

ANSWERS OF THE GERMAN INSTITUT FOR HUMAN RIGHTS TO THE GUIDING QUESTIONS FOR THE FOCUS AREAS OF THE X SESSION OF THE OPEN-ENDED WORKING GROUP ON AGEING:

Education, training, life-long learning and capacity-building

NATIONAL LEGAL FRAMEWORK

1. In your country/region, how is the right to education, training, life-long learning and capacity building in older age guaranteed in legal and policy frameworks?

The legislative competence for regulations concerning education lies with the federal states.

The national Government only has the competence to legislate within narrow limits, e.g. the vocational education detached from the school and university system, especially within labour law.

Regulations regarding the education and training of older persons differ within Germany from federal state to federal state and a wide range of institutions are active in this field. In consequence a uniform, coherent system does not exist, neither at a political nor at a legal level. Even within a federal state a large number of laws, ordinances and statutes are regulating the aspect of life-long learning.

These federal regulations, for example, give employees the right to paid leave from work for up to 2 weeks in order to devote themselves to vocational or political training¹ and institutions dedicated to adult education receive financial support.²

On a political level, the issue of self-determination in old age and lifelong learning focuses in particular on digitization. Thus, the age report, which appears in every legislative period and should be published in November 2019, concentrates on this issue.³

AVAILABILITY, ACCESSIBILITY AND ADAPTABILITY

2. What are the key issues and challenges faced by older persons in your country/region with regard to the enjoyment of all levels of quality education, training, life-long learning, and capacity building services?

Due to the different legislation competencies and the large number of providers and offers, there is a great deal of confusion about the existing offers that are rarely coordinated amongst each other. How-

¹ cf. Educational Leave Acts of the federal states, e.g. Hamburg HmbGVBl. 1974, S. 6; Berlin GVBl. S. 2209.

² cf. Promotion of Adult Education Acts of the federal states, e.g. Bavaria GVBl. S. 662; Saxony- Anhalt GVBl. LSA 1992, 379.

³ <https://www.bmfsfj.de/bmfsfj/achte-altersberichtskommission-nimmt-arbeit-auf/127818>.

ever, there are various contact points where you can obtain information and efforts are made provide summarized information on the Internet.

Many leisure activities for older persons focus primarily on social engagement other than education. Often a valid degree or certification cannot be obtained through the educational offer, e.g. for guest students at a university, where 42% of the guest students are over the age of 65.⁴

In most cases the various offers and educational opportunities are not submitted to older persons; rather they have to take the initiative.

On average, older persons (65+), in particular older women, have a lower level of educational than those under 65 years. In 2014, 61% of over 65-year-olds in Germany had a school leaving qualification of basic general education (the 'Haupt-/ Volkshochschulreife' that is usually obtained after 9 years of schooling). Only 15 % had a school leaving qualification, which enables access to study at a university or other higher education institution like an university of applied sciences (e.g. the 'Abitur' that is usually obtained after 12 or 13 years of schooling). There are clear differences between men and women in the 65th+ generation: 22% of men but only 10% of women had an Abitur. In comparison: 42% of woman and 39% of men aged 35 to 39 had the Abitur.⁵ However, the so called 'babyboomer' generation (1955 – 1969) account for 37% of the working population, which is slowly leaving the labour market due to retirement.⁶

The social engagement correlates with the educational attainment. The higher the educational level, the higher the engagement rate (in all age groups).⁷

3. What steps have been taken to ensure that education, training, life-long learning, and capacity building services are available and accessible to all older persons, adapted to their needs, suited to their preferences and motivations, and of high quality?

In 2015 the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth founded the working group RTAA⁸, in which political representatives from the national and federal level meet with representatives of civil society to develop strategies for the participation and security of older people and to counteract deficient age images. The actual implementation of the developed strategies is, however, only hesitant, since the financing of some improvements is partly unclear.

⁴ Older persons in Germany and the EU, Federal Statistical Office, Wiesbaden 2016, p. 75, <https://www.bmfsfj.de/blob/93214/95d5fc19e3791f90f8d582d61b13a95e/aeltere-menschen-deutschland-eu-data.pdf>.

