

**Questions and issues for contributions to Secretary-General report  
pursuant General Assembly resolution 65/182**

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**1. Please provide information on the current situation of the human rights of older persons, including particular challenges and threats that may prevent the full realisation of their rights**

Right now there are several issues on the rights of older people which are discussed in the public. One future challenge is the poverty risk of elder people, especially women. Another one is the discrimination in the labour market, e.g. elder employees or elder unemployed. Elder People also face discrimination in different segments, like health care or loans, especially older women or older persons with a migrant background. Another issue which is highly discussed are the conditions for older persons in care.

**2. Please provide information on existing legislation, policies and programmes to protect and promote the human rights of older persons.**

**Many policies are discussed and some have already started e.g. the consumer policy for older persons.**

Consumer policy targeting older persons provides an opportunity,

- to eliminate information shortage.
- to take into account the vulnerability of many older consumers.
- to improve their status as informed consumers with respect to goods and services markets.
- to inform older persons of their rights vis-à-vis providers of goods and services.
- to enhance their ability to enforce their rights.

The Federal Government of Germany has supported a project entitled "Target-Group Orientated Consumer Work for and with Senior Citizens", carried out under the auspices of the consumer protection centres of the States of North Rhine-Westphalia, Brandenburg, and Rhineland-Palatinate in collaboration with the German National Association of Senior Citizens' Organizations (BAGSO).

Problems that older persons face as consumers and issues of particular interest to them were examined in consumer conferences, with their active participation.

BAGSO has set up a consumer forum on its website, through which it collects exploratory, Internet-assisted survey data regarding consumer problems affecting older persons.

Sources: 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, [www.bmfsfj.de](http://www.bmfsfj.de); Bundesarbeitsgemeinschaft der Senioren Organisation, BAGSO (2009), [www.bagso.de](http://www.bagso.de).

### **3. Please provide information on existing legislation, policies and programmes to address discrimination against older persons, including measures to address multiple discrimination (e.g. discrimination based on age and gender)**

Since 18 August 2006, the General Act on Equal Treatment (AGG) has been enforced. This law incorporates four Anti-Discrimination Directives of the EU into German law. The reason behind this is to prevent or at least to stop discrimination on many grounds such as race, ethnic origin, gender, religion or belief, sexual orientation, disability and age (see Section 1 of this Act). The General Act on Equal Treatment treats the claims and legal consequences in the case of discrimination, both in the field of work and of civil law:

#### ***Labour law***

Employers have to observe any discrimination when publishing job advertisements. They have to treat all applicants equal during the application procedure. Employers have to ensure that discrimination does not take place. In addition, they are obliged to take measures against employees who discriminate other colleagues. On the other side, the employees are entitled to be protected against discrimination in existing employment relationships. They may call for compensation or damages and file a complaint about discrimination with their employers. Therefore, a complaints unit has to be established at all companies and the employees have to be duly notified about its existence.

#### ***Civil law***

In the field of civil law, the protection granted in the General Act on Equal Treatment includes business and insurances under private law. Bulk business is concluded

irrespective of the person involved and in a large number of cases. These include everyday matters such as shopping or going to restaurants.

The protection by law also takes effect in the case of insurance under private law, which has been taken out later than 22 December 2007. However, where insurance contracts have been modified subsequent to the introduction of the General Act on Equal Treatment (18 August 2006), these modifications might - depending on the respective circumstances - infringe upon the provisions of the General Act on Equal Treatment.

### ***Discrimination on grounds of Age***

The General Act on Equal Treatment (German abbreviation: AGG) prohibits discrimination on grounds of age. The ban is related to every age, so that both the unequal treatment of older and of younger persons is prohibited. For example, pay regulations that are exclusively linked to age, and automatically take effect with increased age, represent a case of discrimination with regard to younger employees. That shows that the implementation of the AGG provisions with regard to age as a ground for discrimination is a challenge.

The AGG foresees extensive options for justification in cases where unequal treatment is a result of age. Thus, it is possible to provide targeted support for young people in order to integrate them into a trade or profession. Determining a minimum age in order to favor older employees can also be justified.

