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Mandates of the Independent Expert on the enjoyment of all human rights by older persons, the Special Rapporteur on the rights of persons with disabilities and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

21 April 2021

Contribution to the public consultation on the EU Green Paper on Ageing – Fostering solidarity and responsibility between generations

This contribution is submitted in our respective capacities as Independent Expert on the enjoyment of all human rights by older persons, the Special Rapporteur on the rights of persons with disabilities and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to resolutions 44/10, 42/12 and 42/16 of the Human Rights Council.

We commend the European Commission on initiating a broad policy debate on ageing in view of identifying opportunities and responding to needs and challenges the demographic change in Europe brings. We also welcome the participatory approach taken thus far, by publicly seeking feedback from all interested stakeholders first in the preparation and secondly following the publication of the Green Paper on Ageing. Moving forward, in line with the its stated priority to build a “Union of Equality” and complementing other actions taken in this respect, we urge the Commission to prepare a White Paper with forward-looking and rights-based policy options for ageing in equality, autonomy and independence. This should include an Equality Strategy for the rights of older persons as a conceptual framework for mainstreaming ageing across various policy areas.

We wish to structure our reflections and recommendations in two parts. First, we propose some general comments and observations on the Green Paper and the way forward, with a particular emphasis on fully embracing a human rights-based approach. Second, we seek to respond to a number of questions raised in the Green Paper that we see as especially important from the perspective of our mandates.

I. General comments: mainstreaming a human-rights based approach to ageing

The Green Paper frames the debate on ageing in terms of economic and social impacts related to the demographic changes within the European Union. In this way, it covers a wide range of key issues for older persons such as health and care services, healthy and active ageing, access to the labour market, old-age poverty, inter-generational solidarity, etc. This approach nevertheless constrains the debate to a narrative of financial and economic sustainability which perpetuates attitudes towards older age as a period of decreased productivity and capacity, and dependency on others. Moreover, while supporting healthy and active ageing, the focus on the

continuing contribution of older persons to all aspects of society is missing. Despite pointing to an ageing society as a success story of the European social market economy, the underlying depiction of the ageing process is one of costly needs and economic problems. Going forward, we urge the Commission to ground its policy analysis and proposals in human rights standards and principles in order to ensure that older persons are first and foremost treated as rights-holders in equal terms to others.

Adopting a human rights-based approach, including when addressing the health and long-term care needs of an ageing population, will set a course for a much more progressive and inclusive agenda that would benefit Europeans of all ages. It would also align with human rights commitments undertaken by EU Member States and forward-looking initiatives such as the Council Conclusions on Mainstreaming Ageing in Public Policies of 12 March 2021, Council Conclusions on Human Rights, Participation and Well-Being of Older Persons in the Era of Digitalisation of 9 October 2020 and the Trio Presidency Declaration on Ageing of 22 December 2020.

Way forward: an inclusive ageing strategy and mainstreaming the rights of older persons

The Green Paper covers a lot of thematic grounds but appears constrained when it comes to proposing policy options. Despite important policy and legislative competencies of EU Member States in this area, the Commission can use different instruments to propose and take action in view of promoting and protecting the rights, wellbeing and health of an ageing population across thematic sectors. **As a next step, we call on the Commission to elaborate a White Paper with concrete policy options, including an Equality Strategy for the rights of older persons that would provide a conceptual framework for age-inclusive mainstreaming in line with human rights standards and principles.**

This would clearly and concretely support building a “Union of Equality” which is one of the major priorities of the President of the Commission.¹ The President further committed to proposing new anti-discrimination legislation: an opportunity for robust protection against discrimination based on various grounds, including age, and to cover areas of particular importance for older persons such as healthcare, social protection, housing, and access to goods and services. The new legislation should further recognize and address multiple and intersecting forms of discrimination, including intersections between age, disability, gender, sexual orientation and gender identity, migrant status, racial origin, belonging to ethnic, religious or linguistic minorities or to indigenous peoples.

