Bundesarbeits-
gemeinschaft der
Seniorenorganisationen

bagso

Statement

Using artificial intelligence – protecting the interests and fundamental rights of older people!

Statement by BAGSO on the use of AI

Introduction

The Artificial Intelligence (AI) Act[1] adopted by the EU Parliament in March 2024 gives BAGSO an opportunity to highlight what it considers to be key aspects in the discussion of the rapid development of AI-based technologies, including in the various living environments of older people, and to set out specific demands for their use and further development[2].

AI is based on mathematical models and algorithms and is typically trained using data ("training data"). The selection of such data therefore plays a critical role when it comes to the patterns and rules derived by the system. The data is selected and prepared by humans and usually mirrors existing social structures, conditions and practices. It is hardly ever known to users or accessible to them. An AI system is therefore not "intelligent" in and of itself; rather, its various forms and applications reflect what certain people think about situations or other people and the relevant prevailing social beliefs. This bears the risk of neglecting aspects that have not been considered and of discriminating against people (or groups) that have been disregarded:

1 Cf. www.europarl.europa.eu. Unless otherwise stated, all Internet sources were last accessed on 23rd April 2024.

2 BAGSO has previously expressed general positions on the digital and social participation of older people, the basic statements of which can likewise be applied to the development and use of artificial intelligence (AI). Cf. BAGSO e. V. (2017): Older people in a digital world. Position paper. Bonn. www.bagso.de; BAGSO e. V. (2020): Older people and digitalisation. Statement by BAGSO regarding the Eighth Government Report on Older People. Bonn. www.bagso.de.

older people, lonely people, people with disabilities and many more[3].

Taking into account the needs of older people and their fundamental rights

With this position paper, BAGSO aims to actively include the interests of older people in the discussion, ensure the protection of their fundamental rights in the use and further development of AI and effectively support the imminent transformation processes.

The European AI regulation ("AI Act") mentioned above is the world's first major law on AI to contain fundamental obligations for companies and is intended to ensure greater transparency for AI- assisted or AI-generated products[4].

BAGSO seeks to monitor the process at a national level too, with a critical eye to ensure that the rights, interests and living conditions of older people are taken into account when AI is used and further developed.

The use of AI for an independent life in older age

From BAGSO's point of view, the use of AI should always focus on people and improve their living conditions and quality of life. In particular, this also has to apply to safeguarding the fundamental rights of older people and strengthening their participation in society.

In the areas of housing, mobility and health, many products and services have been and are being developed with the help of AI that can assist older people in leading independent lives. Examples include voice-controlled applications, sensor-supported heating, ventilation, lighting and security systems as part of smart homes, mowing and cleaning robots and home technologies that learn from experience data to make everyday life in one's own home easier. Additionally, voice-controlled assistance systems or means of communication can be of particular help to people with cognitive, sensory or physical impairments. AI also facilitates medical research and diagnostics. Thanks to AI, telemedicine can contribute to ensuring healthcare provision and patient safety.

3 For more information on the term "artificial intelligence" as used by the EU Parliament, see topics page: www.europarl.europa.eu/topics/en/topic/artificial-intelligence

4 The EU-wide regulation defines four levels of risk for AI applications and imposes lower or stricter regulation accordingly. It does not apply to research and development activities. For more details, see footnote 1.

With AI being continuously developed in almost all areas of life, it is almost impossible to gain a complete overview of the objectives in product development, the approach taken in the development process and the impact on users – including older people.

When it comes to the further development of AI – for instance in the healthcare sector or in the field of assistance systems – older people can be important cooperation partners, just as they are in technology development in general, particularly with regard to new product developments and their use in real-life contexts.

This expertise not only benefits older people directly, but also future generations. Furthermore, older people can provide important impetus with regard to possible ethical concerns and their resolution – for example on issues of consumer protection.

