

# A COMPARATIVE STUDY OF CHILD MAINTENANCE REGIMES

## Questionnaire for national informants

### **Focus of questionnaire**

The questionnaire concerns your child maintenance (child support) regime. By this we mean the overall system in your country under which parents meet their financial obligations in respect of children with whom they do not live. These financial obligations arise when parents live apart following a divorce or separation, or when parents have never lived together.

### **Scope**

The questionnaire is primarily concerned with regular payments for financial support, which we call here child maintenance. There are other forms of financial transactions between parents who do not live with each other including spouse maintenance (or alimony), lump sum payments, transfers of property, assets and pension rights. We are interested in these other forms of support only in so far as they affect child maintenance. We do not define a child. Please use those age related definitions of a child or children that are relevant in your country, throughout the questionnaire, with appropriate explanations when necessary.

The child maintenance regime includes arrangements for determination, enforcement and revision of payments. In most countries, the child maintenance regime will be some combination of private voluntary arrangements, formal arrangements made by courts, and formal arrangements made by other organisations or agencies. We seek information about all these.

The questionnaire is primarily concerned with entitlements to and liabilities for transfers of private resources. There are a few additional questions about the interaction of child maintenance with public resource transfers (for example maintenance guaranteed by the state and social benefits).

This questionnaire is not concerned with children for whom the state has assumed responsibility, and/or who live in foster homes, children's homes or other institutions. We seek information about child maintenance in respect of children living at home with one parent.

We are interested in three different groups of parents:

- separated married parents (whether formally divorced or not)
- separated cohabiters
- parents who have never lived together.

### **Core terms**

We call the parent who has the main day-to-day responsibility for the child(ren) concerned, the parent with care. We call the parent who is not currently living with the child(ren) and their other parent, the non-resident parent. The amount of money the non-resident parent is required to pay (or agrees to pay) the parent with care is called the obligation. (In some literature or countries this may be called the award or the obligation.) Definitions of other terms are provided below.

### **Organisation of questionnaire**

The questionnaire is organised in the following way.

- Part One seeks information about the history and general objectives of your child maintenance regime.
- Part Two asks how families enter the child maintenance system, including the general framework for divorce, separation, and the establishment of paternity for nonmarital children.
- Part Three covers detailed information about the determination of maintenance due. We ask how obligations are set, looking at rules, guidelines and discretionary components.
- The procedural aspects of collection and enforcement, and the implications of non-compliance are covered in Part Four.
- Part Five asks about the interactions of receipts and payments with other policies.

- *Administrative costs and quantitative data on outcomes are covered in Part Six.*
- *Part Seven asks you to draw on existing research in a brief evaluation of the child maintenance regime in your country; it also asks for the main topics of research and debate in your country.*
- *Part Eight presents two vignettes, or cases, in which we describe the circumstances of parents and children, and ask you to describe how they might be dealt with under your child maintenance regime.*

*There are further instructions on how to fill in the questionnaire at the beginning of each part (with instructions presented in shaded text). We suggest that you read through the whole questionnaire thoroughly before you begin. We assume you will find it more convenient to complete the questionnaire directly onto the file. If you would prefer a paper copy, with space allowed after each question, please let us know.*

*We ask that you provide us with a list of the sources you consulted most frequently when answering this questionnaire.*

*When we ask for current information, this relates to the situation at 1 July 2006.*

<b>TERMS AND DEFINITIONS</b>	
<i>Advance maintenance</i>	<i>Program in which child maintenance money is provided in advance of any payment made by the non-resident parent. In effect this guarantees an amount of child maintenance.</i>
<i>Child</i>	<i>We do not define a child. Please use those age related definitions of a child or children that are relevant in your country throughout the questionnaire.</i>
<i>Child maintenance</i>	<i>This refers to the money due to children from their liable parent (following the breakdown in the parental relationship). It may be paid to the parent with care or the child(ren); this varies by country.</i>
<i>Child maintenance regime</i>	<i>We include here all arrangements under which non-resident parents provide financial support for their children. We include voluntary arrangements, arrangements through the legal system, and arrangements through governmental agencies. We include both explicit and implicit governmental policies.</i>
<i>Cohabitees</i>	<i>We use this to refer to unmarried parents who live together</i>
<i>Guaranteed maintenance</i>	<i>Same as 'Advanced Maintenance' (see above)</i>
<i>New child or children</i>	<i>Where parents move on after separation or divorce and produce another child/children with a new partner.</i>
<i>New family</i>	<i>Where parents move on after separation or divorce and develop family relationships with a new partner. This may or may not also include children.</i>
<i>New partner</i>	<i>Where parents move on after separation or divorce and develop an intimate relationship with a new adult.</i>
<i>Non-resident parent</i>	<i>Refers to the parent with whom the children do not live a majority of the time. In many countries this is commonly the father.</i>
<i>Nonmarital child or children</i>	<i>Refers to a child or children from a relationship in which the parents are not married.</i>
<i>Obligation or 'child maintenance obligation'</i>	<i>This refers to any award of money made for child maintenance only. We use it as a general term to refer to all official and unofficial arrangements.</i>
<i>Prior child or children</i>	<i>Some parents have children from more than one relationship. We use "prior children" to refer to children from a previous relationship.</i>
<i>Parent with Care</i>	<i>This is the parent who has the main day-to-day responsibility for the children and the child(ren) live with this parent the majority of the time. In many countries this is commonly the mother.</i>
<i>Social assistance</i>	<i>By this we mean programs that provide income to low-income individuals or families. These programs have an income test, and often also have asset limits. This is one type of social benefit.</i>
<i>Social benefit</i>	<i>We intend this to be a very broad term. It includes all programs that provide income to individuals and families. This includes social assistance programs and programs that do not have an income test.</i>
<i>Step child</i>	<i>Where a parent has responsibility for a child living in their household who is not related to them biologically.</i>
<i>Tax benefit</i>	<i>We use this term broadly to refer to special features of the tax system that allow individuals in certain circumstances to pay less taxes. We also include programs that provide income through the tax system.</i>

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## PART ONE: DEVELOPMENT OF CHILD MAINTENANCE REGIME

*This part of the questionnaire seeks a broad overview of your current system.*

*Please remember that we are interested in three groups of parents:*

- *separated married parents (whether formally divorced or not)*
- *separated cohabitantes*
- *parents who have never lived together.*

### **1.1 Consider the overall arrangements in your country for determining, enforcing and revising child maintenance payments. What are the broad policy objectives of these arrangements? We are interested in both explicit and implicit objectives.**

The broad policy objectives could simply be described with the following statements:

- To secure the maintenance of minor children and to prevent child poverty.
- Strengthening the parental obligations to their minor children.

### **1.2 Please explain briefly the history and development of the current regime.**

The current child maintenance regime consists of the following components:

- The family law (Civic code, 4<sup>th</sup> book) that states that unmarried minor children can claim provision of support from their parents and that parents have the obligation to their unmarried minor children to spend all available means for the support of themselves and their children equally.
- A set of guidelines and 'support tables' developed by the courts that have closed the gap between the rather abstract statements of the family law on the one hand and the problem of determining a concrete amount of child maintenance in given individual circumstances on the other hand.
- The Youth Welfare Office that acts as a legal adviser for parents with care, especially with relation to the establishment of legal paternity and the claim to child maintenance from the non-resident parent.

Since 1997 there have been the following major changes to the system:

#### *Child law reform act ('Kindschaftsrechtsreform' 1998)*

Until the child law reform act a court decision about child maintenance was compulsory in the event of a divorce. Now there will only be a decision about child maintenance if it was applied for. That means that divorcing parents are free now to make voluntary agreements on their own, or agreements under the advice of a lawyer or under the advice of the Youth Welfare Office.

Furthermore the child law reform act introduced the principle of joint co-parenting. Joint custody is now seen as the norm, sole custody as the exception from the norm. Also the child law reform act abolished the distinction between children born out of wedlock and children whose parents are married at the time of birth.

#### *Child maintenance law ('Kindesunterhaltsgesetz' 1998)*

With the child maintenance law the possibility of a dynamic maintenance amount ('dynamischer Unterhalt') has been introduced. Since then it is possible to determine the amount of maintenance as percentages of the standard amounts ('Regelbeträge'). As this standard amount gets adjusted every two years in line with the index used for pension rates, all dynamic obligations will get adjusted every two years.

With the Child maintenance law also a simplified procedure for child maintenance claims below 1.5 times the standard amount ('Regelbetrag') has been introduced. This simplified procedure can be conducted by a non-judicial officer and was intended to take less time than a normal court decision. Since 1998 children born out of wedlock have the same maintenance claims as children whose parents were married at the time of birth.

*Help and Assistance Act ('Beistandschaftsgesetz' 1998)*

With the Help and Assistance Act (that came into force in July 1998) the custodianship exercised by the Youth Welfare Office that until then has been mandatory for children born outside marriage has been removed. Single parents with care still can use the legal advice and support of the Youth Welfare Office in relation to the establishment of legal paternity and the claim to child maintenance, but on a voluntary base. Also the advice and support of the Youth Welfare Office can now be used by any parent with care.<sup>12</sup>

**1.3 If there has been a major transfer of administrative responsibilities or any major change in approach since 1997, please describe the policy context and the process of creating and implementing the initiative. Were the changes controversial? (an example here might be the establishment of a new agency)**

Actually, there has not been much controversy about the changes in the child maintenance system per se. The public debate has been more dominated by discussions about the concept of joint custody, the rights of mothers and unmarried fathers, and by discussions about the abolished distinction between children born out of wedlock and children born out of marriage (like the fact that since then all biological children of a father have the same right to inherit).

**1.4 Which of the following were explicit objectives of the change?**

- Limiting public expenditures
- Enforcing obligations to biological children
- Reducing child poverty
- Influencing relationship formation and dissolution behaviour
- Influencing employment of lone parents
- Increasing voluntary arrangements for maintenance
- Other (please describe briefly)

## PART TWO: ENTERING THE CHILD MAINTENANCE SYSTEM

*In this part of the questionnaire we are interested in entrance into the child maintenance system, considering arrangements for couples who have been married, those who have cohabited, and those who have not lived together.*

### 2.1 CHILD MAINTENANCE ARRANGEMENTS FOR COUPLES WHO HAVE BEEN MARRIED

#### 2.1.1 In your country, who has primary responsibility for divorce proceedings?

Courts

Other (please list and describe)

#### 2.1.2 Please explain briefly the legislative, administrative and procedural framework for divorce in your country.

In Germany 'Irretrievable breakdown' of the marriage is the only grounds for divorce and should be supported by one of the following:

- That the couple have lived apart for 1 year and consent to the dissolution of the marriage (uncontested divorce)
- That the couple have lived apart for 3 years (no consent necessary, contested divorce)

#### 2.1.3 Explain how decision-making about child maintenance fits around the divorce process. Who has the main responsibility for deciding whether and how much child maintenance should be paid when a couple divorce?

Until the Child Law Reform Act (1998) the court had to address the issue of child maintenance and a court decision on child maintenance was compulsory in the divorce process. With the Child Law Reform Act a court decision on child maintenance is no longer compulsory. A court decision on child maintenance is now only made when one of the parents request this.

### 2.2 CHILD MAINTENANCE ARRANGEMENTS FOR COUPLES WHO HAVE LIVED TOGETHER WITHOUT BEING MARRIED

#### 2.2.1 Please explain briefly the legislative, administrative and procedural framework (if there is one) in which unmarried parents who had lived together separate.

There is no special legislative, administrative and procedural framework for the separation of unmarried parents.

#### 2.2.2 Explain how decision-making about child maintenance fits into this framework. Who has the main responsibility for deciding whether and how much child maintenance should be paid when an unmarried couple separate?

As there is no special legislative, administrative and procedural framework for the separation of unmarried couples, unmarried parents are free to make a voluntary agreement. They can also seek the authentication of such an agreement (especially with relation to the non-resident parents commitment to pay maintenance), either through a notary or the Youth Welfare Office. They can also seek the advice and support from either a lawyer or the Youth Welfare Office for reaching an agreement about child maintenance.

It is highly likely that unmarried parents will reach an agreement under the advice of the Youth Welfare

Office, because at least the mother had already contact with the Youth Welfare Office in the past. The Youth Welfare Office is obliged to offer every unmarried mother advice and support, especially in relation to determination of paternity and child maintenance.

**2.2.3 Please explain briefly what happens if paternity is disputed in couples who have lived together.**

If paternity is disputed (that means there is no voluntary acknowledgement from the father) it needs to be established by court order. For establishing paternity through court order the mother may seek help from the Youth Welfare Office (Jugendamt), that can either act as a legal adviser or as the official legal representative of the child.

