



(HelpAge disaster response training for older persons in the Philippines, 2021)

HelpAge Deutschland submission to the OEWGA questionnaire:

“Identification of possible gaps in the protection of the human rights of older persons and how best to address them.”

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About HelpAge Deutschland

HelpAge Deutschland was founded in 2005 in Osnabrück as a registered association.

We stand up for the right to a life without poverty and discrimination in old age in all life situations. Through our projects we show solidarity and help the older generation to promote their social participation and strengthen their own potential through self-help. HelpAge is the only aid organisation in Germany that focuses on supporting older people in developing and emerging countries.

We work in particular in the areas of:

- Rights of Older Persons and Inclusion
- Income and Pensions
- Humanitarian Aid
- Health and Nutrition
- Displacement and Migration
- Climate Change and Disaster Risk Reduction.

HelpAge Deutschland works as part of a global network with approximately 170 strong and reliable local partner organisations in over 90 countries. HelpAge Deutschland relies on the regional and country offices that the international network maintains worldwide.

Through the joint use of these offices' costs and administrative expenses for project monitoring are reduced. The coordination is carried out by HelpAge International and its network.

HelpAge now has consultative status with the United Nations Social Council (ECOSOC) and the World Health Organization (WHO). Through the Global Rights of Older People (GAROP) initiative, HelpAge Deutschland is closely involved in the work of the Open Ended Working Group on Ageing (OEWG-A) of the United Nations.

On a national and international level, we work intensively with the following federations and associations but not limited:

- Verband Entwicklungspolitik und humanitäre Hilfe (VENRO)
- Bundesarbeitsgemeinschaft der Seniorenorganisationen (BAGSO)
- Verband Entwicklungspolitik Niedersachsen (VEN)
- Aktion Deutschland hilft (ADH)
- Deutscher Paritätischer Wohlfahrtsverband (DAPW)
- AGE Platform Europe

You will find more Information about HelpAge Deutschland here: <https://www.helpage.de/>

Identification of gaps

For each of the topics that have been considered by the Open-ended Working Group since its eighth session, please state possible gaps your Government / organization has identified in the normative framework and practical implementation for the protection of the human rights of older persons.

Preliminary remark:

HelpAge Deutschland is primarily involved in projects in the Global South. At the national level, we only pursue the so-called “educational mission / Bildungsauftrag”. The following answers therefore do not exclusively consider the gaps in the German legal system, but also refer to these in the partner countries. This will underline how important a coherent, international and resilient legal system is in order to guarantee the rights of older people worldwide. To make the text easier to read, the sections on the global situation are italicised to set them off from the sections on Germany.

a. Equality and non-discrimination

In Germany, the General Equal Treatment Act (AGG)¹ prohibits all forms of age discrimination, but not for all areas of life. It is based on the German Basic Law (Grundgesetz-GG)² and implements a legal directive by the European Union.

According to Article 3 of the Basic Law, all people are equal and must be treated equally. Conversely, this means that all forms of discrimination are prohibited.

However, Article 3 of the Basic Law does not contain an explicit ban on discrimination on the basis of age; cases of unequal treatment on the basis of age are assessed according to the principle of general equality contained in Article 3 Para. 1 of the Basic Law. This unsatisfactory point has been discussed in Germany for several years as part of the amendment to the Basic Law, at the latest with the update in 1994, where it was also explicitly stated that people with disabilities must not be disadvantaged.

In particular, the Covid-19 pandemic has acted as a burning-glass and shown that, despite generally comprehensive legal protection, older people are discriminated against in the protection of their rights. The best and saddest example is the ban on older people to leave their nursing homes and retirement homes, which was a clear violation of the right to self-determination as confirmed belatedly, i.e. after the pandemic, by the Federal Administrative Court in its ruling of 22 November 2022.³

A corresponding amendment to Article 3 of the Basic Law would have created a regulation and already in the run-up to the pandemic prevented, that such discriminatory regulations could have been issued, not only in care facilities. There is an obvious gap in the national legal system here.

The AGG of 2006 was intended to protect people who experience discrimination on certain grounds. To this end, so-called anti-discrimination grounds were defined (Antidiskriminierungsmerkmale), including age.

¹ https://www.gesetze-im-internet.de/englisch_agg/

² https://www.gesetze-im-internet.de/englisch_gg/

³ BVerwG 3 CN 2.21 - Judgement of 22 November 2022

Nevertheless, the AGG is only inadequately implemented. In particular, the age limit of 65, as e.g. established under the German statutory old-age pension insurance (currently gradually raised to 67), has a discriminatory effect. The German insurance industry can therefore, for example, increase motor insurance premiums by more than 65% if the policyholder exceeds the aforementioned age limit. Travel insurance policies sometimes increase by over 250%. In none of these cases does the insurer have to prove that the policyholder poses a particular risk due to exceeding the age limit. Attempts to eliminate this obvious discrimination have so far failed before the German courts. An exemplary collection of court sentences on this can be found on the website of the *Office against Age Discrimination / Büro Gegen Altersdiskriminierung*.⁴

A nationwide search has been launched for lay judges for the next session of the German courts starting 2024 until 2029. Everybody at the age of 25 onwards can volunteer for this honorary post. In municipalities that do not have a sufficient number of volunteering lay judges, these can be appointed by the courts. However, an age limit of 69 years applies here. (§ 33 No. 1 and 2 GVG)⁵. In the past, this was justified by the assumption that older people fall ill more often and therefore miss court hearings. However, there is no reliable study to date that confirms this hypothesis. In addition, an incremental number of professional judges and lay judges are appointed as substitutes in important trials, minimizing any risks to fail the further process.

In order to combat age discrimination, the Federal Anti-Discrimination Agency / Antidiskriminierungsstelle des Bundes called for the term "age" to be included in Article 3 of the German Basic Law in its 2020 study. This would regulate the equal treatment of all people. The study also urges that the General Equal Treatment Act needs to be strengthened, it continued. In addition, maximum age limits for voluntary work should be abolished.⁶

This gap in the international legal system must therefore be eliminated without delay by means of a legally binding instrument.

b. Violence, neglect and abuse

Elder abuse manifests itself in physical or mental abuse, neglect or financial exploitation⁷ but violence against older persons remains overlooked and is not a priority at the national, regional or global levels.⁸ Of 133 countries surveyed in 2014, only 59 per cent said they have laws to prevent elder abuse but only 30 per cent said that these were fully enforced.⁹

⁴ <https://www.altersdiskriminierung.de/themen/index.php?thema=12>

⁵ https://www.gesetze-im-internet.de/englisch_gvg/

⁶

https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/publikationen/Expertisen/altersbilder_ang.pdf?__blob=publicationFile&v=8

⁷ <https://www.msmanuals.com/de-de/profi/geriatrie/missbrauch-von-%C3%A4lteren-menschen/missbrauch-von-%C3%A4lteren-menschen>

⁸ Christopher Mikton and others, "Factors shaping the global political priority of addressing elder abuse: a qualitative policy analysis", *The Lancet Healthy Longevity*, vol. 3 (August 2022), p. e531

⁹ World Health Organisation, *Global status report on violence prevention 2014*, Geneva, World Health Organization, 2014, <https://www.who.int/publications/i/item/9789241564793>

The police crime statistics for Germany for 2022 show that older people aged 60 and over are relatively rarely victims of violence. 13,955 older people were registered as victims in 2022. That is around 5.9 per cent of all victims of violent crime (235,820)¹⁰.

Nevertheless, the fear of the consequences of violence can be more serious for senior citizens than for younger victims. Age-related insecurity can be further intensified in the event of a specific victimisation. The main areas of focus are violence in care and financial exploitation.

Violence in care can occur in the home as well as in outpatient and inpatient care. On the one hand, this refers to the neglect of people in need of care. This includes leaving these people alone or refusing to provide them with sufficient food and fluids or adequate personal hygiene and bed cleaning or physical abuse, which constitute criminal offences. The restriction of elderly people in nursing homes during the Covid 19 pandemic alone was a form of coercion and an offence against human dignity, as confirmed by several court rulings by the Federal Administrative Court.¹¹ According to the World Health Organization, rates of abuse of older persons worldwide are high in institutions such as nursing homes and long-term care facilities, with 2 in 3 staff reporting that they have committed abuse in the past year.

Older people are also increasingly becoming victims of financial exploitation and require greater protection. In a public hearing of the Federal Parliament's Committee for Family Affairs, Senior Citizens, Women and Youth in 2020, the expert committee therefore called for measures to be taken against, for example, scams involving door-to-door sales and coffee trips or the so-called grandchild scam, in which the perpetrators pretend to be close relatives and ask for cash or valuables ([19/15254](#)).¹²

The German National Association of Senior Citizens' Organisations (BAGSO) is therefore calling for a greater focus on the protection of older people, similar to the protection of children and young people. Prevention and information represent a building block of the "guardian function". It is undisputed that people of advanced age have a demonstrably increased risk of becoming victims of property and financial offences based on deception.

