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United Nations Open-Ended Working Group 11th Session (2020)

AGE Platform Europe submission on Focus Area: Normative Content of the Right to Social Protection and Social Security (including social protection floors)

This short answer is submitted in reply to the call of the Chair of the Open-Ended Working Group on Ageing (OEWG) to NGOs. AGE Platform Europe (AGE) has ECOSOC status and is accredited to the OEWG since 2012.

As the largest European network of self-advocacy organisations of older people, our position aims to reflect the situation at EU level on behalf of the 40 million older citizens represented by our members. Our contribution is based on written answers received from organisations of older people in several EU Member States and oral debate in the frame of our Council of Administration where representatives from 24 countries¹ and 6 European organisations/federations² sit. It also builds on the [contributions received by AGE for the discussions on the Right to Social Protection and social security during the 10th session of the OEWG](#).

As AGE answer cannot provide information around specific issues and provisions on older people's right to access the labour market across all EU member states, our submission is focusing on challenges that are commonly faced by older people in this area.

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¹ All EU countries except for Croatia, Latvia, Luxembourg and Slovakia

² FIAPA, ESU, NOPO, EURAG, EDE, OWN Europe



Definition

1. What are the definitions of the right to social security and social protection (including social protection floors) in the national legislation in your country? Or how should such a right be defined, considering existing national, regional and international legal framework?

Everyone, without discrimination of any kind, has the right to social security and social protection in old age, to ensure dignified, autonomous and independent lives, to fully participate in society with an adequate standard of living.³

This includes adequate pensions providing for income security, a life free from poverty and social exclusion, adequate preventive, rehabilitative and curative health care, including palliative, long-term care, support services for autonomous and independent living and access to medication and assistive devices.⁴

Scope of the right

2. What are the key normative elements of the right to social security and social protection of older persons? Please provide references to existing standards on such elements as below, as well as any additional elements:

a) Availability of contributory and non-contributory schemes for older persons

Everyone, regardless of their type of employment, standard employment, self-employment, domestic or informal work or new forms of employment, has the right to participate in contributory pension systems.

Everyone, has the right to access non-contributory income support. This applies in particular to persons who have not contributed enough to have access to full contributory benefits.

Persons who are no longer able to work have the right to adequate social protection. Those returning from longer sick leaves have the right to income support measures and support services to allow for rehabilitation and reintegration.

b) Adequacy of benefits to guarantee older person's access to an adequate standard of living and adequate access to health care

Everyone has the right to an adequate standard of living sufficient to live a dignifying, autonomous and independent life, and to fully participate in society. Social protection benefits should reflect the contributions made throughout the lifetime, including

³ Cf. European Pillar of Social Rights, principle 15 on old-age income: 'Everyone in old age has the right to resources that ensure living in dignity.' Dignity means more than just surviving or being above a monetary set poverty threshold

⁴ Please note that, as the right to autonomy and independence as well as the right to long-term care, including palliative care have been covered in other work streams of the OEWG, these questions will no longer be highlighted here, although they form an integral part of the right to social protection. Similarly, the right to health has not yet been discussed by the OEWG, but would rather merit a dedicated workstream rather than being included in this contribution on the margins. Therefore, the rest of this contribution will focus on the income aspect of the right social protection in older age.



unpaid contributions such as care provided to relatives. Benefits should continually evolve in line with living costs to maintain at least the same real value over time.

The right to social protection entails a right to solidarity, expressed through mechanisms to compensate for periods without paid contributions, such as unemployment, informal care duties or inability to work due to disability or disease.

c) Accessibility, including older person's coverage by social security systems, eligibility criteria, and affordability of contributions

Vesting periods to enable the access to social security rights should be reduced to a minimum.⁵

Persons who are no longer in the capacity to generate an own income through employment, including because of care responsibilities, health conditions or disabilities have the right to social protection.

Everyone, at any age, has the right to information on acquired social protection rights and how to access social protection benefits, in a clear and accessible format, including persons with disabilities. Beneficiaries of social protection benefits have the right to be informed regularly, in the case of pensions both during the accumulation and decumulation phase.

Everyone has the right to access social protection benefits, including when faced with physical barriers or barriers to access digital administration of rights, when living in rural areas or in case of barriers to financial services such as bank accounts and ATMs.

d) Equitable access by older persons to the enjoyment of the right to social security and social protection, paying special attention to groups in vulnerable situations

The right to social protection benefits shall not expire because of the termination of employment or a change of residence, even abroad. All older persons have the right to access their contributory social protection, even if they have not contributed sufficiently to earn a full pension.

Age discrimination in the access to social security benefits (e.g. different rules of calculating benefits based on year of birth) should be phased out. Disability support measures should be available to persons of all ages, without cut-off ages.⁶

⁵ It is often argued that vesting periods, especially in occupational pensions, are used to reduce staff turnover and give an incentive to fully engage with an employer for new staff. However, they also correspond to paid contributions that have no effect and are increasingly unfit for a labour market where transitions between jobs and employment statuses become more frequent. Vesting periods are particularly harmful to younger workers, who will see their rights in old age reduced.

