



EUROPEAN SOCIAL POLICY NETWORK (ESPN)

# Social protection for people with disabilities

Germany

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# **European Social Policy Network (ESPN)**

## **ESPN Thematic Report on Social protection for people with disabilities**

**Germany**

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## Summary

This report analyses some important cash and in-kind social protection provisions available to adults with disabilities (i.e. people aged 18 or above). There are other important provisions available to them in other areas not covered in this report. In line with Article 1 of the UN Convention on the Rights of Persons with Disabilities (CRPD), “people with disabilities” should be understood as “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”.

In Germany, different concepts of disability are applied in the field of social protection. While wage-replacement benefits and minimum income benefits focus on the reduction in earnings capacity, assistance benefits and services are based on the concept of limited opportunities for participation. Finally, benefits for people with severe disabilities are based on the degree of disability, and attempt to provide compensation for disadvantages.

Disability-specific wage-replacement benefits are provided by the statutory pension and statutory accident insurance schemes. These disability pensions are often insufficient for a standard of living above the poverty line and can in many cases be topped up by minimum income benefits. A person's reduced earnings capacity status affects the possibility of (possibly supplementary) receipt of means-tested benefits under the social minimum income system. The same applies to the *Altersrente für schwerbehinderte Menschen* (old-age pension for people with severe disabilities) and the new basic pension, introduced in 2021 as part of the statutory pension insurance system.

Adults under the statutory retirement age with a permanent full reduction in earnings capacity and in need of assistance can apply for *Grundsicherung im Alter und bei Erwerbsminderung* (basic income support in old age and in the event of reduced earnings capacity) under Social Code Book (SGB – *Buch Sozialgesetzbuch*) XII. If the reduction in earnings capacity is not considered permanent, they can apply for *Grundsicherung für Arbeitsuchende* (basic income support for job-seekers) under SGB II or *Hilfe zum Lebensunterhalt* (cost-of-living assistance) under SGB XII. Partially incapacitated people are entitled to basic income support for job-seekers under SGB II if they cannot cover their needs with a *Rente wegen verminderter Erwerbsfähigkeit* (pension for reduced earnings capacity) and/or earned income from part-time work.

Assistive technology and personal assistance are generally provided as part of *Leistungen zur Teilhabe* (benefits and services for participation) under SGB IX. People who are substantially limited in their ability to participate in society due to their disability, or who are at risk of such a substantial disability, have a fairly comprehensive entitlement to integration assistance. Entitlement to integration assistance is only subordinate (i.e. the assistance is granted only if no institution with a primary obligation provides assistance).

The longstanding debate on the adequacy of disability pensions has led only to limited, step-wise increases in access to pensions. These increases have not been applied to existing pensions, nor have they been sufficient to limit the need for supplementary minimum income benefits for working-age beneficiaries. According to the current coalition agreement, existing pensions at least are to be adjusted during the current legislative period.

The most important reform aimed at improving the integration and participation of people with disabilities was the adoption of the Federal Participation Act in 2016. This new law is based on a concept of disability that is closely aligned with the model of disability in the UN CRPD, but is currently still being implemented. The current debate on reform is focused on improving the conditions for access to disability pensions and transferring these improvements to existing pensions as well. At the same time, the Federal Participation Act should be improved to ensure that its objectives are actually realised.

## 1 Access to disability-specific income support

### 1.1 Disability-specific benefits/pensions available to working-age people

Pensions in Germany are drawn from different sources and are organised according to employment status. The German pension system consists of the following statutory pension schemes, which all include regulations for disability-specific pensions available to working-age people.

- The statutory pension insurance (SPI) scheme, which provides compulsory cover for (almost) all employees and for certain categories of self-employed people.
- Various pension schemes operated by the liberal professions for members of professional associations (*Berufsständische Versorgungswerke*).
- The social insurance scheme for agriculture, forestry and horticulture (*Sozialversicherung für Landwirtschaft, Forsten und Gartenbau – Landwirtschaftliche Alterskasse*) for farmers and their family workers.
- The civil service pension scheme (*Beamtenversorgung*).

Self-employed people who are not insured in one of the first three schemes listed above have no access to disability-specific benefits or pensions. Besides the liberal professions and farmers, there are special groups of self-employed people who are mandatorily insured in the SPI scheme (see Fachinger 2019: 27). There are no specific regulations for these groups. The eligibility conditions, assessment framework and benefit entitlements are the same for all mandatorily insured people.

In addition, the statutory accident insurance scheme (*Gesetzliche Unfallversicherung*) offers a *Verletztenrente* (injury pension). Disability-specific, contribution-based social benefits are provided by the SPI and statutory accident insurance schemes. The underlying principle of the civil service pension scheme is the continuing payment of salary, but at a lower level, financed by taxes. In what follows, the key elements of the disability-specific pensions provided by each of the four statutory pension schemes (Section 1.1.1-1.1.4) and by the statutory accident insurance scheme (Section 1.1.5) are described.

#### 1.1.1 *Rente wegen verminderter Erwerbsfähigkeit* (Reduced earnings capacity pension) in the statutory pension insurance scheme

##### a) Eligibility conditions

Disability-related qualifying criteria: A full *Rente wegen voller Erwerbsminderung* (reduced earnings capacity pension) is granted to people who are, as a result of sickness or disease, unable to work indefinitely for at least three hours a day under regular labour market conditions.

A *Rente wegen teilweiser Erwerbsminderung* (partial reduced earnings capacity pension) is granted to people who are, as a result of sickness or disease, unable to work indefinitely for at least six hours a day under regular labour market conditions.

People who are able to work for three to six hours a day may receive a full reduced earnings capacity pension as long as there is no appropriate (part-time) employment available.

People who were born before 2 January 1961 may receive a partial reduced earnings capacity pension if they are unable to work more than six hours a day in their former occupation or any other suitable occupation.

The requirements for the SPI scheme's reduced capacity for work pension for miners are equivalent to the *Rente wegen Dienstunfähigkeit* (invalidity pension). Here,

however, instead of checking if there is a reduction in earnings capacity, the SPI scheme will check if there is reduced capacity for work in the mining industry.

Age: Reduced earnings capacity pensions can be claimed at any age.

Nationality and/or residency: Reduced earnings capacity pensions are provided without regard to nationality or residency<sup>1</sup>.

Waiting period: People have to have 60 months of contributions or credited substitute periods (general qualifying period) and in principle at least 36 contribution months in the five years before the onset of the complaint. An extension of the five-year period is possible. The minimum insurance period can be considered to be fulfilled prematurely if, for example, the insured person becomes partially incapacitated, as a result of an accident at work or within six years of completing a training course. In order to receive a reduced earnings capacity pension, claimants need to have fulfilled the 60-month general qualifying period. This qualifying period is fulfilled, for example, by accruing contribution periods.

Contributory history: In addition, claimants must have paid compulsory contributions for at least three out of the five years preceding the reduction in earnings capacity. These can include not only contributions as an employee but also time spent raising a child and receiving sickness allowance or *Arbeitslosengeld* (unemployment benefit).

Insured people who were fully incapacitated before the end of the 60-month general qualifying period and who have been fully incapacitated since then without any breaks (e.g. in cases of severe congenital or childhood conditions) are entitled to a *Rente wegen verminderter Erwerbsfähigkeit* (reduced earnings capacity pension) if they have accumulated 240 months of contributions and substitute periods – Section 43 (6) of Social Code Book (SGB – *Buch Sozialgesetzbuch*) VI.

In specific cases the general qualifying period can be fulfilled prematurely. For example, if the reduced earnings capacity is caused by:

- workplace accidents;
- occupational illness;
- injuries sustained during military service or compulsory non-military national service; or
- custody for political reasons.

Level of financial resources: The level of financial resources is not taken into account.

Other: Prevention and participation benefits, such as rehabilitation measures, take priority over pension benefits (Section 9 [1], second and third sentences SGB VI). In this case there is no entitlement to a reduced earnings capacity pension.

Gaps and/or obstacles: There are no severe gaps or obstacles for people with disabilities seeking to access the benefit. On the contrary, the reduced earnings capacity pension is used as a way to get early retirement. The rate of refusal of claims for fully reduced earnings capacity pensions is therefore quite high and has been just below 50% for years. The reasons for refusal are, in particular, a lack of reduction in earnings capacity or failure to fulfil the waiting period<sup>2</sup>.

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<sup>1</sup> These conditions apply to EU and non-EU nationals as well as to people with refugee status.

<sup>2</sup> See e.g.: [https://statistik-rente.de/drv/extern/rente/antraege/tabellen\\_2021/202112\\_Rentenantrag\\_Tabelle03.htm](https://statistik-rente.de/drv/extern/rente/antraege/tabellen_2021/202112_Rentenantrag_Tabelle03.htm).



## b) Disability assessment framework

A precondition for receiving this pension is that a person is no longer able to work due to health reasons. The cause of the illness is not crucial for these pensions.

Type of assessment: The decision is made on the basis of assessments or medical documents (for example, hospital reports or documents from the person's health insurance company). The following main characteristics are considered: physical and mental limitations; additional capacity restrictions; the person's ability to travel to work; and the daily working hours. The assessment procedure and the applicable criteria are the same nationwide and are set using the SPI scheme standard guidelines.

Responsible authorities: The insured person's capacity for work will be assessed by the SPI scheme's socio-medical service.

Method: The assessment is made on the basis of documentary evidence and personal interaction (e.g. medical examinations).

Supporting evidence: Supporting evidence is not required.

Assessor: The insured person's capacity for work will be assessed by the SPI scheme's socio-medical service using all available medical and psychological reports and documents. The SPI scheme will establish if and to what degree the person is still able to work or to find a job despite the reduction in earnings capacity.

Decision-maker: This decision is made by the SPI. If an application for reduced earnings capacity pension is rejected, the applicant can lodge an appeal within one month. An SPI appeal committee will review the disputed decision and can change it or have it reviewed elsewhere (e.g. in cases of medical issues). If the appeal is also rejected, the applicant may file a complaint at the competent social court.

Critical analysis: In general, the evidence on coverage or take-up issues arising is unclear. However, people try to use the reduced earnings capacity pension in order to take early retirement. Therefore, the SPI scheme tries to identify genuine cases, which means that disputes sometimes go all the way to court.

## c) Benefit entitlements

Level of the benefit: Insured people who are prevented by a reduction in earnings capacity from doing at least three hours of paid work a day are considered to have full reduced earnings capacity. People who are prevented by a reduction in earnings capacity from doing at least six hours of paid work a day are considered to experience a partial reduced earnings capacity. The partial reduced earnings capacity pension is paid at half the rate of a full reduced earnings capacity pension. The benefit entitlements are the same as for a regular old-age pension (see Hanesch *et al.* 2021: 53 f.).

The information that follows is intended to give an idea of the adequacy of the reduced earnings capacity pensions. To begin with, it is worth mentioning that 29,437, or 41.5%, of new claimants in 2020 were granted a reduced earnings capacity pension because of mental illness (Deutsche Rentenversicherung Bund 2021b: 57). Thus, diagnosable intellectual disabilities are by far the most common cause. With a share of 14.6%, cancer is the second most common cause of reduced earnings capacity (Deutsche Rentenversicherung Bund 2021b: 57).

