



## OLD'UP's response to the questionnaire

“Identification of possible gaps in the protection of the human rights of older persons and how best to address them”

### Context

The Open-ended Working Group on Ageing, in its [decision 13/1](#) adopted at the thirteenth session in April 2023, called on the co-facilitators to submit proposed intergovernmental negotiated recommendations to be considered at the fourteenth session of the Working Group and to be presented for consideration by the General Assembly, in accordance with resolution [77/190](#), regarding the existing international framework of the human rights of older persons and possible gaps, and options on how best to address them.

The purpose of this questionnaire being to facilitate the consideration of the existing international framework of the human rights of older persons and the identification of possible gaps in the protection of the human rights of older persons and how best to address them.

The questionnaire has gone out to all States Members of the United Nations, observers in the General Assembly, A-status National Human Rights Institutions, non-governmental organizations with ECOSOC Status and previously accredited organizations to the Working Group, as well as United Nations Funds, Programs, Specialized Agencies and other UN Entities.



### OLD'UP

OLDUP is French association (loi 1901) created in February 2008. It is primarily aimed at aging people, around the 2nd stage of retirement, a large segment of the retired population, whose number is increasing significantly and rapidly.

**“Nothing for us, without us”**

It aims to:

- Know and make known the place, the role, the aptitude and the usefulness of aging people, who are an integral part of society, with a specific civic and societal role;
- Identify and remove obstacles to maintaining this generation in an active and integrated space;
- Affirm the capacity for autonomy of this generation, that is to say its capacity to think for itself, by itself, and to decide freely on its life choices.
- Being an actor in one's life, as much as an actor in society and the family
- Work to optimize relations between generations.

For more information: [www.oldup.fr](http://www.oldup.fr)



## The Questions

### Identification of gaps

1. For each of the topics that have been considered by the Open-ended Working Group since its eighth session, please state possible gaps your Government/organization has identified in the normative framework and practical implementation for the protection of the human rights of older persons. (500 words each)

#### a) Equality and non-discrimination

The biggest gap is the non-recognition of the global demographic change, to make the necessary measures and specifically to educate the population – starting at pre-school level – using a life course approach. In as much as we have to educate to achieve digital literacy, so do we have to build an aging literate population.

Ageism, as the World Health Organization recognizes, is rife at all levels and has nefast outcomes for older people preventing them from living to our full potential and may even affect our health, wellbeing, and life expectancy. There are so many examples, such as exclusion from health treatment, insurance, banking products, training and social support,... Ageist prejudices also drive other human rights violations, including poverty, neglect and abuse. Unfortunately, laws, policies and practice don't address ageism with the same level of gravity as other forms of prejudice and discrimination. For example, a survey OLD'UP carried out after the pandemic and that reached 5 900 older people showed their outrage at being segregated, at being treated like children unable to make their own decisions and, the worst being denied access to family in the final stages of their lives. This extreme form of ageism has continued well beyond the pandemic without any tools to put a stop to it.

The EU Charter of Fundamental Rights prohibits discrimination on the basis of age (article 21) and includes a specific article on the rights of the elderly under its Equality chapter (article 25), where equality in old age is understood as the right to live in dignity and independence and to participate in all aspects of life.

The Universal Declaration of rights has no mention of age discrimination – 75 years ago ageing was not an issue – today the part of the + 60 population will shortly account for 50% of the global population.

#### b) Violence, neglect and abuse

Shocking cases of violence and abuse in certain EPHADs (old age homes) in France was revealed in 2021 and since then there has been a determined effort to eradicate this institutionalized abuse. The Government has moved to better control the situation.

According to the WHO, abuse in Europe affects approximately 3% of older persons and up to 25% of those older persons with high care needs. The higher support needs, the greater the risk of experiencing abuse and neglect. The interaction between other types of discrimination and ageism increases the risk of suffering abuse and insufficient access to support and protection.

Gaps in legislation and policies are numerous. Unlike for women and children, there is no European Union policy addressing elder abuse.

