

ICESCR / Germany

Parallel Report

complementing the 6th Periodic Report
of the Federal German Government on the implementation
of the International Covenant on Economic, Social and
Cultural Rights (ICESCR), Articles 9 and 11
to the Committee on Economic, Social and Cultural Rights
submitted by *Initiative Rechte statt Reste*
(*Rights not Remnants*)

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Contact:

Kirchlicher Dienst in der Arbeitswelt
der Evang.-Luth. Kirche in Bayern (kda)
Philip Büttner
Adresse: Schwanthalerstr. 91, D-80336 Munich, GERMANY
Email: buettner@kda-bayern.de
Phone: +49.89.53073733



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Who We Are

The “Rights not Remnants Initiative” is an alliance of eight church and trade union organisations in Bavaria, Germany. It was founded with the firm conviction that poverty can only permanently be overcome by establishing social rights, not with the concept of charity. The goal of the initiative is to ensure that the social security system in Germany can truly safeguard against poverty.

Members of the initiative:

- Vereinte Dienstleistungsgewerkschaft Bayern / ver.di
(United Services Trade Union of Bavaria)
- Erwerbslose in der Vereinte Dienstleistungsgewerkschaft Bayern
(The Unemployed of the United Services Trade Union of Bavaria)
- Diakonisches Werk der Evangelisch-Lutherischen Kirche in Bayern
(Diakonia of the Protestant Church of Bavaria)
- Deutscher Caritasverband, Landesverband Bayern
(Caritas Association of Bavaria)
- Katholische Betriebsseelsorge der Erzdiözese München-Freising
(Catholic Industrial Chaplaincy of the Diocese Munich and Freising)
- Katholische Arbeitslosenseelsorge der Erzdiözese München-Freising
(Pastoral Care for the Unemployed of the Diocese of Munich and Freising)
- Katholische Arbeitnehmerbewegung Bayern / KAB
(Catholic Workers Movement of Bavaria)
- Kirchlicher Dienst in der Arbeitswelt der Evangelisch-Lutherischen Kirche in Bayern / kda
(Church in the Working World, a Service of the Protestant Church of Bavaria)

Introduction

"While noting the ruling of the Federal Constitutional Court upholding the constitutionality of the method for the calculation of the subsistence level, the Committee remains concerned that this method does not ensure an adequate standard of living for the beneficiaries. (...)The Committee urges the State party to review the methods and criteria applied to determine the level of benefits and to monitor the adequacy criteria regularly to ensure that the level of benefits affords the beneficiaries an adequate standard of living."

Recommendation No. 21

Concluding observations on the 5th State Party's Report, 2011

- 1 About seven million people in Germany currently depend on basic social security benefits from the state. These include the unemployed as well as people who are not able to work for health or family reasons. This group of social security recipients also includes well over a million workers whose incomes are too low to feed themselves and their families. Likewise, more than one million people need financial support because their retirement pay is too low or because they have a disability. Last but not least, the well-being of about two million children and adolescents in the affected families depends on basic social security benefits. They all need a livelihood geared to their real needs in order to live decently. The definition of the standard of living that the state grants to these people is one of the most important and responsible tasks of politics. In concrete terms, it deals with the handling of social human rights, as enshrined in the International Covenant on Economic, Social and Cultural Rights.
- 2 The Committee on Economic, Social and Cultural Rights recommended to revise the calculation of social benefits in Germany (Recommendation No. 21). This is the starting point of our parallel report. In the following, we will examine the question as to what extent the procedure for determining the subsistence level in Germany today can guarantee compliance with the social human rights according to Articles 9 and 11 of the International Covenant on Economic, Social and Cultural Rights – the right to social security and the right to an adequate standard of living. In addition, we will focus on two aspects of subsistence – food and household energy – and examine the problems that have developed in these areas in Germany.
- 3 These considerations included the results from a hearing of specialists, which we organised on 24th July 2018 in Munich. More than 50 experts from academia, churches, trade unions, social counseling centers and unemployment action groups participated in the hearing. Participants from these diverse organisations all shared the conviction that poverty should not be a problem for the poor alone, but that it affects all sectors of society and can only be permanently overcome by strengthening social rights. Suggestions for appropriate measures are documented at the end of each section.