The average reduced earnings capacity pension in 2020 was €862.89 per month, €124.92 lower than the average old-age pension at €987.81 per month (Bundesregierung 2021: 14). However, there are remarkable differences between the two pension types. Whereas the average reduced earnings capacity pension for men and women is nearly the same, at €854.21 (men) and €870.60 (women), the average old-age pension is considerably different, at €1,227.29 for men and €797.17 for women (Bundesregierung 2021: 14).

The main reason for the similarity between the average reduced earnings capacity pensions for men and women is the relative number of creditable periods and the roughly identical values of the personal remuneration points (PEPs). The average sum of contribution and attribution periods was 42.1 years for men and 40.59 years for women. The PEPs are also more or less the same: 0.7591 for men and 0.7453 for women (Bundesregierung 2021: 16). To get a better understanding of the average PEP value, an average of 0.75 means that the person over their whole working life had an average income of three quarters of the national average earnings of all insured people. In 2020 the average was €39,167 (Deutsche Rentenversicherung Bund 2021a: 258) and therefore the PEP for 2020 was calculated on the basis of an annual income of €29,375.25. The number of creditable periods for men and women with reduced earnings capacity is higher than the number of creditable periods for old-age pensions: 42.1 versus 41.55 for men, and 40.59 versus 30.87 for women (Bundesregierung 2021: 71 f.).

Duration of the benefit: Reduced earnings capacity pensions are generally paid on a fixed-term basis. In principle, a reduced earnings capacity pension is limited to three years (temporary pension). After this, the SPI scheme may extend the pension once the person's health has been reviewed by the socio-medical service and the requirements are fulfilled as previously. Indefinite pensions are granted only when the reduction in capacity for work is unlikely to be reversible for medical reasons. However, after the third three-year period (i.e. after nine years), a reduced earnings capacity pension normally becomes permanent. Reduced earnings capacity pensions are paid until the person reaches pensionable age, when they will be converted into old-age pensions without being recalculated.

For recipients of a reduced earnings capacity pension, the end of the attribution period will gradually be raised from 2020 onwards to the pensionable age of 67 (as shown in Annex, Table A1). This also means that with each increase the period used to calculate the access factor for claiming a pension before the pensionable age will be reduced. People already in receipt of a reduced earnings capacity pension are not covered by this regulation.

According to the fundamental rehabilitation-before-pension principle, medical care as well as vocational integration measures are provided in order to improve or restore earnings capacity. Benefits for prevention, medical rehabilitation, follow-up care and for participation in the labour market (e.g. adaptation of the workplace, occupational training), supplementary benefits (e.g. *Übergangsgeld* – transitional benefit) and other benefits/services (e.g. reintegration services) are granted. The pension insurance-provider must ascertain whether a pension claim could be avoided by rehabilitation measures.

Interactions with other income or other income related benefits: People are allowed to have supplementary earned income from an occupation while receiving a reduced earnings capacity pension. The SPI scheme verifies whether the pension entitlement remains and whether the earnings affect the amount of pension. For example, the supplementary income limit for a full reduced earnings capacity pension is €6,300 per year (Section 96a [1c] no 2 SGB VI). For partially reduced earnings capacity pensions, the income limit depends on the amount of the individual pension (Section 96a [1c] no 1 SGB VI).

Challenges: The information that follows is intended to give an idea of the adequacy of the reduced earnings capacity pensions. To begin with, it is worth mentioning that 29,437, or 41.5%, of new claimants in 2020 were granted a reduced earnings capacity pension because of mental illness (Deutsche Rentenversicherung Bund 2021b: 57). Thus, diagnosable intellectual disabilities are by far the most common cause. With a share of 14.6%, cancer is the second most common cause of reduced earnings capacity (Deutsche Rentenversicherung Bund 2021b: 57).

The average reduced earnings capacity pension in 2020 was €862.89 per month, €124.92 lower than the average old-age pension at €987.81 per month (Bundesregierung 2021: 14). However, there are remarkable differences between the two pension types. Whereas the average reduced earnings capacity pension for men and women is nearly the same at €854.21 (men) and €870.60 (women), the average old-age pension is considerably different, at €1,227.29 for men and €797.17 for women (Bundesregierung 2021: 14).

The main reason for the similarity between the average reduced earnings capacity pensions for men and women is the relative number of creditable periods and the roughly identical values of the PEPs. The average sum of contributions and attribution periods was 42.1 years for men and 40.59 years for women. The PEPs are also more or less the same: 0.7591 for men and 0.7453 for women (Bundesregierung 2021: 16). To get a better understanding of the average PEP value, an average of 0.75 means that the person over their whole working life had an average income of three quarters of the national average earnings of all insured people. In 2020 the average was €39,167 (Deutsche Rentenversicherung Bund 2021a: 258) and therefore the PEP for 2020 was calculated on the basis of an annual income of €29,375.25. The number of creditable periods for men and women with reduced earnings capacity is higher than the number of creditable periods for old-age pensions: 42.10 versus 41.55 for men, and 40.59 versus 30.87 for women (Bundesregierung 2021: 71 f.).

Overall, the average person with reduced earnings capacity is put on equal terms with a person who has a contribution period of around 40 years and earned on average each year three quarters of the national average earnings of all insured people. It should be noted that healthy people with at least 35 years of creditable periods are entitled to an old-age pension for long-term insured people. The average of such a pension in 2020 was €1,358 per month for men and €910 per month for women. (Bundesregierung 2021: 59). Unfortunately, no information is available about the household income of people with full reduced earnings capacity pensions. However, in December 2020, 195,155 people with full reduced earnings capacity pensions (111,730 men and 83,425 women) were entitled to *Grundsicherung im Alter und bei Erwerbsminderung* (basic income support in old age and in the event of reduced earnings capacity) (Deutsche Rentenversicherung Bund 2021b: 75). This means that roughly 15% of people in receipt of a full reduced earnings capacity pension were receiving basic income support (1,299,793 pensioners with full reduced earnings capacity pensions) (Deutsche Rentenversicherung Bund 2021b: 74) (see also Section 2.3.1).

Since 1 January 2021, people with reduced earning capability pensions have generally been entitled to the newly introduced basic SPI pension if they meet the eligibility conditions. The precondition for a basic SPI pension is a minimum of 33 years of creditable periods in the SPI with at least 0.025 PEPs (for a brief description see Hanesch *et al.* 2021). As attribution periods are not counted as creditable periods, people with a reduced earnings capability pension seldom meet the requirements. For example, the creditable periods for people in receipt of a full reduced earnings capacity pension are on average roughly 25 years for men and 23 years for women (Deutsche Rentenversicherung Bund 2021c: 127 f.).

### **1.1.2 Rente wegen Berufsunfähigkeit (Occupational disability pension) provided by the pension schemes for the liberal professions**

Altogether, there are more than 90 pension schemes for the liberal professions (*Berufsständische Versorgungsanstalt or Versorgungswerk*). 89 of them are members of the Association of Pension Schemes for the Liberal Professions (ABV; see Figure A1). They provide benefits for old age, disability and survivors. Each scheme has its own articles of association. In the following only a rough outline can therefore be given.

### a) Eligibility conditions

Disability-related qualifying criteria: In general, a person is regarded as having a disability if they are unable, as a result of physical disability or limitation of physical or mental strength, to perform an activity in which specialist occupational knowledge is required or applied. Thus, a precondition for receiving a *Rente wegen Berufsunfähigkeit* (occupational disability pension) is that a person is no longer able to work in their own occupation (i.e. total occupation-related reduced earnings capacity), and gives up practising their profession. For example, if a person is no longer able to work as a physician, they will receive an occupational disability pension. This is independent of being capable of working and contrary to the regulations in the SPI scheme, where a person has to have a reduced earnings capacity independently of their occupation.

Age: Reduced earnings capacity pensions can be claimed at any age.

Nationality and/or residency: Reduced earnings capacity pensions are provided without regard to nationality or residency<sup>3</sup>.

Waiting period: In general, there is no specific waiting period. One distinctive characteristic of the pension schemes for the liberal professions is that the qualifying period (period of contributions paid) for receipt of benefits is very short. For example, the qualifying period could be one month of contributions (Section 14 of the articles of association of the Rechtsanwaltsversorgungswerk Niedersachsen 2020) or three months of payment of contributions (Section 18 of the articles of association of the Versorgungswerk der Rechtsanwälte im Lande Nordrhein-Westfalen 2021).

Contributory history: The contributory history is in general identical to the qualifying period of the specific occupational pension-provider, but is different for the various pension schemes for the liberal professions.

Level of financial resources: The level of financial resources is not taken into account.

Other: The board of directors can request a member who receives, or has applied for, an occupational disability pension to undergo treatment. If the member turns down the request, the occupational disability pension can be denied or payment can be ceased (Section 14 [5] of the articles of association of the Rechtsanwaltsversorgungswerk Niedersachsen 2020).

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

### b) Disability assessment framework

The definition of occupational disability, its severity and whether (and to what extent) referrals to other occupations are allowed are determined by the laws of the *Bundesländer* (states) and by the specific provisions of the pension provider's articles of association.

Type of assessment: Medical conditions only are taken into account in the assessment. The disability must be verified by a medical report issued by the physician appointed by the pension-provider.

Responsible authorities: The responsible authority is the relevant pension-provider.

Method: The assessment is made on the basis of medical examinations, which are documented in a medical report.

Supporting evidence: Supporting evidence is not required.

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<sup>3</sup> These conditions apply to EU and non-EU nationals as well as to people with refugee status.

Assessor: The insured person's capacity for work will be assessed by the physician appointed by the pension-provider. The pension-provider will establish if the person is no longer able to work in their own occupation.

Decision-maker: This decision is made by the board of directors of the relevant pension-provider.

Critical analysis: Not documented.

### c) Benefit entitlements

Level of benefits: Unlike the SPI scheme, these pensions are not earnings-related, as their level depends on the amounts of yearly contributions paid. Furthermore, the calculation formulae are slightly different for the different schemes. Information about the disability pensions provided by the pension schemes for the liberal professions is in general not available to the public. Consequently, the average amount, or even the number of people in receipt of an occupational disability pension from a specific professional pension scheme, is unknown. However, the ABV at least publishes the average occupational disability pension paid to its members. In 2019, the average was €1,763.12 per month.

Duration of the benefits: Reduced earnings capacity pensions are paid until the person reaches pensionable age, when they will be converted into old-age pensions without being recalculated. That means that the occupational disability pension will be paid until the age of 60 or sometimes until 67, depending on the pension-provider.

Interactions with other income or other income-related benefits: Additional support payments for medical rehabilitation are provided, and discretionary benefits are granted for particularly comprehensive measures of medical rehabilitation. People are allowed to have supplementary earned income from an occupation while receiving an occupational disability pension. There is no income limit.

