GERMANY

II. Non-discrimination

General Equal Treatment Act

In Germany, the General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz – AGG*), came into force on 18 August 2006. The purpose of this Act is to prevent or to stop discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, **age** or sexual orientation.

Thematic Year on Age Discrimination

In 2006 *Germany* established the independent Federal Anti-Discrimination Agency (FADA). In the course of FADAs thematic year on age discrimination in 2012 (which focused on young as well as on old age) FADA organised awareness raising events on age discrimination and awarded a price to small and medium-sized companies for applying innovative strategies for the promotion of teams of workers of all ages. It also established a committee of experts that made proposals for further action to eliminate age discrimination.

Depersonalised Application Procedures

In November 2010 the Federal Anti-Discrimination Agency (FADA) started a nationwide pilot project "Depersonalised Application Procedures" in Germany. Particularly people from a migrant background, elderly job-seekers and women with children are frequently discriminated against in the course of application procedures. Various enterprises, public bodies and local authorities have been testing depersonalised application procedures for the course of one year. It is important that the invitation to a job interview is exclusively extended on grounds of a person's qualification. Therefore, depersonalised applications do neither feature a photograph of the applicant, nor his/her name, address, date of birth nor any data relating to age, civil status or origin. From a statistical aspect, discriminations occur in particular at the first stage of application procedures, i.e. before an invitation to a job interview is extended. In the case of depersonalised application procedures, it is all about this very first chance.

FADA considers the pilot project to be a success and appreciates that by now several federal Länder, Municipalities and Companies are either carrying out their own pilot projects or are using depersonalised application procedures.

III. Autonomy

German law governing the guardianship of adults

- For over 20 years, the law governing the placement of adults under guardianship in Germany has focused on the individual, his/her wellbeing and wishes. This ensures that the institution of guardianship can help those placed under it to live in self-determination to the greatest degree possible. Guardians are appointed according to the needs of each individual and for the performance of specific tasks. Their mandate is limited to what is necessary, and all measures must be proportionate. The appointment of a guardian does not suspend an individual's existing capacity to contract. The old system of guardianship ("Entmündigung"), which permitted general revocation of an adult's capacity to contract alongside his placement under guardianship, was abolished with the introduction of the current legal model (German: "Betreuung"). Since then, revocation of the capacity to contract, and/or exemption from criminal liability, are considered only in certain circumstances. An individual who lacks the capacity to contract at a certain point in time may regain this capacity at a later date. However, even in cases where an adult lacks capacity to contract, he/she may still engage in every-day transactions that can be effected with negligible funds.

Advance medical directives

- All treatment by a physician requires the informed consent of the patient. Only in cases where the patient cannot provide consent himself may a representative (guardian or power of attorney) provide this consent on his behalf. Furthermore, with the Third Adult-Guardianship Reform Act of 2009, advance medical directives became a core component of the legislation in this area. With an advance medical directive, any adult can stipulate in writing whether and how he/she wishes to receive medical treatment in certain situations in the event of incapacity. At the same time, provisions stipulate that a court shall decide as a neutral authority in cases where there is a risk of abuse or where doubts exist as to the patient's wishes.

Patient Rights Act

- As part of the new Patient Rights Act, those providing medical treatment, such as physicians, will be obliged to provide patients with information in a language they understand. Although the provisions of section 630c and 630e of the German Civil Code do not target support for older persons exclusively, these members of society will benefit in particular. The same applies to section 630e (2) of the Civil Code, which provides that patients are to be given copies of all documents they have signed pertaining to information and consent. These provisions ensure that older persons in particular are able to take the time to understand – either themselves or with the support of their relatives – what their treatment is for and what it involves.

IV. Protection from violence and abuse

SiliA

From 2008 to 2012, based on the results of a study entitled "Crime and Violence in the Lives of Older Persons", a programme called *Safeguarding the Elderly* ("Sicher leben im Alter: SiliA"), incorporating a package of measures to optimise the safety of older persons and those requiring care and assistance, was carried out by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in collaboration with the German Police University. The aforementioned study had clearly shown that – although most people over 60 were less likely to be affected by violence and crime than younger adults – action was still needed in certain areas on account of the vulnerability and dependency of older persons and those requiring care and assistance, the ease with which crimes against these individuals can be covered up or left undetected, and the lack of support services sufficiently geared toward older victims.

In response to these issues, a series of preventive approaches were successfully implemented:

1. *Gearing women's shelters, counselling centres and other support services toward the situations faced specifically by older victims of violence perpetrated by partners or ex-partners*

In particular, the experience gathered during this programme demonstrated the need to address this group explicitly, and to create specialised services for older victims. It also highlighted the importance of awareness-raising among medical staff and care and support workers for the elderly on the issue of domestic violence between older couples. A joined-up approach on the part of experts from centres for the abused, police officers, and care and support workers for the elderly, should lead to the creation of intervention systems which focus not on short-term impact through one-off contact, but facilitate longer-term support and incorporate outreach counselling.

