



International
Labour
Office



THE STATE OF APPLICATION OF THE PROVISIONS
FOR SOCIAL SECURITY OF THE INTERNATIONAL
TREATIES ON SOCIAL RIGHTS RATIFIED BY

Germany

ILO
TECHNICAL
NOTE

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Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

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The information and data contained in the Technical Note is taken from the Government reports, on-line databases of the National Statistical office, official web-sites of the government departments, MISSCEO, MISSOC, SSI, ILOSTAT and EUROSTAT.

List of international abbreviations:

CAS	Committee on the Application of Standards, International Labour Conference
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECSR	European Committee of Social Rights
ECSS	European Code of Social Security
ESC	European Social Charter
EU	European Union
EUROSTAT	Statistical Office of the European Union
GC	Governmental Committee of the European Social Charter and European Code of Social Security
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILS	International Labour Standards
IMF	International Monetary Fund
MISSEO	Mutual Information System on Social Protection of the Council of Europe
MISSOC	Mutual Information System on Social Protection
OECD	Organisation for Economic Co-operation and Development
SSI	Social Security Inquiry

*CHAPTER I. Adequacy of social security
benefits: income and poverty indicators and
standards*

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Country profile by Eurostat indicators, National indicators and ILO minimum standards

<u>Eurostat</u>	EU-Avg 2013	2005	2012	2013	2014
At-risk-of-poverty threshold (40%, single person)	€ 462.3	€ 546.4	€ 653.2	€ 652.8	€ 657.8
At-risk-of-poverty threshold (50%, single person)	€ 577.8	€ 683.1	€ 816.5	€ 815.9	€ 822.3
At-risk-of-poverty rate - 50%, before social transfers	19.5%	17.1%	18.6%	18.5%	19.4%
At-risk-of-poverty rate - 50%, after social transfers	10.2%	6.7%	9.6%	9.4%	10.5%
At-risk-of-poverty rate for children under 18 y.o. - 50% thrd	12.4%	6.0%	7.8%	7.2%	8.2%
In-work poverty rate - 50% threshold	5.2%	2.7%	4.0%	4.4%	5.8%
At-risk-of-poverty rate for pensioners - 50% threshold	6.0%	6.0%	7.8%	7.3%	9.2%
Aggregate replacement ratio	55%	46%	47%	47%	45%
Severe material deprivation (% of total population)	9.6%	4.6%	4.9%	5.4%	5.0%
Persistent at-risk-of-poverty rate - 50% threshold	5.2%		4.8%	5.7%	
Social protection expenditure as % of GDP	25.0%	29.9%	29.6%	29.9%	
Gini coefficient before social transfers	36.1%	33.1%	34.5%	36.2%	37.1%
Gini coefficient after social transfers	30.5%	26.1%	28.3%	29.7%	30.7%

<u>National indicators</u>		
Living expenses assistance	€ 391.0	2014, MISSOC
Minimum wage	€ 1473.0	2015, Eurostat
Average wage	€ 2889.0	2014, Federal Ministry of Labour and Social Affairs
Average pension - <i>men</i>	€ 1090.0	2014, German Insitute for Pension Schemes
Average pension - <i>women</i>	€ 570.0	2014, German Insitute for Pension Schemes

<u>Government Report under the ECSS submitted in 2015</u>				
Standard benefits amounts to be provided in the detailed report 2016.				
The Office refers to the Government Report under the ECSS submitted in 2014 :				
Reference wage (skilled worker)	Article 65-6c: Skilled manual male employee whose earnings are 125% of the average earnings of all protected persons	€ 2804.1	€ 3333.7	2010
Reference wage (unskilled worker)	Article 66-4b: Unskilled labourer in manufacturing	€ 2441.7		2010
Standard old-age pension	Skilled worker	€ 1274.1	€ 1512.6	2010
Replacement rate Man with wife of pensionable age	Monthly salary taken as <u>net</u> for the purpose of calculation (€ 1924.0 for <i>New Länder</i> and € 2188.3 for <i>Old Länder</i>)	68.6%	69.1%	2010

Fig. 1. Income and poverty - single person, 2013

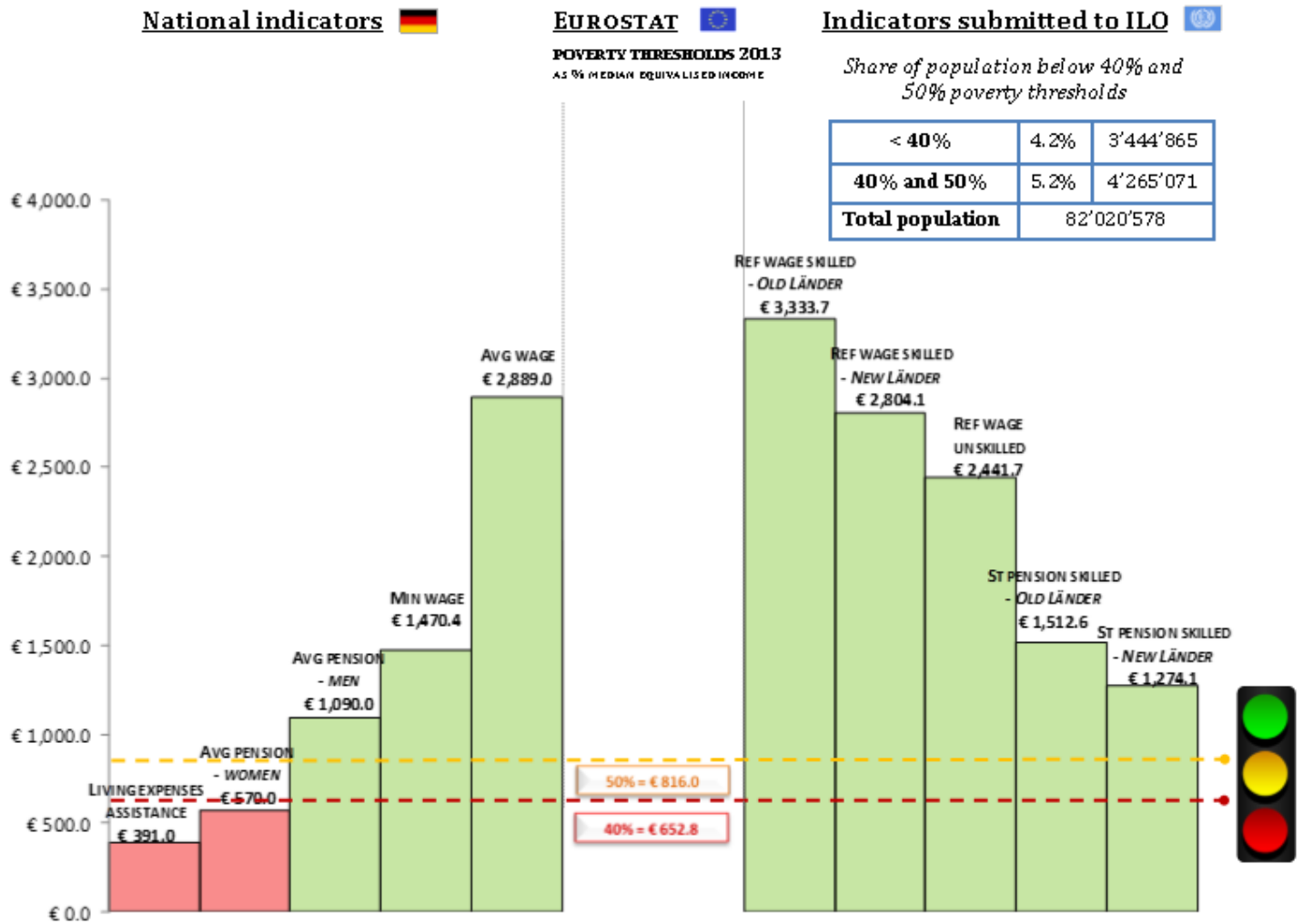


Fig. 2. Structure of population in poverty (Eurostat poverty thresholds of 60%) by the most frequent employment status , 2013

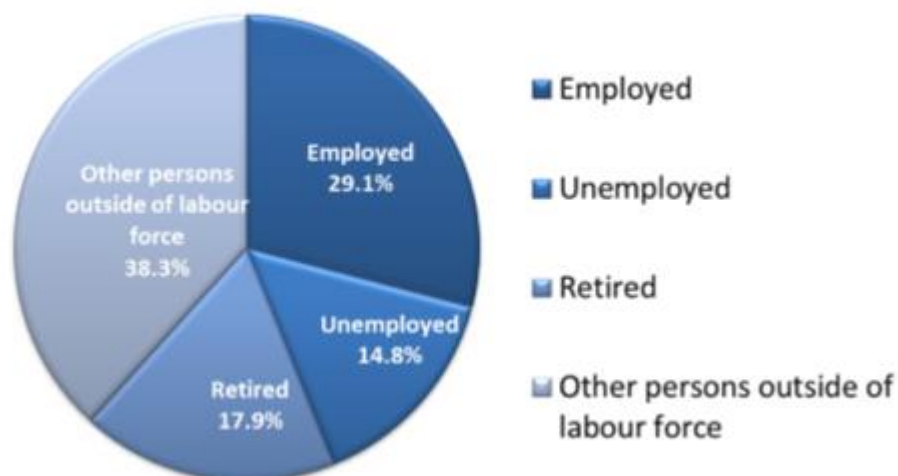
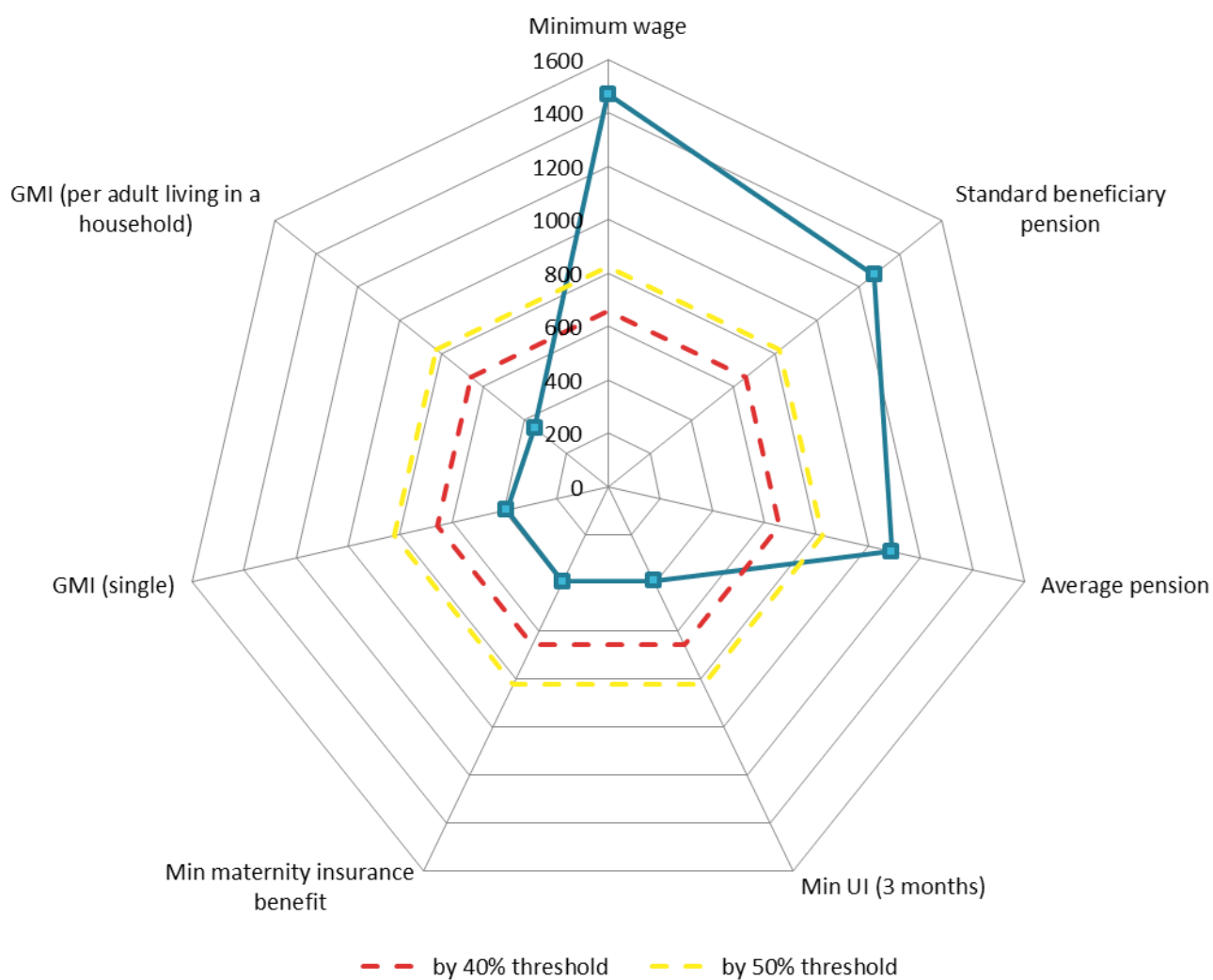
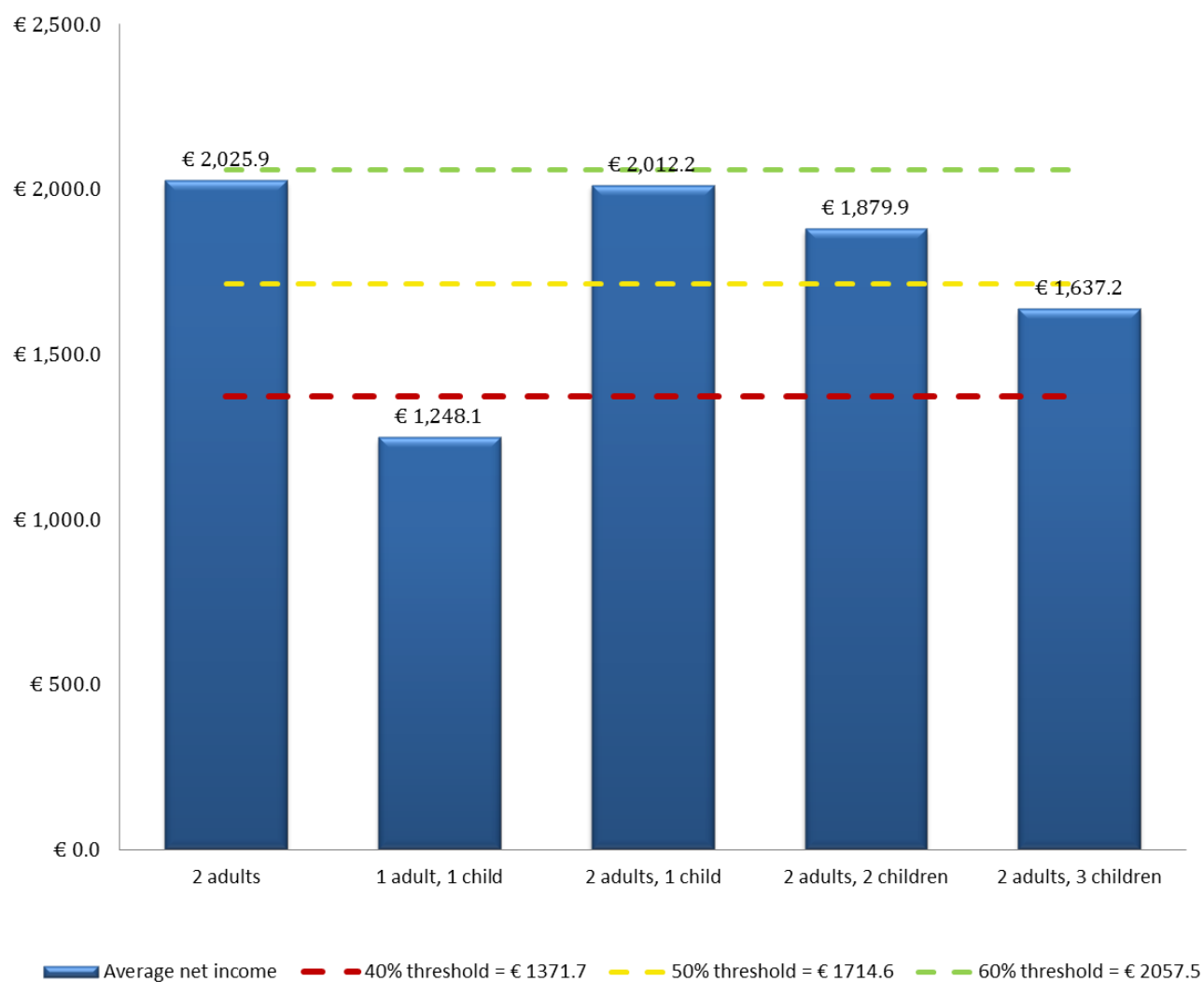


