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SUBSTANTIVE INPUT

for the fourteenth session of the
GENERAL ASSEMBLY OPEN-ENDED WORKING GROUP
for the purpose of strengthening the protection of the human rights of older persons

Comments on Focus Area 1:

Accessibility, infrastructure and habitat (transport, housing and access)

HelpAge Deutschland focusses its engagement for the rights of older persons mainly in the so-called global South and less in Germany. Therefore, we comment on Focus Area 1 in view of global policies pertaining to all countries in the world. For answers to the questions relating to Germany in particular, we refer to the answers given by the German government, German National Human Rights Institute (DIMR) and by German National Association of Senior Citizens' Organizations (BAGSO).

Accessibility is an important condition to build barrier-free, inclusive societies where older persons in all their diversity can live independently and participate fully in all aspects of life.¹ The UN Convention on the Rights of Persons with Disabilities (CRPD)² provides the right to accessibility, including to the physical environment (including housing), transportation, information and communication, and public facilities and services. The CRPD has had a major impact on German policies over the last years, triggering sweeping changes to facilitate access. Anyway, not all gaps are closed, neither for persons with disabilities nor older persons. Limited accessibility, poor infrastructure and the lack of safe, inclusive and accessible habitat is a major concern for older persons in Germany. The parallel report of the German Institute for Human Rights to the UN Committee on the Rights of Persons with Disabilities states, “universal design and the accessibility of products and services have continued to rely primarily on the market itself taking responsibility and/or placing itself under obligation, even though that has so far proved ineffective”.³

¹ Rights of older persons with disabilities, Report of the Special Rapporteur on the rights of persons with disabilities, 2019, UN Doc. A/74/186, para. 55

² <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

³ https://www.institut-fuermenschenrechte.de/fileadmin/Redaktion/Publikationen/Parallelbericht/DIMR_Parallel_Report_to_the_UN_Committee_on_the_Rights_of_Persons_with_Disabilities_2023.pdf

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Regarding housing, the aim is to ensure that older people can live as independently as possible in their familiar surroundings for as long as possible. In the Lower Saxony coalition agreement of 2022, it was agreed that "we will continue to promote and expand target group-specific forms of housing to create age- and care-friendly flats and shared flats, especially in rural areas and for people with dementia"⁴. To date, however, HelpAge Deutschland has asked the state ministry in Hanover and the federal building ministry in Berlin about any initiatives in this regard. As federal building law and state building regulations do not necessarily correspond, there is no possibility for the affected group of people to push for the agreements of the coalition agreement. There is a clear legal loophole here.

The pressure to remedy this situation will increase even further given the shortage of living space in cities and insufficient infrastructure for barrier-free mobility, as an estimated 4.6 of the total of just over 8 billion people worldwide were living in cities in mid-2023. This corresponded to 57% of the world's population. In 2030, this proportion is expected to be 60%⁵ and rise to 80% by 2050.⁶

The local authorities must therefore be strengthened, and it is imperative that they are given the responsibility to manage and organise the provision of care for the elderly and nursing care locally in order to ensure equal living conditions.⁷

This is a mandatory task for local authorities and by no means voluntary, as confirmed by a study, Prof Dr Johannes Hellermann / Bielefeld University conducted in 2022.⁸

However, this obligation has not yet been implemented in a legally binding manner. It must be implemented in line with Article 9 of the UN Convention on the Rights of Persons with Disabilities (CRPD).⁹

Nevertheless, the Convention does not meet all needs of older persons at the intersection of old age and disability.¹⁰ Existing regional provisions, such as Article 26 (Right to accessibility and personal mobility) of the Inter-American Convention on Protecting the Human Rights of Older Persons¹¹ are limited in geographical scope. In the EU, the 2019 Accessibility Act¹² requires the accessibility of certain products and services but shows significant gaps as it does not include

⁴ https://www.spdnds.de/wp-content/uploads/sites/77/2022/12/SPD_NDS_LTW_Koalitionsvertrag_2022_2027_Web.pdf page 22

⁵ <https://www.destatis.de/DE/Themen/Laender-Regionen/Internationales/Thema/bevoelkerung-arbeit-soziales/bevoelkerung/Stadtbevoelkerung.html>

⁶ <https://www.bmz.de/de/themen/stadtentwicklung/hintergrund-18138>

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https://www.bagso.de/fileadmin/user_upload/bagso/06_Veroeffentlichungen/2023/Positionspapier_Sorge_und_Pflege.pdf

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https://www.bagso.de/fileadmin/user_upload/bagso/06_Veroeffentlichungen/2022/BAGSO_Rechtsgutachten_Altenhilfe_.pdf

⁹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

¹⁰ Rights of older persons with disabilities, Report of the Special Rapporteur on the rights of persons with disabilities, 2019, UN Doc. A/74/186, para. 12.

¹¹ https://www.oas.org/en/sla/dil/docs/inter_american_treaties_A-70_human_rights_older_persons.pdf

¹² Directive 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services

health care services, education, transport, housing and household appliances. In addition, Member States can decide themselves what the requirements are for accessibility of the built environment related to services covered by the Act.¹³

Therefore, a dedicated convention on the rights of older persons is obviously needed to protect older persons right to accessibility on an equal basis with others. It would clarify States' obligations to take appropriate measures to ensure older person's access to the physical environment, transportation, information and communications, and to other public facilities in services both in urban and in rural areas. Like the CRPD, it would also clarify that the right to accessibility means that denial of reasonable accommodation is a form of discrimination, and clearly recognise that it applies to older persons with disabilities as well.

¹³ Age Platform Europe, "The European Accessibility Act published in EU Official Journal", 4 July 2019.