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

### 1.1.3 *Rente wegen verminderteter Erwerbsfähigkeit* (Reduced earnings capacity pension) provided by the social insurance scheme for the agriculture, forestry and horticulture sectors

#### a) Eligibility conditions

Disability-related qualifying criteria: People have to have a reduced earnings capacity as defined in Section 43 of SGB VI. Please refer to the criteria presented in Section 1.1.1.

Age: Reduced earnings capacity pensions can be claimed at any age.

Nationality and/or residency: Reduced earnings capacity pensions are provided without regard to nationality or residency<sup>4</sup>.

Waiting period: In order to receive a reduced earnings capacity pension, claimants need to have fulfilled the general five-year qualifying period. This qualifying period is fulfilled, for example, by accruing contribution periods.

Contributory history: Claimants must have paid compulsory contributions to the social insurance scheme for the agriculture, forestry and horticulture sectors for at least three out of the five years preceding the reduction in earnings capacity.

Level of financial resources: The level of financial resources is not taken into account.

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<sup>4</sup> These conditions apply to EU and non-EU nationals as well as to people with refugee status.

Other: Prevention and participation benefits, such as rehabilitation measures, take priority over pension benefits – see Section 7 of the Act on Old-Age Insurance for Farmers (ALG – *Gesetz über die Alterssicherung der Landwirte*). In this case there is no entitlement to a reduced earnings capacity pension.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

## **b) Disability assessment framework**

The assessment is the same as for the SPI scheme (please see Section 1.1.1b).

## **c) Benefit entitlements**

Level of benefits: There is only limited information on pension adequacy available to the public. In 2020 the average reduced earnings capacity pension for self-employed farmers was €408.35 per month for men and €331.95 for women (Sozialversicherung für Landwirtschaft 2021: 15). However, the number of people in receipt of such a pension was comparatively low at 13,124, which was 2.3% of all the scheme's pensioners in 2020 (Sozialversicherung für Landwirtschaft 2021: 1).

Duration of the benefits: Reduced earnings capacity pensions are paid until the person reaches pensionable age, when they are converted into old-age pensions without being recalculated.

Interactions with other income or other income-related benefits: People are allowed to have supplementary earned income from an occupation while receiving a reduced earnings capacity pension. The supplementary income limit for a full reduced earnings capacity pension is €6,300 per year (Section 27a [1] ALG). The monthly limit is €450, but it is allowed to exceed the limit for two months, up to a maximum of €900 (Section 27a [2] no 2 ALG).

If a partial full reduced earnings capacity pension is paid, the income limit is (Section 27a [2] no 3 ALG):

- 0.51 of the monthly reference value, if 0.75 of the full reduced earnings capacity pension is paid;
- 0.69 of the monthly reference value, if half of the full reduced earnings capacity pension is paid; and
- 0.84 of the monthly reference value, if 0.25 of the full reduced earnings capacity pension is paid.

The monthly reference value in 2021 was €3,290 for west Germany and €3,115 for east Germany.

For partially reduced earnings capacity pensions, the income limit is 0.69 of the monthly reference value, if a full pension is paid. If half of the pension is paid, the limit is 0.84 of the monthly reference value (Section 27a [2] no 3 ALG).

People who are voluntarily insured under the SHI scheme, or by a health insurer subject to supervision by the German Federal Financial Supervisory Authority, receive a subsidy in addition to their health insurance contributions. In general, the subsidy is worth half the amount of the contribution to the SHI scheme that would have been paid on the basis of the person's monthly pension if the person were mandatorily insured in the SPI scheme.

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

#### **1.1.4 Rente wegen Dienstunfähigkeit (Invalidity pension) provided by the compulsory scheme for civil servants**

There are several pension schemes for civil servants: one at federal level (*Bundesbereich*), one for each state (*Bundesland*) or regional level (*Landesbereich*), and others at municipal level (*Kommunaler Bereich*). The schemes differ in detail but are essentially identical. Furthermore, in general, there is no difference in the compulsory scheme for civil servants between reduced earnings capacity caused by illness (*Dienstunfähigkeit*) and reduced earnings capacity due to accident (*Dienstunfall*) (i.e. between disability and invalidity).

##### **a) Eligibility conditions**

Disability-related qualifying criteria: A full invalidity pension (*Rente wegen voller Dienstunfähigkeit*) is granted to people who are, as a result of sickness or disease, indefinitely unable to work for at least three hours a day under regular labour market conditions. A partial invalidity pension (*Rente wegen begrenzter Dienstfähigkeit; Teildienstfähigkeit*) is granted to people who are, as a result of sickness or disease, able to work at least half of the regular working hours of their previous position.

Age: Reduced earnings capacity pensions can be claimed at any age.

Nationality and/or residency: Reduced earnings capacity pensions are provided without regard to nationality or residency<sup>5</sup>.

Waiting period: People must be officially established as eligible and have at least five years of pensionable service (general qualifying period – *Wartezeit*). If the qualifying period is not fulfilled, maintenance payments can be granted in specific cases. Apart from that, and as a basic principle, people with reduced earnings capacity onset during the qualifying period are not covered.

Contributory history: No contributions are paid by civil servants.

Level of financial resources: The level of financial resources is not taken into account.

Other: There are no other eligibility conditions.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

##### **b) Disability assessment framework**

Type of assessment: A precondition for receiving this pension is that a person is permanently unable to work for health reasons. The cause of the illness is not crucial.

Responsible authorities: The responsible authority is the highest administrative authority.

Method: The insured person's capacity for work will be assessed on the basis of a medical report. The assessment is made on the basis of medical examinations.

Supporting evidence: Supporting evidence is not required.

Assessor: The insured person's capacity for work will be assessed by a medical officer or by a physician commissioned by the highest administrative authority.

Decision maker: The decision is made by the highest administrative authority.

Critical analysis: Not documented.

##### **c) Benefit entitlements**

Level of benefits: Of the civil servants in receipt of an invalidity pension in 2019, 20% were eligible for the *Mindestversorgung* (minimum pension for civil servants)

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<sup>5</sup> These conditions apply to EU and non-EU nationals as well as to people with refugee status.

(Bundesministerium des Innern 2020:45). The minimum pension is 65% of the pension of the civil servants' salary scale A4 in the final stage. In 2019 the minimum pension for civil servants was €1,760 per month without *Familienzuschlag* (family allowances) (Bundesministerium des Innern 2020:44). Maintenance payments are granted if the qualifying period is not fulfilled. In case of full invalidity, the maintenance payment is 66.67% of the superannuation (Section 38 [2] No 1 Civil Service Pensions Act – *Beamtenversorgungsgesetz*).

Duration of the benefits: Invalidity pensions are paid until the person reaches pensionable age, when they will be converted into old-age pensions without being recalculated.

Interactions with other income or other income-related benefits: People are allowed to have supplementary earned income from an occupation while receiving an invalidity pension. If the invalidity pension exceeds a specific limit, it will be reduced. In any case a minimum of 20% of the invalidity pension has to be paid regardless of the amount of additional income. The limit for the sum of total income is 71.75% of the civil servants' salary scale A4 in the final stage (deviations in Bavaria, Saxony, Thuringia, North Rhein-Westphalia and Baden-Württemberg). If the income is higher than the ceiling, the invalidity pension will be reduced by the excess amount. An additional €325-€525 – depending on the specific pension scheme for civil servants – will be paid monthly.

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

### **1.1.5 *Verletztenrente* (Injury pension) provided by the statutory accident insurance scheme**

In Germany, statutory accident insurance (*Gesetzliche Unfallversicherung*) is a branch of the statutory social insurance system. As a compulsory insurance scheme, it provides compensation for health damage experienced by insured people as a result of an insured activity. The legal basis is SGB VII. The statutory accident insurance scheme is intended to prevent insured events (occupational accidents and diseases) and work-related health hazards, to restore the health and capacities of injured people following insured events, and to compensate insured people or their survivors by means of cash benefits. The statutory accident insurance institutions are the industrial employers' liability insurance associations, the agricultural employers' liability insurance association, and the public sector insurance institutions. In the commercial sector, accident insurance is financed by contributions paid solely by employers. The public accident insurance institutions finance their benefits from tax revenues.

#### **a) Eligibility conditions**

The initial precondition for pension entitlement is coverage by the statutory accident insurance scheme. This applies in particular to employees and trainees. In addition, other groups of people are included in the insurance by law (e.g. people working in the public interest, such as employees in aid organisations, lifesavers, blood donors, witnesses, and jurors).

Disability-related qualifying criteria: An entitlement to an injury pension exists if:

- an occupational accident/disease results in a reduction in earnings capacity of at least 20% (30% in agricultural companies);
- if the earnings capacity is reduced for more than 26 weeks; and
- if injured people were entitled to earned income or sick pay (sickness benefits and other benefits) immediately before the onset of incapacity for work.

Age: Injury pensions can be claimed at any age.



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Nationality and/or residency: Injury pensions are provided without regard to nationality or residency<sup>6</sup>.

Waiting period: There is no specific waiting period<sup>7</sup>.

Contributory history: Contributions are paid exclusively by employers. An employee's contribution history is therefore not a prerequisite for entitlement to benefits.

Level of financial resources: The level of financial resources is not taken into account.

Other: There are no other eligibility conditions.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

## **b) Disability assessment framework**

The basic prerequisite for accident insurance benefits is occupational accidents and diseases. Occupational accidents include not only accidents experienced in the workplace during actual work activity but also accidents while commuting. Occupational diseases are illnesses that insured people contract through work and that are either designated in the Occupational Diseases Ordinance or are caused by the occupation according to new medical findings. In addition, there must be a causal connection between the insured activity and the occurrence of the accident as well as between the occurrence of the accident and the damage to health.

Type of assessment: The reduction in earnings capacity under SGB VII is based on the extent of the reduced capacity for work in all aspects of working life resulting from the impairment of physical and mental capacity.

Responsible authorities: The reduction in earnings capacity must therefore be determined by the competent accident insurance institution independently of any reduction in earnings capacity under the SPI scheme.

Method: The degree of reduction in earnings capacity is determined on the basis of a medical assessment.

Supporting evidence: No other aspects are considered.

Assessor: Whether and to what extent there is a reduction in earnings capacity is determined by a neutral medical expert.

Decision-maker: The statutory accident insurance scheme officials then examine the expert opinion but have sole responsibility for assessing the degree of reduction in earnings capacity. This means that the scheme's assessment may deviate from the expert's assessment, as the statutory accident insurance fund uses its own empirical data.

Critical analysis: A complex system of procedural rules complicates access to benefits in the case of occupational accidents and diseases. The burden of proof for the causal connection between accident/disease and impairment lies solely with insured people, and as a result may be difficult to provide in individual cases. This applies in particular

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<sup>6</sup> These conditions apply to EU and non-EU nationals. People who have recognised refugee status have full accident insurance coverage. Asylum-seekers who perform community service on behalf of the municipality are also covered by statutory accident insurance and may also be entitled to an injury pension.