As part of the project "AI for ageing well"[5], BAGSO is providing information about AI systems in older people's living environments and developing learning and exchange opportunities for senior citizens' organisations and internet initiatives. In the future, there will be a significant continuing need for information and education about both the opportunities and risks involved in AI systems.

Basic demands for the use of AI for older people

From BAGSO's point of view, the key question must be how AI technologies should be ethically, legally, culturally and institutionally embedded in such a way that basic social values and individual fundamental rights are safeguarded.[6]

This results in the following **basic demands:**

- **Transparent use of AI:** Clearly defined guidelines and measures are required for a transparent disclosure regarding the use of AI.
- **Data protection and autonomy:** The privacy and autonomy of older people must be protected when data is used by AI systems.
- **Prevention of age discrimination:** To identify discriminatory AI systems and prevent their use, effective testing mechanisms must be legally required.
- **Reducing social inequality:** The framework conditions for AI must be designed in such a way that they do not aggravate social inequalities, but instead reduce them.

5 www.bagso.de/projekte/ki-fuer-ein-gutes-altern

6 Cf. also the European "ethics guidelines for trustworthy AI" at https://digital-strategy.ec.europa.eu/en/library/ethics-guidelines-trustworthy-ai.

- **Needs-based criteria:** In order for AI to truly improve the quality of life and participation of all older people, clearly defined criteria are required.

- **Improving media literacy:** To promote older people's media skills with regard to the use of AI systems, comprehensive measures must be taken on a broad scale.

- **Considering interests and fundamental rights:** From the early stages of the development of AI systems, the interests and fundamental rights of older people must be taken into account.

- **Regulation and intervention:** Suitable mechanisms must be put in place to effectively represent the interests of older people in the field of AI and to protect their fundamental rights.

With these demands, BAGSO aims to achieve the following goals in particular:

1. Greater transparency, data protection and data sovereignty to protect the privacy and autonomy of older people

The use of AI systems is subject not least to economic and political interests. In many areas of application, the objectives, responsible stakeholders and the actual deployment of AI are not specifically disclosed.

However, sound AI has no reason to conceal itself. In order to avoid misinformation and at the same time increase trust in AI technologies, transparency regarding the use of AI must be urgently increased. This requires mandatory labelling, for instance in the form of a reliable watermark or test seal, especially for information, reports, studies, photos, films, etc. that have been created using AI.

As a general rule, it should be mandatory to provide information on the various AI models deployed that is easy to understand – most especially with regard to the processing of personal data. In the social and healthcare sector, for example, this concerns the disclosure of personal data that is collected and further processed using AI.
It is already apparent today in the use of digital health applications that the relevant information is not sufficiently conveyed.

The Federal Institute for Drugs and Medical Devices (Bundesinstitut für Arzneimittel und Medizinprodukte, BfArM) should examine this more closely when approving digital health applications and digital care applications. The use of voice assistants should also be subject to an obligation to provide information in plain language and in accordance with the General Data Protection Regulation (GDPR)[7] on the purpose and form in which personal data is collected, disclosed and processed.

As a rule, it should be assessed whether the General Data Protection Regulation (GDPR), the European Data Governance Act[8] and

7 https://dejure.org/gesetze/DSGVO

8 https://digital-strategy.ec.europa.eu/en/policies/data-governance-act

the Single Digital Gateway Regulation (SDG Regulation)[9] are being implemented consistently.

In the development and use of AI in global contexts and by international corporations, too, economic interests must be made transparent and reconciled with goals oriented towards the common good.

2. No discrimination against older people through algorithms

In various areas and sectors, AI-supported systems are used to make decisions that often exclude older people from a service area or put them at a disadvantage. Such discriminatory procedures can be seen, for instance, in the insurance sector or in the area of lending. If these systems are used in an interest-driven context through predetermined algorithms, they must be reviewed for their appropriateness and legitimacy and, if necessary, modified or abolished, as already demanded by BAGSO in its statement on the reform of the General Act on Equal Treatment[10]. The announced reform must be implemented as a matter of urgency.