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**2.3 CHILD MAINTENANCE ARRANGEMENTS FOR THOSE WHO HAVE NEVER LIVED TOGETHER**

**2.3.1 In couples who have not lived together, explain how decision-making about child maintenance is made. Who has the main responsibility for deciding whether and how much child maintenance should be paid?**

Same as 2.2.1

**2.3.2 Please explain briefly the process for establishing legal paternity in couples who have not lived together when paternity is not in dispute. (For example, legal paternity is presumed if the father's name is on the birth certificate.)**

For establishing legal paternity that is not in dispute a written acknowledgement by the father and a written consent from the mother is necessary. Both statements (the acknowledgement by the father and the consent from the mother) need authentication, either by a notary or by the Youth Welfare Office (Jugendamt).

**2.3.3 Please explain briefly what happens if paternity is disputed in couples who have not lived together.**

Same as 2.3.3

## PART THREE: THE DETERMINATION OF CHILD MAINTENANCE DUE

*Part Three of the questionnaire is concerned with determination of the child maintenance obligation and entitlement - the decision-making process by which child maintenance is agreed between parents, or decided by Courts or Agencies. This part of the questionnaire does not ask about arrangements for collection or enforcement of maintenance, which is dealt with in Part Four.*

*After an initial overview (Questions 3.1.1-3.1.5), we ask for detailed information about the determination of child maintenance due in three sections which address separately:*

- *voluntary agreements between parents (Questions 3.2.1-3.2.3)*
- *obligations determined by Courts (Questions 3.3.1-3.4.4)*
- *obligations determined by other agencies/organisations (Questions 3.5.1-3.6.5)*

*One of these three sections may not be relevant in your country (for example, if Courts are not involved in determination of maintenance obligations). Please complete the sections which are relevant to your country, and if you leave out a section please explain why.*

*Please remember that we are interested in three groups of parents:*

- *separated married parents (whether formally divorced or not)*
- *separated cohabittees*
- *parents who have never lived together.*

### 3.1 OVERVIEW

**3.1.1 Are parents who were married allowed to make a voluntary agreement as to the amount of maintenance? Are separated cohabittees? Are parents who have never lived together? For each group, please briefly discuss the circumstances in which they are allowed to make a voluntary agreement.**

All parents (that means parents who were married, separated cohabittees and parents who have never lived together) are allowed to make voluntary agreements about the amount of child maintenance. But they are not allowed to make agreements that are against the interest of the child in question. Such an agreement would be unconscionable (sittenwidrig). An agreement that includes a complete renouncement for the future or an agreement about maintenance payments that are more than 20% below the "support tables" used by the courts would be against the interest of the child and therefore unconscionable.

**3.1.2 If parents can make a voluntary agreement, does it have to be approved by someone else? By whom? What criteria are used? How often is the agreement approved, and what happens if it is not? (Again please answer each part of this question for separated married parents, separated cohabittees, and those who have never lived together.)**

Voluntary agreements do not have to be approved by anyone else. But parents can seek the authentication of such an agreement (especially with relation to the non-resident parents commitment to pay maintenance), either through a notary or the Youth Welfare Office.

**3.1.3 Do courts play a role in determining maintenance amounts? If so, is it a primary role, or residual? Please briefly explain the circumstances and the types of cases in which the court is involved.**

Courts do play a role in determining maintenance amounts. Actually courts do play a double role in relation to the determination of maintenance amounts.

Firstly, courts must obviously determine the amount of child maintenance in all cases that needs to be decided by a court because one of the parents has applied to the court (mainly because the nrp has refused to accept his maintenance obligations or the parents could not reach an agreement without the help of the court) or the determination of child maintenance is part of the divorce proceedings. Of all parents with care around 17% have/had court-based child maintenance agreements.

Secondly, and even more important, over time the courts have developed a set of guidelines and 'support tables' for the calculation/determination of child maintenance that are not only used by the courts but also by lawyers, the Youth Welfare Office and parents who are making voluntary agreements. The German family law (Civic Code 4<sup>th</sup> book) basically only states that unmarried minor children can claim provision of support from their parents and that parents have the obligation to their unmarried minor children to spend all available means for the support of themselves and their children equally. These statements are obviously not detailed enough to determine the actual amount of child maintenance in a given individual case. This gap has been closed by the courts insofar as the courts have developed a set of rules and 'support tables' that can be used to calculate the amount of child maintenance in a given individual case. These guidelines and 'support tables' are used by lawyers, the Youth Welfare Office and parents to calculate the amount of child maintenance. That means that the role of courts is not limited to the cases that are actually decided by a court. Most of the other agreements, like agreements under the advice of a lawyer, or agreements under the advice of the Youth Welfare Office, even many voluntary agreements between parents, just follow the rules and 'support tables' of the courts.

**3.1.4 Do agencies other than the court play a role in determining maintenance? If so, which agency/agencies? Please describe its functions, both in terms of functions related to child maintenance and functions related to other areas of responsibility. Please explain the circumstances and the types of cases in which the agency is involved.**

Especially in the case of unmarried parents (either separated cohabitants or unmarried parents who have not lived together) the Jugendamt (Youth Welfare Office) plays a role in reaching an agreement and determining child maintenance (see also 6.2.1). The Youth Welfare Office is an agency of the state whose main task is the protection of children's rights and interests.

If an unmarried mother gives birth to a child the Youth Welfare Office receives information about this birth from the Register Office. The Youth Welfare Office then is obligated to offer the mother legal advice and support, especially in relation to determination of paternity and child maintenance.

If the mother agrees the Youth Welfare Office can act as the legal representative of the child with relation to the claims for child maintenance payments ('Beistandschaft').

The Youth Welfare Office will try to reach an agreement with the non-resident parent. For the calculation of the child maintenance the Youth Welfare Office uses the 'support tables' that are developed and used by the courts.

The services of the local Youth Welfare Office are free of charge.

**3.1.5 For children of formerly married parents, is the child maintenance obligation in the child's name or in the name of the parent with care? Is this different for separated cohabitantes or for children of parents who have never lived together? Does it differ depending on whether it is a voluntary agreement versus being determined by the court or an agency?**

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*We now ask more detailed questions about the three types of arrangements, voluntary, court-determined, and agency-determined.*

## **3.2 VOLUNTARY AGREEMENTS ABOUT CHILD MAINTENANCE**

**3.2.1 Please provide information on voluntary agreements: are lawyers, agencies or other organisations involved in mediating or helping to negotiate voluntary child maintenance agreements? If so, please explain the processes. Are there any formal guidelines on deciding the amount?**

Parents are allowed to make voluntary agreements completely on their own, that means they are free to arrange amounts of maintenance without the involvement of lawyers, agencies, other organisations or courts. But in practice many parents do seek the help of lawyers and the help of the Youth Welfare Office. Lawyers and the Youth Welfare Office are using the 'support tables' used by the courts for calculating the amount of child maintenance. Parents too can make use of this 'support tables' to calculate the amount of child maintenance, which in practice they very often do.

**3.2.2 What happens if parents attempt to reach a voluntary agreement but are unable to do so?**

If parents can not reach a voluntary agreement, then they may wish to seek help from a lawyer or from the Youth Welfare Office (Jugendamt). If this fails too, one parent (usually the one with care) can still seek for a court decision.

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## **3.3 COURT DETERMINATION OF CHILD MAINTENANCE**

*This section seeks detailed information about child maintenance determined by Courts. If Courts are not involved in determination of maintenance in your country, please go on to the section on agency determination (after question 3.4.4). If courts are involved, please provide copies of formulae, standards, schedules, tables or guidelines as appropriate in addition to answering the questions below. If the Court uses discretion to address any of the questions below, please discuss the criteria that are typically taken into account. As you answer questions in this section, please remember that we are interested in three groups of parents (separated married parents, separated cohabitantes, and parents who have never lived together).*

**3.3.1 Please explain how lawyers, agencies or organisations are involved in mediating, supporting or helping parents involved in Court decisions about regular child maintenance. Does this differ for separated married parents, separated cohabitantes, and parents who have never lived together?**

### 3.3.2 How would you describe the main method of Court determination of the amount of maintenance on the following continuum:

- Full discretion  
 Mostly discretion, but with informal guidelines  
 Formal guidelines  
 Rules/rigid formulae

Over time the German courts have developed their own so called 'support tables' (most famous one is the one from the Oberlandesgericht Düsseldorf called 'Duesseldorfer Tabelle') that are used to calculate and determine the amount of child maintenance. These tables could be described as rather formal guidelines. But, courts still can use their discretion to take account of individual circumstances.

**If more than one method is used, please describe the circumstances that could lead to different methods.**

**Please report any differences between separated married parents, separated cohabitants, and parents who have not lived together.**

With the Child Law Reform Act that entered into force in 1998 there are no differences any more between separated married parents, separated cohabitants, and parents who have not lived together.

### 3.3.3 Is there a minimum amount of maintenance required?

- No  
 Yes. How much? What are the circumstances in which it is used?

Yes, because:

There is a standard amount ('Regelbeträge') that is sometimes referred to as a kind of minimum amount of child maintenance. These standard amounts vary with the age of the child in question.

0 – 5 years: 204 €  
 6 – 11 years: 247 €  
 12 – 17 years: 291 €

Normally it is expected that the non-resident parent will pay at least this standard amount ('Regelbetrag'). It should be noted, however, that the actual minimum income is said to be about 1.35 times the standard amount ('Regelbetrag'). However, if the non-resident parent pays only the standard amount the child in question would still receive this minimum income because then none of the child allowance would be accounted for the non-resident parent and deducted from the maintenance obligation (see also section 5, the discussion on child allowance).

No, because:

A certain amount of income is always reserved for the self-maintenance of the non-resident parent ('Selbstbehalt'). A non-resident parent is obligated to fulfil his (or her) maintenance obligations, but only insofar as he (or she) is still able to maintain himself (or herself), even if this means that he (or she) will not fully fulfil his (or her) maintenance obligations. At the moment the amount of self-maintenance is 890 € in the case of an employed parent, 770 € in the case of a non-employed parent.

That means that there can be situations, especially if there are more than one or two minor children that are entitled to child maintenance, where the income of the non-resident parent is not enough to cover the self-maintenance of the non-resident parent and to pay the standard amount of child maintenance (so called 'Mangelfall'). In such cases the self-maintenance of the non-resident parent has the priority and the amount of child maintenance obligation can be below the standard amount

(than the available part of the income would be shared equally between all minor children). But, the law states that the non-resident parent has to do everything possible to earn enough money to fulfil the maintenance entitlements of his minor children ('so called 'gesteigerte Erwerbsobliegenheit'). That means that the court can demand that the non-resident parent has to find a way to earn enough money to be able to pay at least the standard amount (changing the job, work more hours, changing the living place to move to a place where the nrp can find a better-paid job and so on). But, such decisions are up to the courts discretions and depend, of course, on the individual circumstances. But, as has been said, there can be situations where the actual obligation will be below the standard amount. (If the child in question is below the age of 12 the parent with care could apply for advance maintenance payments. See also section 4.4).

**If there is a maximum, please also provide information on its level and the circumstances in which it is used.**

In principle there is no maximum amount of maintenance. (But if parents want to make use of the simplified procedure the maximum claim for maintenance is 1.5 times of the standard amount ('Regelbetrag'))

**3.3.4 These questions deal with how the Court takes account of the non-resident parent's resources in determining whether there is a child maintenance obligation and its amount.**

**A. How much of the non-resident parent's earnings are considered?**

- All**  
 **Some (explain)**  
 **None (go to 3.3.4 C)**

**B. If some or all of the non-resident parents earnings are considered, is this based on gross or net earnings?**

- Gross**  
 **Net (What is deducted?)**

Usually the following expenses are deducted:

- Taxes
- Health care contributions
- Unemployment contributions
- Social Security contributions (old age insurance)
- Employment and work related expenses
- Driving and transport costs (if they are employment and/or work related)
- Child care related expenses (if the use of child care is necessary to fulfil work/job obligations)
- Childrens education related expenses
- Debt related expenses (interest and repayment) (It should be noted, however, that the courts willingness to accept such expenses is rather limited, for obvious reasons. In extreme cases a consumer insolvency procedure will be the solution. But, this kind of problems are up to the courts discretion.)
- Illness related expenses

**C. Are other sources of income (for example, benefit income, asset income, etc.) of the non-resident parent considered?**

- All ignored  
 All considered  
 Some ignored, some considered. Which ones?