(More Information:

[http://www.antidiskriminierungsstelle.de/DE/DasGesetz/Diskriminierungsmerkmale/diskriminierungsmerkmale\\_node.html](http://www.antidiskriminierungsstelle.de/DE/DasGesetz/Diskriminierungsmerkmale/diskriminierungsmerkmale_node.html))

## **4. Please provide information on existing legislation, policies and programmes to address violence and abuse against older persons in the private and public spheres.**

### **Study by the German Institute for Human Rights on Human Rights of elder people in need of care**

The German Institute on Human Rights published a study: Social rights of older people in need of care in 2006. This study consists of two parts. The first part, written by Jakob Schneider, outlines the relevant provisions of international law on the right to care and adequate accommodation, with a special focus on elderly people in need of care. In the second part Valentin Aichele examines the legal and actual implementation of these human rights in Germany; his remarks are then followed by a number of practical recommendations.

The Background to the study:

For years the media has reported, sometimes very critically, on the quality of elder care in Germany. Care experts, academics and members of civil society continue to voice their opinions on this issue. They not only convey their own experiences, but also consider what affected people, family members and care workers tell them. Despite care workers' best efforts (sometimes under extreme or even unacceptable circumstances), and recent diverse measures taken by the state, the care self-administration as well as non-governmental institutions, the discouraging news regarding the quality of elder care in Germany has not ceased.

The situation of elder care in Germany has already attracted international attention. In the past international expert committees have made recommendations to the Federal Republic of Germany on the subject of care: the UN Committee on Economic, Social and Cultural Rights (CESCR) in 2001, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2003, and the UN Human Rights Committee (HRC) in 2004. The observations of the international expert committees confirm the pertinence of the topic to human rights. It also indicates that the existing problems should not be regarded as isolated cases but rather as a structural violation of human rights.

Particular attention was raised by the CESCR's Concluding Observations on Germany in 2001. The CESCR expressed its "grave concern about inhumane conditions in nursing homes owing to structural deficiencies in nursing". It made it very strong recommendation to Germany by urging it "to adopt urgent measures to improve the situation of patients in nursing homes".

During the CESCR's examination of the Federal Republic of Germany's report a member of Germany's delegation admitted that deficiencies relating to care do exist. This admission as well as the CESCR's Concluding Observations on Germany caused excitement on all sides, including the German public; however, the German government did not respond to the Concluding Observations of the CESCR, nor did was this issue debated in the German parliament.

([http://www.institut-fuer-menschenrechte.de/uploads/tx\\_commerce/studie\\_soziale\\_menschenrechte\\_aelterer\\_personen\\_in\\_pflege.pdf](http://www.institut-fuer-menschenrechte.de/uploads/tx_commerce/studie_soziale_menschenrechte_aelterer_personen_in_pflege.pdf))

### **Mileca: Monitoring in long term care/ Pilot Project on Elder Abuse**

This project is designed to contribute to the monitoring of elder abuse in long-term care in the European Union. Subordinated goal is to identify and describe the organizations existing in Germany, Austria, Luxemburg, Spain and the Netherlands who tend to come in contact with potential victims of abuse in professional, voluntary or in family settings. Further the potential of these organizations in monitoring elder abuse shall be specified. In a subsequent step the results will be refined at an international level by the project partners ensuring an exchange between them. The goal is to develop good practice scenarios and, on that basis, to generate concrete recommendations for implementation by the Member States of European Union. Abuse of older people in need of care is increasingly perceived as a social problem. Many elderly people are dependent on assistance and care, because of physical or

psychological restraints. With increasing dependence on care through other people, the risk of becoming a victim of elder abuse is rising. This is especially the case when a person is getting dependent on care- namely as well in familial as in non-familial settings.

The literature on elder abuse presents various reasons to explain abusive behaviour against older people in need of care.

Providing care to another person can produce physical or psychological stress on the side of the caregiver and can finally lead to excessive demands placed on the caregiver.

The tendency to use abusive behavior can be rooted in the personality and biography of the perpetrator.

The risk for getting discovered as a perpetrator of elder abuse is often relatively low, so that the inhibition threshold for abusive acts is decreasing.