The above-mentioned Parliamentary committee therefore called on the state to counter this increased risk with greater protection for older people. (aw/26.10.2020)¹³ but no action has been taken so far. *The Buurtzorg model developed in the Netherlands, which is based on neighbourhood support and has already found imitators around the world, could serve as an example and role-model.*¹⁴

Worldwide, one in six older people is affected by abuse - but only 4% of these offences are reported¹⁵. The number of unreported cases is very high. The number of reported offences against older people is higher in industrialised countries than in the Global South. This may be due to the fact that older people there are more likely to be informed about their rights. In the USA, according to a study

¹⁰ <https://www.polizei-beratung.de/themen-und-tipps/gewalt/gewalt-gegen-senioren/>

¹¹ i.a. <https://www.bverwg.de/221122U3CN2.21.0> (AZ: 3 CN 2.21, AZ: 3 CN 1.21)

¹² <https://dserver.bundestag.de/btd/19/152/1915254.pdf>

¹³ Ibid

¹⁴ <https://www.theguardian.com/social-care-network/2017/may/09/buurtzorg-dutch-model-neighbourhood-care>

¹⁵ <https://www.helpage.de/news/internationaler-tag-gegen-die-misshandlung-aelterer-menschen>

by the National Centre on Elder Abuse, one in 10 people over the age of 60 experience some form of violence.¹⁶

A particularly worrying practice in some parts of the world is that of accusations of witchcraft, leading to older persons, particularly women, being subjected to barbaric acts of violence and even lynching¹⁷

The Independent Expert on the enjoyment of all human rights by older persons, Dr Claudia Mahler, also stated in her annual report Violence against and abuse and neglect of older persons on the occasion of the 54th session of the Human Rights Council in October 2023 that an increase in violence against older persons has been seen during ongoing crises such as the COVID-19 pandemic, armed conflicts and climate change.

c. Long-term care and palliative care

The term long-term care refers to the medical and social care of people who, due to illness or disability, are unable to cope with the everyday tasks of life on their own for an extended period of time.

Long-term care can be provided by relatives and by social or medical services. In both cases, outpatient or inpatient long-term care is possible.¹⁸

In 1995, Long-Term Care Insurance (LTCI) was introduced as a mandatory insurance as part of the Social Code Book XI (Sozialgesetzbuch XI)¹⁹. It only covers somewhat more than half of the costs of care-related expenses.

In principle, the type of care benefits for out-patient as well as inpatient care may be chosen freely (e.g. cash benefits, benefits in kind, a combination of cash benefits and benefits in kind as well as counselling services and even full case management). Support is classified into five grades of care according to the need for long-term care, and can be supplemented, if necessary, with social assistance or welfare benefits provided by social compensation (care assistance). The general rule is: out-patient before in-patient care.²⁰

More than 4.1 million people in Germany are currently dependent on support under the Care Act; of these, around 15,400 are accommodated in care homes.²¹

In 2021, 4.96 million people were classified as in need of care is defined in SGB XI.1. Of these, 84% (i.e. 4.17 million) are cared for at home, most of them exclusively by relatives (61 %). The smaller

¹⁶ <https://ncea.acl.gov/home#gsc.tab=0>

¹⁷ HelpAge International, 'Older people in Kenya must be protected from witchcraft accusations', 22 October 2021.

¹⁸ <https://www.deutsche-seniorenbetreuung.de/pflege/langzeitpflege/>

¹⁹ https://www.gesetze-im-internet.de/sgb_11/

²⁰ https://social.un.org/ageing-working-group/documents/ninth/Inputs%20Member%20States/Germany_LTC.pdf

²¹ https://www.destatis.de/EN/Themes/Society-Environment/Health/Long-Term-Care/_node.html

proportion is cared for by relatives with the support of third parties.²² The other are accommodated in 15.400 care homes.²³

The main burden for the long-term care of relatives lies with the family²⁴, mostly women, who in turn drop out of the labour market and therefore suffer losses in their pension insurance. However, the Long-Term Care Insurance provides compensation payments, which do not make up for the pension losses, though.

Although a certain level of care is guaranteed, there are regional differences in nursing homes, e.g., regarding empty beds or waiting lists. The capacities for day care are limited.

Added to this is a dramatic shortage of nursing staff, inadequate training and excessive bureaucracy, that involves excessive paperwork for all participants. The diverse areas of competence, types of benefit, exceptions, and opportunities for flexibility are unknown to many, and the way they interact is unclear. The difficulties begin when making the application; because of its complexity many benefits remain unused. Regarding digitalisation, the health and long-term care sectors in Germany lag behind most other developed countries.

In the first half of 2023 alone, over 300 care facilities filed for insolvency due to rising costs.²⁵ At least the same number of these facilities are facing bankruptcy. A survey conducted by the *Neue Osnabrücker Zeitung* at the beginning of November 2023 revealed that the individual federal states sometimes feel more and sometimes less responsible for care in their own spheres. Some ministries prefer to shrug their shoulders and refer to the care insurance funds, which must ensure sufficient care places according to the German Social Code.²⁶ People in need of care are thus deprived of their fundamental rights.

*However, some of the German challenges also apply worldwide, as HelpAge demonstrated in its 2018 study on this topic.*²⁷

*There is no explicit standard on long-term care in older age in international human rights law, no explicit standard on the right to palliative care, nor a specific right to care and support for independent living in older age.*²⁸ *Although Article 19 of the Convention on the Rights of Persons with Disabilities provides the right to independent living, it does not apply to older persons without disabilities. Regional provisions, such as Article 12 of the Inter-American Convention on Protecting the Human Rights of Older Persons²⁹ and Articles 10 and 11 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa³⁰ are limited in geographical*

²²

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

²³ https://www.destatis.de/EN/Themes/Society-Environment/Health/Long-Term-Care/_node.html

²⁴ <https://www.destatis.de/DE/Themen/Querschnitt/Demografischer-Wandel/Hintergruende-Auswirkungen/demografie-pflege.html>

²⁵ <https://www.pflegemarkt.com/2023/11/03/entwicklung-stationaer-pflege-deutschland/>

²⁶ <https://www.noz.de/deutschland-welt/wirtschaft/artikel/insolvenzwellen-warum-viele-pflegeheim-geldprobleme-haben-45874632>

²⁷ HelpAge International, *Freedom to decide for ourselves: What older people say about their rights to autonomy and independence, long-term care and palliative care*, London, HelpAge International, 2018, <https://www.helpage.org/silo/files/freedom-to-decide-for-ourselves.pdf>

²⁸ Ibid

²⁹ https://iris.paho.org/bitstream/handle/10665.2/57771/9789275126943_eng.pdf?sequence=1&isAllowed=y

³⁰ https://au.int/sites/default/files/pages/32900-file-protocol_on_the_rights_of_older_persons_e.pdf

scope. While Article 23 Revised European Social Charter includes a reference to health care³¹, not all Council of Europe Member States are bound by its provisions.

. A Convention would clarify States' obligations to ensure high-quality affordable care and support services, as well as ensuring older persons' access to remedies and redress, and information. Finally, a Convention would recognise and protect older persons' right to holistic and accessible palliative care.

d. Autonomy and independence

Autonomy and independence

The German Basic Law fundamentally guarantees the freedom and dependence of the individual in Article 2 of the Basic Law³² and deepens this in the following articles on fundamental rights, among others. However, rights of older people are not explicitly mentioned. For this reason, as already described, there have been calls from academia and civil society for several years to expand Article 3 of the Basic Law to include the characteristic "age". The Federal Anti-Discrimination Agency has already published a study on this, according to which the vast majority of the population is in favour of this extension.³³

At the international level, the lack of autonomy of older people and the resulting consequences were described in particular by the report of the first independent expert of the United Nations, Rosa Kornfeld-Matte, in 2015.³⁴ However, there is no internationally legally binding standard on the right to free development of the personality in the legal system.

Consequently, the rights in the German legal system are fragmented and must be taken from various existing regulations for the implementation of the rights of older people, such as the Charter of Rights for People in Need of Long Term Care and Assistance³⁵ or §2 Para 2 Book XI of the Social Code (Sozialgesetzbuch, SGB)³⁶ or the Charter on "care of critically ill or dying persons in Germany" (Charta zur Betreuung schwerstkranker und sterbender Menschen in Deutschland) adopted in Germany in 2010.³⁷

The legal bases outlined above define people more as recipients of benefits in need of assistance than as rights holders. The question of participation or refusal to participate in the digitalisation process has not yet been conclusively clarified. However, the adoption of the Convention on the Rights of Persons with Disabilities (CRPD), which has had a strong impact on German politics and society, has shown how autonomy and independence can be realised and achieved as far as possible.

³¹ <https://rm.coe.int/168007cf93>

³² https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0020

³³

https://www.antidiskriminierungsstelle.de/SharedDocs/forschungsprojekte/DE/UMFRAGE_70_Jahre_GG.html

³⁴ Autonomy and care of older persons, Report of the Independent Expert on the enjoyment of all human rights by older persons, Rosa Kornfeld-Matte, 2015, *UN Doc. A/HRC/30/43*.

