



Doc. 16091

08 January 2025

Overcoming age-based discrimination against older persons

Report¹

Committee on Equality and Non-Discrimination

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Summary

Ageism against older persons is pervasive in our societies. It minimises their contribution to society while focusing on the high cost of ageing populations, rather than treating them as rights holders. Ageism includes stereotypes, prejudices and discrimination against older persons, it can take many forms and has an impact on all areas of life, including access to financial services, healthcare and other public services.

A paradigm change is needed to overcome ageism suffered by older persons in the member States of the Council of Europe, including age-based discrimination. Strategies and action plans need to be developed, based on the human rights of older women and men in all their diversity, taking into account their specific needs and circumstances, and always with their active participation and involvement.

The report calls for a human rights-based approach to combat ageism against older persons to guarantee equality, dignity, autonomy and participation at all stages of life. It also calls for equality and anti-discrimination laws and policies to address structural, multiple and intersectional discrimination against older persons in all areas. Measures to prevent ageism and combat stereotypes against older persons need to be taken, through education, information and awareness-raising activities, including opportunities for intergenerational solidarity and partnerships to connect younger and older generations, for the benefit of all.

1. Reference to committee: [Doc. 15735](#), Reference 4736 of 26 May 2023.



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A. Draft resolution²

1. Human rights should not be denied or reduced with age. As established in international human rights treaties, they are universal and must therefore apply equally to everyone. Older persons should have the rights, resources and facilities allowing them to remain full members of society, on the basis of the principles of autonomy, equality, independence, participation and respect for every person's dignity.
2. Ageism – defined as stereotypes, prejudice and discriminatory practices on the basis of age – reinforces the perception that inequalities and discrimination against older persons are natural or inevitable, which is not the case. Older persons have to face a discourse drawing attention to the consequences of a demographic shift towards an older population, the growing “burden” they represent, and the “high cost” of ensuring their equality of human rights.
3. Age-based discrimination is as harmful as any other form of discrimination. Older persons experience age-based discrimination in all areas of life, especially in the workplace, and in access to services, education, and healthcare.
4. A less protective legal framework on and in response to age-based discrimination, in comparison with other grounds for discrimination, is not justified and should be remedied. Alongside robust legislation prohibiting discrimination on grounds of age in all areas of life, a wide range of measures should be put in place to combat ageism in society.
5. Older persons are not a homogeneous group, and it is important to apply an intersectional approach to prevent and combat the ageism and the discrimination they encounter.
6. The negative narrative around age and ageing in society needs to be challenged and changed in order to counter age-based stereotypes, prejudice and discrimination. Ageism as a socially acceptable phenomenon should be challenged through a range of channels, including awareness-raising measures, improved legislation and policies, education, intergenerational interventions, and research and data collection on its manifestations and effects, including an analysis of intersectional discrimination affecting older persons (for instance migrants, LGBTI persons, women, persons with disabilities, persons with ethnic minority background, etc.).
7. The Parliamentary Assembly underlines the need to meet target 10.2 of the United Nations Sustainable Development Goals (SDGs), which aims to empower and promote the social, economic and political inclusion of all, “irrespective of age” and other characteristics, by 2030. In addition to SDG 10 (reduce inequalities), other SDGs are relevant for older persons: SDG 3 (ensure healthy lives and promote well-being for all at all ages), SDG 1 (end poverty), SDG 5 (achieve gender equality) and SDG 8 (promote decent work for all).
8. The Assembly welcomes the Pact for the Future, adopted by the United Nations General Assembly in September 2024, and its call to promote intergenerational solidarity, dialogue and engagement, including with and among children, youth and older persons, in policy and decision-making processes.
9. The Assembly refers to Recommendation CM/Rec(2014)2 of the Committee of Ministers to member States on the promotion of human rights of older persons and a 2019 report on its implementation which recommended further efforts to tackle age-based discrimination.
10. The Assembly furthermore refers to its [Resolution 2168 \(2017\)](#) and [Recommendation 2104 \(2017\)](#) “Human rights of older persons and their comprehensive care”; [Resolution 2510 \(2023\)](#) “Closing the digital divide: promoting equal access to digital technologies”; [Resolution 1793 \(2011\)](#) “Promoting active ageing – capitalising on older people’s working potential”; and [Recommendation 1796 \(2007\)](#) “The situation of elderly persons in Europe”. It also refers to attention to [Resolution 504 \(2024\)](#) and [Recommendation 517 \(2024\)](#) of the Congress of Local and Regional Authorities of the Council of Europe, on “Ageing communities – ensuring access to quality social care for older persons”.
11. The Assembly acknowledges the pioneering role played by the Council of Europe, given that the European Social Charter (ETS No. 35), revised in 1996 (ETS No. 163), and in particular its Article 23 “The right of elderly persons to social protection”, is the first human rights treaty to specifically protect the rights of older persons, requiring State Parties to adopt legislation to combat age-based discrimination in all areas. The Charter states that such legislation should cover sectors such as access to goods, facilities and services, including insurance and banking products. In a statement from 2023, the European Committee of Social Rights indicated that the Charter requires a commitment to identifying and eliminating ageist attitudes and

2. Draft resolution adopted unanimously by the committee on 5 December 2024.

laws, policies and other measures which reflect or reinforce ageism. Also in 2023, the Council of Europe published a major study on the use of the European Social Charter in combating ageism against older persons in order to ensure that the Charter remains at the forefront of this fight.

12. The Assembly considers that national bodies responsible for equality issues should include preventing and combating discrimination against older persons in their mandate and activities and be granted the necessary resources in this respect.

13. The Assembly calls on the member and observer States of the Council of Europe and States whose parliament enjoys observer or partner for democracy status with the Assembly:

13.1. with regard to the general approach, to:

13.1.1. apply a human rights-based approach to combat ageism against older persons, shifting to a right holders model that guarantees equality, dignity, autonomy and participation at all stages of life;

13.1.2. accordingly devise and put in place specific measures to prevent ageism and combat stereotypes against older persons, through education, information and awareness-raising activities which could include events to mark the International Day of Older Persons (1 October);

13.1.3. support and fund civil society organisations working to combat ageism;

13.1.4. provide opportunities for intergenerational solidarity and partnerships, and activities to connect younger and older generations, for the benefit of all, harnessing the wisdom, experience and talents of the older generation, as a societal asset;

13.2. with regard to laws and policies, to:

13.2.1. review legislation to include a specific prohibition of age-based discrimination against older persons, and modify or repeal any laws with direct or indirect discriminatory effects;

13.2.2. ensure that equality and anti-discrimination laws and policies address structural discrimination, and multiple and intersectional discrimination against older persons in all areas of life, covering in particular autonomy (legal capacity), independent living, employment, political representation, access to justice, goods and services, healthcare, housing and quality care;

13.2.3. accept Article 23 of the European Social Charter if this is not already the case;

13.2.4. ensure that monitoring and enforcement bodies and mechanisms are in place as regards laws and policies on age-based discrimination against older persons;

13.2.5. consider establishing an independent commissioner and/or a minister for the rights of older persons;

13.3. with regard to social care and healthcare, to:

13.3.1. ensure that the principle of non-discrimination on the basis of age is integrated in health care and other public policies and programmes;

13.3.2. ensure that implicit and explicit bias and ageism are eliminated in the design, development, use and evaluations of artificial intelligence technologies in the fields of healthcare and social care;

13.3.3. support and build the knowledge and capacities of healthcare and social care professionals about the perspective, experience and needs of different groups of older persons, including women, LGBTI persons, persons with disabilities, people with ethnic minority background, and migrants;

13.4. with regard to access to information, redress and justice, to:

13.4.1. ensure that older persons have full and easily accessible information about their rights and redress mechanisms;

13.4.2. establish appropriate redress mechanisms and support the access of older persons to justice, including through the provision of free legal aid and appropriate legal proceedings;

13.4.3. support the work of equality bodies and ensure their ability to receive and bring forward complaints concerning age-based discrimination against older persons;

13.4.4. raise awareness among and provide training for relevant staff on this area of discrimination, for example through the Council of Europe Programme on Human Rights Education for Legal Professionals (HELP);

13.5. with regard to data collection and research, as a tool to measure the situation and inform policy making, to:

13.5.1. review data collection approaches to eliminate any inherent age bias, and collect equality data disaggregated by different age sub-groups alongside other characteristics, without age limits, such as sex, gender, disability, ethnic minority, migrant background, sexual orientation and gender identity, allowing for an analysis of age discrimination as a phenomenon in itself as well as its interaction with other factors;

13.5.2. conduct quantitative and qualitative research into intersectional discrimination affecting older persons, including women, LGBTI persons, migrants, persons with ethnic minority background or persons with disabilities;

13.6. with regard to digitalisation and access to goods and services, to:

13.6.1. combat the digital divide which may affect older persons, by providing universal and affordable access to relevant tools and technologies, along with tailored capacity building and empowerment among the older members of society, to allow for their meaningful and safe use of Information and communication technologies and digital services, in line with the United Nations General Assembly Global Digital Compact;

13.6.2. ensure that public services, especially relating to financial and other essential support, can be accessed through both online and offline means;

13.6.3. ensure that implicit and explicit bias and ageism are identified and avoided throughout the design and use of artificial intelligence technologies applied to public goods and services;

13.7. with regard to the participation of older persons in the decisions that concern them, to:

13.7.1. put in place the necessary and appropriate methods and mechanisms to allow older persons to exercise their full legal capacity, autonomy and voice in all matters affecting them as individuals;

13.7.2. actively seek the involvement of older persons and their representative organisations when considering and reviewing legal and policy measures which affect them and their rights.

14. The Assembly supports the United Nations Decade for Healthy Ageing (2021-2030) and encourages Council of Europe member States to address ageism with specific measures aiming to make tangible progress by the end of the decade. It thus invites member States to work towards the elimination of ageism and actively participate in the Global Campaign to Combat Ageism. The Assembly supports, moreover, the consideration of a United Nations convention on the rights of older persons.

B. Draft recommendation³

1. Referring to its Resolution ... (2025) “Overcoming age-based discrimination against older persons”, the Parliamentary Assembly congratulates the Committee of Ministers for adopting Recommendation CM/Rec(2014)2 to the member States on the promotion of human rights of older persons.
2. Welcoming the update of the course on anti-discrimination of the Council of Europe Programme on Human Rights Education for Legal Professionals (HELP), the Assembly invites the Committee of Ministers to consider adding a module on age-based discrimination.
3. In order to protect and promote the human rights of older persons and to eliminate the discrimination they face, including in the field of healthcare, as well as to combat the stereotypes, prejudices and bias against older persons that lie at the root of such discrimination, the Assembly calls on the Committee of Ministers to:
 - 3.1. as so decided in 2019, keep under review the implementation of Recommendation CM/Rec(2014)2, in particular with the aim of identifying and remedying existing gaps in this field, considering in this context the desirability and feasibility of a specific legal instrument at European level which would provide a framework for the protection of the human rights of older persons;
 - 3.2. consider preparing a recommendation on preventing and combating ageism, following a similar approach to that of Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism;
 - 3.3. be represented and participate actively in the ongoing discussions in the United Nations Human Rights Council, on developing an international legally binding instrument on the rights of older persons.

3. Draft recommendation adopted unanimously by the committee on 5 December 2024

C. Explanatory memorandum by Ms Andrea Eder-Gitschthaler, rapporteur

1. Introduction

1. Older persons⁴ make an invaluable contribution to society: they have knowledge and experience to share, as well as consumer capacity to contribute to the local economy; they provide unpaid care to children and other relatives, and they do volunteer work in our communities. They also often face multiple challenges: poverty, solitude, discrimination, lack of social protection, digital exclusion, violence and abuse, and lack of participation in the decisions that concern them.
2. Effective access to rights should be ensured without regard to the number of persons involved or potential costs. Older persons should be recognised as independent rights holders rather than simply as beneficiaries of care. Such a prism is based on false but often widespread narratives describing older persons as sick, dependent and passive, which fuel negative stereotypes and ageism – compounded by the view that their rights are “too expensive” or “unaffordable” for society.
3. People live longer, in Europe and beyond, and older persons are becoming the fastest growing segment of the population in the region of the United Nations Economic Commission for Europe (UNECE).⁵ The gendered nature of ageing implies that women tend to live longer than men. But rather than focusing on numbers, attention needs to be paid to the legal and policy decisions that will determine the consequences of this demographic trend, including its impact on the experiences of older persons and on their access to rights. This calls for a comprehensive life course approach, which includes giving due weight to the rights and well-being of older persons.
4. Age-based discrimination against older persons is a vast topic and the Parliamentary Assembly has addressed some relevant aspects. My report focuses on a few areas, including discriminatory laws and policies; access to justice; digitalisation; access to goods, services and healthcare; and public participation. A report entitled “Immigration, one of the answers to Europe’s demographic ageing” (Doc. 16072) has been adopted by the Assembly’s Committee on Migration, Refugees and Displaced Persons and both that and my report are scheduled for plenary debate in January 2025.

2. Working methods

5. In February 2024, I had an exchange with Paschal McKeown, Director of the NGO Age Northern Ireland. On 19 February 2024, I had an online meeting with Claudia Mahler, UN Independent Expert on the enjoyment of all human rights by older persons.
6. On 18 March 2024, the Committee on Migration, Refugees and Displaced Persons held a hearing with the participation of Daris Lewis Recio, Legal and Policy Officer at the European Network of Equality Bodies (Equinet), and Nena Georgantzi, Human Rights Manager at AGE Platform Europe. I thank Equinet and AGE Platform Europe for helping me identify challenges and good practices, both reflected in this report.
7. On 2 May 2024, I had an online meeting with Rossalina Latcheva and Sabine Springer, from the EU’s Fundamental Rights Agency.
8. On 16 May 2024, I met online with Professor Gerard Quinn, former first Vice-President of the European Committee of Social Rights and Professor Emeritus at the National University of Ireland.
9. On 21 May 2024, I had an online meeting with Ms Alana Officer, who led the preparation of the Global Report on Ageism at the World Health Organization, in 2021.
10. This report includes a number of examples of good practices in the different sectors covered, which I hope can provide inspiration and guidance to member States in enhancing the rights of older persons in their countries.