**D. Are the non-resident parent's basic living expenses taken into account?**

- No  
 Only in certain circumstances. Please describe the circumstances in which this would occur and the way in which it affects the obligation.  
 Yes. Please describe the way in which it affects the obligation.

A certain amount of income is always reserved for the self-maintenance of the non-resident parent ('Selbstbehalt'). A non-resident parent is obligated to fulfil his (or her) maintenance obligations, but only insofar as he (or she) is still able to maintain himself (or herself), even if this means that he (or she) will not fully fulfil his (or her) maintenance obligations. At the moment the amount of self-maintenance is 890 € for an employed parent, 770 € for a non-employed parent.

**E. Are the non-resident parent's other personal expenses considered? (For example, work expenses, sickness/health expenses). In what type of circumstances? Are debts considered?**

See the answer to 3.3.4 B.

**How?**

See the answer to 3.3.4 B.

**F. Are any allowances made for expenses involved in maintaining a relationship with the child? (For example, consider transportation, housing, etc.) How are these expenses considered?**

Expenses involved in maintaining a relationship with the child are usually not considered.

### **3.3.5 The following questions deal with how the Court takes account of the non-resident parent's family relationships in determining whether there is an obligation and its amount.**

**A. Is the obligation affected by whether the non-resident parent has a new partner with whom he lives? How does it affect the obligation? Do a new partner's resources (income) matter? How? Does a new partner's own child (the non-resident parent's stepchild) matter to the obligation? How?**

As the non-resident parent is not married to his new partner, she is not entitled to spouse maintenance. It does not affect the obligation.

As the non-resident parent is not the legal father of this child, the child is not entitled to maintenance from the npr. Therefore it does not matter to the obligation.

**B. Is the obligation affected by whether the non-resident parent had prior children? In what way?**

It depends on the age of this children. If this are minor children, they are entitled to maintenance too. As this affects the non-resident parents financial potential it could lower the amount of

obligation for the child in question.

**C. Is the obligation to the children affected by whether the non-resident parent has a new child that he lives with? In what way?**

As it is a new child, it has to be a minor child, that is entitled to maintenance too. As this affects the non-resident parents financial potential it would likely lower the amount of maintenance.

**D. Is the obligation to the children affected by whether the non-resident parent has a new child that he does not live with? In what way?**

As it is a new child, it has to be a minor child, that is entitled to maintenance too. As this affects the non-resident parents financial potential it would likely lower the amount of maintenance.

**3.3.6 These questions deal with how the Court takes account of the parent with care's resources in determining whether there is an obligation and its amount.**

**A. How much of the parent with care's earnings are considered?**

- All  
 Some (explain)  
 None (go to 3.3.6 C)

Usually the parent with care's earnings are not considered because the parent with care is not obliged to pay child maintenance. The parent with care is expected to fulfil their (or his) obligation in kind in the form of care, provision and accomodation.

**B. If some or all of the parent with care's earnings are considered, is this based on gross or net earnings?**

- Gross  
 Net (What is deducted?)

**C. Are other sources of income (for example, benefit income, asset income, etc.) of the parent with care considered?**

- All ignored  
 All considered  
 Some ignored, some considered. Which ones?

See also the comment to 3.3.6 A.

**D. Are the parent with care's basic living expenses taken into account?**

- No  
 Only in certain circumstances. Please describe the circumstances in which this would occur and the way in which it affects the obligation.  
 Yes. Please describe the way it which it affects the obligation.

**E. Are the parent with care's other personal expenses considered? (For example, work expenses, sickness/health expenses). In what type of circumstances? Are debts considered? How?**

If the parent with care is not obliged to pay child maintenance for the child in question, which is usually the case, there is no need to consider such personal expenses of the

parent with care.

**3.3.7 These questions deal with how the Court takes account of the parent with care's family relationships in determining whether there is an obligation and its amount.**

- A. Is the obligation affected by whether the parent with care has a new partner? How is the obligation affected? Do a new partner's resources (income) matter? How? Does a new partner's own child (the parent with care's stepchild) matter to the obligation? How?**

No, the new partner of the parent with care would not affect the obligation.

No, the stepchild of the parent with care would not affect the obligation.

- B. Is the obligation affected by whether the parent with care had children prior to this relationship? In what way?**

No, this would not affect the obligation.

- C. Is the obligation affected by whether the parent with care has a new child that she lives with? In what way?**

No, this would not affect the obligation.

**3.3.8 These questions deal with how the Court takes into account the amount of time the non-resident parent spends with the child in determining whether there is an obligation and its amount.**

- A. If a child will spend approximately equal time living with each parent, how would this affect the maintenance obligation?**

If the child spends equal time with each parent, the non-resident parent would also, like the parent with care, fulfil part of his maintenance obligation in kind in the form of care, provision and accomodation. In such a case the parent with care would be obliged to pay child maintenance too. The income of both parents would need to be taken into account to determine how much child maintenance each of the parents would have to pay, how the amount of child maintenance would have to be shared between the two parents.

- B. If a child will not spend equal time living with each parent, would the amount of time spent with the non-resident parent affect whether there is an obligation and its amount? How?**

It would depend on the actual amount of time spent with the non-resident parent. Normally it is assumed that the parent with care is fulfilling his (or her) maintenance obligations in kind in form of care, provision and accomodation and the non-resident parent is fulfilling his (or her) maintenance obligations in form of cash. Regular visits with the non-resident parent normally do not count as care. But, if the child spends so much time at the home of the non-resident parent that it can be said that the non-resident parent is also fulfilling parts of his maintenance obligations in kind in the form of care and so, it might affect the amount of the obligation. But, this kind of questions/decisions are up to the courts discretion.

**3.3.9 These questions deal with the way the obligation relates to characteristics of the child/children and special expenses for them in determining whether there is an obligation and its amount.**

**A. Does the child's age affect the amount of the obligation? If yes, what are the age groups? Do obligations increase or decrease with age?**

The child's age affect the amount of the obligation. Obligations increase with the age of the child. There are three age groups. The corresponding standard amounts ('Regelbeträge') show how obligations are increasing with the age of the child:

0 – 5 years: 204 €  
6 – 11 years: 247 €  
12 – 17 years: 291 €

**B. Does the number of children affect the amount of the obligation? How?**

Given that all this children are minor children and are entitled to child maintenance, the number of children would affect the obligation. As the non-resident parent would have to pay the same amount of child maintenance for every child (because every minor child has the same right to maintenance from the non-resident parent), it usually would lower the amount of the obligation for the child in question.

**C. Is there a minimum desirable amount set per child?**

No. (See also the answer to question 3.3.3)

**D. What other characteristics of the child/children can affect the amount? (An example may be a child with a disability).**

A disability of the child could affect the amount of the obligation if this disability leads to special expenses (transport costs for example). But, this special expenses would need to be proven and their necessity would be judged by the court. If such special expenses are necessary they would rise the amount of the obligation.

**E. What expenses for children can affect the amount of the obligation? (For example, child care expenses, school expenses, special health expenses, etc.)**

There can be special expenses that affect the amount of obligation. But if such special expenses are necessary and will have an affect on the amount of obligation are up to the courts discretion.

**3.3.10 These questions deal with the way the obligation is related to other financial circumstances of the parents. (Please note that we are only interested in these issues as they relate to child maintenance.)**

**A. Please explain how the Court treats owner-occupied housing owned by parents, and other assets, such as land and vehicles, in making decisions about regular child maintenance.**

For owner-occupied housing a rental value needs to be computed that will be added to the income of the non-resident parent.

About other assets: Asset income (like income from interests, divididends and income from rents) is added to the income of the non-resident parent. How the court treats the asset by itself is up to the court. It is possible that the non-resident parent has to use parts of his asset to fulfil regular child maintenance obligations, but this depends on the individual circumstances and has to be decided by the court (courts discretion).

**B. Please explain how the Court treats other financial transactions and settlements**

**that may be made in making decisions about regular child maintenance. We include here:**

- **lump sum payments**

Lump sum payments are taken into account when calculating the income of the non-resident parent.

- **previous voluntary child maintenance payments**

Previous voluntary child maintenance payments will not be taken into account. Only the actual financial potential of the non-resident parent and the actual needs and entitlements of the child in question will be considered.

- **spouse maintenance (alimony) or other financial transfers to ex-partners**

Spouse maintenance will only taken into account when the non-resident parent is obliged to pay such maintenance. As of now child maintenance for minor children and spouse maintenance for former spouses share the same priority, that means spouse maintenance might lower the obligation in the individual case. (But this will change next year. Then maintenance for minor children will have higher priority than spouse maintenance for former spouses).

- **transfer of pension rights**

Transfer of pension rights (from whom to whom?) have nothing to do with the actual financial potential of the non-resident parent and the actual needs and entitlements of the child, therefore they will usually not taken into account.

As the court can use his discretion to take account of individual circumstances it is not really possible to give a general explanation of how the 'court treats other financial transactions and settlements'.

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### 3.4 PROBLEMS AND REVISIONS FOR COURT DETERMINATIONS

**3.4.1 Please discuss any problems that arise in gathering information necessary for the Court to determine maintenance, and how such problems are dealt with.**

**3.4.2 Approximately how long does it usually take for the Court to make the financial decisions about child maintenance?**

Somewhere between 1 and 12 months.

**3.4.3 When does obligation for and entitlement to Court-determined child maintenance end for divorced and separated parents and their children?**

**Please explain with reference to:**

- **child's age/education level**

entitlement usually ends when the child reaches the age 18, or at the age 21 if the child still lives with the parent with care and is in full time education

- **marriage/cohabitation of child**

cohabitation does not end entitlement

marriage of the child would end entitlement, because then the child would be entitled to spouse maintenance

- **any other characteristics of child**

not applicable

- **cohabitation/remarriage of parent with care**

not applicable

- **cohabitation/remarriage of non-resident parent**

not applicable

- **any other characteristics of either parent.**

not applicable

### 3.4.4 These questions deal with revisions to the amount due.

- A. Does the Court do an automatic adjustment of existing obligations? If so, what adjustment mechanism is used? (An example would be updating annually to take account of inflation.)**

The Court does not do an automatic adjustment of existing obligations. However, with the law on child maintenance (Kindersunterhaltsgesetz) that came into force in 1998 the dynamic maintenance ('dynamischer Unterhalt') has been introduced. Since then it is possible to determine the amount of maintenance as percentages of the standard amounts ('Regelbeträge'). As this standard amounts gets adjusted every two years in line with the index used for pension rates, all dynamic obligations will get adjusted every two years.

- B. If there is not an automatic adjustment, is there a regular review? How often? What criteria are used to determine if the obligation should be changed?**

There is no regular review. However, the non-resident parent is obliged to inform the parent with care at least every two years about his income situation. If there is a significant change in the income situation of the nrp the pwc can ask for an adjustment. Parents then can try to reach a voluntary agreement about an adjustment, or they can try to achieve an agreement about an adjustment with the help of a lawyer or under the advise of the Youth Welfare Office. Or they can apply to the court for an adjustment order.

But the fact that the first agreement was a court-based agreement does not mean that every adjustment needs to be decided by the court.

The criteria used to determine if the obligation should be changed would be the same criteria that have been used to determine the amount of child maintenance in the first place.

- C. Can all parents (parents with care and non-resident parents) request an adjustment? If not, are there any types of parents who can? What factors are considered in whether an adjustment is made?**

All parents (pwc and nrp) can request an adjustment. If for example there is a significant negative change in the financial potential of the non-resident parent, the nrp can request an adjustment.

The factors considered in whether an adjustment is made would be the same factors as for the determination of the amount of child maintenance in the first place.

## 3.5 AGENCY DETERMINATION OF CHILD MAINTENANCE

*This section seeks detailed information about child maintenance determined by agencies or organisations other than the Court. In some countries there are no such agencies involved in the determination of child maintenance liabilities and entitlements, because such matters are handled solely by the Court. If this applies to your country, please go straight on to Question 3.7.1. If agencies are involved, please provide copies of formulae, standards, schedules, tables or guidelines as appropriate in addition to answering the questions below. If the agency uses discretion to address any of the questions below, please discuss the criteria that are typically taken into account. As you answer questions in this section, please remember that we are interested in three groups of parents (separated married parents, separated cohabitants, and parents who have never lived together).*

- 3.5.1 Please explain how lawyers, agencies or organisations are involved in mediating, supporting or helping parents involved in Agency decisions about regular child maintenance. Does this differ for separated married parents, separated cohabitants, and parents who have**

**never lived together?**

As the Youth Welfare Office is mainly using the 'support tables' (that are developed and used by the courts) to calculate the amount of child maintenance there is no use in answering this questions again. It would only produce the same answers as the same basic logic is applied. Therefore the followong questions are intentionally left blank.