The implementation of the European Pillar on Social Rights represents another avenue for integrating an age-inclusive and rights-based perspective, while shifting from a narrative of negative economic and social impacts of ageing. We note the Commission’s recent European Pillar on Social Rights Action Plan with references to increased longevity and need to ensure participation in the labour market by under-represented groups, including older persons.² Nevertheless, the ageing population remains portrayed as causing pressure on the labour market

¹ Political Guidelines for the next European Commission 2019-2024

² https://ec.europa.eu/info/strategy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-action-plan_en

and creating needs and challenges for long-term care systems. The Commission should strive to implement the Pillar with systematic mainstreaming of ageing and the rights of older persons, for example with respect to actions planned on long-term care, access to adequate and sustainable social protection, access to services, digital technologies, equality in employment, affordable housing, and combating violence against women. This needs to include recognizing and tackling all forms of ageism and age-discrimination, ensuring participation of all age groups, and promoting autonomy and independence in older age.

Promoting inclusive ageing in dignity and autonomy should be further prioritized and coordinated with existing financial instruments, such as the Recovery and Resilience Facility, Cohesion Policy funds, Digital Europe programme or EU4Health programme, with implementation to be monitored to ensure compliance with human rights obligations.

Human rights to underpin policies and strategies on ageing

A human-rights based approach should be the basis for future action. Human rights obligations and commitments undertaken by the European Union and its Member States must form the backbone for all reflections and policy decisions on ageing. Whilst a comprehensive international human rights framework on older persons is lacking, for example in contrast to the right of persons with disabilities, a fundamental basis can be drawn from existing international and regional instruments as well as initiatives on ageing guided by human rights.³

The Green Paper makes references to the UN 2030 Agenda for Sustainable Development, UN Decade for Healthy Ageing and the European Pillar of Social Rights, none of them creating legally binding obligations on States, but fails to spell out rights under the existing international and regional human rights frameworks. As such, it misses the opportunity to frame older persons as rights-holders and health care and long-term care in the broader context of the right of older persons to the highest attainable standard of health. All EU Member States are parties to relevant core international human rights treaties⁴ which are applicable to all regardless of age. This includes, *inter alia*, the right to autonomy and decision-making, to the highest attainable standard of health, education, adequate standard of living, social security, access to justice, liberty of movement and freedom to choose one's residence, freedom from torture and cruel, inhuman or degrading treatment or punishment, and freedom from gender-based discrimination.

Additional guidance is provided by voluntary United Nations initiatives on ageing that underscore the importance of respecting and promoting human rights of older persons. The United Nations Principles for Older Persons (1991) encourage States to promote the

³ For a comprehensive overview of relevant international normative standards: Comprehensive report of the Independent Expert on the enjoyment of all human rights by older persons (A/HRC/33/44); Analytical Outcome Paper on Normative standards in international human rights law in relation to older persons (2012) and Update to the 2012 Analytical Outcome Study (2021) by the office of the High Commissioner for Human Rights; Shifting perceptions: towards a rights-based approach to ageing by the European Union Agency for Fundamental Rights (2018).

⁴ International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination Against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of Persons with Disabilities.

independence, participation, care, self-fulfillment and dignity of older persons. The Madrid International Plan of Action on Ageing (2002) reaffirms that the promotion and protection of all human rights and fundamental freedoms is essential for creating an inclusive society for all ages, and therefore for ensuring that persons are able to age with security and dignity and to continue to participate in their societies as citizens with full rights. In December 2020, the General Assembly proclaimed the United Nations Decade on Healthy Ageing (2021-2030), called on States to promote and ensure the full realization of all human rights and fundamental freedoms for older persons, and emphasized the need to “change how we think, feel and act towards age and ageing” (A/RES/75/131).

At the regional level, the European Union has undertaken important human rights commitments in relation to ageing. The Charter of the Fundamental Rights of the European Union specifically prohibits age as a ground of discrimination (Art. 21); provides for the recognition and respect of the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life (Art. 25); the entitlement to social security benefits and social services providing protection in old age (Art. 34); and a high level of human health (Art. 35). Under the Treaty on the Functioning of the European Union (Art. 10 and 19), the EU shall aim to combat discrimination, including based on age, when defining and implementing its policies and activities and has powers to take positive action in this respect. Principles set out in the European Pillar of Social Rights aim at fostering a fair and inclusive society with better living conditions of all people and cover many issues relevant to ageing. Actions to implement the Pillar should therefore complement and inform EU’s policies and strategies on ageing and vice versa.