4. There is no internationally agreed definition of “older persons”. Definitions and concepts around age are socially constructed, and different age limits apply in different parts of the world and for different purposes (for instance age of retirement, age to be considered “senior” in certain sport practices and competitions, age limits to adopt a child, etc.). The United Nations uses 60 years or over to refer to older persons, while the Organisation for Economic Co-operation and Development (OECD) and Eurostat use 65 years and over.

5. United Nations Economic Commission for Europe (UNECE), “Mainstreaming ageing – revisited”, Policy Brief on Ageing No. 27, February 2022.

3. Ageism against older persons

11. Ageism refers to the stereotypes, prejudices and/or discrimination of persons or groups based on age. Ageism against older persons is deeply entrenched and structural, undermining their rights and their potential to contribute to society. Age and ageing are usually addressed from four interlinked perspectives: chronological age (based on the date of birth); biological age (linked to physical changes); psychological age (referring to mental and personality changes during the life cycle); and social age (the change of an individual's roles and relationships as they age). These four aspects of ageing can develop at different speeds, and they are also influenced by the social, historical and cultural environment.⁶

12. This report addresses both the need to tackle the negative stereotypes and prejudices that constitute ageism, as well as its manifestations in age-based discrimination against older persons. These phenomena are widespread in Europe and beyond. They take many forms and has an impact on all areas of life, from access to credit facilities, insurance premiums, healthcare, housing, social protection, education, access to goods and services (including for example online only access to public services, and age limits set on certain professions and activities).

13. Ageism and age-based discrimination also occur against younger persons, and this is a more widely noted form of ageism in Europe (Europe is also the only region in the world with data about the two types of ageism).⁷

14. Stereotypes around older persons are widespread, and evidence has shown that even four-year-olds already hold very stereotypical views about older persons. The prevention of ageism must therefore start in the early years of education. Ageist stereotypes are also transmitted by the media and through advertising, and these areas also need to be addressed.

15. Ageism against older persons is evident in many sectors, including healthcare and social services, the workplace, the media, and the legal system. Ageism also shapes research and data collection, with a clear research and data gap on persons aged 75 and above.

16. Thus, the potential for discrimination and bias against older persons is real and needs to be acknowledged and tackled by public authorities. As of today, however, the work of the Council of Europe has not directly addressed the concept of ageism, aside from the rights-based approach to age established by the European Committee of Social Rights and its statement on ageism (see paragraph 31 below).

17. The former [Council of Europe Commissioner for Human Rights](#) called on member States to promote active ageing and ensure that older persons in Europe can fully enjoy their human rights, noting that “active ageing” goes beyond labour market participation to cover opportunities for independent living, adequate access to healthcare, and participation in society according to one’s needs, desires, and capacities.⁸

18. According to the World Health Organization (WHO), half the world’s population has ageist attitudes towards older persons, who are often falsely portrayed as dependent, frail and less competent.⁹ WHO advocates for three strategies to prevent and respond to ageism: changes in laws and policies; educational interventions; and intergenerational contacts.¹⁰ WHO is also running a Global Campaign to Combat Ageism¹¹ and preparing an “ageism scale” to measure and understand both the prevalence and the nature of ageism in each country. This is expected to be available by the end of 2024 and will consist of a series of questions that countries can incorporate in their regular national health surveys.

19. A critical difference of ageism, compared with other forms of discrimination, is how culturally accepted it is. Discrimination on the ground of age is widespread across the European Union,¹² notably in terms of access to employment,¹³ setting aside of course situations where restrictions on the grounds of age have been legally established, subject to certain conditions.¹⁴ The 2021 Opinion of the European Union Agency for Fundamental Rights (FRA) after 20 years of implementation of the Racial Equality Directive and the

6. Agency for Fundamental Rights, “[Shifting perceptions: Towards a rights-based approach to ageing](#)”, 2018.

7. WHO, “[Progress report on the United Nations Decade of Healthy Ageing, 2021-2023](#)”, 2023.

8. Council of Europe Commissioner for Human Rights, “[International Day of Older Persons – taking action to ensure the full enjoyment of human rights throughout life](#)”, Statement, 30 September 2022.

9. WHO, “[Global report on ageism](#)”, 2021.

10. WHO, “[Connecting generations: planning and implementing interventions for intergenerational contact](#)”, 2023.

11. www.aworld4allages.org/.

12. European Commission, “[A comparative analysis of non-discrimination law in Europe 2023](#)”, 2024.

13. The EU’s Employment Equality Directive allows national law to include a range of exceptions in relation to both direct and indirect age discrimination.

Employment Equality Directive indicated that “little progress” had been made since 2014 as regards the prevalence of discrimination in employment on the grounds of age, religion, disability and sexual orientation, which “remained high” in most EU countries.¹⁵

20. FRA also reported “a high prevalence of experiences of age discrimination in employment for older people”, which “is particularly high for those aged 50 years and above”. In addition, FRA highlighted the particular challenges older persons face as regards equal treatment, from difficulties in accessing healthcare to the digital divide across generations, which is significant and increases with age¹⁶ (see sections 7 and 8 below).

21. The progress report on the UN Decade of Healthy Ageing, for the period 2021-2023, indicates that “more attention should be paid to the inclusion of older people in data, research and monitoring”.¹⁷ In the European Union, Eurostat set up a Task Force on Equality and Non-discrimination Statistics and is considering a dedicated section on equality data to cover issues such as demography, participation in society, and experiences of discrimination.

Good practices

22. Serbia’s Commissioner for the Protection of Equality published a “[Special report on discrimination against older persons](#)”, providing an overview of age-based discrimination in this country, where more than 20% of the population is aged 65 and above.¹⁸ The report’s recommendations include a call to establish a special committee or subcommittee in the National Assembly in charge of improving the situation of older persons, or to delegate these issues to existing committees.

23. In 2010, the German Federal Ministry for Family Affairs launched the programme “New Images of Ageing”, with various awareness-raising measures. The programme set up a platform on this topic to promote a broad public debate about the consequences of specific images of ageing in diverse settings, including the potentially negative consequences. In 2022, the German Federal Anti-Discrimination Agency commissioned a study on “[Images of Ageing and Age Discrimination](#)” to survey ageist attitudes and discriminatory behaviour. The study called on the public sector, civil society and the private sector to use more differentiated and complex images of ageing, as well as to conduct campaigns to raise awareness of ageism and ageist behavioural trends, and to create spaces for exchanges on perceived inequalities between age groups and/or generations.¹⁹

24. Wales and Northern Ireland have both established an independent Commissioner for Older People and Ageing, which can be a good long-term solution to represent the rights of older persons in government and in policy making.²⁰

4. Inclusivity and intersectionality

25. Ageism against older persons often intersects and interacts with other forms of stereotypes, prejudice and discrimination, such as ableism (for instance discrimination and prejudices against persons with disabilities), sexism, racism, homophobia and transphobia. For instance, older women often face discrimination resulting from gender inequality and are at greater risk of social and economic exclusion, as well as physical and psychological abuse and violence, thereby affecting their enjoyment of human rights. They are at higher risk of chronic diseases and conditions that can contribute to disability and are also more likely to be carers and experience caregiver stress. Ageism compounds other forms of inequalities, as well as social exclusion and isolation, and therefore an intersectional approach is needed.

