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Brussels, 22 February 2017

## Victims' rights: let's not forget the victims of elder abuse!

### AGE Platform Europe views on the protection of older persons who have suffered abuse

On the occasion of the 2017 European Day for Victims of Crime, AGE takes the opportunity to call for a wide and comprehensive implementation of the rights and guarantees introduced by the 2012 European Union Directive on Victims' Rights. This legal instrument ensures a level-playing field for the protection of victims of crime in European Union countries, and shows that European action can contribute to the wellbeing and protection of citizens.

We observe nevertheless that many efforts are still needed to make this Directive relevant to victims of elder abuse.

Elder abuse is not a minor or anecdotal phenomenon, but a widespread violation of the human rights and dignity of older persons, especially those in situations of dependency and with care needs. Persistent ageist attitudes, demographic ageing and increasing financial pressures on care systems are very likely to make elder abuse even more prevalent in the near future in Europe.

Given the very high levels of underreporting, there is an urgency to ensure that victim protection mechanisms can become more effective and reflect the realities faced by older persons who are victims of violence, abuse and exploitation.

The implementation of the 2012 Directive provides an excellent opportunity in that regard. The obligation to offer tailored information about the available protective mechanisms, taking into account the situational vulnerabilities of victims and their particular needs, involves making sure all relevant actors are aware of the specificities of elder abuse.

To achieve this goal, AGE commits to continue to raise awareness of elder abuse at European level and develop new forms of cooperation with victims' organisations.

### Elder abuse, a widespread societal challenge

Elder abuse is "a single or repeated act or lack of appropriate action which causes harm or distress to an older person or violates their human and civil rights"<sup>1</sup>. Elder abuse "may include physical abuse, psychological abuse, sexual abuse, financial exploitation and neglect. Elder abuse happens everywhere, including at home within the family, at home with

<sup>1</sup> [Protecting our future](#), report of the Working Group on Elder Abuse, September 2002



services, or in care [settings]. It can be intentional or unintentional ('bad care')"<sup>2</sup>.

Elder abuse remains a hidden reality despite the worrying levels of prevalence across Europe. According to WHO, about 3% of older persons in Europe suffer maltreatment in the community, and this can affect up to 25% of older persons with high care needs<sup>3</sup>. One study about the situation in seven European countries found out a prevalence of 19.4% for mental abuse, 2.7% for physical abuse, 0.7% for sexual abuse, 3.8% for financial abuse and 0.7% for injury<sup>4</sup>. Worldwide, estimations indicate that 1 in 10 older people suffer abuse every month<sup>5</sup>.

The consequences of elder abuse are dramatic and long-lasting. Older persons suffering abuse experience a decline in physical and mental capacities, and can develop feelings of rejection and exclusion. In the most serious cases, abuse and maltreatment can also lead to death. According to WHO, among the 8500 annual homicides of older persons in Europe, about one third (2500) are the result of elder maltreatment<sup>6</sup>. Scientific evidence confirms that elder maltreatment is associated with increased mortality<sup>7</sup>.

The causes of elder abuse are diverse. AGE has consistently highlighted the prevalence of ageist attitudes<sup>8</sup> across Europe as one of the underlying factors that explain the prevalence of elder abuse<sup>9</sup>. The portrayal of older persons as a "burden" on society and as inevitably frail and less deserving of consideration undermines older persons' dignity and has an impact on the way they are treated, notably when they require long-term health and social care. Abuse and maltreatment are the ultimate and most harmful expressions within a continuum of societal ageism<sup>10</sup> that violate the human rights of older persons.

In addition, other types of discrimination interact with ageism and put some older persons at an even higher risk: older people living with dementia, older women, older migrants, older

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<sup>2</sup> [European Quality Framework for long-term care services](#), WeDO project, 2012

<sup>3</sup> [European report on preventing elder maltreatment](#), Regional Office for Europe of the World Health Organization (WHO), 2011

<sup>4</sup> [Abuse and health among elderly in Europe](#), ABUEL project, 2010; the study covered Germany, Greece, Italy, Lithuania, Portugal, Spain and Sweden

<sup>5</sup> [Fact sheet on elder abuse](#) in the Media centre of the World Health Organization

<sup>6</sup> [European report on preventing elder maltreatment](#), Regional Office for Europe of the World Health Organization (WHO), 2011

<sup>7</sup> Lachs, M. S. et al.: "[The Mortality of Elder Maltreatment](#)", in *Journal of the American Medical Association*, 1998

<sup>8</sup> As [defined by Age UK](#), "ageism is discrimination or unfair treatment based on a person's age".