³⁵ https://www.wege-zur-pflege.de/fileadmin/daten/Pflege_Charta/charta-der-rechte-englisch-data.pdf

³⁶ <https://www.sozialgesetzbuch-sgb.de/sgbxi/7.html>

³⁷ https://www.dgpalliativmedizin.de/images/RZ_130514_charta_flyer_englisch_vec.pdf

There are some regional human rights standards that recognise the right to autonomy, such as the Inter-American Convention³⁸, but even these only offer selective solutions and do not provide any mandatory instructions for action. Art 25 of the European Union Charter of Fundamental Rights³⁹ also does not give rise to direct claims for positive action by EU institutions or member state authorities.⁴⁰

Article 23 of the European Social Charter (1996)⁴¹, on the other hand is optional, as Member States can ratify the Charter without accepting the legal obligations of that provision.

The 2014 Council of Europe Recommendation on the Rights of Older Persons explicitly recognises that their decision-making power can be limited in certain cases⁴², which in turn conflicts with Article 12 CRPD, is downright counterproductive and in stark contrast to this.⁴³

This fragmentation prevents older people from exercising their rights.

Therefore, a UN Convention would have to protect older persons' right to personal autonomy to make decisions, to determine their life plans and to lead autonomous and independent lives in line with their will and preferences, on an equal basis with others.. It would clarify that States must provide them with the necessary support they may need to exercise their legal capacity, as well as ensuring their effective access to remedies and redress.⁴⁴

e. Social security and social protection

Social security is a human right. However, what many people take for granted was internationally recognised and laid down in binding international treaties only during and after the Second World War.

The right to social security is enshrined in Articles 22 and 25 of the Universal Declaration of Human Rights (UDHR)⁴⁵ and in Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁴⁶. However, Article 9 is the shortest article of the Covenant and does not mention any standards, specific instruments or agencies in charge. The insufficient specification of the right to social security represents a major legal gap, not only with regard to older people. Although the right to social security applies to all people, it is particularly relevant for older people, as older people often have fewer resources to secure their livelihood from their own resources.⁴⁷

Germany is one of the largest welfare states with very high social spending, with an emphasis on older persons (36.4% of spending goes to older persons, 2022), and includes a broad range of social security institutions. However, the demographic challenges to old-age pensions due to ageing

³⁸ https://iris.paho.org/bitstream/handle/10665.2/57771/9789275126943_eng.pdf?sequence=1&isAllowed=y

³⁹ https://www.europarl.europa.eu/charter/pdf/text_en.pdf

⁴⁰ Explanations Relating to the Charter of Fundamental Rights (2007) OJ C 303/17, 35

⁴¹ <https://rm.coe.int/168007cf93>

⁴² Council of Europe, Committee of Ministers Recommendation CM/REC(2014)2 to member States on the promotion of human rights of older persons, paras. 12-13.

⁴³ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

⁴⁴ HelpAge International, Freedom to decide for ourselves, 2018.

⁴⁵ <https://www.un.org/depts/german/menschenrechte/aemr.pdf>

⁴⁶ https://treaties.un.org/doc/Publication/CTC/Ch_IV_3_a.pdf

⁴⁷ HelpAge Germany Statement - 10th Session of UN-OEWG-A; New York, 16 April 2019

populations are being addressed much later and with fewer policy changes than in most other Northern countries. Therefore old-age security is at risk. Regarding administration, the German social security systems have a very low degree of digitalisation, and this impairs their effectiveness.

Besides the large statutory old-age pension insurance, Germany has a substantial basic security scheme for older persons (Grundsicherung im Alter), a kind of means-tested social assistance. Old-age poverty is low measured by the extent of basic security receipt, which amounts to 3.7% of all older persons (2022). However, there is considerable non-take-up: for each person who claims basic security there is at least one more person who is entitled to but does not claim the benefit.

While the coverage of social benefits in the industrialised North is still very high at over 90%, in Africa only 17% of the population receive social benefits, and often this is just one kind of benefit, usually access to medical care.⁴⁸

Social insurance schemes have been introduced by law in almost all countries in the world (>97%). However, this generally does not include unemployment insurance, the level of benefits is low, and above all, informal workers who are the majority of workers in many countries of the global South are not covered. Regarding old-age pension insurance, the pensionable age in the global South is often so high that many older persons have died before reaching that age. In Uganda, for example, the retirement age has been raised to 65. However, the average life expectancy there in Africa is 59 years (2019).⁴⁹

Besides social insurance, non-contributory “social cash transfers” have spread in the global South over the last 20 years. The main target groups of social cash transfers include the elderly, children, people with disabilities - but hardly anyone in employment!

In Goal 1.3, the 2030 Agenda calls for the development of a social system and the implementation of appropriate social protection systems and measures for all, including basic protection, and the achievement of broad coverage of the poor and vulnerable by 2030. The claim is vague and not backed up with indicators and clearly defined targets, but rather serves as a bridge to other overarching goals.⁵⁰

However, the importance of a resilient social security system is demonstrated by the Covid 19 pandemic, which has exposed the gaps in the security system.⁵¹

In addition to the economic benefits, a robust social system creates political stability and social peace by reducing inequalities, social tensions and violent conflicts, as well as ensuring social cohesion and participation.⁵²

However, social security systems are not necessarily at the top of the list of national priorities in the countries of the Global South, as social benefits also lead to independence from power structures, especially in rural areas, which are often determined by extended families, clans, ethnic and/or religious leaders.

⁴⁸ ILO Data Dashboard, SDG 1.3, effective coverage

<https://www.social-protection.org/gimi/WSPDB.action?id=16>

⁴⁹ <https://www.afro.who.int/news/healthy-life-expectancy-africa-rises-almost-ten-years>

⁵⁰ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/291/89/PDF/N1529189.pdf?OpenElement>

⁵¹ Leisering Lutz: Social protection responses by states and international organisations to the COVID-19 crisis in the global South: Stopgap or new departure? SAGE Journals, July, 2021

⁵² <https://usp2030.org/#why>

To cover all vulnerable groups in particular, it is therefore essential to implement a legally *binding instrument* that is valid worldwide in order to introduce social security systems that guarantee a robust and lasting social peace even in economically difficult times in a fragile context.

f. Education, training, lifelong learning and capacity-building

The German Basic Law (Grundgesetz) does not explicitly regulate the right to education, but it is derived from the regulations on the protection of human dignity and equal treatment. (Art. 2 and Art. 3 GG)⁵³ The special provision of the school system implies the right to education. (Art. 7 GG) It is also assumed from Article 12 of the Basic Law with the free choice of occupation that the state must create educational conditions in order to provide the basis for vocational training.

However, rights relating to the education system are fragmented and are largely delegated to the federal state level, which in some cases leads to 16 different education systems and educational requirements in Germany. Education is therefore also a matter of luck, depending on which federal state you are born in. This may impair the right to education as laid down in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights to which has subscribed Germany to enable higher educational opportunities. (Article 13, Para 2c)⁵⁴

In 1962, the concept of lifelong education was introduced as a topic at the UNECSO conference in Hamburg⁵⁵ and promoted by the International Committee for the Advancement of Adult Education at the follow-up conference.⁵⁶

Education for people in the post-professional phase is not regulated by law.

At a national level, the demand for lifelong learning has been repeatedly confirmed⁵⁷, but only imperfectly implemented. While there are further training measures that are supported as part of continuing vocational training, there is a lack of corresponding programmes in the post-employment phase. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), which is responsible for senior citizens, stated in 2007 that *lifelong learning* for the over 65 age group is only important for maintaining a high-quality personal and social life and that the learning content should relate to general knowledge of politics and current affairs.⁵⁸ This is a clear violation of the individual's freedom of choice and violates the German *General Act on Equal Treatment (Antidiskriminierungsgesetz -AGG)*. (section 2 para. 1 no. 3 AGG).⁵⁹

⁵³ https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0020

⁵⁴ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

⁵⁵ Gottfried Hausmann: Introduction Paul Lengrand: Permanente Erziehung. Verlag Dokumentation, Munich/Berlin 1972. p. 17.

⁵⁶ OECD/CERI: Recurrent Education. A Strategy for Lifelong Learning. A Clarifying Report. Paris 1973.

⁵⁷ https://km-bw.de/Len/startseite/kultur_weiterbildung/Lebenslanges_lernen

⁵⁸ Federal Ministry for Family Affairs, Senior Citizens, Women and Youth: Ageing Societies in International Comparison. 2007, S. 82

⁵⁹ https://www.gesetze-im-internet.de/englisch_agg/englisch_agg.html#p0015

The limitation of older persons from learning and educational opportunities is a denial of their rights and prevents them from pursuing the realisation of other human rights, such as the right to work, to fully participate in social, economic, cultural and political life, and to health.