<sup>7</sup> Insured people receive injury benefit after the statutory continued payment of wages has expired if they are unable to work as a result of an insured event or are initially unable to perform full-time gainful employment due to a medical treatment measure. It corresponds to the sickness benefit paid by the SHI scheme. As a rule, it amounts to 80% of the regular salary, up to a maximum of the insured person's net salary. Injury benefit is usually paid for up to 78 weeks. If impairments remain as a result of an occupational accident or disease, the statutory accident insurance scheme pays an injury pension in succession to the injury benefit. An entitlement to an injury pension exists from the first day after the expiry of the injury benefit or – if there is no entitlement to an injury benefit – from the first day after the occupational accident or disease.

to occupational diseases. The medical assessment system also has many weaknesses (see e.g. Woitowitz, Heilmann, Baur 2016 and 2017; VdK Rheinland-Pfalz e.V. 2016; VdK Deutschland e.V. 2020). In 2020, 913,315 reportable work-related accidents were registered. In the same year, however, only 17,640 new occupational accident pensions were approved. In the case of occupational diseases, 101,206 cases were decided in 2020, with only 5,056 new pensions approved (DGUV 2020).

### **Benefit entitlements**

Benefits include, in particular, curative treatment measures, medical rehabilitation, benefits for participation in working life (e.g. retraining), cash benefits to insured people (e.g. wage-replacement benefits and pension benefits) and – in the event of death – survivors' benefits (e.g. widows'/widowers' and orphans' pensions)<sup>8</sup>.

Level of the benefit: The amount of the injury pension is based on the salary before the insured event, and amounts to a maximum of two thirds thereof.

- In the event of complete loss of earnings capacity, the injured person's pension amounts to two thirds of previous gross annual earnings.
- In the event of partial loss of earnings capacity, the injured person's pension is based on the full pension and the percentage of the reduction in earnings capacity<sup>9</sup>.
- For severely injured people (with a reduction in earnings capacity of at least 50%), the injury pension is increased by a further 10% if gainful employment is no longer possible as a result of the insured event and there is no entitlement to a pension from the SPI.

Annual earned income includes earnings from the 12 months preceding the month in which the insured event occurred. If the injured person did not have any earned income in the previous year, the legally calculated annual earned income is used as a basis for calculation.

However, there are minimum and maximum limits for annual earned income. To ensure that the pensions calculated on the basis of annual earned income can fulfil their social protection function, the law provides for a minimum annual earned income of 60% of the insured person's average earnings (Section 85 [1] SGB VII). For insured people who have not yet reached the age of 30 at the time of the insured event, the law provides for special, age-dependent minimum annual earnings, since the legislator assumes that these people have not yet received any pay at all or, at best, only low pay, due to training or being at the beginning of their professional careers. Annual earned income shall not be more than double the average earnings of the insured person at the time of the insured event.

Duration of the benefit: Accident pensions are paid for as long as the consequences of the accident remain unchanged, possibly for life. If the consequences change, it may have to be recalculated or reassessed.

Interactions with other income or other income-related benefits: An injury pension is not itself reduced due to receipt of other benefits. However, as a rule, it is taken into

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<sup>8</sup> During medical treatment, those affected receive injury benefits as long as they are unable to work or cannot be in full-time gainful employment due to the medical treatment. Injury benefits are also paid after the end of treatment until the start of a participation measure. If they receive benefits/services for participation in working life (especially participation in rehabilitation measures) according to SGB IX, those affected receive a transitional allowance. If they continue to receive wage payments or wage replacement benefits, these are offset against the injury benefit or transitional allowance.

<sup>9</sup> With a reduction in earning capacity of e.g. 20% and annual earnings of e.g. €66,360, the partial pension is calculated as follows: €66,360 x 2/3 (= full pension) x 20% = €8,848 (annually) or €737.33 (monthly).

account in calculating pension entitlement under the SPI scheme (SGB VI)<sup>10</sup>. The same applies to minimum income benefit schemes (under SGB II and XII). Injury pensions are not taken into account in calculating unemployment benefits from unemployment insurance (SGB III).

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

## 1.2 Disability-specific old-age pension schemes

Only in the SPI scheme is there a disability-specific old-age pension scheme.

### 1.2.1 *Altersrente für schwerbehinderte Menschen* (Old-age pension for people with severe disabilities) provided by the social pension insurance scheme

#### a) Eligibility conditions

Disability-related qualifying criteria: A severe disability can be verified to the SPI scheme (see also Section 3 [3]) by presenting a "pass for people with severe disabilities" (*Schwerbehindertenausweis*).

Age: People who were born in 1964 or later with a disability level (*Grad der Behinderung*) of 50% or higher can retire on a full pension at the age of 65. They can also claim a reduced early retirement pension upon reaching the age of 62 with deductions of 0.003 for every month the pension is claimed before pensionable age is reached, up to a maximum of 0.108 (access factor/*Rentenzugangsfaktor*). Starting with people born in 1952, the age will be raised from 60 to 62 depending on the year of birth. This increase is being implemented in parallel with the raising of the regular pension age (see Annex, Table A2).

Nationality and/or residency: Old-age pensions for people with severe disabilities are provided without regard to nationality or residency<sup>11</sup>.

Waiting period: People must have a qualifying period (months of contribution or credited substitute periods) of at least 35 years.

Contributory history: People do not have to have a specific contributory history for old-age pensions for people with severe disabilities, as this is covered by the qualifying period.

Level of financial resources: The level of financial resources is not taken into account.

Other: There are no specific regulations for the old-age pensions for people with severe disabilities.

Gaps and/or obstacles: No evidence (reports, papers...) was identified on gaps/obstacles related to this benefit.

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<sup>10</sup> The "threshold amount" is central to offsetting the accident pension against the statutory pension. As long as the sum of the statutory pension and the injury pension is below the limit, there is no reduction in the pension. However, if the sum of the two pensions exceeds the threshold amount, the excess amount is credited in full to the statutory pension (see Section 93 SGB VI).

<sup>11</sup> These conditions apply to EU and non-EU nationals as well as to people with refugee status.

## b) Disability assessment framework

Type of assessment: Generally, people are considered to have a disability if bodily functions, cognitive abilities or mental health diverge from the typical age-specific state of health.

Responsible authorities: Whether there is a severe disability, and if so its level, is assessed by the relevant pension office (*Versorgungsamt*) at *Land* level.

Method: The pension office's decision is normally made on the basis of the documentation in the applicant's files.

Supporting evidence: Supporting evidence is not required.

Assessor: The assessment is made by an independent medical practitioner.

Decision-maker: The decision is made by the relevant pension office at *Land* level.

Critical analysis: Not documented.

## c) Benefit entitlement

The benefit entitlements are the same as for a regular old-age pension (see Hanesch *et al.* 2021: 53 f.).

Level of the benefit: The information that follows is intended to give an idea of the adequacy of the old-age pension for people with severe disabilities. The average of such pensions in 2020 was €1,184.75 per month, €196.94 higher than the average old-age pension at €987.81 (own calculations on the basis of Deutsche Rentenversicherung Bund 2021b: 34 ff.). The average monthly pension for people with severe disabilities was €1,375.96 for men and €1,027.30 for women (own calculations on the basis of Deutsche Rentenversicherung Bund 2021b: 34 ff.).

Duration of the benefits: A disability-specific old-age pension will be paid until the pensioner dies.

Interactions with other income or other income-related benefits: People can have additional income while receiving a disability-specific old-age pension without any limits.

Challenges: No evidence (reports, papers...) was identified on adequacy challenges related to this benefit.

## 1.3 Income support aimed at covering disability-related healthcare and housing expenses

### 1.3.1 Healthcare

There are no cash benefits for disability-related healthcare in Germany. Disability-related healthcare (e.g. doctors' visits, medications and hospital stays) including medical rehabilitation (Sections 42-48 of SGB IX) is provided as a benefit in kind by the service-provider and financed via the responsible funding agency (e.g. statutory health insurance, statutory pensions insurance or statutory accident insurance institutions) (see Section 3).

However, payment of cash benefits for long-term care is possible. Benefits are paid as care allowances if care is provided by relatives or volunteers. In addition, assistance for long-term care is covered by social assistance if the person in need of care cannot afford the co-payments (for more details see Gerlinger, Rosenbrock 2022).

### 1.3.2 Housing

There is no independent cash benefit for housing for people with disabilities. The housing allowance does not include any specific disability-related benefits either.

Benefits for adapting the home to the needs of people with disabilities, for personal support in independent living, etc. can be applied for in accordance with Sections 77, 78 and 113 of SGB IX (rehabilitation and participation of people with disabilities) as a benefit in kind, a cash benefit or as a mixed benefit (see Section 3).

## **2 Access to some key general social protection cash benefits**

### **2.1 Old-age benefits**

Social protection in case of disability is an integral part of the old-age pension schemes in Germany, as described in Section 1. This means that individuals who are not insured under one of the four schemes have no access to social protection cash benefits in old age.

If people do not fulfil the assessment criteria for disability – e.g. if they have less than 50% disability and are not eligible for a severe health disability card, or if they are able to work for at least six hours but less than 10 hours a day under regular labour market conditions – they are not covered by the specific regulations of the old-age pension schemes. Furthermore, a person whose reduced earnings capacity is not permanent or occurs intermittently (for example in the case of mental and/or intellectual disabilities), or whose disability occurs after retiring, will receive old-age benefits based on their individual entitlements for old-age pensions. In general, people depend on the general system of the specific old-age pension scheme.

### **2.2 Unemployment benefits**

Unemployment benefit is the main wage-replacement benefit in the event of involuntary unemployment provided by the unemployment insurance scheme. In principle, measures to actively prevent or overcome unemployment take precedence over the provision of passive wage-replacement benefits. This applies in particular to people who have a disability due to illness or impairment.

#### **2.2.1 *Arbeitslosengeld* (Unemployment benefit)**

##### **a) Eligibility conditions**

Unemployment benefit under SGB III is provided for formerly insured employees and is managed and implemented by the Federal Employment Agency. Receipt of benefit is linked to claimants' capability to work, their readiness to actively seek employment, and their availability to co-operate with the Employment Agency's job-placement efforts. The latter includes the obligation to participate in activating measures offered by the agency.

In principle, there are no specific access conditions for people with disabilities. According to Section 138 of SGB III, individuals are eligible to take part in the Employment Agency's placement programmes if, among other things, they are able and permitted to engage in reasonable employment subject to compulsory insurance, lasting at least 15 hours per week under normal labour market conditions. Individuals with a disability who have partially reduced earnings capacity are thus in principle eligible for unemployment benefits. Determining whether or not an individual has reduced earnings capacity is the responsibility of the competent SPI institution.

If a permanent full reduction in earnings capacity is not identified by the pension insurance institution and the current working capacity is below the lower limit mentioned, there is still a potential claim for unemployment benefit if measures for rehabilitation are applied for.

## b) Additional amount/compensation included and adequacy issues

People with disabilities receive the wage-replacement unemployment benefit under the same conditions as people without disabilities. There are no additional amounts or compensation payments for insured people with disabilities.

## c) Gaps/obstacles

Unemployment insurance benefits are calculated according to the insurance and equivalence principle and therefore do not provide for additional needs-oriented benefits. Special needs due to disability are taken into account only within the framework of the minimum income benefit system (under SGB II and XII) or the rehabilitation and participation of people with disabilities (under SGB IX).

