



14 February 2023

13th Session of the United Nations Open-Ended Working Group on Ageing (2023)

AGE Platform Europe submission on Focus Area: Social Inclusion

This answer is submitted in reply to the call of the Chair of the Open-Ended Working Group on Ageing (OEWG) to non-governmental organisations. 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 webinars open to all AGE members.

For more information: Apolline Parel, Human Rights and Research Project Officer, apollineparel@age-platform.eu



AGE work is co-funded by the **Citizens, Equality, Rights and Values Programme** of the European Union. The contents of this document are the sole responsibility of AGE Platform Europe and cannot be taken to reflect the views of the European Commission. Transparency Register ID: 16549972091-86



AGE Platform Europe | A society for ALL ages
Avenue de Tervueren/Tervurenlaan 168, box 2, 1150 Brussels, Belgium
www.age-platform.eu | info@age-platform.eu | +32 2 280 14 70

Current policy

What are the legal provisions, policy frameworks and/or measures in your country that explicitly focus on older persons who are marginalized on the grounds of their sex, disability, race, ethnicity, origin, religion, economic or other status? (This may include addressing older populations on frameworks dedicated to other marginalized groups such as women, persons with disabilities, migrants, minorities, homeless people etc.; or addressing marginalized groups within frameworks devoted to older persons)?

Article 25 of the EU Charter of Fundamental Rights aims to guarantee older people's right to participate in social and cultural life. Article 23 of the Revised European Social Charter aims to *'enable elderly persons to remain full members of society for as long as possible, by means of: a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life; b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them'*. Principle 10 of the Council of Europe Recommendation CM/Rec(2014)2 mentions that *'older persons should have the possibility to interact with others and to fully participate in social, cultural and education and training activities, as well as in public life'*. This recommendation further reflects on aspects of multiple discrimination, referring specifically to older women, migrants and persons with disabilities. Age discrimination is only covered in the field of employment and vocational training, under the EU Employment Framework Directive. However, this law does not include a provision on multiple discrimination.

The European Commission developed several strategies to tackle discriminations that marginalised groups face such as the LGBTIQ Equality Strategy 2020-2025, the 2020-2030 EU Roma Strategic Framework, and the EU anti-racism action plan 2020-2025. However, such strategies do not explicitly address ageism and age discrimination. To address these gaps, AGE Platform Europe developed a proposal for an [EU Age Equality Strategy](#).

Due to ageism and age discrimination, older persons face structural barriers devaluing 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.

Older women

The European Commission launched its Gender Equality Strategy 2020-2025. The Gender Equality Strategy consists of recognising and tackling gender stereotypes and gender-based violence, thriving towards a gender-equal economy, and calling on women to lead in society. However, older women remain largely invisible in this Strategy. In a [contribution](#) to the



AGE Platform Europe | A society for ALL ages
Avenue de Tervueren/Tervurenlaan 168, box 2, 1150 Brussels, Belgium
www.age-platform.eu | info@age-platform.eu | +32 2 280 14 70

Independent Expert on the Enjoyment of All Human Rights by Older Persons, we highlighted that older women are underrepresented in most decision-making functions (members of parliaments, governments, heads of state, judges on high courts, CEOs, boards of large companies, etc.). Data on this issue is rarely collected, such as in the [European Institute for Gender Equality Index](#), where there is no breakdown by age available. [European Statistics](#) on participation in formal or informal voluntary activities or active citizenship by sex, age and educational attainment level show that the gender gaps in formal volunteering activities is the highest at age 75+, namely 5 percentage points.

In the field of employment, women have genuinely more fragmented careers than men, due to parenting and/or caring responsibilities. Women might have more difficulties in keeping and/or finding a job. This deepens the gender and pension gaps.

Older LGBTI people

Older LGBTI people are at higher risk to face socioeconomic exclusion and social isolation and face a double invisibility: as an invisible minority within the LGBTI community and as a hidden part of the ageing population, as we highlighted in a [joint report](#) that we published with ILGA-Europe. Because of the lack of inclusiveness and prevailing invisibility of older LGBTI people, they are not able to participate and contribute equally to society.

Older migrants

The number of older immigrants in Europe has grown¹ and are at risk for experiencing a double threat of marginalisation and social exclusion. Refugee and migration policies prioritize the influx of younger people in order to meet the country's labour market needs and to avoid exacerbating demographic ageing. This perception of older persons as being a 'burden' to society rather than an economic asset, adds further structural barriers that older immigrants face. Migrants who have aged in another country are more likely to face social isolation, poverty and worsened health because they have more limited access to welfare provisions and services and are ignored in mainstream ageing and migration policies.

Older Roma

Older Roma face additional barriers when it comes to social inclusion and participation in society. They often live in deprived, rural and remote areas, including sometimes in segregated neighbourhoods, that impedes them from equally accessing to services and goods. Pervasive ageism towards older Roma increases their exclusion from the labour market, with the negative consequences of having low incomes, and thus poor or no access to pension entitlements.