The necessity of prevention is undisputed. However, there is no mechanism for monitoring elder abuse in the Member States of the European Union on a regular basis, nor is there any legal basis for its introduction. This is where the work of MILCEA starts. This project was chosen by the European Commission and the leadership has been assigned to the Medical Advisory Service of Health Insurance (MDS).

This project MILCEA is funded by the European Union and contributes to the development of a monitoring system to recognize and assess elder abuse in Long-Term Care as a precondition for prevention.

<http://www.milcea.eu/index.php?id=60&L=1>

**5. Please provide information on existing legislation, policies and programmes addressing old age-sensitive services and facilities, such as those related to mobility, age-adequate design, long-term care, primary health care and adult and continuous education.**

In Germany there are about five millions people in Need of Long-Term Care and Assistance, which includes about 1.700.000 persons over 60 years old. Due to this, a charter was created.

The Charter of Rights for People in Need of Long-Term Care and Assistance was developed in the context of "the Round Table for Long-Term Care" in the period 2003-2005 by various actors and experts from all areas responsible for care in old age, including the federal states, local government, bodies responsible for care institutions, charitable associations, associations of responsible bodies, nursing home supervisory bodies, long-term care insurance funds, advocacy groups for the elderly,

researchers, foundations. This body was set up by the Federal Ministry for Family Affairs, Senior Citizens, women and Youth with the aim to improve the conditions for people in Germany who are in need of long-term care and assistance.

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth circulated the Charter of Rights for People in Need of Long-Term Care and Assistance in April 2007 to numerous organisations in Germany and had a significant influence for those involved in the care sector. Further more, it launched a big discussion and also institutions involved in the care of older people are using the Charter as an instrument in their quality assurance systems.

This document captured the attention of the organisation of good quality care. It is intended to act as a reference point for a broad range of debate and give impetus to further changes in the entire care and support sector. The Charter makes a point of including values such as supportiveness, humanity and respect; since these are things that people in need of care and assistance all too often miss. The Charter gives a detailed catalogue of the rights of people in Germany who are in need of long-term care and assistance.

Info can be found: <http://www.dza.de/en/policy-consulting/long-term-care-charter.html>

### **outpatient palliative care**

Germany sought, above all, to improve outpatient care. Since 1 April 2007, persons insured under the statutory health insurance got a separate claim to a specialized outpatient palliative care. It is a medical and nursing services which are provided by so-called palliative care teams. Any other supporting services (such as life care and support of the members) are not entitled to these benefits. Only palliative patients, who have special health care needs, are entitled to these benefits, if the treatment can be supplied on an outpatient basis.

Patients are provided palliative care in particular, by contract physicians, nursing services and residential facilities.

In addition, severely ill and dying may be entitled to a specialized outpatient palliative care (spezialisierte ambulante Palliativversorgung (SAPV)). The new service aims to meet the wishes of seriously ill people as possible in their own home environment to die with dignity. The new benefit is available to palliative care patients with incurable, progressive, and so far advanced disease that thus their life expectancy is limited and they need a particularly expensive care. Outpatient teams (known as palliative care teams of medical and nursing staff) provide the insured. They work closely with hospice services. The entitlement to benefits from the specialized outpatient palliative care is available to patients in residential care facilities, in institutions of integration assistance for people with disabilities, in institutions for children and youth services and inpatient hospices.

The Federal Minister on Health, Roesler has made 2011 the "Year of Care". He had convened a meeting in December 2010 to work on the shortage of professionals. Further rounds will follow. The care reform will be the challenge of this year.

Rösler is planning to organize recreation for family caregivers on the model of parent-child treatments. This should be a compensation for the physical and mental stress. Roesler asked the care-employers to increase the payment of their employees. The minister has planned to give the nursing relatives greater consideration for their time of care in the pension. Moreover, the exchange of family caregivers in self-help groups should be funded.

(for many see <http://www.n-tv.de/politik/Roesler-will-Pflege-besser-stellen-article2602266.html>)

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth drafted a new bill family care leave which will get into force in 2010. The bill includes only a voluntary clause for the enterprises. The bill will provide a compatible concept for work and nursing.