## 2.3 Guaranteed minimum income schemes and other social assistance benefits

The German minimum income benefit system consists of four categorical benefit schemes, each targeted at different population groups. Two of these benefit schemes are available to adults with more than temporary disabilities (see Annex, Table A3)<sup>12</sup>:

- basic income support in old age and in the event of reduced earnings capacity under Section 4 of SGB XII; and
- *Grundsicherung für Arbeitsuchende* (basic income support for job-seekers) under SGB II.

### 2.3.1 *Grundsicherung im Alter und bei Erwerbsminderung* (Basic income support in old age and in the event of reduced earnings capacity)

#### a) Eligibility conditions

The people entitled to benefits under Section 4 of SGB XII are those whose usual place of residence is in Germany, who are unable or insufficiently able to meet their necessary subsistence needs from income and assets, and who have:

1. reached the statutory age limit (see Annex, Table A1); or
2. reached the age of 18 but not the statutory age limit, are permanently fully incapacitated for work, and whose full reduction in earnings capacity is unlikely to be remedied.
3. People between the age of 18 and the age limit are also entitled to benefits for the period during which they are employed in a workshop for people with disabilities (*Werkstatt für Behinderte*) under Section 219 of SGB IX or are undergoing the entry procedure in the vocational training area of a similar service-provider, or are in a training relationship for which they receive a training budget.

Ad 1: People above the statutory age limit are entitled to basic income support in old age in case of need, regardless of whether they have a disability or not.

Ad 2: According to Section 42 (2) of Social Security Code VI, people are considered to be fully incapacitated if they are unable, for an undefinable period of time, to

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<sup>12</sup> Under certain conditions, adults can apply for *Hilfe zum Lebensunterhalt* (cost-of-living assistance) under chapter 3 of SGB XII (e.g. those with a temporary fully reduced earning capacity). However, only those who are not entitled to benefits for basic income support in old age and in the event of reduced earning capacity or for basic income support for job-seekers can receive cost-of-living assistance if the eligibility requirements are met. Asylum-seekers with impairments can, like all other asylum-seekers, apply for basic support under the Asylum-seekers' Benefits Act (*Grundleistungen nach dem Asylbewerberleistungsgesetz*). Both benefits will not be discussed further here because they are of little significance for the group of people considered here.

work for at least three hours a day under the usual conditions of the general labour market due to illness or disability. This corresponds to the regulation on full reduction in earnings capacity in the SPI scheme under Social Code Book VI. The reduction in earnings capacity is determined by the SPI institution at the request of the local social welfare office (regardless of whether the claimant is receiving a pension).

Ad 3: People in workshops for people with disabilities (Section 1 [2] Social Code Book VI) who cannot work in the general labour market due to the nature or severity of their disability are considered to be fully incapacitated for work, regardless of the amount of remuneration earned in the workshop<sup>13/14</sup>.

In this respect, therefore, this benefit scheme includes two categories of benefits: first, minimum income benefits in old age, and; second, minimum income benefits in the case of a full permanent reduction in earnings capacity at working age from age 18. Basic income support can be applied for at the local social welfare office. There are generally no waiting periods for minimum income benefits. In the event of approval, entitlement exists from the date of application. The basic income support is not time-limited but ends at the latest when the statutory retirement age is reached and is usually granted for one year at a time.

Entitlement to basic income support arises only when the reckonable income and the realisable assets are not sufficient to reach the socio-cultural minimum subsistence level. All types of income are to be counted towards the basic income support entitlement. The main exceptions are the basic pension under the Federal Supply Act, pensions under the Federal Compensation Act, the nursing allowance from long-term care insurance, and the allowance for blind people. Only part of the net earnings from dependent or self-employed work, of pensions from additional occupational and private pension plans and benefits from the newly introduced basic pension are offset against basic income support in old age and in the event of reduced earnings capacity (on the basic pension, see Dünn, Bilgen, Heckenberger 2020).

The assets to be liquidated prior to assistance include real property, financial assets and tangible assets. However, "protected property" is exempt from the obligation to liquidate. Not taken into account in the means test are beneficiaries' maintenance claims against their parents or children if their annual gross income is less than €100,000; if there are several dependent children, this limit applies to each child individually. The same applies to the income and assets of relatives and other people with whom beneficiaries share a household.

The competent pension insurance institution is responsible for verifying whether there is a permanent full reduction in earnings capacity. The social welfare agency initiates an examination if it is likely, based on the applicant's information and evidence, that they are permanently unable to work at least three hours a day (Section 45 SGB XII in conjunction with Section 109a SGB VI).

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<sup>13</sup> Anyone who cannot be employed in the general labour market due to their disability is entitled to a job in a workshop for people with disabilities. This does not apply to people whose behaviour would endanger themselves or others at work. In addition, they must be able to perform a minimum amount of economically useful work. Employees receive vocational qualifications in the workshop, which ideally makes a transition to the general labour market possible. They are supported in this by, among others, specialists in work and career promotion, social workers and psychologists. The jobs are permanent, and employees earn their wages through their work and pay into the statutory pension, healthcare, long-term care and accident insurance schemes. The work opportunities are designed to meet the skills, interests and needs of the employees. The Minimum Wage Act does not apply to wages in a workshop for people with disabilities (Section 219 SGB IX).

<sup>14</sup> According to Section 61a SGB IX, people with disabilities receive a budget for training when in a recognised training occupation. This includes: i) the reimbursement of the appropriate training allowance; ii) the cost of the guidance and support at the training place and at the vocational school required because of the disability; and iii) the necessary travel costs.

**b) Additional amount/compensation included and adequacy issues**

Basic income support in old age and in case of reduced earnings capacity comprises the following income support elements:

- standard minimum subsistence benefit;
- coverage of reasonable expenses for housing and heating;
- fixed allowances to meet additional requirements for certain groups or needs;
- one-off payments according to specific actual needs;
- payment of contributions to health and long-term care insurance.

The composition and amount of these benefits correspond to those of the other minimum income benefits under SGB II and XII. The special needs of people with disabilities are taken into account above all in the supplementary fixed allowances.

Fixed allowances of 17% of the monthly standard rate apply to:

- people with a full reduction in earnings capacity who have not yet reached the statutory age limit, with a severely disabled person's ID card and the mark "G" (for ambulatory disability); and
- older people who have reached the statutory age limit and have a severely disabled ID card and the mark "G".

A fixed allowance of 35% of the standard rate is paid to people with disabilities aged over 15 who are granted integration assistance.

For people experiencing illness or disability with a cost-intensive diet, an additional need "in an appropriate amount" is recognised.

Separately requested one-off payments are taken into account only in a few exceptional cases, such as initial housing equipment including household appliances and initial clothing equipment.

The standard benefit payable under SGB II and XII is determined by the "statistical standard method". According to this method, the benefit level is calculated on the basis of the volume and patterns of consumption in lower-income households as measured by means of the Income and Consumption Sample Survey. The method is applied every five years when new data from the survey are available. In the intervening years, the benefits are updated every year according to a mixed price and wage index. In the mixed index, the rate of change in the price trend accounts for 70% and that of the trend in net wages and salaries of the statutorily insured for 30%. In 2022 the benefit level for a single adult is €449 per month, for a couple without children €808 and for a couple with two children under 6 €1,378. In addition, housing and heating costs are covered to a reasonable extent (see e.g. Hanesch 2015).

**c) Gaps/obstacles**

The composition and amount of basic income support benefits in old age and in the event of reduced earnings capacity correspond to the other minimum income benefit schemes under SGB II and XII. Special additional needs due to disability are not taken into account in the benefit amounts. The only exception is the above-mentioned supplementary fixed allowance, which, however, takes into account only a few categories of cases.

As a result of the separation of benefits into specialist benefits and subsistence benefits, introduced as part of the third reform stage of the Federal Participation Act (*Bundesteilhabegesetz*) as of 1 January 2020, people with disabilities and/or people in need of long-term care now have to apply for two or even three benefits simultaneously. Whereas the basic income support in old age and in case of reduced earnings capacity under SGB XII provides benefits intended to guarantee socio-cultural



subsistence, claimants have to apply to the relevant institution for rehabilitation or participation assistance under SGB IX and to the relevant insurance institution for long-term care benefits. As a result, not all beneficiaries may apply for the benefits to which they are entitled. Moreover, depending on the benefit applied for, applicants will come up against different regulations (e.g. on income and asset imputation). Even the calculation of the partner's income can vary depending on the benefit. In this case, however, the regulations applicable to recipients of benefits under SGB XII are decisive.

In December 2020 the number of beneficiaries of basic income support in old age and in the event of reduced earnings capacity was 1,099,000, of which 564,000 were in receipt of basic income support in old age (3.2% of people in the corresponding age group) and 535,000 in receipt of basic income support in case of reduced earnings capacity (1.0% of the corresponding age group). In fact, the number of recipients of this benefit scheme has risen steadily since its introduction in 2003. 2.6% of recipients of old-age pensions (with and without disability) topped up their pensions (after reaching the standard retirement age) with basic income support in old age; 15.0% of recipients of reduced earnings capacity pensions topped up their pensions with basic income support in the event of reduced earnings capacity (Statistisches Bundesamt 2021e and GENESIS online Datenbank; see also Kaltenborn 2019)<sup>15</sup>.

Minimum income benefit schemes are considered appropriate in the EU if they are able to reduce poverty and social exclusion. The at-risk-of-poverty threshold, which is set at a (means-weighted) household income of less than 60% of the national median income, is the main poverty measure in this framework. Analyses of EU-SILC<sup>16</sup> data by Rosken (2019) for the Academic Network of European Disabilities, reporting on the European Semester, have shown that in Germany people with disabilities have a significantly higher risk of poverty than people without disabilities. A study by the Paritätische Forschungsstelle (2021a) based on German Socio-Economic Panel data came to comparable conclusions. Even the receipt of basic benefits in old age and in the event of reduced earnings capacity cannot prevent poverty as a rule, since the benefit level is in part significantly below the household-specific poverty threshold.

Studies of the take-up of basic income support in old age or in the event of reduced earnings capacity have shown a high proportion of non-take-up among people of retirement age (according to Buslei *et al.* 2019, the non-take-up rate averaged around 62% in the period from 2010 to 2015). Comparable research on the take-up of basic income support by working-age people with reduced earnings capacity is not available. However, it can be assumed that the non-take-up rate here is also high.

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<sup>15</sup> The costs of this benefit scheme are borne entirely by the federal government. Net expenditure on basic income support in old age and in the event of reduced earning capacity was around €7.6 billion in 2020 (Statistisches Bundesamt 2021a).

<sup>16</sup> European Union statistics on income and living conditions.