**3.5.2 How would you describe the main method of Agency determination of the amount of maintenance on the following continuum:**

- Full discretion
- Mostly discretion, but with informal guidelines
- Formal guidelines
- Rules/rigid formulae

**If more than one method is used, please describe the circumstances that could lead to different methods.**

intentionally left blank

**Please report any differences between separated married parents, separated cohabittees, and parents who have not lived together.**

intentionally left blank

**3.5.3 Is there a minimum amount of maintenance required?**

- No
- Yes. How much? What are the circumstances in which it is used?

intentionally left blank

**If there is a maximum, please also provide information on its level and the circumstances in which it is used.**

intentionally left blank

**3.5.4 These questions deal with how the Agency takes account of the non-resident parent's resources in determining whether there is a child maintenance obligation and its amount.**

**A. How much of the non-resident parent's earnings are considered?**

- All
- Some (explain)
- None (go to 3.5.4 C)

intentionally left blank

**B. If some or all of the non-resident parents earnings are considered, is this based on gross or net earnings?**

- Gross
- Net (What is deducted?)

intentionally left blank

**C. Are other sources of income (for example, benefit income, asset income, etc.) of the non-resident parent considered?**

- All ignored
- All considered
- Some ignored, some considered. Which ones?

intentionally left blank

**D. Are the non-resident parent's basic living expenses taken into account?**

- No
- Only in certain circumstances. Please describe the circumstances in which this would occur and the way in which it affects the obligation.
- Yes. Please describe the way in which it affects the obligation.

intentionally left blank

**E. Are the non-resident parent's other personal expenses considered? (For example, work expenses, sickness/health expenses). In what type of circumstances? Are debts considered?**

intentionally left blank

How?

intentionally left blank

**F. Are any allowances made for expenses involved in maintaining a relationship with the child? (For example, consider transportation, housing, etc.) How are these expenses considered?**

intentionally left blank

**3.5.5 The following questions deal with how the Agency takes account of the non-resident parent's family relationships in determining whether there is an obligation and its amount.**

**A. Is the obligation affected by whether the non-resident parent has a new partner with whom he lives? How does it affect the obligation? Do a new partner's resources (income) matter? How? Does a new partner's own child (the non-resident parent's stepchild) matter to the obligation? How?**

intentionally left blank

**B. Is the obligation affected by whether the non-resident parent had prior children? In what way?**

intentionally left blank

**C. Is the obligation to the children affected by whether the non-resident parent has a new child that he lives with? In what way?**

intentionally left blank

- D. Is the obligation to the children affected by whether the non-resident parent has a new child that he does not live with? In what way?

**3.5.6** These questions deal with how the Agency takes account of the parent with care's resources in determining whether there is an obligation and its amount.

- A. How much of the parent with care's earnings are considered?

- All  
 Some (explain)  
 None (go to 3.5.6 C)

intentionally left blank

- B. If some or all of the parent with care's earnings are considered, is this based on gross or net earnings?

- Gross  
 Net (What is deducted?)

intentionally left blank

- C. Are other sources of income (for example, benefit income, asset income, etc.) of the parent with care considered?

- All ignored  
 All considered  
 Some ignored, some considered. Which ones?

intentionally left blank

- D. Are the parent with care's basic living expenses taken into account?

- No  
 Only in certain circumstances. Please describe the circumstances in which this would occur and the way in which it affects the obligation.  
 Yes. Please describe the way in which it affects the obligation.

intentionally left blank

- E. Are the parent with care's other personal expenses considered? (For example, work expenses, sickness/health expenses). In what type of circumstances? Are debts considered? How?

intentionally left blank

**3.5.7** These questions deal with how the Agency takes account of the parent with care's family relationships in determining whether there is an obligation and its amount.

- A. Is the obligation affected by whether the parent with care has a new partner? How is the obligation affected? Do a new partner's resources (income) matter? How? Does a new partner's own child (the parent with care's stepchild) matter to the obligation? How?

intentionally left blank

- B. Is the obligation affected by whether the parent with care had children prior to this relationship? In what way?**

intentionally left blank

- C. Is the obligation affected by whether the parent with care has a new child that she lives with? In what way?**

intentionally left blank

**3.5.8** These questions deal with how the Agency takes into account the amount of time the non-resident parent spends with the child in determining whether there is an obligation and its amount.

- A. If a child will spend approximately equal time living with each parent, how would this affect the maintenance obligation?**

intentionally left blank

- B. If a child will not spend equal time living with each parent, would the amount of time spent with the non-resident parent affect whether there is an obligation and its amount? How?**

intentionally left blank

**3.5.9** These questions deal with the way the obligation relates to characteristics of the child/children and special expenses for them in determining whether there is an obligation and its amount.

- A. Does the child's age affect the amount of obligation? If yes, what are the age groups? Do obligations increase or decrease with age?**

intentionally left blank

- B. Does the number of children affect the amount of obligation? How?**

intentionally left blank

- C. Is there a minimum desirable amount set per child?**

intentionally left blank

- D. What other characteristics of the child/children can affect the amount? (An example may be a child with a disability).**

intentionally left blank

- E. What expenses for children can affect the amount of the obligation? (For example, child care expenses, school expenses, special health expenses, etc.)**

intentionally left blank

**3.5.10** These questions deal with the way the obligation is related to other financial circumstances of the parents. (Please note that we are only interested in these issues as they relate to child maintenance.)

- A. Please explain how the Agency treats owner-occupied housing owned by parents, and other assets, such as land and vehicles, in making decisions about regular child maintenance.

intentionally left blank

- B. Please explain how the Agency treats other financial transactions and settlements that may be made in making decisions about regular child maintenance. We include here:

- lump sum payments
- previous voluntary child maintenance payments
- spouse maintenance (alimony) or other financial transfers to ex-partners
- transfer of pension rights.

intentionally left blank

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### **3.6 PROBLEMS AND REVISIONS FOR AGENCY DETERMINATIONS**

**3.6.1** Please discuss any problems that arise in gathering information necessary for the Agency to determine maintenance, and how such problems are dealt with.

intentionally left blank

**3.6.2** Approximately how long does it usually take for the Agency to make the financial decisions about child maintenance?

intentionally left blank

**3.6.3** Please explain any circumstances in which Agency-determined child maintenance obligations are overridden by other legal requirements.

intentionally left blank

**3.6.4** When does liability for and entitlement to Agency-determined child maintenance end for divorced and separated parents and their children?

Please explain with reference to:

- child's age/education level
- marriage/cohabitation of child
- any other characteristics of child
- cohabitation/remarriage of parent with care
- cohabitation/remarriage of non-resident parent
- any other characteristics of either parent.

intentionally left blank

### 3.6.5 These questions deal with revisions to the amount due.

- A. Does the Agency do an automatic adjustment of existing obligations? If so, what adjustment mechanism is used? (An example would be updating annually to take account of inflation.)

intentionally left blank

- B. If there is not an automatic adjustment, is there a regular review? How often? What criteria are used to determine if the obligation should be changed?

intentionally left blank

- C. Can all parents (parents with care and non-resident parents) request an adjustment? If not, are there any types of parents who can? What factors are considered in whether an adjustment is made?

intentionally left blank

*This ends the sections of the questionnaire that have detailed questions on the way maintenance amounts are determined in voluntary, Court-based, and agency-based arrangements. The final section of this part asks broader questions.*

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## 3.7 REVIEW AND SUMMARY

**3.7.1 Please review all your answers in Part Three, “The Determination of Child Maintenance Due.” Please summarize the key differences in the ways in which separated married parents, separated cohabiters, and parents who have never lived together are treated differently. What is the rationale for these differences in treatment?**

The main difference lies in the establishment of legal paternity. While with married parents the husband becomes automatically the legal father, with unmarried parents (whether cohabiting or not) paternity always needs to be established.

**3.7.2 What are the perceived advantages associated with voluntary agreements about child maintenance, and by/for whom are these perceived? What are the perceived disadvantages and problems, and by/for whom?**

One disadvantage that is associated with voluntary agreements about child maintenance that are not authenticated is that such agreements are not easily legally enforceable. Of course, this is not a problem as long as the non-resident parent is paying the full amount of child maintenance in time. But if the non-resident parent does not fulfil his obligations (in time) the parent with care would have to apply to the court to get a legally enforceable court order.

**3.7.3 What are the perceived advantages associated with Court-based agreements about child maintenance, and by/for whom are these perceived? What are the perceived disadvantages, and by/for whom?**

The main disadvantages of court-based agreements would be the amount of time and costs involved. Also, in the German system at the end there is no real reason to apply for a court decision, because with the well-known, widely used guidelines of the courts an agreement can be reached that would not be far away from a court's decision.

**3.7.4 What are the perceived advantages associated with Agency-based agreements about child maintenance, and by/for whom are these perceived? What are the perceived disadvantages, and by/for whom?**

Agreements that are made under the advice of the Youth Welfare Office will get authentication from the Youth Welfare Office and are, in contrast to voluntary agreements, therefore legally enforceable.

**3.7.5 Please comment on the way that voluntary agreements, Court agreements and Agency agreements interact. What happens if later a voluntary agreement breaks down? Can the parent with care seek assistance from the Court or Agency? Would they recalculate the amount of the obligation?**

Of course, if a voluntary agreement breaks down the parent with care can seek help from the Youth Welfare Office and/or the court.

## **PART FOUR: COLLECTION, PAYMENT AND ENFORCEMENT OF CHILD MAINTENANCE**

*This part of the questionnaire is concerned with the way in which child maintenance monies are transferred from the non-resident parent to the parent with care and/or child. For some people, this may be achieved entirely by their own arrangements, including the direct transference of monies from non-resident parent to the parent with care, or arrangements through a bank. For others, transfer of monies may involve an intermediary (for example, a collecting agency), which has responsibility for receiving child maintenance from non-resident parents, and forwarding payments to parents with care/children. We seek information on collection and forwarding, non-payment, and guaranteed or advance payment schemes.*

### **4.1 DIRECT ARRANGEMENTS FOR COLLECTING MAINTENANCE**

**4.1.1 Under what circumstances may non-resident parents choose to pay child maintenance directly? We mean direct transfers of money from the non-resident parent to the parent with care or a private bank transaction.**

Direct payments of child maintenance are the usual way of paying child maintenance in Germany. There are no special circumstances around such direct payments.

**4.1.2 Are these direct payments monitored, and if so, how?**

No, direct payments from the non-resident parent to the parent with care are usually not monitored.

**4.1.3 If direct payments are not made, can parents with care seek enforcement of payment? How? What steps would occur?**

If direct payments are not made, parents with care can seek enforcement of payment. Steps to take depend on the type of child maintenance agreement the parent with care has with the non-resident parent.

If the parent with care has a voluntary agreement with the non-resident parent that is not authenticated by a notary, by the court or by the Youth Welfare Office, she (or he) would have to apply to the court to get a court order that is legally enforceable (For doing this the parent with care can seek the advice and support of the Youth Welfare Office or, of course, the help of a lawyer).

If the parent with care already has a child maintenance agreement that is legally enforceable (like an agreement that is authenticated by the Youth Welfare Office or a court order), the parent with care can apply to the court for the enforcement of the obligation (very often it means seize earnings).

The parent with care can ask the local Youth Welfare Office to take the legal steps in the interest and behalf of the child.

**4.1.4 Please discuss the perceived advantages of direct payment arrangements, and the perceived problems.**

### **4.2 MEDIATED ARRANGEMENTS FOR COLLECTING MAINTENANCE**

**4.2.1 Is there an organisation/agency that has primary responsibility for collecting and forwarding child maintenance? Which organisation? If this is a different organisation than the agency that assesses maintenance, please provide information on its functions.**

There is no organisation/agency that has primary responsibility for collecting and forwarding child

maintenance.

**4.2.2 Please provide information about the administrative and procedural arrangements for collecting and transferring maintenance. If you have more than one scheme, please deal with these separately. Please explain any difference in arrangements for different groups of parents (separated married parents, separated cohabiters and parents who have never lived together). Please explain any differences for whether the amount was set voluntarily, through a Court, or through an Agency.**

intentionally left blank

**4.2.3 Please describe any types of circumstances in which payments are automatically withheld from wages (that is, prior to any problem with non-payment).**

Do not know of any types of circumstances in which this would be possible, at least not prior to any problems with non-payment.

**4.2.4 In Section 4.4 below we ask for information on schemes that forward maintenance due in advance of collection. Other than these schemes, what is the usual timescale for delivering payments to parents with care/children?**

For direct payments from the non-resident parent to the parent with care there is the following, simple rule: Child maintenance has to be paid on a monthly base. It has to be paid at the first day of the month for the ongoing month.