*In an international context, HelpAge conducted an extensive study on this topic, in which older people told us that they did not have an opportunity to learn the skills, knowledge and information they need for different aspects of their lives, from making money to enjoying life more, and want to acquire them. Acquiring IT skills is also important to older persons as they want to use smart phones, computers and the internet to withdraw money, pay their bills, book doctors' appointments, shop and bank online, buy tickets for cultural events, and stay in touch with family and friends.*⁶⁰

g. Right to work and access to the labour market

Age discrimination - stereotypes and prejudices about people and discrimination based on their age - is a widespread phenomenon faced by both younger and older people in the labour market. Age discrimination continues to be a defining factor in the labour market and is costly for companies that fail to realise the full potential of their ageing workforce. For individuals, ageism has been shown to have a negative impact on health and wellbeing and can reduce life expectancy by up to 7.5 years.⁶¹

According to a 2018 study by Price Waterhouse consultants, productivity could be increased by 3.5 trillion dollars per year if age stereotypes in the world of work were eliminated.⁶²

In its 2019 policy brief, UNECE therefore proposed a three-point programme to achieve these goals. 1. Eliminating age-discriminatory legislation, 2. Addressing prejudice and negative stereotypes and 3. Promoting an age-inclusive and intergenerational working environment⁶³.

In Germany, this issue has only been tackled half-heartedly. In the past extensive early retirement schemes were used to make it easier for younger people to enter the labour market. These policies have been abandoned, and today, in times of the shortage of skilled labour due to demographic trends, there are calls for opening access to labour for older persons⁶⁴, underpinned by the courts. For the first time, a court of higher instance has ruled that people may not be dismissed on the basis of their age and awarded the plaintiff damages for age discrimination.⁶⁵ The challenge is that there is no right to paid work in German law. In times of economic downturn, older people are particularly affected by dismissal and early retirement. In 2016, 21% of all registered unemployed persons were over 54 years of age. In the age group 55 to 64, only around 35% of these unemployed persons take up new employment that is subject to social insurance contributions within the first two years of

⁶⁰ HelpAge International, Living not just surviving: What older people say about their rights to social protection and social security, and to education, training, lifelong learning and capacity building, London, HelpAge International, 2019, <https://www.helpage.org/news/living-not-just-surviving-older-people-are-being-denied-their-right-to-social-protection-and-education/>

⁶¹ https://unece.org/sites/default/files/2021-02/PB21_GER.pdf

⁶² PwC 2018, p. 18

⁶³ https://unece.org/sites/default/files/2021-02/PB21_GER.pdf

⁶⁴ https://avenir50plus.ch/avplus50/wp-content/uploads/2018/08/Swisslex_ARV-2018-S.-1.pdf

⁶⁵ Regional Court (LG) Frankfurt am Main on Wednesday (judgement of 25.01.2023, ref. 2-16 O 22/21).

unemployment. The probability of re-employment decreases significantly with increasing age.⁶⁶ So far, it is not foreseeable that the Ministry of Justice and the Ministry of Labour and Social Affairs will draw any conclusions from the above-mentioned ruling, resulting in a regulatory gap that affects 22% of the German population on average.⁶⁷ Moreover, there are age-discriminatory regulations for some professional groups, for example for pilots and midwives,

Existing international treaties currently do not adequately address the rights of older people. The International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families⁶⁸ remains the only international human rights convention to explicitly prohibit discrimination on the grounds of age. Again, provisions at the regional level are inconsistent and limited in scope. The exceptions to the prohibition of discrimination on the basis of age in Article 6 of the EU Employment Equality Directive (2000/78/EC) even reinforce the widespread acceptance of age limits and differences in treatment on the basis of age that are not accepted for any other ground⁶⁹.

A UN Convention on the rights of older persons is urgently needed to protect older persons' right to work. It would clarify that older persons have the right to decent work on an equal basis with others and which legal guarantees must be in place at the national level to guarantee their enjoyment of this right. It would clarify the exact scope of State obligations, including taking the necessary measures so that we can all enjoy available and accessible employment opportunities and career advancement in older age, as well as effectively access remedies and redress. A Convention would also include specific provisions protecting the rights of older persons undertaking informal or unremunerated work, such as the right to enjoy fair and safe conditions of work.⁷⁰

h. Access to justice

The German Basic Law (Grundgesetz-GG) guarantees all people unhindered access to the legal system. (Article 19 Para 4 Basic Law)⁷¹. While the Basic Law grants all people the same rights (Art. 3 Para. 1), there is no extra passage that considers the rights of older people in a special way. In legal and procedural terms, older people therefore have the same access to legal remedies as younger people.

The easy accessibility of the courts for everyone, including older people, is given by the number of courts. The ordinary jurisdiction of the courts on 12 June 2019 638 local courts (Amtsgerichte), 115 regional courts (Landgerichte) and 24 higher regional courts (Oberlandesgerichte) as well as the Federal Court of Justice (Bundesgerichtshof).⁷²

⁶⁶ <https://social.un.org/ageing-working-group/documents/eleventh/Inputs%20NGOs/BAGSO%20-%20Right%20to%20Work.pdf>

⁶⁷ <https://www.destatis.de/DE/Themen/Querschnitt/Demografischer-Wandel/Aeltere-Menschen/bevoelkerung-ab-65-j.html>

⁶⁸ <https://www.ohchr.org/sites/default/files/cm.w.pdf>

⁶⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32000L0078>

⁷⁰ International, *Keeping our dignity: What older people say about their rights to access to justice, and to work and access to the labour market*, London, HelpAge International, 2019,

<https://www.helpage.org/resource/keeping-our-dignity/>

⁷¹ https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0105

⁷² https://de.wikipedia.org/wiki/Liste_deutscher_Gerichte

Legal costs can be granted according to need. Age does not play a role here. A special feature of the German legal system is the *mediation procedure*, which helps to save court costs and speed up proceedings. This route is more frequently taken by older people, as the often-long duration of proceedings before authorities and courts are structurally disadvantaged. 14.9% of proceedings before the regional courts take more than 12 months and 7.0% take more than 24 months⁷³. Consumer protection organisations and human rights organisations, as well as the courts, which insist on more staffing, repeatedly denounce the long duration of trials.

For people in need of care and their relatives in particular the long duration of proceedings is an obstacle to the enforcement of justified claims. Residents of care facilities also have the added disadvantage that a legal dispute may impair the care relationship with the operator of such a facility. For older people with cognitive impairments, e.g. due to dementia, an authorised person (health care proxy) or a legal guardian is usually appointed by the court to support and represent the person concerned. The procedure is based on § 1814 Para 4) BGB (German Civil Code) and is regulated from Section 1773 ff BGB (Guardianship).⁷⁴

Hence there is no structural discrimination of older people in the national legal system.

It is therefore all the more surprising that the German Ministry of Justice has not yet clearly declared itself in favour of a *legal binding instrument* to protect the rights of older people. Despite some shortcomings, the German legal system could serve as a blueprint for an international agreement.

The situation is different in many partner countries, where older people, women and people with disabilities in particular have problems accessing the legal system. According to a research⁷⁵ by the HelpAge network in 24 countries, 71% stated that they had a legal problem in their old age that they wanted to solve. The most common types of legal problems were disputes over land or property (29%), followed by difficulties accessing public services to which they are entitled (19%), problems with money and debt or being a consumer (14%) and family disputes such as divorce and inheritance (13%).⁷⁶

It was also reported that judicial authorities did not respect their applications, that they were treated with disrespect by court officials and even harassed by the police. Other obstacles included lack of support, lack of accessible information, lengthy court proceedings and fear of retaliation from family members who were the subject of a complaint.

The right of access to justice is guaranteed in international human rights law as part of the right to equal recognition before the law.⁷⁷

A convention would also the obligation of states to provide older persons with the necessary legal assistance and support services as well as accessible information and access to alternative, non-judicial routes to justice. Finally, a legal binding instrument would also protect the rights of older

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https://www.bmj.de/DE/themen/wege_zum_recht/gerichtsverfahren/ueberlange_gerichtsverfahren/ueberlange_gerichtsverfahren_node.html

⁷⁴ https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p6845

⁷⁵ HelpAge International, Keeping our dignity: What older people say about their rights to access to justice, and to work and access to the labour market, London, HelpAge International, 2019

⁷⁶ HelpAge International, Keeping our dignity: What older people say about their rights to access to justice, and to work and access to the labour market, London, HelpAge International, 2019 Page 4

⁷⁷ Article 6 of the Universal Declaration of Human Rights, Article 16 of the International Covenant on Civil and Political Rights and Articles 5 and 12 of the Convention on the Rights of Persons with Disabilities

prisoners, including their access to health services, physical adaptations, protection from violence and extortion, education and vocational training, integration services, social and other support services.

i. Contribution of older persons to sustainable development

The adoption of the Sustainable Development Goals (SDG) in the 2030 Agenda⁷⁸ is based on the holistic aspiration of *leaving no one behind*. However, on closer inspection of the 17 overarching goals and 169 sub-goals, we find that the group of older people is explicitly mentioned only three times (SDGs 2.2, 11.2, 11.7).^{79 80}

Subsequently, this leaves the further meaningful participation of older people in the SDG processes vague

In Germany, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) is responsible for the concerns of older people; the Federal Ministry of Labour and Social Affairs (BMAS) is responsible for participation; and the Federal Ministry of Health (BMG) is responsible for age-appropriate health care. This patchwork needs urgent correction, for example through an ombudsman, where all the threads come together. Germany currently has 43 federal ombudsmen / ombudswomen⁸¹, also for all vulnerable groups, but not for older people, although this was demanded by older people organisations including HelpAge Deutschland in the run-up to the 2021 federal elections.⁸²

Again, the federal structure German state matters. At the state level there are different legal provisions for participation and sustainable co-determination. So-called *Seniorenräte* (senior citizens' advisory councils) exist only in some federal states, while in other federal states they are implemented neither at the state level nor at the district or municipal level. Moreover, these bodies only have an "advisory vote" and cannot make any independent decisions that would bind the municipalities or federal states.

