

Social Inclusion

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 focus areas of the 13th session of the Open-ended Working Group on Ageing:

Social Inclusion

What are the legal provisions, policy frameworks and/or measures in your country that explicitly focus on older persons who are marginalized on the grounds of their sex, disability, race, ethnicity, origin, religion, economic or other status? *(This may include addressing older populations on frameworks dedicated to other marginalized groups such as women, persons with disabilities, migrants, minorities, homeless people etc.; or addressing marginalized groups within frameworks devoted to older persons)*

As a contracting party to the CRPD, Germany is obliged to give older persons with disabilities access to health services (Art. 25.b), social protection and poverty reduction programs (Art. 28.2.b), and to put in place age-appropriate measures related to access to justice and prevention of abuse. Furthermore, Germany is required to ensure the equal right of women to social security in old age (Art. 11.1.e CEDAW) and prevent discrimination against older migrants (Art. 1.1, Art. 7 ICRMW). The Charter of Fundamental Rights of the European Union prohibiting age-based discrimination and articulating a right to social security in old age is equally applicable.

The government is committed to Madrid International Plan of Action on Ageing (MIPAA) and has developed a National Action Plan to implement its goals which includes the funding of projects aimed at promoting the independence and social participation of older persons.¹ A country report on the implementation of MIPAA was published 2022.² Under the General Equal Treatment Act, discrimination based on age is prohibited in working life and everyday transactions.³

Several projects and strategies related to ageing are implemented on different levels, such as the National Dementia Strategy, projects on the topic of digitalization (e.g. “Digitaler Engel”⁴ and the “DigitalPakt Alter”⁵) and life-long learning (for example the service point “Education and Learning in Old

¹ <https://www.bmfsfj.de/resource/blob/77520/576fb21ee93c9aa20ab6367540da9d01/nationaler-aktionsplan-data.pdf>.

² <https://unece.org/sites/default/files/2022-01/mipaa20-report-germany%20%281%29.pdf>.

³ <https://www.antidiskriminierungsstelle.de/EN/about-discrimination/grounds-for-discrimination/age/age-node.html>.

⁴ <https://www.digitaler-engel.org/>

⁵ <https://www.digitalpakt-alter.de/>

Age”⁶ with its Homepage “wissensdurstig.de”⁷) to enable older persons to participate in an increasingly digitalized society, programs on housing through which age-appropriate conversion of housing or the availability of social services shall be strengthened, guidelines for companies on the benefits of employing older persons and the program “Strengthening the Participation of Older People – Ways out of Loneliness and Social Isolation in Old Age” funded by the EU.⁸

What legal age limits exist in your country that prevent the full and equal participation of older persons in societies in areas such as employment, education, healthcare, financial goods and services, or others?

The retirement age is conditioned by the age limit for receiving the regular old-age pension, which has been rising gradually since 2012, from 65 to 67 years,⁹ rather than by age limits in labor law. Some exceptions apply to professions serving the public interest and/or the protection of third parties or when the exercise of the respective activity might endanger third parties if the necessary expertise is no longer given. This applies for example to civil servants (age limit shall be 67 years in 2029)¹⁰, judges (67 years)¹¹, security forces like federal police officers, firefighters (shall be 62 years in 2029)¹² or professional soldiers (62 years)¹³, and notaries (70 years)¹⁴. There are also regional age limits for applying for tenured civil servant status.¹⁵

There is no federal age limit for enrolling in a study program, but some universities have set an age limit at 55 years.¹⁶ State funding for students (BAföG) is only provided to persons under the age of 45 years when starting their studies.¹⁷

Age limits in private-law insurance are generally covered by the prohibition of discrimination under civil law, however there are exceptions.¹⁸ Persons older than 55 years cannot switch from private to statutory health insurance as an employee.¹⁹ Insurance costs often increase significantly at the age of 65 to 70 years.²⁰

Older persons are sometimes excluded from purchasing certain goods offered on the market, with explicit or implicit reference to age limits, or the prices for these services are increased. This applies above all to risk provisioning (private insurance contracts) and to certain products of the capital market (certain loans). Age limits also apply sometimes in other private legal transactions, e. g. the refusal to conclude rental car contracts above a certain age and certain author contracts.²¹

What measures are in place, if any, to ensure that older persons in institutions segregated from their communities -such as institutional care systems or prisons- can continue participating in their society?

