

Questionnaire from the United Nations Independent Expert on the Enjoyment of all Human Rights by Older Persons

Germany

Question 1:

Please provide information as to how your Government has incorporated a human rights-based approach in the implementation framework of MIPAA and how this translated into concrete policies and normative actions? How does your Government monitor and evaluate the impact of MIPAA implementation on the enjoyment of all human rights by older persons?

Answer:

The German Basic Law guarantees full protection of the human rights of all persons. In addition, Germany adopted the “General Equal Treatment Act” which came into force in 2006 as the “Law for the Transposition of European Directives on the Realization of Principles of Equal Treatment” and which ensures extensive protection against unwarranted discrimination because of age or other reasons.

Germany also put into force the “Social Security Code IX” in 2001 and the “Act on Equal Opportunities for Disabled Persons” in 2002. The latter was evaluated during 2015 and is currently in a revision process especially with a view to the “UN-Convention on the Rights of Persons with Disabilities” which Germany ratified in 2009. With these laws, the German Government ensures the continuous participation of older persons or persons with disabilities and the associations that represent them by providing rights of participation, hearing and involvement.

Furthermore, there is comprehensive and detailed research on ageing which is carried out by independent research institutions like the “German Centre of Gerontology” which is home to the largest social gerontology library in Western Europe or by “The German Foundation for the Care of Elderly People”.

A multitude of periodic reports provide information on the living situation of older persons. Among these reports, the “Government Reports on the Situation of Older Persons” are especially important. They are presented every four years, one report in each legislative period. Since the first report in 1994, six reports have been published. Each of these has a specific theme and is prepared by an expert commission of about 10-15 members from the respective academic field of the report representing different disciplines such as social gerontology, psychology, economy, law, sociology, geriatrics and geronto-psychology. The current 6th report focuses on “Images of Ageing in Society” and the 7th report is titled “Care and Shared Responsibility at the Municipal Level - Safeguarding Viable Communities.” It is to be published in spring 2016.

The implementation of MIPAA and RIS is reviewed every five years in a country report written by the national Focal Point of Ageing in Germany and sent to the secretariat of the UNECE-Working Group on Ageing. It is published during the UNECE-Working Group on Ageing Ministerial Conferences, e.g. 2007 in Leon: “National Plan of Action of the Federal Government to Implement the Second United Nations Plan of Action on Ageing, Madrid 2002, and the UNECE-Regional Implementation Strategy, Berlin 2002”;

2012 in Vienna: “German National Report on the Implementation of MIPAA and RIS” and 2017 in Istanbul: “German National Report on the Implementation of MIPAA and RIS”. These reports include statements by the German National Association of Senior Citizens which represents about 13 million older persons and has enjoyed advisory status at the Economic and Social Council (ECOSOC) of United Nations since 1998.

Question 2:

How has your Government taken into consideration the needs of specific groups of older persons in the process of implementation of MIPAA?

Answer:

Germany regards preserving and expanding the social security system for all groups of the population as one of its fundamental tasks.

- With the “German Social Security Code XII” which came into effect in 2005 basic protection in old age and in the case of reduced earning capacity are guaranteed.
- With the „German Social Security Code XI“ which came into effect in 1995 the „Long-Term Care Insurance“ was implemented as an autonomous branch of the “Social Security Insurance”. The „Long-Term Care Insurance” protects all persons. It provides payments for home-care and for institutional care which are not dependent on income. The payments/benefits depend on the need of level of long-term care.
- In an effort to offset gender-specific disadvantages in somebody's life trajectory and hence insurance history resulting from family-care periods, Germany incorporated gender-neutral provisions in its laws on pensions, which are however especially relevant for women. This means that the German retirement system already rewards unpaid periods of family care, wherever that is possible, system-compatible and where it makes sense. Since 1986, we have gradually created an environment which makes it easier for women to realize their different life trajectories in the context of old-age provision. Persons (often women) who care for family members or who fully concentrate on raising their small children earn their own pension credits in the statutory pension insurance system during these periods.
- Germany has made the financial situation of older women a special focus, e.g. with the help of the “Equal Pay Act”, the “Parental Allowance Act” or the act designed to adjust the general retirement age to the demographic developments or the recognition of care-time for older family members as insurance periods.

Question 3:

How has your Government informed older persons about MIPAA and how are older persons participating in the implementation of MIPAA including in decision-making about MIPAA implementation?