2. *Bolstering the potential of non-residential care staff and services to act as instances of prevention through awareness-raising and training for care workers in the field of abuse and neglect by family members*

Training was given to non-residential care workers and steps were taken in organisational development to incorporate this issue into the work of care services. The manifestations and signs of abuse and neglect were addressed, as were the conditions under which they arise and the risk factors involved. Questions regarding the legal context and professional ethics were also tackled. Care workers were taught to address critical situations in households where care is provided. Furthermore, care workers were provided with a simple and flexible screening tool, as well as information on help available locally ("support map") and suitable contacts. At the institutional level, it is useful to implement measures to incorporate the issue of neglect and abuse into the "discussion culture" within care services, and into existing structures and processes (e.g. patient admission procedures).

3. *Schemes to protect older people from property and asset crimes involving fraud and deception*

Steps taken in this area included a brochure distributed by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth containing comprehensive information on fraud and scams targeting old age pensioners, and how to act when property and asset crimes of this nature are committed. Furthermore, training programmes for bank staff provided employees with information about these scams, how to recognise potentially critical situations and what to do to protect the victims. The results show that training schemes of this sort can change levels of awareness and staff response, and thus help protect older potential victims.

4. *Measures for the prevention and investigation of homicide against older persons and those requiring care*

There is likely no other stage in a person's life when the risk of death by unnatural causes going undetected is as high as in old age. With this in mind, an interdisciplinary group of experts developed a guide primarily for medical professionals. Guidance is provided from the criminological, forensic and prosecutorial perspective, and incorporates a checklist to optimise investigations into the cause of death in cases involving old-age pensioners and those requiring care.

The *Safeguarding the Elderly* programme confirmed that measures to keep older people safe must be tailored to the issues involved and the target group. It became clear that those approaches involving third parties, such as carers, bank workers or counsellors as "guardians" and sources of support, are becoming more important. The prevention of crime and violence against older persons in particular is not restricted to isolated fields, and thus requires different institutions and professions to work together. Apart from the institutions of criminal justice and the civil jurisdiction, key areas with the potential to help safeguard the elderly include care and healthcare, as well as victim support, services for the abused, and other mental health services.

The approaches taken in the *Safeguarding the Elderly* programme have continued in the current *Power to Protect Project for the Elderly* ("Sicherheitspotenziale im höheren Lebensalter"). The aim of this is to encourage older people to exercise caution, and to fine-tune the systems in place to protect them against scams and fraud.

VI. Care

A whole range of local-government support services are available to senior citizens throughout Germany. In cases where care and assistance are required there is a free choice – generally irrespective of age, sex, origin, religion or income – of benefits in kind or monetary benefits from the statutory long-term care insurance scheme (SPV), which is a stand-alone branch of social security under the German Social Code. In exercising their right to self-determination, the affected persons can usually choose between the provision of care at home and residential care, as well as between the licensed facilities and services of a variety of agencies. With a highly differentiated and, since the beginning of 2013, significantly extended catalogue of services, patients are not only able to make individualised care arrangements, but are spared a large number of care-related expenses.

Charter of Rights for People in Long-Term Care and Assistance

As a central measure to improve residential care and the provision of care at home, while at the same time reducing red tape, Germany has issued a Charter of Rights for People in Need of Long-Term Care and Assistance. The Charter's eight articles set out in great detail, for example, the right to self-determination, privacy, participation in society, and a dignified death. Its aim is to strengthen the rights of those in need of long-term care and assistance, and improve their situation. The Charter provides affected persons and their relatives with a standard for assessing the care provided, and is designed to provide those working in care with a similar gauge for assessing their own work.

Quality Assurance

- In Germany, the quality of in- and outpatient long-term care providers is scrutinised on a regular basis by law. The quality standards required of long-term care services are set by a panel of the long-term care insurance funds and the care providers at the national level. All long-term care services must be licensed, if they want to provide insurance funded care. Owing to a so-called delivery-of-care-contract, the above-mentioned quality standards are binding. Long-term care Services are quality inspected regularly by a peer board of the medical services of the health insurance funds; and the results are published.

- The medical services of the health insurance funds also examine inter alia whether any measures which restrict liberty are accompanied by the required approval or consent.

- Germany supports several projects to reduce the use of (physical) restraints in nursing homes. This has led to recommendations on the avoidance of restrictions on liberty by applying alternative forms of care. For example, in 2011, a reduction of approximately 14% in the use of restraints has been achieved in the region of Bavaria where specially trained experts are appointed by the court on a case-by-case basis and work with the service provider in question to examine alternatives allowing freedom of movement to be maintained.

