

German contribution to questionnaire of the Special Rapporteur on the right to food

Please find attached answers of the German Federal Government to the questions regarding the implementation of the Right to Food in Germany:

Legal framework (cf. Right to Food Guidelines, Guideline 7)

1. Please indicate whether provisions in the national constitution and/or other domestic law, such as food and nutrition security framework laws, provide specific protection for the right to food and its progressive realization.

In Germany, there is no legal definition of an "adequate standard of living". However, the clause on the principle of the social state contained in the Basic Law of the Federal Republic of Germany requires the organs of the state to contribute, within the framework of their responsibilities, to ensuring that everyone can live in dignity and to creating conditions of equality to ensure that everyone is able to find fulfillment.

People who do not have sufficient resources to live on have a legal entitlement to benefits of income support for job-seekers under Book II of the Social Code (SGB II) and Book XII of the Social Code (SGB XII) or to benefits under the Asylum Seekers Benefits Act (*Asylbewerberleistungsgesetz* - AsylbLG). The subsistence benefits under these laws are to ensure a basic standard of living; with a few exceptions, mostly under the Asylum Seekers Benefits Act, they are provided exclusively as cash benefits.

The cash benefits are made up of standard amounts for basic needs which, in the case of adults, depend on the individual's status in the household, and in the case of children and adolescents on their age. In intervals of several years, these standard rates are regularly reviewed on the basis of the statistically determined consumption expenditure of low-income households. Such consumption expenditure also includes the food expenditures of the low-income households in the reference group. In the years in between the reviews, the standard rates are updated according to an index taking account of the price developments of the

relevant goods and the development of net earnings per employed worker. With the most recent update, the monthly standard rate for a single adult or single parent was raised to 382 € as from 1 January 2013.

To this add payments for accommodation and heating, for additional or non-recurrent needs, for instance in special situations of life such as pregnancy, single parenthood or in the case of disabilities. Since 1 January 2011, the extra expenses for community lunches in schools or day care facilities are taken over for all children from low income or no income families (an element of the so-called education and participation package). This ensures that no child goes without a hot meal - insofar as these are provided in the mentioned institutions.

Moreover, the contributions for existing health and long-term care insurance are covered insofar as they conform to the statutory requirements.

2. If so, please indicate whether such legal provisions have been invoked before administrative, quasi-judicial and judicial mechanisms, and with which results.

In Germany, every person is entitled to receive counselling about the rights and obligations under the Social Code. This shall i.a. help to ensure that everyone can live in dignity.

Although, in principle, all applications (e.g. for income support for job-seekers, social assistance or benefits under the Asylum Seeker Benefits Act) have to be submitted to the competent institution, they are also accepted by any other benefit provider; these are obliged to forward such applications to the competent benefit provider (section 16 of Book I of the Social Code). The benefit provider investigates the facts of the case ex officio and issues a decision approving or denying the claim.

In cases of disputes over statutory social benefits, the authority starts the administrative appeal proceedings by reviewing the benefit decision under factual and legal aspects. Where the authority finds the objection to be unjustified or only partly justified, it issues an objection decision that is open for challenge in the competent local social court. Against such a decision further remedies are available, if necessary (appeal, appeal on points of law only). Under certain circumstances the Federal Constitutional Court can review whether special legislative provisions are compatible with the constitutional principle of the social state enshrined in Article 20 (1) of the Basic Law and the constitutional requirement of guaranteeing a decent

subsistence minimum. If the Court finds an infringement of these principles, the lawmaker is required to amend such legislation to bring it in line with the constitution.

3. Please clarify whether consideration is currently being given to the inclusion of such provisions in domestic law

There are no considerations to include any further legal provisions on the specific protection of the Right to Food and its progressive realization in the national constitution /or domestic law, since the protection of the Right to Food and its progressive realization is sufficiently covered by the existing legislation.

