

AGE Platform Europe's Submission to the UN call for inputs

General framework, architecture, and guiding principles of a legally binding instrument on the human rights of older persons

AGE Platform Europe

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www.age-platform.eu

AGE Platform Europe's Submission

AGE Platform Europe (AGE) is the largest European network of organisations of and for older persons, bringing together 104 member organisations across the region. AGE holds ECOSOC consultative status.

This contribution reflects the views and expectations of older persons in Europe, grounded in their lived experiences of ageing and informed by relevant regional standards of the European Union and the Council of Europe. It is based on consultations with representatives of our network - most of whom are older persons themselves - organised through four thematic task forces and an ad hoc task force on the UN Convention. It builds on AGE's longstanding positions developed through engagement with the UN Open-Ended Working Group on Ageing.

Our work has identified significant challenges in the equal enjoyment of human rights by older persons driven and reinforced by systemic ageism and the need to address persistent deficiencies, gaps and limitations in the current human rights framework.

AGE aligns with the discussion paper submitted by the Global Alliance for the Rights of Older People (GAROP), of which it is a founding member.

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Question 1: What overarching framework should guide the international legally binding instrument on the human rights of older persons? Additionally, how can it best reflect and reinforce the recognition that older persons are rights-holders entitled to the full and equal enjoyment of all human rights and fundamental freedoms?

The international legally binding instrument (LBI) should be based on a strong human rights framework that recognises older persons as full rights-holders, entitled to enjoy all human rights and fundamental freedoms equally. The instrument should not only reaffirm existing rights but also clarify their application in the context of older age and operationalise them through specific state obligations, monitoring and accountability mechanisms to address real barriers to the full enjoyment of human rights in old age.

In line with the rights-based approach, the process of elaborating the instrument itself must guarantee the meaningful participation of older persons and their representative organisations. This requires the inclusion of representatives of older persons' organisations in drafting committees, expert panels, or working groups, as well as in all relevant formal discussions. The process should allow sufficient time for consultation with older persons at the national and grassroots levels, including timely access to official documents and draft texts, to enable informed and effective contributions to the process. States should support technically and financially the meaningful involvement of older persons in the negotiations and ensure structured and systematic consultations with them in advance of each session of the Intergovernmental Working Group.

The overarching framework of the instrument should focus on "rights" rather than "needs", moving away from medical and charity approaches to ageing and older persons. The LBI must not frame older persons as inherently vulnerable, dependent, passive recipients of care and/or needing protection. Instead, it must recognise older persons as rights-holders and acknowledge that the inequalities and rights violations that they face are the result of various social, environmental, legal and institutional barriers and dynamics that limit the equal enjoyment of human rights and their full participation and inclusion in society.

A key part of this framework should be recognising ageism as a root cause of many human rights violations in older age. The instrument must acknowledge that ageism

exists in laws, policies, social and economic institutions, social attitudes, and increasingly in digital and technological spaces. It should further acknowledge that ageism may itself be rooted in deeper societal perceptions and dynamics, including discomfort with ageing, decline, and mortality. These are influenced by wider socioeconomic, political and technological developments, which can both reinforce and challenge stereotypes and assumptions about ageing and older persons. Addressing ageism therefore requires not only legal and policy change, but also a broader cultural shift in how ageing and older persons are understood, represented, and valued.

The LBI must be grounded in dignity, equality and non-discrimination, autonomy and independence, participation and inclusion. At the same time, it should not lose sight of the lived realities of older age, which may include periods of loss, situations of vulnerability, need for support, and exposure to harm arising from a combination of factors, including, in particular, biased attitudes and perceptions of ageing and older persons.

Therefore, while the LBI must foreground these principles, it should also acknowledge that some individuals or groups may require additional support and safeguards to exercise their rights on an equal basis with others, including in situations of abuse, high support needs, or humanitarian and emergency contexts. These are not conditions to be denied or marginalised, but part of the human condition that must be recognised and addressed, including through measures to protect from harm where necessary. At the same time, the LBI must ensure that such “protection” does not come at the cost of dignity, equality, autonomy, participation and inclusion, but rather enables their realisation in those specific contexts.

The instrument must recognise ageing as a natural biological process and a profoundly human experience. It should promote a positive, realistic and holistic understanding of ageing, capturing the diversity of older persons and of later life experiences and the full complexity of human life.

The LBI should recognise older age as a unique and meaningful phase within the human lifecourse - including distinct processes of transition, loss, evolving capacities and needs, growth, development and death - in which all human rights continue to apply on an equal basis.

