

31st July 2015

AGE PLATFORM EUROPE CONTRIBUTION FOR THE REVIEW OF THE EU REPORT BY THE COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

on the rights of older people with disabilities and their protection by the European Union (EU) under the UN Convention on the Rights of Persons with Disabilities (UNCRPD)

About AGE Platform Europe

AGE Platform Europe (AGE), is the EU largest network of organisations of and for older persons. Funded by the European Commission DG Justice, we aim at voicing and promoting the rights and interests of the 190 million inhabitants aged 50+ in the European Union. Through our membership we represent directly more than 40 million older persons across the EU. We seek to give a voice to older and retired people in the EU policy debates, through the active participation of their representative organisations at EU, national, regional and local levels, and provide a European platform for the exchange of experience and best practices. We also aim to inform older people on their rights as EU citizen or resident and on EU policy making processes and recent EU policy development. Our work focuses on a wide range of policy areas that impact on older and retired people. These include issues of anti-discrimination and human rights, employment of older workers and active ageing, social protection, pension reforms, social inclusion, health, elder abuse, intergenerational solidarity, research, accessibility of public transport and of the build environment, and new technologies (ICT). AGE Platform Europe takes also active part in several EU projects.

AGE follows closely the implementation of the UNCRPD by the EU and its member states in order to address the specific barriers that older people with disabilities and limitations in their daily activities face in enjoying their human rights. We have also undertaken extensive work on the rights of older people in need of care and assistance for example by coordinating European projects that delivered two European reference documents, namely the *European Charter on the rights and responsibilities of older people in need of long-term care and assistance*¹ and the *European Quality Framework for long-term care services*². AGE is also involved in the UN discussions around a strengthened protection of the human rights of older people and the potential of a new UN treaty for this group. In the past we have been involved in the drafting of the Council of Europe recommendation on the promotion of human rights of older persons. AGE is a holder of ECOSOC status and also has a consultative status with the Council of Europe.

AGE's positions are developed in close consultation with its member organisations, which are mainly older people (self-advocacy groups) and some services providers providing support to very dependent older persons. AGE governing bodies and task forces are open to all older persons nominated by AGE member organisations and our activities are organised to include older persons with disabilities. AGE submission is

¹ <http://www.age-platform.eu/age-projects/health-and-long-term-care/659-daphne>

² <http://wedo.ttp.eu/european-quality-framework-long-term-care-services>



informed by the input of AGE task forces on Human Rights, Healthy Ageing, Dignified Ageing and Accessibility and former position papers adopted by AGE Council.

Summary of contribution

In this paper, AGE, as the largest representative organisation of older people at EU level, submits the main barriers faced by older people with disabilities living in the EU. These mainly arise from the fact that older people with age-related functional limitations are rarely recognised and supported as people with disabilities. To date the EU lacks action to address the intersection of inequalities based on age on disability, which contradicts the UNCRPD, the EU Disability Strategy and the EU Charter of Fundamental Rights. As a result, there are huge discrepancies among laws and policies that target older people with support needs/limitations in their daily activities and younger people with disabilities. In addition, representatives of older people are rarely consulted by related instances and bodies, which leaves the specific situation of older people with disabilities unknown and unaddressed.

To comply with its international obligations, the EU should address the age discrimination faced by older persons with disabilities. This can be done through monitoring, data gathering and analysis, and awareness raising of the relevance of the UNCRPD for this age group. The EU should levy age barriers, including in data collection exercises, such as the EU-SILC. It should furthermore provide guidelines to Member States on how the Convention should apply equally to all regardless of age and include a disability rights perspective in its ageing policies. The Disability High Level Group and the Annual Work Forum could also promote good practices and policy exchange to tackling disability in old age. The EC could also ask the Academic Network of European Disability Experts (ANED) to extend their work so that they address age barriers in disability policies. The Fundamental Rights Agency (FRA) should consistently apply an old age perspective in its work on disability and involve representatives of older persons and experts on ageing issues in its work. More generally, older persons with disabilities should have a voice in all processes and consultations that concern them, including in the interservice group on disability among many others.

