**Questions by the Special Rapporteur**

**Question 1:**

**Please provide information on how your country is considering the rights of persons with disabilities in their policies aimed at implementing and monitoring the Sustainable Development Goals, including:**

**a. Existing national strategies and action plans,**

The participation of persons with disabilities in processes and programmes of German development cooperation is a central principle of official German development policy. It considers the inclusion of persons with disabilities as an essential component of a comprehensive and suprasectoral incorporation of human rights standards in the framework of German development cooperation. In the framework of the action plan to further the inclusion of persons with disabilities, German development cooperation has institutionalized special formats for their systematic participation.

**b. Budget allocation for their implementation,**

The Federal Government pursues the long-term goal of horizontally enshrining the rights of persons with disabilities in German development cooperation. Presently, no budget allocations have been earmarked for the enshrinement of these rights.

**c. Existing mechanisms or frameworks to monitor their implementation,**

The UN Member States agreed in the framework of the 2030 agenda that the follow-up and review process will take place at all levels and on the basis of quality, accessible, topical and disaggregated data which will also be broken down by disabilities. The 2030 agenda also provides for the development of regional and national benchmarks. This process shall explicitly integrate indicators on people with disabilities, too. Currently German development policy is preparing the development of criteria to assess the progress of the inclusion of persons with disabilities and they are drafting corresponding data surveys on behalf of the German development cooperation community.

**d. How do these strategies/plans take into consideration the situation of women and girls with disabilities, and of children and older persons with disabilities?**

The Federal Government pursues the long-term goal of enshrining the rights of persons with disabilities in German development cooperation in a horizontal approach. The situation of women and girls with disabilities is taken into consideration in the framework of the development policy action plan on gender equality (2016 - 2020). The Federal Government is currently developing its own action plan to encourage the consideration of the rights of children in German development policy.

**e. How is the participation of persons with disabilities and their representative organizations ensured in the development and implementation of such strategies/plans?**

The participation of persons with disabilities into German development policy processes is a central principle in the framework of the action plan on the inclusion of persons with disabilities which was already taken into account during the drafting process of this action plan. German development cooperation has institutionalized formats for a systematic involvement of persons with disabilities and their organisations (round table discussions, consultative civil society expert bodies whose members are persons with disabilities). In addition, the strengthening and capacity building of specialized self-advocacy organisations is an important element of the commitment demonstrated by German development policy. This also includes the inter-networking of self-advocacy organisations on a global scale, which German development cooperation will continue to support in future.

**Question 2:**

**Please provide information on the legislative and policy framework in place in your country concerning non-discrimination, including:**

**a. Whether "disability" is specifically mentioned as a prohibited ground of discrimination,**

The ban on discrimination on account of a disability is explicitly regulated by Article 3, paragraph 3, sentence 2 of the Basic Law (GG). The actual wording reads as follows: “No person shall be disfavoured because of disability.” The constitutional ban on discrimination is also specified for public sector bodies in Section 7 of the Equal Opportunities for Persons with Disabilities Act (BGG). The fact that discrimination on account of a disability is inadmissible, with a view to employment and civil law, is also regulated by Sections 1, 7 and 19 of the General Equal Treatment Act (AGG).

**b. The existence of any budgetary mechanism to ensure the provision of reasonable accommodation by public entities,**

The ban on discrimination for public sector bodies pursuant to the Equal Opportunities for Persons with Disabilities Act which entered into force in 2002 can be interpreted as complying with the meaning of the UN Convention on the Rights of Persons with Disabilities. The Equal Opportunities for Persons with Disabilities Act is currently being revised. In the framework of this review it will be clarified that the denial of reasonable accommodation amounts to discrimination.

Section 81, paragraph 4 of Book IX of the Social Code ensures that reasonable accommodation for persons with disabilities is made at the workplace. This provision is a special law regulation for making reasonable accommodation. In accordance with this regulation they are entitled to a disability adjusted set up and maintenance of their workplaces and to having workplaces that are equipped with the required technical aids. This entitlement exists irrespective of the question whether the employer is a public sector body or a person subject to private law.

