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Input by BAGSO to the 14th Session of the Open-Ended Working Group of the United Nations

Focus area: Accessibility, infrastructure and habitat (transport, housing and access)

National legal and policy framework

Our contribution focuses particularly on challenges and barriers faced by older persons in the realisation of their right to accessibility, infrastructure and habitat (transport, housing and access), referring to international, regional (EU) and national legal frameworks.

In terms of international frameworks, BAGSO recognises the UN Convention on the Rights of Persons with Disabilities (CRPD) as the key instrument contributing to accessibility in Germany. Access to transportation, information and communication systems and other public facilities is cornerstone to guarantee that everybody has the same opportunity to participate in society as they age. While measures to implement CRPD clearly benefit many older persons, with and without disability, there are certain shortfalls. Globally speaking, CRPD only covers older persons with disabilities and older persons do not have per se a disability. At national level, even for older persons with a disability there are normative gaps as they are not able to access some entitlements of Social Code Book IX simply because of their age.

Overall, the lack of a comprehensive international legally binding instrument to protect the human rights of older persons contributes to the insufficient inclusion of older persons and the life-course perspective in international, regional and national frameworks by other groups, like persons with disabilities or women. A UN convention for the human rights of older persons would define the right to accessibility, infrastructure and habitat specifically for people in older age, independent of a disability or not. It would also lead to the establishment to a specific monitoring body and give older persons as rightsholders more visibility.

At regional level, in particular in relation to housing, the EU Equal Treatment Directive, which is still pending, would be an important tool to better protect the right to adequate housing for older people. The EU Fundamental Rights Agency highlights the importance of “unblocking the Equal Treatment Directive” because “areas of particular importance to older people – such as [...] or housing – are not covered by EU legislation as regards the ground of age”¹. Concerted action is required to lift the blockage which would help to prevent discrimination based on age and contribute to improvement in term of accessibility, infrastructure and habitat.

At national level, the Accessibility Strengthening Law (Barrierefreiheitsgesetz, BFSG), a response to the European Accessibility Act (EAA) of 2019, coming into force in June 2025, is expected to increase the availability of accessible products and services, in particular in the field of new technologies. It is expected that these legal requirements lead to improvements for older persons, making products and services more accessible. In this context it is important to guarantee the right to analogue participation so that persons that do not (wish to) use the Internet can participate without discrimination. In its statement for the European Parliament elections, BAGSO further calls for the consideration of more accessibility in the production of household appliances.² A major shortcoming of the EAA, as pointed out by AGE Platform Europe in its Submission to this focus area, is that lack to include the built environment.

One of the crosscutting challenges is **age discrimination**. Social welfare organisations report increasing numbers of older persons experiencing age discrimination when searching for housing, because of the current lack of housing, in particular in bigger cities.³ Another major problem is the lack of physical accessibility of health care facilities, which means persons with limited mobility cannot exercise their right to free choice of physicians.

¹ European Union Agency for Fundamental Rights (2018): Shifting perceptions: towards a rights-based approach to ageing. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-fundamental-rights-report-2018-focus_en.pdf (accessed on 05/04/2024)

² BAGSO (2024): Striving for solidarity between all generations in Europa. <https://www.bagso.de/publikationen/stellungnahme/fuer-ein-solidarisches-miteinander-aller-generationen-in-europa/> (accessed on 05/04/2024)

³ For instance, Sozialverband VDK Deutschland, <https://www.berliner-zeitung.de/open-source/altersdiskriminierung-in-deutschland-ist-unser-gleichbehandlungsgesetz-bedroht-li.2184229> (accessed on 05/04/2024)

Further, increasing **digitalisation** of services and the lack of analogue alternatives impacts on the accessibility of the built and social environment, the use of infrastructure and habitat. For instance, the announcement of the Deutsche Bahn to completely digitalise its discount card with subscription led to complaints as this excludes in particular those in higher age groups (only 40 per cent of people aged 80 and above in Germany own a smartphone⁴). Further, independent of owning a smartphone or not, services being exclusively available online results in barriers for people with cognitive impairments that cannot access them independently but only with support of others. Similar barriers occur when banks digitalise all their services and medical appointments can only be made online.