Fig. 3. Social benefits in comparison to Eurostat 40% and 50% poverty thresholds, 2014



Benefits/payments	Amount per month	Sources
Minimum wage	€ 1470.4	Eurostat, 2014
Legal minimum pension	-	MISSOC, 2014
Standard beneficiary pension	€ 1274.1	Pension for average case worker, Government Report 2014
Average pension - men	€ 1090.0	MISSOC, 2014
Survivor benefit	-	MISSOC, 2014
Unemployment insurance benefit (UI - 3 months)	€ 391.0	MISSOC, 2014
Maternity insurance benefit	€ 395.4	MISSOC, 2014
Disability Insurance (permanent)	-	MISSOC, 2014
GMI (single)	€ 391.0	MISSOC, 2014
GMI (per adult living in a household)	€ 353.0	Government Report, 2014

Fig. 4. Income and poverty indicators by type of household, 2012



Household composition	Average net income	At risk of poverty rate (60% threshold)
2 adults	€ 2025.9	10.9 %
1 adult, 1 child	€ 1248.1	38.8 %
2 adults, 1 child	€ 2012.2	10.6 %
2 adults, 2 children	€ 1879.9	7.7 %
2 adults, 3 children	€ 1637.2	12.8 %

Fig. 5. Comparison of monthly wages and pensions (40% replacement rate) to the Eurostat thresholds in 2013-2014, by decile

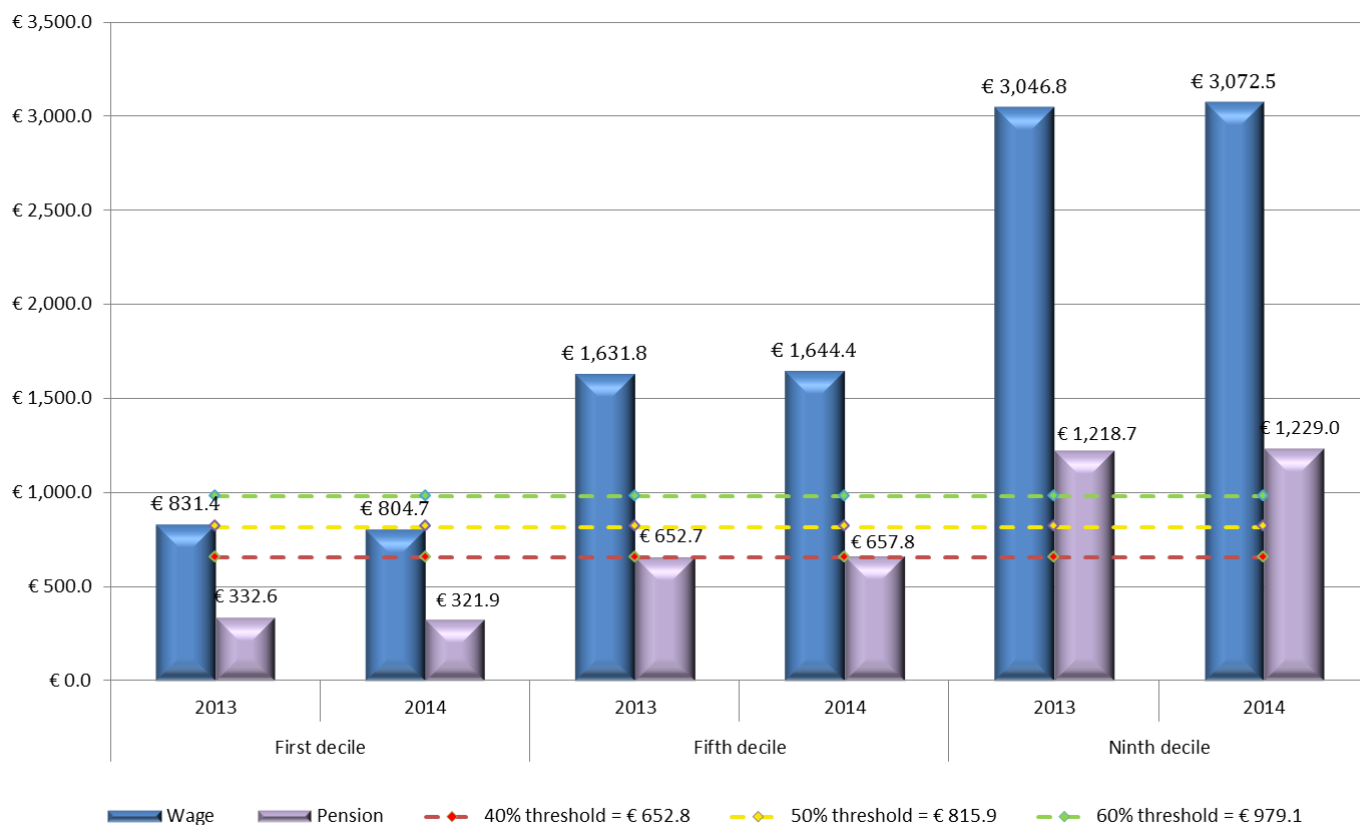


Fig. 6. Test on precarious employment: share of employed population by different job security situation, as % of total employment, 2012

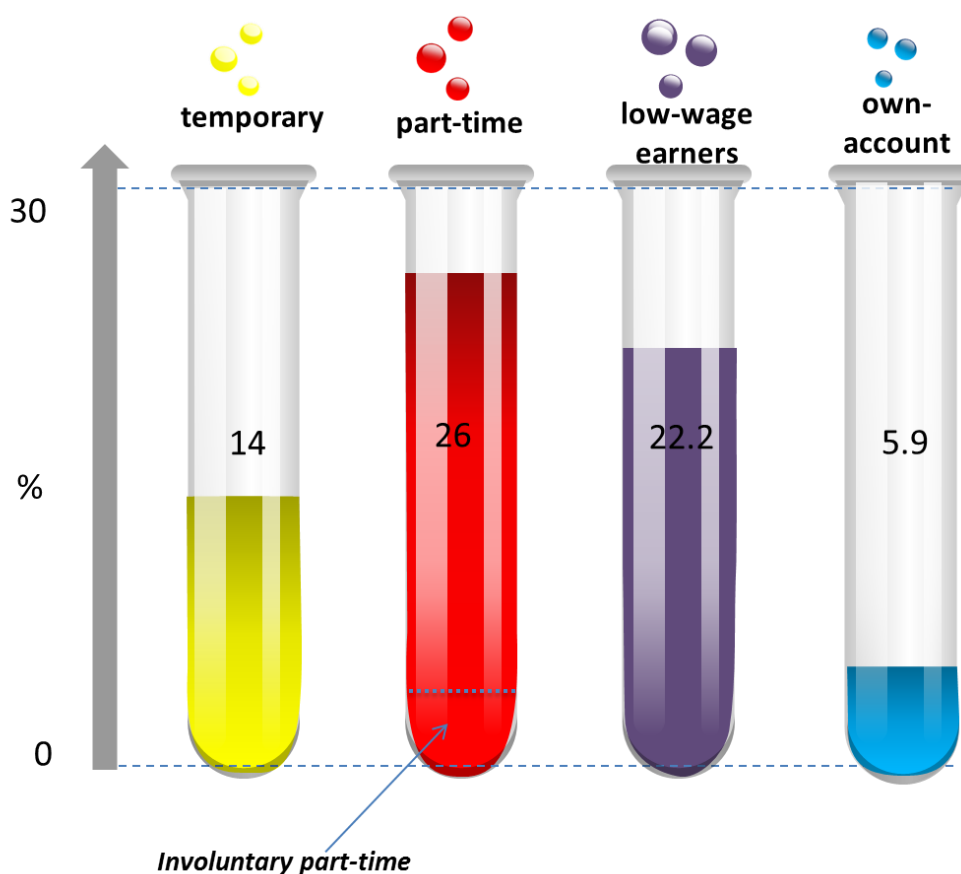
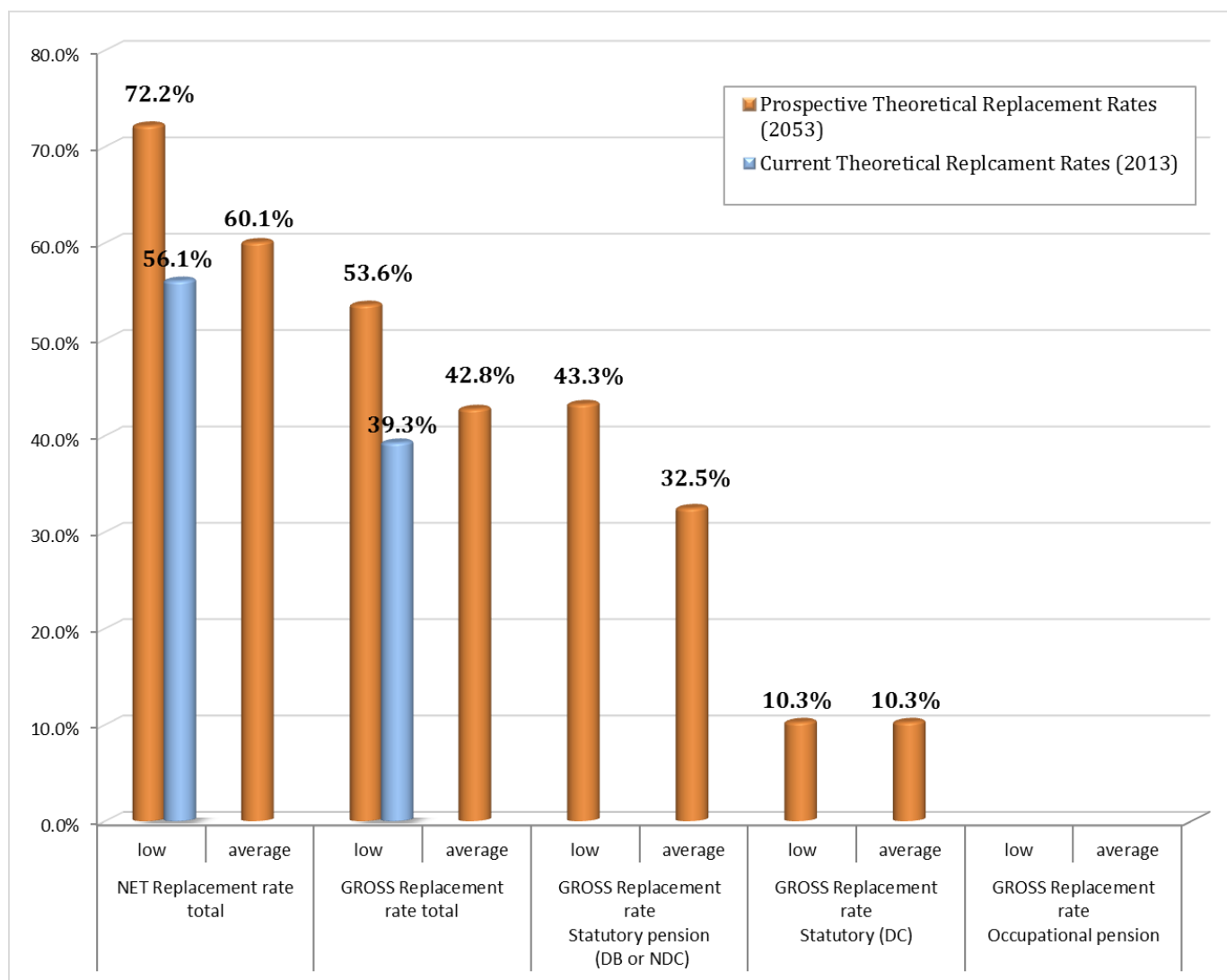


Fig. 7. Theoretical Replacement Rates for low and average wage earners, retiring in 2053 at statutory pension age (67) with 30 years of contributions between 2013 and 2053



**Male, 20 years work from age 25 - career break until 10 years prior to SPA - 10 years work.
10 years of career break in the middle of the career**

	NET Replacement rate total		GROSS Replacement rate total		GROSS Replacement rate Statutory pension (DB or NDC)		GROSS Replacement rate Statutory (DC)		GROSS Replacement rate Occupational pension	
	low	average	low	average	low	average	low	average	low	average
2053	72.2%	60.1%	53.6%	42.8%	43.3%	32.5%	10.3%	10.3%	-	-
2013	56.1%	-	39.3%	-	-	-	-	-	-	-

Source: The 2015 Pension Adequacy Report: current and future income adequacy in old age in the EU, Volume I

*CHAPTER II. Selection of the Article 65, 66 or 67
under C102/ECSS and determination of the
Standard Reference Wage used for calculating the
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- [Fig.10. Comparison of the reported reference wage to other wage indicators in Germany](#)

Fig. 1. Article 65: Type of social security schemes and method of benefit calculation

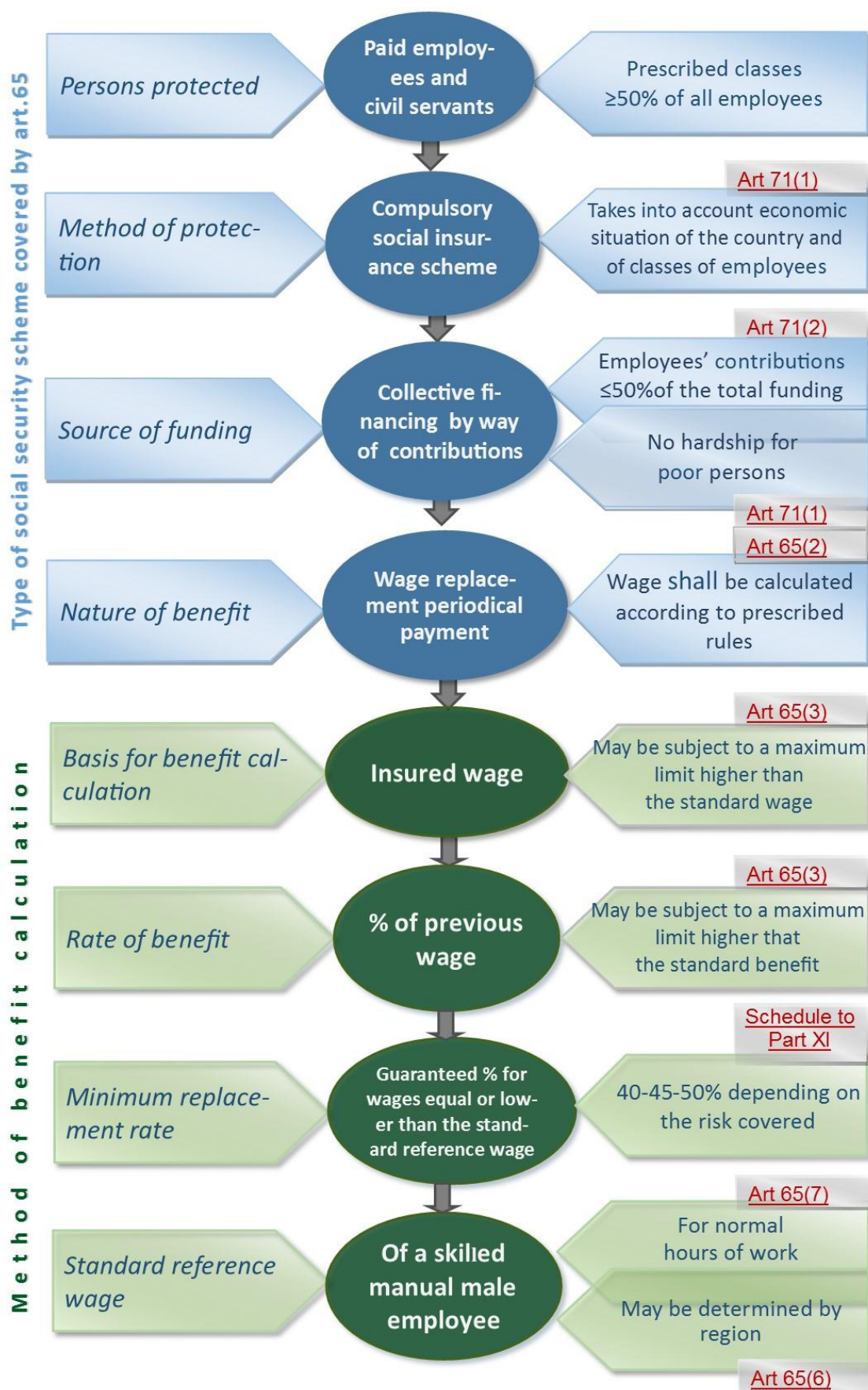


Fig. 2. Article 66: Type of social security schemes and method of benefit calculation