**4.2.5 What are the perceived advantages of your collection and forwarding scheme(s), and what are the main problems?**

intentionally left blank

### **4.3 NON-COMPLIANCE**

**4.3.1 For parents with mediated arrangements for collecting and transferring maintenance, we are interested in what happens when non-resident parents do not pay the amount due. Which of the following could happen?**

- Attachment of earnings
- Deductions from bank accounts/savings/pensions
- Deductions from benefits
- Recovery through tax
- Seizing and selling assets
- Driving licenses revoked
- Passport confiscation
- Criminal prosecution
- Imprisonment
- Interest charged on debt
- Other

**4.3.2 Of the interventions marked in 4.3.1, which are most likely? Please comment on whether these typically occur in a particular sequence, that is, differentiate between any that**

are routinely used at the first instance of non-payment and those only used for persistent non-payment. Finally, please comment on the timing of collection interventions; how soon after non-payment would something happen? (If different types of cases have different steps or different timing, please explain.)

**4.3.3** When parents with care and their children do not receive the child maintenance due to them as a result of non-compliance by non-resident parents, what steps could the parent with care take? Who would they complain to? What happens when a complaint is made? (Arrangements by which child maintenance due (or some part of it) is guaranteed by the state are covered in the next section, so do not need to be covered here.)

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#### **4.4 GUARANTEED MAINTENANCE PROGRAMS**

**4.4.1** We are specially interested in schemes which forward maintenance due to the parent with care/child in advance of collection from the non-resident parent, thus guaranteeing that something is received. (We do not include here general social assistance programs available to all low-income parents.) Does your country have such a guaranteed maintenance program?

Yes (continue)

No (go to Part Five)

Yes, in Germany there is such kind of program. It is called the 'Unterhaltsvorschußkasse' and is a system for advance payments of maintenance.

**4.4.2** Please describe eligibility for the guaranteed maintenance program. For example, are all parents with care eligible, or only those in which non-payment has occurred? Is there an income test? Is this available only for those with certain court or agency agreements, or can those with voluntary agreements also participate?

Advance payments can be made for children up to the age of 12, for a maximum duration of 72 months. If the child reaches the age of 12 no advance payments can be made anymore, no matter if the maximum duration of 72 months has been reached or not.

Advance payments can be made if the non-resident parent does not, or not regularly pay the standard amount of child maintenance ('Regelbetrag'). Advance maintenance payments can not be made, if the parent with care refuses to give informations about the non-resident parent. Payments can also not be made, if the parent with care refuses to co-operate in the determination of paternity or the whereabouts of the non-resident parent. Advance payments can also not be made, if the parent with care is living together with the other parent of the child (the nrp) or if the parent with care is married and living together with another partner.

There is no income test. The type of maintenance agreement with the non-resident parent does not play a role with regard to eligibility for the advance maintenance program.

**4.4.3** Please describe the amount guaranteed. Is this a proportion of the amount owed or a flat amount? Is there a minimum or a maximum? Does the amount vary across parents? Is the amount ever adjusted (for inflation or for changes in individual situations)? Under what circumstances is it adjusted?

The amount is not a proportion of the amount owed and does not vary across parents. The amount is calculated on the base of the standard amount of child support ('Regelbeträge'). From this standard amount half of the child allowance gets deducted:

From 1. July 2005, the amounts are:

West-Germany

- children below the age of 6: 127 €
- children above the age of 5, but below the age of 12: 170 €

East-Germany

- children below the age of 6: 111 €
- children above the age of 5, but below the age of 12: 151 €

If the non-resident parent does pay some maintenance, this payments get deducted from the advance payments or will have to be paid back by the child (that means the parent with care) to the Youth Welfare Office.

The standard amount of child support ('Regelbeträge') gets adjusted every two years in line with the index used for pension rates, the amounts of advance payments get adjusted accordingly.

**4.4.4 We are interested in the interaction between the guaranteed maintenance program and other parts of your social benefits system. Is the guaranteed maintenance program intended to be an alternative to other benefits or is it intended to supplement them?**

Actually it is neither an alternative nor a supplement to other social benefits, because by itself it is an advance payment of income not a social benefit. The basic logic of interaction with other social benefits is the following: With regard to social benefits that are not need-based (like insurance based schemes like unemployment benefit I) there is no real interaction at all. There is only a direct interaction with social benefits that are need-based and related to an income test. In this context advance maintenance payments are seen/treated as an income that reduces the level of need.

**4.4.5 Please describe the administration of the program. Who administers it? Who is responsible for recovery of the amounts forwarded?**

The 'Unterhaltsvorschußkassen' are usually administered by the local Youth Welfare Office (Jugendamt). Recovery of the amounts forwarded is the responsibility of the States.

**4.4.6 What are the perceived advantage and disadvantages of the scheme?**

From the perspective of the parent with care (and the child in question) the most important disadvantages are the limited duration and the age limit with regard to the age of the child.

## PART FIVE: FINANCIAL INTERACTIONS

*This part of the questionnaire is concerned with the interactions between child maintenance amounts and other policies in your country.*

### 5.1 TREATMENT OF MAINTENANCE RECEIVED

**5.1.1 Do child maintenance payments received by the parent with care/child count as taxable income, for purposes of both central and local taxation? How? If, in your child maintenance regime, child maintenance is in the child's name (rather than the name of the parent with care), please explain how this income is dealt with for tax purposes. Does it matter if child maintenance was agreed on a voluntary basis, or determined by the Courts or Agency? How? Please also explain any differences in tax treatments which depend on the current marital status of the parent with care (whether married to a new partner or not).**

Child maintenance payments received by the parent with care do not count as taxable income. It does not matter if child maintenance was agreed on a voluntary basis, or determined by the courts or calculated by the Youth Welfare Office.

With relation to child maintenance payments and the tax treatment of child maintenance payments the current marital status of the parent with care does not matter.

**5.1.2 Do child maintenance payments received affect any social benefits of the parent with care and/or child? How? If maintenance counts as assessable income for purposes of social assistance, please explain any disregards that operate. Also, if some portion of child maintenance is retained by the government and not sent to the parent with care, please explain this as well.**

#### *Unemployment benefit I ('Arbeitslosengeld I')*

Unemployment benefit I is an insurance based benefit. Unemployment benefit I is funded from the contributions to the unemployment insurance and therefore only paid to employees who have previously worked for a certain period in employment subject to obligatory social insurance. The amount of unemployment benefit I depends on the former net income. The amount is 60% of the former net earnings for unemployed employees without children, and 67% of the former net earnings for unemployed employees with children.

A parent with care would qualify for the higher amount of benefits (67% of the former net earnings for unemployed employees with children). Child maintenance payments received do not affect unemployment benefit I.

#### *Unemployment benefit II ('Arbeitslosengeld II')*

Unemployment benefit II is a basic security benefit for job seekers. Unemployment benefit II is provided to anyone who is capable of earning but is in need of assistance and who is not entitled (anymore) to unemployment benefit I. Unemployment benefit II is funded by taxes. The amount of unemployment benefit II is needs-based. At the time of writing the monthly amount of benefit would be 345 € for the parent with care, 207 € for every child below the age of 14, 276 € for every child aged 14 and older, but below the age of 18, plus housing costs. If the parent with care is a lone parent and there is at least one child below the age of 7, an extra amount of 124 € is added.

As unemployment benefit II is a needs-based benefit, that is not related to former contributions, there is an income test. With relation to this income test child maintenance payments do count as income (like child benefit too) and will be deducted from the final benefit amount.

#### *Child allowance / Child benefit*

Child benefit is usually paid directly to the parent with care. However, a part of the child benefit is seen/treated as the share of the non-resident parent and gets usually deducted from the maintenance obligation of the non-resident parent. The size of this share (that is treated as the share of the

non-resident parent) depends on the amount of child maintenance the non-resident parent is able to pay (according to his income situation).

If the non-resident parent pays at least 1.35 times the standard amount ('Regelbetrag') 50% of the child benefit are treated as the share of the non-resident parent and get deducted from the maintenance obligation (At the time of writing 50% of the child benefit amount to 77 € for the first, second and third child, and 89.50 € for the fourth and every following child). If the non-resident parent pays less than 1.35 times the standard amount ('Regelbetrag') the share of the child benefit that is treated as the share of the non-resident parent decreases. If the non-resident parent pays only the standard amount ('Regelbetrag') the share that is treated as the share of the non-resident parent amounts to zero. If the non-resident parent pays even less than the standard amount ('Regelbetrag') this share amounts to zero too.

It should be noted, however, that the described interaction between child benefits on the one hand and the maintenance obligation of the non-resident parent on the other hand does not affect the amount of child benefit that is actually been paid to the parent with care. It only affects amount of child maintenance the non-resident parent has to pay (because the amount of child benefit that is treated as the share of the non-resident parent varies).

There is no portion of child maintenance that is retained by the government and not sent to the parent with care.

#### *Supplementary child allowance ('Kinderzuschlag')*

Parent with care can apply for supplementary child allowance if they possess either an income or property that covers their personal needs (according to the benefit amount of unemployment benefit II), but their income is not enough to cover the needs of their minor children. Parents with care can apply for supplementary child allowance if the child (children) in question is (are) living in their household and the parent with care are also receiving child allowance for the child (children). The maximum amount of supplementary child allowance is 140 € per child.

If the earned income of the parents with care exceed their personal needs (according to the level of unemployment benefit II), supplementary child allowance is reduced by seven Euro for every ten Euro which the parents earn in excess of their personal needs (according to the standards of unemployment benefit II). That means that only 70% of the earned income are taken into account.

The child's own income is also taken into account. In contrast to the earned income of the parents not only 70% but 100% of the child's own income is taken into account. With regard to supplementary child allowance child's own income includes child maintenance payments by the non-resident parent, advance child maintenance, and orphan benefits. That means child maintenance payments are taken into account (by 100%) and have the effect of reducing the supplementary child allowance.

The maximum duration for supplementary child allowance is 36 months.

#### *Advance maintenance payments ('Unterhaltsvorschuß')*

If a non-resident parent does not, or not regularly pay the standard amount of child maintenance and the child in question is below the age 12, the parent with care can apply for advance maintenance payments (see also section 4.4.2). If the non-resident parent does in fact pay some maintenance, this payments get deducted from the advance payments or will have to be paid back by the child (that means the parent with care) to the Youth Welfare Office. (The advance maintenance payment program is usually administered by the local Youth Welfare Office).

#### *Housing allowance ('Wohngeld')*

Parents with care (but not only parents with care or parents in general) who have a low income and have problems to cover their housing costs can apply for housing allowances ('Wohngeld'). Housing allowance is a benefit that works as a rent subsidy. The amount of benefit depends on the number of household members, the amount of household income, and the subsidisable amount of rent paid, or loan instalments per month within the limits of fixed amounts. Base for calculation is the gross rent (excluding heating related costs).

With relation to the income test for determining the amount of benefit child maintenance payments received by the parent with care are treated as income and are taken into account when calculating the household income.

It should be noted, however, that persons who receive either unemployment benefit II or social

assistance benefits can not apply for housing allowance, since both schemes (unemployment benefit II and social assistance) already have their own housing costs components. (Please note, that it is difficult to give numbers for the amount of benefits paid, since they also depend on regional cost level, kind and quality of the dwelling and so on.)

### **5.1.3 Do child maintenance payments received affect any tax benefit for the parent with care and child? Do they affect any other formal financial liability or entitlement for the parent with care and child?**

Do not know of any other financial liability or entitlement that might be affected.

## **5.2 TREATMENT OF MAINTENANCE PAID**

**5.2.1 How does child maintenance paid interact with the tax system, in both central and local tax regimes? Can the amount paid be deducted from income, thereby lowering tax liabilities? Does the amount paid affect any tax benefits for the non-resident parent? If there are different tax treatments according to whether the child maintenance is agreed on a voluntary basis, or determined by the Courts or Agency, please explain this. Explain any differences in tax treatments which depend on the non-resident parents' current marital status (whether married to a new partner or not).**

The amount of child maintenance paid can not be deducted from the income. There are no different tax treatments according to the type of child maintenance agreement (voluntary agreement, court-based agreement, agency-based agreement).

**5.2.2 Does child maintenance paid (or not paid) affect any social benefits of the non-resident parent?**

#### *Unemployment benefit I ('Arbeitslosengeld I')*

Unemployment benefit I is an insurance based benefit. Unemployment benefit I is funded from the contributions to the unemployment insurance and therefore only paid to employees who have previously worked for a certain period in employment subject to obligatory social insurance. The amount of unemployment benefit I depends on the former net income. The amount is 60% of the former net earnings for unemployed employees without children, and 67% of the former net earnings for unemployed employees with children. Since non-resident parents do have children they will receive the higher amount of benefit.