Older persons are not the target of specific protection under the Victims' Rights Directive. Today the vast majority of countries lack a definition of elder abuse in their legislation, which hinders the ability and undermines the willingness of governments to prevent and tackle it. Compared to other forms of violence, relatively few studies focus specifically on elder abuse. The lack of data results in a lack of awareness of the dimension of the phenomenon, which hinders the capacity of victim support, police and legal services to reach out to victims and intervene in cases of abuse. This also means that older persons and their specific needs are not adequately included in existing policies and laws on violence and abuse.

Elder abuse occurs in all settings and is the reflection of ageist attitudes towards older persons, seen as a burden, as inevitably frail and undeserving of dignified treatment. Only in a minority of cases abuse is intentional, meaning involving a deliberate attempt to cause harm. More often than not, violence and neglect are embedded in culture and care practices, the result of the overburden of care providers – often a consequence of cuts in funding for services and the subsequent understaffing and lack of quality professional services – and the lack of understanding of the needs and preferences of older persons who require care and support. Informal and formal caregivers are often unaware of the ways they can respect their human rights and dignity when caring and assisting them. Tackling elder abuse entails challenging negative images around ageing, promoting the dignity of older persons and adopting a rights-based approach to care and assistance.

Due to internalized ageism, older people may themselves fail to recognize abuse or be unaware of existing support services. Under-reporting by the victims is also due to low confidence, absence of a confidante, financial, physical or psychological dependence from abuser, and fear of consequences (such as stigma, being forced to leave the risk environment). There is also evidence that social workers are less likely to label a case as abuse and offer help if the victim is older. As a result, a great majority of breaches in which older people are involved are tolerated or suppressed.

### c) Long-term care and palliative care

Totally unsatisfactory conditions for caring for highly dependent people, with the only solution being institutionalization in EHPADs, places which are too often places of abandonment, deprivation of liberty, lack of rights, without any real democratic counter-power, with social life councils (CVS) that function poorly and families unhappy with the way their loved ones are taken care of despite the large sums demanded of them to keep them there.

About 1 in 3 older persons in the EU need care and support. Among those with high support needs almost half do not access adequate care. Long-term care is not a right in many EU countries. In France, the French Ministry of Solidarity announced advances in

the laws for adapting society to the ageing population as promised by President Emmanuel Macron.

Two new long-term strategic laws now are being proposed: firstly, to prepare for the growing number of dependent people, and secondly, to encourage people to age at home and provide financing for adapting homes to make this possible.

At present, the conditions for caring for highly dependent people are unsatisfactory, especially for people with low or little income with the only solution being institutionalization in EHPADs, places which are too often places of abandonment, deprivation of liberty, lack of rights, without any real democratic counter-power, with social life councils (CVS) that function poorly and families unhappy with the way their loved ones are taken care of despite the large sums demanded of them to keep them there.

Ageism in care policies and service is intrinsically linked to poor quality, paternalistic practices, neglect and maltreatment, lack of involvement of older people in making decisions about their own care and the scarcity of rehabilitation and prevention as part of care systems and services. Some benefits or services include age limits, which means that older people may lose or not qualify for support for care needs in later life.

#### d) Autonomy and independence

There are many formal and informal barriers to older people's autonomy and independence. The persistence of ageism and age discrimination in societies leads to approaches that prioritize protection/safety over autonomy/independence and consider limitations as necessary.

Medicine can be too focused on curative treatment and does not take sufficient account of the possible specificities linked to age. There is little clinical research focusing on this, for example when it comes to evaluating the effectiveness of a new drug or vaccine. A worsening of territorial inequalities in access to care, with areas of medical deserts, which are becoming more and more numerous and widespread in rural areas. End-of-life support conditions are insufficiently satisfactory and accessible throughout the country.

Too little attention paid to maintaining autonomy in all its forms: physical autonomy, but also psychological autonomy and socioeconomic autonomy. Older people are presumed as unable to decide, they are rarely consulted, or their wills and preferences are devalued and ignored.