The Family Care Leave provides that employees can reduce their working hours over a period of two years up to 50 percent if they care for a loved one - and at a level of in this case 75 percent of the final gross income. To compensate they have to work fully later, get in this case, but still only 75 percent of salary - until the time account is again balanced. To minimize the risks of work-incapacity for small and medium enterprises, each employee who takes care of the family time, must complete an insurance policy. Premiums are only low, and the insurance ends on the last day of the wage recovery phase of family care time.

The model of family care time also has the problem of poverty in old age in mind. The lower limit of the scope of employment in the family care time was therefore deliberately set to 50 percent and contributions Contributors to the benefit system to bring together a receipt of pension rights.

(for further information see <http://www.bmfsfj.de/BMFSFJ/Service/themen-lotse,did=167514.html>)

The Federal Ministry of Health edited a brochure: "a guidebook on care". The brochure can be downloaded from the ministries website. On 100 pages it deals with the kind of long term care dependency, the German care insurance systems in many details and shows the way how to organize help or care. Furthermore it shows the different options in the system. One chapter gives a wide range on addresses where to get information or how to get advice for individual cases. The booklet addresses the new quality standards which were one goal of the care system reform of 2008.

[http://www.bmg.bund.de/uploads/publications/Ratgeber\\_zur\\_Pflege\\_Web25-2-11.pdf](http://www.bmg.bund.de/uploads/publications/Ratgeber_zur_Pflege_Web25-2-11.pdf)

**6. Please provide information on existing legislation, policies and programmes concerning social protection measures as well as right to work and right to social security with regards to older persons.**

Due to the demographic changes in Germany, the specific needs of older persons in general and the integration of employees who are older than 50 years in particular became a focus of attention. This targeted group is the active instrument to maintain a solid market due to their long term experience. A number of market policy regulations are supposed to prevent the exclusion of the 50plus employees and to promote their integration in the labour market. The German Federal Ministry of Labour and Social Affairs launched several initiation programs under the umbrella "Initiative 50 Plus"; the most highlighted programme is "Perspective 50 Plus" which is based on regional approach in order to adapt this program to the specificity and the needs of every region. "Initiative 50 Plus" is an umbrella for 78 regional programs, 421 jobcentres and 95 percent of social welfare organizations. The program is now in the third periodic phase (2011-2015) and it intends to activate 200.000 long term unemployed workers and to integrate 65.000 women and men in labour market

"Initiative 50 Plus" is particularly designed for low or semi-skilled unemployed persons who are benefiting from the so-called "Hartz IV" legislation act. The challenge of this approach is to re-activate and reintegrate long term unemployed persons above the age of 50 into the labour market, to raise awareness through public campaigns, to challenge the attitude of the employers, and to satisfy social partners. It also seeks to include different partners such as social and cultural organizations, trade unions or churches.

The program "Perspective 50 Plus" sets the following point on its agenda:

- **Further education:** The regional pacts are calling for continuous education for older workers. They are experienced but have often no access or well to update the knowledge. In 2003, only 9 percent of the workers aged between 55-64 years old joined a training to update their knowledge in the their domain of work.
- **Wage subsidies for enterprises:** Companies and enterprises that hire a person older than 50 years, will receive up to 50 percent of the employee's wage for the period of 3 years by the state.
- **Securing the income/assurance of salary:** Employees who accept to work in lower paid jobs than his/her last job are entitled to receive a wage grants to cover the difference for the period of two years. In addition to this, pension insurance contribution will be partly paid by the state. However, only older persons who are still receiving unemployment benefits (*Arbeitslosengeld*) and who are still receiving payments for more than 120 days are entitled to obtain such supplement.

- **Initiation for unemployed older than 58:** Between 2005 and 2009, the state devoted on a local level, 30.000 extra job for the duration of 3 years to long-term unemployed persons older than 58.
- **WeGebAU:** the Agency of work (Bundesagentur für Arbeit) has devoted a promotion of 200 Mio. Euro for small enterprise to support further education of less qualified persons and older workers.

These strategies are meant to face the risk of a large labor shortage. They are aimed to promote and facilitate a longer participation of older employees in working life as well as the integration of seniors in the social life.