⁶ <https://www.bagso.de/projekte/servicestelle-bildung-und-lernen-im-alter/>

⁷ <https://www.wissensdurstig.de/>

⁸ <https://www.bmfsfj.de/bmfsfj/themen/aeltere-menschen>.

⁹ https://www.deutsche-rentenversicherung.de/DRV/DE/Rente/Allgemeine-Informationen/Rentenarten-und-Leistungen/Die-regulaere-Altersrente/die-regulaere-altersrente_node.html.

¹⁰ <https://www.bmi.bund.de/SharedDocs/faqs/DE/themen/oeffentlicher-dienst/beamte/versorgung/versorgung-altersgrenze-liste.html>.

¹¹ DRiG, § 48.

¹² <https://www.bmi.bund.de/SharedDocs/faqs/DE/themen/oeffentlicher-dienst/beamte/versorgung/versorgung-altersgrenze-liste.html>.

¹³ Soldatengesetz, § 45 (2).

¹⁴ Bundesnotarordnung, §48a.

¹⁵ <https://www.gew.de/beamte/altersgrenzen>.

¹⁶ <https://studieren.de/studieren-50-plus.0.html>.

¹⁷ https://www.bafög.de/bafög/de/das-bafög-alle-infos-auf-einen-blick/einzelfragen-der-foerderung/gibt-es-eine-altersgrenze/gibt-es-eine-altersgrenze_node.html.

¹⁸ https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/Literatur/Literatur_Altersjahr/Altersgrenzen-und-gesellschaftliche-Teilhaber.pdf?__blob=publicationFile&v=2, p. 72

¹⁹ <https://www.verbraucherzentrale.de/wissen/gesundheit-pflege/krankenversicherung/so-wechseln-sie-von-der-privaten-in-die-gesetzliche-krankenversicherung-41289#>.

²⁰ https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/Literatur/Literatur_Altersjahr/Altersgrenzen-und-gesellschaftliche-Teilhaber.pdf?__blob=publicationFile&v=2, p. 72

²¹ https://www.antidiskriminierungsstelle.de/SharedDocs/downloads/DE/Literatur/Literatur_Altersjahr/Altersgrenzen-und-gesellschaftliche-Teilhaber.pdf?__blob=publicationFile&v=2, p. 13-14.

The German government funds a project (Miteinander-Füreinander: Kontakt und Gemeinschaft im Alter) aimed at combatting loneliness through volunteers visiting senior citizens at home and in old age facilities, the organization of social events and further activities.²² The government provides also funding for housing projects to enable older persons to continue living in their homes, as well as for community housing projects.²³

States have an obligation to use maximum available resources to progressively achieve the full realization of economic, social and cultural rights. What is the share of national public expenditure budget targeted to older persons as a distinct group?

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth receives 13.6 billion euros for the year 2023. 3.73 % of this budget is foreseen for strengthening civil society, gender quality and senior citizens' policies. Areas concerning older persons are the funding of projects on multi-generational homes and grants for policies regarding older or lonely persons and caregivers, the palliative and hospice sector and demographic change. 121 billion euros are foreseen for the pension insurance and basic old-age provision.²⁴

²² <https://www.malteser.de/miteinander-fuereinander.html>.

²³ <https://www.bmfsfj.de/bmfsfj/themen/aeltere-menschen/hilfe-und-pflege/zuhause-im-alter-75580>.

²⁴ <https://www.bundeshaushalt.de/DE/Bundeshaushalt-digital/bundeshaushalt-digital.html>.