AI-driven decision-making systems must also be examined to determine the extent to which they are discriminatory (against age) by reproducing (age) stereotypes. This can occur through the use of training data exclusively from younger age groups, but also through the input of specific or undifferentiated labelling of older people.[11]

This cannot be achieved solely through a voluntary commitment by companies. What is needed are legal provisions at both national and international level.

It needs to be examined whether an extension of the scope of application of the General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz, AGG)[12] can contribute to the prevention of age discrimination, as well as an extension of information and disclosure obligations for operators of AI systems, as recommended by the Federal Anti-Discrimination Agency[13].

In addition, supervisory authorities are needed that are equipped with the necessary competences and resources to monitor whether social inequalities or discriminatory tendencies are intensified when creating, deploying and using AI systems or products. Those affected must also be able to turn to these authorities themselves if they suspect discrimination.

9 https://www.cio.bund.de/Webs/CIO/DE/digitale-loesungen/digitale-verwaltung/single-digital-gateway/single-digital-gateway-node.html

10 BAGSO e. V. (2022): Effectively tackling age discrimination. Statement. Bonn. www.bagso.de (in German)

11 Similarly, the WZB project "Ageism in AI: new forms of age discrimination and exclusion in the era of algorithms and artificial intelligence (AGEAI)" presupposes several levels of age discrimination; see www.wzb.eu.

12 www.gesetze-im-internet.de/englisch_agg/index.html

13 Federal Anti-Discrimination Agency (ed.) (2023): Automatically disadvantaged. Legal opinion. Berlin. www.antidiskriminierungsstelle.de (in German)

When AI/robotics are used in long-term care, it is critical to prevent an intensification of social isolation and – in the worst case – the degradation of people to objects of surveillance. BAGSO calls for a debate on the opportunities and risks involved in these technologies and a joint ethical discourse to take place before any potential deployment.[14]

3. Alleviate social inequality and exclusion

Especially in the areas of mobility, smart home or assistance systems that support autonomous living, telemedicine and quality- and needs-orientated care, as well as in social media, the extent to which AI systems serve to improve the quality of life of all older people should be evaluated and assessed to determine whether they safeguard their fundamental rights and do not lead to exclusion.[15]

Many older people, too, lack the necessary financial means to procure and maintain an internet connection or digital technical devices, or even the skills to operate them if so. This can lead to their exclusion from important social domains and processes and can jeopardise their social participation. That's why people on low incomes must be given basic support for digital equipment as part of the benefits provided under the German Social Code XII (Sozialgesetzbuch, SGB XII") and other social assistance schemes.[16] It should also be examined whether certain technical devices that use AI systems can be recognised as medical aids to enable direct reimbursement by health and care insurance funds.

4. Greater focus on developing educational offers to improve critical media skills among older people

A recurring concern relates to the possibility of manipulating information where the sources and validity cannot be clearly verified. This concerns various media formats, means of communication, but also the growing popularity of generative AI models, such as large language models (e.g. ChatGPT[17]). The verification of information presupposes a certain degree of reflection and access to various sources. To be able to critically analyse the existing and envisaged applications of AI, it is vital to have a sound knowledge base and critical media skills.

To ensure older people can shape and critically engage with the potential uses of AI systems and their implications, either individually or in senior citizens' organisations, initiatives and committees, media skills must be increasingly promoted across Germany, close to people's homes and with

14 Cf. German Ethics Council (2023): Men and Machine – Challenges posed by Artificial Intelligence. Statement. Berlin. www.ethikrat.org. (in German)

15 From a sustainability perspective, it should also be noted that AI systems require a lot of energy and may therefore have a negative environmental impact.