14. “Differences of treatment on grounds of age shall not constitute discrimination if, within the context of national law, they are objectively and reasonably justified by a legitimate aim [...] and if the means of achieving that aim are appropriate and necessary” (Article 6(1) of the Employment Equality Directive).

15. FRA, “[Equality in the EU – 20 years from the initial implementation of the Equality Directives](#)”, p. 9, 2021.

16. *Ibid.*

17. See footnote No. 7 above (WHO, 2023, p. 12).

18. Information provided by Equinet.

19. Information provided by Equinet.

20. Written evidence submitted by Independent Age to the [enquiry on the rights of older people launched by the Women and Equalities Committee of the UK Parliament](#) in the autumn of 2023.

26. For instance, the 2019 survey carried out by FRA about how LGBTI persons in Europe experience their human rights, included considerations of LGBTI persons above 55 years of age. In 2023, ILGA Europe and AGE Platform Europe published a briefing²¹ that analysed the FRA survey data, recommending that research and data collection on LGBTI people should include those living in care settings and those who are digitally excluded.

27. I believe that an inclusive approach is essential to protecting rights effectively. I have adopted an intersectional approach to take account of the different experiences and challenges that older women and men face, in all their diversity.

5. Legal and policy frameworks to combat age-based discrimination against older persons

28. It is shocking to note that age is the only protected characteristic for which a difference in treatment can be objectively justified (for example, in the fields of employment and access to financial services). This sets age apart from other protected characteristics and results in “devaluing” age as a protected ground, and in making age-based discrimination accepted and normalised. Objectively justifying direct age discrimination leads it to continue and to get legitimised.

29. There is no specific international legal instrument aimed to dispel prejudice and discrimination against older persons. In addition, most international human rights instruments, including the European Convention on Human Rights (ETS No. 5, the “Convention”), do not explicitly list age as a prohibited ground for discrimination.

5.1. Council of Europe

30. Indeed, Article 14 of the Convention on the prohibition of discrimination does not list age as a ground for discrimination, but the case law²² of the European Court of Human Rights has recognised that age constitutes “other status” for the purposes of that anti-discrimination provision. However, the Court has not yet indicated that age discrimination should be equated with other grounds for discrimination.²³ This is also reflected in the way in which age-based discrimination legislation has developed, treating it as a discrimination ground of “lesser importance”, which contributes to reinforce the stereotype of the “lesser value” of older persons in our societies.

31. Other relevant Council of Europe standards include the European Social Charter (ETS No. 35), revised in 1996 (ETS No. 163) – and in particular its Article 23 “The right of elderly persons to social protection”.²⁴ The European Committee of Social Rights (ECSR) has interpreted Article 23 over the years, highlighting shortcomings in the protection of the rights of older persons in Council of Europe member States. The ECSR has called for equality and anti-discrimination legislation targeting older persons to cover sectors such as access to goods, facilities and services, including insurance and banking products. The ECSR considered that Parties “must take a wide range of measures to combat ageism in society”, in addition to adopting legislation prohibiting discrimination on grounds of age.²⁵

32. The Charter also invites Parties to provide for a procedure for “assisted decision making”. This means that older persons cannot be assumed to be incapable of taking their own decisions just because they have a particular medical condition, a disability, or lack legal capacity. Article 23 also requires Parties to combat the abuse²⁶ of older persons (at home or in care facilities), including through awareness raising and legislative or other measures.

33. In 2021, the ECSR examined the implementation of Article 23 of the Charter in 15 countries, and it considered that 12 of them were not in conformity with the requirements of this provision, mainly due to the lack of legislation prohibiting discrimination on grounds of age outside employment, and the lack of adequate resources for older persons (pensions and social assistance). The ECSR also examined measures to prevent

21. AGE Platform Europe and ILGA Europe, “Intersections – Diving into the FRA LGBTI II Survey data – Older People”, 2023.

22. European Court of Human Rights, “Factsheet, Older people and the ECHR”, 2023.

23. European Court of Human Rights, “Guide on Article 14 of the European Convention on Human Rights and on Article 1 of Protocol No. 12 to the Convention”, 2022.

24. Only four member States of the Council of Europe are not Parties to either the 1961 or the 1996 European Social Charter. Among the Parties, 22 have accepted Article 23 and are therefore bound by it.

25. European Committee of Social Rights (ECSR), “Statement of interpretation on Article 23”, 2021.

26. The ECSR considered that abuse can take various forms: physical, psychological or emotional, sexual, financial, or reflect intentional or unintentional neglect. See “Digest of the case-law of the ECSR”, June 2022.

the abuse of older persons; to provide housing suited to their needs and state of health; to provide them with adequate healthcare and related services; to guarantee appropriate support to those living in institutions, while respecting their privacy; and to ensure participation of older persons in decisions concerning their living conditions in institutions.

34. In the [Political Declaration agreed at the high-level conference on the European Social Charter, held in Vilnius, Lithuania, on 3-4 July 2024](#), the member States of the Council of Europe acknowledged the crucial role of national legislatures in strengthening the protection of social rights through legislative action, including the ratification of international treaties.

35. As regards soft-law instruments of the Council of Europe, other than the Assembly's resolutions referred to in the draft resolution, the Committee of Ministers adopted Recommendation CM/Rec(2014)2 on the promotion of human rights of older persons. This recommendation includes guidance and good practices on the following issues: non-discrimination; autonomy and participation; protection from violence and abuse; social protection and employment; medical, residential, institutional and palliative care; and access to justice. In March 2019, the Committee of Ministers took note of a report on the implementation of this recommendation,²⁷ and agreed to review its implementation five years later, for instance by March 2024, which has not yet taken place.

5.2. United Nations

36. Relevant policy instruments adopted within the United Nations include the Principles for Older Persons and the Madrid International Plan of Action on Ageing, as well as the Regional Implementation Strategy for Europe. In 2013, the Human Rights Council agreed to establish an Independent Expert on the enjoyment of all human rights by older persons. However, as the Office of the United Nations High Commissioner for Human Rights noted, not including age as a ground for prohibited discrimination in most United Nations human rights treaties “continues to send the message that protection against older age discrimination is not a priority in the human rights framework”.²⁸

37. As changes in laws and policies is one of the three strategies that WHO's Global Report on Ageism advocates for to prevent and respond to ageism, an initiative to develop guidance for national laws to prevent and combat age-based discrimination is under preparation, in co-operation with the Office of the High Commissioner for Human Rights. An UN report indicates an increase of 23% in national legislation and enforcement of strategies against age-based discrimination in the last three years, from 60% of the 109 reporting countries in 2020, to over 82% in 2022-2023.²⁹

38. An Open-Ended Working Group on Ageing (OEWG) “for the purpose of strengthening the protection of the human rights of older persons” was set up in 2011, tasked with analysing the international framework and identifying possible gaps and remedies. In May 2024, the OEWG concluded its mandate with the adoption of a number of recommendations, including the option of negotiating a new UN convention on the human rights of older persons.