4. Please indicate whether a national human-rights based strategy (or policy/programme) for the progressive realization of the right to adequate food has been adopted.
5. If such national strategy (policy/programme) is in place, please provide information on:
 - (a) The process through which objectives, targets, benchmarks and time frames are set, including the role of civil society actors;
 - (b) Mechanisms to ensure adequate funding for the implementation of the strategy (cf. Right to Food Guidelines, Guideline 12);
 - (c) Mechanisms to ensure adequate targeting to improve the situation of the groups most affected by food insecurity, such as women, children, and small-holder farmers (cf. Right to Food Guidelines, Guideline 13).
 - (d) Mechanisms to ensure monitoring of the implementation of the strategy concerned, and whether such monitoring mechanisms are independent from the Executive (cf. Right to Food Guidelines, Guideline 17).

Actions to improve the realization of the Right to Food of the population is mainly taken through activities initiated by the Federal or Länder Governments. There is no legal framework however.

National strategies/activities:

Germany has realized several programs and interventions to promote a good eating habits and healthy lifestyle. In this chapter a detailed description on the projects is demonstrated. They can be divided into four categories:

1. Programs, interventions and projects from civil society stakeholders such as unions, association and NGOs
2. Programs and intervention by the German government
3. Nutrition Information and Nutrition Education
4. Quality Standards for day care centres, schools, hospitals and elderly homes

1. Programs, interventions and projects from civil society stakeholders such as unions, association and NGOs

Platform Diet and Physical Activity (peb)

Dietary habits and patterns of physical activity are first and foremost a matter of personal and private choice. All the same improving these habits and patterns constitutes a challenge for society as a whole. Particularly in areas that cannot be regulated by laws there is a need for close interaction between the state and civil society. Peb bundles the concerns of large parts of civil society regarding diet and physical activity. Parents, the business community, doctors, health insurance funds, sport clubs, trade unions and all relevant social groups are represented within peb. Furthermore, it also has representatives of the Federal Government, Federal States governments and communes. The peb network established in 2004 offers the best preconditions for public-private partnership. The objectives of the Platform to arrest the further spread of overweight and obesity amongst children and adolescents up to 2010 by means of primary prevention and health promotion and to bring the proportion of overweight children back down to the level of 1990 by 2020 are completely in line with the goals of the National Action Plan. The Action Areas of the Platform are consequently an integral part of the national strategy. The Platform Diet and Physical Activity will monitor, pool, document and communicate the contributions of civil society to preventing overweight over the next few years.

Using appropriate media children of pre-school and primary school age are to be familiarized with the principles of a healthy diet and the attraction of physical activity, if possible in a playful way. Parents and their influence on children are centre stage. Socially disadvantaged parents with a low level of education and families with a migration background require special attention and support. Day-care centres for children play a key role. Peb aims to bring about improvements to the framework conditions for more nutrition education and for more physical activity for children in their daily lives to complement the offerings of organized

sport. Peb examines whether and how primary schools – the learning and life venues of children – can offer stimulus for more physical activity periods, more school sport and more physical activity in daily life (which is seen as having major potential to help solve the problem), and for extending nutrition knowledge and experiential learning whilst eating. The best chances of success in promoting a healthy lifestyle are when local initiatives implement local measures and develop them on structurally. That's why the Platform is also involved in creating networks of local institutions, identifying their mechanisms of action, strengths and weaknesses, and disseminating the findings. Peb is active in both areas – diet and physical activity. In all its work it draws on the expertise of science and, as far as possible, has its activities scientifically evaluated. An expert advisory board, consisting of recognized scientists and experts, advises peb. In its overall activities peb sees itself as a bridge between civil society and public services of general interest. Peb calls on everyone to take action for a common cause.

www.ernaehrungundbewegung.de

Federal Association for Disease Prevention and Health Promotion (BVPG)

The Federal Association for Disease Prevention and Health Promotion (BVPG) emerged from the merger between the Federal Health Association (BfGe) and the German Forum for Prevention and Health Promotion (DFPG) in 2007. BVPG currently has 127 member organizations including more particularly federal health associations (for instance the German Medical Association, the umbrella associations of the social security agencies and associations of the health care and paramedical professions), social and welfare associations, educational institutions and academies with a focus on „disease prevention and health promotion“. BVPG, which enjoys institutional support from the Federal Ministry of Health, represents the relevant civil forces in the field of disease prevention and health promotion on the federal level. It brings them together with state authorities and the nationwide social security agencies. Hence BVPG will involve civil forces especially in the implementation of the National Action Plan. Particularly within its three working groups WG 1 „Healthy kindergarten and schools“, WG 2 „In-company health-promotion“ and WG 3 „Growing old healthily“ but also in its more extensive communication, co-ordination and networking tasks, BVPG will be actively involved in the implementation of the National Action Plan. For the Action Area 2 „Information on diet, physical activity and health“, BVPG member associations already have quality requirements, findings and recommendations at their

disposal. Information of this nature could be disseminated in the BVPG Newsletter and can be accessed on the BVPG website.