<http://www.perspektive50plus.de/>

[http://www.bmas.de/portal/44382/perspective\\_50\\_plus.html](http://www.bmas.de/portal/44382/perspective_50_plus.html)

The German National Association of Senior Citizen's Organizations (**BAGSO**) is a German lobby organization for older persons. It represents currently more than 13 million older persons in German. Under the umbrella of BAGSO work (September 2010) 102 nationally active member associations.

It is considered as a strong lobby group for older generations in Germany. It provides advice and tries to improve the work and standards that are related to any issue affecting older persons at any level. BAGSO advocates its interests to decision makers and politicians and among their goals are

To improve the image and the position of older persons within family and society.  
To enable older persons of an independent life.

- To encourage them to take steps towards integration and take responsibilities for themselves and for others.
- To endorse solidarity with each other, and to raise the dialogue between generations.
- To promote a healthy life for older persons.

Since 1987 BAGSO has organized the German Senior Citizens' Congress, in addition to many other conferences and workshops on topics of age and ageing.

BAGSO awards a "Senior Living and Housing" seal of approval. The Association regularly publishes a members' magazine as well as books and brochures on various topics.

BAGSO was established in 1989. Its board of directors, its national office, the European office in Brussels and specific committees ensure the continuous coordination of issues of common concern. The Association was granted advisory status with the Economic and Social Council of the United Nations in 1998.

(More information: [www.bagso.de](http://www.bagso.de))

**7. Please provide information on existing legislation, policies and programmes to systematically collect, update and analyze information disaggregated by age.**

**Deutsche Zentrum für Altersfragen, DZA** (The German Centre of Gerontology), which was founded in 1973, is located in Berlin and is funded by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth. It is an Institute for documentation and scientific research. The centre instigates research that examines the social and behavioural ageing persons and society. The role of the centre is to collect, expand, evaluate, and spread knowledge and information about the ageing society and the living conditions of older persons. The centre's researches are processed with the aim of using this collected data for a scientific consultation to foster and promote and find solution to tackle the unprecedented challenges of German ageing society. Furthermore, it supplies policy makers to achieve better understanding, policies, services and ways out to integrate German older persons in the social and labour life. The centre has a big statistic database and is hosting the largest social gerontology library not only in Germany but in whole Western Europe, all data is available to public through the German Institute for Medical Documentation and Information (DIMDI) . **DZA** target groups such as public administrations at the federal and state levels, central public and non-governmental welfare agencies and those involved in social policy for the aged. DZA centre has a wide view of the social development, actions and its researches cover mainly the following five themes

- Employment and retirement
- Economy of old age
- Health and social care
- Family and social relations
- Societal participation.

Currently the centre is proceeding a number of projects such as *Life Course, Ageing and Well-Being; Personal Resources of Elderly People with Multimorbidity; Fortification of Effective Health Behaviour (PREFER); Health in Old Age; German Ageing Survey and The Berlin Research consortium*. As an example, **German Ageing Survey (DEAS)**: is a Longitudinal Study on the Second Half of Life in Germany, it is a social and behavioural scientific comprehensive examination of people over 40 years old. The centre has already provided data to public and politicians through two detailed surveys (1996-2002) and the third DEAS survey was, conducted in 2008, has also examined people who participated in the first two surveys which allowed a deep examination of the social development and the individual changes over the period of twelve years. In general, the issues addressed in the surveys includes the living situations and conditions before and after retirement, occupational status, social and leisure activities, housing, family ties and health care. **The Berlin research consortium** is an understanding of the conditions for independent older persons and quality of life when being in serious chronic health problems. The research projects look at issues related to living

conditions of women and men, their gender specific resources and life styles as well as differences between age groups.

The German Centre of Gerontology is hosting the office of a commission of experts which works on the Social Report on the situation of the Elderly in Germany (Altenbericht). In addition to informing the public about the living situation of the older persons, the Reports examinations and recommendations play the role of guidance to the government and parliament in shaping their policies on the situation of older persons

DIMDI: <http://www.dimdi.de/static/en/index.html>

DZA: <http://www.dza.de/>

## **8. Please provide information on existing legislation, policies and programmes to enhance participation and active engagement of older men and women in community, political and cultural life.**

To benefit from the experience and knowledge of older persons in Germany and to spread words and awareness about their perspective are the main aims of the initiative "**Erfahrung ist Zukunft**". It was initiated by the German Government in 2006 and was supported widely by several governmental departments such as the Ministry for Family Affairs, Senior Citizens, Women and Youth.