Fundamental principles: equality, non-discrimination, participation, autonomy and independence

Fundamental principles set out in the international and European human rights frameworks and initiatives on ageing should be the starting point for formulating policies and strategies in this respect. The Green Paper briefly refers to some of these principles in “Box 1. Autonomy, participation and rights of older people”, aside from the main text. The language used, however, emphasizes the vulnerability of older persons in terms of challenges faced to enjoy autonomy and participation. Very little is said about strategies and measures to ensure participation and retain autonomy in old age. A first step should be to adopt a narrative considering older persons as rights-holders rather than viewing them as beneficiaries of the welfare system and stressing their vulnerability. This would also more accurately reflect the heterogeneity of older persons and the many positive and diverse contributions they make to our societies.

The Green Paper fails to expressly recognize **the equal enjoyment of rights and the prohibition of discrimination based on age**, despite the above-mentioned provisions of the Charter of the Fundamental Rights of the European Union. Equality and non-discrimination are a precondition for a life in dignity and the enjoyment of human rights, for older persons and for everyone. A recent global study found that ageism, i.e. stereotypes, prejudice and discrimination based on age, remains pervasive, including in health and social care, workplace, or in the media. In Europe, more than one in three people over 65 reported having been a target

of ageism.⁵ A careful analysis of age discrimination and inequality is needed in different areas considered in the Green Paper, such as lifelong education and learning, access to health and care services or the right to work and access to the labour market. In parallel, active measures against ageism and age discrimination need to be taken, including to counter negative narratives on ageing.

Furthermore, the **direct and informed participation** of all age groups, including older persons, must be ensured in the design, formulation, implementation, and monitoring of policies and legislation. This is critical to protect against exclusion and isolation and to foster an active role for older persons in society while integrating age-sensitive considerations in law and policy. As noted by the Special Rapporteur on the right to the highest attainable standard of physical and mental health, a shift towards the concept of “active ageing” includes a focus on the continuing contribution of older persons to society in all spheres of life, and not simply the ability to be physically active to participate in the labor force.⁶ The voice and engagement of older persons has further been identified as one of the cross-cutting “enablers” of the Decade on healthy ageing. Inspiration should also be drawn from measures and policies taken to apply the Convention on the Rights of Persons with Disabilities which includes the right to “full and effective participation and inclusion in society” (Art. 3(c)), for example in terms of accessibility of infrastructure and services. The Green Paper rightly refers to digital inclusion, accessibility in rural areas, transportation and mobility, and the organization of urban infrastructure and services as specific challenges for an ageing population. We encourage the Commission to build on its analysis by formulating programmes and initiatives to stimulate the participation and accessibility for older persons.

Finally, equality, non-discrimination and participation contribute to the enjoyment of **autonomy and independence in older age**, which is crucial for the well-being and enjoyment of all human rights by older persons. Autonomy and independence are mutually reinforcing and refer, respectively, to living in the community without assistance or, at least, where the amount of help does not subject older persons to decisions of others and to the ability to exercise freedom of choice and control over decisions affecting one’s life, including with the help of someone if needed.⁷ In Art. 25, the Charter of Fundamental Rights of the European Union provides for the right of older persons to lead a life of independence. Moreover, normative standards under the Convention on the Rights of Persons with Disabilities⁸ and their practical application, such as the right to independent living, legal capacity, participation in decision-making and the concept of reasonable accommodation or universal design, should provide valuable guidance to situations relevant to older persons. We welcome that the Green Paper refers to the importance of autonomy and participation of older people and we urge the Commission to fully and without restriction (i.e. without using terms such as “as far as possible”) integrate these principles in future policy considerations, for example with respect to the design, implementation, monitoring and evaluation of health and care models.

⁵ WHO Global Report on Ageism (2021), p. 34

⁶ A/HRC/18/37, para 13

⁷ A/HRC/30/43, para 46

⁸ To which the EU and its Member States are a party

A right to health approach to meeting the health and long-term needs of older persons

The analysis and policy considerations on meeting the health and long-term care needs of an ageing population would benefit from adopting and reflecting a right to health approach and a paradigm shift where older persons are seen as right holders contributing to society and not as a social burden associated with health related needs. Increased longevity and ageing represent a positive achievement, as a result of important gains in different areas. Adding this dimension and a stronger focus on the continued participation and significant contribution of older persons in all areas life is important and needed going forward.

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health underlines that a right to health approach is indispensable for the design (implementation, monitoring and evaluation) of a comprehensive health policy response to address the needs of an ageing population and the rights of persons with disabilities.⁹ A right to health approach requires a focus on the human dignity, needs and rights of older persons.