At the same time, the LBI should take a life course approach, recognising that ageing is a process and an integral part of human development. It should recognise that human capacities, circumstances and needs evolve over time, without altering the universal and inalienable nature of human rights or the fundamental human needs for connection, relationships, security, recognition, development, meaning and participation. It should ensure that these are effectively realised at all stages of life, including in older age.

Recognising ageing as a lifelong and dynamic process involves measures to support continued development, growth and the opportunity to live a full and meaningful life in older age. This entails rejecting arbitrary age thresholds that undermine the inherent dignity of older persons and the full and equal enjoyment of human rights. The LBI should further acknowledge that inequality accumulates over time and affects individuals differently in older age, depending on factors such as gender, sexual orientation, disability, income or socio-economic status, ethnicity, and place of residence, among others. To effectively address inequalities and violations of rights in older age, it may be necessary to adopt measures and interventions across the life course.

The instrument should not be based on a chronological definition of older age or older persons. It should allow for flexible and inclusive understandings of who is considered an older person, reflecting diverse and context-specific experiences and evolving perceptions of ageing that may give rise to barriers to the full enjoyment and exercise of human rights. This flexible approach should guide interpretation and implementation, ensuring inclusiveness while allowing for appropriate adaptation in specific legal and policy contexts.

Question 2: What core principles should underpin the legally binding instrument, to ensure it effectively protects the rights of older persons? In addition, how can the legally binding instrument both reaffirm existing human rights for older persons and clearly identify and address gaps where further normative development is required?

The legally binding instrument should be grounded in a set of core principles that guide its development, interpretation, monitoring and implementation. These include respect for inherent dignity, equality and non-discrimination, autonomy and independence, and the full and meaningful participation and inclusion of older persons in all their diversity.

Dignity as a core principle requires recognising older persons as rights-holders with equal worth, entitled to equal concern and respect. It entails that none of the rights set out in the LBI may be interpreted or applied in ways that undermine individual dignity or the moral and social status of older persons. It also involves recognizing older persons' roles and potential contributions, affirming their agency and supporting their ability to remain integrated in society.

Approaches based on dignity must avoid stereotypical or age-based generalizations. Attributing characteristics such as diminished ability, contribution or value on the basis of age constitutes a breach of dignity and can perpetuate ageist treatment. This principle further requires that economic considerations do not prevail over human dignity, and that States remove systemic barriers – physical, economic, digital and social – while ensuring that individuals are supported, accompanied and recognised as their needs, desires, and capacities evolve.

Equality and non-discrimination require respect for difference and acceptance of ageing as part of the human experience. They ensure that older persons, in all their diversity, can fully participate in society and enjoy all human rights on an equal basis with others. As guiding principles, they entail addressing structural barriers to the equal enjoyment of rights, including ageist norms, and explicitly prohibiting ageism and age discrimination in all their forms, including systemic, institutional, intersectional and emerging types, such as algorithmic discrimination. It also requires promoting substantive and transformative equality, to ensure that older persons can effectively enjoy their rights in practice, including through positive measures to achieve equality of opportunity and prevent undignified treatment and marginalisation in older

age. This includes ensuring accessibility and reasonable accommodation as enforceable rights, and recognising the cumulative and intersectional nature of discrimination, as well as the need to respect gender equality.

Autonomy and independence recognise older persons' agency and require respect for their wills and preferences. They involve the right of older persons to exercise control and to make decisions about their lives on an equal basis with others, with appropriate support where needed. These principles require that policies and systems enhance, rather than undermine, individual agency and dignity, and are integral to the paradigm shift towards a rights-based approach to ageing.

Autonomy and independence as core principles do not imply that older persons do not experience decision-making challenges. Rather, they affirm that older persons must be enabled to exercise choice and control over their lives. This includes overcoming ageist stereotypes around capacity in old age, guaranteeing opportunities for continued development and participation, sustaining relationships and ensuring continuity of support where needed.

Participation and inclusion require that older persons are fully and effectively involved in all aspects of society. They entail approaches that prioritise social integration and foster belonging, connection, and intergenerational relations, rather than marginalisation and social isolation. Recognising older persons as rights holders enables their meaningful participation in public affairs and the exercise of their rights. States have an obligation to ensure the effective involvement of older persons, through their representative organisations, in the development and implementation of laws and policies and in other decision-making processes, including through co-design, co-decision, and other forms of genuine and meaningful consultation. This also requires ensuring accessible information, training, and support, as well as addressing structural barriers and inequalities that hinder the full and effective participation and inclusion of older persons in all their diversity.

In terms of content, the LBI should reaffirm that all human rights apply equally to older persons, while strengthening protection where necessary. It should restate existing rights and provide guidance on their interpretation and application in the context of older age, ensuring their effective enjoyment in practice through the articulation of clear and specific State obligations.