The fact that we are living in an ageing society and the fall of the rate of birth, it becomes significant to find out more chances and opportunities for older persons to share their knowledge and experience with the younger generation and to improve their skills. According to "Erfahrung ist Zukunft" is a possibility for older persons to use modern technology and other services to be informed about opportunities. This initiative holds various aspects such as **lifelong learning, employability of older persons, business start-up opportunities, volunteering, and health promotion**.

The lifelong learning is the main element within this initiative. The Federal Government adopted the Concept for Lifelong Learning on 23 April 2008 in order to improve the situation in this area and shaping one's individual opportunities in life and at work. The concept links up with measures which have been implemented under the Federal Government's Qualification Initiative.

The German Government focuses on the media competency of older persons and university courses for senior citizens. A number of projects deliver information about the use of the internet and opportunities that the internet offers for older persons, such as online shopping, online banking, and information about health issues. Other projects teach older persons how to deal with IT to reduce the gap in this respect between the younger and older generations.

The engagement of older persons/workers is becoming important in view of demographic changes. Accordingly, The Federal Ministry for Family Affairs, Senior

Citizens, Women and Youth launched in 2010 a new initiative for the engagement of older persons in the society. "**Alter schafft Neues**" is supporting the potential and the voluntary work of older persons. The main corners of this program are "Aktiv im Alter", "Freiwilligendienste aller Generationen" as well as "Wirtschaftsfaktor Alter", and Alter als Chance - demografische Entwicklung

(More information: <http://www.bmfsfj.de/BMFSFJ/Aeltere-Menschen/alter-schafft-neues.html>)

The Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, Germany sustains an interactive programme for community centres, where different generations can meet and supports each other. Such places are offering services for daily life activities for older persons with engagement of volunteers whereas; older persons offer their help to young people according to their knowledge and experience. This program is referred to as Multi-Generation Houses, the Ministry has established more than 30 community housing projects.

Their activities vary:

- Practical childcare assistance
- Help parents gain training competence
- Provide opportunities for at-risk families
- Positive conditions disadvantaged children and adolescents, migration background,

Accordingly the ministry has also launched other projects such as. Soziales Wohnen - Wohnen im Alter, for older persons who prefer to live among their relatives. "Das intelligente Heim" is a project to adapt houses of older persons to their needs to facilitate their stay.

See <http://www.bmfsfj.de/BMFSFJ/Aeltere-Menschen/soziales-wohnen.html>

**9. Please provide information on existing legislation, policies and programmes to ensure access to justice and judicial remedies for violations of the rights of older persons, including references to specific mandates of institutions such as national human rights institutions to address their rights**

The German Institute for Human Rights is the National Human Rights Institution in Germany. The German Institute for Human Rights has no mandate to consider individual complaints like an ombudsman office, but in dedicated cases the Institute decides to give its opinion e.g. in an amicus curiae.

In general, the German legal system does apply to all people equally and only few references are addressing explicitly the needs and interests of older persons. One example is the construction legislation (according to § 1 Abs. 6 Ziff. 3) which takes the special needs of older persons into consideration in terms of town planning. Another reference is the home-care-law ("Heimgesetz" oder "Heimrecht") which was newly codified in 2009.

### **Home-Care-Law (Heimrecht)**

In the frame of *Heimrecht*, older persons are regarded as vulnerable people like handicapped or long term care patients. This perspective provokes criticisms from different organisations that want to promote a self-determined, a self-organised way of life for old persons in order to better integrate them and to facilitate their everyday tasks. Today the *Heimrecht* is applied on a regional legislation ("Ländersache"). Most of the regions, with the exception of Schleswig Holstein and Brandenburg, still follow mainly the former law that treats older persons according to their age and not to their physical or physiological condition.