However, since this commitment must again be considered in the context of the 2030 Agenda as an accountability report, a closer look reveals that SDG Goals 16 and 17 have not been backed by national markers. Indicators that directly affect older people are also missing. The German Sustainable Development Strategy (Deutsche Nachhaltigkeitsstrategie -DNS) makes only one explicit reference to the situation of older people on its 391 pages, where it talks about the labour force participation rate of the over-64s and their contribution to economic management (page 240). There is no explicit promotion of participation and demographic change is not considered separately.

This is also reflected in the statistical surveys. Although Germany is one of the founding members of the Titchfield City Group⁸³, it struggles to differentiate older people by cohort. They are often found in the 65 plus group, but this ignores the different needs of 65-year-olds compared to 80 or 90 year

⁷⁸ <https://sdgs.un.org/goals>

⁷⁹ https://sdgs.un.org/goals/goal2#targets_and_indicators

⁸⁰ https://sdgs.un.org/goals/goal11#targets_and_indicators

⁸¹ https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/ministerium/liste-beauftragte-bundesregierung.pdf?__blob=publicationFile&v=12

⁸² <https://www.helpage.de/aktuelles/den-demografischen-wandel-nachhaltig-gestalten>

⁸³ <https://unstats.un.org/unsd/methodology/citygroups/Titchfield.cshtml>

old person and their specific needs. However, full participation is only possible if the disaggregated data and thus different needs are recorded depending on the age cohort. The UN, which has identified data collection as one of the central issues in the SDGs, will also have to be measured against this (e.g. SDG 16.7.2).⁸⁴

However, data collection does not necessarily mean participation in the sense of SDG 16⁸⁵. There are still age restrictions, for example in professional life, where certain functions may no longer be exercised above a certain age limit, for which there is no medical or any other justification. In some federal states, for example, the age limit for the office of mayor is 67, in Brandenburg even 62. This is a clear violation of the prohibition of discrimination.

HelpAge Deutschland is a member of the German umbrella organisation for senior citizens' organisations, BAGSO, which published a paper on sustainable participation⁸⁶ in 2021. The federally funded German Centre for Gerontology (Deutsches Zentrum für Altersfragen - DZA) shared a survey on this topic.⁸⁷

The bottom line is that although older people in Germany formally have all rights, but they are not able to fully participate.

Both come to the conclusion that there are regulatory gaps that need to be closed by an international legal binding instrument.

j. Economic security

In Germany, there is no generally agreed definition of poverty: however, people who are unable to secure their livelihood through their own income or assets are entitled to means tested basic security in old age in accordance with SGB XII.⁸⁸ The right to basic security has been established by the Constitutional Court based on Article 1 of the Basic Law, which stipulates that human dignity is inviolable⁸⁹ (and must therefore be protected by all means), and article 20, which stipulates that Germany is a welfare state.

In order to secure their livelihood, the consumption expenses of low-income earners for food, clothing, personal hygiene, household goods, electricity for lighting purposes and electrical appliances as well as for everyday items are taken into account. In addition, individually adjusted costs for accommodation and heating as well as contributions to health and long-term care insurance are covered. Special and additional needs can be taken into account in individual cases.

⁸⁴ https://sdgs.un.org/goals/goal16#targets_and_indicators

⁸⁵ <https://sdgs.un.org/goals/goal16>

⁸⁶ https://www.bagso.de/fileadmin/user_upload/bagso/06_Veroeffentlichungen/2021/BAGSO-Positionspapier_Mitentscheiden_und_Mitgestalten.pdf

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https://www.dza.de/publikationen/publikation?tx_dzalist_details%5Baction%5D=show&tx_dzalist_details%5Bcontroller%5D=Publication&tx_dzalist_details%5Bpublication%5D=1195&cHash=0f41648d87837ff0054dc9db e127abb3

⁸⁸ https://www.gesetze-im-internet.de/sgb_12/

⁸⁹ https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0016

Other basic guarantees, such as sufficient and adequate food⁹⁰, suitable housing or access to clean drinking water, are not regulated in the German Social Code, but were discussed in the German Bundestag,⁹¹ without, however, bringing about a change in the Social Code. Instead, the obligation is derived from various international treaties, the European Charter on Fundamental Rights⁹² or directly from Article 20 para. 1 of the German Basic Law, which derives the mandate from the obligation to a democratic and social federal state.⁹³

However, older people also face age discrimination in access to financial services, credit and property. Age restrictions on bank loans and other financial services as well as a lack of capital and access to information limit their financial autonomy and prevent them from starting or expanding their own business. (These points have already been highlighted in the individual sub-chapters of our statement and will therefore not be explicitly considered further).

Stable economic growth is the key to a prosperous society. Accordingly, the government pursues a range of policies designed to foster economic growth.

As mentioned above, old-age poverty is low measured by the number of recipients of basic security benefits, which amounts to 3.7% of all older persons (2022). This is well below the poverty rate among other groups in society: in the total population 8% receive basic security benefits. The EU and the Statistical Office in Germany define persons who have less than 60% of the median income in the population as being "at risk of poverty". These are persons who are not poor, but live close to the poverty line. While "at risk of poverty" is not a poverty line observed by government policies, rising numbers of persons at risk of poverty can be seen as a warning sign. The percentage of persons at risk of poverty has risen from 11% (2005) to 18,3% (2022; EU-average 17,3%). The picture is similar for people aged 75 and over.

While there is no "right to economic security" as such in international human rights law, older persons' economic security is impacted by their access to and enjoyment of a wide range of human rights in older age, including their right to equality and non-discrimination; access to work; social security and social protection; education, training and lifelong learning; and health care.

A comprehensive binding human rights treaty is needed to ensure that older persons can effectively enjoy the full range of fundamental rights and freedoms.

k. Right to health and access to health services

The shift towards an ageing society with new disease patterns will require new job profiles in medical care and nursing, but will also raise serious questions about the financing of preventive and curative medical care in the coming decades, which we must answer today in order to adequately finance these immense costs.

⁹⁰ <https://www.fao.org/right-to-food-around-the-globe/countries/deu/en/#:~:text=Germany,1973%20by%20way%20of%20ratification.>

⁹¹ <https://dserver.bundestag.de/btd/19/142/1914261.pdf>

⁹² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT>

⁹³ https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0108

According to the World Bank, even before COVID-19, around half of the world's population did not have access to adequate healthcare,⁹⁴ despite the fact that universal access to healthcare without discrimination is a human right enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights and is also mentioned in Goal 3.8 of the Sustainable Development Goals.⁹⁵ The social protection principles outlined by the ILO in Recommendation 202 (2012) also include "basic health care" for all. In addition, the recent move towards universal health coverage emphasises the need to include all people in medical services.⁹⁶

Not only the global South, but also the global North, has problems in realising the human right to health. Germany, health insurance was introduced as early as 1883 with Bismarck's laws, and later developed to a comprehensive and high quality scheme. Remarkably, even poor persons who rely on basic security benefits (social assistance) have full access to all medical services, just as the rest of the population. However, as early as 2019, Lancet warned that migrants are not entitled to adequate healthcare in Germany.⁹⁷ The German insurance system is ageing and faces problems like low digitalisation..

Before the Covid 19 pandemic, around 61,000 people did not have health insurance (although this is required by law).⁹⁸ According to the latest estimates from the beginning of 2023, there are already more than 1 million Germans without adequate access to medical care. Most of them are over 55 years old and due to discriminatory laws, cannot return to statutory health insurance after opting for private health insurance (with very few exceptions).