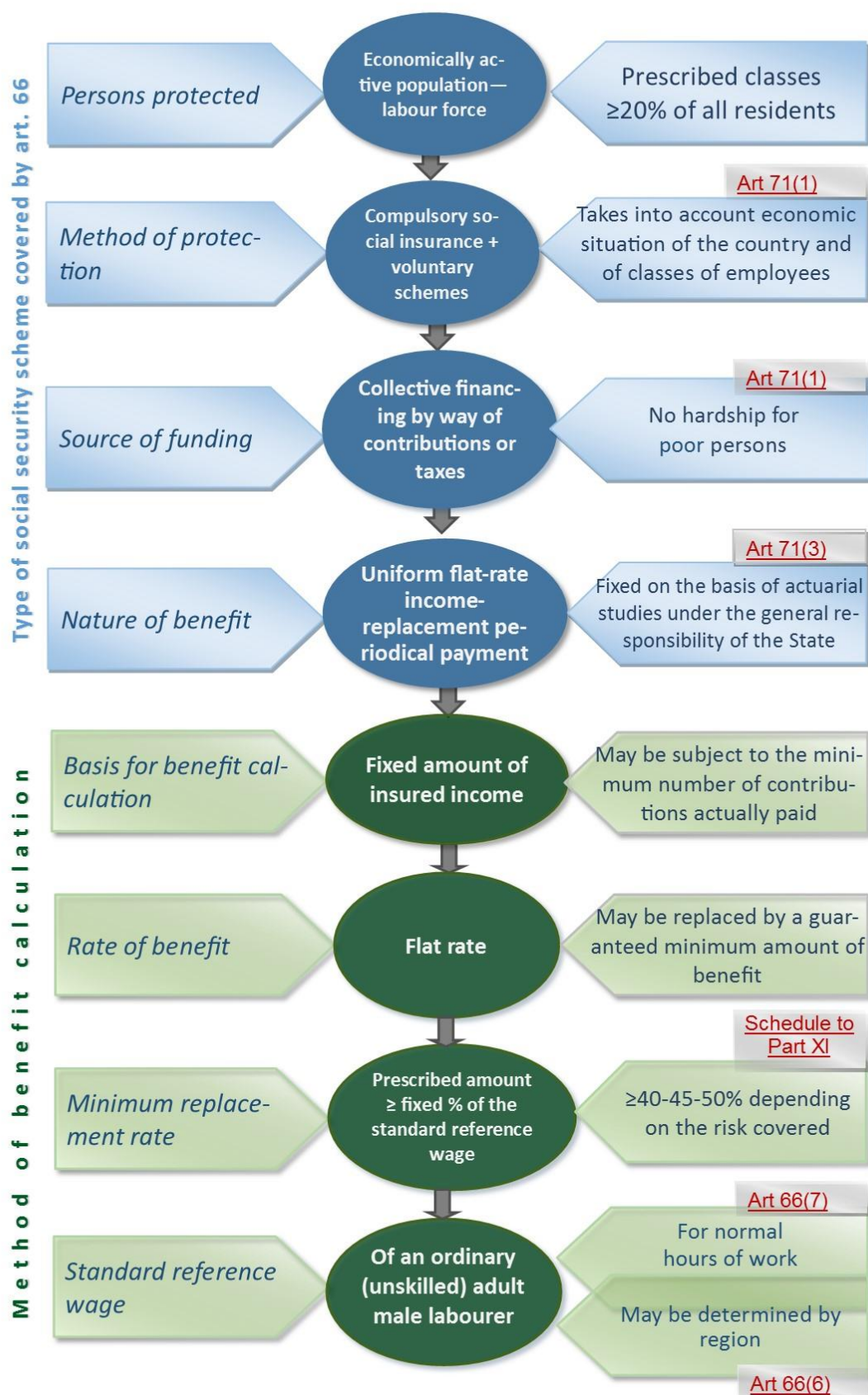
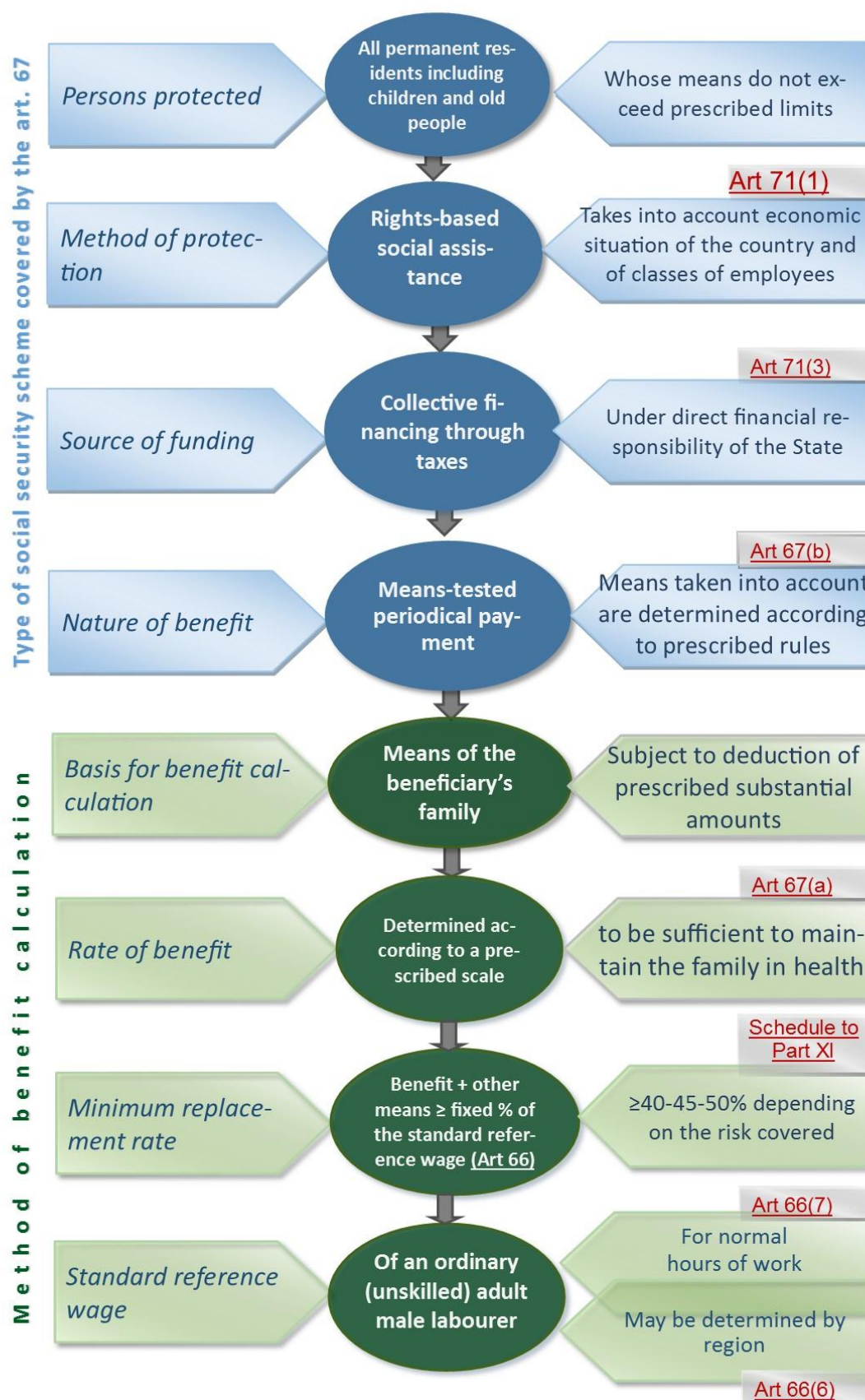


Fig. 3. Article 67: Type of social security schemes and method of benefit calculation



Extracts from the Government Reports (2011) on the ECSS concerning the Reference Wage

Report of Germany under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p. 18

Pursuant to Article 65 (6) c, the minimum standards shall be calculated for a an employee whose earnings are equal to 125% of the average earnings. Using the average earnings of all insured persons as a basis, as shown in Annexes 1 and 10 to Book VI of the Social Code, earnings are as follows (in € and per year):

	old <i>Länder</i>	new <i>Länder</i>
Earnings in 2010 according to Annex 1 of Social Code VI	32,003	
Conversion value in 2006 accord. to Annex 10 of Social Code VI		1.1889
125% of aver. earnings	40,004	33,649

Report of Germany under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p. 31

In 2010, the average annual gross earnings of unskilled, full-time employed male workers in the manufacturing industry amounted to roughly 29,300 euros

Table 1. Calculation of the reference wage under all options permitted by articles 65-66 of the ECSS/C102

Articles in the ECSS/C.102		Reference wage: amount	
		ILO calculations ¹ -2010	Government ²
Article 65 (para 6): a skilled manual male employee			
Option 1	Art.65 (6)a: a fitter or turner in the manufacture of machinery other than electrical machinery	N/A	
Option 2	Art.65 (6)b: a person deemed typical of skilled labour – in manufacturing	2745 euros ³	
Option 3	Art.65 (6)c: a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected	3150 euros ⁴ (full-time and part-time employees)	New Länder : 33649 euros/ 12 months = <u>2804.1 euros/month</u> Old Länder : 40004euros/ 12 months= <u>3333.7 euros/month</u>
Article 66 (para 4): an ordinary male labourer			
Option 4	Art.66 (4)a: a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery	N/A	
Option 5	Art.66 (4)b: a person deemed typical of unskilled labour – in manufacturing	2379 euros ⁵	Unskilled labourer in manufacturing: 29300 euros/ 12 months = <u>2441.7 euros/month</u>

* Gross wages are used unless stated otherwise

¹ ILO calculations based on EUROSTAT data from Labour Force Survey LFS-2013 and SES-2010 (see detailed information further)

² Reference wage reported by the Government under ECSS and C.102

³ Structure of earnings survey (SES) – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

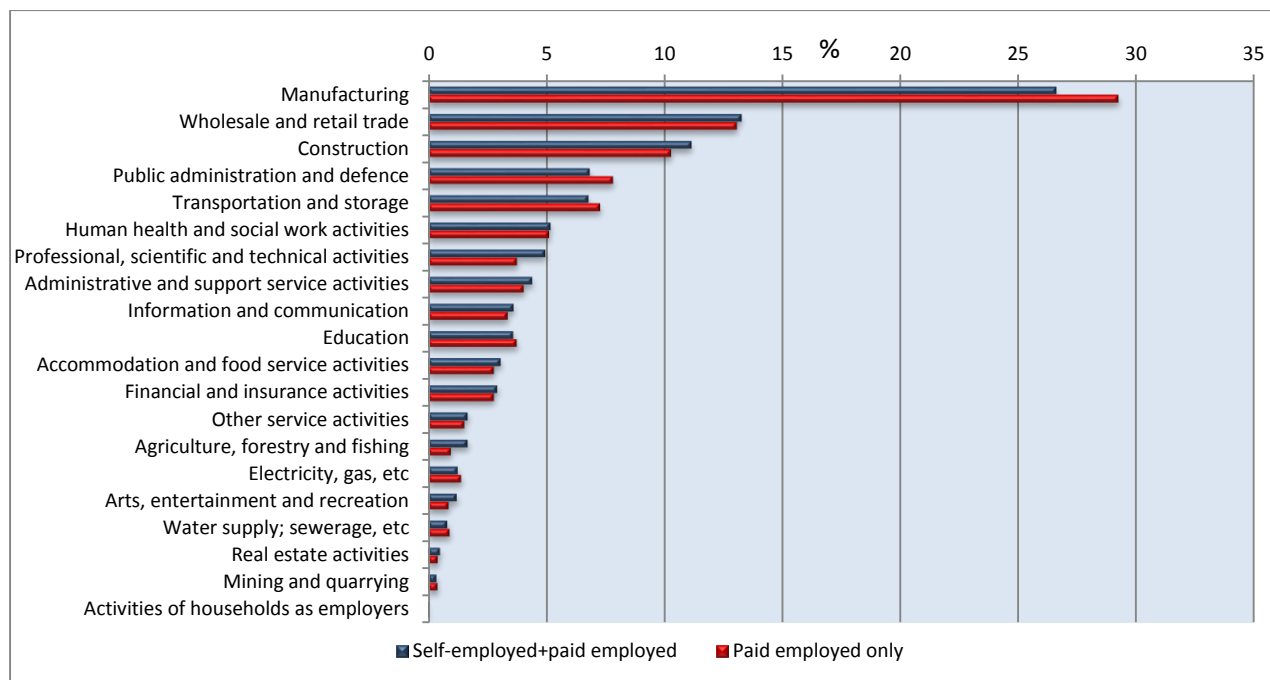
⁴ Structure of earnings survey – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en

⁵ Structure of earnings survey – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

ILO assessment of the options offered by articles 65-66:

OPTION 2 - a typical manual male employee is found in the sector with the highest number of employed males = Manufacturing

Fig.4. Share of employed males by economic activity in total male employment and share of males in paid employment by economic activity in total number of males in paid employment (ISIC rev.4, 2013, LFS)



Source: Eurostat LFS - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa_egaps&lang=en

Fig 5. The average wage of a typical skilled/unskilled manual male employee is determined by cross-tabulating of the two classifications

- ISCO 08 – International Standard Classification of Occupations (group 7- skilled and 9 – ordinary)
- ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008

		ISCO 08	
ISIC rev.4	ISCO 08	Total	7. Craft and related trades workers
	ISIC rev.4		9. Elementary occupations
	Total		
	...		
	C. Manufacturing		skilled
	...		unskilled

ISCO 08:

ISCO 08: Major group 7

Craft and related trades workers apply their specific knowledge and skills to produce or process goods. The tasks call for an understanding of all stages of the production process, the materials and tools used and the nature and purpose of the final product. Most occupations in this group require skills at the second ISCO level.

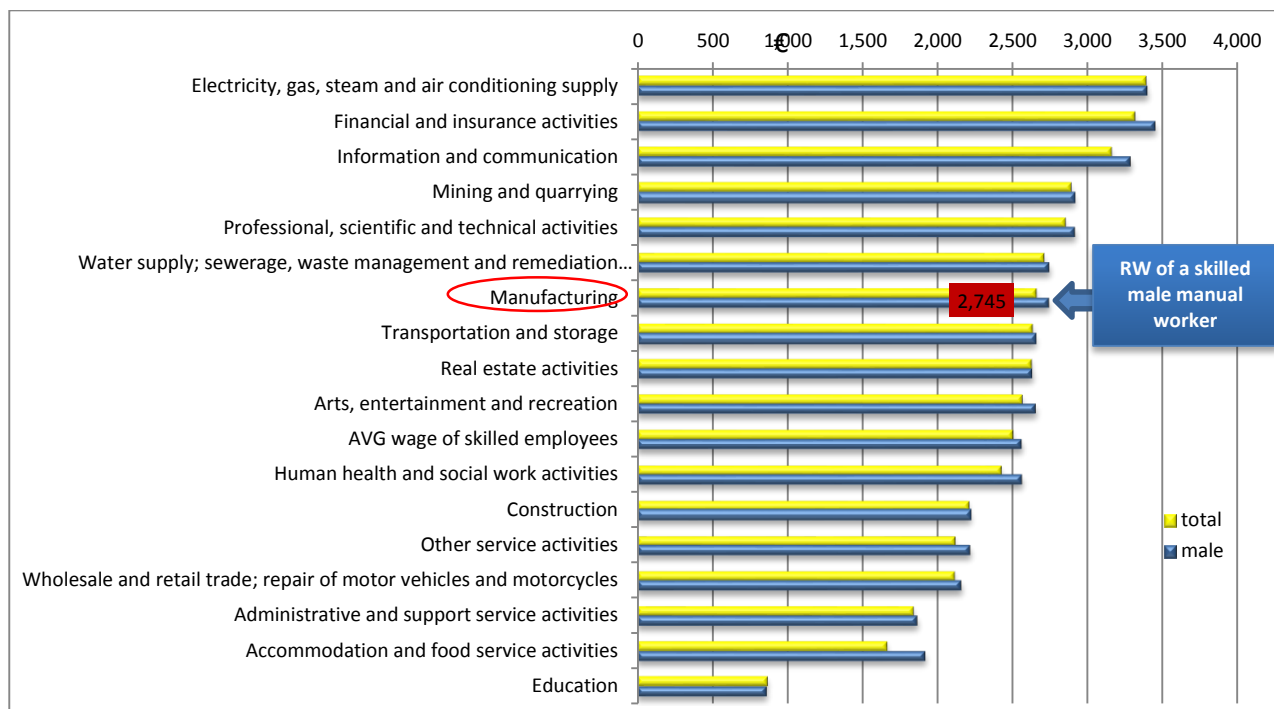
The work is carried out by hand and by hand-powered and other tools.