<sup>9</sup> See [AGE Platform Europe Position on Structural Ageism](#), 2016

<sup>10</sup> As stated in the aforementioned AGE Platform Europe position, structural ageism is "a form of *systematic* stereotyping and can be defined as the way in which society and its institutions sustain ageist attitudes, actions or language in laws, policies, practices or culture. It can be encountered in the legal system, the media, health care provision and the economy, among many other areas. It takes the form of upper age limits, the inadequate provision of services for the needs of older people, the failure to take situations, experiences or aspirations of individuals into account when making decisions or allocating resources, or the segregation of people in later life due to a lack of real choice to remain active in their communities".

LGBTI individuals and older people with disabilities, among others, are at higher risk of being victims of abuse.

Such pervasive attitudes and demographic ageing are likely to increase the prevalence of elder abuse in the future, in particular if there are insufficient or inadequate services to provide for the care needs of those in need of assistance and support.

### **An insufficient political commitment**

On a political level, AGE Platform Europe's member organisations report an overall lack of action across European countries to address elder abuse and protect victims. References to elder abuse do sometimes appear in government programmes to address demographic change and promote active and healthy ageing, and there have been a number of publicly funded media campaigns aiming to raise awareness. Some other initiatives include the creation of wide alliances of stakeholders, such as [the one launched by the Dutch government in 2015](#). However, overall across Europe there is a serious lack of specific and comprehensive policies and actions to prevent and address elder abuse, and thus to protect victims.

In fact, despite frequent media reports, this societal challenge remains largely absent from public debates. There is a lack of precise data on forms and prevalence of elder abuse, particularly in residential care settings, which is seen as one of the key obstacles in making this issue visible in the agendas of governments and political parties. Available data on violence and abuse – for instance violence against women – often includes age limits or excludes older people living in care settings, offering therefore a skewed image. Even though European societies are aware of the problem and there is a general perception that elder abuse is widespread, it is actually estimated that about 80% of cases of elder abuse are never reported<sup>11</sup>.

Moreover, the attempts to tackle elder abuse appear to be in conflict with the financial cuts implemented in health and long-term care systems across Europe in recent periods of austerity: it is clear that underinvestment in services and the overburdening of staff results in worse care and a higher prevalence of neglect and abuse. In a visit to Portugal in 2012, the Commissioner for Human Rights of the Council of Europe described how austerity was putting older persons at a higher risk of suffering abuse and maltreatment<sup>12</sup>. The unavailability of affordable, quality care services – either at home or in residential settings –,

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<sup>11</sup> [A Global Response to Elder Abuse and Neglect: Building Primary Health Care Capacity to Deal with the Problem Worldwide: Main Report](#), WHO, 2008

<sup>12</sup> [Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Portugal from 7 to 9 May 2012](#), Council of Europe, 2012



notably for those older persons in most vulnerable situations and/or with high support needs, often results in forced withdrawal from residential care to home and increases the burden on informal carers, which leads to situations of abuse and maltreatment in the family environment.

### **Protecting victims: the need to understand the specificities of elder abuse**

There is an urgent need to challenge ageist attitudes in order to prevent elder abuse. Supporting informal carers through respite facilities, trainings and flexible working arrangements, including provisions for carer's leave, but also by investing in quality and affordable care services to improve accessibility are key solutions. Last but not least, raising awareness in the general public and training care professionals are also important actions in order to prevent elder abuse.

#### ***The European Charter and the European Quality Framework***

AGE Platform Europe have coordinated European initiatives that delivered both a [European Charter of 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](#). These voluntary documents list the rights of older persons in need of care as well as the principles that need to guide the provision of quality care and dignified treatment in order to respect those rights. They show the need to enforce the human rights and dignity of older persons who are dependent on others for their care and support, and how to do so, as a basic step towards safeguarding wellbeing and preventing abuse. Additionally, the [AGE Toolkit on the Dignity and Wellbeing of older persons in need of care](#) explains the available international and European legal and policy frameworks, and how both the Charter and the Quality Framework can guide the implementation of a rights-based approach to care, both in policy and within daily practice.

Together with preventative actions, it is also necessary to ensure that older persons who have already suffered abuse can seek protection and have the opportunity to rehabilitate and avoid further episodes of abuse – the risk of revictimisation.