For the Action Area 3 „Physical activity in daily life“ recommendations for implementation are formulated in the above-mentioned BVPG working groups and partners proposed, e.g. for the topics „Prevention of postural deformities“ in children and adolescents, „Reducing the incidence and severity of musculo-skeletal impairments and diseases“ in companies and „Promoting physical activity in later life“.

In the Action Area 4 „Improving the quality of away-from-home catering“, assistance can also be sought from the BVPG member associations that are involved above all in the settings „kindergarten“, „school“, „hospital“, and „company“. The findings are to be pooled and made accessible to the target groups. Furthermore, BVPG and its members will promote the transfer and structural anchoring of successful measures. In this context it will adopt a data-based and criteria-driven [approach. www.bvpraevention.de](http://www.bvpraevention.de)

2. Programs and intervention by the German government

The Kinderleicht Regions:

The goal of the pilot project „Kinderleicht Regions“ is to create incentives for the development of new local, regional and social space initiatives and to network existing structures that advocate a healthy diet and sufficient physical activity. 24 regional networks demonstrate the methods, pathways and partners that can help to prevent the onset of overweight in children in a timely and lasting manner. The various measures are intended for children from the time of their birth up to the end of primary school. The aim is to create sustainable structures that will endure even after the termination of support. Day-care centres for children, schools, associations and families are to work together as a team. Parents or families are included in the concept because they, too, must grasp the importance of a balanced diet and physical activity and be willing to make their own contribution to the health of their children. www.besseressenmehrbeewegen.de

On the way to Doesmegood

The „On the way to Doesmegood“ campaign of the Federal Centre for Health Education (BZgA) is aimed at children aged between 5 and 11. The goal is to create nationwide health-

promoting structures in children's living environments. It takes into account the integrated approach to children's health in the areas diet, physical activity and stress regulation recommended by gesundheitsziele.de. Through the schools the children, teachers and families are encouraged – with the help of an interactive hands-on exhibition and a music show – to take a critical look at their own health. A media map for use in schools helps teachers to incorporate what they have learned into daily school activities. By means of regular training courses multipliers are qualified to implement health support in their living environment. Institutions which meet the quality standards of „On the way to Doesmegood“ are [certified](#).
www.tutmirgut.net

FEELING GOOD

The FEELING GOOD campaign of the Federal Centre for Health Education focuses on health promotion in the areas of diet, physical activity and stress regulation in all places frequented by children and adolescents (12 –18 years of age) (schools, leisure centres, youth hostels etc.). The partners comply with set standards in order to integrate physical activity into daily life and sports activities into the living environment of the adolescents and support them. By linking up the various stakeholders synergies are tapped and the durability of the impact is increased. This makes the transfer from the school to other living environments easier.
www.gutdrauf.net

Health objective “Growing up healthily”

Within the framework of the forum „gesundheitsziele.de“, the formulation of the health objective „Growing up healthily“ was coupled with the presentation of an integrated concept for linking up the relevant topics, diet, physical activity and stress management for the settings kindergarten, schools, family and recreation. The development of offerings for socially disadvantaged girls and boys, mothers and fathers plays a special role in the proposed schemes.

www.gesundheitsziele.de

3. Nutrition Information and Nutrition Education

Fit in later life – Eat healthily, live better

With the campaign „Fit in later life“ the Federal Ministry of Food, Agriculture and Consumer Protection seeks to improve nutritional knowledge and dietary habits and, by extension, health

in later life whilst taking into account the various life situations. The consumer advice centres and DGE offer information and training courses for consumers and experts. At the same time, in co-operation with the German National Association of Senior Citizens' Organizations (BAGSO) further training events for senior citizens' associations are staged following a demand [analysis. www.fitimalter.de](http://www.fitimalter.de)