39. In a [UNECE Ministerial Declaration adopted in 2022](#), the representatives of European States recognised the importance of population ageing as a global trend that needs to be addressed through international and regional frameworks and initiatives. They committed to take concrete measures to promote active and healthy ageing throughout life; to ensure access to long-term care and support for carers and families; and to mainstream ageing in all policies to create an inclusive society for all ages.

40. Other regions have adopted treaties on the rights of older persons, while they participate in global talks about a new “thematic” UN treaty: the Inter-American Convention on Protecting the Human Rights of Older Persons was adopted in 2015 by the Organization of American States, while the African Union adopted in 2016 a Protocol to the African Charter on Human and Peoples' Rights, on the Rights of Older Persons in Africa.

27. Contained in document [CM\(2019\)28-add](#) of 6 February 2019.

28. The Office of the United Nations High Commissioner for Human Rights, “[Update to the 2012 Analytical Outcome Study on the normative standards in international human rights law in relation to older persons](#)”, 2021.

29. See No. 7 above (WHO, 2023, p. 11).

41. I believe that the Council of Europe should consider following a similar path, examining the added value of a regional instrument to protect the human rights of older persons, reflecting on and building upon the quasi-jurisprudence on the European Social Charter,³⁰ developed by the ECSR. Our Organisation should also actively support, follow and participate in the negotiations under way in the United Nations Human Rights Council concerning a global treaty on the rights of older persons.

5.3. European Union

42. The Charter of Fundamental Rights of the European Union includes provisions on non-discrimination (Article 21) and the rights of the elderly (Article 25). In addition, the European Union and its member States are required to respect fundamental rights when they implement EU law (Article 51 of the Charter). Article 10 of the Treaty on the Functioning of the European Union (TFEU) states that, “in defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”.

43. The [2000 Employment Equality Directive](#) introduced the criterion of age as a prohibited ground for discrimination in employment and occupation. Other areas relevant to older persons, including social protection, healthcare, and access to goods and services, are not yet covered by EU legislation on non-discrimination based on age. A proposed directive on equal treatment³¹ (also called “the Horizontal Directive”) from 2008 remains under discussion after 16 years, as it requires the unanimous agreement of the EU-27. The proposed directive aims to extend protection against discrimination on the grounds of religion or belief, disability, age and sexual orientation in areas other than employment, including social protection, education and access to goods and services.

44. In 2021, the European Commission published a [“Green Paper on Ageing – Fostering solidarity and responsibility between generations”](#), to open a debate on the impact of ageing on all citizens and on society as a whole. This policy document called for the promotion of healthy and active ageing, improving the resilience of health and care systems, modernising social protection and fostering legal migration and integration as part of a policy mix “to [prevent] or [limit] the negative consequences of ageing”. The European Commission and EU member States promote exchanges of practices on age equality and on how to combat ageism within the European Union’s High Level Group on Non-Discrimination, Equality and Diversity, including the preparation of a paper on age.³²

5.4. Domestic legislation

45. National laws across Europe provide different levels of protection against age-based discrimination. An example is the UK’s Equality Act 2010 (Age Exceptions) Order 2012, which introduced further legislative protection for older persons, prohibiting unjustifiable age discrimination when accessing goods, facilities or services, and in the exercise of public functions. However, the Order includes several exceptions, where different treatment on the basis of age is considered ‘justifiable, harmless or, on balance, beneficial’. Despite room for improvement, the Equality Act does provide a degree of protection of older persons’ rights in England, Scotland and Wales which does not, however, apply in Northern Ireland, where older persons have reported ageism and discrimination.³³

5.5. Good practices

46. In the Czechia, Slovenia and Sweden, there is legislation prohibiting age-based discrimination not only in employment but also in other areas of life.³⁴ In Bulgaria, the Protection against Discrimination Act prohibits direct and indirect discrimination based on age. Spain’s Law for Equal Treatment and Non-Discrimination, adopted in July 2022, explicitly includes age as a protected ground.

30. Council of Europe, “Against Ageism and Towards Active Social Citizenship for Older Persons – The Current Use and Future Potential of the European Social Charter”, 2021.

31. “Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation”, COM(2008) 426 final, 2 July 2008.

32. European Union, information submitted to the UN Open-ended Working Group on Ageing, 2024.

33. Information provided by AGE Northern Ireland.

34. Secretary General of the Council of Europe, “State of democracy, human rights and the rule of law”, Annual report, p. 116, 2023.

47. In March 2022, the Georgian Young Lawyers' Association (GYLA) filed a lawsuit with the Constitutional Court, challenging the law that established the retirement age of academic staff at State higher education institutions at 65. It argued that the contested legal provisions were discriminatory and therefore unconstitutional. GYLA referred to a previous decision by the Constitutional Court, of February 2022, which had declared unconstitutional the legal provisions establishing that a person over the age of 70 could not be elected president or vice-president of the Georgian Academy of Sciences. The Court held that "the fact that in general the accompanying result of ageing is the diminishment of physical endurance of a person and the decline of certain skills cannot by itself become a sufficient ground for imposing any age-related blank restrictions".³⁵

48. In May 2023, Austria adopted a law that removed age limits to access bank credits.

6. Access to justice

49. Access to justice for victims is essential for the good implementation of non-discrimination legislation at the national level. Most countries offer a combination of judicial (civil, administrative, labour, etc.) and non-judicial (for instance ombudspersons, human rights institutions, inspectorates, etc.) proceedings for these cases, including mediation or conciliation proceedings. Sanctions should be proportionate and dissuasive in order to have a preventive effect; financial compensation for pecuniary and non-pecuniary damages in cases of discrimination varies greatly across countries.

50. The volume of case law on discrimination remains relatively low in most countries, even if the number of complaints submitted to courts or equality bodies has been gradually increasing. In addition, litigation in cases of age-based discrimination against older persons is not frequent, as there are a number of barriers to effective access to justice, including lack of knowledge of rights and remedies, lack of financial means, lack of adequate legal representation, unavailability and inaccessibility of free legal aid, etc. The right to access justice is therefore closely connected with the effective exercise of the rights to information, education and mobility.

51. The low level of litigation may itself be a deterrent for victims of discrimination, and there is little media reporting on discrimination cases on the grounds of age or disability, compared to some high-profile cases involving racial, ethnic or religious discrimination.³⁶

52. On 19 December 2023, the UN General Assembly adopted Resolution A/RES/78/227, entitled "Equal access to justice for all," with a focus on criminal justice systems and ensuring equal access to justice for all, including for persons facing aged based discrimination motivated by age, such as older persons.

53. National human rights institutions and equality bodies have an important role to play in raising awareness of the negative impact of ageism, as well as in supporting strategic litigation at the national level to promote the rights of older persons. The mandate of many equality bodies cover all or most grounds for discrimination, but gaps remain as regards age-based discrimination. This should be addressed so that all equality bodies can act and bring complaints in cases of age-based discrimination against older persons. In May 2024, the Council of the European Union adopted two new Directives regulating the role and independence of equality bodies in matters of employment and occupation and setting standards for equality bodies covering other grounds (including age) and fields (such as social security and access to and supply of goods and services).