At the same time, the LBI should provide greater specificity and normative development in areas where protections are insufficient or underdeveloped. This includes addressing both longstanding and emerging challenges, and ensuring that the human rights of older persons are effectively protected in evolving social, economic, technological, and demographic (e.g. rural depopulation) contexts.

As an illustration of how the LBI could expand the scope and clarity of the existing framework through more tailored standards, the following non-exhaustive examples highlight a small number of selected areas where further normative development is needed.

First, the LBI should clarify the *right to equality and non-discrimination* as it applies to older persons. This should include an explicit obligation to prohibit and eliminate age discrimination and ageism in all its forms, including interpersonal, as well as systemic, institutional, and structural manifestations, and to address harmful ageist norms and practices.

This right should apply across all areas of life and encompass existing and emerging forms of discrimination. Protection should not be based solely on chronological criteria as perceptions and assumptions of older age can drive discriminatory attitudes and treatment. It should reflect principles of formal, substantive, and transformative equality, including the adoption of measures necessary to address the adverse effects of ageism, which contribute to exclusion, marginalisation, abuse, and neglect.

The realisation of this right should entail specific State obligations, including raising awareness of ageism and age discrimination; monitoring and assessing the impact of laws and policies, including through the systematic collection, analysis, and use of age-disaggregated data, and abolishing discriminatory laws, policies, and practices. States should also review age limits and exceptions to ensure that age-based distinctions do not undermine the full and equal enjoyment of human rights.

Legal frameworks should extend the duty of reasonable accommodation to age discrimination, provide protection against multiple and intersecting discrimination, and establish or designate effective monitoring mechanisms, such as national equality bodies with a comprehensive mandate on age discrimination. Particular attention should be paid to ensuring that older persons in all their diversity are not

excluded or disadvantaged, especially those belonging to marginalised groups or minorities in vulnerable situations.

Likewise, the legally binding instrument has the potential to advance and clarify the implementation of the *rights to work and social security* in the context of longer lives, responding to the specific barriers and inequalities faced by older persons. In doing so, it should build on and further develop existing standards, including where necessary through the articulation of specific positive State obligations.

The LBI could, for example, address structural issues such as forced retirement, age-related barriers to access to training and lifelong learning, and the situation of long-term unemployed older workers who have difficulties re-entering the labour market. It should also set out pathways for strengthening and expanding social security systems, including social protection floors, to ensure coverage for older persons who are currently excluded. In this way, the instrument would contribute to a fundamental transformation that recognizes and supports older people's agency, contributions and their full and effective participation and inclusion in society.

The LBI could also develop new concepts and definitions that advance existing standards. For example, a comprehensive definition of '*elder abuse'* could broaden the scope of protection from inhuman and degrading treatment to cover all forms of abuse, violence, and neglect in old age. This would include conduct that is intentional or unintentional, interpersonal or systemic and institutional in nature, across all settings, whether public or private, including at home and in residential care environments.

In addition, the instrument could articulate emerging rights or concepts, such as the *right to digital inclusion* and the *right to care and support* moving away from traditional or medicalised notions, thereby further strengthening the protection and dynamic realisation of the human rights of older persons in evolving contexts.

Overall, the instrument must not undermine existing human rights standards or introduce derogations or exceptions that would weaken the equal protection and enjoyment of human rights in older age.

Question 3: What overall structure or architecture should the legally binding instrument adopt to ensure clarity and effectiveness? For example, should it include a preamble, definitions, general principles, general obligations, specific rights, and implementation provisions?

The LBI should adopt a clear and comprehensive structure that ensures accessibility, coherence and effectiveness drawing on the structure of existing UN human rights treaties.

It should begin with a preamble that sets out the rationale for the treaty, including the historical and ongoing discrimination and exclusion experienced by older persons and the impact of ageism on individuals and society. It should refer to the implications of demographic change, while avoiding framing it merely as a problem or challenge, but rather focusing on the opportunities of longer lives and the importance for the human rights framework to reflect this changing reality and guaranteeing human rights equally at all stages of life. The preamble should also recognize the important roles that older people and their representative organisations play in their communities and in the promotion and monitoring of human rights.

The preamble should further articulate the overarching vision of the instrument and its role in strengthening the international human rights framework. A core focus should be on rendering older persons more visible in the human rights system, clarifying how universal rights should be secured to overcome structural barriers, which impact the full enjoyment of rights and how to develop systems of support to exercise rights in older age. The LBI should also ensure a sustained focus and increased expertise in ageing within the human rights system. In this way, it can help better mainstream older people's rights within the existing mechanisms and to better address intersecting forms of inequalities.