Barriers to access to healthcare for older adults need to be addressed globally, including the high cost of healthcare, which is a major financial burden for many families and increases with age. Around 80% of all lifetime costs for medicines and care are incurred in the last two years of life. Healthcare systems in the global South are already hopelessly overburdened. On average, 90 % of public healthcare expenditure worldwide is mandatory (for healthcare and preventive healthcare including infrastructure measures) and cannot be reduced for other healthcare expenditure.⁹⁹

At the same time, the prevalence of non-communicable diseases (NCDs), which are the main cause of death and disability worldwide, is increasing and particularly affects older people.¹⁰⁰¹⁰¹ In 2022, the WHO Global NCD Platform was therefore established, which includes the Global Coordination Mechanism for NCDs. In this mechanism, the United Nations Interagency Task Force for the Prevention and Control of NCDs, together with other stakeholders, oversees cross-cutting initiatives on NCDs and related health challenges.¹⁰² The platform should also help to ensure that better age-disaggregated data is collected in the future, as envisaged by the Titchfield City Group.¹⁰³

⁹⁴ <https://www.worldbank.org/en/news/immersive-story/2018/12/07/lack-of-health-care-is-a-waste-of-human-capital-5-ways-to-achieve-universal-health-coverage-by-2030>

⁹⁵ <https://sdgs.un.org/goals/goal3>

⁹⁶ [https://www.who.int/news-room/fact-sheets/detail/universal-health-coverage-\(uhc\)](https://www.who.int/news-room/fact-sheets/detail/universal-health-coverage-(uhc))

⁹⁷ [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)30245-4/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)30245-4/fulltext)

⁹⁸ <https://de.statista.com/statistik/daten/studie/239714/umfrage/bevoelkerung-in-deutschland-nach-art-der-krankenversicherung/>

⁹⁹ Picco L, Achilla E, Abdin E, Ann Chong S, Ajit Vaingankar J, McCrone P, et al. Economic burden of multimorbidity among older adults: impact on healthcare and societal costs. 2016;

¹⁰⁰ <https://www.who.int/news-room/fact-sheets/detail/ageing-and-health>

¹⁰¹ <https://www.who.int/news-room/fact-sheets/detail/noncommunicable-diseases>

¹⁰² <https://www.who.int/teams/global-noncommunicable-diseases-platform>

¹⁰³ <https://unstats.un.org/unsd/methodology/citygroups/Titchfield.cshtml>

To ensure that older adults are able to overcome barriers to accessing health services, health systems need to develop a holistic model of care, with professionals trained and skilled in geriatrics and care of older people. The Global South in particular needs to be supported in this regard, as in most countries of the South, professional training for medical and nursing work is underdeveloped and often not included in medical school curricula.

Failure to treat elderly people due to inadequate training of medical and/or nursing staff is an offence against human dignity and must be eliminated.

I. Social inclusion

Inclusion means that people no longer have to adapt their lives to existing structures. Rather, society is called upon to create structures that enable every person to be a valuable part of society from the very beginning.¹⁰⁴

Inclusion in the community is thus also an expression of recognition of the dignity of older people. As people age, the need for inclusion and interaction with others remains, but too often age and the impairments more common in older adults are used as justification for exclusion from the community.¹⁰⁵

However, the idea that inclusion is not synonymous with integration is only slowly gaining acceptance - also in the policy fields. After years of discussion, a small success has been achieved in Lower Saxony: The coalition agreement of 2022 stipulates that the building regulations will be amended so that housing construction will be designed to be inclusive in future, so that people with disabilities and older people can remain living there and thus live in their familiar surroundings.¹⁰⁶

This has not yet been achieved at national level but is still being pursued by German civil society as another important interim goal for achieving full inclusion.

While in Germany at least the problem is moderately recognised, and as far as social support is concerned, is reflected among other things in social legislation (SGB IX)¹⁰⁷ but also the General Act on Equal Treatment (AGG)¹⁰⁸, social inclusion plays a rather subordinate role, especially in the Global South, where issues such as malnutrition and combating poverty dominate the agenda, which is understandable, but the fundamental importance of social inclusion must not be lost sight of, as *UN Secretary-General Guterres had already pointed out in his policy brief in 2020, calling for strengthening social inclusion as well as solidarity and stressing the obvious gaps in the legal protection of older people.*¹⁰⁹

¹⁰⁴ <https://www.stmas.bayern.de/inklusion/begriff/index.php>

¹⁰⁵

World Health Organization. Global report on health equity for persons with disabilities [Internet]. 2022 [cited 2023 Feb 2]. Available from: <https://apps.who.int/iris/rest/bitstreams/1481486/retrieve>

¹⁰⁶ https://www.spdnds.de/wp-content/uploads/sites/77/2022/11/Unser_Koalitionsvertrag.pdf Page 22ff and Page 77

¹⁰⁷ https://www.gesetze-im-internet.de/sgb_9_2018/

¹⁰⁸ <https://www.gesetze-im-internet.de/agg/>

¹⁰⁹ <https://www.un.org/development/desa/ageing/wp-content/uploads/sites/24/2020/05/COVID-Older-persons.pdf> Page 3

Social protection, and closely related to it, social inclusion, is based on value ideas and thus has a high need for legitimacy, which is fed by 21st century values such as "justice, equality, solidarity, but also inclusivity and universalism". In global debates, the focus is usually only on the dimensions: "social rights" and thus means social laws and increasing the coverage of social security. The human right to social protection, however, requires strengthening in the service dimensions, such as coverage benefit levels/standards, and also social foundations, such as legal, administrative, fiscal, normative and political foundations. ¹¹⁰

Currently, only 47% of the world's population is covered by at least one social security system, with only 25% in LMICs. Universalistic welfare regimes exist in only about 10% of Southern countries. Even some large MICs have only marginal social security, e.g. India, Indonesia, Nigeria, which are reaching their limits due to demographic development and economic challenges and therefore have only implemented an imperfectly inclusive benefit system for the elderly in particular.¹¹¹

The Decade of Healthy Ageing proclaimed by the WHO emphasises the positive effects of social inclusion and does not limit this to social services alone, but calls for the entire environment to be considered and included,¹¹² i.e. also taking into account the positive physiological aspects and linking them to other activities, such as maintaining cognitive abilities, as described by the World Social Report 2023. ¹¹³

Both the UNECE Ministerial Conference on Ageing 2022¹¹⁴ in Rome and the Multistakeholder Meeting on the human rights of older persons¹¹⁵ in Geneva in 2022 discussed i.a. the topic of "social inclusion" but highlighted that so far that in all discussions only particular areas of consideration for the full participation of older persons and thus the implementation of social inclusion are taken into account. Both concluded their final reports that only a new legally binding document can eliminate this gap for the full inclusion of older persons in all areas of their lifespan. This document than would outline and protect the rights of older people in our ageing world and provide signatory states with guidelines for their obligations.

m. Accessibility, infrastructure and habitat

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. ¹¹⁶

The UN Convention on the Rights of Persons with Disabilities (CRPD)¹¹⁷ 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

¹¹⁰ Prof. Lutz Leisering: Keynote: Social security at VENRO, February 10th, 2023

¹¹¹ Prof. Lutz Leisering: Keynote: Social security at VENRO, February 10th, 2023

¹¹² <https://www.decadeofhealthyageing.org/>

¹¹³ <https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2023/01/2023wsr-fullreport.pdf>

¹¹⁴ https://unece.org/sites/default/files/2022-10/ECE-AC.30-2022-2-E_0.pdf

¹¹⁵ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/615/30/PDF/G2261530.pdf?OpenElement>

¹¹⁶ 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

¹¹⁷ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

policies over the last years, triggering sweeping changes to facilitate access. This also benefits older persons.

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"¹¹⁸. To date, however, HelpAge Germany 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%¹¹⁹ and rise to 80% by 2050.¹²⁰

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.¹²¹ This is a mandatory task for local authorities and by no means voluntary, as confirmed by a legal opinion by Prof Dr Johannes Hellermann / Bielefeld University in 2022.¹²² 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).¹²³

Nevertheless, the Convention does not meet all needs of older persons at the intersection of old age and disability.¹²⁴ 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 Persons¹²⁵ are limited in geographical scope. In the EU, the 2019 Accessibility Act¹²⁶ requires the accessibility of certain products and services, but shows significant gaps as it does not include health care services, education, transport, housing and household appliances. In addition, Member States can decide

¹¹⁸ https://www.spdnds.de/wp-content/uploads/sites/77/2022/12/SPD_NDS_LTW_Koalitionsvertrag_2022_2027_Web.pdf page 22

¹¹⁹ <https://www.destatis.de/DE/Themen/Laender-Regionen/Internationales/Thema/bevoelkerung-arbeit-soziales/bevoelkerung/Stadtbevoelkerung.html>

¹²⁰ <https://www.bmz.de/de/themen/stadtentwicklung/hintergrund-18138>

¹²¹

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

¹²²

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

¹²³ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

¹²⁴ 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.

¹²⁵ https://www.oas.org/en/sla/dil/docs/inter_american_treaties_A-70_human_rights_older_persons.pdf

¹²⁶ Directive 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services

themselves what the requirements are for accessibility of the built environment related to services covered by the Act.¹²⁷

n. Participation in the public life and in decision-making processes

Effective participation in public life and decision-making processes is fundamentally guaranteed to older people by the German Basic Law (Grundgesetz, Art. 2+3 GG).¹²⁸

However, case law and developments in recent years have shown a trend in the opposite direction. Older people have been excluded from certain professions or no longer allowed to take on voluntary work because of their age (as shown above). This is in stark contrast to the German Basic Law and the Charter of Human Rights. It remains to be seen whether the judgement of the Frankfurt Higher Regional Court (see page 15) will change this in the medium term. However, doubts remain.

