Submission in response to the UN Special Rapporteur on the rights of persons with disabilities by the European Union Agency for Fundamental Rights

Questionnaire on “the rights of older persons with disabilities”, 15 April 2019

Even though the Agency has not conducted a specific research focused on older persons with disabilities, we can contribute to OHCHR’s reflections by submitting last year’s focus chapter of the Fundamental Rights Report on ageing as well as the Agency’s work on Independent Living where some information related to the topic can be found as a cross-cutting issues. In this document we provide you with a compilation of relevant information based on the Agency’s publications.

1. [Shifting perceptions: towards a rights‑based approach to ageing](https://fra.europa.eu/en/publication/2018/frr-2018-focus-rights-based-ageing) - **This chapter of the Fundamental Rights Report 2018 explores the slow but inexorable shift from thinking about old age in terms of ‘deficits’ that create ‘needs’ to a more comprehensive one encompassing a ‘rights-based’ approach towards ageing. This gradually evolving paradigm shift strives to respect the fundamental right to equal treatment of all individuals, regardless of age – without neglecting protecting and providing support to those who need it. A human rights approach does not contradict the reality of age-specific needs; on the contrary, a rights-based approach enables one to better meet needs, as required, while framing them in a human rights-based narrative.**
* Fundamental rights do not carry an expiry date and the need to move towards a right-based approach to ageing (P. 9);
* Little research, and none across all EU Member States, addresses the complex aspects of multiple and intersectional discrimination affecting older persons depending on their gender, disability, sexual orientation or minority and migrant status. Older persons are a widely heterogeneous group with quite diverse needs, possibilities and preferences. Understanding intersecting forms of discrimination and how they affect older persons is therefore key to crafting effective policies across a range of issues to safeguard the dignity of all older persons (P. 14);
* In the EU-28, an estimated 49 % of people aged 65 years and over reported long-standing limitations in usual activities due to health conditions in 2016. The results also show that more women than men experience long-standing limitations (51.5 % versus 44.4 %), which is likely because the proportion of older women among older persons increases as age increases.33 This number can be seen as a proxy for older persons in need of some sort of support (P. 14);
* *“All too often double standards apply in law and practice, excluding older people from some benefits, applying different eligibility criteria or giving less support when disability occurs in old age. Moreover, when ageism interferes with disability assessments, older people are not offered the same level, quality or ranges of support as younger people with disabilities.” AGE Platform Europe submission to Draft General Comment in Article 5, CRPD, 30 June 2017 (P.15);*
1. [The right to independent living of persons with disabilities](https://fra.europa.eu/en/project/2014/rights-persons-disabilities-right-independent-living/publications) - The Convention on the Rights of Persons with Disabilities (CRPD) commits both the EU and all of its Member States to realise the right of persons with disabilities to live independently in the community – which includes achieving de-institutionalization for those residing in institutional settings. But much remains to be done to make this a reality in practice. Doing so requires a meaningful and sustainable shift from institutional to community-based living arrangements. These publications summarize the findings from the three FRA reports focusing on different aspects of de-institutionalisation.
* A group of civil society organisations works together as the European Expert Group on the Transition from Institutional to Community-based Care (EEG). In 2012, it developed guidelines on how to achieve sustainable deinstitutionalisation for children, persons with disabilities and older persons. Drawing on best practice, they provide practical guidance for all public authorities involved in deinstitutionalisation on the essential elements of a successful transition process. *For more information, see:* [*www.deinstitutionalisationguide.eu*](http://www.deinstitutionalisationguide.eu) *(*From institutions to community living (P. 18 Part II: Funding and budgeting)*;*
* These findings underline the importance of further developing personal assistance services, even among those who already receive some form of help. Women and older persons with disabilities who do not receive help are most likely to declare that they need more help. Particular steps to address their requirements may be necessary. Further research could also explore the gender aspects of responses, in particular whether or not women are more likely to declare a need for, and request, help than men. (P. 25 - From institutions to community living Part III: Outcomes for persons with disabilities)
1. FRA Fundamental Rights Report [2016](https://fra.europa.eu/en/publications-and-resources/publications/annual-reports/fundamental-rights-2016), [2017](https://fra.europa.eu/en/publications-and-resources/publications/annual-reports/fundamental-rights-2017), [2018](https://fra.europa.eu/en/publications-and-resources/publications/annual-reports/fundamental-rights-2018)  - These reports include the Chapters on developments in the implementation of the CRPD and the Chapter on Equality and non-discrimination that cover the issues of older people
* Older people make up an increasing proportion of the EU’s population, a phenomenon driven by declining fertility rates and a higher life expectancy. Based on the latest available data, Eurostat estimates that about 64.5 million people in the EU were aged between 55 and 64 years in 2014 (Fundamental Rights Report 2016, P. 60);
* EU-level measures mainly focus on keeping older people at work by promoting healthy and active ageing. One such measure is the European Innovation Partnership on Active and Healthy Ageing, which falls under the Europe 2020 strategy (Fundamental Rights Report 2016, P. 62);