

**German Federal Ministry of Health in cooperation with:
the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the Federal
Ministry of Justice, and the Federal Centre for Health Education**

Response to the OHCHR questionnaire on children's health (August 2012)

Question 1:

Please provide information on the main health challenges related to children that your country is facing.

Health care

In Germany, health care of children and adolescents is very comprehensive and its quality level is high. Any child who is insured under the statutory or private health insurance scheme, is entitled to receive a multitude of benefits and services to maintain, restore and to improve his/her state of health. These start with prenatal check-ups during pregnancy, include a very high-grade obstetrics care with examination for the early diagnosis of diseases for children and adolescents starting at their birth, and it continues, e.g., with a top quality out-patient and inpatient paediatric care, with preventive measures, such as protective vaccinations and dental examinations, with special offers for chronically ill children and adolescents and rehabilitation measures. At the same time, there is a multitude of measures by the health insurance funds, the Federal Government and the Laender to support parents in raising their children in a healthy manner, to promote children's health according to their developmental stage and to avoid diseases. This is a task for society as a whole.

From a nation-wide representative survey on the state of health, health-oriented behaviour and the health care of children and adolescents in Germany from 2003 to 2006, which was carried out by the Robert Koch Institute, it has been revealed that, according to their parents, 90% of the children are in a good or a very good state of health. At the same time, this survey indicates that chronic and lifestyle-induced diseases are increasingly gaining ground as compared to acute diseases. For example, this applies to chronic diseases, such as allergies, obstructive bronchitis, neurodermatitis and hay fever. Furthermore, overweight and obesity as well as lack of physical exercise are risk factors for the health of many children. Moreover, mental disorders among children and adolescents are no longer an exception. It has been ascertained that children from socially disadvantaged families show a high occurrence of those risk factors.

Question 2:

Please indicate the current status of the child's right to health under your country's legal framework. Please include information on legal provisions (including Constitutional provisions) which explicitly recognize the child's right to health. Also provide information on legal recognition of key determinants to children's health including access to safe and adequate nutrition and housing, to water and sanitation, and to health-related education and information.

The right to life and physical integrity is protected in the constitution by Article 2 (2), first sentence of the German Basic Law. In this context, the provision includes a right to be protected against government interventions as well as an obligation of state organs to protect and promote those legal interests mentioned in the fundamental rights. Holder of this right shall be every natural person, irrespective of age, so that children are also included.

The International Convention on the Rights of the Child of 20 December 1989 (Federal Law Gazette 1992 II, p. 121) has been in force in Germany since 1992. Pursuant to Article 24 of the Convention, every child has the right to enjoy the highest attainable standard of health and preventive health care.

Question 3:

Please provide information on national policies, strategies and plans of action for addressing the priority concerns and challenges identified in question 1. Please include information as to whether the child's right to health, including the right to health care, is explicitly referred to in existing policies, strategies and plans of action.

To this end, a multitude of programmes has been elaborated by the Federal Government, the Laender, the local authorities and the health insurance funds. For example, at Federal Government level – the National Action Plan "IN SHAPE – Germany's initiative for healthy nutrition and more physical activity", the "Strategy of the Federal Government for the Promotion of Child Health", and the "National Strategy of the Federal Government on Drug and Addiction Policy" – also dealing with the subject of alcohol and tobacco abuse as well as the pathological use of the Internet - can be mentioned – as a supplement to the benefits and services of the statutory health insurance stipulated in Social Code Book V. The German Health Interview and Examination Survey for Children and Adolescents is currently being continued with a first tracking survey. In this way, trend forecasts on the health situation and on the health behaviour of children and adolescents in Germany will be possible in future, too.

Question 4:

Please indicate what role schools have in promoting children's right to health. Is health promotion included in the school curricula?

Health education at schools

Throughout the whole Federal Republic of Germany, health education is an integral part of guidelines and curricula for all kinds of schools and school levels. Due to their role in social and academic education, schools are obliged to take an active part in health education and health promotion of children and adolescents. In the guidelines and curricula of all Federal Laender, the following topics are in the focus:

- Sanitation/dental health care
- nutrition education
- Prevention of addiction
- First-aid
- Physical education and movement training
- Sex education and AIDS prevention.

Within these curricula, particular importance is attributed to the cross-curricular and/or interdisciplinary work in health education. This assessment is in compliance with the fact that, in the Federal Laender, the content of health education lessons is generally distributed among several teaching subjects. The so-called pivot subjects to be mentioned in this connection are biology, social studies and sports. But also subjects such as domestic science, chemistry, physics, religion/ethics, and technology/work theory can accordingly be linked with health education. Finally, the procedure in accordance with the spiral curriculum is important. In line with this concept, the topics are dealt with several times from various aspects and in a complex manner suited to the respective age of the pupils in the course of their school years and across various school levels. In this way it is guaranteed that health-related topics will accompany children and adolescents during their entire school days.