The Green Paper refers to the promotion of accessible, affordable and quality long-term care. In this context, it is important to explicitly clarify that health facilities, goods, services and programs for older persons should combine elements of preventive, curative and rehabilitative health treatment,¹⁰ be available in sufficient quantity, accessible without discrimination on age grounds (or any other prohibited ground), within safe and physical reach, physically accessible, in accordance with the Convention on the rights of Persons with Disabilities, as well as affordable.¹¹ Also, the right to sexual and reproductive health of older persons, which is an integral component of the right to health,¹² as well as protection from abuse and violence and the need to train health care workers in identifying possible cases should be addressed.¹³ Additional comments on community based-services and residential or other services are provided under question 14.

The impact of the COVID-19 pandemic on older persons

The impact of the COVID-19 on older persons merits considerable reflection to draw lessons how to plan and improve crisis responses, healthcare systems and other services to protect the human rights of older persons in the future. The Green Paper does not provide sufficient analysis in this respect.

In her 2020 report (A/75/205), the Independent Expert on the enjoyment of all human rights by older persons outlined how the COVID-19 emergency and some of the related responses and measures magnified pre-existing violations of the human rights of older persons and revealed the invisibility and entrenched ageist attitudes affecting older persons.¹⁴ In brief, older persons, and in particular those with underlying health conditions, are at higher risk of serious illness and death from COVID-19. These risks can be aggravated due to social exclusion, poverty, limited access to health services, care support needs or living in institutions and

⁹ A/HRC/18/37, paras 10 and ss

¹⁰ Committee on Economic, Social and Cultural Rights, General Comment 14, para 25 (E/C.12/2000/4)

¹¹ A/HRC/18/37, paras 24-26

¹² A/66/254 and General Comment 14

¹³ A/HRC/18/37, para 44

¹⁴ See also the press release of 27 March 2020:

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25748&LangID=E>

confined spaces. The response to COVID-19 exposed serious denials of older persons' human rights as they have been physically and socially isolated and branded as burdens to societies. With respect to the right to health and life, the allocation of scarce medical resources was at times made solely on the basis of age. Future policy action recommendations must take into account and learn from the human rights impacts of COVID-19 on older persons. For instance, there is a need to develop and enforce triage protocols that ensure decisions on scarce medical resources are made on the basis of medical needs, the best scientific evidence available and not on non-medical criteria such as age or disability is of key importance.

This assessment echoes the main messages in the UN Secretary General's Policy Brief on the Impact of COVID-19 on older persons published in May 2020. The European Union and all its Member States signed a statement of support to the Policy Brief¹⁵ in which they expressed commitment to “fully promoting and respecting the dignity and rights of older people and to mitigate the negative impacts during and after the COVID-19 pandemic on their health, lives, rights and wellbeing”. This commitment should be translated into practice, including through policies and measures proposed by the Commission.

II. Inputs to questions raised in the Green Paper

1. How can healthy and active ageing policies be promoted from an early age and throughout the life span for everyone? How can children and young people be better equipped for the prospect of a longer life expectancy? What kind of support can the EU provide to the Member States?

We welcome the life-cycle approach to ageing as it is conducive to strengthening inter-generational solidarity, promoting active and healthy ageing and countering negative stereotypes. The UN Decade on Healthy Ageing also favours a life course approach, with healthy ageing described as a “rights-based response to population ageing” that “mitigates inequities accumulated over the life course”.¹⁶ As older persons are the most heterogeneous age group, some are exposed to multiple and intersecting forms of discrimination (e.g. women, migrants, persons with disabilities, people belonging to ethnic or religious minorities, LGBTI as mentioned in the Green Paper).

Access to health care, including preventive and long-term care, are key requirements for healthy and active ageing and for the realization of the right to health. The Green Paper describes healthy and active ageing primarily as a “personal choice and responsibility” that is affected by the environment and supported by public policies. Integrating an approach based on human rights and the (unequal) experiences during the life course, the emphasis should instead be placed on transforming health systems and the way care is organized and available to all as well as on combating stereotypes associated with ageing.