54. The report by Serbia's Commissioner for the Protection of Equality (referred to in chapter 3 above) shows that age is one of the top five personal characteristics generating discrimination against, according to the number of complaints, and the second most frequent ground for discrimination in 2020, with almost 15% of complaints. Discrimination against older persons is present in many areas of life, including proceedings before public authorities; provision of public services; social protection and healthcare; pension and disability insurance; labour and employment; property rights; housing; education; culture and sports; public information and media.

55. Similarly, the UK's Equality and Human Rights Commission's prejudice barometer reported more experience of prejudice based on age than on any other characteristic. It also showed that there were cases where age discrimination was seen as not being as serious as some other forms of discrimination. At the

35. Georgian Young Lawyers' Association, "The legal status of older persons in Georgia", p. 23, 2022.

36. European Commission, "A comparative analysis of non-discrimination law in Europe 2023", p. 78, 2023.

same time, fewer cases are brought on the ground of age than on most other protected characteristics (age discrimination cases represent only about 2% to 4% of those brought to this commission). Part of the explanation may be that age discrimination is so socially acceptable that those who suffer from it, internalise it.

56. The annual report of the Ombudswoman of the Republic of Croatia also includes her work on age equality, including the handling of complaints from victims of age-based discrimination, in particular concerning social security, living conditions (home care and institutions for long-term care), violence, and contracts for lifelong maintenance. Croatia's Ombudswoman co-operates with the Ministry of Social Affairs to establish systematic data collection on harassment and abuse of older persons.³⁷

57. The Office of the Portuguese Ombudsperson has reported that they frequently receive complaints on the rights of older persons, and that many are addressed to them through the Senior Citizens Helpline, which provides information and support to older persons.

58. On a separate topic, the European Court of Human Rights, in a landmark case in April 2024, ruled in favour of a Swiss association of older women who had brought a complaint against their country's measures to limit greenhouse gases, claiming that they were insufficient to curb climate change and its negative effects on their health. The Court recognised the need to promote intergenerational burden sharing in relation to climate change, as a common concern of humankind. It also concluded that domestic courts had failed to consider the compelling scientific evidence about climate change and its consequences on the health of older women, and had not taken their complaints seriously.

59. The Council of Europe has long worked on the need to address stereotypes, bias and discrimination against women in their quest for [equal access to justice](#), compounded in the case of older women, as illustrated by the above-mentioned experience of the older Swiss women before domestic courts. This takes place in all types of legal proceedings, from gender-based violence³⁸ to compensation claims, family law, etc.

7. Digitalisation and its impact on accessing goods and services

60. Only one in four people aged 65 to 74 in the European Union has at least basic digital skills.³⁹ The [European Declaration on Digital Rights and Principles for the Digital Decade](#), adopted in 2023, commits the European Union to a digital transformation that "should benefit everyone, achieve gender balance, and include notably elderly people".

61. An important barrier to the enjoyment by older persons of their human rights is the increasing digitalisation of public services, compounded by the growing use of artificial intelligence systems and automated or semi-automated decision making by public authorities, for example as regards welfare support and social services. Shortcomings in access to rights, due to the dematerialisation of public services, were highlighted in the Assembly [Resolution 2510 \(2023\)](#) "Closing the digital divide: promoting equal access to digital technologies".

62. Older persons need easy access to information about the services and facilities available to them: from home-help services and day centres to housing services and healthcare, as well as leisure and educational facilities.

63. Age-based rules, including those applied by private companies, may likewise arbitrarily restrict older persons' access to rights. For example, insurance companies can refuse to cover the travel of persons over a certain age, regardless of their state of health, and often apply higher car insurance premiums after a certain age, regardless of the person's individual driving history. Access to credit facilities is also often conditioned by age, making it much harder or more expensive – or even impossible – for older persons to obtain loans, solely on the basis of their age. Denying older customers access to certain financial services, or subjecting them to additional stricter criteria such as premium charges, remains a problem in many countries, concerning all kinds of loans (mortgage loans, consumer credits), as well as access to credit cards and other financial products.

37. Information provided by Equinet.

38. Article 4, paragraph 3 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, "Istanbul Convention") requires States Parties to implement the convention without discrimination on any grounds such as sex, gender, sexual orientation, gender identity or other status. This means that older women should have equal access to the protection and support guaranteed by the convention, and that the specific barriers faced by older women due to ignorance, stigma and prejudice, including among the professionals and support services they may turn to, should be addressed and redressed.

39. FRA, "[Fundamental rights of older persons. Ensuring access to public services in digital societies](#)", p. 6, 2023.

64. When examining the application of Article 23 of the European Social Charter, which covers the right to certain services and facilities for older persons, the ECSR looks both at the services and facilities as such and the information provided about them. It examines the existence, extent and cost of house help services; community-based services; specialised day care provision for persons with dementia and related illnesses, including long-term care, in particular those enabling them to remain active members of their community and to remain in their home. It also examines the existence of information, training and respite care services for families caring for older persons, in particular highly dependent persons; as well as cultural, leisure and educational facilities available to older persons.⁴⁰ The ECSR has highlighted that many services (and information about services) are increasingly accessible online. Digitalisation can provide opportunities for older persons, but may also be a barrier to their access to services. Measures are needed to improve the digital skills of older persons, ensure the accessibility of digital services for older persons, and maintain non-digital services.

65. In the European Union, Protocol No. 26 to the TFEU recognises the importance and diversity of services of general interest. EU countries can decide on the modalities of their delivery while ensuring a high level of quality, safety and affordability, as well as equal treatment, universal access and the protection of user rights. This means that it should be possible to have offline access to public services.

66. The October 2020 Conclusions of the Council of the European Union on “[Human rights, Participation and Well-Being of Older Persons in the Era of Digitalisation](#)” underlined the need to maintain non-digital access to public services and called for respect for older persons’ rights and needs. The Council of the European Union asked FRA to explore the impact of digitalisation on the rights, participation and well-being of older persons. The FRA collected information on the legislation and policies of EU member States, as well as statistical evidence from Eurostat, and published a report in September 2023.⁴¹

67. The FRA report reflects that national laws and policies on digitalisation and access to public services by older persons do not apply a human rights perspective, with only four EU member States having legislation to protect the rights of older persons to equal access to digitalised public services. Only nine EU countries recognise the importance of keeping offline options to access public services. In addition, the FRA report reflects that there is little evidence of national initiatives to provide digital skills training for older persons or to offer financial support for reliable internet access or up-to-date devices and software. It also found a lack of information and disaggregated data for persons aged 75 and older, which makes it impossible to evaluate and monitor the impact and efficiency of laws and policies in this area, nor to assess the impact of the ongoing digital transition on access for older persons.

68. In September 2022, the European Union adopted the European Care Strategy, setting an agenda to improve the situation for both carers and care receivers, and aiming to ensure quality, affordable and accessible care services for all, regardless of age, gender or social status. Care services should be person-centred to empower people to maintain their autonomy and live in dignity, exercise their human rights, and to prevent poverty and social exclusion, which is not a reality for many older persons.