The EU should also revise its funding conditions to NGOs to allow for a better mainstreaming of disability and gender. It should adopt specific legislation such as the horizontal non-discrimination directive and the Accessibility Act to adequately protect older people with disabilities; moreover it should take into account their specific needs in the implementation of existing legislation, such as the Victims' Directive. We would further like to suggest the EU to undertake a pilot project aiming to support Member States in implementing the right of people with old age-related disabilities to live independently in the community, as part of their obligations under the Convention. Last, the EU should keep a close eye on the impact of austerity to people with disabilities and older people and mobilise the European semester process to address their poverty and threat to adequate standard of living.

Total length: 5053 words (in accordance with rules in CRPD Committee note for stakeholder submissions, paragraph 15 and 16³).

³ <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/InformativenoteforStakeholders.aspx>



Introduction

AGE Platform Europe (AGE) has contributed and endorsed the alternative report prepared by the European Disability Forum (EDF) on the implementation of the UNCRPD by the EU. In view of the upcoming review of the List of Issues adopted by the CRPD Committee in April 2015, to which the EU has responded in May 2015, our members have decided to prepare an own contribution in order to provide more clarity around the specific barriers that older people with disabilities face and recommend action that should be taken by the EU to overcome them.

Older persons with age-related functional limitations are likely to require assistance and care until the end of their lives, yet they often fall in between the cracks of disability and ageing policies. Therefore the views of older persons who meet the criteria of being considered as persons with disabilities under the UNCRPD should be included in relevant consultations at EU and national level. AGE Platform Europe, as an organization, which advocates for the rights of its members who can be considered as persons with disabilities, has an important role to play in the review of the EU report by the Committee.

Comments on EU reply to list of issues

A. Purpose and general obligations (arts. 1–4)

General obligations (art. 4)

Reply to the issues raised in paragraphs 2 and 3 of the list of issues

AGE welcomes the inclusive approach of the European Disability Strategy, which specifically refers to older people as a target group and reaffirms the relevance of the Convention for this growing section of the population. Nevertheless, this approach is not reflected in EU practice.

For example, AGE Platform Europe (as the largest representative organisation of older people at EU level) is rarely consulted by the European Commission and other EU bodies regarding the implementation of the Convention. So far our involvement was limited to some issues around accessibility, in particular regarding the long-awaited Accessibility Act. We would welcome a wider involvement on issues like non-discrimination, social protection, health and independent living, employment and education, participation as well as awareness raising, which is critical for the effective application of the UNCRPD to the ageing population, especially since many older persons who are suffering from age-related functional limitations do not identify themselves as persons with disabilities or are not recognized as persons with disabilities.

Indeed, while the UNCRPD definition of persons with disabilities (article 1) is rather wide, national laws and policies interpret it in a narrow way, encompassing only those persons who suffer from a known constraint or disability, whereas frail seniors and other older persons who face limitations in their daily activities rarely fall under the disability label and the related protections. This creates a divide between those persons who are assisted because of a specific impairment and those who face similar limitations in their daily activities due to multi-morbidity, old age muscle loss (sarcopenia) and increasing difficulties to cope with daily



activities in old age. The EU has an important role to play in promoting an inclusive definition of disability in national laws and monitoring policies to ensure that older people with disabilities/functional limitations are not left behind.