Another area of great concern in relation to habitat is **access to loans**. A recent study, commissioned by the Federal Anti-Discrimination Agency, shows that 71 per cent of those surveyed experienced age discrimination in accessing home loans.⁵

Barriers in the environment and a lack of accessibility hindering older persons to exercise their human rights is not yet widely understood as age discrimination. In contrast, the lack of accessibility for persons with disabilities is recognised as discrimination within legal and policy frameworks. So far, improvements in accessibility, infrastructure and habitat for older persons are mainly happening due to the implementation of CRPD or in response to demographic change, but not because of a recognition of the human rights of persons in older age. So far improvements are usually happening based on policies and programmes at municipal level. Indeed, the international framework of age-friendly cities, promoted by the World Health Organization (WHO), is becoming more well-known and applied in Germany. While this is a useful policy framework to improve accessibility, infrastructure and habitat, it lacks a direct linkage to human rights.

Barriers and challenges that older persons report include a lack of benches, lack of or bad condition of public toilets, lack of street lighting, bad conditions of sidewalks and short time for pedestrian crossings, problems with e-scooters used / parked on sidewalks or in pedestrian zones, spatial conflict with bike lanes, accessibility and

⁴ Media Education Research Network South-West (2021): SIM-Study 2021. Senior Citizens, Information, Media. https://www.mpfs.de/fileadmin/files/Studien/SIM/2021/Web_SIM-Studie2021_final_barrierefrei.pdf (accessed on 05/04/2024)

⁵ Federal Anti-Discrimination Agency (2023): Older people are often excluded from loans across the board (in German). https://www.antidiskriminierungsstelle.de/SharedDocs/aktuelles/DE/2023/20230926_Studie_Finanzdienstleistungen.html (accessed on 05/04/2024)

affordability of public transport, bad signage in public spaces and a lack of essential services close by (and/or in walking distance), particularly in rural and structurally weak regions.

In addition to physical and structural barriers, a lack of awareness and sensitivity in the social environment leads to further barriers. Persons with disabilities and cognitive impairments experience particular risks leading to social exclusion. A significant number of older people suffer multiple forms of discrimination because of their age, gender, ethnicity, a disability, sexual orientation or gender identity. The rights and needs of older persons living in residential care settings as well as those with migrant backgrounds and older refugees are also often overlooked when it comes to accessibility, infrastructure and habitat. For persons living in poverty or in risk of poverty, the situation is further exacerbated. A report by one of the major welfare organisations in Germany shows that older persons with disabilities are disadvantaged in more areas of life compared to older persons without disabilities.⁶ They have lower incomes, are more frequently living in poverty, less frequently home owners, more often lonely, evaluate their health status as worse, use leisure offers less frequently and are politically less active.⁷

In Germany, assistance for older persons is a compulsory task of municipalities (para. 71 of Social Code Book XII). However, existing legislation is considered to be weakly regulated and leaves scope what concerns the extent of implementation. It is criticised by many, including BAGSO, that there is no law to regulate this task. Huge disparities in the financial structures of municipalities are another reason for the extent to which the law is implemented across municipalities. At national level, BAGSO therefore demands regulations on the implementation and financial support by the *Länder*.⁸

Data and research

There are several data sources and statistics on questions related to this focus area.

⁶ German Parity Welfare Association (2019): Older people with disabilities as part of the project: "Participation research: Shaping inclusion effectively" (in German). <https://www.der-paritaetische.de/alle-meldungen/paritaetischer-teilhabebericht-2019/> (accessed on 05/04/2024)

⁷ Ebd. <https://www.der-paritaetische.de/alle-meldungen/paritaetischer-teilhabebericht-2019/>

⁸ BAGSO (2024): For a good life in old age. Demands for an effective and sustainable senior citizens' policy in the German federal states (in German) https://www.bagso.de/fileadmin/user_upload/bagso/06_Veroeffentlichungen/2024/BAGSO_Positionspapier_Fuer-ein-gutes-Leben.pdf (accessed on 05/04/2024)

- Data portal REHADAT, a project of the Institut der deutschen Wirtschaft Köln e. V., funded through the equalisation fund of the Federal Ministry of Labour and Social Affairs (BMAS), provides an overview of data sources on participation of people with disabilities in different areas, including mobility and housing⁹ (no focus on older persons and older age)
- Federal Government’s “Participation Report on the Life of Persons with Disabilities in Germany” (data on persons with disabilities, including older persons with disabilities)¹⁰
- The German Federal Ministry of Transport and Digital Infrastructure published a study on mobility in 2017 (data disaggregated by age)¹¹
- The German Ageing Survey (DEAS) of the German Centre of Gerontology provides, among others, data on older persons’ housing¹²

However, heterogeneity of older persons is not sufficiently represented in official statistics and data not consistently disaggregated by age, especially in older age groups.

