

"Our path to an inclusive society"

The National Action Plan 2.0 of Germany's Federal Government for the UN Convention on the Rights of Persons with Disabilities (UNCRPD)

Summary of the NAP 2.0

In the coalition agreement for the 18th legislature, it was agreed to further develop the National Action Plan together with persons with disabilities in order to implement the UN Convention on the Rights of Persons with Disabilities. The process of further development, which started with the “inclusion days” in 2014, has been completed with the adoption of the Federal Government's National Action Plan 2.0 for the UNCRPD (NAP 2.0, for short) by the Federal Cabinet on 28 June 2016.

The NAP 2.0 relies on the extensive set of measures, over 200 measures strong, of the first action plan, which was adopted in June 2011 by the Federal Government to run until the year 2021. As part of Germany's first country review on the implementation of the UNCRPD, a variety of recommendations was formulated, but at the same time the adoption of the National Action Plan was explicitly acknowledged. Both the first action plan and the enhanced NAP 2.0 aim to promote and strengthen the rights of people with disabilities guaranteed in Germany with the ratification of the UNCRPD in all relevant areas and to improve their practical implementation. With its federal level measures, the NAP 2.0 will help establish inclusion as a universal principle in all areas of life. Inclusion in the sense of the UNCRPD means making possible social participation for **all** people in **all** areas of life on the basis the **same** rights. For people with disabilities inclusion means above all finding conditions that allow them to choose their place of residence and decide where and with whom they live, to develop their talents and abilities to their fullest potential for life and to be able to earn a living through work that is freely chosen or taken on.¹ Inclusion's quality comes from providing space and support for personal lifestyle choices.²

In the first action plan of the Federal Government a priority was, "to close gaps between legislation and practice" with appropriate measures³. The NAP 2.0 by contrast contains important legislation that should in particular help improve the opportunities for participation of people with disabilities as well as their ability to lead an independent life. The evaluations of laws that were agreed on in the first NAP helped initiate these legislative proposals and gave substantial impetus in terms of content. Thus, in the review of individual key legal acts, the Federal Government sees an appropriate way to fulfil the call by the UN Committee of Experts for judicial review in the light of the UNCRPD in a way that is proportionate in terms costs and benefits. The Federal Government considers it to be its responsibility within the

¹ Handbuch Behindertenrechtskonvention Teilhabe als Menschenrecht - Inklusion als gesellschaftliche Aufgabe, Contribution by Prof. Dr. Gudrun Wansing, p. 43 ff.

² Heiner Bielefeldt, Zum Innovationspotential der UN-BRK, Essay No.5, DIMR, Berlin 2009, p. 11.

³ “Unser Weg in eine inklusive Gesellschaft - Der Nationale Aktionsplan der Bundesregierung zur Umsetzung der UN-Behindertenrechtskonvention”, p. 10