In addition the EU should ensure that the implementation of the convention is not age-blind: Lacking an old age perspective in the implementation of the Convention, the specific barriers faced by older people with disabilities remain unknown and unaddressed and disability rights are not applied equally across the life-course. This is violating the EU obligations under the UNCRPD and the EU Charter of Fundamental Rights. It is moreover inconsistent with what the EU proclaims in its internal and external action, in particular in the frame of the UN Open-Ended Working Group on Ageing, where the EU supports an improved application of the UNCRPD for this group⁴. Recently, the Council adopted its Human Rights Action Plan for its external affairs, where it mentions for the first time a specific point on older people's rights and age discrimination⁵. Unfortunately this priority is not mirrored in the EU's internal action. Additionally, although the EU Disability Strategy suggests that the *'Commission will also pay attention to the cumulative impact of discrimination that people with disabilities may experience on other grounds'* and *'EU action will support and supplement national policies and programmes to promote equality'*, there has been no progress in addressing the vulnerable situation of older people with disabilities. For example the EU has not yet addressed age barriers that exist in many EU states that prevent older people with disabilities from enjoying their human rights.

For example, in France people over the age of 60 are entitled to less generous allowances and care packages than younger persons with disabilities and are asked to contribute through co-payments to their long-term care costs up to 90% depending on their income, while the disability evaluation grid for the two systems that applies to people younger than 60 is considerably more generous. The age barrier in the French system that discriminates against people who acquire disabilities after the age of 60, should have been removed by the 1st January 2011, but it has been retained in the recent proposal for a Law on the adaptation of society to ageing⁶.

Similarly, in Greece older people who receive an old-age pension are not eligible for the full disability allowance, even if their condition amounts to a "full disability" under national law. The Greek ombudsman has ruled that such situation constitutes age discrimination, since older people, as for example those who suffer from dementia, which in its advanced form is one of the most severe disabilities as individuals may need 24-hour support, receive no financial help to cover for the care they need in their everyday lives⁷.

Likewise, in Ireland to qualify for disability allowance (weekly allowance paid to people with a disability) you must be aged between 16 and 65. When you reach 66 years of age you no longer qualify for disability

⁴ See for example presentation given at the sixth session: http://social.un.org/ageing-working-group/documents/sixth/Presentation_ten%20Geuzendam.pdf

⁵ <http://www.age-platform.eu/age-and-the-eu-institutions/council-of-the-european-union/council-latest-news/2737-council-includes-older-persons-in-its-external-human-rights-action-plan>

⁶ <http://www.social-sante.gouv.fr/espaces,770/personnes-agees-autonomie,776/dossiers,758/adaptation-de-la-societe-au,2971/>

⁷ http://www.synigoros.gr/resources/perilipsi_epidoma_anapirias.pdf



allowance, but you are assessed for a state pension⁸. Besides the Irish Ombudsman has criticized the ineligibility of people over the age of 66 for a mobility allowance⁹.

Similarly, in Belgium the age barrier to have access to support as a person with a disability is set at the age of 65. Recently a case was reported in the media, about an older lady who acquired ALS (Lou Gehrig's disease) but does not qualify for state reimbursement for her disease-related expenses because she was diagnosed at the age of 69. This situation does not only put the older person in an unequal financial position but fails to recognise their equal right to treatment, quality of life and dignity¹⁰.

Such age-contingent eligibility criteria are not characteristic only of a handful of EU Member States but are typical barriers faced by older citizens with disabilities and it is common place to exclude older people from personal assistance schemes as a 2012 survey has showcased¹¹. Yet, these issues have not received any attention by the EU yet. It is also noteworthy that although the CRPD Committee criticized the lack of availability of personal assistance to people with psychosocial disabilities, it has not yet flagged the age restrictions applied to some of the countries under its review.

Last, the EU has not yet mainstreamed a disability rights approach across its ageing policies. For example, the recent joint European Commission (EC) - Social Protection Committee (SPC) report on "Adequate social protection for long-term care needs in an ageing society"¹² does not make reference to the Convention, regardless of the obvious relevance of disability rights for older users of long-term care services. Likewise, the EU silver economy initiative¹³, which - among others - aims to boost growth by improving the market for care services for older people with functional limitations, or severe impairments, such as dementia, is not informed by the rights-based approach of the UNCRPD. Ignoring the EU's obligations under the Convention entails a risk of applying lower standards of protection for older people with disabilities.

