications. It is thus 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 long-term jobs.

79 According to Section 33 of Book IX of the Social Code, occupational integration assistance is required to take in all forms of assistance needed to sustain, enhance, generate or restore the earning capacity of persons with disabilities or persons at risk of becoming disabled 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 integration assistance, appropriate account must be given to the aptitude, leanings 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.

80 In addition to those mentioned under Nos. 71-77, other forms of occupational integration assistance include:

- Assistance to retain or obtain employment, including counselling and placement services, training measures and mobility aids

- 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
- Start-up subsidies in compliance with Section 93 of Book III of the Social Code, provided by the rehabilitation providers as laid down in Section 6 (1), Nos. 2-5 of Book IX of the Social Code
- 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 integration assistance deemed to be necessary in an individual case; in other instances it is discretionary subject to due assessment.

81 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), or training subsidies and integration assistance paid to employers. However, the main focus in occupational integration assistance is on vocational training.

82 Under Section 64 of the Vocational Training Act and Section 42k of the Crafts and Trade Code, 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.

83 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 42 l (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.

84 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 qualification 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.

85 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 37 of Book IX of the Social Code, vocational further training assistance is not normally paid for longer than two years.

86 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 disabilities or adults who are at risk of becoming disabled. Experience shows that such training offers particularly favourable opportunities for 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.

At the end of December 2015, some 89,562 persons with disabilities receiving occupational integration assistance from the Federal Employment Agency were taking part in work

preparation or vocational support measures. Of these, 34,613 were on initial vocational training courses and 13,555 on vocational further education and training courses. A total of 13,108 took part in work preparation measures and 23,268 in measures carried out as part of the admission procedures and in the vocational training sections of sheltered workshops (data current as of December 2016).

87 Where due to the nature or severity of the disability or to ensure successful integration, 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 33 (7), No. 1 of Book IX of the Social Code).

88 Where necessary due to the nature or severity of the disability or to ensure successful integration, vocational training measures are provided in special centres for vocational rehabilitation (Section 35 of Book IX of the Social Code). 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 leanings and abilities of persons undergoing rehabilitation, be geared to the changing demands of the labour market and adapt to developments in technology.

89 Integrated vocational training is often used to boost the rate of success of such measures and ease the transition into non-workplace training. To foster this approach, Section 35 (2)

of Book IX of the Social Code provides for workplace and external vocational education and training to be 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. This integrated training approach ensures that 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. 100).

90 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 (e.g. neurological) illnesses, initial steps of vocational assistance (e.g. 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.

91 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.

92 When providing occupational integration 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 of that particular provider are met – and also pays social security contributions (Section 44 (1), No. 2, of Book IX of the Social Code). 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 they act as the beneficiary’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

step child living in their household (Section 56 (2), No. 1 of Book I of the Social Code). Other supplementary assistance and benefits to guarantee subsistence are also available, such as:

- Rehabilitation sports or functional training if prescribed by a doctor (Section 44 (1), No. 3 of Book IX of the Social Code)
- Travel expenses (Section 53 of Book IX of the Social Code)
- Domestic help or help at work (Section 54 (1), (2) and (4) of Book IX of the Social Code)
- Costs of child care (Section 54 (3) of Book IX of the Social Code).

93 For a course of study, persons with disabilities normally qualify only for assistance under the Federal Education and Training Assistance Act. 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).

94 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 33 of Book IX of the Social Code 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 integration 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.

95 Of the rehabilitation providers providing occupational integration assistance, primary mention is made of the Federal Employment Agency. This provides occupational integration assistance under Book III of the Social Code. 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 security benefits for job seekers include local bodies that are authorised, under Book II of the Social Code, to provide occupational integration assistance for employable persons with disabilities in need of help. The Federal Employment Agency promotes the occupational integra-

tion of persons with disabilities by means of general and special assistance (see Section 113 of Book III of the Social Code).

General assistance includes:

- Activation and employment integration assistance
- Pre-training and vocational training support, including vocational training allowance

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 Book III of the Social Code):

- General assistance has priority over special assistance
- Workplace measures has 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).

In line with their remit, accident insurance and compensation funds serve a clearly defined group. Pension insurance funds provide discretionary occupational integration 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 be paid without the need for integration assistance, or where such assistance is to be provided following medical rehabilitation assistance already granted by the pension insurance fund.