¹ Pnina Dolberg, Sigurveig H. Sigurðardóttir and Ursula Trummer, *Ageism and Older Immigrants*, International Perspectives on Aging, volume 19, 2018, https://link.springer.com/chapter/10.1007/978-3-319-73820-8_12

Reality

What legal age limits exist in your country that prevent the full and equal participation of older persons in societies in areas such as employment, education, healthcare, financial goods and services, or others?

Employment

Article 6 of the EU Employment Framework Directive allows for the possibility to justify direct age discrimination, as long as there is a legitimate aim. This Directive allows for a wide range of practices that restrict the rights of older people to enter and/or remain in the labour market (such as mandatory retirement ages, not extending working conditions beyond a certain age, age limits in recruitment etc) and these same exemptions open the door for even broader translation into national laws. EU jurisprudence accepts and reinforces these limits².

Healthcare and long term care

During the COVID-19 pandemic, in most EU Member States, older people were told to remain at home, without the possibility to see their family and/or fully contribute to society. For example, the Department of Health of Ireland published a [guidance](#) on cocooning to protect people over 70 years and those extremely vulnerable from the COVID-19 pandemic. This measure has had devastating impacts on older people, who reported suffering from loneliness and saw their mental and physical health declining. We have also documented several age limits in access to preventive and surgical treatment, rehabilitation, personal assistance, mobility allowances etc.³

Financial goods and services

Our members reported that in Belgium, there are restrictions for people aged 65 years old when wanting to take a loan or insurance. In France, taking a loan for older people aged 60 years is also very complicated. Although there is not an explicit legal age limit that exist in both countries, ageism prevails, impeding older people to take loans. In Portugal, people over 65 years old cannot get a health, nor a travel insurance.⁴

² The right to work in old age (2021): https://www.age-platform.eu/sites/default/files/The_right_to_work_in_old_age-AGE_Platform_Europe_June2021.pdf

³ Structural Ageism (2016): https://age-platform.eu/sites/default/files/AGE_IntergenerationalSolidarity_Position_on_Structural_Ageism2016.pdf; <https://ageing-equal.org/ageism-and-social-rights/>; <https://ageing-equal.org/ageism-and-disability/> ;

Accessing all Ages: Assessing the Impact of Age on Access to Surgical Treatment; Ageism in the Breast Cancer Care Pathway, ILC-UK

⁴ more examples: https://age-platform.eu/sites/default/files/AGE_IntergenerationalSolidarity_Position_on_Structural_Ageism2016.pdf



Remedy and redress

What measures are in place, if any, to ensure that older persons in institutions segregated from their communities – such as institutional care systems or prisons – can continue participating in their society?

Under the CoE Revised Charter of Social Rights, older people residing in institutions can enjoy their sociocultural rights only insofar as this is possible under institutional conditions⁵. In other words, as long as older people live in residential settings, they lose the right to access culture and develop social relations outside the walls of the institutions, as well as the right to contribute to the social, political, economic and cultural life of their communities. In most cases, older people in institutional settings continue to be segregated from society. There are cases of residential settings that have facilities open to the community, ex. Restaurants or libraries, but these are sporadic at best and do not ensure full participation in society. Most measures and legal provisions focus on older persons' ability to participate in decisions that are related to the provision of services and not the full spectrum of community life. One good practice includes the [Long-term care Empowerment Model](#), which was developed together with the Government of Biscay, according to which older people must remain active, empowered and engaged within their communities. One of the Long-term care Empowerment Model accelerators is its person-centred approach: a participatory approach that creates opportunities for older persons to be equally and fully involved in healthcare and long-term care services. This model allows to tackle multiple and intersecting forms of discrimination that marginalised older persons face, such as women and migrants.

Remedy and redress

States have an obligation to use maximum available resources to progressively achieve the full realization of economic, social and cultural rights. What is the share of national public expenditure budget targeted to older persons as a distinct group?

The right to participate in society is not easily enforceable in practice due to the lack of explicit provisions and that it is often seen as an issue of social policy, rather than an issue of human rights. This right is often guaranteed 'as far as possible' and not 'on an equal basis with others', which makes it even harder for individuals to claim their rights.

The lack of a legal framework at EU level covering age discrimination is an important barrier to accessing justice in case of denial of older people's right to participate in society. Older people count among the groups that are the least aware of their rights under the EU Charter

⁵ Mariya Riekkinen, "Participation of the elderly in sociocultural life: human rights and inclusive practices under residential care," *Journal of Public Affairs* 15, no. 3 (2015).

of Fundamental Rights and the available redress mechanisms⁶. They are also the least likely to complain in case of violation of their human rights. Under-reporting is related to the fact that older victims are less likely to know their rights and how to file a complaint. Measures aiming to address systemic ageism and dedicated budget are needed, as well as support for individuals and representative organisations to increase rights awareness, legal literacy and access redress.

In addition, there is a lack of consistent governmental representation at national and international levels. Many states have ministers for older people in their national governments, but these positions are often junior ministerial positions and can often be seen as symbolic.

⁶ [Special Eurobarometer 487b](#), 2019