Other age-based restrictions including, inter alia, mandatory retirement ages, age limits in access to credit and insurance, to health prevention and rehabilitation treatment and

in training<sup>1</sup> limit the exercise of older people's autonomy and independence. Other restrictive practices include the denial of legal capacity, guardianship, lack of informed consent, rudimentary or abusive care practices (i.e. restraining, abusive prescription of drugs, etc).

e) Social protection and social security (including social protection floors)

Although legislation in EU member states foresees some level of social protection, several gaps exist in practice. According to Age Platform Europe, the following points highlight the difficulties faced by many older:

- Contributory pensions are limited to those who contributed via formal employment.
- Not everyone can accrue pension rights: informal carers are rarely recognised via pension credits, putting women at a disproportional disadvantage given gender care gaps.
- Inequalities persist due to different retirement ages for men and for women, equalisation being very slow and one country has reintroduced gendered retirement ages,<sup>2</sup> leading to lower pension entitlements for women.
- Survivors' pensions exist in many member states. However, these are increasingly reduced due to a shift to the 'individualisation of benefits', while they are the only entitlement for many older women who lack entitlements from contributory pensions.
- Take-up of social assistance is an issue, as some provisions are in place to reduce the inheritance.<sup>3</sup>
- Digitalisation can pose an additional barrier, where pension administration is shifted to online services.
- The cost of cares surpasses the average pension in many countries, reducing access for people on low and minimum pensions.
- The levels for minimum pensions are often inadequate and do not allow people to live a life in dignity.<sup>4</sup>The gender pension gap in the EU is 37%<sup>5</sup> and older women, especially the oldest women living alone, have a much higher risk of poverty and social exclusion.
- Pension reforms can put a strain on adequacy in setting replacement rates<sup>6</sup> or reducing indexation mechanisms. The latter lead to a decreasing real value of pensions over time.

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<sup>1</sup> Several studies and data are cited in this paper: [http://www.age-platform.eu/sites/default/files/AGE\\_IntergenerationalSolidarity\\_Position\\_on\\_Structural\\_Ageism2016.pdf](http://www.age-platform.eu/sites/default/files/AGE_IntergenerationalSolidarity_Position_on_Structural_Ageism2016.pdf)

<sup>2</sup> Poland has reduced retirement ages of women from 60 to 65, rewinding a reform that equalised retirement ages for women and men in 2017. See also the European Commission's written reply to Parliamentary question [E-006214/2017](http://www.europarl.europa.eu/doceo/document/E-8-2017-006214-ASW_EN.html) on 14 December 2017: [http://www.europarl.europa.eu/doceo/document/E-8-2017-006214-ASW\\_EN.html](http://www.europarl.europa.eu/doceo/document/E-8-2017-006214-ASW_EN.html)

<sup>3</sup> Reported from France

<sup>4</sup> Cf. also World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals International Labour Office – Geneva: ILO, 2017, page 87; reported from Belgium, Lithuania

<sup>5</sup> Cf. European Commission, [Pension Adequacy Report 2018. Current and future income adequacy in old age in the EU](#), 2018.

<sup>6</sup> In Greece, pensions have been cut by 14-50% in the context of the recession. In Lithuania, a shift towards a privately funded system is underway, but losses for pensioners from reduced public pensions were not compensated for.

- In health care systems, diseases associated with older women are often less well treated and covered by social security (such as post-menopausal, post-reproductive or age-related conditions).
- Discrimination exists where health or disability benefits are reduced or removed as a person with disability reaches a certain age.<sup>7</sup>

There should be a universal right to contributory and non-contributory social protection sufficient to live a dignified, autonomous and independent life, and to fully participate in society.

#### f) Education, training, lifelong learning and capacity-building

It is estimated that 4 million elderly people in France are excluded from digital culture and any access to the internet. This makes it impossible for them to assert their rights, to proceed independently with the purchase of a train ticket or a travel pass telephone, when declaring taxes or home help, or when making a medical appointment online; that is to say, reduced to social and civic impotence, transformed into administrative "dependents", even though they would still have ample means not to be so.