Calculation of the Subsistence Level

4 The subsistence level in the Federal Republic of Germany is defined as an endowment or a grant that covers the necessary material requirements for subsistence such as food, clothing and housing, as well as allowing a minimum of participation in social and cultural life. In its concluding observations in 2011, the Committee on Economic, Social and Cultural Rights expressed its concern about the method of calculating the subsistence level. The state party was urged *“to review the methods and criteria applied to determine the level of social security benefits”* (Recommendation No. 21). Subsequently in its 6th Periodic Report the German Government refers to the constitutional examination of the calculation method, stating that in 2014 the Federal Constitutional Court confirmed the annual increase of subsistence benefits as *“reasonable and constitutional”*(para. 148). The Government therefore claims: *“Livelihood protection benefits are designed to meet all subsistence needs (...) basic needs assistance secures livelihood for a decent life”* (annex 17).

5 However, the government has not taken into consideration the fact that the Federal Constitutional Court merely regards the procedure as *“still constitutional to date”* (Press release of 9th September 2014). The Federal Constitutional Court specifies several critical areas in the calculation method of the subsistence level:

- The general funding deficit due to the negation of about a quarter of consumer spending in the reference households.
- The funding gap of the household electricity supply in the event of exceptional price increases.
- The underfunding of essential mobility, especially in rural areas.
- The underfunding in the purchase of necessary durable goods, such as refrigerators or washing machines, due to the unrealistically small monthly saving rate budgeted for them.

Source: Press release of the BVerfG of 9th September 2014
[bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2014/bvg14-076.htm](https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2014/bvg14-076.htm)

Source: Decision of the BVerfG of 23th July 2014
[bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2014/07/lis20140723_1bvl001012.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2014/07/lis20140723_1bvl001012.html)

6 In particular, the first of these four critical comments points to a fundamental problem. The "statistical model" in the calculation of the subsistence level uses the actual consumption expenditures of low-income households as a reference for the minimum cost of living. However, this model is undermined by the government itself. A long list of consumption expenditures is taken out of the calculation. For a low-income single adult, the subsistence level is reduced by a total of 147.36 Euros per month, for children by 65.04, 79.14 or 80.50 Euros per month, depending on the age group.

Source: Statement of the Diakonia Germany concerning the law on standard rate calculation 2017, p.3-4
[diakonie.de/fileadmin/user_upload/Diakonie/PDFs/Stellungnahmen_PDF/Diakonie_StN_GE_RBEG_BT_161108.pdf](https://www.diakonie.de/fileadmin/user_upload/Diakonie/PDFs/Stellungnahmen_PDF/Diakonie_StN_GE_RBEG_BT_161108.pdf)

7 If the result of a calculation is reduced by about 25 % with political arguments in this manner, the question arises whether a certain arbitrariness has not come into play.

Nevertheless, the Federal Constitutional Court stated in its ruling: *"The modifications of the statistical model, however, must not reach a level that calls into question its general suitability to determine the subsistence level (...)."*

Source: Press release of the BVerfG of 9th September 2014
[bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2014/bvg14-076.htm](https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2014/bvg14-076.htm)

- 8 Another fundamental problem which the Federal Constitutional Court does not deal with is that the subsistence level, regardless of its calculation, is often not fully available in practice to the people in need. Reasons for this are, among others, portions of the housing costs which are not reimbursed, so that they must be paid for out of the monthly standard rate. In 2017, according to federal data, 18 % of the recipient households of social security benefits for jobseekers were affected by this disparity. The difference between the actual and the recognized running costs for housing and heating totalled 561 million Euros for all affected households. This means that, in one year, the needy part of the population has lost more than half a billion Euros from their subsistence level. On average each recipient household lost 80 Euros per month.