**c. Whether the denial of provision of reasonable accommodation amounts to discrimination,**

First of all reference is made to our reply under b above. In this respect the Federal Labour Court decided that the dismissal of a worker is only effective if the employer is not able to remove an existing employment obstacle resulting from a disability through reasonable accommodation (cf. Decision of the Federal Labour Court of 19 December 2013 - 6 AZR 190/12).

It is planned that the bill on a further development of the Equal Opportunities for Persons with Disabilities Act (Section 7, paragraph 2 of the BGG draft legislation) will clearly state that the denial of reasonable accommodation amounts to a discrimination of persons with disabilities by public sector bodies.. Subject to the ongoing parliamentary procedure the revised act can presumably enter into force in July 2016.

**d. The existence of any affirmative action measures for persons with disabilities,**

Support measures for persons with disabilities are inter alia possible under the prerequisites of Section 5 of the General Equal Treatment Act (AGG).

Section 2 of the Act on Equal Opportunities for Disabled Persons (BGG) also stipulates that special measures to facilitate effective enforcement of equal rights of women with disabilities and to eliminate existing discrimination, are legal.

In the *Kreditanstalt für Wiederaufbau (KfW)* programme "Converting houses into senior-friendly homes", owner-users and tenants can apply for subsidies in order to remove barriers in residential buildings and/or increase protection against burglars. This is also beneficial for persons with disabilities. The KfW also subsidizes the removal of barriers by private owners, housing companies and tenants in a programme with favourable low interest loans. Accessibility of owner-used housing has been turned into a favourable exercise, in particular with the help of the Own Home Pension Act - so-called *"Wohn-Riester" scheme*.

In the framework of support to young people with disabilities the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the *Deutsche Paritätische Wohlfahrtsverband e.V.*(Federation of Welfare Associations in Germany) and the Lebenshilfe Bildung NRW gGmbH, will start a joint pilot project in 2016. This will help to identify the actual opportunities of and limits to including persons with disabilities in volunteer services so that more people with disabilities can seize the chance to participate in a volunteer service in future. These experiences will be evaluated and made available to the providers of volunteer services who will thus be equipped with the practical tools to develop inclusive volunteer service formats.

In order to support women with disabilities, several projects are carried out, e.g. to strengthen political representation by women with disabilities, to increase the number of Commissioners for Women and to grant access to information about sexuality, contraception and family planning in accessible formats.

**The existence of any legal, administrative or other effective remedies available for persons who have been subject of discrimination on the basis of disability (including denial of reasonable accommodation),**

Apart from protecting the rights of individuals (objection proceedings, lawsuits, if necessary) there is also the possibility under the BGG that recognized associations consider representative action if the conditions for representative action are met.

If, in addition, the rights of persons with disabilities are violated under Section 7, paragraph 2; Sections 8, 9, paragraph. 1, Section 10, paragraph 1, sentence 2 or Section 11, paragraph 1 of the BGG, recognized associations that are not party to the proceedings, may apply for legal protection on behalf of the person with a disability. The same applies in case of violations of federal law on the implementation of accessibility within the meaning of Section 4 of the BGG, or which provide for the use of sign language or other communication aids within the meaning of Section 6, paragraph 3 of the BGG. In these cases all the procedural prerequisites must apply - as would be required if the person with a disability initiated legal proceedings himself/herself.

In the framework of the revision of the Equal Opportunities for Persons with Disabilities Act (BGG) an arbitration body shall be established at the office of the Federal Government Commissioner for Matters relating to Disabled Persons and an arbitration procedure shall be introduced with the aim to facilitate a speedy, amicable, out-of-court and free of charge dispute settlement. In future, the arbitration procedure according to the BGG shall take place before bringing representative action against federal authorities. Further to this, everybody can apply for the implementation of an arbitration procedure against a federal authority if he/she is of the opinion that his/her rights under the Equal Opportunities for Persons with Disabilities Act have been violated.

The General Equal Treatment Act (AGG) provides legal protection for persons who have been discriminated in working life on account of their disability, see Sections 13 et.seq. AGG and in civil proceedings under Section 21 AGG. In working life, these rights are geared to getting protection from the employer, to obtaining damages and compensation and also include legislation governing complaints and the right to withhold performance. In civil proceedings rights are geared to elimination, omission, damages and compensation.