### **Care for Senior Citizens (Altenhilfe)**

The German social legislation ("Sozialrecht") has one regulation that refers explicitly to old people, however, without mentioning a particular age. It is § 71 SGB XII: *Altenhilfe*. It states that older persons are entitled to additional social benefits and contributions to prevent or to soften the difficulties caused by age. Older persons should be enabled to participate in activities of the community (§ 71 Abs. 1 SGB XII). In the legislation, social benefits and contribution should be granted to older people in the following cases:

- If the social benefits contribute to the social engagement.
- If they serve to supply an apartment that serves the needs of older persons.
- If they enable older persons to participate in social or cultural events.
- If they enable older persons to be in contact with family or other related persons.

The law also guarantees the right to guidance and consultation for older persons regardless their income. This regulations originate from the 1970s, from a time when care for older persons started to be organized on a communal level. The idea of helping people to help themselves ("*Selbsthilfe*") became central, which is to encourage older persons to a self-determined life and to contribute to the benefit of the society by active participation (§ 71 SGB XII). Often the § 71 SGB XII is not applied and ignored due to the various policies concerning old persons that were implemented later in Germany such as "*Aktiv im Alter*" or "*Alter schafft Neues*" which is not based on legal procedures.

### **federal regional law (Landesrecht)**

Beside the state law, regional laws have a number of regulations that address the needs of elderly, such as the implementation laws of SGB XI. In Bavaria for example, Art. 69 Abs 2 SGB XI is addressing the situation of senior citizens.

In Baden Württemberg a regulation within the regional regulation concerning social housing space is explicitly referring to the needs of elderly. In Hessen, special regulations for older persons with regards to health service. The regional law addressing old persons is based on the assumption that older persons have special needs without an explicit reference. Often old persons are seen as one group with special needs among others, such as children, handicapped or ill people. Still the regulations are rather addressing the protection and care of elderly than motivating or encouraging them.

### **The right for the representation of older persons (Recht der Seniorenvertretung)**

On a regional level, the representation of older persons is promoted. These structures should help to integrate old persons in the society, to foster their social and cultural engagement. Official representatives give older persons a voice within the communal parliaments. They serve as a connection between the old persons, the politics and the administration. Until 2010 about 1000 representatives have been elected. However, only few Bundesländer/ Federal Lands have a legal basis for these representations, such as Berlin. The representation of old persons is regulated here by the "Berliner Seniorenmitwirkungsgesetz", Mai 2005.

(Information: Sechster Bericht zur Lage der Älteren Generation in Deutschland, pp. 397-403)

<http://www.bmfsfj.de/RedaktionBMFSFJ/Abteilung3/Pdf-Anlagen/bt-drucksache-sechster-altenbericht,property=pdf,bereich=bmfsfj,sprache=de,rwb=true.pdf>

### **Living will**

With a written living will patients can choose certain medical measures, if they no longer decide for themselves. This ensures that the patient will of the treatment is used, even if it can no longer be expressed. Everyone of legal age can write a living will, which he or she can withdraw at any time informally. It is advisable to seek advice from a doctor, or other qualified persons. Meeting the requirements in a living will to the current living situation and treatment of the patient to have both the doctor and the representative (supervisor or agent / s) attached thereto.

If there is no living will or before the stipulations in a living will is to vague or general to decide the representative together the doctor on the basis of the suspected patients will over the forthcoming treatment. If representatives and the patient's physician do not agree on the proposed decision, the service court had to approve the treatment.

On 18 June 2009 the German Bundestag has decided to regulate the conditions when dealing with a living will. On 1 September 2009 the law came into force (Third Act to amend the service law of 29 July 2009).

For more information a brochure is available to patients, visit the website of the Federal Ministry of Justice. The booklet also contains useful examples and text blocks. In addition, the Federal Ministry of Justice advises in the brochure "the care law" how to choose a representative or an agent.

(Publication shipping the Federal Government, PO Box 48 10 09 18 132 Rostock).

More information can be found in the following links

<http://www.bmj.de>

[http://www.bmj.de/SharedDocs/Downloads/DE/pdfs/Patientenverfuegung.pdf?\\_\\_blob=publicationFile](http://www.bmj.de/SharedDocs/Downloads/DE/pdfs/Patientenverfuegung.pdf?__blob=publicationFile)