Source: Response of the Federal Government from 29th June 2018, printed matter 19/3073, p. 3
[dipbt.bundestag.de/dip21/btd/19/030/1903073.pdf](https://www.dipbt.bundestag.de/dip21/btd/19/030/1903073.pdf)

- 9 Another reason why the subsistence level is in fact not fully available is the practice sanctioning. A sanction is generally imposed by the authorities if a social security recipient does not fulfill certain obligations, such as not appearing at an appointment in the job center or not accepting the offer of a job or job-creation measure. In March 2018, for example, 132,000 social security recipients nationwide were sanctioned at least once and thus lost an average of 19 % of their entitlement to benefits. That is, the minimum subsistence level was reduced by an average of 111 Euros. Even the subsistence level of the children living in the respective households is thereby indirectly reduced.

Source: Statistics of the Federal Employment Agency (excel sheet)
[statistik.arbeitsagentur.de/Navigation/Statistik/Statistik-nach-Themen/Grundsicherung-fuer-Arbeitsuchende-SGBII/Sanktionen-Widersprueche-Klagen/Sanktionen-Widersprueche-Klagen-Nav.html](https://www.statistik.arbeitsagentur.de/Navigation/Statistik/Statistik-nach-Themen/Grundsicherung-fuer-Arbeitsuchende-SGBII/Sanktionen-Widersprueche-Klagen/Sanktionen-Widersprueche-Klagen-Nav.html)

- 10 On the whole, ambitions toward a more effective fight against poverty in Germany in the calculation process of the standard rate are not recognizable so far. By fulfilling a subsistence level that is just barely in conformity with the constitution, the goal of securing an adequate standard of living for all citizens can hardly be achieved. The expertise of the large social organisations in Germany, who for many years have been pointing out the problems of underfunding due to the shortcomings of this procedure, was not utilized by the Federal Government. If these problems were taken into consideration, a significant increase in the subsistence level would result, as shown by the calculations carried out by the Caritas Germany and the Diakonie Germany.

Source: Statement by the Caritas Germany on the law on the standard rate calculation 2017
[caritas.de/fuerprofis/presse/stellungnahmen/10-28-2016-gesetzentwurf-zur-ermittlung-der-regelbedarfe](https://www.caritas.de/fuerprofis/presse/stellungnahmen/10-28-2016-gesetzentwurf-zur-ermittlung-der-regelbedarfe)

Source: Statement by the Diakonia Germany on the standard rate calculation 2017
[diakonie.de/stellungnahmen/entwurf-eines-gesetzes-zur-ermittlung-von-regelbedarfen-1/](https://www.diakonie.de/stellungnahmen/entwurf-eines-gesetzes-zur-ermittlung-von-regelbedarfen-1/)

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Measures Against the Subsistence Level Deficit

- The present calculation of the minimum subsistence level demonstrably leads to an undercoverage of existential needs. The diverse scientific criticisms of the procedure must lead to corrections.
- The calculation method is partially intransparent. The calculation of the subsistence level should be worked out in collaboration with a commission consisting of representatives of social science, social organisations, trade unions and other parts of civil society.
- The subsistence level, regardless of its calculation, is constantly falling short in practice. Examples of this are: Non-reimbursed rental costs which consequently have to be paid out of the minimum standard rate, sanctions, debt repayments or special expenses. However, the definition of the term “subsistence level” in itself rules out a reduction of the minimum rate. The state must guarantee that the subsistence level is available not only in theory, but in practice.
- In many major cities, it is virtually impossible for those in need to find a home that meets the officially defined criteria of reasonable rental costs. These criteria must be adapted to the reality of the current rental market.
- The current practice of sanctioning is irresponsible. It leads to an underfunding of the minimum subsistence level in consequence of comparatively minor rule violations. In addition, this practice makes the entire recipient household liable for the misconduct or shortcomings of one member. The practice of imposing financial sanctions also impedes efforts to promote and re-integrate people, as the life situation of the affected families is only further destabilized. The sanctioning practice has to be changed from the ground up.
- The costs of living vary greatly in different regions of Germany, for example with regard to rent, food or mobility. The calculation of the minimum subsistence level must therefore be regionalised.