Laws that do exist like the EU's Charter of Fundamental Rights and the European Pillar of Social Rights recognize a right to education<sup>8</sup>. But the rights are for the labor market and even then companies find ways around the laws. Adult education is not seen as a priority and thus there is underinvestment<sup>9</sup> or lack of implementation of existing strategies.<sup>10</sup> Age barriers exist in national adult education programmes.<sup>11</sup> Participation in life-long learning, while it is 45% on average for 25-64-year-olds, it is 33% for 55-64 year-olds.<sup>12</sup> No data are available beyond 65 years.

#### g) Right to Work and Access to the Labour Market

The latest statistics from Age Platform Europe's [2023 AGE Barometer](#) highlights many gaps and recommends required actions, including:

- **2/5 of persons aged 55-64 have no work:** age equality plans in companies/organisations are needed to better value the potential and experience of older workers.
- **The risk of long-term unemployment increases with age:** adopting a person-centred approach is crucial.

<sup>7</sup> AGE Platform Europe, [Position on Structural Ageism](#), 2016, p.5. In Belgium (Flanders), a free programme to access mental health is limited to persons under 65 years of age.

<sup>8</sup> [European Charter of Fundamental Rights of 26/10/2012](#), 2012/C 326/02 Article 14: 1. Everyone has the right to education and to have access to vocational and continuing training.

[Interinstitutional Proclamation on the European Pillar of Social Rights of 13/12/2017](#), 2017/C 428/09, Chapter I.1.: Education, training and life-long learning states 'Everyone has the right to quality and inclusive education, training and life-long learning in order to maintain and acquire skills that enable them to participate fully in society and manage successfully transitions in the labour market'.

<sup>9</sup> Reported from Greece

<sup>10</sup> Reported from Slovenia

<sup>11</sup> As an example, the Slovenian National Programme for Adult Education 2013-2020 only covers persons under 65 years.

<sup>12</sup> Eurostat, Participation rate in education and training by age - participation in formal or non-formal activities in the past 12 months, 2016 data for the EU28.

- **Work opportunities are limited beyond pensionable age:** the right to work at all ages must be guaranteed and work opportunities should be multiplied.
- **Age limits are discriminatory:** the capacity to perform a job should be based on an individual's assessment rather than age-based assumptions.
- **Ageist practices prevail on the labour market:** older workers are not obstacles to young people's employment; intergenerational teams should be valued.
- **Older people are not a homogeneous group:** an intersectional approach is necessary to tackle multiple forms of discrimination that older people face on the labour market.
- **EU Occupational Safety and Health (OSH) strategies must take better account of the ageing dimension in the workplace:** involving older workers in OHS strategy designed at the company level is crucial.
- **Ageism is one of the causes of poor mental health:** 43.1% of 55-64 years old have been exposed to risk factors likely to affect their mental well-being. Adopting good practices for stress prevention and flexible working arrangements is important.
- **New technologies raise a clear risk of exclusion:** increasing digital literacy opportunities and improving technology accessibility is vital.
- **56.2% - 55-64 years old women have a low employment rate**  
In comparison, it is 68.7% for 55-64 years old men and 76.5% for 25-54 years old women. Employment policies should adopt a life course approach, to ensure women's right to work through their lives.
- **Older women experience sexism at work that accumulates and intersects with ageism in older age:** intersectional approaches are essential to address the challenges faced by older women.
- **Workplaces can be challenging to older women:** providing tailored workplaces and flexible working conditions is essential to support older women at work.

#### h) Access to justice

Due to ageism a great majority of breaches in which older people are involved are tolerated or suppressed. Lack of legal literacy, information and awareness of rights also impedes access to justice. There is an urgent need to improve information about the law and how to exercise rights.

#### i) Contribution of Older Persons to Sustainable Development

It is said if you want to bring the economy in France to a halt, all you need to do, is to get retired people to go on strike. That would show the invaluable role they play in helping turn the wheels of society.