Access to sex education for children and adolescents is ensured via school lessons. Sex education has been enshrined in the guidelines and curricula of all school types. There is no freedom of choice for the subject 'sex education'. This has been confirmed by the decision of the European Court of Human Rights in 2011 (European Court of Human Rights (2011): Dojan versus Germany 319/08. Decision 13.9.2011).

Sex education in a broader sense includes, in addition to information on biological facts, contraceptives and methods of contraception, also the supportive monitoring and promotion of competences when developing attitudes and practices in sexuality. Sex education is embedded in a complex networks of different standards and values at individual and societal level. Concepts for action in the field of sex education, which have to be developed, should take this

multitude of attitudes, possible behaviour and lifestyles into account at all levels, so that they can finally be put into practice to achieve a sustainable health promotion in a personal and individual environment. Sex education aiming at a self-determined and responsible handling of sexuality and contraception can only be successful where sexuality can be considered and discussed in an open manner as an integral part of health. Further to providing information, the measures of sex education also include motivation and the promotion of competences.

The study entitled "Youth Sexuality 2010" (representative tracking survey among 14- to 16-year old adolescents and their parents, published by the Federal Centre for Health Education; Cologne 2010) proves that every child/adolescent has had school lessons dealing with the topic of sexuality. For the purpose of many subjects, also for the field of sexuality, schools may call in external staff for support. The network of institutions for sex counselling, family counselling and personal coaching which has been well developed in Germany serves as a local partner for schools and youth workers and is also directly accessible to adolescents.

Question 5:

Please provide examples of good practices undertaken by your Government to protect and promote children's right to health, particularly in relation to children in especially difficult circumstances.

The benefits and services of the statutory health insurance funds which were stipulated in Social Code Book V for the purpose of prevention, early diagnosis and treatment of diseases as well as the supply of medicines, remedies and remedial aids and for rehabilitation are made available to all children insured under the statutory health insurance, irrespective of their social status.

Children's screening programme

All children insured under the statutory health insurance are entitled to undergo 10 comprehensive health checks during the first six years of their lives. Their aim is to diagnose diseases and disorders as early as possible, thus being able to treat them. The first examinations are carried out in the first days of a child's life. A part of this programme is e.g. an extended newborn screening scheme. The children's screening programme is currently being thoroughly revised and updated. Thus, in 2008 an additional check for children at the age of three years and in 2009 an auditory test for all newborn babies was introduced as a new service. In order to reach all children, if possible – irrespective of their origin – with this offer, the health insurance funds were obliged by law to use their influence in cooperation with the Laender, so that families might call upon these services offered, e.g. by sending them invitations. Several of the Federal Laender introduced invitation, reminder or feedback systems to induce more

families to take part and thus, e.g. also reach families in problematic situations and families having a migrant background who have not entirely participated in the programme so far.

Pre-school medical examinations are compulsory in all Federal Laender. The responsibility for their implementation lies with the public health service. (Regulated by law in education acts and acts on the public health service at Laender level.)

On a voluntary basis, all children are offered preventive vaccinations according to the respective recommendations by the Permanent High Commission on Vaccination (German abbreviation: STIKO).

Prevention and intervention in child protection, Federal Child Protection Act

The Federal Government accords top priority to the protection of children and adolescents. This protection begins already at early infancy and is meant to support babies, children and adolescents in all stages and situations of their lives.

The Federal Child Protection Act entered into force on 1st January 2012. The new Federal Child Protection Act comprehensively improves the protection of children and strengthens all important stakeholders of child protection, and especially the children themselves.

Thus, this Act equally moves forward both, prevention and intervention, and it stands for an improved support for families, parents and children, more cooperation of the relevant stakeholders and strong networks in child protection. A large scale of professions, ranging from paediatricians, family midwives, youth offices up to family courts – all of them will cooperate in future to actively prevent or efficiently avoid risks and dangers to children and adolescents.

The Act is based on an intensive exchange with expert circles from the Federal Laender, local authorities, associations and science and takes up findings of the Action Plan on Early Assistance and experiences gained in the work at the round tables entitled 'Education in Residential Institutions in the 1950s and 1960s' and 'Sexual Child Abuse'.

Early assistance

Already in recent years, the Federal Government, the Laender and local authorities have made every effort to identify and fill the gaps in child protection. These include, especially, the Action Programme on Early Prevention of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the establishment of the National Centre on Early Prevention as well as numerous child protection concepts at Laender and local level.