Nutrition Poverty

- 12 Hunger is a phenomenon of poverty that was once hardly associated with a wealthy country like the Federal Republic of Germany. But today, hunger in public places is noticeable and visible, for instance when one sees the long lines of people waiting for their allotment at the food banks. According to the food banks, they now have more than 2,000 locations nationwide, they work together closely with supermarket chains and other major sponsors, and they employ tens of thousands of helpers to alleviate the plight of about 1.5 million needy people in Germany.

Source: Annual Report of the Bundesverband Deutsche Tafel e.V. of 2017 (the German Foodbank Association)

tafel.de/fileadmin/media/Publikationen/Jahresberichte/PDF/Jahresbericht_2017.pdf

- 13 These 1.5 million people do not use the offers of the food banks without good cause. According to surveys of more than 1,000 food bank users by Depa et al., 70 % of them are vitally dependent on food donations because of their food insecurity. About half of them said they did not have enough money to buy healthy food. Some reported eating nothing at all on some days.

Source: Depa, Julia; Gyngell, Fiona; Muller, Annalena, Eleraky, Laila; Hilzendgen, Carolin; Stroebele-Benschop, Nanette (2018): Prevalence of food insecurity among food bank users in Germany and its association with population characteristics. Preventive Medicine Reports 9, p. 96-101.

- 14 The Federal Government's statement in the 6th Periodic Report that the benefits were designed to secure "*livelihood for a decent life*" (annex 17) is counteracted by this high demand for food donations. However, the food banks are only one indicator of nutritional poverty in Germany. They are an attempt by civil society to relieve the distress in specific situations, but they can neither solve the nutrition problem comprehensively nor fully describe it.

- 15 Food security would exist if food were made available reliably to all citizens in sufficient quantity and quality. That this is guaranteed by the official subsistence level in Germany remains doubtful in the light of representative societal statistics. In Germany, unlike in the UK, for example, no systematic recording of the nutritional situation of the population has been carried out, but nevertheless, European studies reveal clear problem areas, as shown by the following two documents for 2016:

- According to the 2016 European Quality of Life Survey, 9 % of Germans in the lowest income quartile go without fresh fruits and vegetables to save money. 31 % of them save on meat.

Source: European Quality of Life Survey (2016): Quality of life, quality of public services, and quality of society, p. 34

eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1733en.pdf

- A special evaluation by the Federal Statistical Office of the European Union Statistics on Income and Living Conditions (EU-SILC) showed that 30 % of the unemployed in Germany (837,000 people) cannot even afford a nutritionally complete meal every other day.

Source: Die Zeit, Online Edition (23th June 2018): Many unemployed people lack the money for food

zeit.de/wirtschaft/2018-06/armut-arbeitslose-essen-mahlzeit-geld

- 16 The social organisations regularly experience in their counseling practice that the already scarce amount of 145.04 Euros per month, which a needy single adult is currently entitled to for food and drink (non-alcoholic), must often be spent for rent-related extras, for debt repayment or unforeseen expenses. The funding gap that results from this cannot be closed by food donations. Food security in the sense of stable availability and accessibility of food cannot be established by civic commitment, but must be guaranteed by reliable legal claims.
- 17 Nutritional poverty is not only a physiological problem, but also a problem of social exclusion, and this has been underestimated politically and socially. Nutrition is not only a matter of saturation, but also an important part of our culture and social interaction. Anyone who already has too little money to buy groceries is unlikely to visit a pub with friends, stock up on drinks and food at club celebrations or sports festivals, or drink coffee outside the home. The amount of 10.35 Euros provided for this purpose will hardly be spent on dining out by poor families. Other forms of everyday culinary culture, such as ice cream in summer or a bottle of wine a month, are not given to people in need of help anyway. These foods have been excluded from the standard rate.