**f. The establishment of governmental agencies or other similar institutions to guarantee to persons with disabilities equal and effective protection against discrimination.**

The Federal Anti-Discrimination Agency autonomously supports persons who contact them by enforcing their rights regarding protection against discrimination. This support covers explicitly also persons with disabilities. In this context the Federal Anti-Discrimination Agency can provide information in particular about the rights and opportunities related to legal action in the framework of statutory regulations governing the protection against discrimination, it can refer people to other counselling centres and it can help to achieve an amicable settlement between the parties involved.

Within the jurisdiction of the AGG, the Federal Government Commissioner for Matters relating to Disabled Persons shall inform persons with disabilities who are of the opinion that they are discriminated on account of their disability about potential legal remedies and aims in particular at an amicable settlement between the parties involved.

**Question 3:**

**Please provide information on the legislative and policy framework in place in your country concerning accessibility for persons with disabilities in relation to the physical environment, transportation, information and communications, and to other facilities and services; including:**

**a. The existence of national standards, guidelines, and regulations on accessibility and universal design, including access to Information and Communications Technologies,**

Accessibility is a horizontal issue which has to be appropriately observed in all political and legal areas and which also receives due attention in a number of laws at the federal and Land level.

The Equal Opportunities for Persons with Disabilities Act contains a legal definition of accessibility. According to this definition, buildings or other structures, means of transport, technical devices, information processing technology, acoustic and visual information and communication systems and other designed living areas shall be considered accessible if persons with disabilities can access or use them in the generally usual manner, without undue difficulties and without outside help. Moreover, the law contains provisions on the accessibility of federal buildings and in the transport sector, where transport regulations are specified (e.g. in the Public Transport Act and in the railway construction and train operation regulations). The BGG itself contains provisions on the right to use sign language and other communication aids in administrative procedures, to design decisions and forms and provisions on accessible information technology for federal administrative authorities. These provisions are fleshed out in the communication aids ordinance, the ordinance on accessible federal administrative documents and the Ordinance on Barrier-Free Information Technology.

In accordance with the BGG provisions, the Federal Government is obliged to construct accessible buildings according to the generally recognized sound engineering practice, as e.g. the DIN standards of the German Institute for Standardization (DIN). This applies for new civic buildings as well as for large-scale conversions or extensions of federal government buildings.

Provisions on accessibility of buildings open to the public in the federal states (Länder) are contained in Land building codes. They also contain requirements as to the accessibility of residential buildings from a certain size onward. The development as well as the implementation of building law are not part of the division of powers as stipulated in the Basic Law and thus come under the sole responsibility of the Länder.

In connection with the implementation of accessibility the importance of "universal design" is increasing given the rising average age of the population. Application of the principles of Universal Design in product development and the delivery of services is primarily a matter for business. The state creates positive parameters in this context, primarily by investing in research and development, commissioning studies, supporting pilot initiatives and organising seminars, workshops and conventions. Discussions about enshrining universal design more firmly are taking place in all relevant policy fields. A network of recognised experts in Germany is also participating in this.

Local public transport companies, for example, are not only investing in accessible vehicles, but they are increasingly creating comprehensive information and service systems which also provide information about the accessible transport chain. In addition more and more special applications are developed for smartphones and tablet computers or special navigation systems are being developed for persons with hearing or visual impairments in order tofind e.g. wheelchair adjusted locations or accessible toilets. The rapid development of new smart home technologies also has the potential to enhance domestic living conditions of people with disabilities.

The German Building Code (BauGB) is the most important single law in connection with [planning law](http://de.wikipedia.org/wiki/Bauplanungsrecht). Pursuant to Section 1, paragraph 6, No. 3 of the Building Code (BauGB), the requirements of persons with disabilities have to be taken into account explicitly during the urban development planning procedure. The provisions of the Building Code strongly influence the design, structure and development as well as the habitability of housing in populated areas, but not the equipment inside buildings. The Building Code rather defines the most important [urban planning](http://de.wikipedia.org/wiki/Stadtplanung) instruments available to the [municipalities](http://de.wikipedia.org/wiki/Gemeinde_(Germany)) . The equipment of buildings - including their accessibility - comes under the remit of building law for which the Länder have sole responsibility in accordance with our federal state system. Accordingly, all the relevant aspects are governed in the respective Land building codes. The Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety has however issued an accessibility guide. This guide provides help to those wishing to build an accessible home. It explains what has to be taken into account when building accessible homes, what holistic planning means and what individual and practical solutions can look like.