ISCO 08: Major group 9

Elementary occupations involve the performance of simple and routine tasks which may require the use of hand-held tools and considerable physical effort.

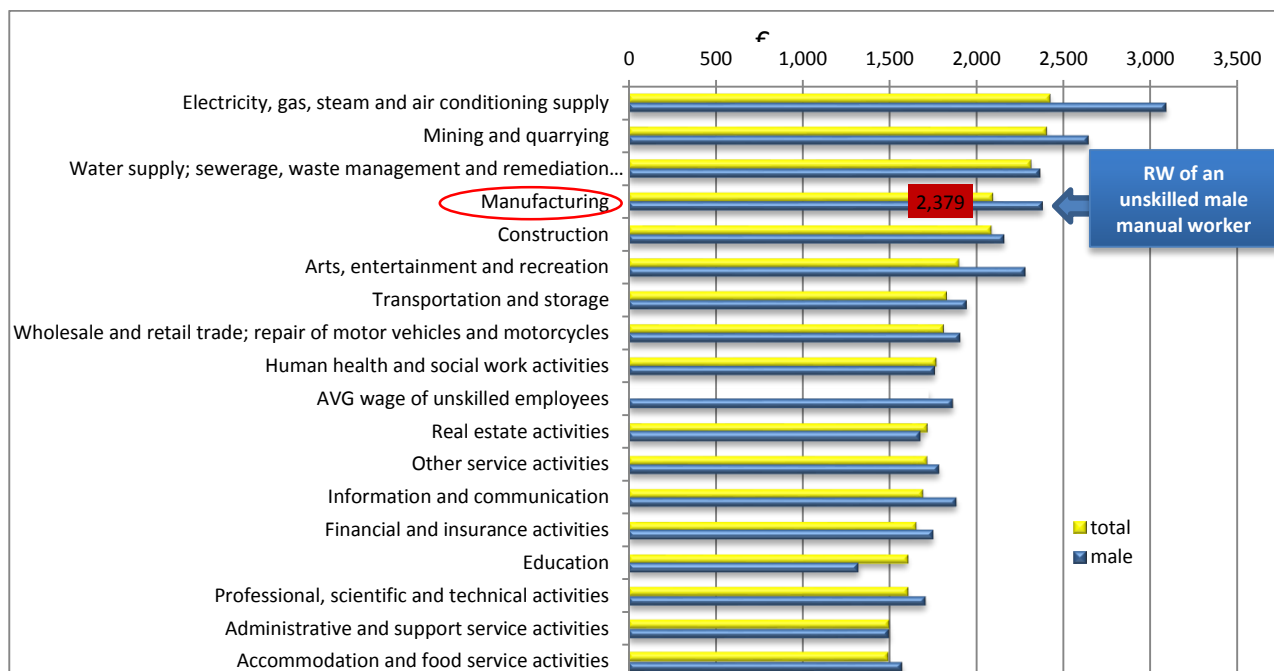
Most occupations in this major group require skills at first level of ISCO (involve physical and manual tasks, require only primary education at most)

Fig.6. Average monthly wages of skilled employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)



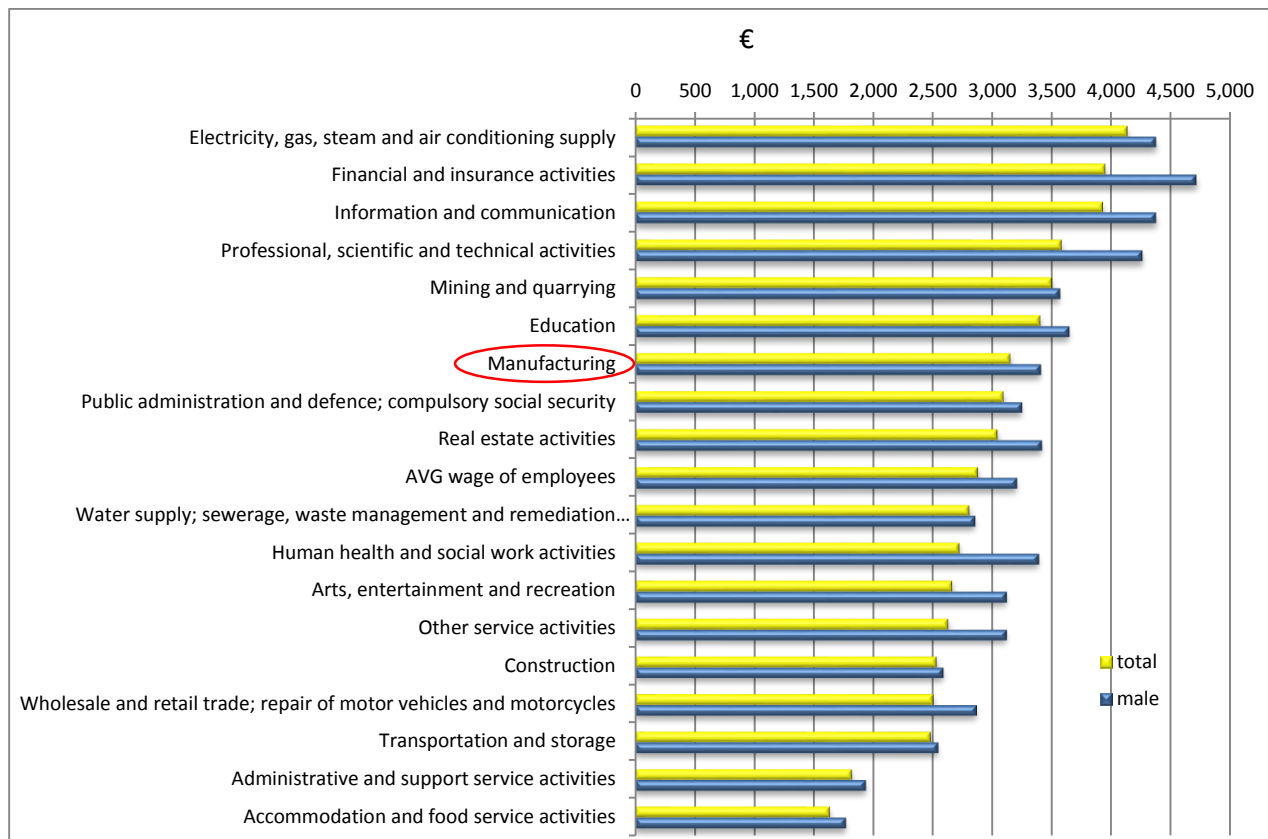
Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

Fig.7. Average monthly wages of unskilled employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)



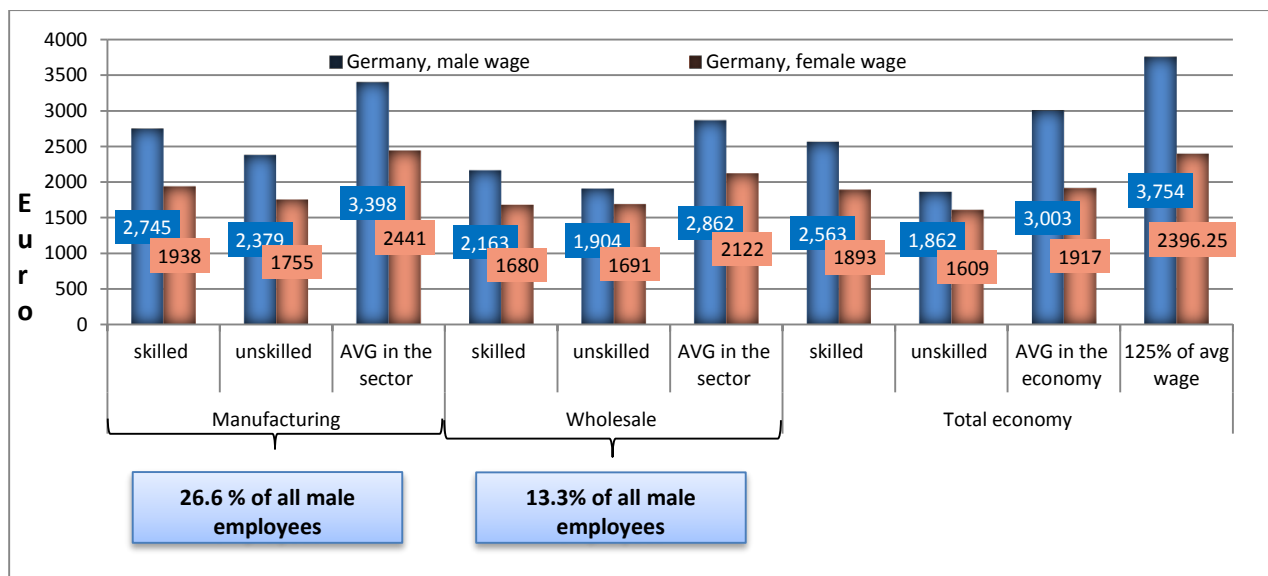
Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

Fig.8. Average monthly wages of employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)



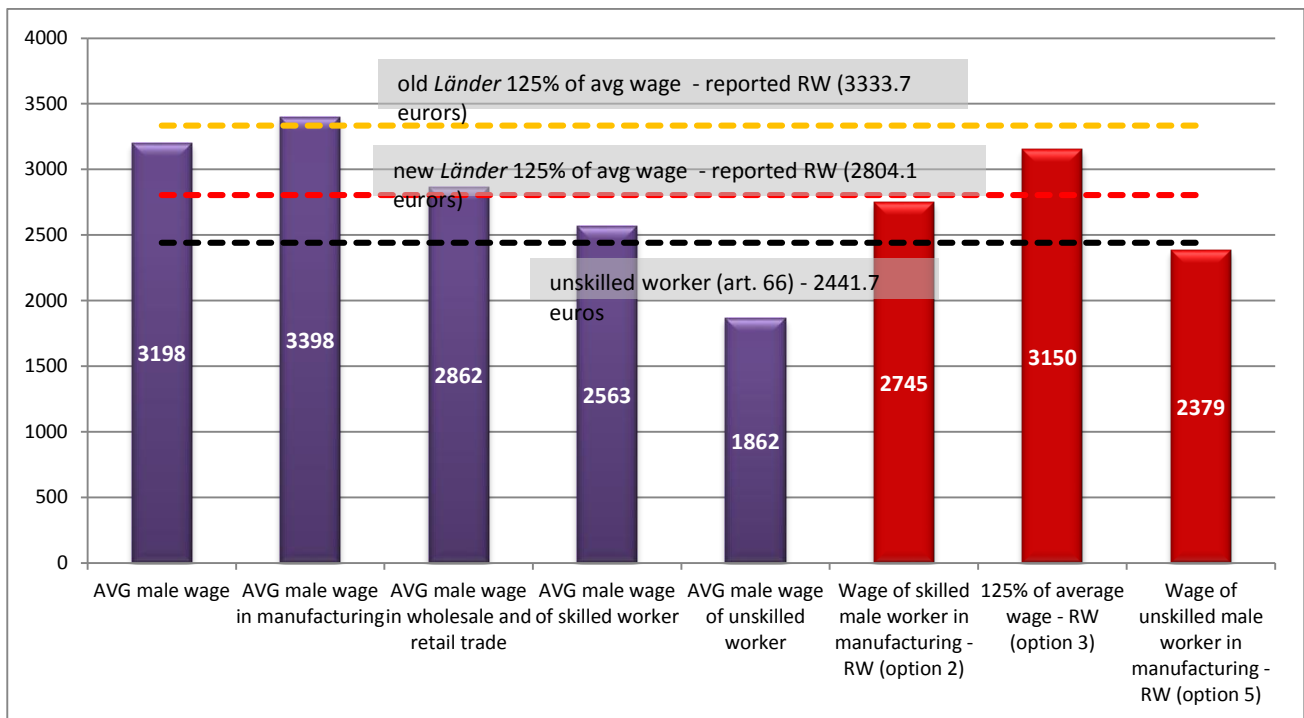
Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

Fig.9. Average monthly wages of male and female skilled and unskilled employees in the 2 sectors (Manufacturing and Wholesale) with the highest number of male employees, in comparison to other wage indicators in Germany, SES -Eurostat, 2010 and EU-SILC, 2010



Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en and http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en - 125% of average wage (include both full-time and part-time employees)

Fig.10. Comparison of the reported reference wage to other wage indicators in the Germany, 2010, euros



Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en for option 3 – 125% of average wage (working time: include both full-time and part-time employees)

CHAPTER III. Integrated Management of compliance and reporting obligations of Germany under social security provisions of the ratified international treaties on social rights

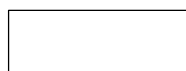
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Table 1. Up-to-date social security standards in force

Social Human Rights International treaties	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
	<i>Right to Social Security Art.9</i>										
ICECSR	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC (1961)	Art.11, 13§1		Art.1§1§3		Art.3§1§2, 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1, 13§1§2§3, 14	
	<i>Right to Social Security Art.12§1§2§3</i>										
Protocol	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
ECSS	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing & Organization Part XII</i>
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII

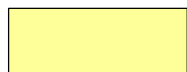


Social Security Standards in force for Germany



Social Security Standards not in force

Social Human Rights International treaties	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
	Right to Social Security Art.9										
ICECSR	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii Art.11§1	Art.2§1, 4, 5
					CRPD	CRC	CEDAW	CRPD			
UN Conventions											
ESC (1961)	Art.11, 13§1		Art.1§1§3		Art.3§2,15§2 🙄 Art.3§1	🙄 Art.16	Art.8§1	Art.15§1		🙄 Art.4§1 Art.13§1§2 §3, 14	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Pending comments of the supervisory bodies



critical comments or non-compliance

Table 2. Pending comments of the supervisory bodies

Table 3. Up-to-date standards on which reports are due in 2016

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC (1961)	Art.11, 13§1		Art.1§1§3		Art.3§1§2	Art.16	Art.8§1	Art.15§1		Art.4§1	
					Art.15§2					Art.13§1§2 §3, 14	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Report in 2016

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC (1961)	Art.11, 13§1		Art.1§1§3		Art.3§1§2, 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1	
										Art.13§1§2 §3, 14	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Report in 2017

Table 4. Up-to-date standards on which reports are due in 2017

Next detailed report of Germany under Article 74 of the ECSS

(Extract from CEACR 2015 Conclusions)

In accordance with the reporting cycle on the Code, in July–August 2016 the Government shall submit a detailed report covering the period of five years from 1 July 2011 to 30 June 2016. In accordance with the reporting cycle on Convention No. 102, in June–August 2016 the Government shall also submit a detailed report for the period from 1 June 2011 to 31 May 2016. The Committee draws attention to the alignment of the reporting obligations under the Code and Convention No. 102 and to the similarity of the Report Forms on both instruments, the objective of which is to reduce the administrative workload and avoid duplication of reports. For this purpose, the Report Form on the Code expressly stipulates that, if a Government is bound by similar obligations as a result of having ratified ILO Convention No. 102, “it may communicate to the Council of Europe copies of the reports it submits to the International Labour Office on the implementation of this Convention”. The Committee points out that this simplified procedure can be used next year to report on all accepted Parts of the Code and refers the Government to the tables in the ILO technical note concerning coordination of reporting obligations. On the other hand, the information provided by the Government in its annual reports on the Code is regularly taken into account by the Committee in assessing the application of up-to-date ILO social security Conventions.