Source: Diakonia Germany (15th March 2018): Hartz IV: What does the standard rate for a decent life allow for?

diakonie.de/journal/hartz-iv-was-bietet-der-regelsatz-fuer-ein-menschenwuerdiges-leben/

18 **Measures Against Nutrition Poverty**

- Those in need are unable to feed themselves properly and adequately in a healthy way because of the low standard allowance for food. The standard rate must be increased according to the findings of nutritional science. These postulate, among other things, a realistically calculated inclusion of fresh wholesome food.
- Important individual nutritional requirements, such as in the case of pregnancy or illness or due to special cultural nutritional requirements, should be taken into account when calculating the standard rate of social security benefits.
- Data on nutritional poverty in Germany, unlike in some other European countries, is fragmentary. Individual factors, such as the prevalence of food banks, are only indicative. An official statistical survey of the nutritional situation at regular intervals is urgently needed.

Energie Poverty

- 19 Like nutrition poverty, energy poverty in everyday life can become an emergency. In winter, when heating energy is lacking, coldness compounds health problems, and chronic diseases get worse. If meals cannot be refrigerated in the summer, they spoil and, again, pose a health risk. If families with young children have no money for electricity, they may not be able to heat baby food or prepare a meal suitable for toddlers. Without electricity, the use of electronic media for the communication with family, authorities and employers would become impossible or at least non-viable. Energy poverty can also mean having to give up the washing machine or hot water. The resulting hygienic shortcomings can aggravate the vicious cycle of poverty, unemployment and social exclusion.
- 20 At the European level, the topic is given high priority. The EU directive concerning the internal electricity market postulates: *"Member States should ensure the necessary energy supply for vulnerable customers."*
- Source: EU Directive concerning common rules for the internal electricity market, no. 53
eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009L0072&from=DE
- 21 The EU Commission declared on 23.11.2017: *"Energy poverty should be addressed more effectively at the Member State level. Today most Member States do not define energy poverty in their national legislation. Households affected by energy poverty should be better identified and the evolution of energy poverty should be monitored in order to allow more targeted action through energy efficiency measures. In addition to energy efficiency measures, such as long-term building renovation strategies targeted specifically at energy poor households, these should include social policy provisions such as a targeted income support."*
- Source: European Commission: Third Report on the State of the Energy Union, annex 2
eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52017DC0688&from=DE
- 22 In Germany, there is currently no legal definition, nor are there records of energy poverty. In a response by the Federal Government to a parliamentary question, it becomes clear that the government cannot give any precise information either on the duration of power cuts nor on the groups of people affected nor on the number of low-energy households receiving basic social security.
- Source: Response of the Federal Government, printed matter 19/1604 from 11th April 2018
dip21.bundestag.de/dip21/btd/19/016/1901604.pdf
- 23 For the assessment of energy poverty, we are using the definition of Bleckmann et al. which is linked to the concept of relative poverty: "Energy poverty exists in a household when the disposable income after deduction of the actual energy costs amounts to less than 60 % of the equivalent median income."
- Source: Bleckmann, Lisa; Luschei, Frank; Schreiner, Nadine; Strünck, Christoph (2016): Energy poverty as a new social risk? An empirical analysis as a basis for an adequate social policy. University of Siegen.
uni-siegen.de/fokos/forschungsprojekte/energiearmut/2015-08-31_hbs_studie_energiearmut_als_neues_soziales_risiko.pdf
- 24 According to the definition above, 21.5 % of the households in Germany were subject to energy poverty. The low-energy households include those who receive benefits from basic social security. Of the households whose main source of income is unemployment

benefits for jobseekers or basic social security benefits, 91.3 % were affected by energy poverty. But often enough, paid work also does not protect against energy poverty. Among all households with an income from employment, the rate of energy poverty was 14.7 %.