AGE welcomes the EC initiative to mainstream disability issues across all relevant EU dossiers. However we regret that the interservice group on disability does not cover a broader definition of persons with disabilities that would include older people with functional limitations as defined in the CRPD. Through a close cooperation between AGE and the European Disability Forum, civil society seeks to coordinate its action on many disability dossiers but this inclusive approach is not reflected yet in the interservice group on disability.

Overall, the limited involvement of older people and the EU inaction to promote old age awareness in the implementation of the Convention creates important implementation gaps. To comply with its

⁸ Info retrieved from Citizen's Information Website (www.citizensinformation.ie) and The Health Service Executive website (www.hse.ie)

⁹ <https://www.ombudsman.gov.ie/en/Publications/Investigation-Reports/government-departments-other-public-bodies/Too-Old-to-be-Equal-/Too-Old-to-be-Equal-.pdf>

¹⁰ <http://www.andrecontrelasla.be/Atteinte-de-S-L-A-a-71-ans-elle.html>

¹¹ See 2012 survey by the European Network of Independent Living (ENIL) on personal assistance, which found that of the 22 countries involved in the survey, at least 8 excluded people with disabilities over the age 65 from the right to personal assistance. More information on the national schemes see here: <http://www.enil.eu/wp-content/uploads/2012/06/European-Survey-on-Personal-Assistance-Final.pdf>

¹² <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7724>

¹³ http://ec.europa.eu/research/innovation-union/index_en.cfm?section=active-healthy-ageing&pg=silvereconomy



international obligations, the EU should address the age discrimination faced by older persons with disabilities. This can be done through monitoring, data gathering and analysis, and awareness raising of the relevance of the UNCRPD for this age group. The EU should moreover provide guidelines to Member States on how the Convention should apply equally to all regardless of age and include a disability rights perspective in its ageing policies. The Disability High Level Group and the Annual Work Forum could also promote good practices and policy exchange to tackling disability in old age. The EC could also ask the Academic Network of European Disability Experts (ANED) to extend their work so that they address age barriers in disability policies. The Fundamental Rights Agency (FRA) should consistently apply an old age perspective in its work on disability and involve representatives of older persons and experts on ageing issues in its work. More generally, older persons with disabilities should have a voice in all processes and consultations that concern them.

Reply to the issues raised in paragraph 4 of the list of issues

AGE welcomes the EU proposal to introduce a specific module on disability in the 3rd wave of the EHIS as of 2019. However this will not address the lack of visibility faced by older persons with disabilities in the EU Statistics on Income and Living Conditions (EU-SILC), which cover only people aged 15 to 65.

AGE recommends therefore to the EU to remove the age limit built in the EU-SILC disability statistics in order to include also people aged 65+.¹⁴ This is not only a question of human rights violation. In the current context of rapid population ageing, it is more than urgent to equip the EU with the necessary statistical tools to enable policy makers responsible for disability issues to make informed decisions.

Reply to the issues raised in paragraph 5 of the list of issues

AGE would like to note that the obligation for reasonable accommodation is not explicitly covering older workers in the existing directive 2000/78/EC despite the fact that their older age is often considered as an excuse not to provide them reasonable accommodation; nor are older people mentioned in the provisions on reasonable accommodation in the draft text of the horizontal non-discrimination directive. To benefit from reasonable accommodation older people with functional limitations, frailty or other impairments would have to fulfil the official eligibility criteria for disability support. A harmonised understanding of people with disabilities across policies and laws is thus considered necessary to avoid the exclusion of older people with functional limitations from the protection of their rights under the CRPD.