Co-operation alliance “Health Promotion for the Socially Disadvantaged”

In the alliance launched by the Federal Centre for Health Awareness (BZgA) 50 Federal Government and Federal States organizations have come together from health insurance funds, doctors' and health associations, charities, sports and science. Its Internet database provides a nationwide overview of good practice projects that promote more particularly the physical activity of people in difficult [situations. www.gesundheitliche-chancengleichheit.de](http://www.gesundheitliche-chancengleichheit.de)

4. Quality Standards for day care centres, schools, hospitals and elderly homes

The German Nutrition Society e.V. (DEG) developed seven Quality Standards for catering. These documents are available as free internet download. Furthermore DGE provides information on the implementation process of the Quality Standard as well as on possible certification. The DGE Quality Standard is available for catering in kindergartens, schools, hospitals, companies and elderly homes (See references).

The pleasurable path to success: Job & Fit

The objective of the company catering quality standard is, that company canteens should orient their food offering towards a healthy diet, inform their guests about wholesome food and support corresponding dietary habits. Targeted are the responsible persons within the company for catering and who need suggestions and help when putting together a wholesome offering. A defined minimum standard specifies the health-promoting foods to be used for wholesome lunch and coffee break catering. At least one nutrient rich menu (one dish/day) ensures that guests can enjoy wholesome food at lunchtime every day. Further foci are the supply of beverages at the workplace, statutory provisions and the use of convenience products.

An online recipe database and other useful flyers and publications are available for [download. www.jobundfit.de](http://www.jobundfit.de)

Institutional mechanisms (cf. Right to Food Guidelines, Guideline 5)

6. Please indicate whether inclusive, intersectoral coordination mechanisms been set up to:

- (a) Coordinate the efforts of relevant Government ministries and agencies and ensure the concerted implementation, monitoring and evaluation of policies, plans and programmes;
- (b) Improve accountability, including through the allocation of specific responsibilities to different actors and the setting of precise timeframes for the realization of the dimensions of the right to food which require progressive implementation (cf. Right to Food Guidelines, Guideline 17);
- (c) Enable full and transparent participation of the private sector and of civil society, in particular representatives of the groups most affected by food insecurity (cf. Right to Food Guidelines, Guideline 6).

7. Do national human rights institutions or ombudspersons, which are independent and autonomous from the Government, have a mandate to monitor the implementation of the right to adequate food (cf. Right to Food Guidelines, Guideline 18).

The German Institute for Human Rights was established in March 2001 on the recommendation of the German Federal Parliament (Deutscher Bundestag).

The Institute provides information about the human rights situation within and outside of Germany. The institute has no mandate by the German government to monitor the implementation of the Right to Food, instead it conducts its monitoring activities on the realization of human rights in Germany independently.

Lessons learned

8. What are the main challenges encountered and lessons learned from national efforts to strengthen the legal, policy and institutional framework for the realization of the right to adequate food?

Germany's success stories, best practices and lessons learnt from implementing food and agriculture based programmes aimed at improving nutrition:

In recent years, many programs and projects were implemented to promote healthy lifestyles. For many of these projects, evaluation reports have been published and are available on the internet for free downloads. Although most of the evaluations showed that people's information on nutrition improved, that a larger amount of healthy foods was consumed or that physical activity increased, the sustainability of such improvements remains uncertain when funding stops. In addition to long-term financing, permanent lobbying efforts as well as relevant programs and projects are required to sustain public awareness. Stakeholders and multipliers must be efficiently connected and need to communicate effectively. Permanent structures are needed to shape an environment in which a healthy diet and physical activity become part of one's natural routine.

Projects should be subject to targeted quality controls and evaluations. Resulting examples of best practice should be made accessible to the target groups and provide concrete information on how one's everyday life can be improved through a healthier diet and more physical activity.

Where the family is no longer in a position to assume tasks it used to take on, alternatives should be offered, either by way of institutionalized roles and responsibilities or by exploring new ways towards changes in one's behaviour and/ or environment.