⁶ AGE work has shown that in many cases, disability benefits are no longer available after a certain age, giving the impression that starting disability in old age and the associated limitations to daily life are deemed 'normal'. Cf. AGE Platform Europe (2016): AGE position on structural ageism. <https://www.age-platform.eu/publications/age-position-structural-ageism>. The Special Rapporteur on the Rights of Persons with Disabilities pointed out as well that States must prohibit all discrimination on the grounds of disability and age.





Checks whether a pensioner is still living and qualifies for benefits should be proportional and solutions should be provided for pensioners who may no longer be able to comply with these checks because of problems of mobility, physical or mental disabilities.

Everyone has the right to support and assistance in accessing social protection benefits, such as information and advisory services. Everyone has the right to complain and access redress, as well as to receive information about complaint and redress procedures.

Everyone has the right to be protected from abuse and to continue participating in choices about the exercise of social protection rights in case of disease or disability.

e) Participation of older persons in the design and administration of the social security system

Social security systems should be based on a societal contract and both younger and older persons should be consulted, be heard and be able to make constructive contributions to the design of social security reforms. Information about the necessity and design of pension reforms should be made public on time so that older persons and their representatives can consult and react on them in a meaningful way.

State obligations

3. What are the measures that should be undertaken by the State to respect, protect and fulfil the right to social security and social protection for older persons, regarding the normative elements as provided above?

The state shall be responsible for setting up a system that meets the criteria outlined above. Where parts of the system are entrusted to other entities, such as pension funds or social partners, the state shall ensure that all workers are covered by mandatory contributions and hold prudential oversight over the system that enables pension promises to be guaranteed. The state also has responsibility that pension information services and facilities to access pension rights are accessible to all rights-holders, both during accumulation and decumulation phases.

'Any distinction, exclusion or restriction on the basis of disability or age, or relating to the intersection between the two grounds, that has the purpose or effect of restricting the rights of older persons with disabilities should be eliminated. For example, provisions excluding or restricting the access of older persons with disabilities to disability or age-related services and benefits or to any social protection programme on the basis of age and/or disability should be amended to facilitate universal and equitable access. States must also take all appropriate steps to ensure that reasonable accommodation is provided to older persons with disabilities.' [Report of the Special Rapporteur on the Rights of Persons with Disabilities to the 75th session of the UN General Assembly, A/74/186, 17/07/2019.](#)



Special considerations

4. What special measures and specific considerations should be considered in developing the normative content of the right of older persons to social protection and social security?
 - Ensure the way social protection is provided upholds autonomy and independence
 - Adequacy of benefits and sufficient indexation in line with the development of living costs
 - Ability to access benefits in view of digital, skills and mobility gaps, as well as physical or mental disabilities, cognitive impairments or functional limitations.
 - Ensure social protection is adapted to a context of higher social and geographical mobility and diversity of employment forms
 - Solidarity mechanisms to compensate for discrimination, especially gender discrimination during the lifetime⁷

5. How should the responsibilities of non-State parties such as the private sector be defined in the context of the right of older persons to social protection and social security?

The private sector as a provider of social protection:

- To fully comply with the obligations and legislation passed upon them by the state in the implementation of its duty
- To ensure access to and quality of service without discrimination
- To ensure pension promises can be financed

The private sector as employers

- To ensure that the state's duty of universal coverage, delegated to employers, is effective
- To provide adequate working conditions in care to provide for quality service and elimination of elder abuse and neglect in care settings

⁷ With 'solidarity mechanisms' we mean mechanisms that compensate for certain circumstances where a person was unable to pay contributions into contributory systems, as well as mechanisms of income redistribution to reduce inequalities in old age. Examples are: credits for times spent on informal child or long-term care, credits for periods of inability to work, such as a health condition, accident or disability, credits for times spent on unemployment benefits. Regarding redistribution, a reasonably high ceiling for benefits from contributory contributions and an adequate minimum level, as well as an overvaluation of smaller contributions to social protection in the calculation of contributory benefits can be considered solidarity mechanisms.

Implementation

6. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on social protection and social security for older persons?
- Extremely high gender gaps in pensions (EU average of 37%)
 - Rising job precariousness and impact on financing of social protection
 - Lack of coverage for periods of absence from the labour market due to care, health and disability issues or unemployment
 - Insufficient consultation of older persons' organisations on pensions and health reforms
 - Minimum pensions that do not allow to live in dignity and erosion of the pension value over time
 - Costs for long-term care services are often higher than even average pensions

Further information

Regarding an overview of practices regarding adequate pensions and the fight against poverty, social exclusion, isolation and loneliness, the national situation in 10 EU member States and assessments of AGE members of national practices, please refer to the 2019 AGE Barometer, published to feed into the European Pillar of Social Rights, the UNECE Implementation Strategy of the Madrid International Plan of Action on Ageing and the Sustainable Development Goals:

AGE Platform Europe, AGE Barometer 2019, <https://www.age-platform.eu/policy-work/age-barometer>