#### *Unemployment benefit II ('Arbeitslosengeld II')*

Unemployment benefit II is a basic security benefit for job seekers. Unemployment benefit II is provided to anyone who is capable of earning but is in need of assistance and who is not entitled (anymore) to unemployment benefit I. Unemployment benefit II is funded by taxes. The amount of unemployment benefit II is needs-based. At the time of writing the monthly amount of benefit is 345 € plus housing costs. Housing costs for a one-person-household can be around 360 €. That means that a non-resident parent receiving unemployment benefit II would usually not be obliged to pay child maintenance, because the amount of benefit is below the guaranteed self-maintenance ('Selbstbehalt') for a non-employed non-resident parent. At the time of writing the guaranteed self-maintenance ('Selbstbehalt') for a non-employed non-resident parent is 770 € in former West-Germany, and 675 € in former East-Germany.

It should be noted, however, that in such a case the parent with care could apply for advance maintenance payments ('Unterhaltsvorschuß') (see also section 4.4), under the condition that the child is below the age of 12.

*Child allowance / Child benefit*

Child benefit is usually paid directly to the parent with care. However, a part of the child benefit is seen/treated as the share of the non-resident parent and gets usually deducted from the maintenance obligation of the non-resident parent. The size of this share (that is treated as the share of the non-resident parent) depends on the amount of child maintenance the non-resident parent is able to pay (according to his income situation).

If the non-resident parent pays at least 1.35 times the standard amount ('Regelbetrag') 50% of the child benefit are treated as the share of the non-resident parent and get deducted from the maintenance obligation (At the time of writing 50% of the child benefit amount to 77 € for the first, second and third child, and 89.50 € for the fourth and every following child). If the non-resident parent pays less than 1.35 times the standard amount ('Regelbetrag') the share of the child benefit that is treated as the share of the non-resident parent decreases. If the non-resident parent pays only the standard amount ('Regelbetrag') the share that is treated as the share of the non-resident parent amounts to zero. If the non-resident parent pays even less than the standard amount ('Regelbetrag') this share amounts to zero too.

It should be noted, however, that the described interaction between child benefits on the one hand and the maintenance obligation of the non-resident parent on the other hand does not affect the amount of child benefit that is actually been paid to the parent with care. It only affects amount of child maintenance the non-resident parent has to pay (because the amount of child benefit that is treated as the share of the non-resident parent varies).

### **5.2.3 Does child maintenance paid (or not paid) affect any other formal financial liability or entitlement of the non-resident parent?**

Do not know of any other formal financial liability or entitlement that might be affected.

## PART SIX: COSTS AND QUANTITATIVE DATA ON OUTCOMES

*The first section focuses on costs of the child maintenance regime, beginning with governmental costs of any targeted child maintenance agency (if any). We then also ask you to estimate, if possible, costs for court and agencies that may deal with assessment and enforcement. The final section asks for quantitative data on outcomes that are available in your country.*

### 6.1 COSTS OF THE CHILD MAINTENANCE REGIME

**6.1.1** If your country has an agency (or more than one agency) that is primarily responsible for assessing, collecting or enforcing child maintenance, what are its administrative costs? If possible, identify any categories of costs, either by function (costs of assessment versus enforcement) or for different types of cases. Please provide information about the types of costs included and not included (for example, whether these costs are net of any fees or any amounts retained by the government). Finally, if the amount of maintenance collected per unit of administrative cost is available in your country, please provide this information here.

There is no such agency that fits the description.

**6.1.2** If your country has any child maintenance functions within the courts, please provide, if possible, estimates of the administrative costs associated with assessing, collecting or enforcing child maintenance. Note that we are interested only in the portion of court costs directly related to the assessment, collection and enforcement of child maintenance, not to divorce or separation in general.

Could not find any useful data.

**6.1.3** If your country has any child maintenance functions within an agency other than an agency primarily responsible for child maintenance, please provide, if possible, estimates of the administrative costs associated with these functions. Again, note that we are interested only in the portion of costs directly related to child maintenance, not to other benefits due to all children or even all low-income children.

Could not find any useful data.

**6.1.4** If your country has an advanced or guaranteed maintenance programme, please provide any details of costs that are available. If possible, differentiate between administrative costs and monies paid to parents with care that are not reimbursed.

It turned out very difficult to get useful quantitative data on the advance maintenance program. That might have something to do with the fact that financing for this scheme comes from a complicated mix of local, state, and federal funds.

**6.1.5** Please list any financial costs to parents that are associated with assessing, collecting, or enforcing child maintenance (for both parents with care and non-resident parents). For example, there may be legal fees associated with enforcement, fees for a mediator who assists with voluntary arrangements, fees charged to non-resident parents for forwarding child maintenance to the parent with care, or interest charged to non-resident parents who are behind in their payments. (We do not intend for you to include financial debt that parents with care incur because of non-payment.)

**6.1.6 Are there any programs that assist parents in meeting any of these costs? Please provide a short overview of these programs and any estimates of the costs of these programs.**

Most important:: The legal advice and support of the local Youth Welfare Office is free of charge.

**6.2 QUANTITATIVE DATA ON CHILD MAINTENANCE**

*In this section, please provide information on child maintenance outcomes. (Note that we will be conducting analyses of the Luxembourg Income Study, so you do not need to report these here.) We are interested in information collected by the government as part of the administrative records of courts or agencies, information that comes from household surveys that include questions on child maintenance, and information that comes from any other source. Please provide information from all sources that are available.*

**6.2.1 Please provide the percentage of parents with care who have child maintenance agreements. Of those that have agreements, what percentage of parents have voluntary agreements; what percentage have court agreements, and what percentage have agency agreements? If you can provide these answers separately for separated married parents, separated cohabitantes, and parents who have never lived together, please do so.**

In Germany around 91% of all parents with care have child maintenance agreements. For those parents with care who do have child maintenance agreements the breakdown for the types of maintenance agreements is as follows:

22% have voluntary agreements in place

36% have calculations/assessments by the Youth Welfare Office in place

24% have calculations/assessments by a lawyer in place

17% have court-based agreements in place

*Separated married parents (Parents who are still married but living apart)*

Around 78% of all separated married parents with care have child maintenance agreements. For those married separated parents with care who do have child maintenance agreements the breakdown for the types of maintenance agreements is as follows:

41% have voluntary agreements in place

13% have calculations/assessments by the Youth Welfare Office in place

42% have calculations/assessments by a lawyer in place

3% have court-based agreements in place

*Divorced parents*

Around 94% of all divorced parents with care have child maintenance agreements. For those divorced parents with care who do have child maintenance agreements the breakdown for the types of maintenance agreements is as follows:

21% have voluntary agreements in place

17% have calculations/assessments by the Youth Welfare Office in place

33% have calculations/assessments by a lawyer in place

28% have court-based agreements in place

*Separated cohabitantes*

Around 94% of all separated parents with care have child maintenance agreements. For those separated parents with care who do have child maintenance agreements the breakdown for the types of maintenance agreements is as follows:

16% have voluntary agreements in place

77% have calculations/assessments by the Youth Welfare Office in place

2% have calculations/assessments by a lawyer in place

5% have court-based agreements in place

*Parents who have never lived together*

Around 90% of all parents with care who have never lived together with the other parent have child maintenance agreements. For those parents with care who do have child maintenance agreements the breakdown for the types of maintenance agreements is as follows:

12% have voluntary agreements in place

75% have calculations/assessments by the Youth Welfare Office in place

3% have calculations/assessments by a lawyer in place

10% have court-based agreements in place

Source: forsa 2002.

**6.2.2 What is known about the main reasons a parent with care would not have an agreement?**

The main single reason for not having an agreement is simply that the agreement has not been finalized yet. For those parents with care who do not have a child maintenance agreement the breakdown by types of reasons is as follows:

25% the agreement has not been finalized yet

16% financial reasons (the non-resident parent has no paying potential)

22% parent with care did not try to reach an agreement / parent with care does not want an agreement

10% have some kind of provisional agreement with the non-resident parent

27% other reasons

Source: 2002.

**6.2.3 Please provide whatever information is available on amounts paid by non-resident parents, including the proportion paying anything, the proportion paying the full amount due, and the proportion paying part of the amount due.**

Of those parents with care who do not have a child maintenance agreement 28% report receiving maintenance payments, 71% report receiving no maintenance payments from the non-resident parent. About 73% of those pwc without an agreement who do receive payments report receiving regular payments.

Of all parents with care 69% report receiving all their due payments on time. Breakdown for types of child maintenance agreement is as follows:

88% of those pwc with a voluntary agreement (report receiving all their due payments on time)

59% of those pwc with calculations/assessments by the Youth Welfare Office (report receiving all their due payments on time)

78% of those pwc with calculations/assessments by a lawyer (report receiving all their due payments on time)

55% of those pwc with court orders (report receiving all their due payments on time)

Of all parents with care around 31% report that they do not receive all their due payments on time.

Breakdown for different variants of not receiving all their due payments on time is as follows:

15% regular payments, but not the full amount

8% unregular payments, but the full amount

7% unregular payments and also not the full amount

68% no payments at all

*Amounts of maintenance actually paid to the parent with care (all numbers excluding the child allowance share of the non-resident parent)*

13% of all pwc received maintenance payments below 85% of the standard amount ('Regelbetrag')  
9% of all pwc received maintenance payments between 85%-100% of the standard amount ('Regelbetrag')  
14% of all pwc received maintenance payments between 100%-115% of the standard amount ('Regelbetrag')  
17% of all pwc received maintenance payments between 115%-135% of the standard amount ('Regelbetrag')  
47% of all pwc received maintenance payments more than 135% of the standard amount ('Regelbetrag')

(Please note, at the time the forsa-study was conducted the standard amount was about 188 € in West-Germany)

Source: forsa 2002.

#### **6.2.4 What is known about the characteristics of the non-resident parents who are not making payments or who are paying only a portion of the amount due? What is known about reasons for non-payment?**

Of all parents with care around 31% report that they do not receive all their due payments on time. Breakdown for some interesting characteristics of the non-resident parent and the relationship between the child and the non-resident parent is as follows:

19% if the non-resident parent is employed  
68% if the non-resident parent is non-employed

53% if the non-resident parent is male  
30% if the non-resident parent is female

13% if there were many visits with the non-resident parent  
22% if there were some visits with the non-resident parent  
32% if there were very few visits with the non-resident parent  
59% if there were no visits with the non-resident parent

##### *Reasons for non-payment*

Of those pwc who do not receive all their due payments on time about 46% say that the financial situation of the non-resident parent is the main reason for non-payment. Around 42% of those pwc who do not receive all their due payments on time think that the non-resident parent simply refuses to pay. About 17% of those pwc think there are other reasons for the non-resident parent not to pay.

Source: 2002.

#### **6.2.5 Is there data available on the proportion of cases in which children spend roughly equal time with both parents? What is known about the types of cases that have this type of arrangement?**

Could not find any useful data on these topic.

#### **6.2.6 Consider parents with care who have an agreement in which child maintenance is to be paid. In what proportion are payments to be made directly (that is, directly from the non-resident parent to the parent with care, rather than through a collecting agency)?**

Could not find any useful data on these topic.

**Please provide references to any sources you consulted for this part of the questionnaire.**

## PART SEVEN: THE OVERALL CONTEXT

*In this section we examine two topics: current topics of debate and research, and your own evaluation of how well the regime works along several dimensions.*

### 7.1 TOPICS OF DEBATE AND RESEARCH

#### 7.1.1 Consider the following potential topics of research:

Generally speaking it can be said that there has been (and still is) a lack of research on the subject of child maintenance payments. (That might have something to do with the fact that child maintenance payments are highly regulated (through the guidelines and 'support tables' from the courts) and therefore the whole subject does not look very interesting at first sight.) Existing studies are more on the descriptive side, that means they are trying to present a representative picture of the situation (see for example forsa 2002). It should be mentioned that there is also a lack of microdata that could be used for studying child maintenance payments in more detail (in the form of the usual secondary analysis).

- **the impact of your child maintenance regime on relationships between the parents, and relationships of the parents with their children**

A recent representative study (forsa 2002) has shown that the probability of regular, full maintenance payments in time increases with the frequency of visits with the non-resident parent (see also the numbers given in section 6.2.4). But, of course, the direction of such relationships is not clear. For studying such relationships one would need longitudinal data, the study in question was a cross-sectional survey.