**b. The existence of time bound action plans to make public and private facilities and services accessible for persons with disabilities,**

To establish accessibility everywhere is an essential **cross-cutting aspect** for policy makers, which runs through **many** **policy areas like a red thread**. With its National Action Plan (NAP) of 2011, the Federal Government has developed a strategy to implement the UN Convention on the Rights of Persons with Disabilities in all walks of life. The National Action Plan also comprises different measures to strengthen the concept of accessibility and of universal design. In the coalition agreement which was concluded by the political parties forming the grand coalition in Germany for the 18th legislature, it was agreed to further develop the National Action Plan together with persons with disabilities in order to implement the UN Convention on the Rights of Persons with Disabilities. Today, this plan has been almost fully implemented. On 15 June 2016 the Federal Government will presumably take a final decision on this amended National Action Plan ("NAP 2.0"). In the "NAP 2.0" accessibility will once again play an important role as a target and as a horizontal issue, and it will be reflected in measures taken in various areas for action (e.g. prevention, rehabilitation, health and nursing care, mobility, building and housing). The "universal design" concept will be closely linked to accessibility.

**c. The existence of accessibility requirements for public procurement,**

The Act on the Modernisation of Public Procurement Law entered into force on 18 April 2016. This act transposes the provisions of the new European Directive on Public Procurement into national law. The new legal framework for public procurement (above the EU threshold values) takes full account of the needs of persons with disabilities. Whenever a product is procured which is intended for use by human beings, criteria for accessibility and/or "Design for All" aspects have to be taken into account. This applies irrespective of the question whether the product/service is being used by public service staff or by external third parties (e.g. citizens). Exceptions are only possible in duly justified cases. Accessibility and "Design for All" aspects can also be prescribed as award criteria to identify the most cost-effective bid. Contracting authorities are allowed to award public contracts in a targeted manner exclusively to sheltered workshops or other integration and social economy enterprises (thus limiting the group of eligible awardees from the outset). Electronic devices that have to be used to carry out procurement procedures in future, have to be designed in an accessible format.

**d. The existence of any enforcement mechanism of accessibility standards,**

Standards, directives and recommendations reflect the state of the art and are available to everyone free of charge while they are not directly legally binding. They become legally binding by being enshrined in laws and ordinances and by reference made to them. DIN standards provide a benchmark for ethical technical behaviour and are important in the framework of the legal system. DIN standards may be used by everyone. This means that everybody may apply them but he / she can also decide not to apply them. DIN standards are becoming binding if reference is made to them, e.g. in a contract between private parties or in laws and ordinances. The advantage of agreeing on making standards binding is based on the fact that legal disputes can be avoided from the outset as standards are unequivocal definitions. References in laws and ordinances spare the state and the citizens legislation which has too many details. Also in cases where DIN standards have not been included in the contract by the contracting parties, DIN standards can help as a tool to facilitate the decision-making process in a dispute arising from a situation where material defects have to be dealt with under sales law and the law of contract for work and labour. Here, prima facie evidence helps the user of the standard in the sense that he / she has observed due diligence criteria required in this regard.

European Directives include - in the same way as German laws - essential safety requirements which are specifically defined by standards. Harmonized European standards which have been integrated into German Standards, are just as non-binding as national standards. However their application gives always rise to the presumption that a manufacturer fulfils the requirements prescribed by law and / or the directive by observing the DIN standard and that the product can insofar be placed on the market.

**Essential safety and health requirements** for certain products are defined in European directives according to Art. 114 of the Treaty of Lisbon and provide a high protection level. These Directives are addressed to the EU Member States and have to be transposed into national law. The **technical details** **to flesh out** these essential requirements are drafted according to the division of powers between the European Standardisation organisations CEN, CENELEC and/or ETSI as **European Standards**. This is done on the basis of a mandate and/or standardisation order issued by the EU and/or EFTA. Publication references to these European standards are published in the Official Journal of the EU.

