

**Questionnaire of the Review of Focus Area 2 of the twelfth session of the United Nations’
Open Ended Working Group on Ageing**

**Guiding questions for defining the normative content of the issues examined at the twelfth
session Focus Area 2: Economic Security**

Definition

1. How are the key human rights relating to older persons’ economic security defined in the national legislation in your country? If definitions are not available, how should such rights be defined considering relevant existing national, regional, and international legal frameworks?

The United Nations human rights treaties particularly relevant in this area are the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and the United Nations Convention on the Rights of Persons with Disabilities. Also relevant are, on the one hand, the conventions of the International Labour Organization, for example ILO Convention No. 102, and on the other, the European Convention on Human Rights and also the Charter of Fundamental Rights of the European Union. Through acts enacting international agreements, these are implemented into national law and enjoy the status of federal law, or they apply with the status of European primary law. Their provisions must therefore be transposed into applicable law or, in the case of the Charter of Fundamental Rights of the European Union, they apply directly in their area of application. Both the relevant national legal standards and the secondary EU legal standards affected by the European Charter of Fundamental Rights extend across different areas of law. It is therefore impossible to establish a uniform legal definition for the rights of older persons in the various legal texts.

Scope of the rights

2. Please provide references to **existing national legal standards relating to older persons’ economic security on normative elements such as:**
 - a) **right to social security; including regular adjustment of benefits with changes in living costs;**

Old age social insurance schemes - statutory, occupational and private schemes for the provision for old age - reflect a person’s working life and aim to maintain the present standard of living as far as possible also in old age. Insofar, an uninterrupted job history with sufficient provision for old age is key to providing financial security for older persons. In particular the statutory pension insurance which covers the largest part of the population is of central importance in this regard. An important principle of the statutory pension insurance is that the development of pensions reflects the wages and salaries of the economically active population and thereby allows for participation in society’s increasing incomes, which may reflect also the increases in the cost of living. In addition to individual provision for old age, the statutory pension’s pay-as-you-go system also provides security in the event of reduced earning capacity and surviving dependants’ pensions. However, the ageing of society is placing increasing demands on social security systems. An ageing society requires

appropriate protection against the basic risks in life and must also guarantee financial sustainability of the social security systems. The Federal Government's pension policy aims to accommodate not only the conflicting interests between contributors on the one hand and pensioners on the other hand, but also between generations. This should not lead to an overburdening of contributors or an unacceptable reduction in the level of pensions.

Regardless of the phase of life of the individual, social assistance represents the most basic safety net, serving to secure the minimum socio-cultural subsistence level.

- b) right to adequate standard of living, including housing, clothing, food and water, among others;

Older persons with pension incomes insufficient to provide the minimum socio-cultural subsistence level can receive social assistance in line with the Twelfth Book of the Social Code. Benefits based on needs as defined by official standard rates, which differentiate according to age (minor, adult) and, in the case of adults, additionally according to whether they live alone or in a partnership, are used for this. Different regulations apply for those who do not live in private housing. There are no special regulations for older persons. Expenses, especially for food and clothing, are to be covered from these benefits. In certain circumstances (e.g. the need for expensive food for medical reasons or pregnancy), additional needs are recognised with a benefit supplement.

Housing costs in the form of rent and heating expenses are taken into account in addition to the benefits based on needs as defined by official standard rates. Here there is a limit to the amount of these costs considered to be reasonable.

- c) right to work; and whether a national minimum wage or any alternative mechanism is in place to ensure an adequate standard of living, and whether a system of indexation and regular adjustment exists;

There has been a general statutory minimum wage in Germany since 1 January 2015. This minimum wage was raised once by law to 12 euros per hour on 1 October 2022. On 30 June 2023, the next adjustment decision of the general statutory minimum wage by the Minimum Wage Commission is expected. An increase of the general statutory minimum wage on the basis of the adjustment resolution is then expected to come into force on 1 January 2024.

In addition to the statutory minimum wage, the social partners can set down minimum wages in collective agreements declared generally binding by making a request to the Federal Ministry of Labour and Social Affairs

- d) prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in all matters related to economic security;

The General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz (AGG)) states that discrimination on the grounds of age, gender, religion or belief, disability, sexual identity, ethnic origin or race is always prohibited in the area of jobs and professions, as well as in the area of access to and provision of goods and services. . The General Act on Equal

Treatment provides protection against discrimination on the basis of any of these grounds as well as against discrimination in the form of a combination on the basis of multiple characteristics.

- f) active, free and meaningful participation of older persons and their representative organizations in all matters related to ensuring their economic security, including in political processes;

Article 9 (3) of the Basic Law (Grundgesetz, GG) guarantees the right to form associations to safeguard and improve working and economic conditions for everyone and for all professions.

- g) access to prompt remedies and redress when older persons' above mentioned rights are violated.

If older people feel that they are being discriminated against in the context of their employment relationship, e.g. because of their age, they have a right to complain within the company. They are also entitled to legal protection in court, for example by making claim for possible damages or compensation against their employer.

If discrimination takes place, they can also contact the Federal Anti-Discrimination Agency (<https://www.antidiskriminierungsstelle.de/DE/startseite/startseite-node.html;jsessionid=5FCF005B9692D6B86329135BCCA6278B.intranet212>), which provides support and advice free of charge to ensure their rights to protection against discrimination.

Implementation

4. What are the best practices and main challenges faced by your country in the adoption and implementation of the above-mentioned normative framework to ensure older persons' economic security?

One important step towards recognising the life achievements of older people dependent on social assistance was the doubling of the asset exemption to the level of 10,000 euros. Older people whose pension income is insufficient thus receive social assistance without having to give up this amount.

The greatest challenge for financial security, also for older persons, is inflation, especially the attendant energy price increases. Pensioners have also benefited from the energy price lump-sum payment. Moreover, there are other measures for the entire population. In addition, the Federal Republic of Germany is mitigating inflation for those receiving basic income benefits such as social assistance with a newly introduced mechanism in the annual updating of standard needs rates, which takes price increases into account through a more up-to-date data basis than was previously the case. We cannot rule out that further measures will be necessary to mitigate the consequences of inflation. Given the Covid 19 pandemic and general increases in prices, a one-off payment was made in 2021 and 2022 as additional financial relief.