With its initiative entitled '**Federal Initiative on Early Prevention Networks and Family Midwives**' the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth will boost the extension and establishment of early prevention networks and the employment of family midwives by the Federal Laender and local authorities for a period of four years, starting in 2012. For this purpose, the Federal Government has raised an amount of 30 million euro in 2012, and it will allocate funds of 45 million euro in 2013 and of 51 million euro in 2014 and 2015 respectively. The Federal Cabinet has adopted the administrative agreement concerning this

Federal initiative on 27th June 2012. This initiative started on 1st July 2012. Its objective is to provide comparable offers of early assistance at Federal level within the above said period of time. The largest part of those funds is allocated to the Federal Laender which pass it on to the local authorities. Thus, the extension and the establishment of networks on early assistance are sponsored. This includes, e.g. calling in network coordinators as well as ensuring their qualification and training. The service of family midwives and comparable occupational groups from the health care sector is sponsored. Furthermore, structures of voluntary work and those employed in this sector are promoted. At Federal level, a contact point is established at the National Centre on Early Prevention.

After completion of the pilot programme, the Federal Government will continue its sponsoring in the 'Early Prevention' sector and in the field of psychosocial support of families with small children beyond 2015 by continually providing funds amounting to 51 million euro per year.

Initiative for the Prevention of Child Sexual Abuse

To support victims of sexual child abuse and to prevent sexual violence against children and adolescents, a Round Table was established on 24th March 2012. The Ministers from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the Federal Ministry of Justice and the Federal Ministry of Education and Research jointly assumed the chairmanship. To participate in this Round Table, representatives from science and all relevant groups of society had been invited, *inter alia*, of the children's and victims' protection associations, of the national initiative of affected persons, nation-wide associations of consulting agencies for victims, family organisations, maintaining authorities of schools and boarding schools, voluntary welfare organisations, both Christian churches, justice, the German Bundestag as well as representatives from the Federal Government, the Laender and local authorities. On 30th November 2011, the Round Table completed its work in a final report which was submitted to the Federal Cabinet on 7th December 2011. It includes a wide range of recommendations by the members, for example, concerning the sectors of 'guidelines for institutions', 'strengthening the rights of victims' and 'improvement of access to support for persons affected'.

At the end of 2012, a further meeting of the members to the Round Table will take place. The topic on this occasion will be the current state of implementing these recommendations.

An important element of the overall concept of Federal Government on the protection of children and adolescents against any form of violence is the Action Plan of 2011 on the Protection of Children and Adolescents against Sexual Violence and Exploitation, adopted by the Cabinet on 27th September 2011. On the basis of the first Action Plan of 2003, it combines all concrete measures in an overall concept, taking into account the findings and recommendations from the Round Table on Sexual Child Abuse and the Independent Commissioner for Child Sex Abuse Issues which are available so far.

The main points of emphasis of the Action Plan of 2011 are as follows:

Prevention, intervention, sexualized violence and exploitation in the digital media (including child pornography), combating of trafficking of children for the purposes of sexual exploitation at home and abroad, sexual exploitation of girls and boys by itinerant sex offenders, research as well as international co-operation.

In this context, prevention plays a pivotal role. With the help of a 'Sexual Abuse Prevention Initiative at Federal level', the awareness of children and adolescents is supposed to be raised and they are meant to be educated and strengthened in an appropriate manner for their respective age. It is currently being prepared by the Federal Centre for Health Education (German abbreviation: BZgA) in cooperation with the Federal Ministry for Family Affairs, Senior Citizens, Women and Health. Parents and expert staff are also meant to be informed and better qualified by this initiative, and contact persons are to be linked up with offers of assistance and counselling. On the whole, the main objective is raising the awareness of society and achieving a greater objectivity with regard to the entire subject matter. The initiative will be sponsored by the Federal Government until 2014.

Question 6:

Please indicate what the main barriers your Government finds when are trying to implement children's right to health.

If the government takes action to protect the child's welfare, it will have to take into account the right of the care and upbringing of children incumbent on parents pursuant to Article 6, Para 2, 1st sentence in the Basic Law. For the care and upbringing of children is the natural right of parents and a duty primarily incumbent upon them. The necessity of governmental measures for the promotion of children's health, for example, thus always has to be weighed against the rights of parents which are protected by the Basic Law, but also against the children's rights of personal liberty. In this way, the government may give recommendations and offer possibilities supporting a healthy lifestyle, and provide a positive framework. But the decision on one's personal lifestyle has to be reached by the individual person.

However, the German Basic Law also sets limits to the right of care and upbringing of children incumbent on the parents to the extent that the government is charged with supervising the assertion of these rights (governmental control). The decisive criterion for the government's powers of intervention is a danger to the best interest of the child (Section 1666 of the German Civil Code). This may be the case when the parents refuse to give their consent to an objectively necessary therapeutic intervention or a blood transfusion. The parents shall not refuse to have diagnostic measures carried out, at least when they are harmless according to

the latest findings of medical science. In individual cases, the *risks* and *chances of success* of medical interventions have to be *weighed* against each other. The fact that parental responsibility takes priority constitutes the basis of a certain margin of appreciation on the part of the parents, since in consequence of its supervisory role, the government is only restricted to comprehending the justifications.