

Contributions of older persons to sustainable development

13th Session of the UN Open-ended Working Group on Ageing

Submission February 2023

Answers of the German Institute for Human Rights to the guiding questions for the normative framework of the 13th session of the Open-ended Working Group on Ageing:

Contribution of Older Persons to Sustainable Development

Definition

1. How are the key human rights relating to older persons' participation and therefore, their contribution to sustainable development 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 framework?

Germany is a member state to the International Covenant on Civil and Political Rights (ICCPR). Art. 25 of the ICCPR (and Art. 21 of the Universal Declaration of Human Rights) grant individuals the right to take part in the conduct of public affairs. The introduction to Article 25 already prohibits violations of the principle of equal treatment (see Article 2 ICCPR) and unreasonable restrictions on the enjoyment of political rights. It should be noted that age is not explicitly mentioned in Article 2, but can only be inferred by "other status".

Furthermore, Germany in its development cooperation policy supports and contributes actively to the "Agenda 2030" and the UN Sustainable Development Goals to promote sustainable development worldwide. The overarching motto of the 2030 Agenda is "leave no one behind." This demand includes persons who are in particularly vulnerable situations, including older persons. However, older persons are only mentioned three times in the SDGs (SDG 2.2, 11.2, 11.7). Older persons need to be recognized as the active agents in societal development in order to achieve ensure truly transformative, inclusive sustainable development outcomes.

Scope of the right

2. Please provide references to existing national legal standards relating to older persons' contribution to sustainable development on normative elements such as:

a) right to equality and prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in the context of sustainable development.

Art. 3 German Basic Law provides equality before the law, however age is not mentioned as a basis of discrimination. However, the General Equal Treatment Act (AGG), which has applied in Germany since 2006, was introduced in order to ensure greater equity in society and to help persons in vulnerable situations or in situations of risk to participate to a greater extent.

b) elimination of all forms of ageism and age discrimination from sustainable development laws, frameworks, programs, policies and practices;

The General Equal Treatment Act (AGG) protects all people in Germany against discrimination on grounds or because of age in employment and occupation as well as in everyday life (§§ 1, 2 AGG).

c) right to freedom of expression, including freedom to seek, receive and impart information;
d) right to peaceful assembly;
e) right to freedom of association;

The art. 5 German Basic Law ensures the freedom of expression.
The freedom of peaceful assembly is enshrined in Art 8 German Basic Law.
Freedom of association is enshrined in Art. 9 German Basic Law.

f) right to take part in the government of his country, directly or through freely chosen representatives;

Art 38 German Basic Law entails that members of the Bundestag shall be elected as representatives of the whole people and any person who has attained the age of eighteen shall be entitled to vote as well as may be elected.

g) right to development, including older persons as active participants and beneficiaries of development;

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h) active, free and meaningful participation of older persons and their representative organizations in all matters related to sustainable development, including in political processes;

Political participation of older persons is not explicitly mentioned in German basic law. However, several Bundesländer (Berlin¹, Hamburg², Mecklenburg-Western Pomerania³, and Thuringia⁴) regulate senior citizens' representation through senior citizens' participation laws. This participation consists of being informed, giving advice and making proposals.

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

A person who is discriminated against because of his or her age may assert claims for removal, injunctive relief, damages and compensation for pain and suffering. Furthermore, legal remedies are mentioned under Art 19 German Basic Law. The access to justice to civil courts is open to everyone

¹ <https://www.berlin.de/sen/soziales/service/berliner-sozialrecht/kategorie/rechtsvorschriften/berlseng-573405.php>

² <https://www.landesrecht-hamburg.de/bsha/document/jlr-SenMitwGHArahmen>

³ <https://www.landesrecht-mv.de/bsmv/document/jlr-SenMitwGMVpP3>

⁴ <https://landesrecht.thueringen.de/bsth/document/jlr-SenMitwGTHrahmen>

which includes older person and there is also the possibility to apply for legal aid (§§ 114 ff. ZPO and § 166 VwGO). But it must be mentioned that specific save guards for older persons are missing.

State obligations

3. What measures and special considerations should be undertaken by the State to respect, protect and fulfil the above-mentioned rights to ensure older persons' contribution to sustainable development?

- States should advocate for a binding international convention on the rights of older persons, in which the right to participate in sustainable development is ensured.
- States must guarantee the right of older persons to freely participate in public conduct and free elections (art. 25 ICCPR, art. 21 UDHR).
- States must ensure that relevant human rights (in particular the right to Freedom of opinion and expression, the right of access to information and the Right to peaceful assembly and association) are protected and implemented.
- States should promote active participation of older persons in public discourses in order to enhance a self-determined way of life and influencing societal development.
- States must create the necessary framework that protects and improves civic engagement and cooperation with civil society that promote the voices of older persons in sustainable development.
- States are required to provide a legal framework as well as complaints bodies judicial opportunities to ensure that older persons fully exercise their rights.

Implementation

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

Supporting older persons to live a self-determined life and participate in society is a central goal of senior citizens' policy of the Federal Ministry for Family Affairs, Senior Citizens, Women and Children (BMFSFJ). For example, the multi-generation houses funded by the BMFSFJ should lead to more inclusion. The aim of the German sustainability strategy is to achieve the SDGs by 2030. The focus should be on combating climate change, as global warming has a particularly detrimental effect on older persons. Older persons tend to be more severely affected by heat, and migration is often no longer an option for older persons. It is therefore important for politicians to keep the goals in mind and implement them effectively so that the older population can ultimately benefit from the German sustainability strategy across all generations.