

Guiding questions for the twelfth session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

Focus area: Economic security

National legal and policy framework

1. What are the legal provisions and policy frameworks in your country that guarantees the minimum essential level of the enjoyment of economic, social and cultural rights, in particular the right to an adequate standard of living?

Persons who cannot secure their livelihood through own income or assets, are entitled to basic income support in old age and in the event of reduced earning capacity according to Book XII of the German Social Code.

2. How is poverty defined in the national policy framework?

Germany does not have a general definition of poverty line. Persons who do not have enough funds to reach the sociocultural subsistence level on their own are entitled to benefits to cover their individual needs. In order to determine the necessary lump-sum amount of benefits required to secure their livelihood, the consumption expenditure of low-income earners for food, clothing, personal hygiene, household effects, electricity for lighting purposes and electrical devices as well as for daily life articles are taken into account. In addition, individually adjusted costs for accommodation and heating (including costs for water heating) as well as the contributions to the health- and long-term care insurance are covered. In individual cases, special and additional needs may be taken care of (in particular for persons with limited mobility or for one-parent families) and one-time costs are assumed (e.g. for the first furnishing of a person's home).

3. What are challenges faced by older persons living in poverty, including the impact of intersectional discrimination and inequality based on age, gender and other grounds?

Every five years, countries in the UNECE region undertake an analysis of the current state of implementation of the Madrid International Plan of Action and its Regional Implementation Strategy (MIPAA/RIS) and the actions required to make further progress. The country report of the fourth periodic review and appraisal cycle of MIPAA/RIS prepared in 2021 in preparation of the 2022 regional review and appraisal of MIPAA/RIS implementation (MIPAA+20) for Germany is published at the UNECE website <https://unece.org/statistics/documents/2022/01/reports/mipaa20-report-germany> and contains detailed information on the challenges.

4. What data, statistics and research are available regarding older persons living in poverty?

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There is no exhaustive definition of poverty in old-age. Available data and information, e.g. on the income situation are published in different reports such as the pension insurance report, the old-age security report or the report on poverty and wealth. In order to follow up on the older population's income and living situation (persons aged 60 +), the Federal Ministry of Labour and Social Affairs commissions a study to compile information on the type and amount of income at the level of individuals and their spouses, including information on the determining factors of income in old age once in every legislature. The results are then incorporated into the old-age security report.

Statistics and data regarding older persons are also available from the Federal Statistical Office (www.destatis.de) or the Federal Institute for Population Research (www.bib.bund.de). The Federal Government is also providing institutional funding to the German Centre of Gerontology (www.dza.de).

Progressive realization and the use of maximum available resources

5. What steps have been taken to address economic insecurity and poverty in older age and to ensure the right to an adequate standard of living for older persons?

The financial benefits of basic income support in old age and in the event of reduced earning capacity secure the livelihood and participation in societal, cultural and political life.

This is achieved by covering the needs that are indispensable for their livelihood. Apart from accommodation and heating this includes in particular the standard needs rates. They cover in particular costs for food, clothing and running the household, including furnishing the apartment. In addition, needs are covered that enable a minimum level of social participation.

6. What is the impact of macroeconomic policies on economic insecurity and poverty among older persons and vice versa? What policy options are available and/or implemented in order to expand fiscal space and maximize available resources to ensure economic security and the right to an adequate standard of living for older persons?

Answer to the first part of the question (poverty among older persons): Old age income is the result of the entire life of a person. Whether an individual could be affected by poverty in old age depends on a variety of highly individual factors. The best protection against poverty in old age is to have completed a good vocational training, an uninterrupted work history with decent pay and financial security in old age on the basis of a statutory pension insurance dovetailed by a company or supplementary pension scheme. First of all it is necessary to prevent poverty in old age while people are young. Insofar, Germany's dynamic economic and labour market development and the protection of jobs in the last

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years - also during the pandemic - has contributed to creating good conditions for adequate incomes in old age. Those in need of financial support in old age are taken care of by the 'basic income support in old age and in the event of reduced earning capacity' scheme.

The standard needs rate which is one element of the benefits paid under the basic income support in old age and in the event of reduced earning capacity scheme, is annually increased on the basis of the development of prices and net wages.

