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AGE Platform Europe contribution to the UN DESA Call for NGO input to the Open-Ended Working Group on Ageing

About AGE Platform Europe:

AGE Platform Europe (AGE) is a European network of around 165 organizations of and for people aged 50+ representing directly over 30 million older people across Europe. AGE aims at voicing and promoting the interests of the 150 million inhabitants aged 50+ in the European Union and at raising awareness of the issues that concern them most. AGE has been actively involved in the third session of the Open-ended Working Group on Ageing (OEWG), ensuring that the process is guided and informed by the views of older citizens, that their voice is heard in the debate and that the EU perspective reflects the reality of older people's lives in the region. Moreover, AGE works closely with the Representative of the UN High Commissioner on Human rights to the EU notably on issues such as elder abuse, older people's rights, deinstitutionalisation, gender equality in old age, etc and has a strong collaboration with the WHO on the promotion of age-friendly environments.

About AGE's answer:

AGE's answer is based on previous work we have undertaken in consultation with our members and experts. AGE welcomes the active involvement of civil society in this process and calls for wide consultation of all interested stakeholders. The work of the OEWG should be guided by the views of older people around the world. AGE has a clear mandate from its large network of NGOs representing older people in the EU and seeks to give insights on what senior citizens living in the EU think that is needed to best protect and promote their rights. We can also provide a pragmatic perspective to the drafting process bringing forward information from the grassroots. AGE wishes to play an active role in the discussions on older people's rights, mainly by evaluating the adequacy of policies and laws in the European Union, Council of Europe and United Nations debates, pinpointing protection gaps, fragmented or incoherent approaches among EU Member States and recommending further action that is needed to protect, promote and fulfil the rights of older persons. Moreover, through our involvement in UN debates we can build synergies with relevant initiatives at EU and Council of Europe levels and collect views from our national members. Through our involvement in the work of the OEWG we wish on the one hand to learn from the experience with countries and civil society organizations in other regions of the world, while on the other hand, AGE's European experience could be inspiring for other NGOs and OEWG delegations. In addition, we can contribute to the dissemination of the outcomes of the OEWG to a wide public and in raising awareness about the rights of older people and the need for strengthened protection.

Purpose

The basis of any initiative on the rights of older people should stem from the recognition that older people should be able to enjoy their human rights and fully participate in society on an equal basis with others. The text should not focus on the vulnerability that older people may (or may not) encounter as they grow older, neither portray older people as a burden, nor adopt a paternalistic approach to ageing addressing the right to be cared for. An international legal instrument should not stigmatize older people as a group needing special protection but on the contrary it should aim to inspire a model of active ageing, fight ageism and age discrimination, tackle negative perceptions of ageing, recognise older people as a resource and allow them to continue contributing to society. It should aim at removing barriers to their inclusion and full enjoyment of rights as well as fight negative stereotypes, by changing attitudes and approaches to older people. Such an instrument would have both a symbolic and a practical value. Firstly, it would reaffirm that all older people should enjoy all human rights and fundamental freedoms and it would clarify how these rights and freedoms apply to the context of ageing. Secondly, it would codify in a single document what measures need to be taken to allow older people to effectively exercise their rights and define areas where protection of rights has to be strengthened to ensure that older people can enjoy a dignified old age until the very end of their life. It

would therefore provide an important opportunity for clarity, specificity, visibility and awareness of the human rights challenges of older people and it should moreover ensure that Member States address the barriers that prevent older people from enjoying these rights when they grow old, providing sufficient guidance for national implementation.

General Principles

The rationale for a specific human rights instrument for older persons lies in the fact that while ageing is a universal and natural human experience, ageism and age discrimination are prevailing in today's societies and impede older persons from enjoying their rights. In fact, negative perceptions of old age are persistent worldwide and result in prejudice, discrimination and lack of protection of rights of older persons. So, in reality while older people are a diverse group, they face similar human rights challenges across all social, religious and cultural settings. Recognising the large and growing constituency of older persons and taking into account the growing evidence that current legal arrangements have proved inadequate to address the experience of older age and efficiently tackle the exclusion, abuse and vulnerability of older persons, such an instrument should be based on the following principles:

- a. Recognition of the value and contributions of older people;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society;
- d. Respect for inherent dignity of older persons;
- e. Autonomy and independence;
- f. Solidarity between generations.

Definition of old age/older persons

When defining older persons we should not refer to a chronological age. In fact older people are a very heterogeneous group while old age can span 30 or even 40 years. Nevertheless, there is a commonality on the experience of ageing, especially in terms of the barriers that impede individuals, as they grow older to enjoy their rights. Marginalisation, discrimination, lack of support and absence of adapted environments count among the factors that render older people as a distinct/definable group needing tailored human rights protection. AGE therefore wishes to endorse a definition of older people inspired by the definition of people with disabilities enshrined in the UN Convention on the Rights of Persons with Disabilities. Such a definition would reflect that it is not age alone that causes barriers to the enjoyment of rights, but rather the interaction of age with other factors, such as perceptions and social attitudes. AGE welcomes the definition of enshrined in the Draft Council of Europe Recommendation on the promotion of rights of older persons, according to which:

'The present recommendation applies to persons whose older age constitutes, alone or in interaction with other factors, including perceptions and attitudes, a barrier to the full enjoyment of their human rights and fundamental freedoms and their full and effective participation in society on an equal basis. It takes note that Council of Europe Member States have identified chronological ages at national level whereby persons enjoy specific rights for being older'.