- Germany has founded a joint initiative called *Alliance for Dementia*, which was set up to implement an action plan for improvements in the care given to those suffering from dementia. The initiative’s special areas of focus include measures to help dementia sufferers remain in their own homes. This involves developing the necessary assistance for dementia sufferers and their relatives.

Year of Voluntary Community Work/Federal Voluntary Service

- Approximately 80,000 women and men are currently dedicating their time in many different ways to society, in particular the social sector, as part of a Year of Voluntary Community Work (designed for young people of up to 27 years), or as members of the Federal Voluntary Service (all age groups). Care for the elderly features among the areas where volunteers support professional staff, and are thus able to gain not only valuable personal experience, but also an insight into the care profession. This is an effective way both of encouraging young people in the process of making career choices to enter the care sector, and of inspiring older volunteers who may be in between professions. The use of volunteers is also good for those in care, who benefit from increased levels of personal dedication, social involvement and inclusion.

- The Federal Voluntary Service provides the opportunity for all age groups to volunteer as part of a structured programme. The programme has been very well received by the new target group (27 and over). At present, those aged 27 and over make up almost 40% of volunteers in the programme, with almost 20% of volunteers aged over 50, and approximately 2% even aged over 65.

WeDo (For the Wellbeing and Dignity of Older People, European Quality Framework for long-term care services, see Annex).

VI. Palliative care

German Charter for the Care of Critically Ill and the Dying

- The Germany Charter project emerged in the context of an international initiative which resulted in the adoption of the Budapest Commitments at the 10th Congress of the European Association for Palliative Care (EAPC) in 2007. The Commitments focus on five areas worldwide in which developments should be facilitated with the goal of improving palliative care: education, research, policy, quality, and drug availability. Eighteen countries have adopted these ideas: Austria, Belgium, Czech Republic, Croatia, Denmark, Germany, Greece, Hungary, Israel, Italy, Lithuania, Netherlands, Norway, Romania, Spain, Sweden, Switzerland and the United Kingdom.

- In Germany, the German Society for Palliative Medicine (DGP), the German Hospice and Palliative Association (DHPV) and the German Medical Association (BÄK) have been responsible for the national Charter process since 2008. They are supported by the Otto und Edith Mühlschlegel Foundation (part of the Robert Bosch Foundation) and German Cancer Aid.

- The starting point for the Charter, which has now been released, was the situation as it stands for those who face dying and death as a result of progressive illness. Building on this, it contains guiding principles in five key areas, complete with more detailed explanations, defining goals, responsibilities and areas for action in Germany.
  Area 1: Social policy challenges: ethics, law and public communications.
  Area 2: Needs of the individual – requirements of care structures.
  Area 3: Requirements of training and further training for volunteers.
  Area 4: Development perspectives and research.
  Area 5: Learning from experience – the international dimension.

- The Charter process began with an official launch in September 2008 and ended with the presentation of the project results on 8 September 2010. Phase two currently consists of the

implementation of these principles within the framework of separate projects involving the (approximately 150) organisations that participated in the Charter's creation.

Palliative Practice Curriculum

- The 40-hour interdisciplinary Palliative Practice Curriculum was developed by the Robert Bosch Foundation in collaboration with a group of renowned experts. The Curriculum is geared toward support for the elderly (especially those suffering from dementia), and gives geriatric nurses and care assistants, regardless of their professional qualifications and knowledge of German, the opportunity to learn basic skills in palliative practice. It is available to care workers via so-called "moderators", i.e. specially qualified training personnel. Since 1 September 2011, the **Coordination Office for Palliative Practice** at the German Foundation for the Care of Older People has been responsible for supervising palliative practice moderators.

- The Coordination Office serves as a source of information for schooling programmes based on the Palliative Practice Curriculum for staff and institutions providing care for the elderly. As part of its work in this capacity, the Coordination Office maintains a directory of active moderators.

- It also coordinates and supervises basic and further training for palliative practice moderators.

- These efforts are part of a **cooperation network** consisting of the Robert Bosch Foundation, the German Foundation for the Care of Older People and the Christophorus Academy. Training for moderators is handled by the Christophorus Academy.

Non residential hospice service

- In Germany, non-residential hospice services, subsidised by the health insurance funds pursuant to section 39a (2) of the Fifth Book of the Social Code, have also proven successful. These services use volunteers to support the terminally ill and dying, as well as their families, in their own homes. These volunteers talk to the ill and their relatives in order to help families deal with illness, pain, saying goodbye and mourning. They sit by the individual's bed, source information and find points of contact for questions related to pain therapy and managing symptoms, provide support and advice in administrative matters, and often maintain contact with relatives after the individual has passed away. Furthermore, qualified professionals also work at non-residential hospice services in order to train, coordinate and support the voluntary assistants. Terminally ill and dying patients who cannot be cared for in their own homes are able to claim support for residential or semi-residential hospice care.