- **the impact of your child maintenance regime on 'new' relationships or marriages, or stepchildren**

Not that we are aware of.

- **the impact of child maintenance on the labour market behaviour of parents with care**

Not that we are aware of.

- **the impact of child maintenance on the labour market behaviour of non-resident parents**

Not that we are aware of.

- **(if there is a guaranteed maintenance program) the effect of guaranteed maintenance on non-resident parents payment of child maintenance**

Not that we are aware of.

- **(if some or all child maintenance is retained by the state for parents with care that receive means-tested benefits) the effect of this retention on non-resident parents payment of child maintenance?**

Not really applicable.

**On which of these topics has there been research? What are the main conclusions of this research? Are there any other main areas of research on child maintenance in your country?**

**Please provide citations of what you view as the 2-5 most important pieces of published research.**

There has been research on the economic situation of lone parents and the economic consequences of divorce and separation (see for example Andreß 2004), topics that are related to child maintenance payments.

*Three most important pieces of published research from the recent past:*

forsa. Gesellschaft für Sozialforschung und statistische Analysen mbH (2002): Unterhaltszahlungen für minderjährige Kinder in Deutschland. Schriftenreihe des Bundesministeriums für Familie, Senioren, Frauen und Jugend, Band 228, Stuttgart: W. Kohlhammer.

Andreß, Hans-Jürgen (2004): Wenn aus Liebe rote Zahlen werden. Über die wirtschaftlichen Folgen von Trennung und Scheidung, in: Informationsdienst soziale Indikatoren (ISI) 31, p.1-5.

Proksch, Roland (2002): Rechtstatsächliche Untersuchung zur Reform des Kindschaftsrechts, Köln: Bundesanzeiger Verlagsges.mbH.

**7.1.2 What are the current main topics of interest and debate about your child maintenance regime?**

The main topics of interest and debate are the following (according to our impression and understanding):

- The economic situation of children (and parents with care) that depend on child maintenance payments from non-resident parents. This surely also is an result of the difficult labour market situation and the high unemployment rates (especially in the former East-Germany where unemployment rates are much higher than in former West-Germany). Long-term unemployed employees have to apply for the new unemployment benefit II that is simply too low to fulfil any child maintenance obligations. (Of course, at the end this not a problem of the child maintenance regime per se, it is a general economic problem)
- The difficult economic situation of non-resident parents who want to start a new family but do not have the financial potential to do so or non-resident parents who already have a new, second family (with children) and are facing economic problems and financial hardships because of their maintenance obligations.

**7.1.3 Please describe any impending changes in legislation, or policy developments that are likely to affect your child maintenance regime in the coming five years.**

The Bundesregierung (Federal Government) has presented a draft for a new maintenance law. This new maintenance law still has to pass the parliament, but it is planned to get into force in April 2007. The most important changes will (likely) be the following:

- The maintenance entitlements of minor children alone will get the highest priority. As of now the maintenance entitlements of minor children have the same priority level as the maintenance entitlements of former spouses. This old rule is seen as outdated, given the increasing female labour force participation. Former wives are expected to enter the labour force and earn their living (as soon as possible). The new rule is expected to reduce the number of cases where the non-resident parent can not fully fulfil his maintenance obligations to his minor children because there are also conflicting spousal maintenance obligations ('Mangelfall').
- The maintenance law will be simplified, especially with relation to the minimum amount of maintenance payments. The old system of 'Regelbeträge' (standard amounts) and

'Regelbetragsverordnung' will be abolished. There will be a new definition of the minimum amount that is also in line with the according rules in the tax law (tax-free minimum income) and the social security law (minimum income).

- The maintenance entitlements of unmarried mothers (and fathers) with relation to care for minor children will be strengthened against the maintenance entitlements of former married, now divorced mothers (and fathers). As of now unmarried parents with care are entitled to spousal maintenance because of care for about three years, in contrast former married, now divorced parents with care are entitled to spousal maintenance because of care for about eight years. Actually it is intended to reduce the duration of possible spousal maintenance claims from former married, now divorced parents with care and bring them closer to the three years mark.

The Bundesregierung (Federal Government) also presented a draft for a new law with regard to the advance maintenance scheme. This law too still has to pass the parliament. The main important change will be that the amount of advance payments will be brought in line with the new minimum amount and therefore will be then in line with the tax-free minimum income in tax law.

**7.1.4 What are the public's attitudes towards your child maintenance regime? Please refer to any evidence for your replies.**

**7.1.5 Please describe any organised opposition in your country to the determination and enforcement of child maintenance, and the issues of contention.**

There is some kind of opposition from some fathers organisations that periodically generates media interest. Basically, their main argument is that there is some kind of imbalance with relation to the rights and the duties (financial obligations) of fathers in Germany. They say that the rights of fathers are too weak in comparison with the rights of the mothers, and too weak with relation to the financial obligations of fathers, especially unmarried fathers.

**7.2 YOUR EVALUATION OF THE CHILD MAINTENANCE REGIME**

*This section provides several criteria that one might use to evaluate the child maintenance regime as a whole. We ask for your expert assessment of areas that your regime is working well and not working well.*

**7.2.1 Please consider the following criteria that could be used to evaluate a child maintenance regime.**

- a. Maintenance is regularly provided to children and/or parents with care
- b. Children who need (or desire) maintenance have a formal entitlement
- c. Maintenance policies do not negatively influence relationships between children and their non-resident parents
- d. Those in similar circumstances are treated similarly
- e. Those who need more child maintenance, receive more
- f. Parents easily understand how amounts of maintenance are calculated
- g. Child maintenance obligations are determined promptly
- h. Parents with care feel the amount of maintenance is adequate
- i. Nonresident parents feel the amount of obligation is affordable given their costs of living
- j. The child maintenance regime is administered efficiently and effectively
- k. Non-compliance with maintenance obligations does not add a substantial amount to governmental costs

**Select one or two of these in which your assessment is that your regime is performing well. (If your assessment is that your regime works well on multiple criteria, please select the most important one or two.) In one paragraph, explain.**

b. Children who need (or desire) maintenance have a formal entitlement  
The legal situation is quite clear.

d. Those in similar circumstances are treated similarly  
Given the guidelines and 'support tables' from the courts there is not much arbitrariness involved, decisions and assessments are calculable – at least if one has understood how the system works.

**7.2.2 Select one or two of the above criteria in which your assessment is that your regime is not performing well. (If your assessment is that your regime does not work well on multiple criteria, please select the most important one or two.) In one paragraph, explain.**

f. Parents easily understand how amounts of maintenance are calculated  
There is some confusion with the way child allowances are introduced into the calculation.

**7.2.3 Is there another criteria (not listed) on which you think your regime does particularly well or is a particular problem? What? In one paragraph, explain.**

*This concludes Parts 1-7 of the questionnaire. If you have additional comments, please write them here:*

## PART EIGHT: VIGNETTES

*In these vignettes, we provide a basic situation and ask the likely outcome given the child maintenance policies in your country. We then vary a selected characteristic and ask whether the outcome would differ. We then ask you to report on what would happen if various circumstances changed over time.*

### 8.1 BASE CASE 'A': MISS FIELD AND MR HILL

*Miss Field is 25 years old and has never been married. She has a daughter, Susan, who is three months old. Miss Field lives with Susan in a small rented flat in the town centre. Miss Field has not had paid work since Susan's birth, and is claiming the social benefits available to a person in her position.*

*Susan's father, Mr Hill, is 27 years old. He has never lived with Miss Field. He lives locally and sees Miss Field and Susan quite often. He is fond of his daughter, and remains a friend of Miss Field's, although they do not want to set up a home together. He bought baby clothes and equipment when Susan was born but he makes no regular financial contribution.*

*He is unemployed but sometimes takes temporary, low-paid work. He currently depends on the out-of-work social benefits available to a person in his position. He rents a small flat. He has no other children, or major financial responsibilities. He has begun to talk recently about a serious effort to re-train, possibly in engineering.*

*Miss Field knows he has very little money. However, she feels that, in view of Mr Hill's interest in re-training, and the possibility that he will be able to earn more in the future, she thinks it might be sensible to make a formal arrangement regarding child maintenance.*

**8.1.1 Please discuss the process by which decisions about child maintenance would be made in this type of case. First, explain whether Miss Field has a free choice in deciding to seek a formal arrangement.**

- A. If she has free choice, please describe the options available to her in establishing a formal child maintenance arrangement. Which of these options would be most likely? What is the likely time-scale for a decision being reached if she decides to go forward?**

As Miss Field is not married legal paternity needs to be established. This can be done with the help of the Youth Welfare Office. For establishing legal paternity a written acknowledgement by Mr. Hill and a written consent from Miss Field is necessary. Both statements need authentication from the Youth Welfare Office.

Miss Field should seek the support and advice of the Youth Welfare Office to establish some kind of child maintenance agreement. Miss Field already knows that she has the possibility to seek help from the local Youth Welfare Office. Right after the birth of her daughter Susan she has been contacted by the Youth Welfare Office and has been offered advice and support, especially in relation to the determination of paternity and child maintenance.

- B. If she does not have free choice, please describe what happens, explaining the likely procedures and time-scale for a decision on child maintenance being reached.**

If Miss Field would receive or would like to apply for unemployment benefit II or social assistance benefit, she would not have a free choice. With need based benefits there is an income test. In the context of this income tests maintenance payments are treated and counted as income. That means

that already the entitlements to such payments are seen and treated as a potential income, she would have to use first before she can apply for benefits. That means that she would have to seek an agreement on child maintenance payments, apply for advance maintenance payments, or handle the maintenance claims over to the Arbeitsagentur (if she applies for unemployment benefit II) or the Social Assistance Office. In the last case Miss Field would receive the full benefits and the Arbeitsagentur would try to recover the paid maintenance share from Mr. Hill or Mr. Hill's parents (see below).

**Discuss the criteria considered in reaching decisions, referring to the information you have already provided in the questionnaire about guidelines or discretion.**

- The financial potential of Mr. Hill: In Germany Mr. Hill would receive so called Arbeitslosengeld II (unemployment benefit II), a kind of social assistance benefit. The amount of this benefit is below the guaranteed self-maintenance ('Selbstbehalt'), that means Mr. Hill does not have the financial potential to fulfil his child maintenance obligations.

- The financial potential of Mr. Hill's parents: German law states that relatives in direct line (children, parents, grandparents) are obliged to provide each other maintenance. If Mr. Hill is not able to provide the maintenance for his child, the parents of Mr. Hill have to provide maintenance for their grandchild (Susan), given they have the financial potential for this. As they are not the parents but the grandparents of the child in question, Mr. Hill's parents would have a higher guaranteed self-maintenance ('Selbstbehalt').

**In your account please explain what further information might be needed to determine the obligation level, and how this would be collected.**

**Please indicate what kind of problems might arise in setting an obligation, and how these might be tackled.**

- Amount of possible asset that Mr. Hill owns
- Income situation of Mr. Hill's parents
- Amount of possible asset that Susan owns

If Miss Field would seek the support of the Youth Welfare Office, the Youth Welfare Office would try to contact Mr. Hill and Mr. Hill's parents and ask for this informations.

**8.1.2 Please discuss the outcome in terms of whether there would be a formal child maintenance obligation, and if so, the amount that would be awarded. (Please provide the amount in your own currency.) It may be necessary to introduce quantitative information or new facts into your account. For example, you may need to introduce amounts of money, for rent or living expenses, in order to demonstrate the use of standard guidelines. Please use those amounts that would be typical in your country, and explain the basis for these decisions.**

Assuming that Mr. Hill's parent are willing to co-operate with the Youth Welfare Office and pay child maintenance for their grandchild (Susan), the amount would be determined by the financial situation of the parents of the child in question, in this case Mr. Hill. That means the child maintenance amount would equal the standard amount:: 204 €

**8.1.3 If an obligation for child maintenance is set, please describe how monies be collected from Mr Hill? How would the money be transferred to Miss Field or Susan (if at all)?**

If Miss Field has an agreement with Mr. Hill's parents, Mr. Hill's parents would directly pay the money to Miss Field, preferably via bank transfer. If Miss Field uses the help of the Youth Welfare Office, the maintenance payments could also be paid to the Youth Welfare Office (and then handeld over to Miss Field).

**8.1.4 If Mr Hill does not pay, what would happen?**

Mr. Hill would not have to pay. If Miss Field would reach an agreement with Mr. Hill's parents under the advice of the Youth Welfare Office, she would have an agreement that is legally enforceable. She would just have to ask the Youth Welfare Office to take the legal steps.