96 Given the comprehensive nature of occupational integration assistance from other providers, vocational rehabilitation assistance provided by the social assistance providers as a component of integration assistance for persons with disabilities is only relevant in certain cases. This assistance is, however, of great importance in sheltered workshops (see also No. 113 onwards).

97 With regard to occupational integration 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 38 of Book IX of the Social Code).

Special forms of occupational integration assistance for people with severe disabilities

98 To improve the opportunities for persons with severe disabilities in working life, special forms of assistance are available in addition to the occupational integration assistance that can also be claimed by persons with severe disabilities

under Part 2 of Book IX of the Social Code. 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 71 et seq. of Book IX of the Social Code)
- Prohibition of discrimination and other responsibilities for employers toward employees with severe disabilities (Sections 81 et seq. of Book IX of the Social Code)
- Special protection against dismissal for employees with severe disabilities once they have been employed for six months (Sections 85 et seq. of Book IX of the Social Code)
- Protection of the interests of persons with disabilities in the workplace by a representative for employees with disabilities (Sections 93 et seq. of Book IX of the Social Code)
- Supplementary assistance granted by the Federal Employment Agency and integration offices to persons with severe disabilities to facilitate their participation in working life (Sections 101 et seq. of Book IX of the Social Code).

99 Determination of who is to be classified as a person with severe disabilities is carried out by the pensions office on the basis of the Pension Medical Ordinance. The severity of the individual's limitation is expressed as a 'degree of disability' in increments of ten between 20 and 100. The fact that this determination is made on a general basis and not in relation to a particular job means that persons with severe disabilities are also protected in jobs where their disability has little impact.

Persons with severe disabilities may apply for a pass that verifies the degree of disability ascertained 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 percent 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. A new version of the pass for persons with severe disabilities was introduced on 1 January 2013. It is far more user-friendly since it is a handy plastic card like the driving license or a credit card. People who are blind have the letters sch-b-a in braille on their pass so that they can easily identify it. The new pass also bears a short reference to the disability in English. The old passes will continue to be valid. The old passes, too, will continue to provide access to all types of compensation for disadvantages.

100 Section 81 (1) of Book IX of the Social Code 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.

101 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 their 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.

102 Out of the approximately 153,000 employers who were subject to the employment quota in 2014, some 39,000 did not employ any person with disabilities (as against 58,000 in 2002). In 2014 the employment quota for Germany as a whole was 4.7 per cent.

103 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 between three percent and up to less than five percent
- €220 if the employer reaches an annual average employment quota of between two percent and up to 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 integrating persons with severe disabilities into the working world, as governed by the Ordinance on Compensatory Levies for Persons with Severe Disabilities (SchwbAV).

104 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.

105 Special promotion of recruitment and employment of persons with severe disabilities is targeted at persons with severe disabilities who have particular difficulties in the labour or training market because of their disability, old age or other reasons. 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 72 (1) of Book IX of the Social Code).

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 Book III of the Social Code 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.

106 Supplementary assistance in working life is managed by the integration offices or – on their behalf – by local welfare offices in close cooperation with the Federal Employment Agency. The aim 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, and that they are empowered to hold their own at work and in competition with persons without disabilities.

107 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. Counselling of persons with severe disabilities, mainly at work, and company visits are of key significance. 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 programme 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).

108 (deleted)

109 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 despite employer education efforts.

110 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 disabili-

ties. 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 99, sentence 2, of Book IX of the Social Code).

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).

111 Under Section 104 of Book IX of the Social Code, the Federal Employment Agency is responsible for the provision of vocational guidance for and 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.

112 Compensation for disadvantages experienced by persons with severe disabilities includes entitlement to paid supplementary leave of five days per year (Section 125 of Book IX of the Social Code). Also, persons with severe disabilities must be exempted from working overtime if they request such exemption (Section 124 of Book IX of the Social Code).

Sheltered workshops

113 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, sheltered workshops offer suitable vocational training and employment while paying wages commensurate with performance (Section 136 of Book IX of the Social Code). According to this provision, sheltered workshops 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 sheltered workshops 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.

114 Sheltered workshops 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 sheltered workshop may be admitted to institutions affiliated to the workshop.

115 To prepare for employment in the work section of a sheltered workshop, assistance is provided in accordance with Section 40 of Book IX of the Social Code 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 sheltered workshop 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, sheltered workshops must offer the widest possible range of vocational training and work opportunities.