This should be followed by provisions on purpose, scope, concepts and definitions, including a flexible and inclusive understanding of "older persons" that reflects the diversity of ageing experiences. This definition should serve as a basis for identifying and addressing barriers to the full enjoyment of human rights and allow for context-specific application. It should not be based on a strictly

chronological understanding and may draw inspiration from the 2014 Council of Europe Recommendation[1], which adopts a social construction approach to defining older age. The definition could also further reflect the importance of older persons' continued development alongside their full and effective participation in society.

The LBI should then set out general principles that underpin the entire treaty and guide its interpretation alongside the lines described in the previous answer. These should be accompanied by general obligations of States Parties to respect, protect and fulfil the rights contained within the instrument. Such obligations should include reviewing and adopting legislative and policy measures, eliminating discrimination, ensuring access to justice, promoting awareness, collecting and analysing disaggregated data, and ensuring the full and effective participation of older persons in decision-making processes and the design of policies that affect their rights through their representative organisations.

In a context where ageism contributes to the normalisation of inequalities and human rights violations in older age, the full enjoyment of human rights in older age requires a broader cultural and societal shift in how ageing and older persons are perceived. The LBI should therefore also include general State obligations aiming to strengthen the recognition of older persons as rights-holders and valued members of society, promote a culture of mutual respect and intergenerational solidarity and to empower older persons to know and exercise their rights.

The main body of the instrument should set out rights covering the full range of human rights, while also making clear how they apply to the realities and experiences of older persons. This includes areas where further normative development is required, such as care and support, including palliative care, protection from violence, abuse and neglect, work, economic security and social protection, education and lifelong learning, digital inclusion and access to new technologies, including artificial intelligence, as well as the impact of climate change, disasters and humanitarian emergencies on older persons[2].

[1] Older people are defined in this Recommendations as '*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*.'
[2] This non-exhaustive list reflects areas where gaps have been consistently identified in the work of UN bodies, civil society organisations, and other stakeholders.

Finally, the instrument should include strong provisions on implementation, monitoring, enforcement and accountability at both national and international levels. This should include effective data collection, reporting, and independent oversight at the international level, as well as the establishment or designation of independent and adequately resourced national bodies responsible for the promotion, protection and monitoring of the rights of older persons. It should also ensure access to remedy, including through individual complaints and collective redress mechanisms[3]. The LBI must also provide for a meaningful role for organisations of older persons in monitoring and implementation of the LBI, drawing on article 33 of the UN Convention on the Rights of Persons with Disabilities.

In addition, awareness-raising and human rights education are integral to monitoring, enforcement and accountability. Attention must therefore be paid to building capacity to use the LBI and to empowering older persons to be aware of their rights and to exercise them fully in all aspects of life. Human rights indicators and general comments or recommendations can further clarify the scope of obligations under the LBI and support their dynamic interpretation in evolving contexts.

Overall, the structure should be clear, practical and strong enough to ensure the rights in the instrument are realised in practice.

Conclusion

The drafting of a dedicated legally binding instrument offers a unique and timely opportunity to do much more than restate existing human rights standards. It can fundamentally transform how rights are understood and realised in older age. By placing dignity, equality and non-discrimination, autonomy and independence, and participation and inclusion at its core, the LBI has the potential to challenge ageist norms, perceptions, attitudes and practices that devalue individuals on the basis of their (actual or perceived) old age and undermine the equal enjoyment of human rights.

It can do so by defining in concrete terms the policy changes, the kinds of support and enabling conditions that are necessary so that universal rights can be equally enjoyed in old age. In this way, it will not only strengthen accountability, but also make it

[3] Drawing on examples such as the collective complaints system under the Revised European Social Charter.

significantly more difficult to ignore, minimise or normalise discrimination, marginalization, neglect and abuse and other rights violations affecting older people.

At the same time, the LBI would empower older persons themselves, reinforcing their ability to claim their rights, participate meaningfully in public life, and shape the decisions that affect them. It would contribute to greater awareness of their rights and help make existing human rights frameworks more effective and coherent in addressing the reality of living longer lives and intersecting forms of inequality. In doing so, it can mark a decisive step towards a more inclusive, equal and rights-based society for all ages.

About AGE Platform Europe

AGE Platform Europe is the largest European network of non-profit organizations of and for older people. We elevate older people's voice, bringing their experience and aspirations to the table to celebrate ageing and fight for equality at all ages.

Contact

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Additional resources

- Global Alliance for the Rights of Older People (GAROP) paper on conceptual basis of convention

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