#### j) Economic security

This is a major issue and statistics from France and the European Union show almost 60% In 2019 A survey by Finance Watch reported that 59% of respondents in EU member states felt their public

pension scheme was not sufficient to live a dignified life<sup>13</sup>. This figure rose to 78% for eastern states. In the EU, women aged 65-79 earn on average 37.2% less than their male counterparts.

Everyone without discrimination of any kind should have the right to economic security, including comprehensive protections to ensure the possibility to live dignified, autonomous and independent lives, and to fully participate in society with an adequate standard of living. Enjoy equal access to the labour market, adequate minimum wages, adequate pensions providing for income security, adequate social protection, disability, unemployment, and care need, access to housing, clothing, food and water, a life free from poverty and social exclusion, and support services for autonomous and independent living ....

k) Right to Health and Access to Health Services

l) Social Inclusion

It is estimated that in France there are more than 500,000 old people in a state of social death, 2 million others in a situation of great isolation. With a greater risk of being affected if you are a woman. And a clear worsening of this observation over the last 4 years (Petits Frères Barometer of the Poor, 2021).

Due to ageism and age discrimination, older persons face structural barriers devaluating their positive contributions to society and limiting their right to equally participate. Marginalised groups face additional and cumulative forms of discrimination, that are multiple and intersectional. Digital exclusion, which is relatively more common to older persons than other age groups, negatively impacts social inclusion.

#### Options on how best to address the gaps

1. Please state how your Government/organization has engaged with international and regional human rights mechanisms (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms), specifically with regard to older persons. (500 words)

OLD'UP is actively engaged in the UN Open-Ended Working Group on Ageing. As members of AGE Platform Europe, we contribute regularly.

2. Have those engagements resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate. (500 words)

Difficult to say. Older people are not consulted.

1. What other options can be considered to strengthen the protection of older persons? Please elaborate. (500 words)

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<sup>13</sup> [finance-watch-report-a-wrinkle-in-the-process.pdf](#)

A binding UN convention on the rights of older persons is the best way to address the limitations, deficiencies and gaps in the international human rights framework to the benefit of all older persons around the world.

2. *If applicable, what is your assessment on the protection of the human rights of older persons according to regional and international instruments? (500 words)*

We align with Age Platform Europe's position: Human rights apply equally to all human beings, regardless of age. But in reality, human rights violations against older people are not always treated with the same level of scrutiny, gravity or urgency as violations against women, children or persons with disabilities, all of whom are covered by specific UN Conventions. The current human rights system is not adequately equipped to challenge ageist practices and discriminatory patterns entrenched in laws, policies and institutional structures. For instance, human rights mechanisms still accept age limits in laws that deny us the opportunity to equally contribute within society when we are older. International human rights law perpetuates biases and prejudice on the basis of older age. It talks about the 'problem of ageing' and depicts older people as 'frail' and 'dependent'. Existing norms use extensively the term 'elderly' and are overly focused on needs as opposed to older people's potential. Compared to other grounds of discrimination, human rights standards allow a much wider margin of discretion to accept discrimination, restrictions and segregation on the basis of old age. Existing norms refer to the enjoyment of human rights 'for as long as possible' as opposed to 'on an equal basis with others'. The current international framework has failed to extend to older persons the same human rights safeguards that everyone else in society has.

Existing human rights norms and procedures and their conceptual and operational limitations have resulted in an overall failure to provide adequate recognition and protection of the human rights of older persons at the international level and more limited legal protection compared to other groups.

A convention would change this. Ageism would be recognized and treated as grave a violation of human rights as racism, sexism or ableism.

### **The Deadline**

Deadline to send responses to the questionnaire is 24 November 2023.

All inputs will be posted online.

Submissions to be sent to Stefano Guerra [stefano.guerra@mne.pt](mailto:stefano.guerra@mne.pt) and Pedro Paranhos [pedro.paranhos@itamaraty.gov.br](mailto:pedro.paranhos@itamaraty.gov.br) with copy to [ageing@un.org](mailto:ageing@un.org)