Answer:

MIPAA and RIS were implemented by the “National Plan of Action of the Federal Government to Implement the Second United Nations Plan of Action on Ageing, Madrid 2002, and the UNECE-Regional Implementation Strategy, Berlin 2002” which was presented to the German Federal Cabinet in 2007.

The Regional Implementation Strategy of the UNECE-member states was adopted by the 2002 Ministerial Conference chaired by Germany and held in Berlin. The German National Plan of Action was drafted by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth with the input of German civil society, of leading gerontologists and of the Federal States, which according to the German federal structure have the responsibility for support and care of the older persons in Germany.

They were brought to public attention by conferences, publications, websites, press activities etc.

Question 4:

What impact has MIPAA implementation had on equality and non-discrimination of older persons?

Answer:

Public awareness is steadily increasing with regard to mainstreaming the topic of ageing, securing intergenerational solidarity, addressing the situation of patients with Alzheimer Disease or Dementia and their families and protecting the dignity of people in need of care and help.

Question 5:

What impact has MIPAA implementation had on the fulfilment of the right of older persons to an adequate standard of living?

Answer:

Germany is a social welfare state with a social security system. The pension system with its three pillars - statutory, occupational, and (subsidized) private pension - is well established and stable.

The right of older persons to an adequate standard of living is safeguarded by German legislation.

Preserving and strengthening social protection, namely preventing poverty and providing adequate benefit levels for all, are guaranteed in the Federal Republic of Germany. The principle of basic protection in old age and in cases of reduced earning capacity is anchored in Book XII of the “Social Security Code”.

- The German pension system is well prepared for the challenges of the future. It is based on three pillars. The central element and the primary pillar of the pension system is the statutory pension insurance, which is supplemented by occupational and private pension schemes as pillars two and three. The major principal of the German pension scheme is to take social and fiscal policy concerns into consideration and to adhere to the principle of equality for all

generations. Neither present nor future contributors to insurance schemes are required to pay more than they can manage. The Federal Government has decided (reform 2001) to distribute the burden resulting from demographic development between contributors, pensioners and taxpayers in a balanced way. In the long term, this means that a contribution rate of at most 20% must be maintained until 2020 and then at most 22% until 2030. At the same time, until 2020 the net pension level before taxes should not fall below 46%, and then until 2030 not below 43%. These fundamentals ensure on the one hand that contributions of the active population to the pension scheme are kept at acceptable levels, as well as adequate pension income for all generations.

The 2001 reform was accompanied by the introduction of government subsidies for additional occupational and private pensions.

- In 1986 the statutory pension scheme has introduced numerous provisions that are particularly designed to ease gender-specific disadvantages that persons (often women) incur due to periods spent raising children or providing care for family members.
- The “Long-Term Care Insurance” introduced in 1995 has made a substantial contribution to improving the social protection of persons providing such care. Supplementary, state-subsidised pension insurance schemes have made gender-neutral contributions mandatory since 2006.
- The German Health Insurance System provides health services which are both efficient and affordable and provide universal access to high-quality health care for all residents in the Federal Republic of Germany. The 2003 “Health System Reform” ensured that all persons are entitled to the same necessary medical treatment irrespective of age, gender or income.

Question 6:

Please provide examples of best practices from a human rights perspective identified by your Government in the implementation, monitoring, review and appraisal of MIPAA.

Answer:

Please see the attached “National Plan of Action of the Federal Government to Implement the Second United Nations Plan of Action on Ageing, Madrid 2002, and the UNECE-Regional Implementation Strategy, Berlin 2002” for detailed information about laws, statutory instruments, the policies and pilot programmes of the Government and the Federal States, institutional mechanisms, initiatives, NGOs etc.

Question 7:

Please provide information about the main challenges (such as institutional, structural and circumstantial obstacles) faced by your Government at the various levels of government (communal, provincial and national etc.) to fully respect,

protect and fulfil the human rights of older persons in the implementation of MIPAA.

Answer:

Germany reacts in its political decisions and measures to the challenges and opportunities resulting from demographic change and an ageing society.

There are different and various pilot programmes, research aspects and political projects to fully respect, protect and fulfil the human rights of older persons. The most important of these are explained in the attached “National Plan of Action of the Federal Government to Implement the Second United Nations Plan of Action on Ageing, Madrid 2002, and the UNECE-Regional Implementation Strategy, Berlin 2002”.

A new challenge is that nowadays persons with an intellectual disability get remarkably older than in former years. A first generation actually reaches the age of retirement. This is a good message. However, elderly care institutions and care institutions have to cope with this development in Germany.

Dorika Seib