### **2.3.2 Grundsicherung für Arbeitsuchende (Basic income support for job-seekers)**

#### **a) Eligibility conditions**

Those eligible for basic income support for job-seekers are working-age individuals (between age 15 and the standard retirement age) who are capable of working and who are not able to cover the socio-cultural subsistence minimum for themselves and the family members living with them from their own resources. A person is considered capable of working if they can work at least three hours a day under normal labour market conditions. They are also considered fit for work if it is foreseeable that a temporary incapacity due to illness or disability will end within six months. While those capable of working are entitled to unemployment benefit II, those family members not capable of working are entitled to the *Sozialgeld* (social benefit). If incapacity for work is predicted to last longer than six months, the requirements for receiving unemployment benefit II are not met. If the person concerned lives in a community of need with a person capable of working, there may be a claim for social benefit under SGB II. Generally, they can apply for basic income support in the event of reduced earnings capacity (see Section 2.3.1). Partially incapacitated people who are able to work between three and six hours per day under normal labour market conditions are entitled to unemployment benefit II under SGB II if they cannot cover their needs with a pension for reduced earnings capacity and/or earned income from part-time work (or with other income)<sup>17</sup>.

Basic income support for job-seekers can be applied for at the local jobcentre. Entitlement to basic income support under SGB II arises only when the reckonable income and the realisable assets are not sufficient to reach the socio-cultural minimum subsistence level. All types of income are to be counted towards the basic income support entitlement with the same exceptions as for the basic income support in old age and in the event of reduced earnings capacity. Only part of the net earnings from dependent or self-employed work, income from additional occupational and private pension plans, and benefits from the newly introduced basic pension, are offset against basic income support for job-seekers. The assets to be liquidated prior to assistance include real property, financial assets and tangible assets. Here, too, certain assets are partially exempt from offsetting.

#### **b) Additional amount/compensation included and adequacy issues**

Basic income support for job-seekers under SGB II comprises the same income support elements, and its level is determined by the same principles, as the basic income support in old age and in the event of reduced earnings capacity under SGB XII. The same applies to the role of fixed allowances and one-off payments for people with disabilities (see Section 2.3.1).

#### **c) Gaps/obstacles**

In 2020, 5,428,000 people were regular beneficiaries under SGB II (Bundesagentur für Arbeit 2021). Unfortunately, the Federal Employment Agency does not publish any information on the number and structure of recipients of basic income support for job-seekers under SGB II with a reduction in earnings capacity. As in the case of basic benefits for old age and reduced earnings capacity, unemployment benefit II and social benefit under SGB II cover only the socio-cultural minimum subsistence level.

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<sup>17</sup> As a result of the Relatives Relief Act (*Angehörigenentlastungsgesetz*), which came into force on 13 December 2019, people who work in a workshop for people with disabilities or in comparable facilities are, among other things, no longer entitled to benefits under SGB II, as they are deemed to be fully incapacitated for work.

Assistance with the costs of rehabilitation and participation must be applied for separately from the competent institution under SGB IX (see Section 3, below).

National studies have shown that the levels of basic income support for job-seekers are generally well below the household-specific poverty thresholds (see e.g. Tophoven, Wenzig, Lietzmann 2015; Paritätische Forschungsstelle 2021b)<sup>18</sup>. Studies have also repeatedly revealed a high non-take-up rate for basic income support for job-seekers. In their most recent study, Bruckmeier, Riphahn and Wiemers (2019) put this rate at 40%, taking into account benefit under-reporting in survey data.

### **3 Provision of assistive technology and personal assistance**

#### **3.1 Leistungen zur Teilhabe (Benefits and services for participation) under SGB IX**

People with disabilities or at risk of disability are entitled to benefits and services in accordance with SGB IX (*Rehabilitation und Teilhabe von Menschen mit Behinderungen* – rehabilitation and participation of people with disabilities) and the benefit laws applicable to the rehabilitation-providers in order to promote their self-determination and their full, effective and equal participation in life in society and to avoid or counteract disadvantages (see e.g. Federal Ministry of Labour and Social Affairs 2020)<sup>19</sup>. According to Section 2 (1) SGB IX, a disability exists if:

- the physical condition or state of health deviates from the condition typical for the age of the person concerned;
- barriers are present in terms of both environmental conditions and the attitudes of fellow human beings;
- the barriers result in the person concerned not being able to participate on an equal basis in life in society; and
- these conditions are likely to persist for longer than six months.

The benefits and services provided in support of participation include – independently of the cause of the disability – all necessary measures in order to:

- avert, eliminate or reduce the disability, prevent its aggravation or mitigate its consequences;
- avoid, overcome, mitigate or prevent the aggravation of limitations in earnings capacity or need for care, avoid premature receipt of other social benefits or mitigate the need for current social benefits;
- ensure participation in working life on a permanent basis in accordance with a person's aptitudes and abilities; or
- promote personal development in a holistic manner, and enable or facilitate participation in life in society and a lifestyle that is as independent and self-determined as possible.

Depending on the reason for and purpose of a benefit, the cause of the disability and the individual insurance requirements, different legal regulations may apply and different rehabilitation-providers may be responsible for benefits and services – the statutory health

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<sup>18</sup> According to an OECD overview, minimum income benefit levels for single people (at 44%) as well as for couples with two children (at 53%) were well below the corresponding poverty thresholds in 2020 (OECD 2022; see also Konle-Seidl 2021).

<sup>19</sup> In addition to the benefits for rehabilitation and participation, people with a severe disability can claim "disadvantage compensation" (Federal Ministry of Labour and Social Affairs 2020).

insurance funds, the Federal Employment Agency, the institutions of the statutory accident insurance scheme, the SPI institutions, the institutions of war victims' welfare schemes, the institutions of public youth welfare schemes, and the institutions of the integration assistance scheme (Section 6 [1] SGB IX). Supplementary provisions on this can be found in the various SGBs. To ensure that the benefits and services in this multi-provider social benefits system are easily accessible for all, a "one-stop" service rule is applied under the participation planning procedure (see below under "Participation planning procedure" and for integration assistance under "Integrated planning procedure"). Under this system, an application does not have to be made to the "right" agency. All rehabilitation-providers must accept and process applications for participation assistance, having due regard to the responsibilities of other agencies. This saves applicants the trouble of obtaining a clarification of responsibilities.

If, for example, the disability has arisen as a result of an occupational accident or an occupational disease and an entitlement to benefits from the statutory accident insurance has arisen as a result, the specific regulations contained in SGB VII (statutory accident insurance) are to be applied. According to them, assistive technology (devices) and personal assistance are provided insofar as they are necessary for medical, vocational or social participation (Deutsche Gesetzliche Unfallversicherung und Spitzenverband der landwirtschaftlichen Sozialversicherung 2011; Deutsche Gesetzliche Unfallversicherung 2021).

Support is provided for devices, everyday items (e.g. television, computer, mobile phone, bicycle, car) and special objects to compensate for disabilities. If everyday or special items or devices are to be provided, only those needs that are disability-related can be supported:

- coverage of the costs of adaptation (for barrier-free access/use, additional equipment, conversions, etc.);
- coverage of instruction, training skills, driving licence, etc.; and
- coverage of maintenance and operating costs for barrier-free special equipment only.

Personal assistance is granted:

- in order to enable the insured person to cope with everyday life independently through instruction and practice; or
- in order to provide accompanying, compensatory and substituting assistance (complete or partial assumption of actions for coping with everyday life) as well as accompaniment during participation activities.

### **3.2 *Eingliederungshilfe* (Integration assistance) under SGB IX**

People who are substantially limited in their ability to participate in society due to their disability, or who are at risk of such a substantial disability, have a fairly comprehensive entitlement to *Eingliederungshilfe* (integration assistance) under SGB IX<sup>20</sup>. The aim of integration assistance is to enable people to lead an individual life in accordance with human dignity and to promote full, effective and equal participation in life in society. The benefit is intended to enable them to plan and lead their lives in as self-determined and responsible a manner as possible. Integration assistance includes four types of assistance:

- medical rehabilitation (e.g. the provision of remedies and aids);

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<sup>20</sup> The decisive factor in the assessment is not the extent of the impairment but rather its effect on participation. The regulations defining the categories of people entitled to benefits are to be reformulated by 1 January 2023 at the latest. The background to this is that the current regulations are no longer considered up-to-date in terms of language.

- support for participation in working life (promotion of employment, including the provision of objects and aids necessary to take up or continue employment because of a health impairment);
- support for participation in education (e.g. support at school or university or during training); and
- support for social participation (e.g. support with mobility, housing or leisure).

Integration assistance comprises both personal support and the provision of technical devices. They are to be granted irrespective of the cause of the disability and are based on the particularities of the individual case. In particular, the nature of the need, the personal circumstances, the social space, the personal resources of the person with disability and the type of housing are to be taken into account (Section 104 [1] SGB IX). The institutions responsible for integration assistance are designated by the respective *Länder*. As a rule, the responsible bodies are districts and district-free cities as local institutions, and the *Länder* or higher municipal associations as supra-local institutions. Integration assistance is financed from tax revenues.

The social participation services provided by the integration assistance scheme include:

- assistance services (Section 78 SGB IX);
- curative education services (Section 79 SGB IX);
- benefits for care in a foster family (Section 80 SGB IX);
- services for the acquisition and maintenance of practical knowledge and skills (Section 81 SGB IX);
- services to promote understanding (Section 82 SGB IX);
- services for mobility (Section 83 SGB IX); and
- auxiliary means (Section 84 SGB IX).

Assistance services are of great practical importance. Examples include assistance with household management, social relationships, personal life planning, participation in community and cultural life and leisure activities.

The range of services provided by integration assistance is therefore very comprehensive. However, entitlement to integration assistance is only subordinate (i.e. the assistance is only granted if no institution with a primary obligation provides assistance). They thus represent the last benefit and service network for people with significant participation restrictions (Deutscher Bundestag Wissenschaftlicher Dienst 2020). However, this does not apply in relation to long-term care insurance (i.e. the benefits of integration assistance and long-term care benefits can be granted simultaneously and side by side). The funding agencies decide among themselves the responsibility for financing the services. In the process, conflicts of responsibility often arise, due to the respective funding agencies' concerns to avoid costs.

The institutions responsible for integration assistance are designated by the respective *Länder*. As a rule, the responsible bodies are districts and district-free cities as local institutions, and the *Länder* or higher municipal associations as supra-local institutions. Integration assistance is financed from tax revenues. Even if one institution is responsible for integration assistance, several institutions are often involved for different services. A binding overall planning procedure is designed to ensure that assistance is provided as if from a single source. In order to strengthen the self-determination of people with disabilities and people at risk of disability, the Federal Ministry of Labour and Social Affairs promotes supplementary counselling that is independent of benefit-providers and service-providers as a low-threshold service that is available in advance of the application for actual benefits.

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People with disabilities have a right to have their justified wishes met with regard to the benefits and services: "*In deciding on the benefits and in carrying out the benefits for participation, the justified wishes of the people entitled to benefits are complied with. In doing so, consideration is also given to the personal life situation, age, gender, family and religious and ideological needs of those entitled to benefits [...].*" (Section 8 [1] SGB IX).

This right refers to those services of integration assistance to which people with disabilities are entitled in principle but for which several suitable alternatives are possible. The wishes of those entitled to benefits must be complied with if they are reasonable (Section 8 SGB IX; Section 104 [2 and 3] SGB IX). At the end of 2019, around 765,000 people were receiving benefits under the integration assistance scheme, compared with only around 323,000 at the end of 1995 (Statistisches Bundesamt 2021a).