Reply to the issues raised in paragraph 6 and 7 of the list of issues

As mentioned above (under issues raised in paragraphs 2 and 3 of the list of issues), older people and their representative organisations are rarely consulted in the application of the Convention by the EU and its Member States. To give a couple of examples, firstly, although the EU is currently reviewing the Hague Convention on vulnerable adults, which concerns many older people with cognitive impairments, older people's organisations have not been consulted on this piece of work. Moreover, to date representative organisations of older people are not consulted by the High-Level Group on Disability, which discusses the

¹⁴ http://ec.europa.eu/eurostat/statistics-explained/index.php/Disability_statistics_-_prevalence_and_demographics



implementation of the Convention at EU level. For example, AGE did not have the opportunity to contribute to the 2015 Report of the High-Level Group on Disability which is devoted to the disability dimension of the Europe 2020 strategy, although we follow closely the implementation of the EU2020 strategy by Member States, by involving our national member organisations in the monitoring.

In addition, although the 2009 Guidance for assessing social impacts recognises older people as one of the target groups, when it comes to disability-related policies, older people are rarely consulted. This is why we would like to stress that older people's organisations should appear in the stakeholder mapping undertaken by the EC during the Impact Assessment of disability-related initiatives.

Moreover, we would like to underline that, while we appreciate the funding support given by the EC to NGOs that work in the field of equality through their REC programme, the current call specifications for operational grants¹⁵ requests from NGOs to select between strands of non-discrimination and the rights of persons with disabilities. In reality this means that an organisation like AGE has to choose either to shape its work programme solely around disability issues, or focus on age-discrimination. Mainstreaming disability across its work on the rights of older people and equality entails the risk of its work programme being negatively evaluated as being outside the scope of the chosen priority. This condition and the way that funding applications are evaluated deters the mainstreaming of disability rights across other EU policies and creates obstacles in the effective involvement and consultation of organisations like AGE, which include in their membership older people with disabilities and are mandated to advocate for their rights at EU level. For these reasons, we would like to suggest a revision in the terms of the call and the evaluation process in order to allow treating disability and gender as transversal topics for all NGOs funded by the REC programme. Trainings for EU staff would allow a better and fairer evaluation process; such trainings should reflect the relevance of the UNCRPD for older people.

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

Reply to the issues raised in paragraph 9 of the list of issues

AGE reiterates its call for the adoption of the horizontal equality directive that would cover age and disability discrimination in access to goods and services, which is a necessary prerequisite to safeguard the rights of older people with disabilities¹⁶.

Awareness raising (art.8)

Reply to the issues raised in paragraph 12 of the list of issues

As already explained in the previous section, AGE regrets the lack of awareness raising activities on the intersection of ageing and disability and the relevance of the UNCRPD for older persons. In addition, even in initiatives where older people are included, such as the EU Access City Award, where AGE members and

¹⁵ http://ec.europa.eu/justice/grants1/files/2014_spob_og_netw/call_fpa_ogs_2015_en.pdf

¹⁶ <http://www.age-platform.eu/age-communication-to-the-media-press-releases-en-gb-6/2705-equal-treatment-law-should-not-leave-older-people-behind>



experts participate in the evaluation, there is very little recognition of their role by the EU. Once more, we think that it would be particularly important to organise staff trainings on older people with disabilities, or include a module within existing trainings, so that EC officials take into account older people with disabilities in their work. Moreover, future awareness raising activities should include references to and images of older people with age-related disabilities.

Accessibility (art. 9)

Reply to the issues raised in paragraphs 13 and 14 of the list of issues

AGE sees the work of the EU in the transport sector as a good example of inclusiveness, since by definition the term '*persons with reduced mobility*' is broad and includes older persons with functional limitations or support needs. Similarly, EU action on accessibility takes into account the specific needs of older people and older persons are involved in consultations and advisory groups, such as those working on standardisation mandates. At the same time AGE, alongside other NGOs, regrets the failure of the EC so far to propose a European Accessibility Act.¹⁷

Access to justice (art. 13) and Freedom from exploitation, violence and abuse (art. 16)