Equality and non-discrimination

In terms of measures to eliminate ageism, ageist stereotypes, prejudices and behaviours that hinder older persons’ rights to accessibility, infrastructure and habitat (transport, housing and access), we would like to highlight:

- BAGSO’s campaign on “Life/living without the Internet” (*Leben ohne Internet*), launched in November 2023.¹³ With the campaign BAGSO, together with its member organisations, wants to raise awareness of the difficulties faced by people that do not use the Internet and advocate for good solutions. The campaign focuses on municipal citizen services and other services offered by local

⁹ Rehadat Statistik: Barrier free life (in German): <https://www.rehadat-statistik.de/statistiken/barrierefreies-leben/> (accessed on 05/04/2024)

¹⁰ Federal Ministry of Labour and Social Affairs (2021): Third Participation Report of the Federal Government on the living conditions of people with impairments. Participation - impairment – disability (in German) https://www.bmas.de/SharedDocs/Downloads/DE/Publikationen/a125-21-teilhabebericht.pdf?__blob=publicationFile&v=7 (accessed on 05/04/2024)

¹¹ Institute for Applied Social Science (2017): Mobility in Germany 2017 (in German). <https://www.mobilitaet-in-deutschland.de/archive/publikationen2017.html> (accessed on 05/04/2024)

¹² German Centre of Gerontology: <https://www.dza.de/en/research/deas/main-research-areas> (accessed on 05/04/2024)

¹³ BAGSO: Life/living without the Internet (in German). <https://www.bagso.de/themen/digitalisierung/aktion-leben-ohne-internet/> (accessed on 05/04/2024)

authorities. BAGSO supports interested senior citizens' groups with suggestions and materials for local campaigns. It calls on the public to use events and the media to draw attention to the difficulties of living without the Internet and to approach local politicians and administrators with specific requests for change.

- The Federal Anti-Discrimination Agency (ADS) provides advice on age discrimination by telephone, online contact form, e-mail or via SQAT (Signing Question and Answer Tool) for contact in German sign language. In its recent publication on renting, it gives practical examples of how to avoid (age) discrimination.¹⁴ In 2023, it published a comprehensive study on ageism and age discrimination in Germany.¹⁵

Remedies and redress

To complain and seek redress in case of denial of their right to accessibility, infrastructure and habitat, older people can address themselves to the Federal Anti-Discrimination Agency (FADA). There is, however, no mechanism in place specifically for older persons.

The lack of a legal framework at national, EU and international level covering age discrimination is an important barrier to complaining and seeking redress in case of human rights violations in older age. The lack of such frameworks is related to low awareness about human rights and how to complain in case of violation of their human rights.

In conclusion

To ensure older people's right to accessibility, infrastructure and habitat, BAGSO is calling for a UN Convention on the Rights of Older Persons. Such a dedicated international legally binding instrument would be benefiting today's and future generations of older persons not only in Germany but all around the world. It would be an important contribution to close existing normative and implementation gaps,

¹⁴ Federal Anti-Discrimination Agency (2023): What can be done to combat discrimination in the allocation, letting and management of housing? (in German)
https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/publikationen/Expertisen/good_practice_wohnungsmarkt_kurzfassung.pdf?__blob=publicationFile&v=3 (accessed on 05/04/2024)

¹⁵ Federal Anti-Discrimination Agency (2023): Ageism. Images of age and age discrimination in Germany (in German)
https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/publikationen/Expertisen/altersbilder_lang.pdf?__blob=publicationFile&v=8 (accessed on 05/04/2024)

challenge prevailing stereotypes about old age, raise public awareness about older persons' human rights and initiate a systemic change away from a welfare-based to a human rights-based approach centred around equality, dignity and inclusion of older persons. It would be a means to prohibit discrimination based on age and contribute to state accountability of human rights violations against older persons, empower older persons as rights holders and contribute to a societal change, in the same way other dedicated human rights treaties, such as CRPD.



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BAGSO – The voice of older people

BAGSO, the German National Association of Senior Citizens' Organisations, represents the interests of older generations in Germany. It stands up for active, healthy and self-determined ageing in social security. BAGSO is an umbrella organisation of more than 120 civil society organisations that are run by or work for older people.