In this context, we encourage the Commission to further refine its approach by considering the fluidity of experiences and opportunities during the life course across all the thematic areas covered in the Green Paper rather than keeping with the stages of early childhood and young

¹⁵ <https://www.un.org/development/desa/ageing/uncategorized/2020/05/140-member-states-support-the-sg-policy-brief-on-covid19-and-older-persons/>

¹⁶ Baseline Report for the Decade of Healthy Ageing 2021–2030

adulthood (“laying the foundations”), working-age (“making the most of our working lives”), retirement (“new opportunities and challenges in retirement”), and advanced old age (“meeting the growing needs of an ageing population”). The life course is more varied and individuals make flexible transitions between these stages at different points of their life and age, for instance owing to shifting family structures. Moving away from associating later stages of life with inactivity, reduced income and growing care needs would help dispel stereotypes that lead to ageism and promote a positive attitude to healthy and active ageing. Efforts in this direction would also align with equality and non-discrimination as core principles for EU action.

2. What are the most significant obstacles to lifelong learning across the life-cycle? At what stage in life could addressing those obstacles make most difference? How should this be tackled specifically in rural and remote areas?

Keeping with the life course approach, deeper consideration should be given to ways to foster access and availability of lifelong learning and training, including digital skills, for older persons, in parallel to the Green Paper’s emphasis on young generations. Here again the principles of equality and non-discrimination should be at core of policy considerations, while also helping to maintain skills and knowledge up to date in fluid and flexible career paths and in fast evolving labour markets that are heavily impacted by digitalization and new technologies. Investing in continuous learning and training after completing formal education will be key for everyone and systematically including older persons is essential in order to promote their social inclusion, economic security and independent living.

Older persons face important obstacles to take advantage lifelong learning, including inadequate accessibility and information; lack of consultation in the design and implementation of life-long learning programmes; and topics and teaching methods not corresponding to the interests, needs and diversity of older persons. More broadly, costs and accessibility of learning programmes coupled with isolation and social exclusion experienced by some older persons represent significant impediments. As recognized in the Green Paper, this is particularly challenging in remote and rural areas, requiring efforts to ensure awareness and information about learning opportunities together with support to mobility and strengthening digital infrastructure, devices and skills.

3. What innovative policy measures to improve participation in the labour market, in particular by older workers, should be considered more closely?

Older persons regularly face age discrimination at all stages of the employment process due to negative stereotypes. The Green Paper identifies discrimination at work as a key challenge, especially for women, people with a migrant background, persons with disabilities, and older workers aged 55-64. Options to improve the situation for older workers are noted and should be further developed (fiscal incentives for employers; accessibility; flexible and adequate working conditions, including in terms of occupational safety and health; and use of digital technologies), with attention paid also to those above 65. The comprehensive report of the Independent Expert on the enjoyment of all human rights by older persons (A/HRC/33/44) and the Working document on the Right to Work and Access to the Labour Market to the Open-Ended Working Group on Ageing (A/AC.278/2021/CRP.3) provide further useful examples,

e.g. partnerships with private companies, career counselling, targeted online job matching services, or age-friendly labour market strategies.

Action to counter age discrimination and ageism is vital and can take the form of awareness raising, encouraging inter-generational teams, and tackling age-discriminatory recruitment and employment practices. This should be among the priorities in the implementation and monitoring of the EU's Employment Equality Directive (2000/78/EC) and any other relevant policies and strategies. Groups that may be particularly vulnerable to multiple forms of discrimination at older age need to be given specific attention, e.g. women, persons with disabilities or persons belonging to ethnic and religious minorities.

The Green Paper anticipates that a shrinking “working age” population can be tackled through “labour saving technology and innovation”. The potential of increased longevity is not much considered beyond non-remunerated activities and the issue of sustainable pensions. The distinction between working and retirement ages remains unchallenged, despite mandatory retirement ages being problematic for the full realization of the right to work and outdated in the contemporary life course. Workers close to retirement age face challenges in finding employment and are more likely to be unemployed, on short-term and precarious contracts. The Commission should encourage moving away from mandatory retirement ages, with older workers having the choice to continue or stop working, while fully enjoying the right to social security, including old-age pension.

7. Which services and enabling environment would need to be put in place or improved in order to ensure the autonomy, independence and rights of older people and enable their participation in society?