The estimated 80% of underreporting is a major obstacle in this regard. The potential for physical and/or psychological vulnerability of older persons suffering abuse, and especially those older people living with dementia, explains to a great extent such high level of underreporting. Victims are very often isolated and dependent on those committing abuse – who are frequently their own relatives and carers – and may not have the autonomy needed to report and seek protection. Additionally, a lack of awareness of available protection mechanisms and/or the distrust of their ability to offer support and protection prevents

both victims and those who witness or suspect abuse from accessing such services. A study conducted in 6 European countries concluded that 56.2% of older women who had suffered abuse decided not to report because they thought that no one “would be able to do anything”<sup>13</sup>. To this distrust add feelings of resignation and powerlessness of victims, whose perception of their own rights and dignity may be diminished as a consequence of societal ageism. The same study found out that 71.8% of older women who did not report abuse argued that they “thought the incident was too trivial”; 21.8% mentioned that they were “ashamed or had feelings of guilt” to explain their decision not to report and 20.5% thought that “no one would believe” them<sup>14</sup>.

Whereas it is estimated that most cases of elder abuse take place at home and in the family context, cases of abuse also take place in long-term care facilities – hospitals, residential and day care services and nursing homes. The involvement of several staff members in the care of an older person might mean that abuse can potentially be reported and addressed more easily than behind closed doors at home. However, care staff are often not well trained to identify and report abuse, and might fear the consequences of reporting on their careers and the relationships with their colleagues. Moreover, control and accreditation mechanisms do not always reach all care facilities or are necessarily in the position of identifying situations of abuse. AGE members report that in Greece, for instance, the unaffordability and unavailability of accredited care homes has given rise to illegal structures, which fall outside the scope of state control, where the human rights of older persons can be jeopardised.

### **Support, mediation and prosecution**

Several governmental and non-governmental organisations across Europe have set up helpline services – such as [Telefono Anziani Maltrattati](#) or [Filo d’argento](#), in Italy; [Respect Seniors](#) in Belgium; [Life Line](#) in Greece; or the phone assistance offered by [Fórum pre pomoc starším](#) in Slovakia, for instance – that victims of elder abuse and witnesses can use to talk about the situation and seek assistance. Such services can offer valuable help and support, such as advising about the victim support services available and legal rights, and may sometimes also organise visits to the victim’s place of living or offer mediation between the victim and the offender. Such mediation, especially when abuse takes place in the family context, can deliver positive results. This provides both sides the opportunity to express themselves: older persons often do not find the space to express their views and feelings, and offenders are not always aware that their behaviour qualifies as abuse (delivering care in an aggressive way or making abusive use of the financial resources of the older person, for instance). In many cases, offenders are aware of the undignified way in which they are

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<sup>13</sup> [Prevalence Study of Abuse and Violence against Older Women](#), European report, DAPHNE programme

<sup>14</sup> Idem

treating an older person but might experience feelings of guilt and be open to revise their behaviour.

It is important not to neglect those 'grey zones' of elder abuse, meaning situations where abuse is involuntary or the result of the lack of awareness of how to respect the rights and dignity of older persons, the overburden and/or the lack of support. Although access to criminal justice provision and prosecuting offenders might be appropriate for some situations, this may not be a suitable solution for all cases of elder abuse; ensuring access to adequate services, including mediation, training carers, providing respite care to informal carers or offering an alternative care option, including affordable professional care at home or in residential settings, can be effective policy measures in many cases. Such options require adequate funding and promotion, and need to be accessible for individuals.

Nevertheless, mediation may not be possible or work in all situations, and the need for such provision should be carefully assessed on an individual case basis. In this sense, it is important to highlight that, whatever the frequency, the intensity and the type of abuse, victims of elder abuse need to be able to exercise the right to seek protection, including the right to be recognised as victims, receive support from relevant services – including services for victims – and make an official complaint. The specific characteristics of elder abuse situations need to be fully taken into account in order to facilitate access to the protection and legal rights that older people are entitled to: this includes such factors as potential relations of dependence on the offender and subsequent reluctance and fear to report, the physical and psychological state of the victim, the lack of awareness of legal procedures and rights, etc.

Currently, very few cases of elder abuse reach the judicial system: once a report is made to the police, only a very limited number of prosecutions take place. Police do not always take seriously reports of elder abuse and the needs of victims, especially when these happen in the home environment. This is especially true for cases of intimate partner violence where either the offender or the victim lives with dementia or other cognitive impairments: there is evidence suggesting that the police do not act with the same level of commitment and the same degree of respect as with people that have their full cognitive functions<sup>15</sup>.