Reply to the issues raised in paragraphs 18 and 19 of the list of issues

Whereas there is a lack of data on the prevalence of violence against older people, the WHO (2011) reports that "the prevalence of elder maltreatment in the community is high (about 3%) and it may be as high as 25% for older people with high support needs"¹⁸. It is also estimated that from 30% (Sweden) up to 90% (Slovak Republic) of people aged 75+ have limitations in their daily activities¹⁹. This showcases that older people with disabilities (i.e. people who require care and support) are at a particular high risk of abuse due to the accumulating disadvantages of age and disability. These findings bring evidence of the need to include an old age perspective in the application of article 16 and 13 with regard to support for victims of elder abuse.

For example, most older people with age-related disabilities are cared for by informal carers, among whom 90% have a family relationship with the people they care for.²⁰ It is also estimated that around 70% of violence towards older people is perpetrated within the family, i.e. by their informal carers. Violence in close intimate relationships is therefore a key aspect of violence against older people with disabilities that needs to be tackled. Elder abuse has in addition a strong gender dimension, as research showed that women comprise 60-75% of elder abuse victims²¹. Another study also found that '28.1 % of older women in all 5 countries have experienced some kind of violence and abuse in their own home in the last 12 months by someone who is close to them', showing that older women are particularly exposed to violence in close

¹⁷ http://www.age-platform.eu/images/stories/media/EqualityAlliance_letter_to_EP_18June2015.pdf

¹⁸ http://www.euro.who.int/_data/assets/pdf_file/0010/144676/e95110.pdf

¹⁹ See Joint EC-SPC report on Long-term care mentioned above.

²⁰ Idem

²¹ See WHO report on elder maltreatment mentioned above.



intimate relationships. There is also a strong gender dimension on the side of perpetrators, as 60-70% of informal carers are women and are 'typically spouses, middle-age daughters or daughters in law'²².

These aspects need to be taken into account in the implementation of EU legislation, in particular the Victims Directive. This directive requires that victims are supported without discrimination (which includes age discrimination under §9) and specifically addresses violence in close intimate relationships (§18). The EU has an important role to play in monitoring the implementation of the directive and providing guidelines, as elder abuse is not known among victim support organisations. At the same time, professionals in contact with older people with disabilities (health and social care professionals, frontline practitioners) do not know how to react to implement the victims directive. Specific tools targeting health and social care frontline professionals are needed, as well as ensuring that at national level, minimum standards on victim support cover also older people with disabilities and involve care professionals.

Moreover EU action on gender-based violence should equally address older women with disabilities who, as explained above, are particularly vulnerable to abuse. Unfortunately, the FRA survey on gender-based violence had an age limit at 74, thus excluding older women beyond that age, the group the most at risk. It is of utmost important that legislation, data collection, policy exchange and mutual learning takes into account the situation of older people with disabilities.

Liberty of movement and nationality (art. 18), Personal mobility (art. 20) and Habilitation and rehabilitation (art. 26)

Reply to the issues raised in paragraphs 21, 24, 25 and 30 of the list of issues

The exportability of social security benefits is particularly important for older people with disabilities. When it comes to long-term care benefits, only cash benefits can be exported²³. Moreover, benefits related to personal assistance and other care needs need to be considered as sickness benefits in order to be exported. In addition, as explained above, public provision of services and care allowances for older people with disabilities is limited, which means that older people often have to buy such services out of their pocket. The limited exportability of care and disability benefits as well as the erosion of old age income create obstacles in the mobility of older people with disabilities across the EU.

With regard to the EU Disability card, it is clear from the EU's answer that it does not include social benefits. In addition, it is restricted to 'national card holders', which means that older people with disabilities who – as aforementioned - are rarely holders of a disability card would not be able to benefit from this cross-border facilitation. Unless this measure is extended to people who don't have a national disability card but still fall under the remit of the UNCRPD, older people will continue to face barriers in their freedom of movement. This is another reason why the EU should play a leading role in promoting a broad recognition and protection of disability under national law and/or establish a mutual recognition/process system. Otherwise huge discrepancies among Member States will be retained.

