

**Mandates of the Independent Expert on the enjoyment of all human rights by older persons and the Special Rapporteur on the rights of persons with disabilities**

Ref.: OL OTH 115/2023  
(Please use this reference in your reply)

25 September 2023

Excellency,

We have the honour to address you in our capacities as Independent Expert on the enjoyment of all human rights by older persons and Special Rapporteur on the rights of persons with disabilities, pursuant to Human Rights Council resolutions 51/4 and 53/14.

In this connection, we would like to bring to the attention of your Excellency, information we have received concerning **the review of the Driving Licence Directive (COM (2023) 127 final) that might be discriminatory and perceived as ageist against older persons.**

On 1 March 2023, the European Commission released a proposed draft for a Directive of the European Parliament and of the Council concerning driving licenses ([COM \(2023\) 127 final](#)) to take into account recent developments, such as electric cars, digitalization as well as to improve road safety and reduce the number of accidents. This proposal aims at replacing the currently implemented EU Directive 2006/126/EC. While we welcome this proposal which aims to improve road safety in the European Union, provisions related to older people, might incite stigma and discrimination based on old age, as well as perpetuate ageist stereotypes and structural ageism against older persons.

Article 3.4 requests that Member States “shall ensure that only mobile driving licenses are issued by default”, while ensuring that “upon the request of the applicant”, a physical driving license may be issued. Prioritizing the issuance of digital driving licenses might create barriers for drivers who might have unequal access to digital means, including older drivers and persons with disabilities. It might lead to marginalization and exclusion from administrative procedures, due to digitalization, reinforced by lack of affordability, availability or accessibility for example. Digital transformation should not exclude people, but rather serve and benefit all people living in the European Union, as stated in the [European Declaration on Digital Rights and Principles for the Digital Decade](#).

Article 10.2 covers among others, the administrative validity of the driving licence and states that “Member States shall reduce the periods of administrative validity [...] to five years or less for driving licences of holders residing on their territory having reached the age of 70 in order to apply an increased frequency of medical checks or other specific measures, including refresher courses”. In the current Directive 2006/126/EC, the age limit is set to 50 years old, and Member States are not obliged to request medical checks and additional training. While the European Commission decided to increase the age limit based on data that drivers around their 50s are safe drivers, applying an age limit is discriminatory towards older persons aged 70 and above in the absence of supporting evidence that such older drivers

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would be more dangerous. It may also further exacerbate barriers that result in older people living in rural and remote areas being socially excluded, as public transportation remains scarce and/or unavailable. This could lead to further isolation and situations of dependency.

In Annex III to the proposal directive on “Minimum standards of physical and mental fitness for driving a power-driven vehicle” under “mental impairments”, it is set that “Driving licences shall not be issued to, or renewed for, applicants or drivers with [...] c) [...] ageing-linked behavioural impairments [...]”. The expression “ageing-linked behavioural impairments”, is not accompanied by a clear definition of what it entitles. Such phrasing would deny the diversity and heterogeneity of older people as an age group and seems to be solely based on ageist and ableist stereotypes that might lead to discrimination towards older drivers and older drivers with disabilities. The list of “mental impairments” established by the Commission under point 13 (1) already covers several situations that might be relevant for any age group, including older persons, without adding the phrasing “ageing-linked behavioural impairments”, which lacks definition and clarity. It is important that Annex III focuses on the medical conditions and disabilities across the life course and not only on older persons. It is also crucial to reiterate that old age is not a synonym of disability.

With respect to the provisions and articles described above, we would like to reiterate that under international human rights law, discrimination is defined as any distinction, exclusion or restriction that has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of human rights and fundamental freedoms in any field.<sup>1</sup> Age discrimination applies to limits imposed to internationally agreed human rights on the basis of the age of the individual or group of individuals.

Additionally, according to Article 20 of the Convention on the Rights of Persons with Disabilities, States shall take measures to ensure personal mobility with the greatest possible independence for persons with disabilities, which includes facilitating their mobility in the manner of their choice. The latter applies as much to older persons with disabilities as it does to persons with disabilities.

Furthermore, the UN Principles for Older Persons in its preamble, along with the 2022 Madrid International Plan of Action on Ageing both reaffirm that older persons are entitled to equal treatment and that age-based discrimination should be eliminated to the profit of promoting the human rights of older persons. Principles 7 and 9 also state that “older persons should remain integrated in society, participate actively in the formulation and implementation of policies that directly affect their well-being”, as well as “seek and develop opportunities for service to the community and to serve as volunteers in positions appropriate to their interests and capabilities”.

With an increased life expectancy and evolving life choices and opportunities, age should not be considered as synonymous to “decline” and “inactivity”. Older people continue to make several contributions to society (e.g. as carers, as volunteers in political, social, cultural or sport associations, as elected representatives) and driving is an enabling factor for many of them to continue to be able to fully participate in the life of their communities, including their social and cultural life.

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<sup>1</sup> See A/HRC/33/44, para. 36

We would like also to bring to the attention of your Excellency that the European Union has adopted a human rights-based approach to all its recent actions in terms of legal and policy innovations relating to ageing. Article 25 of the European Union Charter of Fundamental Rights recognizes the rights of older persons to have a life of dignity and independence, as well as to participate in social and cultural life. This approach was confirmed through the 2020 conclusions of the Council of the European Union when discussing issues related to the human rights participation and wellbeing of older persons in the era of digitalization.<sup>2</sup> It is therefore of critical importance that any forthcoming European Union legislation continue to embed this notion of equality in all ages and throughout the lifespan approach, to allow the full realization of human rights in old age.

Ageism remains one of the barriers to the full participation of older persons in all spheres of life. Ageism is defined as stereotypes, prejudice and/or discriminatory actions or practices against older persons that are based on their chronological age or on a perception that the person is “old” (or “elderly”).<sup>3</sup> As analysed by the Independent Expert on the enjoyment of all human rights by older persons in her 2021 thematic report to the Human Rights Council ([A/HRC/48/53](#)), “ageism is based on internalized stereotypes and prejudice and can manifest itself towards others and towards oneself, for example, by abstaining from personal communication and certain activities, showing a paternalistic attitude and talking condescendingly to older persons” (para. 22). Unlike, for example, sexism, racism and other forms of discrimination, ageism is socially accepted, usually unchallenged and pervasive in policy owing to its implicit and subconscious nature.<sup>4</sup>

Considering the information above, we urge the European Commission to amend these provisions in line with contemporary scientific evidence and in compliance with the most recent understanding of equality as enshrined in international and European human rights standards.

We would be grateful for your cooperation by providing any additional information and any comment you may have on the above-mentioned information.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency or the European Commission will be made public via the communication reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to reiterate our full willingness to share our technical assistance and to support the European Commission in its efforts to strengthen the European legal and institutional framework, guaranteeing the enjoyment of human rights for all in the region.

We would be grateful if you could transmit a copy of this letter to Commissioner Adina Vălean, Directorate-General for Mobility and Transport.

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<sup>2</sup> [Council conclusions on Human Rights, Participation and Well-Being of Older Persons in the Era of Digitalisation](#), 9 October 2020

<sup>3</sup> See [A/HRC/48/53](#), para.21

<sup>4</sup> [Global report on ageism](#), Geneva: World Health Organization; 2021.

Please accept, Excellency, the assurances of our highest consideration.

Claudia Mahler  
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