**e. The provision of training on accessibility issues for State officials and other actors.**

The National Action Plan includes a measure for the implementation of the UN Convention on the Rights of Persons with Disabilities; this measure entails the drafting of a guide describing how to take into account the interests of persons with disabilities (disability mainstreaming) in legislative, administrative and other measures. The guide shall sensitize people to consider the specific interests of persons with disabilities and accessibility aspects right from the start of a measure, e.g. at the beginning of a legislative process. It is considered as a practical tool for the participation of organisations representing the interests of persons with disabilities and it may provide information on accessible event and communication formats or it may provide contact data.

Two education institutions are responsible as central organisations for the Federal Government for training and further training and for the sensitization of staff and apprentices. As far as further training is concerned, the responsible organisation is the Federal Academy of Public Administration (BAköV) - acting as the central further training institution of the Federal Government; with regard to the training of civil servants for a career in the higher intermediate and higher service (Master of Public Administration Studies) the University of Administrative Sciences (HS Bund) is the responsible institution.

The Federal Academy organises a seminar on "Severely Disabled Persons Legislation - Social Code Book IX Part 2 - for Human Resources Department" for staff in HR and organisation departments and for the representatives of persons with disabilities in the framework of federal administrative authorities. The seminar covers the following topics: legislation governing severely disabled persons in the labour, collective bargaining and civil service law context, the presentation of integration measures and current inclusion projects as well as support offered to employees with disabilities, cooperation with the severely disabled persons' representatives and the tasks and obligations of employers in connection with the recruitment of severely disabled persons.

In addition, the Federal Academy facilitates an in-depth exchange of views on current legal developments and questions in this context for experienced severely disabled persons' representatives.

Finally, the Federal Academy also offers training programmes on the use of Easy Language and on the production of accessible PDF documents.

Moreover, the Federal Ministry of Labour and Social Affairs is talking to the Federal Agency for Civic Education in order to offer seminars which should focus on strengthening capacity-building for persons with disabilities and their representative organisations. This measure shall also help to sensitize persons with disabilities by persons with disabilities for their own issues by actively shaping societal and political issues. The Länder are training and sensitizing their staff with regard to the UN CRPD and with regard to the questions and needs of persons with disabilities so that they can assume responsibility for these matters themselves.

Regardless of this approach, the Federal Ministry of Labour and Social Affairs advocates increased awareness for the rights of persons with disabilities and the UN CNRPD at the level of the Länder and municipalities in the framework of various event formats (e.g. the annual inclusion days, Federation-Land talks) by advocating e.g. action plans for the implementation of the UN CRPD.

**Question 4:**

**Please provide information on the legislative and policy framework in place in your country concerning support services for persons with disabilities, including:**

**a. The diversity and coverage of services available (e.g., services for supported decision making, communication, mobility, personal support, housing and living arrangements, access to general services such as education, employment, justice and health; and other community services),**

The existing provisions in Section 19 of the Social Code Book IX oblige rehabilitation funds to make services and institutions available in sufficient numbers and quality. Moreover, this obligation to coordinate and cooperate one's own activities between and within the rehabilitation funds ensures that a big range of out-patient and in-patient institutions for acute and rehabilitative treatment are available for persons with disabilities.

To prevent the risk of preventing or eliminating a disability or its consequences and in order to integrate persons into society, integration assistance benefits are offered as a "last resort" (safety net). These benefits shall enable persons with considerable disabilities to participate in society or make it easier for them to do so or to help them pursue an appropriate occupational activity or any other appropriate activity and to make them as independent as possible from nursing care. These benefits are determined on the basis of the particularities of the individual case; the individual need has to be satisfied as far as possible.

**b. The availability of certified sign language interpreters.**

In Germany there are various possibilities to become a certified sign language interpreter. Training varies - there are full-time courses that lead to a diploma from a university or a university of applied sciences and/or to a bachelor degree, and there are part-time training courses for people in employment, leading to different degrees. However, in Germany, the Länder are responsible for education. Thus the education ministries of the Länder are responsible for this question. Accordingly, every Land has its own provisions. You will find an overview of the educational system for persons with disabilities at [www.einfach-teilhaben.de](http://www.einfach-teilhaben.de/) (search word: Schule und Studium [school and university studies]). The Federal Government has no information about the number of sign language interpreters in Germany.