16 See footnote 2.

17 Background information: Federal Office for Information Security (BSI) (2024): Generative AI Models. Bonn. www.bsi.bund.de.

relevance to their daily lives. The findings of the BAGSO project "AI for ageing well"[18] and other offers can be used for this purpose. This includes both the transfer of knowledge about AI systems and products that can help to improve participation, as well as the ability to reflect on and identify ethical and discriminatory aspects.

Acquiring skills in the use of AI-assisted "everyday helpers" is a major challenge for their use. This frequently requires specific instructions and support, but not all providers offer this. Here, too, it is often not a question of the merely technical application, but of imparting knowledge and understanding.

An extended education campaign is therefore required to disseminate the relevant knowledge and create awareness for the active use of AI-assisted systems.

5. Empower and equip public, social and educational institutions for the use of AI

The absence of uniform standards, a lack of digital-technical equipment and a shortage of qualified personnel in public institutions and at social service providers pose further problems when it comes to the use of digitalisation for the common good in general and with a view to AI in particular.[19]

Professionals in various fields of activity (senior citizens' organisations, cultural associations and educational institutions, housing and technical assistance, medical and nursing professions, voluntary work) are called on to deal with the opportunities and limitations involved in the use of AI in basic, advanced and further training courses. To this end, universities of applied sciences, adult education institutions, regional education networks, etc. must develop learning offers to ensure that such content can be adequately conveyed to the respective target groups.

6. Involve older people and their advocacy organisations in studies and in the research & development of AI systems and products

Older people and their advocacy groups have rarely been actively involved in the development and application of AI systems.

Data on older people, their life situations, interests and their AI usage behaviour is hardly available to research and development or is not collected on a sufficient scale. This gap must be systematically closed.

BAGSO holds the view that the purposes and potential applications of AI must be clearly recognisable for older people in the areas that affect them.

18 See footnote 5.

19 This is also highlighted in a statement by the German Caritas Association (2024): Shaping the digital future: Greater participation for all. Berlin. www.caritas.de (in German)

Projects for the common good in the field of AI are supported in Germany, for instance, through the German government's Civic Coding initiative[20]. Yet, older people are not sufficiently represented in this network even though the use of AI would be highly conceivable for counselling services or for supporting engagement and initiatives oriented towards the common good.

The participation of older people in the development or development teams and the evaluation of such projects in cooperation with older people or senior citizens' representatives and organisations can contribute to a new perspective and greater consideration of the needs of older people. This would also help to protect their fundamental rights in the context of AI systems.

Conclusion

BAGSO will continue to actively monitor developments in the field of artificial intelligence to represent the interests of older people in this key area of the future. We will continue to advocate for the ethical, legal and socially responsible use of AI technologies and the protection of individual fundamental rights. Our commitment to transparency, data protection, non-discrimination and the promotion of media literacy remains unchanged. BAGSO calls for the involvement of older people in the development and use of AI systems to be enhanced to ensure that their needs are fully taken into account, their fundamental rights are protected and their participation in the digital society is promoted.

This statement was adopted by the BAGSO board in May 2024.

20 https://www.civic-coding.de/en/home

BAGSO – The voice of older people

BAGSO, the German National Association of Senior Citizens' Organisations, represents the interests of older generations in Germany. It stands up for active, healthy and self-determined ageing in social security. BAGSO is an umbrella organisation of more than 120 civil society organisations that are run by or work for older people.

In a colourful and diverse society, BAGSO promotes a differentiated image of old age. This includes both the various opportunities arising from longer lives as well as times of vulnerability and the need for care. BAGSO calls on politicians, society and businesses to offer conditions that allow for a good and dignified life in older age – in Germany, Europe and worldwide.

At the United Nations, BAGSO is actively involved in the development of a UN Convention for Older People. BAGSO is also a member of the Global Alliance for the Rights of Older People (GAROP), an international alliance of over 200 civil society organisations that advocates for the rights of older people. BAGSO's Secretariat for International Policy on Ageing provides information on current international developments in ageing policy and contributes the interests of civil society to international processes.

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