The following projects describe best practice examples.

The School Milk Programme

The European School Milk Programme encourages children to consume dairy products and maintain a balanced diet. It also plays an educational role by supporting the development of good eating and nutritional habits that will last a lifetime. Through the European School Milk Programme, the European Union provides subsidies to schools and other educational establishments so that they can provide their students with selected milk and milk products. In the 2007-2008 school year, the School Milk Programme distributed almost 300,000 tonnes of milk to schools in the 27 Member States, with the European Union providing more than €55 million in subsidies. A School Milk Program evaluation in Germany revealed that

consumers who had enjoyed a certain level of "food-related education" – through self-instruction or schooling – showed more conscious dietary habits which they obviously pass on to their children successfully, whereas children of uninformed parents have greater difficulties in developing adequate dietary habits on their own.

The free supply of milk within the School Milk Program led to an increase, by approx. 150 percent, in comparison to milk being supplied under normal cost conditions.

The EU School Fruit Scheme

The EU-wide voluntary scheme provides school children with fruit and vegetables, aiming thus to encourage good eating habits in young people. Besides providing fruit and vegetables the scheme requires participating Member States to set up strategies including educational and awareness-raising initiatives . In Germany, the Federal States are in charge for the implementation of the school fruit scheme.

In general, the target group of the EU School Fruit Scheme are children in primary and special schools while in some federal states preschool facilities are involved. During the 2010/2011 school year, approximately 650.000 children were reached. Once to five times a week the children were offered a free portion of fruit. The program is highly accepted among children, teachers and parents. The evaluation conducted for the 2010/2011 school year showed a positive result.

Background Information on Nutrition situation in Germany:

Wasting and stunting of children in Germany are no relevant issues. Underweight occurs mostly among female adolescents. BMI <18,5 among this group occur as young women keep very strict diets with low calorie intakes, often in order to meet "perfect" beauty ideals' made popular by advertising and television.

There are signs that malnourishment starts to play a role in certain groups of the population, namely elderly people and people with low income who cannot afford a balanced diet with a variety of higher priced food such as fresh vegetables, fruit and meat.

Food supplies in Germany have been good over the last 20 years, both in terms of quality and quantity. In Germany, as in other industrialized countries, food variety has increased by 163

percent between 1979 and 2003 (Drescher, Thile, 2007). While the choice of food widened, diets became more balanced and vitamin and mineral supplies improved.

Iodine has traditionally been a vulnerable mineral in Germany. No law or regulation makes the use of iodized salt mandatory in food production, although several measures were introduced during the past 20 years to increase its use, and its acceptance in the food and catering industries, in canteens and private households is relatively high. Monitoring has shown a satisfactory iodine status in children (Robert Koch Institute, KiGGS 2003), data for adults will be released in 2013. The WHO does no longer rate Germany as an iodine deficiency region.

Lately there are signs that vitamin D deficiencies occur in elderly people but also throughout the whole population. This may be caused by overprotection against sunlight due to skin cancer warnings.

Other nutrients suboptimally supplied to women in particular are folate, vitamin E, calcium and iron. Women of childbearing age, pregnant and lactating women are advised to supplement folate and iodine before conception and during pregnancy and lactation. As to other nutrients, there are no recommendations regarding supplements to be taken and no programs for the fortification of foods with minerals and vitamins.

However, the large variety of foods and the growing supply and consumption of convenience food led to a steady daily increase in per capita calorie intake. Also, calorie intake exceeded calorie need. While Germans consumed 3,452 kcal per day in 1992, their daily calorie intake had risen to 3,549 kcal in 2009 (FAOSTAT). The average calorie need among Germans with low physical activity levels is at about 2000-1600 kcal/day for women and at about 2500-2000 kcal/day for men, depending on age (DACH Reference Values). High calorie intake along with low levels of physical activity in both professional and private lives lead to high numbers of overnourished, overweight and obese men, women and children in Germany. A look at the population aged between 18 and 79 reveals that 67.1 percent of men and 53.0 percent of women are overweight. These figures have been stagnating at a very high level over the past 20 years (Kurth BM 2012).