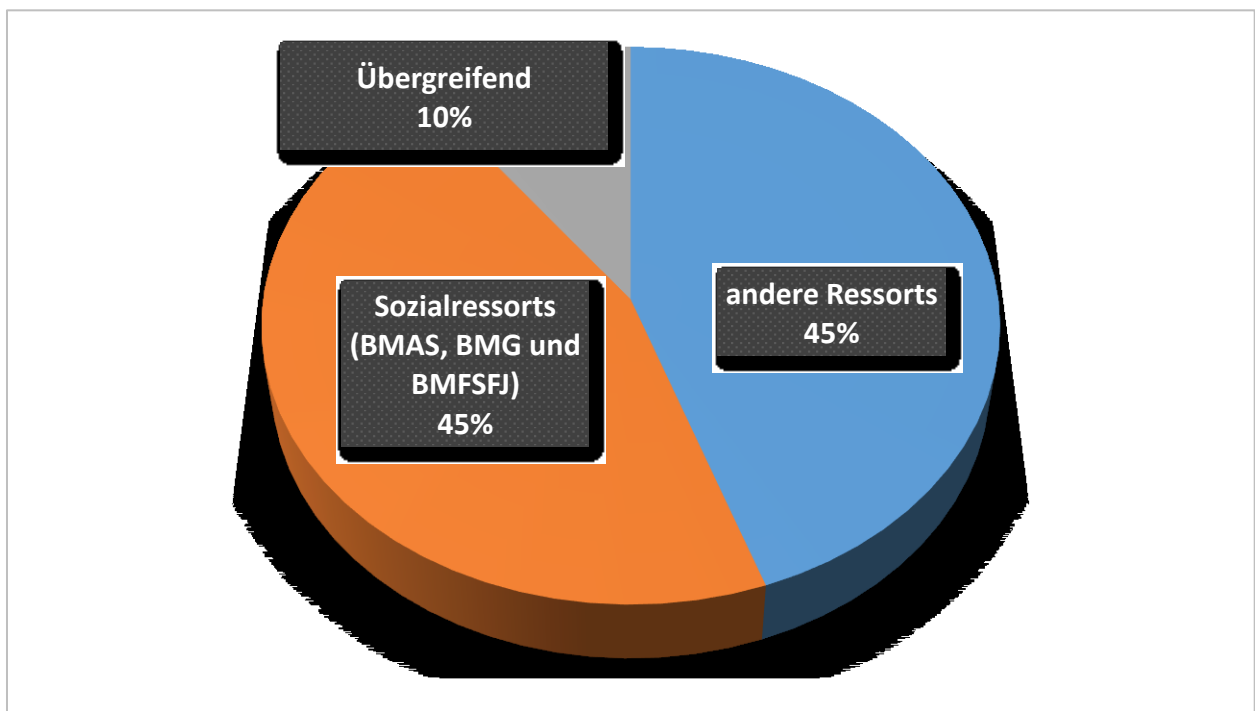
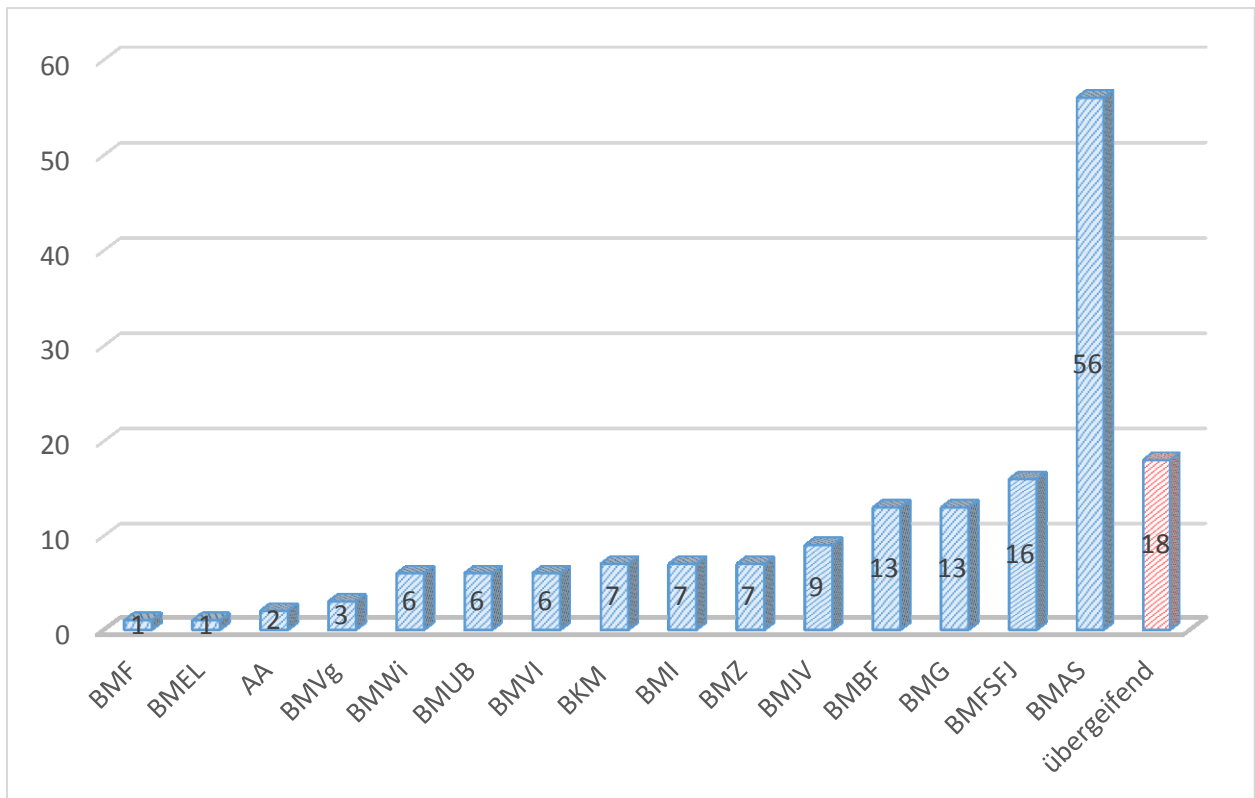
framework of continuous legal changes to make adaptations of German law to the UNCRPD as long as the changes in the field of application of the law are not sufficient for this purpose. With the forthcoming reviews of guardianship law and the General Equal Treatment Act (AGG), the Federal Government is continuing on this path in the context of the NAP 2.0.

