

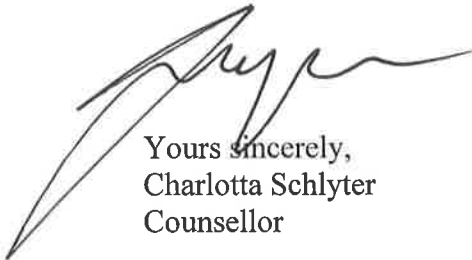


EUROPEAN UNION
DELEGATION TO THE UNITED NATIONS

New York, 16 June 2015

Dear Mr. Estremé,

In regard to your letters of 6 March and 19 May 2015, please find attached the EU contribution ahead of the 6th session of the Open-ended Working Group on Ageing



Yours sincerely,
Charlotta Schlyter
Counsellor

Mateo Estreme
Chair
Open-ended Working Group on Ageing
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EU contribution in response to the letters from the chair of the OEWG on Ageing
of 6 March and 19 May 2015

1. Population ageing constitutes one of the most significant demographic transformations of the twenty-first century. Consequently, the situation of older persons is very high on the agenda of the European Union and its Member States, which are fully committed to the human rights of older persons. The EU acknowledges the serious challenges that older persons face, including when it comes to the enjoyment of their human rights. Implementation and protection gaps, as well as age-related discrimination exist. The EU is addressing these gaps through several of our policy measures (see below under 3).

The EU and its Member States share the concern about the situation of older persons and concur that much more attention must be paid to address the existing problems that range from abuse, violence and discrimination, poverty and insufficient care levels, to more specific health issues and other challenges that older persons face. In the EU's perspective, much of this could be described as human rights violations, or the lack of fulfillment of human rights.

The EU is skeptical that the gaps are of a normative nature. The EU recalls its position that more can be done through the implementation of the existing Human Rights framework that also addresses the human rights of older persons and combat age discrimination. The current international framework addresses many of these issues in a comprehensive manner, namely health, social security, violence and discrimination (e.g. *International Covenant on Civil and Political Rights*, *International Covenant on Economic, Social and Cultural Rights*, *Convention on the Rights of Persons with Disabilities*, *Convention on the Elimination of all Forms of Discrimination against Women*).

For example, any illegitimate discrimination based on age is already covered by the existing treaties, for example by art 2 (2) ICESCR: "*without discrimination of any kind as to [...] or other status*", (similarly in art. 2(1) ICCPR). The *Committee on Economic, Social and Cultural Rights* explicitly stated in its *General Comment 6* (for ICESCR), that "*it is clear that older persons are entitled to enjoy the full range of rights recognized in the Covenant*". The EU also argues that the various mechanisms established in the area should usefully complement each other. A comprehensive compilation which would assemble the existing standards in one document would be a concrete and swift way of improving the accessibility of the existing norms. Such a compilation could be equipped with indications for its concrete application. In order to achieve concrete progress for older persons, our efforts and resources should focus on the implementation of the existing instruments. The EU remains proponent of the strategy that the focus on a determined application of existing standards is the most effective and practical way to address the protection and implementation gaps.

It is important to emphasize that many protection gaps and measures are already being considered in a comprehensive and inclusive manner, under the umbrella of the *Madrid International Plan of Action on Ageing*. The Madrid Plan remains the international point of reference also today. Regional conferences are organized on a regular basis as part of its review.

2. Nevertheless, the EU considers that there are concrete measures that can be taken in order to raise awareness and to better promote existing rights:

- The Independent Expert on the enjoyment of all human rights by older persons can continue to contribute in a crucial manner to more systematically assess the implementation of existing international instruments, pointing to implementation gaps and highlighting best practices, as well as raising awareness.
- In order to mainstream human rights through the work of the UN, other UN human rights mandate holders, as well as the treaty bodies could also be encouraged to devote attention to the rights of older persons within their mandates, while fully respecting their independence and integrity. Also the UPR could be used to better highlight the issue in the context of an overall assessment of each country. Moreover, UN agencies, many of which apply a human rights approach to their work already, could mainstream the rights of older persons into their strategic plans.
- A comprehensive compilation which would assemble the existing standards in one document would be a concrete and swift way of improving the accessibility of the existing norms. Such a compilation could be equipped with indications for its concrete application.