69. In particular, insurance policies can clash with anti-discrimination laws when the risk is determined on the basis of a protected criterion such as age. For certain types of insurance contracts (car, travel), insurance companies consider that the risk is directly related to the age of the assured. Equality bodies⁴² have noted similar concerns as those raised with financial services, as insurance products are refused on the basis of (stereotypical) assumptions about the implications of (older) age of the applicant and without an individual assessment. Furthermore, in cases where the insurance contract is not refused on age grounds, an older age can significantly increase the cost of purchasing an insurance product. The equality bodies of Latvia, Germany and Belgium noted that travel or car insurance were refused only on the basis of age and without taking into account the person’s individual situation.

*Good practices*⁴³

70. The Polish Commissioner for Human Rights highlighted the abuse of older persons as regards financial services. A study showed that bank employees and sellers of other goods or services often try to take advantage of older persons, profiting from their lack of awareness and knowledge of financial products. This situation leads to unfavourable banking contracts or transactions related to investment or loans. The

40. ECSR, “Conclusions 2003, France”.

41. See note No. 39 (FRA, 2023).

42. The specific examples included in this paragraph were provided by Equinet.

irresponsible conduct of banks and other financial institutions, including hiding important information about the costs and possible risks of an investment can lead to a credit spiral and/or very high financial transaction costs.

71. The Czech equality body conducted research on access to banking and financial goods and services through a questionnaire, situation testing and legal analysis. One third of the surveyed entities set age limits for providing travel insurance and mortgage loans. The research concluded that the least accessible services to older persons were life insurance, accident insurance and payment protection insurance.

72. Germany's Federal Anti-Discrimination Agency funded a research project entitled "Age discrimination in lending", which found that the country's General Equal Treatment Act did not offer sufficient protection against age-related disadvantages when granting loans, and that there were age-related disadvantages in lending practices, including loans refused due to age, and difficult access for older persons to loans due to increasing digitalisation. The research report was published in September 2023 and a reform of the General Equal Treatment Act was announced by the government to improve protection against discrimination.

73. The National Centre for Human Rights of the Slovak Republic commissioned research on access to social services in rural areas, which is a critical issue for older persons living there.

74. The Office of Croatia's Ombudswoman published a report on the rights of older persons, covering palliative care, anti-discrimination, long-term care facilities.

75. The UK's Equality and Human Rights Commission has worked on older persons and digital exclusion; labour market access; an intersectional approach (LGBTIQ persons); and menopause and workplace recognition.

8. Access to healthcare

76. The health of older persons can be adversely affected by medical professionals, dismissing or minimising health concerns as being merely due to age. A report entitled "[Inequalities and multiple discrimination in access to and quality of healthcare](#)", published by FRA in 2013, reflected that experiences of discrimination and multiple discrimination in healthcare were often perceived to be motivated by ethnicity, age, sex and disability, and that one of the groups that stood out more clearly as being at risk of intersectional discrimination in access to healthcare were older persons.

77. As regards the right to adequate healthcare for older persons, Article 23 of the Social Charter requires healthcare programmes and services (in particular primary healthcare services including domiciliary nursing/healthcare services) specifically aimed at older persons, as well as guidelines on healthcare for older persons. In addition, mental health programmes for older persons with psychological problems should also be available. The ECSR has emphasised the importance of moving away from institutionalisation towards community-based care and independent living, and of adopting assisted decision-making procedures.

78. Equal treatment under the European Social Charter calls for the recognition of the equal value of older persons' lives. However, as we saw at the height of the Covid-19 pandemic, older persons were often refused access to life-saving healthcare based only on their age, without taking into account their state of health or prognosis, and many decisions were taken about their "quality of life" or the "worth" of their lives.

79. In 2021, the ECSR noted the devastating effects of Covid-19 on the rights of older persons, in particular on their right to the protection of health, in many cases with consequences for their rights to autonomy and to make their own decisions and life choices, their right to continue to live in the community with adequate and resilient support enabling them to do so, as well as their right to equal treatment as regards the allocation of healthcare services including life-saving treatments (for instance triage and ventilators).

80. The former Council of Europe Commissioner for Human Rights also stressed the need for a comprehensive and human rights-based approach in the design and delivery of long-term care, grounded in safeguarding dignity and self-determination.⁴⁴ Loss of autonomy is a major issue for many older persons, as many move into institutional settings, often contrary to their wishes.⁴⁵ In May 2021, the French Défenseure des droits published a report on the fundamental rights of older persons living in nursing and retirement

43. Information provided by Equinet.

44. Council of Europe Commissioner for Human Rights, "[The right of older persons to dignity and autonomy in care](#)", Human Rights Comment, 18 January 2018.

45. OECD, "[Time for better care at the end of life](#)", 2023.

homes for dependent older persons, based on 900 complaints of violations of these persons' rights received over a six-year period.⁴⁶ A follow-up report, published 18 months later, found that while there had been an increase in collective awareness of the risks to dignity and human rights in these settings, the high number of complaints that had continued to be received confirmed the systemic nature of abuse in such settings.⁴⁷

81. National policies should also stress the central role of legal capacity, and the need for supportive decision-making mechanisms to increase the legal capacity of older persons and to maintain their autonomy. Other key aspects are the need to address abuse against older persons, and to provide an adequate framework to support informal and family-based elder care. Solidarity and respect across generations should be encouraged, both at the level of private and public institutions.

82. In November 2020, WHO and its partners published the first report on the UN Decade of Healthy Ageing (2021-2030),⁴⁸ which charts efforts to improve the lives of older persons, capturing the impact of major challenges such as the Covid-19 pandemic, during which over 80% of deaths were among over 60-year-olds. WHO has also identified as a priority the need for further research on the links between ageism and abuse of older persons in clinical care and long-term care.

83. The Covid-19 pandemic had devastating effects on the social rights of older persons in institutions, where many were cut off from their friends and relatives or were allowed very limited contacts with them. In addition, lockdowns and other restrictions severely affected older persons living in their own homes, as social interactions were also eliminated. The situation of care homes in the Madrid region and Covid-related deaths of residents in the first months of the pandemic in 2020 is reflected in a report published in March 2024 by a Spanish Citizens Commission for Truth in the Long-Term Care Homes of Madrid. According to this report,⁴⁹ the lives of more than 4 000 care home residents in Madrid could have been saved if they had been treated in hospitals.

84. In 2023, the Council of Europe Steering Committee for Human Rights in the fields of Biomedicine and Health (CDBIO) published a "[Guide to health literacy – contributing to trust building and equitable access to healthcare](#)" to empower all people to be more effective advocates in accessing healthcare services and in making appropriate decisions regarding their health.

85. The Portuguese Ombudsperson reported that most of the complaints received about the right to health are related to the accessibility and availability of the national health service, including difficulties in accessing medical assistance at different levels of care. The Senior Citizens Helpline received many requests concerning access to mental health services and follow up. In 2019, the UK's Royal College of Psychiatrists published a study showing how ageism exists in access to mental health services, finding that older persons were not getting the mental health support that they needed because of ageist views.