In the field of economic, social and cultural rights in accordance with Article 4 (2) of the UNCRPD, the Federal Government is continuously working to realise these rights within the existing political and financial frameworks. The reform of integration assistance through the Federal Participation Act (BTHG), but also the intended relevant changes in the Ninth Book of the Social Code (SGB IX) and the development of the Equal Opportunities for Persons with Disabilities Act are exemplary projects for this approach being carried out and developed especially in light of the UNCRPD.

With its **175** measures, the NAP 2.0 supplements the first NAP, which now contains **242** measures under consideration after adoption by the Federal Cabinet. The NAP 2.0, like its predecessor, is the product of intensive dialogue processes, which receive input from other political discourses. Therefore, it is neither surprising, nor, from the perspective of the Federal Government, to be criticised that a number of measures of the action plan did not start with the adoption, but had already started before and in some cases (eg events) have already been completed. It is the view of the Federal Government that these measures belong in the action plan, if according to the target system (see Section 1.3) they contribute to the implementation of the UNCRPD. In the end, the value of a measure is determined less by the date of their creation, than by its implementation and effect.

The NAP 2.0 succeeds in strengthening the approach across policy fields even further, which can be seen in the fact that that this time **all** Federal Ministries contributed measures. This takes the idea of disability mainstreaming another step forward when compared to the first NAP. This is also reflected in the more uniform distribution of measures over the ministries compared with the first NAP. The social ministries (Health; Family Affairs, Senior Citizens, Women and Youth; and Labour and Social Affairs) are responsible for just over 45 percent of the measures, while the other ministries are responsible for 45 percent of the measures in NAP 2.0. In the first NAP alone Labour and Social Affairs alone was still responsible for almost 40% of the measures. On 10% of the measures, there is involvement across several ministries, Länder and other actors. With this broad substantive approach, the NAP 2.0 extends horizontally across the various policy areas, as well as vertically through several levels.