²² See Joint EC-SPC report on Long-term care mentioned above.

²³ See EU reply to List of Issues under paragraph 76



Living independently and being included in the community (art. 19)

Reply to the issues raised in paragraphs 22 and 23 of the list of issues

Based on feedback from our members, organisations of older people are not involved in monitoring committees for the use of ESIF. Spelling out a specific obligation to involve organisations of older people alongside DPOs might facilitate their engagement in implementation.

Moreover, it should be noted that the European Commission is currently funding an EU project looking into the rights of older people in care settings²⁴. This project coordinated by the European Network of National Human Rights Institutions (ENNHRI) will consolidate the existing human rights standards for older persons with disabilities who fall in between protection as older persons and as persons with disabilities. As noted above, in the past the EU had also funded EU projects that delivered a *European Charter on the rights and responsibilities of older people in need of long-term care and assistance* and a *European Quality Framework for long-term care services*²⁵. These actions are particularly important in terms of raising awareness and promoting the rights of older people with disabilities.

In addition, as explained above, informal carers take up the bulk of support to older people with disabilities with women aged 50-64 years old making up the so-called sandwich generation, carrying the burden of care both for their grandchildren and dependent ageing parents. The challenges of informal carers are also compounded by the lack of appropriate support and carers' leave provisions as well as by the inadequacy of formal long-term care services for older people. To allow older people with disabilities live in the community the EU should also develop 'carer's leave' provisions both for women and men including the care of relatives such as children, young, people with disabilities and elderly parents while protecting the pension rights and other social rights of informal carers.

As a follow-up to the successful ALCOVE project mentioned in the EU reply, we would like to suggest the EU to undertake a pilot project aiming to support Member States in implementing the right of people with old age-related disabilities to live independently in the community, as part of their obligations under the Convention. This is one of the recommendations resulting from a high level conference organised by the European Commission, the Council of Europe, AGE and ENNHRI in June in Brussels on the rights of older people and the fight against elder abuse²⁶.

Work and employment (art. 27)

Reply to the issues raised in paragraph 31 and 32 of the list of issues

The inclusiveness of labour markets is indeed a primary concern for the European Commission and is very prominent in the country-specific recommendations deriving from the European Semester exercise. Beyond the Europe 2020 Strategy, the new Strategic Framework for Health and Safety at Work 2014-2020

²⁴ <http://www.ennhri.org/older-persons-project.html>

²⁵ <http://www.age-platform.eu/age-projects/health-and-long-term-care/659-daphne>
and <http://wedo.ttp.eu/european-quality-framework-long-term-care-services>

²⁶ <http://www.age-platform.eu/age-work/age-policy-work/dignified-ageing/age-work/2644-15-16-june-2015-high-level-event-on-addressing-the-challenge-of-elder-abuse-in-europe>



identifies the stepping up of prevention as a action area of the EU via its legislative and non-legislative action. The proposal to revise occupational health and safety regulations as part of the 'Better Regulation' exercise has however to be conducted with great caution, as the strength of these regulations are signposts for companies' efforts in the matter. OHS regulations are essential to prevent workers from developing work related disabilities as well as to enable ageing workers to remain at work.

The encouragement to adapt workplaces to workers' disabilities is mainly a national issue and a number of good practices have been developed on national level. The EU could foster a forum where these good practices are exchanged and promoted, rather than just permitted under state aid rules.