Equality and non-discrimination as applied to older persons

As already mentioned above, ageism and age discrimination is the main justification for such an instrument. In fact, age never stands alone in the current international human rights framework, which ignores older people as a unique social group. Besides, age discrimination is rarely addressed in regional and national legal provisions and when it is, it does not apply to all sectors and/or provides for several exceptions, as is the case with the EU legislation¹ to combat discrimination on the ground of age which covers only discrimination in employment and occupational training. This means that the ground of age has an inherent vulnerability/inferiority vis-à-vis other grounds of discrimination and it results in failure to acknowledge its prevalence in today's societies. In addition, age is often associated with physical or mental impairments,

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML>



diseases and disabilities, whereas most of the barriers older people face today are linked to the lack of adaptation and appropriate measures to meet their needs. This invisibility of older people both in law and practice is highly problematic and an international human rights instrument would have the added value of increasing understanding and awareness of age discrimination faced by older people just like the CRPD did for discrimination faced by people with disabilities and CEDAW did for women. Such an instrument should therefore prohibit all forms of discrimination on the basis of old age and in all aspects of life, whilst allowing for special measures or positive action to ensure equality in practice. It should moreover address multiple discrimination calling for effective measures targeting older women, older LGBTI, older people with disabilities, older migrants and refugees, older members of ethnic or religious minorities or indigenous groups, older people living in poverty and social exclusion, etc.

Specific human rights to be included

An international human rights instrument should address all aspects of seniors' lives from the right to work to the right to compassionate palliative care. A non-exhaustive indicative list follows. For more information on the substance of these rights see our contribution to the OHCHR consultation, the Council of Europe Recommendation as well as the European Charter on the rights and responsibilities of older people in need of long-term care and assistance² developed by a consortium led by AGE.

- Right to life
- Right to health and long-term care
- Right to autonomy and self-determination
- Freedom from violence and abuse
- Right to work
- Right to social protection and adequate standard of living
- Right to social inclusion and participation to political, social and cultural life
- Right to education and life-long learning
- Right to access justice, receive legal assistance and access information
- Right to respect for privacy, home and family life

National and international supervisory mechanisms

An international human rights instrument for older persons should increase accountability and improve global monitoring on the situation of older people. It should aim at improving data generation to provide for evidence-based policies, calling for State Parties to collect, disaggregate, analyse and disseminate relevant data. It should give responsibility to States and national bodies to implement its provisions and establish complaint mechanisms. It should moreover, establish a monitoring process by an independent body, which would receive periodic reports on the implementation of its provisions.

For more information

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Relevant AGE publications and position papers

- AGE Contribution to the Council of Europe (CoE) Recommendation on the promotion of the human rights of older persons: [http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/cddh-age/Document_CDDH_AGE/CDDH-AGE\(2013\)09_Age-Platform_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/cddh-age/Document_CDDH_AGE/CDDH-AGE(2013)09_Age-Platform_en.pdf)
- AGE response to the OHCHR consultation on the rights of older people: http://www.age-platform.eu/images/stories/FINAL_AGE_contribution_to_OHCHR_consultation_on_rights_of_older_people_15-3.pdf

² Links to these document can be found in references at the end of this document



- 'Older People also suffer because of the Crisis: <http://www.age-platform.eu/images/stories/EN/olderpeoplealsosufferbcofthecrisis-en.pdf>
- Shadow report on older people's fundamental rights: : http://www.age-platform.eu/images/stories/AGE_response_2010_Fundamental_Rights_Report_Nov11.pdf
- The rights of older people with autism: http://www.age-platform.eu/images/stories/Autism_Europe_AGE_Report_on_ageing.pdf
- The voices of older ethnic minorities and migrants are not heard in Europe <http://age-platform.eu/en/age-a-the-media/age-communication-to-the-media-press-releases/1571-the-voices-of-older-ethnic-minorities-and-migrants-are-not-heard-in-europe>
- Equality for older lesbian, gay, bisexual, trans and intersex people in Europe: http://www.age-platform.eu/images/stories/Combating_discrimination_on_the_grounds_of_age_and_SOGI_final.pdf
- Towards Smart, Sustainable and Inclusive Places for All Ages: http://www.age-platform.eu/images/stories/AGE_Friendly_Environment_Final_PDF-EN.pdf
- Background document for Hearing "Unblocking the Anti-Discrimination Directive" on age discrimination in access to financial services: http://www.age-platform.eu/images/stories/Background_document_anti-discrimination_directive_AGE.pdf
- AGE contribution to the European Commission's assessment of the transposition and application of Employment Equality Directive: http://www.age-platform.eu/images/stories/EN/AGE_response_to_EC_consultation_on_implementation_of_Employment_Directive_FINAL.pdf
- European Quality Framework for long-term care services: <http://www.wedo-partnership.eu/european-quality-framework-long-term-care-services>
- European Charter of rights and responsibilities of older people in need of long-term care and assistance: http://www.age-platform.eu/images/stories/22204_AGE_charte_europeenne_EN_v4.pdf
- Accompanying Guide to the European Charter: http://www.age-platform.eu/images/stories/22495_EN_06.pdf