In 2020, the number of beneficiaries of integration assistance was around 940,000 people. About 71% of the beneficiaries were aged 18 or over, and 29% were children and young people. The average age of all benefit recipients was 34. Almost 60% were men. About 698,000 people were receiving social participation benefits; 308,000 of them were receiving *Assistenzhilfe* (support and assistance services) to help them to cope with some or all aspects of everyday life. This was therefore the most frequently chosen type of benefit. Around 285,000 people were receiving benefits for working in recognised workshops for people with disabilities (Statistisches Bundesamt 2021d).

The right of choice for integration assistance services also includes the option to choose between benefits in kind and a *Persönliches Budget* (personal budget). All people who are eligible for integration assistance are entitled to a personal budget. The personal budget is usually granted as a cash benefit, in certain cases as vouchers. When opting for a personal budget, beneficiaries must decide whether to purchase the services or hire the service providers themselves as employers ("employer model").

Beneficiaries apply to their funding agency for the personal budget. A commissioner determines with the beneficiary how much support is needed. The amount of the personal budget can vary greatly depending on need. According to research, it varies between €36 and €12,683 per month. The majority of the amounts granted are between €200 and €800 per month (Bundesministerium für Arbeit und Soziales 2019). The personal budget can be used for a variety of purposes (e.g. for support in the household, for support with care or for accompanying beneficiaries to doctors' appointments or work).

However, up to now, take-up of this option has been limited: by the end of 2018, only 10,410 people had opted for a personal budget (Bundesministerium für Arbeit und Soziales 2021: 376), equating to around 0.2% of all recipients of integration assistance (Statistisches Bundesamt 2021a).

In 2020, total expenditure on integration assistance under welfare grants totalled €21,228.4 million<sup>21</sup>. This included €47.6 million spent on medical rehabilitation, €5,060.3 million on participation in working life, €1,841.1 million on participation in education, and €14,279.1 million on social participation (Statistisches Bundesamt 2021b).

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<sup>21</sup> Until 2019, integration assistance was part of assistance in special live situations under SGB XII and was incorporated into SGB IX as of 2020 by the Federal Participation Act.

## 4 National debates, reforms and recommendations

### 4.1 National debates

#### 4.1.1 Pensions

Since the paradigm shift in the old-age pension system in Germany in the early 2000s, the adequacy of reduced earnings capacity pensions has been the subject of lengthy, wide-ranging and sometimes intensive debates. One culmination point was the report by Märtin, Zollmann and Buschmann-Steinhage (Märtin *et al.* 2012). The study analysed the socio-economic situation of people with reduced earnings capacity, and it became obvious that their poverty risk – especially in old age after retiring – was very high. The eventual political compromise was the extension of the attribution period. This was retained in the Act on Improvements to Benefits for Recipients of a Reduced Earnings Capacity Pension and on the Amendment of Other Laws (*Gesetz zur Verbesserung der Leistungen bei Renten wegen verminderter Erwerbsfähigkeit und zur Änderung anderer Gesetze [EM-Leistungsverbesserungsgesetz]*), which came into force on 1 January 2018. The attribution period was increased from 62 to 65, which means that new retirees were treated as if they had continued to work until the age of 65.

Because the debate nevertheless continued, on 1 January 2019 the SPI Improvement and Stabilisation Act (*Gesetz über Leistungsverbesserungen und Stabilisierung in der gesetzlichen Rentenversicherung [RV-Leistungsverbesserungs- und –Stabilisierungsgesetz]*) came into force. In 2018 and in 2019, there was a discretionary increase in the end of the attribution period by three months (2018) and then by an additional five months (2019); from 2020 onwards it will gradually be raised to the pensionable age of 67 for new recipients of an SPI reduced earnings capacity pension. The extension of the attribution period also means that the period for the calculation of the access factor for claiming a pension before the pensionable age has been reduced again.

However, people already in receipt of a reduced earnings capacity pension were not covered by these reforms, which gave rise to a new debate on whether or not they should be. The SPD, Bündnis 90/Die Grünen and FDP coalition agreement, which was presented in November 2021, now provides for the improvement of pensions for all people already in receipt of a reduced earnings capacity pension (Sozialdemokratische Partei Deutschlands [SPD] 2021: 73).

#### 4.1.2 Minimum income benefits

Despite the reforms of the reduced earnings capacity pension, the number of recipients of basic income support for reduced earnings capacity (aged 18 to the standard retirement age) has risen steadily over the last decade (see Section 2.3.1). There are several reasons why pensioners with reduced earnings capacity run a high risk of having an income below the basic income support threshold. Firstly, disability pensions are significantly lower than old-age pensions. Secondly, people with reduced earnings capacity hardly have any opportunity to take out company or private insurance to supplement their reduced earnings capacity pension. Furthermore, the newly introduced basic pension is not effective because of the significant obstacles to access for people with reduced earnings capacity.

The proportion of people with impairments living in a household whose members receive minimum income benefits under SGB II or XII as a percentage of the total population was 10% in 2017, twice as high as the proportion of people without impairments (5%). At the same time, the proportion of people with a chronic illness (without a recognised disability), at 14%, was higher than those with a degree of disability of less than 50% (8%) or 50% and more (9%). In the same year, the at-risk-of-poverty rate for people with impairments was 18%, significantly higher than for people without impairments (15%). Again, the poverty risk was higher for the

chronically ill (26%) than for people with a disability of less than 50% (15%) or of 50% and more (18%) Overall, the material situation for people with disabilities has tended to deteriorate since 2009 (Bundesministerium für Arbeit und Soziales 2021: 268ff; see also Paritätische Forschungsstelle 2021a).

Recent reforms in the minimum income benefit schemes (see Section 4.2) have contributed to raising the benefit level for minimum income benefit recipients by introducing a partial crediting of certain pensions. Restricting recourse to parental and child income of benefit recipients under SGB XII has also improved their situation. Even if the possibilities of a partial crediting of disability pensions to the minimum income benefits have been investigated and advocated by academic researchers, reform discussions and reform proposals still focus on the primary system of disability pensions and not on the minimum income benefit schemes (e.g. Welti, Groskreuz 2013; Hagen, Himmelreicher 2014; Knuth 2014; Ehrentraut *et al.* 2017; Buslei, Geyer, Haan 2017; Welti 2019; Geyer, Haan, Ludwig 2021; Geyer 2021).

### 4.1.3 Integration assistance

The German system for ensuring the participation of people with disabilities has strengths and weaknesses. Among its strengths is the modernisation of legislation through the Federal Participation Act of 2017 (see Section 4.2). It should be emphasised in particular that the benefit entitlements of people with disabilities are quite comprehensive. The benefits are based on the needs principle and thus cover all measures that are necessary in individual cases to ensure social participation. However, the implementation of the law and thus the participation of people with disabilities has numerous shortcomings (see below).

National debates, on the one hand, reflect an appreciation that the revised law on integration assistance is an attempt to improve the integration and strengthen the self-determination of people with disabilities. On the other hand, the Federal Participation Act and the handling of the instruments it provides are strongly criticised. The criticism is mainly directed at the following aspects (e.g. Wagner 2018; Daßler 2018; Deutscher Paritätischer Wohlfahrtsverband 2019).

- The concept of disability as set out in the Federal Participation Act remains unclear and the criteria for assessment are inconsistent. In practice, too many people with disabilities are excluded from entitlement to benefits. Last but not least, there are regional disparities in the approval of benefits.
- Due to cost-containment efforts, services approved are often not in line with needs.
- There are often actual restrictions on the choice of benefits, either because the service infrastructure is sometimes inadequate or because priority is given to cost-containment.
- The process of assessing needs and granting benefits is burdensome and, contrary to the law's intentions, excessively bureaucratic.
- Counselling infrastructure is inadequate, so that many benefit recipients are not adequately supported in claiming benefits.
- Co-operation between funding agencies is, at least at times, inadequate, and conflicts arise because of divergent interests. This can lead to a situation where the people concerned only gain clarity about the responsibilities for the type and scope of their benefit entitlements, and about the financing of the benefits, at a rather late stage.



## 4.2 Recent reforms and reforms currently in the pipeline

### 4.2.1 Pensions

Beside the aforementioned Act on Improvements to Benefits for Recipients of a Reduced Earnings Capacity Pension and on the Amendment of Other Laws, and the SPI Improvement and Stabilisation Act, which extended the attribution period, there have been no other reforms to the reduced earnings capacity pension system. The reforms were in line with UN Convention on the Rights of Persons with Disabilities (CRPD) commitments.

### 4.2.2 Minimum income benefits

In 2017, the Occupational Pension Strengthening Act (*Betriebsrentenstärkungsgesetz*) introduced a partial crediting of income from additional old-age provision in the case of cost-of-living assistance and basic income support in old age and in the event of reduced earnings capacity. An amount of €100 per month, plus 30% of the income from an additional old-age pension in excess of this amount but no more than 50% of the standard benefit for a single adult, is exempt from offsetting. Supplementary pensions are saved occupational pensions and private supplementary pensions, irrespective of any state subsidies, as well as entitlements acquired on a voluntary basis under the SPI scheme.

The Relief for Dependents Act (*Angehörigen-Entlastungsgesetz*) of 2020 provides relief for the dependent parents and children of people receiving cost-of-living assistance or basic income support in old age and in the event of reduced earnings capacity under SGB XII. In future, their income will be taken into account only if the annual amount exceeds €100,000.

Under the Basic Pension Act of 2020, a partial crediting of pensions from the statutory old-age pension schemes was introduced on 1 January 2020 in the minimum income schemes under SGB II and XII analogous to the existing regulation for private supplementary pensions, if at least 33 years of compulsory contributions to a pension scheme have been paid. An amount of €100 per month from the statutory pension plus 30% of the income from the statutory pension exceeding this amount is exempt from crediting, up to a ceiling of 50% of the standard benefit for a single adult. These and the previously mentioned reforms were in line with UN CRPD commitments.

### 4.2.3 Integration assistance

The most important reform to improve the integration and participation of people with disabilities was the adoption of the Federal Participation Act in 2016. This law has come into force in stages from 1 January 2017 onwards. Its implementation is scheduled for completion in 2023. The new law is based on a concept of disability that is closely aligned with the disability model of the UN CRPD.

The Federal Participation Act revises SGB IX. Part 1 summarises the rehabilitation and participation law applicable to all rehabilitation providers. In Part 2, the integration assistance, which has been separated from SGB XII and reformed, is regulated as "special services for self-determined living for people with disabilities". In this respect, SGB IX was upgraded to a benefit law. An important goal of this law was to clearly separate the benefits of integration assistance from the livelihood-securing benefits of SGB XII, which was implemented as of 1 January 2020. Since then, integration assistance benefits and services are provided under facilitated access conditions. Part 3 regulates the further development of the law on people with severe disabilities.

