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SUBSTANTIVE INPUT
for the twelfth session of the
GENERAL ASSEMBLY OPEN-ENDED WORKING GROUP
for the purpose of strengthening the protection of the human rights of older persons

Focus area:

CONTRIBUTION OF OLDER PERSONS TO SUSTAINABLE DEVELOPMENT

Question 1: Policy Framework

According to Article 3 of the German Grundgesetz (GG; Basic Law), all people are equal before the law and this provision also prohibits discrimination in any form. And the 19 articles of the Grundgesetz also cover the fundamental civil, social and political rights.¹ These rights are indispensable and are subject to the special protection of the state. However, the GG always speaks of the *human being* and is guided by the model of humanism and the Age of Enlightenment. For this reason, the authors of the GG refrained from an explicit separation into age groups, ethnic groups, etc. and only mention vulnerable groups where they are explicitly addressed. However the vulnerable group of older persons are not mentioned in the GG.

This still creates a gap at the national level that has long been closed with specific regulations tailored for the needs of other vulnerable groups of women², children³ and people with disabilities⁴ and are influenced by their respective UN-conventions.

Question 2 and 4: Challenges and measures

This weakness runs through all relevant national and international documents, including the 2030 Agenda (Sustainable Development Goals-SDG), an instrument that is explicitly intended to promote the sustainable participation of the most vulnerable people worldwide. Older people are only explicitly mentioned 3 times in the SDGs and participation can only be subsumed under the holistic approach in the preamble of the SDGs, the *Leave No One Behind*.⁵ The SDGs are therefore only of

¹ https://www.gesetze-im-internet.de/englisch_gg/

² <https://www.gesetze-im-internet.de/gewschg/BJNR351310001.html>

³ <https://www.gesetze-im-internet.de/kkg/>

⁴ <https://www.gesetze-im-internet.de/bgg/BGG.pdf>

⁵ <https://www.un.org/depts/german/gv-70/band1/ar70001.pdf>

limited use as a frame of reference for older people to demand their rights to sustainable participation.

In Germany, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) is responsible for the concerns of older people; the Federal Ministry of Labour and Social Affairs (BMAS) is responsible for participation; and the Federal Ministry of Health (BMG) is responsible for age-appropriate health care. This patchwork needs urgent correction, for example through an ombudsman, where all the threads come together. Germany currently has 38 ombudsmen / ombudswomen, also for all vulnerable groups, but not for older people, although this was demanded by older people organisations including HelpAge Germany, in the run-up to the 2021 federal elections.⁶

Question 1 and 2: Policy framework and challenges

If the functional integration and participation described above is already difficult, it reveals gaps in the infrastructure and also intergenerational participation. Among other things, this is also due to the federal system, because at the state level there are different legal provisions for participation and sustainable co-determination. So-called Seniorenräte (senior citizens' advisory councils) exist only in some federal states, while in other federal states they are implemented neither at the state level nor at the district or municipal level. Moreover, these bodies only have an "advisory vote" and cannot make any independent decisions that would bind the municipalities or federal states.

Question 3: Data and statistics

Germany published its Sustainability Strategy (DNS)⁷ in 2021 and presented it as part of the so-called Voluntary State Report at the High Level Political Forum in July' 21 at the United Nations.⁸

The six "principles of sustainable development" listed in the DNS explicitly refer in point 5 to "maintaining and improving social cohesion in an open society".

However, since this commitment must again be considered in the context of the 2030 Agenda as an accountability report, a closer look reveals that SDG Goals 16 and 17 have not been backed by national markers. Indicators that directly affect older people are also missing. The DNS makes only one explicit reference to the situation of older people on its 391 pages, where it talks about the labour force participation rate of the over-64s and their contribution to economic management (page 240). There is no explicit promotion of participation and demographic change is not considered separately.

This is also reflected in the statistical surveys. Although Germany is one of the founding members of the Titchfield City Group⁹, it struggles to capture the cohorts of older people. They are often found in the 65 plus group, but this ignores the different needs of 65 year olds compared to 80 or 90 year

⁶ <https://www.helpage.de/aktuelles/den-demografischen-wandel-nachhaltig-gestalten>

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<https://www.bundesregierung.de/resource/blob/992814/1875176/3d3b15cd92d0261e7a0bc8f43b7839/deutsche-nachhaltigkeitsstrategie-2021-langfassung-download-bpa-data.pdf?download=1>

⁸ https://sustainabledevelopment.un.org/content/documents/279522021_VNR_Report_Germany.pdf

⁹ <https://unstats.un.org/unsd/methodology/citygroups/Titchfield.cshtml>

olds. However, full participation is only possible if the disaggregated data and thus different needs are recorded depending on the age cohort. The UN, which has identified data collection as one of the central issues in the SDGs, will also have to be measured against this. (e.g. SDG 16.7.2)

Question 4: Measures taken

However, data collection does not necessarily mean participation. There are still age restrictions, for example in professional life, where certain functions may no longer be exercised above a certain age limit, for which there is no medical justification. In some federal states, for example, the age limit for the office of mayor is 67, in Brandenburg even 62. This is a clear violation of the prohibition of discrimination.

Corona still acts like a burning glass and shows the discrimination of older people and the lack of participation. The UN Secretary General has pointed out in his policy brief ¹⁰from May 2020 and shown gaps. This document, was signed by 146 states including Germany, however, no serious efforts have been made in the past 23 months to close the gaps of lacking participation.

Question 5: Remedies

Among others, the German umbrella organisation for senior citizens' organisations, BAGSO, published a position paper on sustainable participation last year, ¹¹ and the federally funded German Centre for Gerontology (DZA) published a survey on this topic. ¹² Both come to the conclusion that there are regulatory gaps that need to be closed.

The bottom line is that although older people in Germany formally have all rights, they are not able to fully participate. This would probably only be demanded if the international community of states would finally also adopt a convention to protect the rights of older persons, because this is a binding document under international law that must be implemented into national law.

¹⁰ <https://www.un.org/development/desa/ageing/wp-content/uploads/sites/24/2020/05/COVID-Older-persons.pdf>

¹¹ https://www.bagso.de/fileadmin/user_upload/bagso/06_Veroeffentlichungen/2021/BAGSO-Positionspapier_Mitentscheiden_und_Mitgestalten.pdf

¹²

https://www.dza.de/publikationen/publikation?tx_dzalists_details%5Baction%5D=show&tx_dzalists_details%5Bcontroller%5D=Publication&tx_dzalists_details%5Bpublication%5D=1195&cHash=0f41648d87837ff0054dc9dbe127abb3