## 8.2 BASE CASE 'A', VARIANT 1: MR HILL HAS REGULAR EMPLOYMENT

*We would like to understand how the outcomes would change if one of the circumstances in this case were slightly different (Variant 1).*

*The situation is exactly the same as Base Case A except that at the time Miss Field pursues maintenance, Mr Hill has just completed his training course, and just gotten a job at which he earns 75% of median full-time male earnings.*

### 8.2.1 Would the maintenance obligation differ from what you reported in 8.1.2? Please explain.

The maintenance obligation would differ. Now that Mr. Hill has gotten a job he would be able to fulfil his maintenance obligations. Assuming that Mr. Hill earns around 1.300-1.500 €, the child maintenance obligation would amount to around 200 €, according to the usually used 'support tables'. Mr. Hill's parents would not be obliged to pay child maintenance for Susan because now the father can fulfil his maintenance obligations. Miss Field can ask the Youth Welfare Office for advice and support in reaching an authenticated agreement with Mr. Hill.

### 8.2.2 Would any other outcomes likely differ? Please explain.

## 8.3 BASE CASE 'A', CHANGE IN CIRCUMSTANCES 1: MR HILL FINDS EMPLOYMENT THREE YEARS LATER

*We now explore how your system would deal with a change in Mr Hill's circumstances. Return to the base case (Mr Hill is currently unemployed but is considering training), and assume the maintenance obligation has been set as you have described in 8.1.2.*

*Three years later, Mr Hill completes the training course, and accepts a job at which he earns 75% of median full-time male earnings. Miss Field feels the maintenance amount should be increased.*

### 8.3.1 Please explain the options and procedures for adjustment to the previous child maintenance arrangement. Is it likely the maintenance obligation would change? To what? Please explain.

Miss Field should seek the support of the Youth Welfare Office to reach an authenticated agreement with Mr. Hill. The amount of child maintenance would be the same as in section 8.2.1.

**8.3.2 Would any other outcomes likely differ? Please explain.**

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**8.4 BASE CASE 'A', CHANGE IN CIRCUMSTANCES 2: MISS FIELD FINDS EMPLOYMENT THREE YEARS LATER**

*We now explore how your system would deal with a change in Miss Field's circumstances. Return to the base case (Mr Hill is currently unemployed but is considering training), and assume the maintenance obligation has been set as you have described in 8.1.2.*

*Three years later, Miss Field finds employment. She begins to work part-time and earns median female wages for part-time work. Mr. Hill feels his obligation should be reduced if not eliminated, now that she is working.*

**8.4.1 Please explain the options and procedures for adjustment to the previous child maintenance arrangement. Is it likely the maintenance obligation change? To what? Please explain.**

not applicable.

**8.4.2 Would any other circumstances likely differ? Please explain**

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## 8.5 BASE CASE 'B': MR AND MRS COAST

*Mrs Coast is about to start divorce proceedings after having been married for ten years. The couple are in their early 40s, and have two children, Anne aged six years and John, aged nine years. Both children attend school.*

*Mrs Coast and the children have remained in the rented accommodation they shared when they were together, while Mr Coast has moved away to another town 100 km away where he rents a small flat.*

*Mr Coast has a secure job, and earns one-and-a-half median male full-time earnings. Mrs Coast has a part-time job, earning median female part-time earnings. There are no child care expenses.*

*Mr Coast collects both children every other weekend, and cares for them in his new home from Friday evening to Sunday evening. This involves a long journey by car (100km each way). While the children are in his home he has full financial responsibility, and has bought stocks of clothes, bedding, equipment and toys, which he keeps at his home.*

*Mrs Coast believes her husband should make significant child maintenance payments. She feels that most of the additional expenditure made by Mr Coast for the children (on clothes and toys) only benefits them when they are at his home. She finds she cannot meet her fuel and telephone bills. She welcomes the chance to formalise their financial situation, and believes it will be in her favour.*

*Mr Coast points to his additional housing expenses, his need to run a car in order to share the care of his children, and the money he already spends on their weekend stays. He does not want to be divorced, anyway, and he is bitter about what has happened. He very much wants to maintain relationships with his children, and is worried that a formal financial arrangement will be made that will leave him in financial difficulties.*

### 8.5.1 Please discuss the process by which decisions about child maintenance would be made in this type of case. First, what are the options for formalising arrangements about child maintenance, under the circumstances described above. Explain the likely procedures and timescale for reaching a decision.

Mrs. Coast could try to reach a voluntary agreement with Mr. Coast, that should be authenticated by a notary, by the court or by the Youth Welfare Office. As Mrs. Coast will have to contact a lawyer anyway (for the divorce procedure), she can also seek his help in trying to reach an agreement with Mr. Coast. If all else fails, she can apply to the family court to get a court's decision about child maintenance.

As Mrs. Coast is a lone parent with care, she could also seek the advice and support of the Youth Welfare Office ('Beistandschaft').

In any case it is highly likely that she will end up with a child maintenance agreement that is based on the usual guidelines and 'support tables' used by the courts, because lawyers and the Youth Welfare Office are using these guidelines and tables too.

### Discuss the criteria considered in reaching decisions, referring to the information you have already provided in the questionnaire about guidelines or discretion.

The relevant criteria considered for determining the amount of child maintenance would be the following:

- The financial potential of the non-resident parent: That means the income of Mr. Coast.
- The number of minor children that are entitled to child maintenance: In this case 2 minor children.
- The age of the children that are entitled to child maintenance: In this case 6 years (Anne) and 9 years (John).

- Spousal maintenance: As the youngest children is 6 years old, Mrs. Coast is not obliged to work and would therefore be entitled to spousal maintenance.

Expenses involved in maintaining a relationship with the children are usually not considered.

**In your account please explain what further information might be needed to determine the obligation level, and how this would be collected.**

If Mr. Coast has certain special expenses that affect his income situation and financial potential, like illness related expenses for example, they could be relevant for determining the obligation level. As this would be in the interest of Mr. Coast, he is the one who should provide this informations.

**Please indicate what kind of problems might arise in setting an obligation, and how these might be tackled.**

**8.5.2 Please discuss the outcome in terms of whether there would be a formal child maintenance obligation, and if so, the amount that would be awarded. As before, it may be necessary to introduce quantitative information or invent new facts or life circumstances for the couple. You may need to decide how much Mr Coast now pays to rent his new flat. Please use those situations and amounts which would be typical in your country.**

There would be a formal maintenance obligation. Assuming that Mr. Coast has a net income of around 2.500 – 2.800 €, the amount of child maintenance would be around 294 € per child (excluding the non-resident parent share of child allowance), according to the usually used ‘support tables’ (Duesseldorfer Tabelle).

Mr. Coast would also be obliged to pay spousal maintenance to Mrs. Coast.

It does not matter how much Mr. Coast now pays to rent his new flat. This kind of expenses is already included in the guaranteed self-maintenance (‘Selbstbehalt’). As Mr. Coast is employed his guaranteed self-maintenance (‘Selbstbehalt’) would amount to 890 €.

**8.5.3 If an obligation for child maintenance is set, how would monies be collected from Mr Coast? How would the money be transferred to Mrs Coast or the children?**

Mr. Coast would pay the money directly to Mrs. Coast, preferably via bank transfer. Mr. Coast has to take care that he pays every month, at the beginning of the month for the ongoing month.

**8.5.4 If Mr Coast does not pay, what would happen?**

If Mrs. Coast has a voluntary agreement with Mr. Coast that is not authenticated by a notary, by the court or the Youth Welfare Office, she would have to apply to the court to get a court order that is legally enforceable. If Mrs. Coast has an agreement with Mr. Coast that is authenticated or a court order, she can apply to the court for enforcement of payments (usually seizing earnings). Mrs. Coast can ask the Youth Welfare Office for support. The Youth Welfare Office can and will take all the necessary legal steps for her.

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## **8.6 BASE CASE ‘B’, VARIANT 1: CHILDREN LIVE WITH BOTH PARENTS EQUALLY**

*We would like to understand how the outcomes would change if one of the circumstances in this case were different (Variant 1).*

*The situation is exactly the same as Base Case B except Mr Coast lives in the same town as Mrs Coast and the children. The Coasts decide that the children will spend an equal amount of time living with each parent, alternating one week with Mrs Coast and one week with Mr Coast.*

**8.6.1 Would the maintenance obligation differ from what you reported in 8.5.2? Please explain.**

The maintenance obligation would differ. In this case both parents, Mrs. Coast and Mr. Coast, would be obliged to pay child maintenance, because both parents provide maintenance in kind in the form of care. The income of both parents would have to be taken into account.

**8.6.2 Would any other outcomes likely differ? Please explain.**

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**8.7 BASE CASE 'B', CHANGE IN CIRCUMSTANCES 1: MRS COAST HAS A NEW PARTNER THREE YEARS LATER**

*We now explore how your system would deal with a change in Mrs Coast's family circumstances. Return to the base case (Mr Coast lives in another town and has the children with him every other weekend). Assume the divorce is final and that the maintenance obligation has been set at the amount you have described in 8.5.2.*

*Three years later, Mrs Coast tells her husband that she has a new partner who has moved into the house. Mr Coast knows the man personally, and knows he has earnings comparable to his own. He feels that the arrival of this new partner for Mrs Coast should count in the financial decisions that have to be made during the divorce.*

**8.7.1 How would Mr Coast go about trying to change the obligation?**

If Mr. Coast has a voluntary agreement with Mrs. Coast, he can ask Mrs. Coast for an adjustment to the new situation and try to reach a new agreement with her. (As Mr. Coast would obviously try to lower the amount of the obligation, it should be noted however, that Mr. Coast and Mrs. Coast are not allowed to make an agreement about maintenance payments that are more than 20% below the 'support tables' used by the courts. Such an agreement would be against the interest of the children and therefore unconscionable).

If the obligation is based on a court order Mr. Coast could apply to the family court for an adjustment order.

**8.7.2 What would result -- is it likely the obligation would change? To what? Please explain.**

The fact that Mrs. Coast has a new partner would not affect the obligation. As Mrs. Coast is the parent with care she has to fulfil her maintenance obligations in kind in the form of care, not in the form of cash. She is not obliged to pay child maintenance. Also, she is not married to the new partner, that means she is not entitled to spousal maintenance from the new partner.

But there is another important change in the situation that would affect the obligation: One child has reached a higher age group and is now entitled to a higher amount of child maintenance. Assuming that Mr. Coast still has a net income of around 2.500 – 2.800 €, the amount of child maintenance would be now around 360 € for John and around 294 € for Anne (excluding the non-resident parent share of child allowance), according to the usually used 'support tables' ('Duesseldorfer Tabelle').

**8.7.3 Would any other outcomes likely differ? Please explain.**

## 8.8 BASE CASE 'B', CHANGE IN CIRCUMSTANCES 2: MR COAST HAS A NEW PARTNER AND NEW CHILD THREE YEARS LATER

*We now explore how your system would deal with a change in Mr Coast's family circumstances. Return to the base case (Mr Coast lives in another town and has the children with him every other weekend; Mrs Coast does not have a partner). Assume the divorce is final and that the maintenance obligation has been set at the amount you have described in 8.5.2.*

*Three years time later, Mr Coast has formed a new relationship with a woman and they have a ten month old child. He wants to maintain contact with his own children, whom he loves dearly, but his own household expenses have now gone up considerably. His new partner does not have paid work herself.*

### 8.8.1 How would Mr Coast go about trying to change the obligation?

If Mr. Coast has a voluntary agreement with Mrs. Coast, he can ask Mrs. Coast for an adjustment to the new situation and try to reach a new agreement with her. If the obligation is based on a court order Mr. Coast could apply to the family court for an adjustment order.

### 8.8.2 What would result -- is it likely the obligation would change? To what? Please explain.

It is not likely that the obligation would change that much.

Assuming that Mr. Coast still has a net income of around 2.500 – 2.800 €, the amount of child maintenance could look like this (excluding the non-resident parent share of child allowance), according to the usually used 'support tables' (Duesseldorfer Tabelle):

John (12 years old): around 360 €

Anne (9 years old): around 294 €

10 month old child: around 229 €

Mr. Coast would also have to pay spousal maintenance to Mrs. Coast.

His income is high enough to pay the full amount of child maintenance for his minor children and the spousal maintenance to Mrs. Coast, his guaranteed self-maintenance ('Selbstbehalt') of 890 € would stay untouched. (Possible maintenance claims from the new partner of Mr. Coast are of lesser priority than the ones by the three minor children and the former spouse).

### 8.8.3 Would any other outcomes likely differ? Please explain.

***This concludes the vignettes (Part Eight). If you have additional comments on either of these vignettes, please write them here:***

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