A human rights-based approach to ageing is needed to frame older persons as rights-holders and shift the narrative from depictions of older age as an economic burden to public budgets due to increased healthcare needs and decreased activity. Our general comments on the Green Paper above outline what should a human rights-based approach entail and how it should be grounded in the principles of equality and non-discrimination, participation, autonomy and independence. An overarching framework on ageing would significantly contribute to guiding policies and legislation across different sectors so that the rights of older persons, including the right to independent living and participation in society, are effectively mainstreamed and applied. This is relevant, *inter alia*, for policies on health, long-term care, employment, lifelong learning, digital inclusion, data collection, access to goods and services, and combating violence, abuse and neglect. That is why, we recommend that the Commission formulates concrete policy options through a White Paper on Ageing, notably including a proposal for an Equality Strategy for the rights of older persons.

We wish to particularly reiterate the need for older persons to be consulted and included in all aspects of public decision making in different sectors. In this way, age-sensitive policies and legislation will be fostered across the board rather than limiting their perspective to specific initiatives on ageing. This would further encourage inter-generational dialogue and understanding. Meaningful and effective participation in social, cultural, economic, public and political life can be guaranteed only through the full and equal enjoyment of all human rights by older persons, including the right to autonomy, independence, choice, control and legal capacity. The EU should support policies and measures to ensure meaningful and effective

participation, while taking into account the heterogeneity of older persons. A particular focus should be placed on accessibility, for example through the concept of universal design related to products, environments, programmes and services.

9. How can the EU support Member States' efforts to ensure more fairness in the social protection systems across generations, gender, age and income groups, ensuring that they remain fiscally sound?

The financial sustainability of social security systems that protect against poverty is an increasing concern that will require reforms, as noted in the Green Paper. While the Commission refers to the prospect of longer working lives to maintain contribution rates to public budgets, more innovative and bold solutions should be proposed such as switching the tax base toward new sources of wealth, including environmental taxes and enterprises that benefit from productivity gains that seem to count less on labour and more on technologies. This would also move the debate from the unhelpful and outdated image of intergenerational tension as a result of a decreasing young population that is economically active and contributing taxes to fund social protection systems benefitting an increasingly older population. Instead, the potential and benefits of a multi-generational and age-diverse workforce should be promoted.

10. How can the risks of poverty in old age be reduced and addressed?

Older persons have the right to an adequate standard of living, which is indispensable to the fulfilment of all other rights. The international human rights framework recognizes the right to social security in old age. It is essential to ensure the income security of older persons through pension coverage and adequate entitlement levels above the poverty line. Pensions must be calculated giving due consideration to the true cost of living and encompassing decent housing, mobility and connectivity, healthcare services, life-long education, civic participation, and social and leisure activities.

Old-age pensions should not be exclusively based on contributory systems, as all individuals will not always be able to secure sufficient means to maintain an adequate standard of living.¹⁷ Contributory systems also tend to exacerbate gender inequalities. In this context, it is important to adopt a life course approach to understand and take effective measures against accumulated discrimination and inequalities that contribute to poverty in older age, particularly with the intersection of other factors such as gender or disabilities.

In parallel, age caps for income-generating activities, job rehabilitation programmes and benefits (including disability benefits) should be removed. Older persons should also enjoy equal access to mainstream financial services and products. In the context of the COVID-19 pandemic, older persons must be included among the beneficiaries of economic recovery initiatives in order not to exacerbate the vulnerability to poverty, especially for certain groups such as older women, persons with disabilities, migrants, LGBTI, people belonging to ethnic, religious or ethnic minorities and to indigenous people. For example, they must be included in digital literacy programmes given the digital transformation intensified during the pandemic.

¹⁷ Committee on Economic, Social and Cultural Rights, General Comment No. 19

Such programmes must be accompanied by measures to ensure access to the internet and investment and availability of universal design products and assistive technologies.

A life course approach is also essential as developed under question 11.

11. How can we ensure adequate pensions for those (mainly women) who spend large periods of their working life in unremunerated work (often informal care provision)?

The Green Paper recognizes the contribution and difficulties faced by informal carers, usually women and migrant workers, but lacks substance in proposing policy solutions. A life course approach is needed to correct discrimination and inequalities, especially for women, and the emphasis on supporting better reconciliation between work and private life as well as on better availability of quality childcare, formal long-term care and support for informal carers is encouraging. This needs to be concretised, for example through the implementation of the EU Gender Equality Strategy 2020-2025 which recognises the need to address the gender pay and pension gap and to invest in care services to support women's participation in paid work. Finally, where different retirement ages exist for men and women, they should be equalized without differences based on gender.