- 25 Very often it is not enough to have the electricity and heating costs paid “to a level said to be adequate” by the social welfare authorities, because this does not meet the actual requirements. Households on basic social security are therefore particularly threatened by electricity shut-downs. As the monitoring report of the Federal Network Agency and the Federal Cartel Office shows, 328,000 customers were affected by power cut-offs in 2016 due to unpaid bills. But the fear of power cuts affects millions of people. In 2016, there were 6.6 million enforcement letters threatening to shut down the power in the household, and of these approximately 1.2 million resulted in a mandate to do so.

Source: Monitoring Report 2017 of the Federal Network Agency / Federal Cartel Office
[bundesnetzagentur.de/SharedDocs/Downloads/DE/Allgemeines/Bundesnetzagentur/Publikationen/Berichte/2017/Monitoringbericht_2017.pdf?__blob=publicationFile&v=3](https://www.bundesnetzagentur.de/SharedDocs/Downloads/DE/Allgemeines/Bundesnetzagentur/Publikationen/Berichte/2017/Monitoringbericht_2017.pdf?__blob=publicationFile&v=3)

- 26 The electricity price is determined not only by the market, but also by politics. The cost of these energy policies is paid for by the end user. One such energy policy is the law for the expansion of renewable energy sources (Energy Supply Law, EEG). As a consequence, the increasing proportion of the political allocation causes the electricity price to rise disproportionately primarily for low-income households. It is these households in particular that have no financial scope for the energy-efficient exchange of household appliances, and they live in cheaper, though energy-inefficient living quarters. However, the subsistence level does not allow for this rising extra expenditure. According to calculations by Bleckmann et al., the social security standard rate is too low by an average of about 45 Euros for the energy costs.

Source: Bleckmann, Lisa; Luschei, Frank; Schreiner, Nadine; Strünck, Christoph (2016): Energy poverty as a new social risk? An empirical analysis as a basis for an adequate social policy. University of Siegen.

[uni-siegen.de/fokos/forschungsprojekte/energiearmut/2015-08-31_hbs_studie_energiearmut_als_neues_soziales_risiko.pdf](https://www.uni-siegen.de/fokos/forschungsprojekte/energiearmut/2015-08-31_hbs_studie_energiearmut_als_neues_soziales_risiko.pdf)

- 27 Regional studies, such as those by the Consumer Advice Centre of North Rhine-Westphalia or the City of Munich, also show that the standard rate does not provide enough money for household energy.

Source: Consumer Advice Centre NRW 2018: Hartz IV: The money is not enough for the electricity bill
[verbraucherzentrale.nrw/sites/default/files/2018-06/VZ-NRW_Strompauschale-HartzIV_FINAL.pdf](https://www.verbraucherzentrale.nrw/sites/default/files/2018-06/VZ-NRW_Strompauschale-HartzIV_FINAL.pdf)

Source: Munich Poverty Report 2017
[muenchen.info/soz/pub/pdf/586_Muenchner_Armutsbericht_2017.pdf](https://www.muenchen.info/soz/pub/pdf/586_Muenchner_Armutsbericht_2017.pdf)

Measures Against Energy Poverty

- The needy are hardly able to remain permanently free of energy debts due to the low allowance for household energy. The standard rate must be adapted to reality.
- The provision of basic services such as electricity, water and heat is part of the public services. Therefore, for people who are entitled to basic social security, the state has to assume responsibility towards the electric power companies for the cost of energy. Blocking the power supply must be excluded for this group of people.
- Poor households often have higher electricity costs than wealthy households because their electrical appliances are outdated and they cannot afford new ones. For cost reasons as well as for ecological reasons, needy people should receive vouchers for energy-efficient electrical appliances.