

# The Right to Work and Access to the Labour Market by Older Persons in Germany

11th Session of the UN Open-Ended Working Group on Ageing (Item 6)

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Statement March 2021

Madame Vice-Chair,  
Excellences,  
Delegates,  
Experts,  
Ladies and Gentlemen,

thank you for giving us the opportunity to speak at this important part of the Session and after this very interesting high-level panel. I am presenting on behalf of the German Institute for Human Rights, the National Human Rights Institution of Germany.

By ratifying several international human rights conventions, for example CESC, CEDAW, and CRPD, Germany has committed itself to protect and to promote the right of older people to work and to guarantee non-discriminatory access to the labour market. According to the German General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz – AGG*), which came into force into 2006, no one may be discriminated against because of their age. However, the AGG does not cover all areas of life for older persons.

In Germany, with a retirement age of 67, eight percent of persons aged 65 or older worked in 2019. Ten years earlier, the proportion was half as high, at four percent.<sup>1</sup> Over the same period, the at-risk-of-poverty rate for people older than 65 increased by nearly four percent (2009: 11.9%, 2019: 15.7%).<sup>2</sup>

In terms of the right to work of older persons one of the challenges in Germany is discrimination against older persons in accessing the labour market, as reported in the working document by DESA for today's focus area.<sup>3</sup> According to a survey conducted by the Federal Anti-Discrimination Agency, older people frequently report discrimination in searching for and applying for jobs. Because of this, many older persons feel materially disadvantaged as well as social humiliation when they do not get a job as a

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<sup>1</sup> <https://www.destatis.de/DE/Themen/Querschnitt/Demografischer-Wandel/Aeltere-Menschen/erwerbstaetigkeit.html>;  
<https://www.destatis.de/DE/Themen/Arbeit/Arbeitsmarkt/Erwerbstaetigkeit/Tabellen/erwerbstaetige-erwerbstaetigenquote.html;jsessionid=BB361AF2C88AF72EB721E3A319513278.live741?nn=206552>.

<sup>2</sup> [https://www.destatis.de/DE/Presse/Pressemitteilungen/2020/09/PD20\\_N062\\_634.html](https://www.destatis.de/DE/Presse/Pressemitteilungen/2020/09/PD20_N062_634.html).

<sup>3</sup> UN General Assembly (2021): Substantive Inputs on the Focus Area "Right to Work and Access to the Labour Market". Working document submitted by the Department of Economic and Social Affairs (DESA), A/AC.278/2021/CRP.3, p. 6, [https://social.un.org/ageing-working-group/documents/eleventh/A\\_AC.278\\_2021\\_CRP.3.pdf](https://social.un.org/ageing-working-group/documents/eleventh/A_AC.278_2021_CRP.3.pdf).

result of discrimination reasons.<sup>4</sup> Another study by the Agency showed that job advertisements discriminate against older persons in many cases.<sup>5</sup>

In employment, older persons in Germany may experience discrimination in terms of pay. Due to prejudices and stereotypes, older persons – as well as younger people – are assumed to have fewer skills, and this can have a negative impact on the evaluation of their performance or salary classification.<sup>6</sup> This phenomenon can be observed worldwide, as shown in the recently published WHO Global Report on Ageism.<sup>7</sup>

The right to work which is enshrined in many treaties is not specific enough to guarantee the full enjoyment of this right and the equal access to the labour market for older persons – therefore I would like to encourage you all once again to start working on a comprehensive integral binding international human rights treaty which would serve the purpose of the protection of the human rights of older persons best.

Thank you very much for your attention.

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<sup>4</sup> Antidiskriminierungsstelle des Bundes (Ed.) (2017): Diskriminierungserfahrungen in Deutschland, p. 158ff., [https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Expertisen/expertise\\_diskriminierungserfahrungen\\_in\\_deutschland.pdf?\\_\\_blob=publicationFile&v=8](https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Expertisen/expertise_diskriminierungserfahrungen_in_deutschland.pdf?__blob=publicationFile&v=8).

<sup>5</sup> Antidiskriminierungsstelle des Bundes (Ed.) (2018): Diskriminierung in Stellenanzeigen, p. 14f., [https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Expertisen/diskriminierung\\_in\\_stellenanzeigen.pdf?\\_\\_blob=publicationFile&v=6](https://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Expertisen/diskriminierung_in_stellenanzeigen.pdf?__blob=publicationFile&v=6).

<sup>6</sup> Antidiskriminierungsstelle des Bundes: Häufig gestellte Fragen zum Thema Altersdiskriminierung, [https://www.antidiskriminierungsstelle.de/DE/ThemenUndForschung/Alter/fragen\\_antworten/faq\\_node.html;jsessionid=8A0D1CD71870E10D9166E5A62B9BCAC7.2\\_cid360](https://www.antidiskriminierungsstelle.de/DE/ThemenUndForschung/Alter/fragen_antworten/faq_node.html;jsessionid=8A0D1CD71870E10D9166E5A62B9BCAC7.2_cid360).

<sup>7</sup> WHO (2021): Global Report on Ageism, p. 26f., 54ff., <http://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2021/03/9789240016866-eng.pdf>.