3. The EU is strongly committed to the promotion and protection of human rights of older persons and to eliminating discrimination based on age. As members of all major international human rights treaties, EU Member States are regularly examined by the treaty monitoring bodies. As members of the *Council of Europe* they are party to the *European Convention on Human Rights* which subjects them to judgments by the *European Court of Human Rights*. In addition, the parties to the revised European Social Charter (1996) accept, as the aim of their policy, the principle that every elderly person has the right to social protection. Furthermore, article 23 of the revised Charter imposes an obligation to ensure the effective exercise of the right of elderly persons to social protection, through a range of appropriate measures. Implementation of these obligations is subject to a control mechanism.

As members of the UNECE all actively implement the MIPAA and contribute to its periodical progress reports. Moreover, the EU, at European Union level, has taken a number of legislative and policy measures in order to achieve concrete improvements in the situation of older persons.

A) Legislative framework

The *EU Charter of Fundamental Rights*¹ (the Charter), which was conferred legally binding status in December 2009 and applies to all actions taken by the EU institutions provides in its Article 25 that the EU recognizes and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life. Whereas most of the policies directly affecting the realisation of these rights are in the competences and responsibilities of the individual member states, the European Union promotes these rights in relevant EU law, policies and programs.

In the context of its authorization to take any appropriate action to combat discrimination, the EU has moreover adopted legislation that seeks to end discrimination in the field of employment and which explicitly prohibits discrimination on the ground of age alongside of religion or belief, disability, and sexual orientation (the *Employment Equality Directive*, 2000/78/EC). At the time of its adoption, the concept of age discrimination in employment and occupation was new in many Member States and the directive and the ensuing implementing legislation by EU Member States required changes in employers' approaches to age-related issues and triggered considerable litigation on the justification for differences of treatment on grounds of age.

Beyond the field of employment, discussion has resumed on the adoption of a horizontal anti-discrimination directive aimed at improving equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation also outside the field of employment. Moreover, in addition to age-specific legislation a number of EU legislative measures have particular relevance for older persons, for instance a *Directive on the Protection victims of crime (2012/29/EU)* establishing minimum standards on the rights, support and protection of victims of crime including access to justice in the implementation of which States should pay particular attention to the principle of non-discrimination, including age.

Moreover, given the important correlation between age and disability - according to recent figures of the European Statistical Office, in the EU over 60% of persons older than 75 years report a disability - the measures taken in support of persons with disabilities are directly relevant, including the European Union's accession to the *United Nations Convention on the Rights of Persons with Disabilities (CRPD)*. As the CRPD requires state parties to ensure accessibility in key areas such as transport, ICT and the physical environment, the EU is exploring the adoption of regulatory measures to ensure accessibility of goods and services, and to consider proposing a 'European Accessibility Act'. Common accessibility requirements and standards across Europe would allow persons with disabilities and older persons to fully enjoy their rights to free movement and represent both a step towards a more equal society and a market opportunity given the growing number.

¹ Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

In the framework of the *Council of Europe* the Committee of Ministers representing its 47 Member States adopted unanimously on 14 February 2014 a Recommendation (2014) on the Promotion of Human Rights of Older Persons. This Recommendation essentially codifies in a single text relevant standards and case law under the *European Convention on Human Rights* and the *European Social Charter*, and consolidates their recognition as common European standards. A first implementation report is expected in 2019.

B) Policies

In addition to legislative measures, the EU has initiated policies and concrete actions in many fields aimed at improving the situation of older persons and thus relevant to the topics regularly covered by the discussions in the OEWG. In doing so, the EU promotes a narrative in which demographic change is considered to be not only a major societal challenge but also a major opportunity for society, as a contribution to more inter-generational solidarity and in terms of jobs and growth ("Silver Economy").

Fight against elderly abuse, in particular in long-term care settings

The EU has long been active in order to prevent abuse and neglect of older persons. In 2010 an EU project led to the *European Charter for the rights and responsibilities of older people in need of long-term care and assistance*. This charter was developed by 10 partners from 8 EU countries. The Charter conveys the message that advancing age does not involve any reduction of a person's rights, duties and responsibilities even if a person is in either a permanent or temporary state of incapacity and unable to protect their own rights. The Charter aims to facilitate older people's access to their fundamental rights.