Answer to the second part of the question (policy options):

Stable economic growth is the basis for a prospering society. Germany is a highly developed national economy with a comprehensive social security system. Good quality jobs are the key to prosperity and the prevention of poverty. Working life in Germany has become more diverse.

Older persons continue to be part of the employed population for longer. Skilling and upskilling throughout employees' entire working lives contribute to maintaining people's employability and reduce the risk of unemployment. The Federal Government has committed itself to the goal of providing quality job opportunities to all persons in Germany in line with their wishes and skills. Continuing education and training and, where applicable, also job reorientation have to become a normal part of working life irrespective of the social situation.

7. What good practices are available in terms of ensuring older persons' economic security, including through a life-course approach?

Old age security systems - statutory, occupational and private schemes for the provision for old age - reflect a person's working life and aim to maintain the present standard of living as far as possible also in old age. Insofar, an uninterrupted job history with sufficient provision for old age is key to provide financial security for older persons.

In particular the statutory pension insurance which covers the largest part of the population is of central importance in this regard. An important principle of the statutory pension insurance is that the development of pensions reflects the wages and salaries of the economically active population and thereby allows for participation in society's increasing incomes. In addition to individual provision for old age, the statutory pension's pay-as-you-go system also provides security in the event of reduced earning capacity and surviving dependants' pensions.

However, the ageing of society is placing increasing demands on social security systems. An ageing society requires appropriate protection against the basic risks in life and must also guarantee financial sustainability of the social security systems.

The Federal Government's pension policy aims to accommodate not only the conflicting interests between contributors on the one hand and pensioners on the other hand, but

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also between generations. This should not lead to an overburdening of contributors or an unacceptable reduction in the level of pensions.

Equality and non-discrimination

8. What measures are being taken to eliminate ageism and discrimination based on age that prevent older persons to access economic and other productive resources, including financial services, land, adequate housing and the right to inheritance?

The General Equal Treatment Act (AGG) prohibits discrimination based on age. This means both the young and the old age. The areas of application of the law follow the four anti-discrimination directives of the European Union. In terms of age, in particular the RL 2000/78. They cover the areas of working life and the access to it as well as the supply of goods and services (civil law transactions). Of particular relevance for older persons are the areas of daily necessities, housing, banks and insurance companies, which are each covered by the AGG.

Differential treatment due to age can, however, be admissible in working life if it is objectively and reasonably justified by a legitimate aim and if the means used are appropriate (compare § 10 AGG). However, positive measures in relation to age are also permitted, i.e. different treatment due to age is also permitted if existing disadvantages due to age are to be prevented or compensated for by suitable and appropriate measures (compare § 5 AGG). In civil law, there is no violation of the ban on discrimination if there is an objective reason for different treatment on grounds of age (compare Section 20 AGG).

In the event of discrimination, there are in particular claims for elimination of the discrimination, compensation and damages. The Federal Anti-Discrimination Agency offers those who are affected support in the form of an initial legal assessment and, with the consent of those affected, can arrange an amicable, i.e. out-of-court, settlement of the dispute.

The Federal Anti-Discrimination Agency recently commissioned a study on the subject of images of ageing and discrimination. The aim of the Age_ISM Germany project is to generate a data base on the complex of topics "Images of ageing and discrimination". The results are important for politics and research because images of ageing have a demonstrable effect on individual development processes, the participation of older persons in social life and social and cultural progress (Sixth Report on older Persons of the Federal Government, 2010). Results of the study are expected in the end of 2022.

Please also see answers to the questionnaire "Focus area 1: Contribution of older persons to sustainable development".

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Remedies and redress

9. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their economic security and enjoyment of the right to an adequate standard of living?

The German constitution (Basic Law) guarantees the full enjoyment of human rights and fundamental freedoms for everyone. Everyone has access to justice, cf. answers to the respective questionnaires for the OEWGA's 11th and 12th session regarding the topic of access to justice. Furthermore the Federal Antidiscrimination Agency (<https://www.antidiskriminierungsstelle.de/EN/homepage/homepage-node.html;jsessionid=152CA57E64BE3FE0FBCB6AF8985BDCCE.intranet221>) provides confidential counselling free of charge. It can also help in finding a counselling centre close to where persons seeking aid live.