Figure 1. NAP 2.0 measures by federal ministries / commissioners



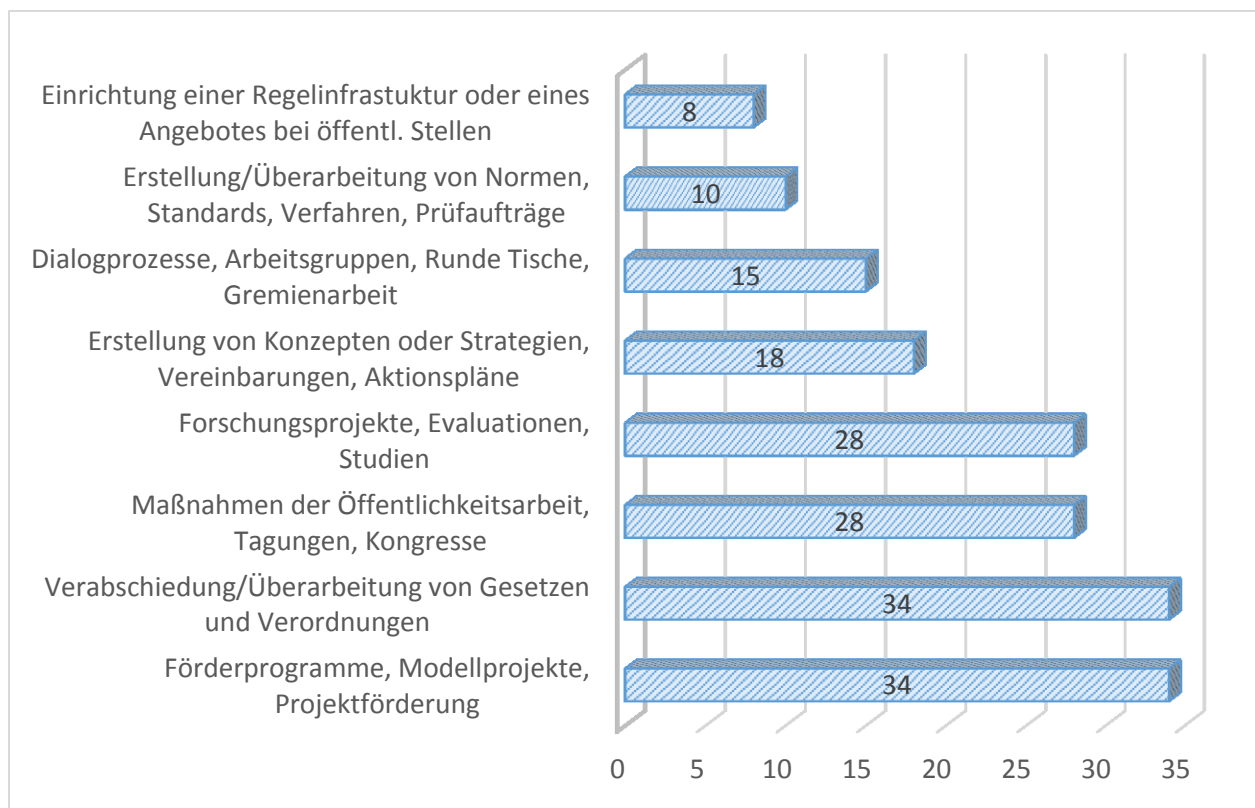
The NAP 2.0 contains the same 12 fields of action as the first action plan, supplemented by the 13th field of "raising awareness" and also retains the cross-cutting issues known from the first NAP. The Federal Government is thus following the recommendation of the United Nations High Commissioner⁴ on the use of action plans, which recommends further

⁴ UN Handbook: Office of the UN High Commissioner on Human Rights, Handbook on National Human Rights Plans of Action, Geneva, 29.08.2002; found at: <http://www.unhcr.ch/pdf/nhrap.pdf>

development on the basis of the evaluation results, while maintaining the basic structure. The NAP 2.0 makes clear that the Federal Government considers the achievement of an inclusive society as a permanent task that requires action in all relevant areas represented here by the fields of action. The breadth of content of the measures and their variety are also reflected in the target system, which the Federal Government selected for the NAP 2.0.

Looking at the distribution of the measures of the NAP 2.0 in terms of the different types of measures yields the following picture:

Figure 2: NAP 2.0 measures by type of measure



This also shows a more even distribution in comparison with the first NAP. From the point of view of the Federal Government, it is particularly positive that in the NAP 2.0, 34 measures (significant legal changes) and thus about 19% of the package are of the type "adoption / revision of laws and regulations". This represents an increase of over 100% compared to the first action plan, where only 8% of all measures are in this category, which was one of the main criticisms of the first NAP.