By 31 October 2016, Germany will also report on the application of the accepted provisions of the European Social Charter under the thematic group “Health, social security and social protection”, which includes the right to protection of health (Article 11), the right to social security (Article 12), the right to social and medical assistance (Article 13), the right to benefit from social welfare services (Article 14), the right of elderly persons to social protection (Article 23) and the right to protection against poverty and social exclusion (Article 30). The Committee observes that these articles of the Charter are directly related to many provisions of the Code and ILO social security Conventions and form a single legal space of international social security law. Taking into account that the reference period for the report on the Charter (1 January 2012 to 31 December 2015) falls inside the reference periods for detailed reports on the Code and Convention No. 102, the Government is invited to coordinate the fulfilment of its compliance and reporting obligations under these instruments in order to improve the quality and consistency of the information provided. Such coordination could be extended further to include future reporting on the social security provisions of the United Nations human rights treaties, including the International Covenant on Economic, Social and Cultural Rights for which the report is due in June 2016.

With regard to coordination of compliance obligations, the Committee recalls that, in formulating its country conclusions on the application of the Code, it takes account of the relevant observations made by other supervisory bodies, such as the European Committee of Social Rights and the United Nations Committee on Economic, Social and Cultural Rights. To facilitate the integrated management of the country’s obligations under the social security provisions of the main European and international treaties on social rights, the Committee refers the Government to the coordination tables and reporting timelines presented in the ILO technical note, together with the compilation of the related comments made by their supervisory bodies. The Committee hopes that such a holistic vision will help the Government to apply a rights-based approach to its fiscal consolidation policy and complement it by the legal consolidation of all international obligations binding Germany to the full respect of social security rights.

In accordance with the reporting cycle on the Code, by 31 July 2016 the Government shall submit once every five years a detailed report covering the period since the last detailed report from 1 July 2011 to 30 June 2016. In accordance with the five year reporting cycle on Convention No. 102, by 1 September 2016 the Government shall also submit a detailed report on the Convention for the period from 1 June 2011 to 31 May 2016. The Committee draws the Government's attention to the alignment of the reporting procedures under the Code and Convention No. 102 and the similarity of the Report Forms on both instruments, which was put in place to reduce the administrative workload and avoid duplication of reports. For this purpose, the Report Form on the Code expressly stipulates that, if a Government is bound by similar obligations as a result of having ratified the ILO Convention No. 102, "it may communicate to the Council of Europe copies of the reports it submits to the International Labour Office on the implementation of this Convention". Where certain Parts of Convention No. 102 have ceased to be applicable due to ratification of the corresponding Parts of the more advanced Conventions Nos 121, 128 and 130, the Government may equally communicate to the Council of Europe copies of its reports on these Conventions. The Committee points out that this simplified procedure can be used next year to report on all accepted Parts of the Code except Part VII.

Furthermore, by 31 October 2016, the Government will also have to report on the application of the accepted provisions of the European Social Charter belonging to the thematic group "Health, social security and social protection", which includes the right to protection of health (Article 11), the right to social security (Article 12), the right to social and medical assistance (Article 13), the right to benefit from social welfare services (Article 14), the right of elderly persons to social protection (Article 23), and the right to protection against poverty and social exclusion (Article 30). The Committee observes that these articles of the Charter are directly related to many provisions of the Code and Convention No. 102, which form a single legal space of international social security law. Taking into account that the reference period for the report on the Charter (1 January 2012–31 December 2015) falls inside the abovementioned periods for detailed reports on the Code and Convention No. 102, the Government is invited to coordinate the fulfilment of its reporting obligations under these instruments in order to improve the quality and consistency of the information provided. Such coordination could be extended further to include future reporting on the social security provisions of the United Nations human rights treaties, including the International Covenant on Economic, Social and Cultural Rights.

With regard to coordination of compliance obligations, the Committee recalls that, in formulating its country conclusions on the application of the Code, it takes account of the relevant observations made by other supervisory bodies, such as the European Committee of Social Rights and the United Nations Committee on Economic, Social and Cultural Rights. To facilitate the integrated management of the country's obligations under the social security provisions of the main European and international treaties on social rights, the Committee refers the Government to the coordination tables and reporting timelines presented in the ILO technical note, together with the compilation of the related comments made by their supervisory bodies. The Committee hopes that such a holistic vision will help the Government to apply a rights-based approach to its fiscal consolidation policy and complement it by the legal consolidation of all international obligations binding Cyprus to the full respect of social security rights.

Parts of Convention No.102 no longer applicable following ratification of more advanced standards

C102 - Social Security (Minimum Standards)

Article 75

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

C121 - Employment Injury Benefits → C102, Part IV

Article 29

In conformity with Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part VI of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention comes into force for that Member, but acceptance of the obligations of this Convention shall be deemed to constitute acceptance of the obligations of Part VI of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention

C128 - Invalidity, Old-Age and Survivors' Benefits → C102, Parts V, IX, X

Article 45

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, the following Parts of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 38 is in force:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 38 is in force, be deemed to constitute acceptance of the obligations of the following parts of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

C130 - Medical Care and Sickness Benefits → C102, Part III

Article 36

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part III of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 3 is in force.
2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 3 is in force, be deemed to constitute acceptance of the obligations of Part III of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention.

C130, Part II → C102, Part II

N.B! For information and reporting purposes, more advanced provisions on medical care contained in C130 include all those contained in Part II of C102.

C168 → C102, Part IV

N.B! For information and reporting purposes, more advanced provisions on unemployment benefit of C168 include those contained in Part IV of C102.

Coordination of reporting between the ECSS and C102

Form for the annual report on the European Code of Social Security (as modified by the Protocol additional thereto)

If a Government is bound by similar obligations as a result of having ratified the Social Security (Minimum Standards) Convention adopted by the 1952 General Conference of the International Labour Organisation, it may communicate of the Council of Europe copies of the reports it submit to the International Labour Office on the implementation of this Convention.

Council of Europe, Strasbourg 1967

Table 5. Coordination of reporting obligations on up-to-date ILO social security Conventions ratified by Germany

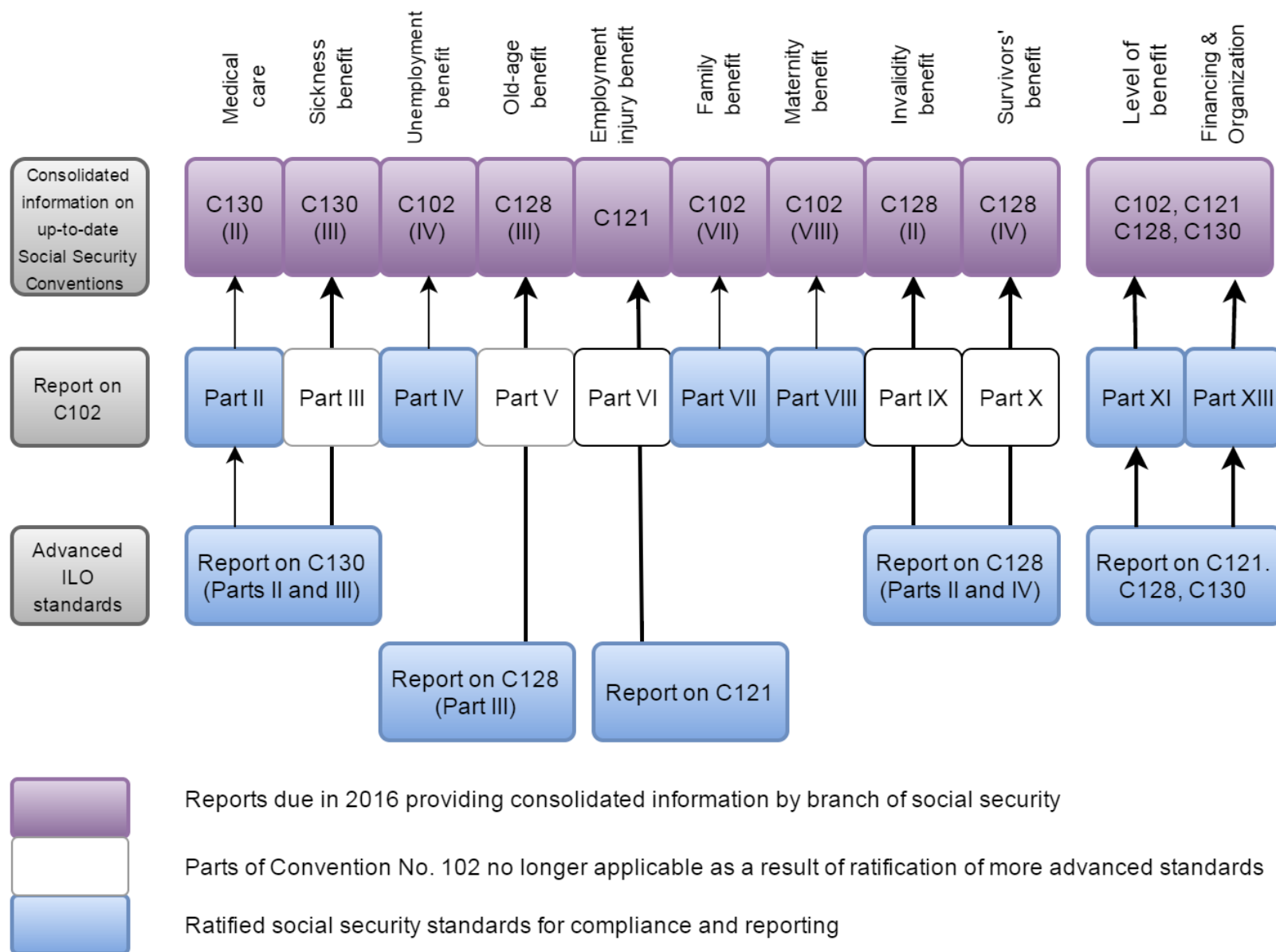
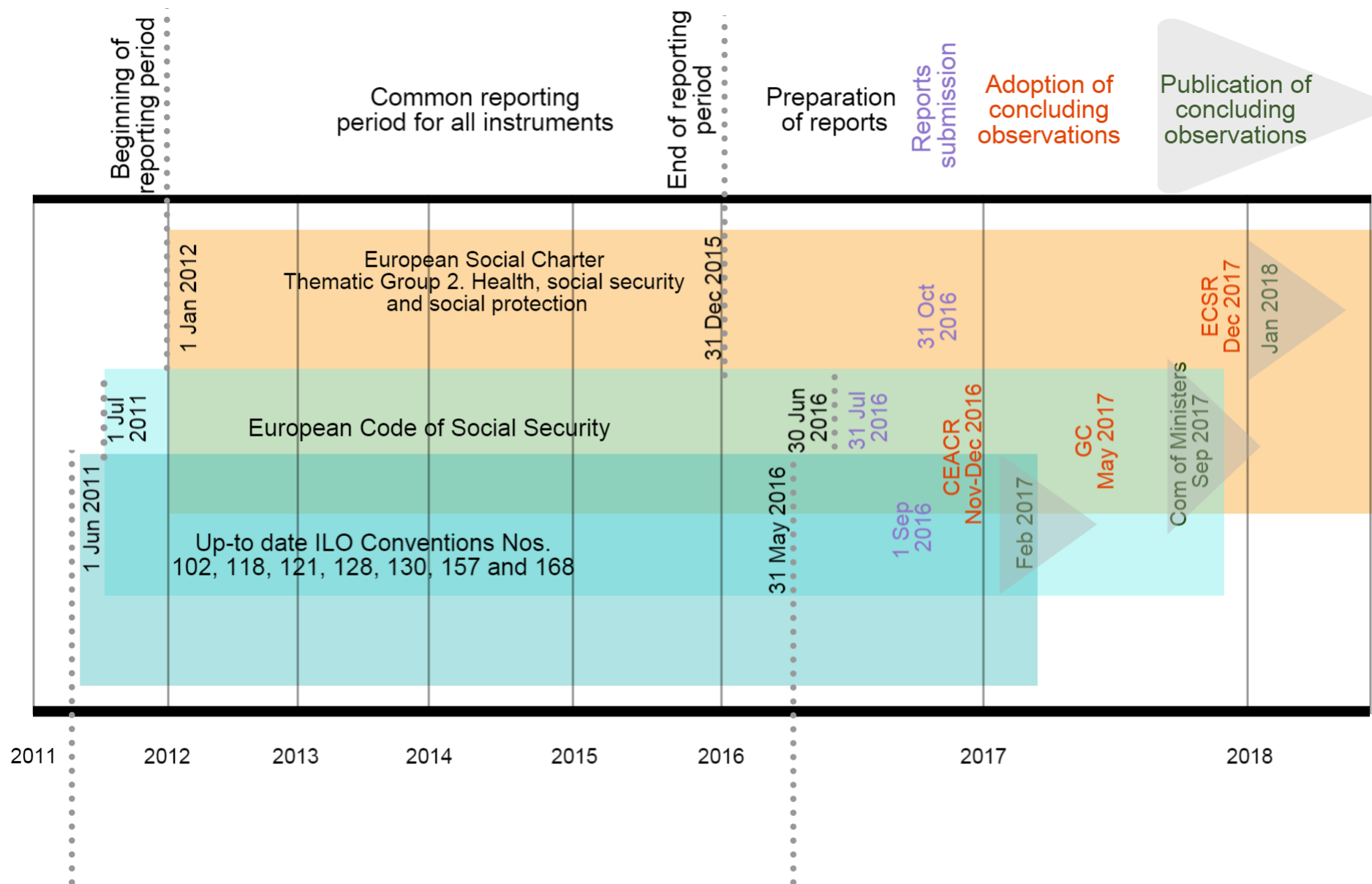


Fig. 1. Time management of the 5 years reporting cycle (2011-2016/17) on international and European social security standards



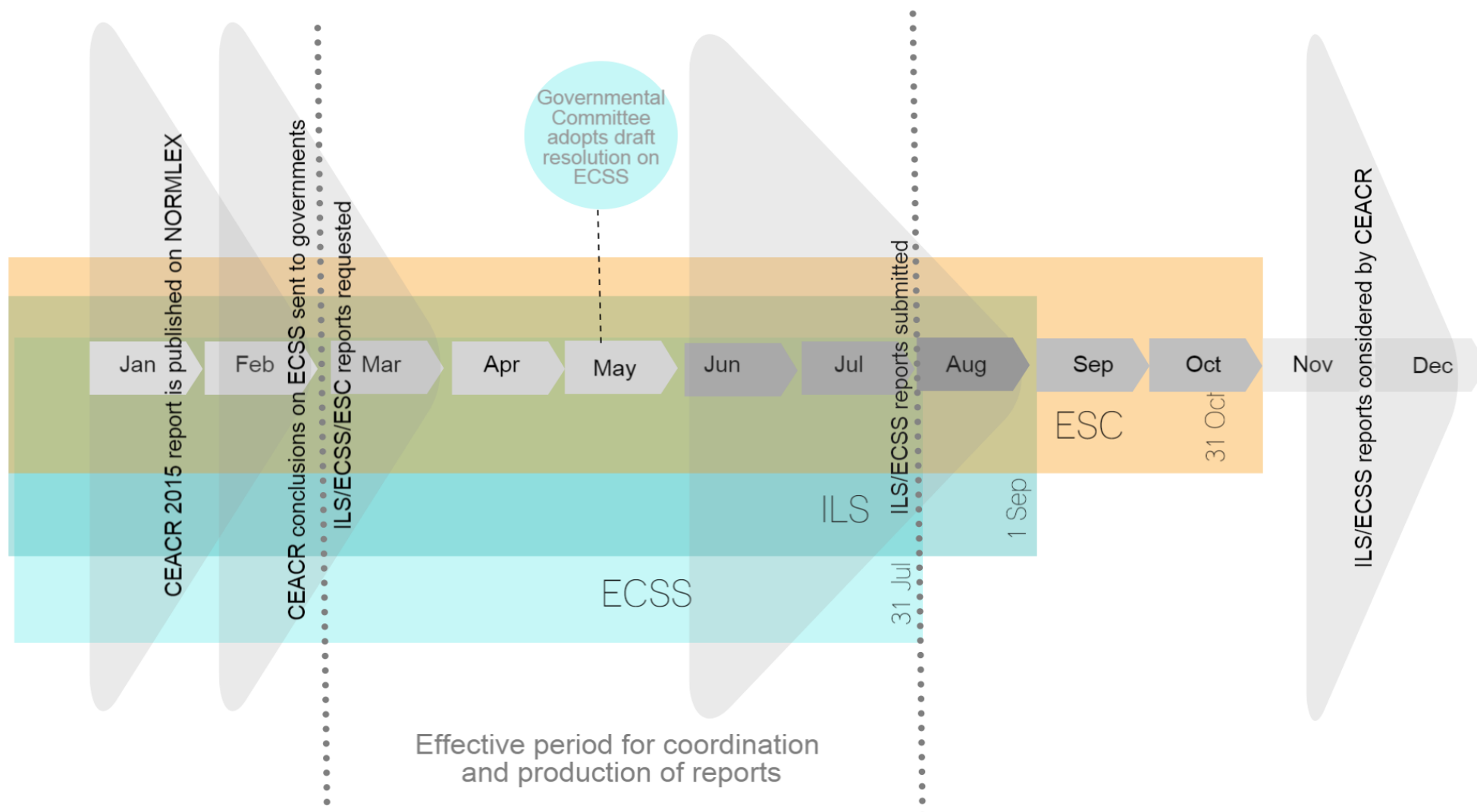


Fig. 2. Time management for reporting on social security standards in 2016

Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

- [Table 1. International treaties on social rights ratified by Germany](#)
- [Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations](#)