⁵ See fn. 4; German Volunteer Survey 2014, German Centre for Gerontology (DZA); p. 94, <https://www.bmfsfj.de/blob/93916/527470e383da76416d6fd1c17f720a7c/freiwilligensurvey-2014-langfassung-data.pdf>.

⁶ Perspektive 2035 - Economic policy for growth and prosperity in an ageing society, Institute of German Economy Cologne (Publisher), 2017, p. 50ff; https://www.iwkoeln.de/fileadmin/publikationen/2017/348207/IW_Studie_Perspektive_2035_Web.pdf.

⁷ See fn. 5.

⁸ Round Table „Active Aging – designing transitions“ (Runder Tisch „Aktives Altern-Übergänge gestalten“).

Nevertheless, various financial incentives are provided:

In order to support the accessibility and expansion of educational opportunities for older persons, the state or the federal states provide financial assistance for educational institutions.

In addition, a variety of organizations run by older persons and targeted towards older persons that offer materials and classes and often provide help for self-advocacy.⁹

4. In your country/region, are there studies and/or data available on the access of older persons to the right to education, training, life-long learning and capacity building in older age?

The extent to which educational opportunities (in context and detached from the profession and throughout all ages) are being taken up in Germany was determined in an extensive study from 2016.¹⁰ Among other things, it was found that the overall participation rate regarding general educational activities for those aged 65 to 69 is 22% and the participation rate for vocational education is 21%.¹¹ The overall participation rate amongst for those aged 18 to 69 is 48%. Educational activities of 65- to 69-year-olds are attended out of private motives (70%).¹²

In context to university a social survey conducted by the German National Association for Student Affairs¹³ showed that the financing of a university study gets more uncertain with increasing age, because numerous benefits are omitted around the age of 25, e.g. the child benefit payment is discontinued and social security contributions become due.¹⁴

Therefore, the Federal Anti-Discrimination Agency classified age as a risk factor for discrimination in higher education institutions.¹⁵

⁹ e.g. The Federal Working Group of Senior Citizens' Organizations (BAGSO), <http://www.bagso.de/>; German Senior League, <https://www.deutsche-seniorenliga.de/>; Portal of Berlin for Senior Citizens, <https://berliner-seniorenportal.de/>.

¹⁰ Adult Education Survey (AES), German Institute for Adult Education Leibniz, Bielefeld 2017, p. 204ff; <https://www.die-bonn.de/doks/2017-weiterbildungsforschung-01.pdf>.

¹¹ see fn. 10.

¹² see fn. 10.

¹³ Deutsches Studentenwerk.

¹⁴ Final Report Project on Non-Discriminatory Universities, Federal Anti-Discrimination Agency, 2012, p. 20, 21, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Diskriminierungsfreie_Hochschule/Diskriminierungsfreie_Hochschule_Endbericht_20120705.pdf?__blob=publicationFile&v=3.

¹⁵ see fn. 14.

EQUALITY AND NON-DISCRIMINATION

5. In your country, is age one of the prohibited grounds for discrimination in relation to education in older age?

The constitutional principle of equality¹⁶ does not refer to the age of a person. The sub-constitutional General Equal Treatment Act prohibits age discrimination.¹⁷ This prohibition, however, is limited to certain areas but also includes education.¹⁸

However, age is considered as a discrimination factor in higher education institutions due to the discontinuation of governmental benefits and the generally over age increased burden from a growing number of responsibilities.¹⁹

ACCOUNTABILITY

6. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to education, training, lifelong learning and capacity building?

Since there is no entitlement to lifelong education, filing a legal act is generally not possible.

A violation of the General Equal Treatment Act, however, can be legally asserted. The jurisdiction depends on the specific subject matter of the dispute. Moreover various anti-discrimination counselling centers have been set up as well as a telephone helpline.

¹⁶ Art. 3 National Constitution (GG).

¹⁷ § 1 General Equal Treatment Act (AGG).

¹⁸ § 2 General Equal Treatment Act (AGG).

¹⁹ see fn. 14.