86. A Council of Europe report entitled "[The right to the highest attainable standard of health and access to healthcare for LGBTI people in Europe](#)", published in September 2024,⁵⁰ found that LGBTI people in later life report poorer health than the general population, with worse experiences of care, particularly cancer, palliative/end-of-life care, dementia and the provision of mental healthcare. In addition, older LGBTI people are at a high risk of social isolation due to smaller family networks and increased care needs. The report includes a section with "promising practices"⁵¹ in relation to voluntary/community-based interventions to provide care and support to older LGBTI people (in the Netherlands, Czechia, Spain and Greece), as well as regarding high quality and culturally competent health and social care for older LGBTI people (in Germany, the Netherlands, Belgium, UK).

87. The increasing use of artificial intelligence systems in health and social care for older persons can also be beneficial by helping to identify risks and enabling older persons to meet their own needs. However, in order for this to work, WHO⁵² calls for implicit and explicit bias and ageism to be eliminated in the design, development, use and evaluations of AI technologies. This also requires the full involvement of older persons in the processes, systems and services that affect them, as it is addressed in the next chapter.

46. Défenseure des droits, "[Les droits fondamentaux des personnes âgées accueillies en EHPAD](#)" (French only), 2021.

47. Défenseure des droits, "[Suivi des recommandations du rapport sur les droits fondamentaux des personnes âgées accueillies en EHPAD](#)" (French only), 2023.

48. See note No. 7 above (WHO, 2023).

49. A summary of the report in English is available [here](#).

50. Council of Europe, "[Right to the highest attainable standard of health and access to healthcare for LGBTI people in Europe](#)", 2024 – Third thematic review of the implementation of the Council of Europe Committee of Ministers Recommendation CM/Rec(2010)5 to member States on measures to combat discrimination based on sexual orientation or gender identity. See chapter 6 "Older LGBTI people".

51. *Ibid.*, pp. 56-60.

Good practices⁵³

88. As regards medical screening, age-based segmentation is often practised, raising questions about compatibility with anti-discrimination laws. The equality body of the Slovak Republic recommended the reform of a regulation that limited the right to free annual breast cancer screening, through a preventive mammogram examination, to women from 40 to 69 years of age. The equality body recommended to extend the age cohorts entitled to the screening based on the fact that the incidence of breast cancer increases in all age groups and culminates between the age of 75 and 79 years.

89. As regards reproductive rights, the equality body of Bulgaria asked the Ministry of Health to repeal a discriminatory provision fixing an upper limit of 45 years of age for women to undergo artificial insemination with processed spermatozoa by their spouse. The equality body also instructed the Public Council on Patients' Rights to analyse the law and its application to protect the right of women to equal treatment and the exercise of reproductive rights without discrimination.

90. The digitalisation of healthcare systems can also impact accessibility for older persons. The Equality Body of Slovenia carried out a survey that identified many challenges and gaps in access to healthcare.

91. In 2022, the Ombudswoman of the Republic of Croatia focused on the protection of older persons in relation to long-term care contracts, which entail the transfer of property after the contract is concluded, with the subsequent risk of abuse and increased vulnerability. The equality body advocated for the need to improve the legal framework to prevent the abuse of these contracts and to protect older persons.

92. In Austria, access to financial support for care is based on an individual assessment of the person's needs, and is not linked to their income. There are seven levels of support for care, which is re-calculated every year, and the decision by the authorities can be challenged in an administrative court, without a fee.

9. Participation of older persons in the decisions that concern them

93. An important feature of ageism against older persons is that it is not only reflected in actions, but also in inaction, by omitting to consider the needs and voices of older persons. Ageism may be internalised as we grow older, which can be self-limiting.

94. A demographic shift towards an older population is not simply a topic for debate as regards sustaining growth and the welfare State: it also raises questions about the model of society we want to live in, and how we interact across generations. It calls for efforts to ensure that everyone can actively participate and get involved in these discussions, both younger and older. It calls for both short-term and long-term solutions.

95. Article 23 of the European Social Charter remains a key instrument to promote the social rights of older persons, which implies the need to ensure their full participation in society. The ECSR applied this provision dynamically, addressing for example the central role of legal capacity and the need for supportive decision-making mechanisms to increase legal capacity and autonomy in old age. The ECSR, moreover, highlighted that the active participation of older persons should be a main consideration in developing policies to combat ageism.

96. Regarding long-term care, a key challenge to be addressed is to ensure that older persons have a choice as to where they would like to receive support (at home or in a residential facility). There is a need to raise older persons' awareness of their right to take decisions about their own life and the right to independent living in older age. A new approach is needed to restore the autonomy and legal capacity of older persons, as the focus of policy shifts away from mechanisms that "protect" persons with cognitive disabilities by silencing their voice through guardianship, towards the search for new tools to support autonomy and the restoration of legal capacity.⁵⁴

97. Under the Citizens, Equality, Rights and Values (CERV) Programme, the European Union provides funding to support equal participation and autonomy of older persons through representative organisations. Older persons are also the specific focus of several CERV-funded projects, such as a project to promote the participation of senior citizens in the civic and democratic life of the European Union through the organisation of local events in several member States. Under the Networks of Towns 2024, other projects seek to increase

52. "Ageism in artificial intelligence for health", WHO Policy Brief, 2022.

53. Information provided by Equinet.

54. G. Quinn, A. Gur & J. Watson, "Ageism, moral agency and autonomy: getting beyond guardianship in the 21st century", in *Ageing, ageism and the law – European perspectives on the rights of older persons*, Edward Elgar Publishing, 2018.

the awareness, knowledge, and interest of EU citizens and decision makers on ageism and the position of older persons, and to involve older persons in local decision making, including through intergenerational dialogue.

98. In autumn 2023 and spring 2024, the Women and Equalities Committee of the UK Parliament gathered written and oral evidence as part of an inquiry on “The rights of older people”, launched to examine whether ageist stereotyping and discrimination, are preventing older persons from fully participating in society. The committee will consider the views of older persons and expert witnesses in its work.

10. Conclusions

99. The current approach towards older persons needs to be reviewed and move towards developing strategies and/or action plans based on the human rights of older women and men in all their diversity, taking into account their specific needs and circumstances, and always with their active participation and involvement.

100. A change in the portrayal of older persons – in all their diversity – is needed, as a stereotyped image is still used too often, which perpetuates prejudice and discrimination against them. We clearly need a paradigm change to address and combat the ageism suffered by older persons in our member States. And we need to put this work in the right framework if we are to equally uphold their human rights, following a whole life-course comprehensive approach, aiming at active and healthy aging policies, and bearing in mind the diversity of situations and needs among older persons.

101. As political leaders, we have a responsibility to guarantee everyone’s enjoyment of their human rights, regardless of age and without any discrimination, including intersectional considerations. We have a responsibility to promote a society that respects and cares for all its members.

102. My report aims to raise awareness of the discrimination against older persons, which remains pervasive and affects many persons in our member States, as well as about its root causes. We need to take action and raise political commitment at national, regional and international levels to ensure the full enjoyment of the human rights, dignity and well-being of older persons.