Victim support services across European Union countries need to play a key role in bridging the existing gap by reaching out to victims and ensuring they are aware of the available possibilities for protection through mediation mechanisms, supportive services and prosecution. Given the continuing invisibility of victims of elder abuse, such victim services, either official public services or those offered by associations, are frequently unaware of the prevalence and characteristics of this form of abuse and the special needs of the victims.

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<sup>15</sup> Evidence from [Intimate Partner Violence and Older Women \(IPVoW\)](#) and [Mind the Gap: improving intervention in intimate partner violence against older women](#), European research projects funded under the [DAPHNE programme](#).

This has a negative impact on both the exercise of available rights by victims of elder abuse, and the realisation of the ultimate goal of protection services of protecting all victims regardless of the crime. Further work between all stakeholders, notably organisations advocating for the rights of older persons and victim support services, is crucial in order to overcome the existing barriers.

### **European Union Directive on Victims' Rights: an opportunity to reach out to victims of elder abuse**

The 2012 European Union Directive on the rights of victims of crime<sup>16</sup> is an important step towards ensuring that all European Union countries enforce essential standards on the rights, support and protection of victims in their national legislations. The deadline to transpose the Directive into national legislation in each of the 28 European Union countries was 16 November 2015; however, there is still a long way to go in order to ensure that its provisions are implemented effectively. Upon full implementation, the Directive will guarantee that, whatever the European Union country where the crime takes place, victims will be granted the same minimum rights.

The provisions of the Directive develop five essential needs of all victims: being recognised, being treated with respect and dignity, receiving support and protection, accessing the justice system and having the right to compensation and restoration. The Directive defines several rights, structured around three main chapters: provision of information and support, participation in criminal proceedings and the protection of victims, and recognition of victims with specific protection needs.

There is no mention of elder abuse as such within the Directive. However, the ban on any forms of discrimination in access to rights and protection is enshrined throughout the text of the Directive, including age discrimination. There are other references that are particularly relevant to elder abuse where the offenders are relatives:

“Where violence is committed in a close relationship, it is committed by a person who is a current or former spouse, or partner or other family member of the victim, whether or not the offender shares or has shared the same household with the victim. Such violence could cover physical, sexual, psychological or economic violence and could result in physical, mental or emotional harm or economic loss. Violence in close relationships is a serious and often hidden social problem which could cause systematic psychological and physical trauma with severe consequences because the offender is a person whom the victim should be able to trust. Victims of violence in close relationships may therefore be in need of special

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<sup>16</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, which can be consulted in all official European Union languages [here](#).

protection measures. Women are affected disproportionately by this type of violence and the situation can be worse if the woman is dependent on the offender economically, socially or as regards her right to residence.”<sup>17</sup>

In practice, this means that European Union countries need to ensure that victims of elder abuse that is committed within a close relationship also enjoy the special protection measures foreseen by the directive. It is important though to make sure that the definition of such ‘close relationship’ includes also persons who are not relatives but may still provide care informally (friends or neighbours).

The need to reach out to all victims and inform individuals about available rights and protection measures, including the possibility to initiate criminal proceedings and the way such proceedings take place, is at the heart of the Directive. Given the specific situations of vulnerability of victims of elder abuse, many of whom live with dementia, this is especially relevant. The Directive states that:

“[...] Member States should ensure that victims with disabilities are able to benefit fully from the rights set out in this Directive, on an equal basis with others [...]”<sup>18</sup>

Later on, it adds that:

“Information, and advice provided by competent authorities, victim support services [...] should, as far as possible, be given by means of a range of media and in a manner which can be understood by the victim. Such information and advice should be provided in simple and accessible language. It should also be ensured that the victim can be understood during proceedings. In this respect, the victim's knowledge of the language used to provide information, age, maturity, intellectual and emotional capacity, literacy and any mental or physical impairment should be taken into account. Particular account should be taken of difficulties in understanding or communicating which may be due to a disability of some kind, such as hearing or speech impediments. Equally, limitations on a victim's ability to communicate information should be taken into account during criminal proceedings.”<sup>19</sup>

Such provisions can be interpreted as a mandate for competent authorities and victim support services to also reach out to victims of elder abuse and offer available protection regardless of individuals’ physical and mental health status and/or any other personal conditions. This requires training practitioners – police, court staff and any other professional providing victim support –, which the Directive contemplates in a separate article (25). Trainings should “enable the practitioner to recognise victims and to treat them in a respectful, professional and non-discriminatory manner”.