1. [**United Nations**](#)

- [International Covenant on Economic, Social and Cultural Rights](#)
- [Convention on the Rights of the Child](#)
- [Convention on the Elimination of All Forms of Discrimination against Women](#)
- [Convention on the Right of Persons with Disabilities](#)

2. [**Council of Europe**](#)

- [European Social Charter](#)
- [European Code of Social Security](#)

3. [**International Labour Organization**](#)

- [Invalidity, Old-Age and Survivors' Benefits Convention, 1967 \(No.128\)](#)

4. [**EU Country-Specific Recommendations: 2015**](#)

Table 1. In force international treaties on social rights ratified by Germany

Body	International Treaty	Entry into force for Germany	Next report due on
United Nations	ICESCR	17 Dec 1973	30 Jun 2016
	Convention on the Rights of the Child	6 Mar 1992	4 Apr 2019
	Convention on the Elimination of All Forms of Discrimination against Women	10 Jul 1985	Submitted 2 Oct 2015
	Convention on the Rights of People with Disabilities	24 Feb 2009	24 Mar 2019
Council of Europe	European Code of Social Security	28 Jan 1972	1 Jul – 31 Aug 2016
	European Social Charter	27 Jan 1965	31 Oct 2015
International Labour Organization	Convention 102	21 Feb 1958	1 Jun - 1 Sep 2016
	Convention 103		
	Convention 121	1 Mar 1972	1 Jun - 1 Sep 2016
	Convention 128	15 Jan 1971	1 Jun - 1 Sep 2016
	Convention 130	8 Aug 1974	1 Jun - 1 Sep 2016
	Convention 168		
	Convention 183		
European Union	Country-Specific Recommendation of 14 July 2015		

Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations

Instrument	Supervisory body	Type of a State party report/Reporting cycle	Comments of a supervisory body
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)	Periodic reports – every 5 years; initial report – within one year after the entry into force (Art.17)	Concluding observations of the CESCR
Convention on the Rights of the Child	Committee on the Rights of the Child (CRC)	Periodic reports – every 5 years; initial report – within two years after the entry into force (Art.44)	Concluding observations of the CRC
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women (CEDAW)	Periodic reports – every 4 years; initial report – within one year after the entry into force (Art.18)	Concluding observations of the CEDAW
Convention on the Rights of People with Disabilities	Committee on the Rights of Persons with Disabilities (CRPD)	Periodic reports – every 4 years; initial report – within two years after the entry into force (Art.35)	Concluding observations of the CRPD
European Code of Social Security (ECSS)	ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; European Committee on Social Rights (ECSR) ; Governmental Committee of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Full reports – every five years in conjunction with the ILO Convention 102; Annual reports every year (Art.74).	Conclusions of the CEACR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
European Social Charter/ Revised European Social Charter (ESC)	European Committee on Social Rights (ECSR) ; Governmental Committee (GC) of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Normal reports – annually on one of four thematic groups; simplified reports – every two years in case of acceptance of the collective complaints procedure.	Conclusions (national reports) and decisions (collective complaints) of the ECSR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
ILO Conventions (C102, C121, C128, C130, C168, C183)	Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; Conference Committee on the Application of Standards (CAS) .	Five-year cycle – simplified reports under the ILO technical conventions; detailed report – one year following the entry into force.	Observations and direct requests of the CEACR; Conclusions of the CAS.

1. United Nations

International Covenant on Economic, Social and Cultural Rights – Concluding observations 2011

(the numeration of comments is kept in accordance to the original)

[*UN Office of the High Commissioner for Human Rights website link, Treaty bodies database*](#)

13. The Committee notes with deep concern the situation of asylum-seekers who do not receive adequate social benefits, live in inadequate and overcrowded housing, have restricted access to the labour market and have access only to emergency health care (art. 2(2)).

The Committee urges the State party to ensure, in line with international standards, that asylum-seekers enjoy equal treatment in access to non-contributory social security schemes, health care and the labour market. The Committee also calls on the State party to ensure that national regulations on housing standards, particularly on overcrowding, also apply to reception centres.

14. The Committee remains concerned that the unemployment rate in the Eastern Länders is still double the rate in the Western Länders despite the measures taken to address this disparity (art. 6, 2(2)).

The Committee calls on the State party to take all necessary measures to address regional disparities in employment between the Western and Eastern Länders, including by adopting employment strategies and plans of action targeting regions where unemployment is most severe. Moreover, the Committee recommends that such strategies and plans of action comprise technical and vocational education plans to meet the labour market demands. In this respect, the Committee draws the attention of the State party to its general comment No. 18 on the right to work (2005).

16. The Committee is concerned that insufficient childcare facilities, women's and men's career choices and stereotypical gender roles continue to impede women's equal enjoyment of the right to work.

The Committee recommends that the State party continue efforts to address gender role stereotypes and to educate girls and boys about equal career opportunities with a view to promoting their pursuance of education in fields other than those traditionally dominated by either sex. Moreover, the Committee calls on the State party to significantly increase the supply of care services for children, persons with disabilities, older persons and the sick, and the participation of men in care-taking work.

17. The Committee is concerned that, in spite of measures taken, unemployment is high among persons with disabilities and that the situation has not been effectively addressed by the State party's employment services. The Committee is further concerned about the lack of reliable data on the employment situation of persons with disabilities (art. 6, 2(2)).

The Committee urges the State party to ensure that the Federal Employment Agency provides services to enable persons with disabilities to secure and retain appropriate employment and to progress in their occupational field. In this regard, the Committee refers the State party to its recommendations on the rights relating to work of persons with disabilities as outlined in its general comment No. 5 (1994) on persons with disabilities. The Committee further requests the State party to provide data, disaggregated by year, on the unemployment of persons with disabilities in its next periodic report.

21. While noting the ruling of the Federal Constitutional Court upholding the constitutionality of the method for the calculation of the subsistence level, the Committee remains concerned that this method does not ensure an adequate standard of living for the beneficiaries. Moreover, the Committee is concerned that the amount of the social security payment for children is very low with the result that approximately 2.5 million children in the State party remain below the poverty line. Furthermore, the Committee is concerned about the increase in the taxable portion of the pension to 80 per cent in 2005 (arts. 9, 10).

The Committee urges the State party to review the methods and criteria applied to determine the level of benefits and to monitor the adequacy criteria regularly to ensure that the level of benefits affords the beneficiaries an adequate standard of living. Moreover, the Committee urges the State party to continuously review the impact of its various social security schemes, including the 2011 child package, on child poverty. The Committee also recommends that the State party reconsider its decision to increase the taxable portion of the pension. In this regard, the Committee reiterates its recommendation of 2001 to ensure that the social security reform undertaken by the State party does not retrogressively affect the Covenant rights of the low-income groups and the disadvantaged and marginalized groups of the population and refers the State party to its general comment No. 19 (2008) on the right to social security.

22. The Committee is concerned about the discrimination in the enjoyment of social security rights between Eastern and Western Länders, as reflected in the Federal Constitutional Court decision of July 2010 on the pension rights of former GDR ministers and deputy ministers.

The Committee urges the State party to take prompt and effective measures to prevent any further discrimination in the level of social security benefits between Eastern and Western Länders and remedy the existing cases of such discrimination.

24. The Committee notes with concern that according to the State party's data, 13 per cent of the population of the State party live below the poverty line while 1.3 million persons, who are economically active (see A/HRC/WG.6/4/DEU/3, para. 33), require income support as their earnings do not sustain them. The Committee is further concerned that in view of the extensive social security system in the State party, such a level of poverty may be indicative of inadequate levels of benefits or limited access thereto (arts. 11, 9).

The Committee calls on the State party to adopt and implement a comprehensive anti-poverty programme taking account of the aspects of poverty as identified by the various qualified analyses undertaken by the State party. The Committee recommends that a review of the social security benefits levels be included in such strategies. Moreover, the Committee calls on the State party to integrate human rights into the implementation of the anti-poverty programme, thereby paying particular attention to the disadvantaged and marginalized groups. In this respect, the Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (2001).

Convention on the Rights of the Child – Concluding observations 2014

[*UN OHCHR website link, Treaty bodies database*](#)

Standard of living

64. The Committee is concerned about the rise in the poverty rate and the at-risk-of-poverty rate among children, with children from single-parent families, large families and families from ethnic minority backgrounds being particularly affected, above all when the adults are unemployed or in a precarious job situation. Furthermore, the Committee is concerned that the statutorily prescribed practice of imposing sanctions following non-compliance with duties connected to unemployment assistance may affect children's standard of living when imposed on families or unemployed adolescents.

65. The Committee recommends that the State party allocate the necessary resources and make additional efforts to tackle the root causes of child poverty and conduct a comprehensive evaluation of the areas in which families are particularly vulnerable to poverty, and develop and implement appropriate remedial strategies. The Committee further recommends that the State party increase material assistance and support to economically disadvantaged families in order to ensure that all children have an adequate standard of living.

Convention on the Elimination of All Forms of Discrimination against Women – Concluding observations 2009

[*UN OHCHR website link, Treaty bodies database*](#)

37. While acknowledging the initiatives taken by the State party to foster the employment of women and the resulting growth in the participation of women in the labour market, the Committee is concerned that this growth has not resulted in an increase in women's share of the overall volume of gainful employment but rather in an increase in part-time employment. The Committee notes with concern that women are concentrated in part-time, fixed-term and low-paid jobs and that few women have reached high-level posts in management, private companies and work councils, despite the agreement to promote equality between women and men in the private sector. The Committee is concerned about some negative impact on women of the Fourth Law for Modern Services in the Labour Market, which entered into force on 1 January 2005, namely the increase of financial dependence of unemployed women on husbands or partners resulting from the introduction of "needs units" and the proportional increase of women whose access to benefits has been denied. The Committee is further concerned at the difficulties experienced by immigrant women and women with disabilities regarding their integration and participation in the labour market. While noting the adoption of measures aimed at the reconciliation of family and work life, the Committee remains concerned that less than 10 per cent of parental leave is taken by fathers. The Committee wishes to draw the State party's attention to the disadvantaged situation of women who interrupt their careers for family reasons and the related consequences on retirement and old-age pensions. The Committee expresses further concern at the 2007 Pension Reform Act, which raised the age of retirement to 67 years and as a result of which only 2.48 per cent of women meet the requirement of 45 years of contributing to the pension fund without incurring a loss in benefits.

38. The Committee emphasizes that realization of women's de facto equality with men in the labour market, including in the private sector, so as to achieve compliance with article 11 of the Convention is an obligation of the State party under the Convention. The Committee calls upon the State party to adopt policies and to take all necessary measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation No. 25 with time-bound targets, to eliminate occupational segregation, both horizontal and vertical. The Committee calls upon the State party to assess the impact on women of the Fourth Law for Modern Services in the Labour Market and to undertake corrective measures, including the review of the "needs unit" construct. It encourages the State party to mainstream the issues of immigrant women, who may suffer multiple discrimination, and women with disabilities into its employment policies and programmes. The Committee also recommends that the State party continue its efforts to ensure reconciliation of family and professional responsibilities and for the promotion of equal sharing of domestic and family tasks between women and men, including by increasing the incentives for men to use their right to parental leave. The Committee calls on the State party to examine ways to review the current pension system so as to increase the percentage of women eligible for full benefits. It invites the State party to include, in its next periodic report, information on the extent of use and impact of temporary special measures in the private sector and on measures taken to improve the situation of women in the labour market and the impact of those measures.

Convention on the Right of Persons with Disabilities – Concluding observations 2015

[*UN OHCHR website link, Treaty bodies database*](#)

Adequate standard of living and social protection (art. 28)

51. The Committee is concerned that persons with disabilities use personal finances to pay for additional disability-related expenses, especially in relation to living independently.

52. The Committee recommends that the State party immediately undertake a review of the personal income used by persons with disabilities to meet their needs and to live independently. The Committee also recommends that the State party provide social services to persons with disabilities that provide the same living standards compared to persons without disabilities on comparable incomes.

2. Council of Europe

European Social Charter

[*Official website of the European Social Charter, link to conclusions*](#)

Article 1 – Right to work – Conclusions 2012

Paragraph 1 - Policy of full employment

Employment situation

The Committee notes that despite the economic downturn in 2009, the German economy achieved strong GDP growth again in 2010. The labour market was characterised by positive features during the reference period, including high participation rates and falling unemployment.

Employment policy

The Committee notes from Eurostat that the activation rate in Germany (measured as participants in active measures per 100 persons wanting to work) was 28.6% in 2009. This was just around the EU-27 average that year, which stood at 28.9%. The Committee notes that a significant level of unemployed receive active support, but nevertheless asks the next report to provide information on the different active labour market measures available to jobseekers, the number of beneficiaries for each type of measure and their outcome in terms of labour market integration of participants.

According to Eurostat, public expenditure on active labour market policies in Germany amounted to 1.00% of GDP in 2009, which was above the average for EU-27 countries (where the average public spending on active labour market measures as a percentage of GDP that year was 0.78%). The Committee considers that labour market policies implemented in Germany satisfy the obligations under Article 1§1 of the Charter, as shown by the comparatively high level of spending on such policies and the relatively low levels of unemployment in the country.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 1§1 of the 1961 Charter.

Paragraph 3 - Free placement services

The number of jobs registered with the Federal Employment Agency (only including the unpromoted vacancies on the so-called first labour market) was roughly 359,000 on an annual average in 2010, around 19.5% increase from the previous year.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 1§3 of the 1961 Charter.

Article 3 - Right to safe and healthy working conditions – Conclusions 2013

Paragraph 1 - Safety and health regulations

Personal scope of the regulations

The report confirms the information already provided; in particular that all self-employed persons have and will continue to have the possibility at any time to voluntarily comply with the occupational health and safety regulations applicable to employers and employees. However, it points out that the legal status of self-employed persons alone precludes that an employer's duty of care to his/her employees applies to them as well. Based on this information, the report indicates that, in line with European law principles, there is no general application of the legal provisions on safety and health at work to self-employed persons and states that there have been no changes in Germany's position as far as the period covered by the previous report is concerned.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 3§1 of the Charter on the ground that certain categories of self-employed workers are not sufficiently covered by the occupational health and safety regulations.

Paragraph 2 - Enforcement of safety and health regulations

The Committee takes note of the information contained in the report submitted by Germany.

