**20th May 2015**

**AGE Platform Europe response to UN Special Rapporteur on Disability call for submissions on the right of persons with disabilities to social protection**

AGE Platform Europe (AGE), is the EU largest network of organisations of and for older persons. Funded by the European Commission DG Justice, we aim at voicing and promoting the rights and interests of the 190 million inhabitants aged 50+ in the European Union. Through our membership we represent directly more than 40 million older persons across the EU.

AGE’s submission aims to provide insights on the specific barriers that older people with disabilities face in accessing social protection, such as disability pensions, personal budgets, personal assistance and mobility allowances. It will give examples from EU countries to showcase the need for an old age perspective in disability, in order to overcome existing discrepancies in the application of disability-related provisions.

As our contribution is not focusing on a single Member State, we will address the questions in a thematic manner, providing as far as possible specific information on the legal and institutional framework in selected countries.

We will primarily address questions 4 and 5 of the questionnaire, regarding age-based barriers and eligibility criteria.

**Narrow definition of disability and age limits in eligibility criteria**

While not all older people are persons with disabilities, the likelihood of acquiring a disability increases with age. In fact, according to Eurostat figures (EU-SILC2012) the percentages of people reporting a disability are per age group as follows:

* age 55-64: 32 %
* age 65-74: 44 %
* age 75-84: 60 %
* age 85+: 70 %

Older persons with age-related functional limitations are likely to require assistance and care until the end of their lives, yet they often fall in between the cracks of disability and ageing policies. Being denied access to social protection schemes available to younger people with disabilities that compensate for the increased care-related expenses, older people find themselves in a high risk of poverty, isolation and poor mental and physical health.

While the UNCRPD definition of persons with disabilities (article 1) is rather wide, national laws and policies interpret it in a narrow way, encompassing only those persons who suffer from a known constraint or disability, whereas frail seniors and other older persons who face limitations in their daily activities rarely fall under the disability label. This creates a divide between those persons who are assisted because of a specific impairment and those who are merely less agile or frailer in later years of their life and prohibits older persons from enjoying their rights in an equal manner with others.

Indeed, often frailty in the geriatric sector and relevant ageing policies is evaluated based on the remaining competences of the individual, whereas disability status is provided based on the acknowledgement of specific conditions. Whereas some countries have introduced different scales of disability under national law, the question that remains is under which category frailty and old-age functional limitations are supported and whether there are laws and policies aiming to provide income support for disabilities that come with old age.

In addition eligibility criteria to access benefits and services available for persons with disabilities often impose age limits. For example, in France people over the age of 60 are entitled to less generous allowances and care packages than younger persons with disabilities and are asked to contribute through co-payments to their long-term care costs up to 90% depending on their income, while the disability evaluation grid for the two systems that applies to people younger than 60 is considerably different. The age barrier in the French system that discriminates against people who acquire age-related disabilities, should have been removed by the 1st January 2011, but it has been retained in the recent proposal for a Law on the adaptation of society to ageing[[1]](#footnote-1).

Similarly, in Greece older people who receive an old-age pension are not eligible for the full disability allowance, even if their condition amounts to a “full disability” under national law. The Greek ombudsman has ruled that such situation constitutes age discrimination, since older people, as for example those who suffer from dementia, which in its advanced form is one of the most severe disabilities as individuals may need 24-hour support, receive no financial help to cover for the care they need in their everyday lives[[2]](#footnote-2).

Likewise, in Ireland to qualify for disability allowance (weekly allowance paid to people with a disability) you must be aged between 16 and 66. When you reach 66 years of age you no longer qualify for disability allowance, but you are assessed for a state pension[[3]](#footnote-3). Besides the Irish Ombudsman has criticized the ineligibility of people over the age of 66 for a mobility allowance[[4]](#footnote-4).

In addition in Belgium the age barrier to have access to support as a person with a disability is set at the age of 65. Recently a case was reported in the media, about an older lady who acquired ALS (Lou Gehrig’s disease) at the age of 69 but does not qualify for state reimbursement for her disease-related expenses. This situation does not only put the older person in an unequal financial position but fails to recognise their equal right to treatment, quality of life and dignity[[5]](#footnote-5).

Such age-contingent eligibility criteria are not characteristic only of a handful of Member States but are typical barriers for older citizens. For instance, it is commonplace to exclude older people from personal assistance schemes as a 2012 survey has showcased[[6]](#footnote-6). Yet, these issues have not received adequate attention in human rights standards. It is noteworthy that although the CRPD Committee criticized the lack of availability of personal assistance to people with psychosocial disabilities, it has not yet flagged the age restrictions applied to some of the countries under its review.

It would thus be important for the Special Rapporteur to look into how existing social protection schemes - in particular those that do not compensate for loss of employment but aim to cover for support needs - apply to people who age with a disability and people who acquire disabilities in an advanced age (regardless of whether these are related to old age or not) and clarify that age alone should not be a reason why older people in need of support do not fall under the remit of disability provisions. Old-age pension schemes are not conceived to cover for disability-related needs, but for the loss of work-related income; without adequate compensation for their support needs, older people will have to choose between paying for long-term care and covering other basic needs, including housing, food and medication. Social protection is a fundamental right of everyone, regardless of when disability occurs.

**More information**

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1. [http://www.social-sante.gouv.fr/espaces,770/personnes-agees-autonomie,776/dossiers,758/adaptation-de-la-societe-au,2971/](http://www.social-sante.gouv.fr/espaces%2C770/personnes-agees-autonomie%2C776/dossiers%2C758/adaptation-de-la-societe-au%2C2971/) [↑](#footnote-ref-1)
2. <http://www.synigoros.gr/resources/perilipsi_epidoma_anapirias.pdf> [↑](#footnote-ref-2)
3. Info retrieved from Citizen’s Information Website ([www.citizensinformation.ie](http://www.citizensinformation.ie/) ) and The Health Service Executive website ([www.hse.ie](http://www.hse.ie/)) [↑](#footnote-ref-3)
4. <https://www.ombudsman.gov.ie/en/Publications/Investigation-Reports/government-departments-other-public-bodies/Too-Old-to-be-Equal-/Too-Old-to-be-Equal-.pdf> [↑](#footnote-ref-4)
5. <http://www.andrecontrelasla.be/Atteinte-de-S-L-A-a-71-ans-elle.html> [↑](#footnote-ref-5)
6. See 2012 survey by the European Network of Independent Living (ENIL) on personal assistance, which found that of the 22 countries involved in the survey, at least 8 excluded people with disabilities over the age 65 from the right to personal assistance. More information on the national schemes see here: <http://www.enil.eu/wp-content/uploads/2012/06/European-Survey-on-Personal-Assistance-Final.pdf> [↑](#footnote-ref-6)