The implementation of the law is comprehensively monitored and evaluated (Bundesregierung 2020; Deutscher Verein für öffentliche und private Fürsorge e.V. 2022). Thus far, implementation is proving to be very difficult and complex (e.g. Neumann and Kramp 2021), especially because a large number of actors with very

different interests and problem perceptions are involved. The implementation of the law is clearly behind schedule. A final judgement on the success of the implementation is not yet possible.

### **4.3 Good practice and recommendations on how to tackle gaps and obstacles**

Germany should strengthen data-collection mechanisms, ensuring that comprehensive, reliable and disaggregated data on disability and people with disabilities are collected, in line with Article 31 (statistics and data collection) of the UN CRPD provisions.

#### **4.3.1 Pensions**

The integration of disability pensions within the specific old-age pension systems as disability-insurance schemes can generally be seen as good practice, as this prevents people with a reduction in earnings capacity from having to rely solely on minimum income benefits. However, in the current state, adjustments are necessary to prevent the emergence of material need for assistance, to reduce poverty in old age and to avoid a future increase in old-age poverty.

The extension of the attribution period and its possible application to existing pensioners are consistent with the internal logic of the existing old-age pension system, making it mainly an appropriate means of improving the income situation of existing recipients of reduced earnings capacity pensions. However, the continuing reduction in pension levels will counteract such a measure. The general increase in old-age poverty is expected to continue and people with reduced earnings capacity will be affected by this as well.

To avoid a further increase in old-age poverty, especially among those with reduced earnings capacity, the pension level should increase, or at least remain at the current level. To reach such a goal, the formula for calculating the current pension value could be corrected, for example by omitting the "sustainability factor". It can be expected that this alone will not solve the problem, as it is well known that people with reduced earnings capacity pensions are not normally eligible for a basic SPI pension. Therefore – as another measure – it would be necessary to make those people eligible for basic SPI pensions (e.g. by counting the attrition periods as creditable). This would not increase the individual pension per se but would make the pensioners with low pensions eligible for the basic SPI pension.

#### **4.3.2 Integration assistance**

The Federal Participation Act can be considered exemplary in terms of its goals, but its implementation is still associated with too many question marks. The following reform measures could help to improve the situation of people with disabilities.

- Integration assistance should include a comprehensive entitlement to benefits based on the services individuals need, to ensure their integration and social participation.
- The criteria for assessing need must be clearly defined and applied uniformly by funding agencies and in the *Länder*.
- Every applicant must be offered appropriate counselling.
- The assessment of benefit entitlements must be simplified, and bureaucracy reduced.
- Funding agencies must improve their co-operation in clarifying responsibilities in the interest of claimants.

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## Annex – Tables and figures

**Table A1: Increase of the attribution period for reduced earnings capacity pensions and survivors' pension**

At the start of the pension or at the death of the insured person in year	Increase by ... month	Pensionable age	
		Year	Month
2020	1	65	9
2021	2	65	10
2022	3	65	11
2023	4	66	0
2024	5	66	1
2025	6	66	2
2026	7	66	3
2027	8	66	4
2028	10	66	6
2029	12	66	8
2030	14	66	10

Source: Section 253a of SGB VI.

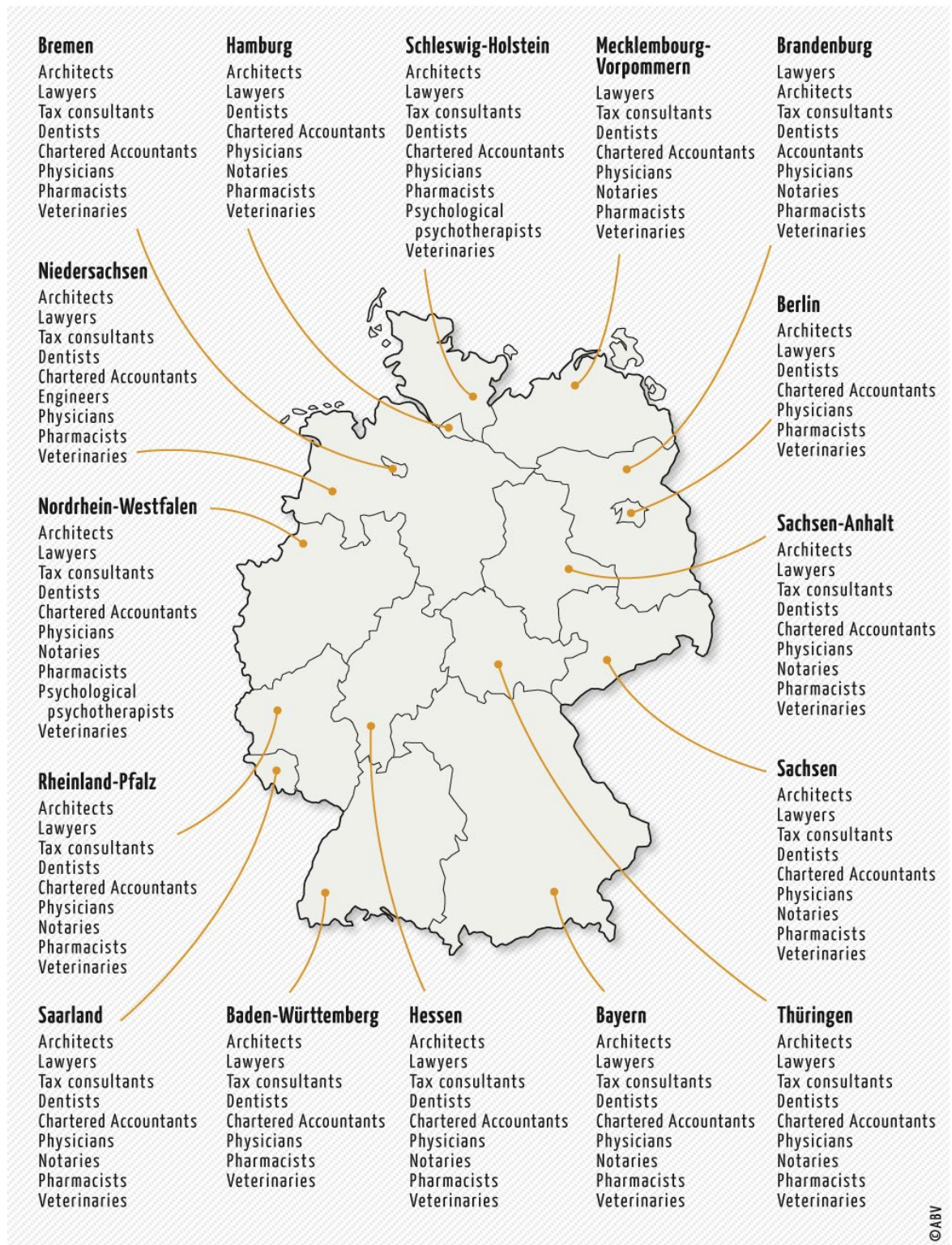
**Table A2: Age limit for receiving a deduction-free pension and for drawing a pension earlier**

Year of birth	Pension without deduction from the age of ... year and ... months	Earlier pension from the age of ... year and ... months, deduction of 10.8%
1952	63 and 6 months	60 and 6 months
1953	63 and 7 months	60 and 7 months
1954	63 and 8 months	60 and 8 months
1955	63 and 9 months	60 and 9 months
1956	63 and 10 months	60 and 10 months
1957	63 and 11 months	60 and 11 months
1958	64	61
1959	64 and 2 months	61 and 2 months
1960	64 and 4 months	61 and 4 months
1961	64 and 6 months	61 and 6 months
1962	64 and 8 months	61 and 8 months
1963	64 and 10 months	61 and 10 months
1964	65	62

Source: Own compilation.



**Figure A1: Pension schemes of the federal professions in Germany (status as at 1 August 2006)**



Source: <http://abv.de/important-for-national-economy-and-general-public-interest.html>.



**Table A3 Social code allocation of people of working age with disabilities in Germany (SGB II, VI, XII)**

Daily capability to work	Name	Eligibility conditions fulfilled?	Permanent earnings reduced capacity	Benefit schemes (social codes)	
Less than 3 h	Full reduced earning capacity	Yes	Yes	Full reduced earnings capacity pension (SGB VI) (permanent pension)	Possibly topped up by: <ul style="list-style-type: none"> <li>• Basic SPI pension (SGB VI)</li> <li>• Basic income support in old age and in the event of reduced earnings capacity (SGB XII)</li> <li>• Basic income support for job-seekers (SGB II) or cost-of living assistance (SGB XII)</li> </ul>
			No	Full reduced earnings capacity pension (SGB VI) (temporary pension)	
		No	Yes	Basic income support in old age and in the event of reduced earnings capacity (SGB XII)	
			No	Basic income support for job-seekers (SGB II) or cost-of-living assistance (SGB XII)	
3 h to < 6 h	Partial reduced earning capacity	Yes	<b>Closed labour market for part-time work</b>		Possibly topped up by basic income support for job-seekers (SGB II)
			Yes	Full reduced earnings capacity pension (SGB VI) (temporary pension)	
			No	Partial reduced earnings capacity pension (SGB VI) (temporary pension)	
		No	Basic income support for job-seekers (SGB II)		
6 h or more	No reduction of earnings capacity	No	No	Basic income support for job-seekers (SGB II)	

People are allowed to have supplementary income from an occupation while receiving a reduced earnings capacity pension. However, there are income limits. For a full reduced earnings capacity pension, the limit is €6,300 per year (Section 96a [1c] no 2 SGB VI). For partially reduced earnings capacity pensions, the income limit depends on the amount of the individual pension (Section 96a [1c] no 1 SGB VI).

Source: Updated and modified version of Brüssig, Knuth 2011: 46.

### Figure A2: Pension adjustment formula (German SPI)

The pension adjustment formula is:

$$AR_t = AR_{t-1} \cdot \underbrace{\frac{BE_{t-1}}{BE_{t-2}} \cdot \frac{BE_{t-2}}{BE_{t-3}}}_{\text{Earnings factor}} \cdot \underbrace{\frac{100 - 4 - CRP_{t-1}}{100 - 4 - CRP_{t-2}}}_{\text{Contribution factor}} \cdot \underbrace{\left( \left( 1 - \frac{RQ_{t-1}}{RQ_{t-2}} \right) \cdot \alpha + 1 \right)}_{\text{Sustainability factor}}$$

Where

$BE_{t-1}$  = gross wages and salaries per worker for the previous year;

$BE_{t-2}$  = gross wages and salaries per worker for the year before the previous year;

$BE_{t-3}$  = gross wages and salaries per worker for the second year before the previous year;

$bBE_{t-2}$  = gross wages and salaries for SP I contributors per worker for the year before the previous year;

$bBE_{t-3}$  = gross wages and salaries per worker for the second year before the previous year;

$CRP_{t-1}$  = average SPI contribution rate for previous year ;

$CRP_{t-2}$  = average SPI contribution rate for the year before the previous year;

$RQ_{t-1}$  = pensioner quotient for previous year;

$RQ_{t-2}$  = pensioner quotient for the year before the previous year;

$\alpha = 0,25$ .

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