REPLY BY **Federal Republic of Germany**

To the Questionnaire on the Human Rights Impact on Fiscal and Tax Policy
Special Rapporteur on Extreme Poverty and Human Rights

Question 1:

Compared to most other Member States, Germany stands out for a high share of social contributions in total receipts (40.1 %), while the shares of direct taxes (30.0 %) and especially indirect taxes (29.8 %) are below the EU averages.

Germany's tax-to-GDP ratio (including social security contributions) stands at 38.7 % in 2011 (source: Eurostat). This is slightly below both the GDP-weighted EU-27 and the euro area averages (EU-27 38.8 %, EA-17 39.5 %).

Consumption taxes as a percentage of GDP are slightly below average (10.9 %, EU-27 11.2 %). Taxes on labour as a percentage of GDP amount to 21.6 %, social contributions account for around two thirds of these taxes. Germany derives 6.2 % of GDP as revenues from taxation of capital.

Data on taxes paid by different social groups are not available.

The financial sector is taxed in the same way as other companies in Germany. The tax rates are for the CIT 15 % plus 5.5 % solidarity surcharge on the CIT, for the local business tax approx. 14 % (i. e. 29.83% in all).
There is no key figure for revenue ratios of the financial sector in the reports and statistics of the EU and the OECD. Since the sector is not clearly classified any data from the national statistics may be misleading and hardly comparable.

Question 2:

In Germany, tax revenue are the main income source for a balanced budget (budget surplus of 0.1 percent of GDP in 2012 for the general government - i.e. Federation, Länder, municipalities and social security funds, including their respective off-budget entities). This revenue enables transfers which ensure resources to realize economic, social and cultural rights. The PIT revenues are raised in a way which excludes from taxation the amount which is necessary for a basic living, by granting a basic allowance.

Benefits covering subsistence costs ensure the socio-cultural minimum living standards for all people in need. Besides adequate housing costs, fixed sums are provided for food, household

and clothing expenditures, and the social and cultural participation. These sums are updated each year, taking into account specific price indices, as well as wage developments. Tax allowances ensure moreover that the subsistence minimum is exempt from income taxes. The PIT basic allowance will increase in 2013 and 2014.

Question 3:

Taxes need a legal base which is provided in a parliamentary procedure by elected representatives. The legal base as well as the reason for the legislation is published before the law enters into force, therefore transparency is given. Neutrality and non-discrimination is a key issue for the government and is controlled by the Federal Constitutional Court. Several reports on tax measures ensure that various aspects of tax induced effects are open for public debate. For instance the tax revenues are published on a monthly, quarterly and yearly basis; the distributional effects are analyzed in the Wealth and Poverty Report. Besides the yearly growth report analyses the growth effects of the tax policy. All these reports are publicly available.

Question 4:

The issue raised in the question 4 is tackled by the OECD/G20 BEPS Action Plan which is endorsed by the German government. The Action Plan aimed at addressing BEPS sets forth an ambitious agenda to examine the following fundamental aspects of the international tax rules:

- **First, changes to international tax rules must be designed to address the gaps between different countries' tax systems, while still respecting the sovereignty of each country to design its own rules**. Instruments will be developed to neutralise hybrid mismatches and arbitrage; recommendations will be developed regarding best practices in the design of domestic legislation to protect the tax base of countries against shifting of profits to no or low taxation jurisdiction (through strengthening or introducing so called "CFC" rules – Controlled Foreign Companies); and recommendations will be developed regarding rules to prevent base erosion through interest deduction.

- **Second, the existing international tax rules on tax treaties, permanent establishment, and transfer pricing will be examined to ensure that profits are taxed where economic activities occur and value is created.** The action plan is designed to establish anti-treaty shopping provisions and develop changes to the definition of the permanent establishment (that is, whether there is sufficient nexus to allow a charge to tax) to prevent BEPS. Three actions are identified in the area of transfer pricing to put an end to the divorce between the location of profits and the location of real activities. Importantly, there is recognition that although the existing transfer pricing rules appropriately allocate income in many instances, special measures, either within or beyond the arm's length principle, may be required to address certain specific difficulties arising in the current system.

- **Third, more transparency will be established, including through a common template for companies to report to tax administrations on their worldwide allocation of profits and tax.** It also requires more transparency between governments, with the need for countries to disclose rulings and other tax benefits to their partners, and disclosure by taxpayers of aggressive tax planning arrangements. The Action Plan also provides mechanisms to collect better data so as to be able to measure BEPS and carry out the relevant economic analyses.

- **Fourth, all the actions are expected to be delivered in the coming 18 to 24 months.** To ensure that the recommendations may be implemented quickly, the OECD will be developing a multilateral instrument for interested countries to amend their existing network of bilateral treaties.

Germany strongly supports the introduction of an FTT at international level. Together with 10 other EU member states they are willing to introduce an FTT by way of enhanced cooperation. The directive proposal of the EU Commission sets out a tax rate of 0.01% on derivatives and a tax rate of 0.1% on other financial transactions (eg. shares, bonds). Negotiations continue.

Ad Spending:
Question 1:

The equality of women and men is a consistent guiding principle of the Federation and is promoted by all measures carried out by the federal ministries in their respective areas. The budget defines and describes the financial framework of the ministries, but doesn't stipulate gender-related assignments of responsibilities. It remains the responsibility of the ministries to take into account the possible gender-specific effects of their policies.

Question 2:

Sound public finances are a crucial factor in safeguarding a state's ability to take effective action and establishing lasting conditions that favour economic growth. Germany is determined to comply with all national and European fiscal policy requirements. Germany will achieve sustained compliance with its medium-term budgetary objective of a structural deficit no higher than 0.5% of GDP, which it fulfilled already in 2011.

The state as a whole (i.e. Federation, Länder, municipalities and social security funds, including their respective off-budget entities) allocates 43% of its budget to social protection, 16% to health, 9% to education and 2% to defense. 6% of the budget goes to debt service.

Data on expenditures allowed to different social groups (women/men, rural/urban) are not available.