In the framework of the Education Ministers' Conference ("Standing Conference of the Ministers of Education and Cultural Affairs of the Länder" - KMK) the Länder have agreed on standards for special needs support in general and on the priority "hearing".

**c. The types of service delivery arrangements (e.g. direct provision, public-private partnerships, partnerships with community-based or non-governmental organization, contracting out, privatization),**

Rehabilitation funds provide benefits to facilitate participation of persons with disabilities under Section 6 of Social Code Book IX. Rehabilitation funds are either self-regulatory bodies under public law or municipal funds (social assistance, children and youth welfare services). As a rule they provide benefits in kind and services to persons with disabilities. Upon request, the eligible person can obtain cash benefits, e.g. if he / she has a personal budget in accordance with Section 17, paragraph 2 of Social Code Book IX).

Service provision legislation / contract law of Social Code Book XII provide the legal framework for funding agencies and service providers in order to implement and flesh out benefit legislation regarding integration assistance. Out-patient and in-patient services of integration assistance under Social Code Book XII may only be paid by social assistance agencies if the funding agency or its organisation has concluded an agreement on the provision of services, the payment of fees and on auditing (Section 75, paragraph 3 Social Code Book XII). In this context the agreement has to define the essential performance features (Section 76, paragraph 1 Social Code Book XII). If the particular features of the individual case so require the services may also be provided by service providers with whom no agreement has been concluded. In this way the social assistance agency fulfils at the same time a protective function vis-à-vis the eligible persons as the provision of a quality service is ensured through service provision legislation / contract law.

**d. The financial mechanisms to ensure affordability of support services for all persons with disabilities,**

Since the introduction of the Federal Social Assistance Act (BSHG) in 1962, integration assistance for persons with disabilities is a social assistance benefit. As social assistance is a type of "safety net" / last resort benefit, self-help is particularly important, i.e. to first spend one's own income and assets and resort to persons who are obliged to support the person with a disability, has priority over social assistance.

With regard to integration assistance it has been decided that the persons concerned cannot be expected to spend their own resources if their monthly income does not exceed a certain limit for the period during which they depend on assistance. This benefit shall ensure that persons with a disability and other members of his/her joint household have enough own resources to pay for their subsistence and that an unreasonable worsening of their situation is prevented.

Using one's own assets is required if it is possible to utilize (e.g. sell) them. Exemptions are e.g. owner-occupied housing or a "small amount of cash".

Certain integration assistance benefits are also provided without income and assets tests.

**e. How service enable direct choice and control of users with disabilities.**

Persons with disabilities are entitled to exercise their right to choose how services to facilitate participation are provided (see Section 9 Social Code Book IX). Rehabilitation funds are obliged to fulfil the justified wishes of the eligible persons. In addition, persons with disabilities have the possibility to purchase the desired services with the help of their personal budget according to Section 17, paragraph 2 Social Code Book IX after their application has been approved. As for integration assistance it has been clarified that reasonable wishes of the eligible persons which concern the design of the service, have to be complied with.

**Question 5:**

**Please provide any other relevant information (including information from surveys, censuses, and administrative data - statistics, reports, and studies), in relation to the implementation of existing disability-inclusive policies and action plans in your country.**

The development and implementation of political measures and action plans must be based on the current situation of the participation of persons with disabilities in society in the different walks of life in Germany.

By the end of 2013 Germany had a population of 10.2 million persons with recognized disabilities (13 % of the total population). This group included 7.5 million severely disabled persons (9.4 % of the total population). Disabilities occur above all in older persons. 73 % of people with disabilities were aged 55 years or older.

Almost a third (31 %) of the persons with severe disabilities were 75 years or older. Almost half of all persons with disabilities (45 %) belonged to the age group 55 to 75.

The UN CRPD addresses all government agencies obliging them to implement the Convention. The National Action Plan of the Federal Government promotes the implementation of the Convention at the federal level. But the implementation of the UN CRPD requires further government and private initiatives because it addresses and concerns all areas of political, economic, cultural and social life. That is why the Federal Government tries to enlist support for further initiatives and action plans at the level of the Länder, municipalities, social partners, associations and institutions, but also at the level of private businesses. All the Länder have either already drafted or are preparing to draft action plans or measure packages in order to implement the Convention at the Land level. There are also municipalities and institutions as well as private businesses that have adopted action plans of their own.