The lack of participation of older persons in decision-making processes was made painfully clear during the COVID-19 pandemic when Governments made top-down decisions with far reaching consequences on older persons' lives, but without including or even consulting them in the process.

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth's new federal model programme of the European Social Fund (ESF) "[Strengthening the Participation of Older People - Ways out of Loneliness and Social Isolation in Old Age](#)"¹²⁹ was intended to strengthen the social participation of older people (over 60) for the first time with funding from the European Union (EU). The gap, however, was that this fund was explicitly aimed at people who were still working,¹³⁰ and was therefore more of an employment programme than a participation model.

Studies show that older people want to help decide and shape political processes. However, 70-year-olds are underrepresented in parliaments, as are those under 40.¹³¹ In some federal states, so-called senior citizens' councils (Seniorenbeiräte) have been set up at provincial, district and municipal level. However, as a rule, they only have an advisory vote and are not allowed to vote on important decisions that affect them, what is a clear violation of: *nothing about us- without us*, as demonstrated when the *Convention for the Rights of Persons with Disabilities* was set in force and accepted as a parole to follow, by the international community undisputed.

Almost one in three (8.7 million) of the 28.8 million people who do voluntary work in Germany are aged 65 and over. This makes them the backbone of volunteering in Germany.

¹²⁷ Age Platform Europe, "The European Accessibility Act published in EU Official Journal", 4 July 2019.

¹²⁸ https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0016

¹²⁹ <https://www.esf.de/portal/DE/Startseite/inhalt.html>

¹³⁰ https://www.esf.de/portal/DE/ESF-Plus-2021-2027/Foerderprogramme/bmfsfj/staerkung_aeltere.html

¹³¹ Of the 709 members of parliament elected to the German Bundestag in 2017, only eleven belonged to the year

1945 to 1949 and only eight from 1940 to 1944 (see https://www.bundestag.de/resource/blob/272472/6091c6dd2fee377c692200c044759787/Kapitel_03_01_Altersgliederung-pdf-data.pdf)

In addition to political participation, *meaningful participation* also makes an important contribution to maintaining health. There are *positive correlations with quality of life and a negative correlation with anomie*, as demonstrated by an Austrian study.¹³²

The fact that older people are insufficiently recognised in international treaties is also a consequence of the lack of *legally binding instruments* to enforce human rights.

The three major treaties from 2015 alone take insufficient account of older people and their needs: While older people are still included in the Sendai Treaty *Sendai Framework for Disaster Risk Reduction 2015 - 2030*¹³³ as knowledge carriers in the regulations, they are completely absent from the list of vulnerable groups in the *Paris Agreement* on climate change¹³⁴. The *SDG-2030* sustainability agenda¹³⁵ also only considers older people three times in its 17 overall goals and 169 sub-goals (SDG 2.2; 11.2; 11.7)

As a result, rights are not mentioned in the German accountability reports either. The update of the German sustainability strategy (DNS update of March 2021)¹³⁶ only mentions older people in terms of their contribution to the labour force participation rate (page 240), but only considers 60-64 year olds. People aged 65+ are not considered further on 391 pages.

The *Summit of the future* planned for September 2024, which Namibia and Germany are preparing as co-facilitators, does not promise any progress in this regard either. After the Chapeau has been published, it will focus on the inclusion and sustainable participation of young people as one of the five pillars *MEANINGFUL INCLUSION OF YOUNG PEOPLE*¹³⁷.

The planned reorganisation of the United Nations and the upcoming social tasks of the coming decades thus deliberately ignore the rights of over 1 billion older people herein.

. Participation in the implementation, monitoring and reporting mechanisms established by a Convention, including at the national level, would provide a way for older persons to hold their governments to account and the recommendations from these mechanisms would feed into policymaking and reform processes.¹³⁸

¹³²

<https://www.sozialministerium.at/#q=Factsheet%20Teilhabe%20im%20Alter:%20Theorie,%20Empirie,%20Praxis&pg=1&t=simple&po=&mi=>

¹³³

https://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf?_gl=1*11wvq5*_ga*MTA4OTY0OTc0My4xNjk5ODAzOTI4*_ga_D8G5WXP6YM*MTY5OTgwMzkzOS4xLjAuMTY5OTgwMzkzOS4wLjAuMA..

¹³⁴ https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf

¹³⁵ <https://sdgs.un.org/goals>

¹³⁶

<https://www.bundesregierung.de/resource/blob/998194/1875176/3d3b15cd92d0261e7a0bc8f43b7839/deutsche-nachhaltigkeitsstrategie-2021-langfassung-download-bpa-data.pdf>

¹³⁷ <https://www.un.org/sites/un2.un.org/files/our-common-agenda-summit-of-the-future-what-would-it-deliver.pdf>

¹³⁸ UNECE, Meaningful participation of older persons, 2021.

Options on how best to address the gaps

1. How engages your government / organization

Please state how your government / organization has engaged with international and regional human rights mechanisms (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms), specifically with regard to older persons.

HelpAge Deutschland and its partner organizations from the global south have submitted reports and statements to a wide range of human rights mechanisms, including but not limited to:

- the *Committee on Economic, Social and Cultural Rights*; for example at the MIPAA +20 conference in Rome in 2022
- the *Office of the High Commissioner for Human Rights* to engage with the WHO for a review of the first World Humanitarian Response Plan, where older persons were not mentioned.
- the *Independent Expert on the enjoyment of all human rights by older persons* on several occasions, like contributing to the thematic annual reports.
- the *Human Rights Council*, for example: Multi-stakeholder meeting on the human rights of older persons 2022 in Geneva with several oral and written statements

UN-Organisations and agencies as well as Human rights organisations at the OEWG-A from 2019 onwards, organising and conducting several side-events on the topic of “engagement for the rights of older persons worldwide”.

On regional / national level, HelpAge Deutschland shared reports and statements with the Federal Government Commissioner for Human Rights Policy and Humanitarian Aid at the Federal Foreign Office / Beauftragte der Bundesregierung für Menschenrechtspolitik und Humanitäre Hilfe im Auswärtigen Amt,¹³⁹ the German Parliament Committee on Human Rights and Humanitarian Aid / Ausschuss für Menschenrechte und humanitäre Hilfe des deutschen Bundestages¹⁴⁰

At the *European Parliament* and its *Subcommittee on Human Rights* various submissions were made in coordination and cooperation with the local member of the European Parliament.

2. What is the impact

Have those engagement resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate.

HelpAge Deutschland commitment has so far only led to a few successes at the national level.

Through parliamentary formats (like round-table, parliamentarian breakfast / (parl. Frühstück, parliamentarian lunch / parlamentarisches Mittagessen), as well as hearings as experts for the rights of older persons, where we have been invited twice in 2023 at the German Parliament / Deutscher Bundestag, we have been able to arouse the interest of members of the Bundestag, especially those who deal with issues affecting older people affairs in their daily work in the committees, such as the

¹³⁹ <https://www.service.bund.de/Content/DE/DEBehoerden/B/Beauftragte-r/Beauftragte-der-Bundesregierung-fuer-Menschenrechtspolitik-und-humanitaere-Hilfe-im-Auswaertigen-Amt/Beauftragte-der-Bundesregierung-fuer-Menschenrechtspolitik-und-Humanitaere-Hilfe.html?nn=4641496>

¹⁴⁰ <https://www.bundestag.de/menschenrechte>

Committee on Economic Cooperation,¹⁴¹ the Committee (AWZ) on Family Affairs¹⁴², the Committee on Nutrition and Agriculture¹⁴³ or the Committee on Human Rights¹⁴⁴; however, there is a lack of consensus to implement the rights of older people in their entirety at national level.

At party level, the social Democratic party (SPD), which has shared government responsibility since 2017, is the only party so far to have decided already in 2013, at that time under the leadership of the member of the Bundestag and current Federal President, Frank-Walter Steinmeier, to commit itself to a *Convention on the rights of older persons*, but this has not been echoed by other parties. (Deutscher Bundestag Drucksache 17/12399)¹⁴⁵ Enquiries from HelpAge Germany, including to the other democratically constituted parties in the Bundestag in the run-up to the 2021 federal elections, remained unanswered.

However, the biggest disagreement is between the federal ministries. While the Ministry that is in charge of older persons (BMFSFJ) is sympathetic towards establishing a convention and has compiled extensive literature on the subject,¹⁴⁶ most other ministries are neutral or even hostile, such as the Federal Ministry of Justice, which fears that a convention would mean falling behind existing national rights. This fails to recognise that a convention does not prevent states from implementing further positive improvements in the exercise of rights at national level.

Overall, there is also little interest in the OEWG-A and its processes. For example, representatives from other ministries rarely attend the preview and review sessions (or remain silent) of the OEWG-A conference, which is organised by the German Institute for Human Rights (DIMR) and the BMFSFJ.