As focal points of the NAP 2.0, the following are especially noteworthy:

The Federal Government is continuing on the path to improving participation reporting both qualitatively and quantitatively. As a core element of the new report, the Federal Government

will commission a representative survey, which thus should provide a solid data base on the participatory situation of people with disabilities, providing comprehensive data for Germany for the first time. The knowledge gained by the representative survey will establish the conditions necessary for evidence-based policy in all relevant areas to the extent possible and reliable monitoring for UNCRPD. The participatory reporting will thus become a compass for the disability policies of the Federal Government for the coming years and is therefore of paramount importance. Budget funds of almost 9 million euros are planned in the coming years for this project alone.

From the perspective of the Federal Government the issue of raising awareness is particularly important for the success of inclusion. It is therefore its own field of action in the NAP 2.0. Awareness of the new understanding of disability, which is inherent to the change from the medical model to the human rights model, is central to no longer perceiving disability as an individual problem in line with the UNCRPD. We must rather understand disability as a negative consequence of not sufficiently inclusive society and inclusion as the guiding motif for socio-political processes. Inclusion can only succeed if it is supported by broad social acceptance and reaches into all areas. In the NAP 2.0, the Federal Government therefore envisages measures of awareness raising that are both inward looking, ie in its own sphere, and outward looking, for specific groups of people and for the general public. It also expects that the development of the National Action Plan, just as the drafting the first Action Plan, will contribute to an even greater proliferation of action plans in various areas and their necessary development.

Recalling that inclusion encompasses in particular the possibility of being able to earn a living through freely chosen work, it is logical that in the NAP 2.0 the Federal Government again put a particular focus on measures to promote professional integration of people with disabilities into the mainstream labour market. This time the Federal Government is relying more on legal changes that create the legal conditions for more people with disabilities to be able to find employment opportunities outside of workshops on the general labour market. The key goal is to give persons with disabilities new job opportunities in the regular labour market which are in line with their preferences and their capacities. In addition to this there will be employment policy programmes funded with around 230 million euros from the national rehabilitation fund over the next years.

Also the protection of the right to be able to decide where and with whom one wants to live, is particularly important to the Federal Government in the NAP 2.0, especially through the reform of integration assistance under the Federal Participation Act (BTHG). A key objective of the reform of integration assistance is the person-centred design of services regardless of

where they live. The necessary support should be geared solely to the individual's needs. The possibilities of life planning and design appropriate to individual and personal wishes is therefore to be further strengthened.

The Act to Strengthen Care Provision in the Statutory Health Insurance (*GKV-Versorgungsstärkungsgesetz*) and the first and second Acts on Strengthening Long-Term Care (*Erstes und Zweites Pflegestärkungsgesetz*) have brought important legal changes in the area of health care and the Social Long-Term Care Insurance which are also relevant for persons with disabilities. These changes are designed to help ensure that persons with disabilities will receive health and long-term care benefits that are even more aligned with their needs.

To the extent possible given its limited responsibilities in the area of education, the Federal Government is also again putting its mark on the promotion of inclusive education by adopting various measures. This concerns measures in the area of vocational education and further education and training and projects fostering the design of the physical environment which is an important pre-condition for the implementation of inclusion.

Advancing accessibility is also a key issue in the various areas of action and measures contained in the NAP 2.0. This includes measures fostering the reduction of barriers in private housing, e.g. the funding programme "Age-friendly refurbishments" (*Altersgerecht Umbauen*) of the KfW and the third programme by Deutsche Bahn AG, aimed at improving accessibility in rail travel or the introduction of a standardised label in tourism.

The NAP 2.0 also again contains research projects which the Federal Government hopes will lead to new findings for guiding its future actions. Two of the research projects focus on legal guardianship, another one will deal with ways to avoid drug-induced fixation in institutions.

All in all, the NAP 2.0 reflects the diversity of the Federal Government's policies for persons with disabilities thanks to the variety of measures and its various inputs.

Successful policies for disabled people must be based on financials in addition to its thematic focus. So more than 54 billion euros were spent in 2013 for the services for rehabilitation, participation and care alone. This comparatively high allocation of resources shows that policies for people with disabilities - not just in terms of their content but also in terms of financing - has been well secured for the next few years in order to achieve more significant progress on inclusion.