Adequate standard of living and social protection (art. 28) and Health (art. 25)

Reply to the issues raised in paragraphs 29, 33 and 34 of the list of issues

As shown above, being denied access to social protection schemes available to younger people with disabilities that compensate for the increased care-related expenses, older people find themselves in a high risk of poverty. As old age pensions are eroded due to austerity²⁷, without adequate compensation for their support needs, older people with disabilities have to choose between paying for long-term care and covering other basic needs, including housing, food and medication. Moreover, an increasing number of services are now partly or entirely at the individual expense of older people; according to the 2015 OSE study²⁸, the remarkable decrease of relative poverty in the case of the elderly population (2009-2013) in Southern European countries '*...may be an incomplete estimate, given that it does not consider the increased costs of health and social care services incurred by elderly people due to the drastic funding cuts and the rolling back of public provision.*'

Ongoing cuts in essential public services impact negatively in particular on those living on minimum income or whose income gets simply eroded due to lack of adequate indexation – they can no longer afford adequate prevention and primary healthcare, with immediate consequences for healthy ageing. For instance, effective withdrawal of the right to free or subsidised medication, means that older people with chronic conditions are being forced to abandon essential treatment regimes, or stop expensive drugs, or rely on the availability of voluntary free drug programmes run by philanthropic organisations, thus negating the achievements of the past 30 years in ensuring that all population groups had access to health care and treatment as a right.

The 2015 Country Specific Recommendations (CSRs) and Ageing Report 2015 omitted to analyse the evolution of the Healthy Life Years indicator²⁹ (HLY), which measures the number of years that a person at birth is still expected to live in a healthy condition. While we live longer, we live longer in poor health and the situation is deteriorating. The HLY indicator for women has decreased by more than one year and by 5

²⁷ For example, pensions both from basic and supplementary pensions have fallen between 14% and 47% (depending on the level of pension) since the beginning of the crisis in 2008. At the same time disability and other benefits for older people with needs for long-term care and support have been reduced

²⁸ Economic crisis and austerity in Southern Europe: threat or opportunity for a sustainable welfare state ?, Maria Petmesidou and Ana Guillén, Nr. 18 / January 2015

²⁹ <http://ec.europa.eu/eurostat/en/web/products-datasets/-/TSDPH100>



months for men (EU average) between 2010 and 2013 with some countries losing even more than 2 years of healthy life expectancy. Yet, in the 2015 CSRs the European Commission calls on EU Member States to “accelerate the benefits of structural reforms”, i.e. pursue their efforts to extend working lives, reform their pension and healthcare systems in order to limit the impact of ageing on public budget and boost economic growth.

While we understand the need to reform social protection systems to make them more efficient and sustainable in the context of demographic ageing, we are concerned that the reforms introduced so far have resulted in significant cuts in fundamental health and social services which show such deterioration on the healthy life expectancy in only 3 years of austerity measures, and we fear the impact this will have on workers’ ability to work for longer and on Europe’s productivity and growth in the future. The focus put on cost savings and reducing public deficits leads to savings in areas considered as non-urgent, such as preventive health and non-emergency care, while the right to health care, under art. 35 of the EU Charter explicitly protects the ‘right of access to preventive health care and the right to benefit from medical treatment’.

The European Semester as a cyclical coordination process of economic policy has an obvious impact on how and to what extent EU and national policies take account of and respect fundamental rights as enshrined in the EU Charter and the UNCRPD. For instance, when referring to income adequacy or access to health and long-term care, the European Commission should closely monitor how far Member States respect the rights of older people with disabilities when they implement the Country Specific Recommendations in the framework of the European Semester process.

Also, when pressing member States to cut in public spending in the social protection or health care sectors to ‘modernise their social protection systems’, the EU should remind them to ensure that the proposed changes will not result in a regression of protection for the most vulnerable. While the European Semester exercise is often presented as the implementation of the commitments of the Europe 2020 Strategy on inclusive employment and poverty reduction, only a minority of member states receive recommendations on poverty reduction, and none has specifically addressed the risk of poverty of persons with disabilities or rising health care costs, which disproportionately affect persons with disabilities and older persons.

For more information

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