Smaller successes could only be achieved in direct cooperation and direct exchange at management and expert level at the Federal Foreign Office and the Federal Ministry for Economic Cooperation and Development, which have included the rights of vulnerable groups, especially mentioning older persons, in their respective strategies.

We are unable to judge the extent to which the commitment and statements or interventions of HelpAge Deutschland have helped to set up the recommendation for “legally binding instrument” by the UNECE¹⁴⁷ and UNHCR¹⁴⁸.

Basically, it remains to be said that it is still extremely difficult to put issues affecting older people on the agenda in German politics or law-making process, or as the former Federal Minister of Social Affairs and former Chair of BAGSO, Franz Müntefering, stated: "German politics treats older people with a friendly lack of interest at best".

¹⁴¹ <https://www.bundestag.de/entwicklung>

¹⁴² <https://www.bundestag.de/familie>

¹⁴³ <https://www.bundestag.de/landwirtschaft>

¹⁴⁴ <https://www.bundestag.de/menschenrechte>

¹⁴⁵ <https://dserver.bundestag.de/btd/17/123/1712399.pdf>

¹⁴⁶ <https://www.bmfsfj.de/bmfsfj/themen/aeltere-menschen/internationale-politik-fuer-aeltere-menschen/link-sammlung-zu-wichtigen-dokumenten-und-weitergehenden-informationen-186708>

¹⁴⁷ https://unece.org/sites/default/files/2022-06/Rome__Ministerial_Declaration.pdf

¹⁴⁸ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/615/30/PDF/G2261530.pdf?OpenElement>

3. What other options can be considered

What other options can be considered to strengthen the protection of older persons? Please elaborate.

What is therefore missing is a binding, robust, internationally recognised and binding instrument, as already described above and also highlighted by various UN organisations, or confirmed in the intersessional OEWSA briefing by the Independent Expert on the enjoyment of all human rights by older persons and the human rights treaty bodies on 12 July 2023.

Already in the fourth session of the OEWSA, the gaps were revealed and pointed out by the OHCHR (A/Ac.278/2013/CRP.1)¹⁴⁹ and the question, if there is an existing instrument to safeguard the rights of older people was answered with only one word: **none**.

As discussed in the responses above, existing human rights instruments do not clarify how human rights apply specifically to older persons, and monitoring bodies lack the expertise and capacity to effectively address human rights violations faced by older persons. While there are relevant international policy frameworks, such as the 2002 Madrid International Plan of Action on Ageing (MIPAA), these do not provide the necessary protection of the rights of older people around the world.

Firstly, MIPAA is a policy framework that contains recommendations rather than legally binding standards, so compliance and implementation depend on the goodwill of Member States. Secondly, it does not comprehensively cover the rights of older people and does not, for example, focus on access to justice, legal capacity and involuntary placement. This contrasts with international human rights treaties, which provide for monitoring bodies and individual complaints mechanisms. It also lacks accountability mechanisms.

The fourth global review and evaluation (E/CN.5/2023/6) last year showed that "while progress has been made [...], the persistence of the same challenges over the 20 years of the plan's implementation represents a failure of 'business as usual'." ¹⁵⁰

UN Secretary-General Antonio Guterres had already highlighted the gaps in the legal systems in his Policy Brief: The Impact of COVID-19 on older persons ¹⁵¹ in May 2020, where the gaps are pointed. This letter was signed by 147 states¹⁵², but it is not yet foreseeable that this will have any consequences or commitments on the part of the signatory states.

The Sustainable Development Goals (SDG)¹⁵³, have been cited by China and others in the past as a perfectly adequate instrument for safeguarding human rights, for example on the occasion of the launch of the SDG Accountability Report on June 24th, 2021, but the SDGs are designed as a developmental tool rather than a human rights approach.

In the agenda, older people are only mentioned three times as an identified vulnerable group. (in SDGs 2.2, 11.2, 11.7). On the other hand, the overarching goals 16 and 17 (Peace & Justice;

¹⁴⁹ <https://social.un.org/ageing-working-group/documents/fourth/compilation.pdf>

¹⁵⁰ Fourth review and appraisal of the Madrid International Plan of Action on Ageing, 2002, Report of the Secretary-General, 2023, UN Doc. E/CN.5/2023/6.

¹⁵¹ <https://www.un.org/development/desa/ageing/news/2020/05/covid-19-older-persons/>

¹⁵²

<https://www.ohchr.org/sites/default/files/Documents/Issues/OlderPersons/StatementSupportSGPolicyBrief.pdf>

¹⁵³ <https://sdgs.un.org/goals>

Partnership) do not commit to any action, just as the SDGs are only a document of intent, not a legal binding document, and therefore have no consequences, if not fulfilled. In the launch of the *SDG Good Practises*¹⁵⁴ report from 2021, there are no examples of around 740 activities that explicitly benefit older people. Only Brazil mentions on page 58 that it provided the equivalent of around USD 153,000 to care for older people during the Covid 19 pandemic. However, the most important argument against the assumption that rights can be subsumed under the SDGs instead of a convention is that the sustainability agenda expires in 2030 and human rights obviously cannot have an expiry date. China has therefore also abandoned its previous position.

Ageism is widespread in societies and has a negative impact on the rights of older people in all areas of life. A shift in understanding is needed to move from charitable and social welfare models to a human rights-based approach.

For this reason, there is only one option for creating a system change and thus a binding legal instrument. - namely the adoption of a *Convention on the Rights of older Persons* (CROP)

4. What is your assessment on the protection of human rights for older persons If applicable, what is your assessment on the protection of the human rights of older persons according to regional and international instruments?

In principle, the existing human rights treaties are independent of age and also apply to older people. However, as described above, the lack of consideration of the effects of ageism and age discrimination as well as the lack of attention to specific needs of older persons leads to inadequate international legal guarantees. In reality, therefore, no international legal instrument exists for this vulnerable group.

Demographic trends should not play a role in the question of whether we need a convention; however, it should not be concealed that in 2030 we will already have more older people than children and young people under the age of 15 and that in 2050 the elderly will be by far the largest vulnerable group¹⁵⁵ with over 1.6 billion people, representing 25% of the world's population on average, who have so far been at least restricted, if not completely deprived in some areas, of the exercise of their full human rights.

In his message to mark the *World Elderly Day* on October 1st, 2023, Antonio Guterres called on the international community to do more to safeguard the rights of older people: *we must do more to protect the dignity and rights of older persons everywhere. ... older persons are often among the first victims of crises. Addressing these and other issues is a human rights imperative that will benefit everyone.*¹⁵⁶

As discussed in the answers to the above questions on the various topics of the Open-Ended Working Group on Ageing, no single existing international human rights treaty covers the full range of rights of older persons, nor do they contain a clear and comprehensive provision on the elimination of all forms of ageism and age discrimination. The discourse must therefore shift from the often common

¹⁵⁴ <https://sdgs.un.org/sdg-good-practices>

¹⁵⁵ <https://news.un.org/en/story/2023/10/1141722>

¹⁵⁶ https://www.un.org/en/observances/older-persons-day/messages?_gl=1*1xf01oi*_ga*MzM2MTI3MTYxLjE2NjE5NjI5NDk.*_ga_S5EKZKSB78*MTY5OTIwNDI2Ni4zLjEuMTY5OTIwNTIzMy41OS4wLjA.*_ga_TK9BQL5X7Z*MTY5OTIwNDI2Ni4xNC4xLjE2OTkyMDUyMzMUMC4wLjA.

and limited discussion of the vulnerability of older people to the opportunities that older people offer and consider them as individual holders of all-encompassing human rights.¹⁵⁷

This is also evidenced by the 866 documents submitted during the 13 sessions of the OEWG-A, which highlight the gaps in legal protection.

The provisions at regional level are also geographically limited or do not offer the necessary legal guarantees. However, the Inter-American Convention¹⁵⁸ can serve as a blueprint when drafting a convention.

Despite repeated requests to the states that have so far rejected a convention to offer a better alternative than a convention as a "legally binding instrument", there has so far been no response, let alone any proposals.

Conclusion: A dedicated international human rights instrument would facilitate the urgently needed shift towards a human rights-centred approach and make older persons more visible. Similar transformative shifts have been witnessed by other groups for whom specialised international human rights instruments have been established. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the protection of the rights of children / CRC or the Convention on the Rights of Persons with disabilities / CRPD have eliminated many existing injustices. Older persons deserve to be made visible and be protected by a specialised human rights convention just as the other vulnerable groups.

HelpAge Deutschland recommendation:

As has been consistently demonstrated in hundreds of reports submitted to the OEWGA by civil society, academia and UN bodies and experts for over a decade, the only effective way to facilitate the shift towards a human rights-based approach to ageing and older persons, and to ensure the effective protection of the full spectrum of human rights in older age, is the drafting and adoption a new UN Convention on the Rights of Older Persons.

For more information

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¹⁵⁷ 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. 10.

¹⁵⁸ https://www.oas.org/en/sla/dil/inter_american_treaties_a-70_human_rights_older_persons.asp