Occupational accidents and diseases

The report indicates that in the reference period the numbers of reportable and fatal accidents at work follow the trend of many years and continue to decrease. The rate of reportable accidents at work per 1,000 full-time workers is also decreasing. It is underlined that this development can be observed against the backdrop of higher economic growth and an increased number of gainfully employed persons. The crisis year 2009, with considerably lower employment levels and thus a considerably lower accident potential, was disregarded in this assessment as a "non-standard" year. The report also indicates that in the field of occupational diseases, there has been an increase in the number of notifications of suspected occupational diseases. According to the report, the reasons are notably attributable to the fact that in 2009, the law on occupational diseases was reformed, the list of occupational diseases was extended and recognition periods were amended. In contrast, the number of recognised occupational diseases and of deaths as a result of occupational diseases has gone down.

The report shows that during the reference period, the number of fatal accidents at work in Germany was 765 in 2008, 622 in 2009 and 674 in 2010. The Committee notes from Eurostat that in 2010, the German incidence rate of fatal accidents (0.71 per 100 000 workers – this figures excludes road traffic accidents and accidents on board transport in the course of work) was lower than that of other EU member states, including large economies such as France (2.07 per 100 000), Italy (1.73 per 100 000), Spain (2.04 per 100 000) and Poland (5.30 per 100 000). Other information from Eurostat confirms that the rate of fatal accidents at work and the incidence rate of accidents in Germany remains below the European Union average.

Detailed information on accidents at work and occupational diseases is contained in the report by the Federal Government on the state of safety and health at work and on accidents and occupational diseases in the Federal Republic of Germany in 2010 ("SuGa 2010").

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Germany is in conformity with Article 3§2 of the 1961 Charter.

Article 4 - Right to a fair remuneration – Conclusions 2014

Paragraph 1 - Decent remuneration

The Committee notes from the report that in 2010, the average monthly wage after social contributions and tax deductions for workers in establishments with ten or more employees was €2 159.00. Among the lowest wages, the net average wage earnings was €1 043.00 for hair dressers and beauticians, and €1 155.00 for food preparation assistants. According to EUROSTAT figures for 2012, the average annual gross earnings of single workers with no children (table "earn_nt_net") (100% of the average full-time worker) was €44 300.00 gross and €26 681.31 net of social contributions and tax deductions.

According to another source (Statistisches Bundesamt, Verdienste und Arbeitskosten: Nettoverdienste, Wiesbaden: Statistisches Bundesamt 2013, p. 14), the 2012 average annual salary of single female workers, with no training, working full-time in production or services was €24 156.00 gross and €16 368.00 net in the western Länder and €19 140.00 gross and €13 608.00 net in the eastern Länder.

The Committee recalls that, in order to secure a decent standard of living within the meaning of Article 4§1 of the 1961 Charter, wages must be above the minimum threshold, set at 50% of the net average wage. This is the case where the lowest wage paid is above 60% of the net average wage. Where the net lowest wage paid is between 50% and 60% of the net average wage, it is for the State Party to show that this wage is sufficient to secure a decent standard of living (Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1). The Committee notes from the report and the EUROSTAT data that the lowest net wage paid in certain areas of the private sector, such as that paid to hair dressers and beauticians, which may or may not be covered by collective agreements, is below the minimum threshold. It considers that such wages cannot be regarded as decent remuneration wages within the meaning of Article 4§1 of the 1961 Charter. The Committee asks that the next report demonstrates how the average wage of single female workers, with no training, working full-time in production or services, ensures a decent standard of living in the eastern Länder. It also asks for information on wages paid in areas of the private sector not covered by collective agreements as well as on the remuneration of tenured civil servants and contractual staff in the civil service

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 4§1 of the 1961 Charter on the ground that the lowest wage paid does not secure a decent standard of living.

Article 8 - Right of employed women to protection of maternity – Conclusions 2011

Paragraph 1 - Maternity leave

The Committee takes note of the information contained in the report submitted by Germany. The report indicates that there have been no changes to the situation which was previously found to be in conformity with Article 8§1. The same regime applies to women employed in both the private and public sectors. The Committee asks for a full update in the next report.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 8§1 of the 1961 Charter.

Article 11 Right to protection of health – Conclusions 2013**Paragraph 1 - Removal of the causes of ill-health**

In its previous conclusion the Committee asked what arrangements were made to manage health care waiting times. The report indicates that the Act on Care Structures in Statutory Health Insurance was designed to create conditions ensuring that in rural and structurally disadvantaged regions a sufficient number of doctors is available. Moreover, the Federal States must ensure that the population is provided with an adequate hospital infrastructure. This implies that Federal States regularly review their hospital planning, taking into account the demographic development, changes in the population structure and medical developments and adapt to changing needs.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 11§1 of the 1961 Charter.

Paragraph 2 - Advisory and educational facilities

Concerning the population at large, the Committee refers to its previous conclusion where it found the situation to be in conformity.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Germany is in conformity with Article 11§2 of the 1961 Charter.

Paragraph 3 - Prevention of diseases and accidents

With respect to air pollution, water pollution, noise and food safety, the Committee refers to its previous conclusion where it found the situation to be in conformity.

Concerning standard vaccinations, the Committee refers to its previous conclusion. The report indicates that vaccination rates at the check-ups performed on entering school have continuously risen over the past few years or have remained constantly high.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 11§3 of the 1961 Charter.

Article 12 Right to social security – Conclusions 2013**Paragraph 1 - Existence of a social security system**

Risks covered, financing of benefits and personal coverage

In its previous conclusion (Conclusions XIX-2) the Committee held that the situation as regards the personal coverage of social security risks was adequate and wished to receive updated information on the personal coverage.

As regards healthcare, the Committee notes from the report that the share of persons with statutory insurance, including non-contributory affiliated family members stood at 88% of the total population in 2011. Almost 12% of the total population were in substitutive private comprehensive healthcare insurance.

As regards old-age benefit, the Committee notes from the report under the European Code of Social Security that the number of protected employees as a share of the total workforce made 98% in 2010. As regards unemployment benefit, the number of protected employees as a share of the total workforce made 85,7% in 2010.

The Committee asks what is the share of persons insured against sickness and invalidity benefits out of the total workforce.

Adequacy of the benefits

The Committee notes from Eurostat that in 2011 50% of the median equivalised income stood at € 793.

In its previous conclusion (Conclusions XIX-2) the Committee noted that social security benefits calculated for a 'typical' beneficiary complied with the replacement rates required by ILO Convention No. 102. However, in order to make an assessment of the situation under Article 12§1 of the Charter, which requires that the minimum levels of social security benefits be adequate, the Committee wished to be informed of the minimum levels of income replacement benefits (old-age, sickness and unemployment).

In reply the report, again, states that the minimum standards are to be calculated for a worker whose earnings are equal to 125% of average earnings, in accordance with Article 65, Part XI of the European Code of Social Security. It further reiterates that Germany meets the requirements of the Code as regards the replacement rates of benefits (e.g. 45% in case of old age and 50% in case of invalidity). According to the report the ratio of net old-age pension to the net income of a worker earning 125% of the average income stood at 70.3% in the old Länder and 68.4% in the new Länder.

The Committee recalls that under Article 12§1 it makes its own assessment regarding the adequacy of income-replacement benefits. In particular, to be considered adequate in the meaning of the Charter, benefits should never fall below the poverty threshold defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value (Conclusions 2006, Bulgaria).

As regards old age pension, according to the report four factors are relevant to the pension calculation, such as the remuneration points, the pension type factor, the age factor and the current pension value. According to MISSOC, current pension value (aktueller Rentenwert) is the amount corresponding to the monthly old-age pension of the general pension insurance without reductions, if contributions based on the average earnings were paid over one calendar year. It is adjusted annually in accordance with the development of wages and salaries. The Committee notes from the report that the net annual income in old age of a person having earned 125% of the average income with a presumed insurance period of 30 years amounted to €17 614 in the old Länder and €15 558 in the new Länder in 2011.

The Committee considers that the level of old-age pension in the above examples stands above the Eurostat at-risk-of-poverty threshold, but, however, it does not represent the lowest (minimum) level of pension paid. Therefore, the Committee does not take it into account in its assessment. The Committee asks what is the minimum level of old-age pension and holds that if

this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

As regards unemployment benefit, according to MISSOC Unemployment Insurance (Arbeitslosenversicherung) is contribution-financed compulsory social insurance scheme for employees with earnings-related benefits. After expiration of the unemployment insurance benefits, or in case the supplementary benefits or the income are not sufficient to cover the needs, all beneficiaries capable of working (employable) as well as their family members are granted Basic Security Benefits for jobseekers. The Committee notes from the report that basic income support for job-seekers stood at €364 in 2011.

According to MISSOC, unemployment insurance (Arbeitslosenversicherung) amounts to 60% of net earnings for beneficiaries without children. The Committee asks what is the minimum level of contributory unemployment benefit. It notes that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity.

In reply to the Committee's question in the previous conclusion regarding the suspension of unemployment benefit following a refusal to take up a suitable job, the report states that the refusal to accept a job offer may have extremely divergent reasons. An unemployed person can be expected as a matter of principle to also take on activities in other fields to which he/she is suited so long as these activities are appropriately remunerated. According to the report, in January 2009 changes were introduced to the law on benefit suspension with the reform of the labour market policy tools. The rules pertaining to the duration of benefit suspensions for rejection of a job offer, or a vocational integration activity was simplified. The Committee notes that in 2011 there were 42 705 cases of suspension of unemployment benefit for 3 weeks and 175 801 cases of suspension for 12 weeks. The Committee recalls that in the meaning of Article 12§1 of the Charter the legislation should provide for a reasonable initial period during which unsuitable job offer can be rejected without losing unemployment benefit. The Committee asks the next report to confirm that the legislation provides for such a period and how long it is. The Committee asks what is the minimum level of sickness and maternity benefits.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the International Labour Convention No. 102

The Committee takes note of the information contained in the report submitted by Germany.

Germany ratified the European Code of Social Security and its Protocol on 27 January 1971 and has accepted Parts I-XIV of the Code.

The Committee notes from the Resolution CM/ResCSS(2012)7 on the application of the European Code of Social Security and its Protocol by Germany (Period from 1 July 2010 to 30 June 2011) of the Committee of Ministers that the law and practice in Germany continue to give full effect to the parts of the Code which have been accepted. In so doing, Germany maintains a social security system that meets the requirements of ILO Convention No. 102.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 12§2 of the 1961 Charter.

Paragraph 3 - Development of the social security system

According to the report, a statutory safeguard clause which was introduced together with the introduction of the sustainability factor in 2004 was expanded in 2009 to the so called guarantee so that a reduction in the gross pension in the pension adjustment is now ruled out even where there is a negative wage trend.

The Committee refers to its conclusion under Article 12§1 and wishes to be informed of the impact of these adjustments and other modifications to the pension system on the minimum levels of pension.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Germany is in conformity with Article 12§3 of the 1961 Charter.

Article 13 - Right to social and medical assistance – Conclusions 2013

Paragraph 1 - Adequate assistance for every person in need

It notes that the report refers to the information provided in the previous report and does not contain any new information. The Committee asks the next report to provide updated and comprehensive information, allowing the Committee to assess the situation.

Types of benefits and eligibility criteria

As regards medical assistance, the Committee notes from the information provided under Article 11 that non-contributory health coverage is granted to family members of people having their domicile or habitual residence in Germany, whose monthly income is below €365 (in 2011); for people in marginal employment the income threshold is €400. It asks the next report to provide updated and comprehensive information on the medical assistance provided to people without resources.

Level of benefits

To assess the situation during the reference period, the Committee takes account of the following information:

- Basic benefit: the Committee notes from MISSOC that the amounts of the standard rates vary according to the age and the beneficiary's position in the household. As of 1 January 2011, the standard rate for the head of the household or for a person living alone was €364. The amounts are adjusted every year in January. This rate applied to the Assistance towards living expenses, the Needs-based pension supplement and the Basic security benefits for job-seekers.
- Additional benefits: in addition to basic benefits, certain supplements exist, addressing specific categories of people or as one-off grants covering exceptional expenses. Housing and heating costs, if reasonable, are covered to the full amount. The reasonable character is generally assessed on the basis of the local conditions;
- Medical assistance: see above;
- Poverty threshold (defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at €793 per month in 2011.

The Committee recalls that, under Article 13§1 of the Charter, the level of assistance is appropriate when the monthly amount of the benefits – basic and/or additional – paid to a single person living alone (also as regards elderly people) without resources is not manifestly below the poverty threshold. In the light of the above data, the Committee notes that the

standard rate of the basic benefit corresponds to less than 23% of the median equivalised income and that no information is available on the standard amounts paid in respect of the supplementary benefits. In its previous conclusion the Committee held that, considering the average amount of supplementary benefits, the overall amount of social assistance was compatible with the poverty threshold. The Committee asks therefore Germany to provide in the next report updated and clear information on the average amount of supplementary benefits. In the meantime, it reserves its position on the adequacy of the level of benefits.

Right of appeal and legal aid

The Committee recalls that the right to assistance may not depend solely on the discretion of the administrative authorities: it must constitute an individual right laid down in law and be supported by an effective right of appeal. As the report does not provide any information in this respect and as the Committee last examined this issue in its Conclusions XV-1 (2001), it asks the next report to provide updated information confirming that decisions concerning social and medical assistance can be appealed on the merits before an independent body and that free legal aid is available as necessary. In the meantime, it reserves its position on this issue.

Personal scope

The Committee asks the next report to clarify whether all foreign nationals of contracting parties to the Charter are entitled to social and medical assistance on an equal footing with German nationals and reserves its position on this issue in the meantime.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Paragraph 3 - Prevention, abolition or alleviation of need

The Committee notes from the report that the "assistance to overcome particular difficulties" is granted to foreign nationals when they are likely to remain in Germany permanently.

In this connection, the Committee notes from the report to the Governmental Committee (Governmental Committee, Report concerning Conclusions XIX-2, Doc. TSG(2011)final, § 214) that the question had been raised of clarifying the nature of the services provided under Articles 67 and 68 of the Social Code. It asks the next report to answer this question. As it remains unclear to the Committee whether foreign nationals with temporary residence status are entitled or not to the above mentioned services and to what extent, the Committee asks the next report to supply any relevant data or example and to clarify what criteria are applied to establish that a foreign resident is "likely to remain" and is therefore entitled to the services covered by Article 13§3 and whether such criteria apply to the whole territory or might differ depending on the Länder. In the light of the previous conclusions (Conclusions XVIII-1), it furthermore asks whether a different treatment applies to foreign EU nationals as compared to foreign nationals of other non-EU states parties to the Charter. It also reiterates the questions raised in the previous conclusions, as to whether help and personal advice services and institutions are adequately distributed on a geographical basis and whether these are provided with sufficient means to give appropriate assistance as necessary. It reserves in the meantime its position on these issues.

The Committee holds that if the information requested is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 14 - Right to benefit from social services – Conclusions 2013

Paragraph 1 - Promotion or provision of social services

In its last conclusion, the Committee asked what measures were taken to ensure that German nationals and nationals of other States Parties were treated equally. In this regard, the report indicates that advice agencies in local authorities and in associations have established special advice services for foreigners in order to help them gain access to social welfare services. For instance, medicine students take care of asylum-seekers who have health problems by organising doctor's appointments and helping them with the language barrier. The Committee however wishes the next report to indicate what other measures exist to ensure an equal access to social services.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Germany is in conformity with Article 14§1 of the 1961 Charter.

Paragraph 2 - Public participation in the establishment and maintenance of social services

The Committee wishes to know whether and how the Government ensures that services managed by the private sector are effective and are accessible on an equal footing to all, without discrimination at least on grounds of race, ethnic origin, religion, disability age, sexual orientation and political opinion.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Germany is in conformity with Article 14§2 of the 1961 Charter.

Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community – Conclusions 2012

Paragraph 1 - Vocational training for persons with disabilities

The Committee notes that there has been no change in the situation which it previously considered to be in conformity with the requirements of Article 15§1.

The Committee observes, however, that the report provides no information and no figures showing how many people with disabilities benefit from training in the mainstream environment and how many in special schools/centres. It asks the next report to provide this information in order to assess whether mainstreaming of persons with disabilities is effectively guaranteed in training.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Germany is in conformity with Article 15§1 of the 1961 Charter.