116 Assistance given in the work section is generally one of the functions of integration assistance for persons with disabilities as defined in Sections 54 of Book XII of the Social Code in conjunction with Section 41 of Book IX of the Social Code. Under Section 97 of Book XII of the Social Code, the bodies

responsible are the social assistance providers (unless otherwise provided by Länder law). In 2015, the social assistance providers put up a total of €4.4 billion to fund assistance provided in the work section of officially approved sheltered workshops. 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 sheltered workshops is governed by the Workshop Participation Ordinance.

117 Under Section 138 of Book IX of the Social Code, persons with disabilities who are employed in the work section of sheltered workshops 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 benefits in old age and also in the case of reduced earning capacity as defined in Chapter 4 of Book XII of the Social Code. After a period of employment of at least 20 years they receive a pension from statutory pension insurance on account of full reduced earning capacity.

Social integration assistance

118 In accordance with the basic provisions contained in Sections 1 et seq. and 4 of Book IX and Section 10 of Book I of the Social Code, the ultimate aim of all types of provision and efforts is for persons with disabilities and persons at risk of becoming disabled to be fully integrated into society. Specific assistance aimed at integrating persons with disabilities into community life, which serves this purpose along with medical and occupational integration assistance, is provided by the public youth welfare and social assistance providers in their capacities as rehabilitation providers with the widest range of responsibilities, and also by the occupational accident insurance funds and the war victims' assistance funds that in line with compensation law provide assistance for the groups they are responsible for.

119 With regard to integration assistance for persons with disabilities as laid down in Sections 53 et seq. of Book XII of the Social Code in conjunction with the Integration Assistance Ordinance issued in accordance with Section 60 of Book XII of the Social Code, the personal scope of social assistance covers all groups of persons with significant disabilities, while the youth welfare providers provide integration assistance only to children and adolescents with psychological disabilities and those at risk of developing such disabilities as defined in Section 35a of Book VIII of the Social Code.

120 Social integration assistance notably includes:

- Provision of non-medical and non-vocational aids
- Remedial education assistance for children of pre-school age
- Assistance in developing the practical knowledge and skills necessary and useful in enabling persons with disabilities to reach the greatest degree of participation in community life possible for them personally
- Assistance in promoting contact and communication with the social environment of the person with disabilities
- Assistance in obtaining, altering, furnishing and maintaining a home that accommodates the special needs of persons with disabilities
- Assistance in leading a self-determined life in a home in which care can be provided if necessary
- Assistance in participating in community and cultural life.

In this connection, it is also important to mention the reform of the legislation on radio and television fees. From 1 January 2013, persons with disabilities in general also have to contribute to the financing of the broadcasting systems. Exemptions from the mandatory radio and television fees are only possible in cases of financial or social hardship.

In return, access to programming is to be improved for persons with disabilities. Contrary to the previous rules, actual possessi-

on of a radio or television set is no longer a relevant criterion. As from 1 January 2013 it is a flat fee regardless of the number of radio or TV sets in the household.

121 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).

122 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, housing for persons with severe disabilities benefits from special promotion measures. The Housing Benefit Act also contains special concessions for persons with severe disabilities.

The Act to Reform Tenancy Law makes it easier for persons with disabilities to use rented property and facilitates the necessary structural alterations.

123 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.

124 Participation in community life is also promoted by the elimination of barriers to mobility. Legislation such as the Act on Equal Opportunities for Persons with Disabilities (BGG) and corresponding laws adopted by most of the Länder, DIN standards and funding stipulations make it possible to take adequate account of the concerns of persons with disabilities with regard to building, housing and transport. 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.

125 The provisions regarding the free conveyance of persons with severe disabilities on local public transport, as laid down in Sections 145 et seq. of Book IX of the Social Code, 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.

126 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.

127 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 for persons with disabilities 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 integration assistance granted under the provisions of the Motor Vehicle Assistance Ordinance, this type of assistance is granted in certain circumstances in order to make participation in community life possible.

128 Leisure time and holidays have particular significance for persons with disabilities as they are a valuable way of making up for the lack of social contact that may occur in other areas of life. Above all, leisure time and holidays spent with persons without disabilities contribute greatly to their integration into society. 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.