On the occasion of the World Elder Abuse Awareness Day the EU co-hosts public events to bring this message to a broader audience. In 2013 this was done together with the Office of the High Commissioner for Human Rights (OHCHR) and in 2014 and 2015 with the *Council of Europe* and *AGE Platform Europe*.

In 2014 the European Commission and the Social Protection Committee issued a joint report on 'Adequate social protection for long-term care needs in an ageing society'. The report analyses Europe's rapid demographic ageing and suggests innovative solutions to ensure a proactive, fair and sustainable response to the challenges faced by EU Member States. The report was at the centre of attention during the 2014 World Elder Abuse Awareness Day. This was not a one-off event as the Commission has also launched a new project on human rights of older persons in long-term care to be carried out by the *European Network on National Human Rights Institutes (ENNHRI)* which will ensure that the important challenges faced by older people in care settings will remain high on the EU agenda in the coming years.

Pension adequacy / gender gap in pensions

The adequacy and sustainability of pensions is a major political issue in the EU in view of their importance for the well-being of Europeans and the sustainability of public finances

and thus regarded as a matter of common concern in the EU. One relevant aspect that now received some more attention is the gender gap in pensions, one of the obstacles to the economic independence of women in old age, when women face a higher risk of poverty than men. Various actions are required, including research, monitoring and the implementation of policies that can help to reduce the main factors underlying the gender gap in pensions in the fields of employment, working conditions, education, reconciliation of work, family and private life and access to goods and services.

European Innovation Partnership on Active and Healthy Ageing

This pilot scheme aims to increase the average healthy lifespan of Europeans by 2 years by 2020, by improving health and quality of life (with a focus on older people); ensuring health and social care systems are sustainable and efficient in the long term. It is envisaged as a collaborative partnership aimed at improving older peoples' lives, helping them to contribute to society, and reducing pressure on health and care systems - while contributing to sustainable growth. The development of new skills and entrepreneurship meeting the needs of an ageing population is supported by a new *Knowledge and Innovation Community on Healthy Living and Active Ageing* under the *European Institute of Technology*. Work is ongoing to develop a better understanding of the further measures required, e.g. tackling regulatory aspects, privacy, standardisation for age-friendliness (potential to build on the accessibility standardization work), creating age-friendly environments, mainstreaming of accessibility, adapted products and services and usability issues.

Research i.e. evidence-based policy-making Active Ageing Index (AAI)

In line with its commitment to research- i.e. evidence-based policy-making, the European Commission cooperates with the United Nations Economic Commission for Europe (UNECE), developing an Active Ageing Index with the overall goal to identify areas in which different policies and programmes can promote the contribution and potential of older people thus contributing to the identification of policy priority areas in the future.

Other European projects are dedicated to developing and testing, as well as surveying and cataloguing, social innovations that will have a solid impact on improving the quality of life and well-being of older people (*INNOVAGE*), to enhance senior travel in Europe (*Senior Tourism Initiative*) including through promoting strong partnerships between the public and private sector, including small and medium-sized enterprises (SMEs).

Viewing an ageing European society as both a challenge and an opportunity, the European Union declared 2012 as the European Year for Active Ageing and Solidarity between Generations. Throughout the year, there were a number of conferences, debates, seminars and other activities focusing on the challenges of an ageing population and the improvement of the quality of life of older persons.

Multi-stakeholder approach

Dealing with these challenges, notably fostering independence, social inclusion and better connectedness with peers, carers, employers and medical professionals, is not only a task for governments and public institutions but also for society at large. The EU recognizes the importance of civil society organisations and networks and supports, for example, the work of *AGE Platform Europe* to promote older people's fundamental rights in a wide range of areas: human rights, anti-discrimination, access to employment and active ageing, social protection (to ensure adequate pensions for both women and men, access to health and long-term care, fight against poverty and social exclusion, age related research, accessibility of public transport, built environment and ICT, standardisation, consumer protection and new technologies.