Paragraph 2 - Employment of persons with disabilities

The Committee notes from another source² that in December 2008 legislation about supported employment was introduced (Article 38a SGB IX). Supported employment offers disabled people individualized support in gaining a suitable employment. It aims at integrating them into the open labour market. The individual receives access to a workplace in a private company that matches his/her qualification and training. At the beginning the person receives individualized training and support as long as necessary until all parties agree that an employment contract can be entered into. The service includes two main phases: an individual training, and a continued support at the workplace if needed. The Committee requests the next report to provide information on the impact of this legislation on employment of persons with disabilities. It also reiterates its question about the impact of the "workplace integration management" obligation, described in previous conclusion (Conclusions XIX-1).

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Germany is in conformity with Article 15§2 of the 1961 Charter.

Article 16 - Right of the family to social, legal and economic protection – Conclusions 2011

Family benefits

In its previous conclusion (see Conclusions 2006), the Committee considered that the amount of the child allowances in 2003, at 11% of the monthly median equivalised income, was adequate. According to MISSOC, the monthly amount of family allowances in 2009 was €184 for the first two children, €190 for a third child and €215 per child for any subsequent children. The Committee notes that these amounts per month correspond to 11.9%, 12.3% and 13.9% of monthly median equivalised income. The Committee also notes that the amount of the basic benefits is higher than in the previous reference period. It therefore considers that the amount of family benefits is adequate. The Committee also notes the existence of additional economic measures, such as the parental income which on 1 January 2007 replaced parents' child-raising leave and parents' child-raising allowance. Parents who take a period off work or reduce their work to a maximum of 30 hours a week may receive 67% of their net income (up to a monthly maximum of €1800) as a parental allowance paid by the government for a maximum period of 14 months. There are in addition a higher rate for those on low incomes and a bonus for families with at least two children aged three or under, or at least three children aged under six.

Vulnerable families

States' positive obligations under Article 16 include implementing means to ensure the economic protection of various categories of vulnerable families, including Roma families. The Committee asks that the next report provide up-dated information in this respect.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 16 of the Charter because equal treatment is not guaranteed to nationals of other States Parties to the 1961 Charter and the Charter in respect of the granting of supplementary child-raising allowances in Bavaria.

European Code of Social Security

Resolution CM/ResCSS(2015)7 on the application of the European Code of Social Security and its Protocol by Germany

(Period from 1 July 2013 to 30 June 2014)

(Adopted by the Committee of Ministers on 10 September 2015 at the 1234th meeting of the Ministers' Deputies)

[Link to adopted by the Committee of Ministers resolutions](#)

The Committee of Ministers decides to invite the Government of the Federal Republic of Germany:

I. to submit its 43rd annual report on the application of the Code, as modified by the Protocol, for the period from 1 July 2013 to 30 June 2014, together with its 44th annual report for the period 1 July 2014 to 30 June 2015;

2. to provide the following information requested in the ILO Conclusions on the application of the Code and its Protocol:

i. concerning Part V (Old-age benefit), Replacement rate of old-age pension, to explain in its next report what contributory periods are taken into account in calculating the replacement ratio of the old age pension of the standard beneficiary after 30 years of contributions, which, according to the Protocol, should attain at least 45 per cent of the skilled worker's wage, and how this ratio is improved by the addition to this pension of the supplementary private pension of the corresponding classes of the persons protected;

ii. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66, Determination of the reference wage, noting that the amounts of reference wages provided by the government in its 40th detailed report coincide with the statistical data compiled by the ILO in the above-mentioned "Technical note" transmitted to the government, which calculates for Germany the reference wage under all the options allowed by the Code for the same time period for which all relevant data are available (2010), to update the statistics used in the next report, indicating the exact source of data for future reference;

iii. concerning social security and the reduction of poverty, to explain in the next report how the rate of the living expenses allowance is determined and what role is assigned to the guaranteed minimum income and benefits in the fight against poverty. The government is requested to indicate the rate and structure of poverty among the most affected population groups and households and update and supplement the statistical information contained in the above-mentioned "Technical note" which has been transmitted to the government.

CEACR 2015 Conclusions on the application of the European Code of Social Security and its Protocol by Germany

As a result of its examination, the Committee finds that the law and practice in Germany continue to give full effect to all Parts of the Code and the Protocol, subject to updated calculation of the replacement rate of the old-age pension under *Part V*.

Part II (Medical care), Article 10(2). Cost-sharing by the beneficiary. The report states that co-payments for medical and dental treatment (the so-called medical consultation fee) were abolished with effect from 1 January 2013. While the introduction of the medical consultation fee in 2004 was aimed at reducing the number of unnecessary visits to the doctor, studies examining longer time periods showed that the number of visits to registered medical practitioners had not significantly fallen. To relieve patients of a financial burden, the fee was therefore waived. Doctors, dentists and hospitals' emergency departments were relieved from the bureaucratic burden and the time gained as a result was dedicated directly to patient care. The Committee observes that Germany is not the first country in Europe to have unsuccessfully tried to use cost-sharing as a means to reduce the number of visits to a doctor. ***To prevent other countries from repeating this experience, the Committee invites the Government to make the said studies widely known to other Member States of the Council of Europe.***

Part V (Old-age benefit). Replacement rate of old-age pension. The Committee recalls that in application of *Article 27(a)* of the Code, as amended by the Protocol, Germany has accepted the obligation to ensure an old-age pension at the level of 45 per cent of previous wage to prescribed classes of employees, constituting not less than 80 per cent of all employees. By virtue of *Article 16(1)(a)* of Convention No. 128, this obligation is extended to cover all employees, including apprentices. According to the latest information given by the Government in 2015 under Convention No. 128, the number of claims to a company pension has reached 19.6 million, while the figure for the Riester pension has risen to 15.9 million policies; overall, more than 70 per cent of workers who are subject to mandatory social security contributions between 25 and 65 years of age have made additional provisions for retirement. The Government therefore considers it appropriate to include pension entitlements derived from state-subsidized supplementary pension schemes in its calculation of the replacement level of pensions in relation to Convention No. 128. ***The Committee would like the Government to include in its next report updated statistics requested in the report form on the Code under Title I of Article 74 on the number of employees covered by the statutory pension scheme, the occupational pension schemes and the private pension schemes in relation to the total number of employees in the country, as well as on the number of employees which remain covered only by the statutory pension scheme.*** The Committee further recalls that in order to reach the replacement rate of 45 per cent required by the Code after a qualifying period of 30 years of contribution or employment, the Government has taken into consideration certain additional periods for which no contributions were due, but which have the effect of increasing the contribution period and, consequently, the statutory old-age pension: periods of compulsory military service, three years of vocational training and two years at a technical college (Fachhochschule). The Committee notes, however, that, since 1 January 2009, periods at a technical college are no longer calculated towards the qualifying period, while compulsory military service has been abolished. ***It therefore asks the Government to specify what non-contributory periods of employment it wished to take into account in calculating the replacement rate of the statutory old age pension of the standard beneficiary after 30 years of contributions. Please indicate also how this rate may be increased by the addition to the statutory pension of an insured person of any supplementary pension entitlements provided to the standard beneficiary under Part V (man with wife of pensionable age).***

Part XI (Standards to be complied with by periodical payments), Article 65(10) and 66(8). Adjustment of pensions to changes in wages and in the cost of living. The report states that pension adjustments are based on the development of wages. The wage increase which was based on the pension adjustment on 1 July 2013 was 1.5 per cent in the old federal states and 4.32 per cent in the new federal states; in 2014 it was 1.38 per cent in the old states and 1.78 per cent in the new states. In addition to the development of wages, the pension adjustment formula contains the sustainability factor which transfers the change of the ratio of pensioners to contributors to the pension adjustment, and the so-called “old-age provision factor” which reflects the financial burden on gainfully active persons in making payments towards their provision for old age – through contribution into the supplementary retirement provision (the so-called “Riester reform scale”) and into the statutory pension insurance. The sustainability factor and the old-age provision factor had the effect of decreasing the pension adjustment in 2013 by 0.72 and 0.26 percentage points respectively. In 2014, the old-age provision factor had the effect of increasing pension adjustments by 0.92 per cent. The report indicates that the “Riester reform scale” was last applied in the pension adjustment of 2013, while the compensation requirement – reflecting pension reductions that were not implemented in the past – was fully eliminated in 2014. These factors therefore no longer impact the adjustment. Overall, at 0.25 per cent in the old Länder, the pension adjustment in 2013 lagged behind developments in wages (2.16 per cent) and prices (1.54 per cent). The 2014 pension adjustment, at 1.67 per cent in the old Länder, lagged behind developments in wages (2.63 per cent) and was slightly ahead of the price development (0.85 per cent). This is the consequence of the reform efforts undertaken in recent years to design the statutory pension insurance in a way that ensures intergenerational equity and financial sustainability. The Committee observes that the German pension adjustment formula is based on complex economic and demographic factors which are not directly related to the changes in wages and in the cost of living, and which exposes pension value to negative as well as to positive adjustment. Different adjustment rules apply to different years and are subject to frequent changes, which complicate the understanding of the overall revaluation of benefits over the five year period since the last detailed report of the Government. ***The Committee asks the Government to include in the next detailed report aggregate statistics on the adjustment of benefits for the period 2011–16 requested in the Report Form on the Code under Title VI of Article 6, as well as to explain its future policy of maintaining the purchasing power of the long-term benefits in payment and giving pensioners a fair share of the growth of the national economy.***

Adequacy of social security benefits. The Committee notes that, while 90 per cent of the German population is covered either by compulsory or voluntary social insurance, in 2013, 16.1 per cent of the population and 7.7 per cent of households, composed of two adults and two children (representing the standard beneficiary under the Code), were at risk of poverty (60 per cent of the median equivalized income), 5.4 per cent of the population suffered from severe material deprivation and 8.1 per cent from in-work poverty. The United Nations Committee on Economic, Social and Cultural Rights observed, in its concluding observations of 2011 on the application by Germany of the International Covenant on Economic, Social and Cultural Rights (ESCR), that “in view of the extensive social security system in the State party, such a level of poverty may be indicative of inadequate levels of benefits or limited access thereto” and urged the State party to review the methods and criteria applied to determine the level of benefits and to monitor the adequacy criteria regularly to ensure that the level of benefits affords an adequate standard of living. Germany was also advised to adopt and implement a comprehensive anti-poverty programme which should review the levels of the social security benefits. In view of the complexity of indicators used to assess the adequacy of benefits, the Committee of Experts requested the ILO to summarize the relevant information in the country technical note attached to its conclusions. ***The Committee invites the Government to update***

and supplement the statistical information in the 2015 technical note in its next detailed report, which shall also include for the same time period (see Article 65(4) of the Code) updated statistics on social security coverage, amount of the reference wage and calculations of the replacement rate of benefits.

Part XII (Common provisions), Article 70(3). General responsibility of the State for the due provision of benefits. The Committee notes that the new European Council country-specific recommendation adopted on 14 July 2015 on the 2015 National Reform Programme of Germany called for measures to reduce high labour taxes and social security contributions, especially for low-wage earners. The Committee would like to recall in this respect that *Article 70(3)* of the Code places the determination of the basic parameters of the pension system under the general responsibility of the State and requires the Government, prior to making any change in the rate of insurance contributions, to carry out the necessary actuarial studies and calculations to ensure the adequacy and sustainability of the benefits concerned. The Committee would like to be informed of the manner in which effect was given to the abovementioned provision of the country-specific recommendation.

Article 74. Next detailed report on the Code. (See above under Chapter III)

3. ILO Conventions

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) - Germany (*Ratification: 1971*)

Observation (CEACR) - adopted **2013**, published 103rd ILC session (2014)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

The Committee notes that, on 5 September 2013, the German Confederation of Trade Unions (DGB) communicated comments on the application of the Convention. In these comments, the DGB recalls that, according to calculations provided in the Government's report regarding old-age benefit for the period 2010–11, an employed person earning 125 per cent of the net average income of all persons protected would receive a net old-age pension corresponding to 69.1 per cent of previous earnings in the old federal Länder and 68.6 per cent in the new federal Länder, whereas the replacement rate required by the Convention is set at 45 per cent. The DGB considers that this assumption should be examined critically since, in order to reach this replacement rate after a period of 30 years of contribution or employment, the Government has taken into consideration two sets of additional components which have the effect of increasing the basic pension of the standard beneficiary: (i) certain periods for which no contributions were due, such as 15 months of military service, three years of training and two years of technical college, have been added as they have the effect of increasing the contribution period and, consequently, the basic old-age pension from 41.49 to over 49 per cent of the reference wage. Without these elements, the basic pension granted to a person earning 125 per cent of the average wage of all persons protected, after 30 years of contribution, would amount to around 42 per cent of previous earnings, which is below the threshold of 45 per cent required by the Convention; (ii) the amount of a supposed additional private old-age pension has also been added to the basic old-age pension which has the effect of raising the net replacement rate to approximately 69 per cent of the reference wage. However, some 30 per cent of the total number of workers are not covered either by a supplementary occupational pension scheme or a "Riester" pension scheme and this percentage increases to 42 per cent in the low-income brackets, while the Convention requires pension coverage of all employees. The DGB therefore estimates that, particularly for the low-income groups, the actual level of old-age protection in Germany is considerably less than assumed by the federal Government and stresses that, as party to the Convention representing the minimum standard for well-developed countries, Germany should fulfil the obligation to provide benefits beyond the level needed merely to avoid poverty in old age and seek to ensure income replacement closer to previous earnings so that better social benefits can be guaranteed by growing prosperity. ***The Committee requests the Government to provide its reply to the above observations in time to allow examination of the situation at its next session in November–December 2014.***

4. EU Country-Specific Recommendations: 2015

(the numeration of comments is kept in accordance to the original)

The European Union has set up a yearly cycle of economic policy coordination called the European Semester in 2010. Under the European Semester, the European Commission was given a mandate by Member States to check whether they take action on reform commitments they have made at EU level. The European Semester starts when the Commission adopts its Annual Growth Survey which sets out EU priorities to boost job creation and growth for the next year.

Each year, the Commission undertakes a detailed analysis of EU Member States' plans of budgetary, macroeconomic and structural reforms and provides them with the country-specific recommendations basing its decision on the submitted by each country National Reform Programme and Stability Programme. These recommendations provide tailor-made policy advice to Member States in areas deemed as priorities for the next 12-18 months. The European Council endorses the recommendations after the discussion.

Where recommendations are not acted on within the given time-frame, policy warnings can be issued. There is also the option of enforcement through incentives and sanctions in the case of excessive macroeconomic and budgetary imbalances.

Council Recommendation of 14 July 2015 on the 2015 National Reform Programme of Germany and delivering a Council opinion on the 2015 Stability Programme of Germany (2015/C 271/01), (18.08.2015, C 271/58, Official Journal of the European Union).

[Official Website of the European Commission](#)

(10) No measures have been specified to increase incentives for later retirement, which appear indispensable in view of the projected strong decline in Germany's working-age population and a possible shortage of skilled workers in the medium term. The tax wedge for workers earning between 50 % and 67 % of the average wage has remained largely unchanged since 2001 and remains among the highest in the Union. The recent reforms to social insurance systems are likely to involve a further rise in contribution rates and increase the tax wedge further. This would have potentially negative effects on labour market participation and disposable income. The impact of fiscal drag is currently mitigated by low inflation. However, with dynamic wage growth and somewhat higher inflation rates in the coming years, fiscal drag could lead to significant non-discretionary tax increases. These could, in turn, also affect disposable income. Limited progress has been made in improving the educational achievement of disadvantaged people. Young people with a migrant background are twice as likely to leave school early. Fiscal disincentives are likely to be an important factor in discouraging second earners from taking up a job or working longer hours. This contributes to the low proportion of women working full-time and one of the lowest number of hours worked on average by women in the Union. The exemption of mini-jobs from personal income tax and in many cases from all employee social contributions also discourages workers from moving into jobs with earnings above the mini-job threshold of EUR 450 per month.

HEREBY RECOMMENDS that Germany take action in 2015 and 2016 to:

2. Increase incentives for later retirement. Take measures to reduce high labour taxes and social security contributions, especially for low-wage earners, and address the impact of fiscal drag. Revise the fiscal treatment of mini-jobs to facilitate the transition to other forms of employment.