It is important to highlight that support services need to offer help to all victims, regardless

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<sup>17</sup> *Idem*, recital 18, page 3 (L 315/59)

<sup>18</sup> *Idem*, recital 15, page 2 (L 315/58)

<sup>19</sup> *Idem*, recital 21, page 3 (L 315/59)



of whether the crime is reported to the police and actual criminal proceedings take place. This is especially important, as making a complaint needs to remain the choice of the victim – as long as they are competent and have the capacity to make that decision themselves. Moreover, and as mentioned earlier, mediation mechanisms might prove useful in many situations.

### ***AGE recommendations***

Considering the still insufficient action to tackle elder abuse and in view of the challenges ahead, AGE recommends to the European Union:

- Supporting initiatives to raise awareness of elder abuse in the implementation of the 2012 Directive and related training. Such initiatives should bring together older persons and their organisations as well as all actors involved in the protection of victims and the implementation of the Directive. They should contribute to raising awareness of the Directive among organisations of older persons.
- Working with Member States to improve the monitoring of the incidence of elder abuse and the availability of data; common methodologies to collect data could be explored, for instance through a specific peer review within the Open Method of Coordination or the work of the Indicators' Sub-Group of the Social Protection Committee (SPC).
- Mainstreaming a rights-based approach to ageing in all policy processes, legislative proposals and Impact Assessments; this includes monitoring of the impact of cuts in health and long-term care services on quality and accessibility of care and prevalence of elder abuse.
- Adopting a European Directive on carer's leave promoting the work-life balance of workers, which can help relieve some of the (over)burden of informal carers and thus reduce the risk of elder abuse.
- Engaging in a constructive discussion around a new UN convention on the rights of older people and its added value in tackling structural ageism, including combatting elder abuse.
- Ratifying the [Istanbul Convention](#) to end violence against women and girls.

### ***AGE actions in 2017***

There is a need to bring together victim support organisations and stakeholders working to advance the rights of older persons – researchers, non-governmental organisations, policymakers, care professionals and legislators. Such cooperation is critical in ensuring that

available rights and protection mechanisms are also accessible for victims of elder abuse across Europe. The implementation of the 2012 Directive offers an excellent opportunity to explore new ways to reach victims of elder abuse, by sharing information on the specificities of this form of violence and reflecting on the most relevant and effective practices.

With this aim, during 2017 and beyond, AGE will:

- Bring together all relevant stakeholders, starting with a **workshop on the protection of victims of elder abuse**. This should gather older people's organisations, researchers, policymakers and victim support organisations in order to share knowledge about elder abuse and explore how the 2012 EU Directive can contribute to protecting victims. The findings of the workshop will help deliver concrete guidance and recommendations.
- Devote a session to elder abuse during the 2017 AGE Annual Conference, 9 June.
- Draw attention to the importance of prevention, by promoting both the [European Charter of the rights and responsibilities of older people in need of long-term care](#) and the [European Quality Framework for long-term care services](#).
- Contribute to the deliberations of the [United Nations Open-Ended Working Group on Ageing](#), which in its next session in 2017 will explore protection gaps and elements that could be included in a new instrument in the areas of non-discrimination and equality and elder abuse, violence and neglect.
- Include elder abuse in our new online tool to monitor the implementation of the [Madrid International Plan of Action on Aging](#) (MIPAA), which will be available during the course of 2017.
- Further explore the link between ageism and elder abuse in the follow-up of the global campaign of the World Health Organization to combat ageism.
- Maintain a high level of cooperation at European level with [Victim Support Europe](#), the leading network of victim support services across Europe; explore opportunities for cooperation between AGE's and Victim Support Europe's members at the national level.
- Explore further cooperation with ENNHRI ([European Network of National Human Rights Institutions](#)) to ensure the follow-up of their project on [The Human Rights of Older Persons and Long-term Care](#).

**For more information you may wish to consult:**

- [The joint statement of several European NGOs to mark the 2015 European Day for Victims of Crime, including AGE's specific statement around elder abuse](#)

- [AGE's position paper on structural ageism](#)
- [The website of the WeDO partnership](#), which developed the European Quality Framework for long-term care services
- [AGE's contribution around elder abuse to the discussions of the United Nations Open-ended Working Group on Ageing, 2012](#)

➤ **For more information, you may contact Borja Arrue Astrain, AGE Project and Policy Officer responsible for long-term care and elder abuse, [borja.arrue@age-platform.eu](mailto:borja.arrue@age-platform.eu)**



AGE work is co-funded by the **Rights, Equality and Citizenship 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.