In addition, assistance and support to informal caregivers should be provided, for example through training, counselling and financial, social and psychological support. Provision of unpaid care should also be credited in the calculation of old-age pensions, in recognition of the work undertaken and to reduce risks of old-age poverty. The Commission can support the coordination of efforts in this direction, including possible recommendations on social protection and services for informal carers. As developed under question 10, strengthening non-contributory pensions systems, including the possibility to introduce universal basic retirement pensions at adequate levels, would also help redressing inequalities in accessing remunerated work.

14. How could the EU support Member States in addressing common long-term care challenges? What objectives and measures should be pursued through an EU policy framework addressing challenges such as accessibility, quality, affordability or working conditions? What are the considerations to be made for areas with low population density?

The Green Paper outlines important challenges but without proposing how long-term care should be conceptualised to be consistent with human rights, including the right to live independently and to participate in society and the right to an adequate standard of health (see above on p. 6). It notes that community-based services can support the "right to live independently in the community, as long as this is possible", while residential and other services may provide care services that "exceed the capacities of community-based settings". This implicitly assumes that some form of institutionalised care is unavoidable and subtly 'problematizes' the person. Instead, focus should be placed improving the range, type and quality of services available and proposing a different and person-centred service paradigm based on the will and preferences of older persons. Important links and lessons can be used here from the implementation of the Convention on the Rights of Persons with Disabilities.

Lessons also need to be drawn from the COVID-19 pandemic, which led to significant concerns over the conditions and standards in long-term care services, including in EU Member States. We welcome the intention to soon issue a report on this topic and hope it will build toward concrete policies on coordinated and integrated care systems focused on ensuring the right to independent living and encompassing the continuum of care, including prevention, promotion, rehabilitation, long-term and palliative care as well as social care and other community services; common quality, accessibility and monitoring standards for all types of service providers, including for-profit entities; ensuring information about care services and related rights are easily available and accessible; and measures to improve the situation of informal carers (see response to question 11). EU financial instruments should also be used and coordinated to support these policy objectives, in particular the Recovery and Resilience Facility.

Reports by the Independent Expert on the enjoyment of all human rights by older persons (A/HRC/30/43, A/HRC/33/44, A/75/205) and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/HRC/18/37, paras 45-49) provide further analysis and recommendations. They identify ageing at home as is the option often preferred by older persons and highlight that older persons must be included and consulted in the design, planning, implementation and evaluation of care so that care policies and services meet their requirements and needs while taking into account their diversity, including from an intersectional perspective.

15. How can older people reap the benefits of the digitalisation of mobility and health services? How can the accessibility, availability, affordability and safety of public transport options for older persons, notably in rural and remote areas, be improved?

Digital and assistive technologies have a great potential to foster environments enabling independence and autonomy for older persons, and the full exercise their human rights on an equal basis with others. They could notably bring cost-effective and efficient solutions to the increasing demand for care and need for individualized support for older persons, although without being an alternative for human interactions. The report on assistive and robotics technology by the Independent Expert on the enjoyment of all human rights by older persons (A/HRC/36/48) provides guidance in this respect, in particular the need for a human-rights based approach in the design, production, use of new technologies, including as regards data collection and privacy.

In addition, the Expert's report on data collection (A/HRC/45) outlines the flagrant lack of data on older persons to capture their lived realities and the enjoyment of their human rights, which is a prerequisite for informed decision-making and normative action. The lack of data has also been exposed during the COVID-19 pandemic. The digital footprint created through new technologies leads to an exponential increase of available data that creates possibilities for addressing the data gap. However, there are also risks that data collected this way overlooks those less digitally visible, and particularly those in more vulnerable situations.

It is essential to take action to overcome barriers faced by older persons in terms of digital inclusion and equal access to digital technologies. Several factors such as living in remote and rural areas, socioeconomic background and poverty, or gender, may exacerbate these barriers. Action needs to be taken to build digital skills and capacity of older persons, as well as formal and informal caregivers. Learning programmes and alternative ways of reaching older persons with no digital skills need to be developed. Older persons from low socioeconomic and educational backgrounds and of higher age should be taken into account during the development of the curricula of lifelong learning programmes. In parallel, efforts also need to be made with respect to the infrastructure, equipment and connectivity required to access the internet, especially at a time of crisis such as the COVID-19 pandemic.