129 Contact with persons without disabilities and associated participation in community life is particularly well-served by sport for persons with disabilities, be it leisure activity, popular sport 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

130 Education, information services and advice from social assistance providers are the main source of information. Explicit general provisions on this subject are contained in Sections 13, 14 and 15 of Book I of the Social Code. In accordance with Sections 22 et seq. of Book IX of the Social Code, it is the task of rehabilitation providers' one-stop service centres in all regions and cities to:

- Provide information on conditions of entitlement to assistance, on assistance available from rehabilitation providers, on special assistance in the workplace and on administrative procedures
- Assist individuals in identifying their need for rehabilitation, in using integration assistance and personal budgets, special assistance in the workplace and in fulfilling their obligation to cooperate with the respective provider
- Identify the individuals' competent rehabilitation provider, ensure that applications are clear and appropriate and forward them to the competent rehabilitation provider
- Inform the competent rehabilitation provider if an individual has a need for rehabilitation that is likely to require a medical assessment
- In cases where individuals have an obvious need for integration assistance, fully prepare the documents for the competent rehabilitation provider in a way that the rehabilitation provider can make a decision without delay

- Guide and support the person with disability or the person at risk of becoming disabled until the rehabilitation provider has made a decision or is paying benefits
- Encourage the rehabilitation providers to make decisions and pay benefits with as little delay as possible
- Coordinate and mediate between various rehabilitation providers and parties involved, including while assistance is being provided or benefits are being paid.
- Provide counselling and support for potential budget recipients with regard to the possibilities of using a cross-provider personal budget, in particular
- Provide comprehensive counselling for companies on the legal bases and possibilities of workplace integration management
- Support employers in the development of company-based solutions to overcome unfitness for work and keep a job.

131 In addition, the following have special obligations to provide advice to persons with disabilities:

- Doctors, including doctors appointed at Länder level, as laid down in Sections 61 and 62 of Book IX of the Social Code, Section 92 (1), No. 8, and Section 112 (2), No. 4 of Book V of the Social Code
- Social assistance offices in accordance with Section 10 of Book XII of the Social Code.

132 Given the many and varied benefits and other forms of assistance that can be considered in assisting integration of persons with disabilities and persons at risk of becoming disabled, reference should also be made to Section 16 of Book I of the Social Code. This requires rehabilitation providers to ensure that clear and germane applications are filed and that incomplete information is supplemented. Speedy decisions on integration assistance are guaranteed by Section 14 of Book IX of the Social Code, which provides for a special procedure to clarify responsibilities.

133 Information is also available on the 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

134 When a coherent body of social law first began to develop in Germany in the late 19th century, the era of comprehensive and ‘all-round’ legislation of the type seen today (particularly Section 4 of Book IX and Section 10 of Book I of the Social Code) was yet to come. Instead, provisions were laid down 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 medical retirement’ 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’.

135 In the decades that followed:

- The objective of integrating persons with disabilities and persons at risk of becoming disabled 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.

136 In the early 1970s, the various approaches and traditions were consolidated and, in accordance with the principle of finality, social integration 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 the 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 sheltered workshops to employ persons with disabilities who cannot 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 disabilities and persons at risk of becoming disabled

And finally:

- Incorporation of the 'social right' of persons with disabilities to integration as enshrined in the General Part of the Social Code of 1975.

137 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.

138 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, adjustments and corrective action were mainly needed in two areas:

- 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 were not aligned with those for rehabilitation.

139 The German Bundestag called on several occasions for the law on integration of persons with disabilities to be consolidated 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’. Book IX of the Social Code 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.'

140 Book IX of the Social Code, 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 disabilities and persons at risk of becoming disabled the opportunity to manage their affairs on their own and under their own responsibility to the greatest possible extent. The special assistance they receive for medical rehabilitation and integration into working and community life 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, Book IX of the Social Code has improved the various legal options concerning rehabilitation and integration of persons with disabilities.

141 141 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, 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 UN Convention on the Rights of Persons with Disabilities 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 ends the laborious interplay between exclusion and integration.

142 The Federal Government has for the first time created a tool in the shape of the National Action Plan (NAP 2011) to systematically advance the implementation of the UN Convention on the Rights of Persons with Disabilities in a period of ten years.

With the NAP, the Federal Government has clearly shown that policy-making for persons with disabilities is not only a field of social policy, but must find its place in all ministries as a

cross-cutting task in the form of disability mainstreaming. This understanding is also reflected in the more than 200 measures contained in the first NAP (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 the federal level. The development process of the Action Plan alone has meant that the ministries that do not have lead responsibility for the implementation of the Convention have 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 UN-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 BMAS 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 UNCRPD, 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 in the first NAP. NAP 2.0 has a total of 13 action areas based on corresponding goals under the UNCRPD (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 BMAS.

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 impairments appears in each legislature. 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.