

**Joint submission by AGE Platform Europe, HelpAge International, The Law in the Service of the Elderly and the National Association of Community Legal Centres Australia
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Normative content on the right of older persons to equality and non-discrimination

Authors

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Definition of discrimination

Discrimination against older persons is understood as any differential treatment, including but not limited to any distinction, exclusion, restriction or preference based directly or indirectly on age or any other ground, which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Affirmation of the right

1. Older persons have the right to equality and freedom from discrimination on the basis of their age or on any other ground, alone or in combination with another ground or grounds.

Scope of the right

1.1 The prohibition of, and guarantee of legal protection against, discrimination against older persons shall apply to every aspect of life without limitation.

1.2 The right shall engage all forms of discrimination against older persons including direct, indirect, by association, by perception or imputation, incitement, vilification, victimization, harassment and denial of reasonable accommodation.

1.3 Specific measures which are necessary to accelerate or achieve de facto equality of older persons shall not be considered discrimination.

1.4 The grounds upon which intersectional and cumulative discrimination may occur shall be comprehensive.

State obligations

2. States Parties shall undertake:

2.1 To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against older persons;

2.2 To take all appropriate steps to ensure formal and substantive equality of older persons, including but not limited to a duty to consider the differential impact of all their decisions, in particular age-based policies, on older persons;

2.3 To prohibit and take all steps to eliminate intersectional discrimination, namely the combined effect of age and another personal characteristic or the combined effect of any two or more characteristics;

2.4 To prohibit and take all steps to eliminate cumulative discrimination and victimisation, namely discrimination and or victimization on a number of occasions over time and or from multiple sources;

2.5 To take all appropriate measures to ensure protection for particular groups of older persons who suffer discrimination and denial of rights on heightened or systemic basis and/or as a common experience;

2.6 To take all appropriate steps to eliminate discrimination against an individual and any ageist institutional, systemic or structural practices which affect the human dignity of older persons;

2.7 To take all appropriate steps to eliminate harmful ageist social norms and practices, including traditional practices, which affect the human rights and dignity of older persons;

2.8 To ensure the access of older persons to tailored and comprehensive assistance in making claims and accessing justice;

2.9 To ensure the access of older persons to redress and reparation for age discrimination, including where appropriate taking cumulative discrimination into account in any award of damages;

2.10 To adopt immediate, effective and appropriate measures to promote information, research and public awareness around equality and non-discrimination against older persons, inter alia, by:

- Raising awareness of the rights, capacities and contribution of older persons
- Countering any discriminatory systemic ageist perceptions of, and practices towards, older persons
- Promoting awareness of the benefits of age equality and of investing in older age
- Promoting a positive image of ageing
- Undertaking or promoting research on ageing and on issues particularly affecting older persons, and ensuring data is collected, disaggregated, analysed, utilised and disseminated by all ages, and take into account intersectionality
- Providing accessible, appropriate information to older persons on their rights and entitlement to benefits and resources
- Engaging and making older persons partners and active participants in shaping social policies and public programmes which relate to their rights and interests
- Promoting intergenerational interactions and solidarity.