

Current engagement opportunities for European NHRIs to work towards a new UN Convention on the Human Rights of Older Persons

Guidance from ENNHRI Core Group on Human Rights of Older Persons,
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The discussion on the need for a new Convention on the Human Rights of Older Persons and about its normative elements has been ongoing for over twelve years. However, in 2022, the growing number of states interested in taking action on this topic is seen as a breakthrough in this debate. At the same time, the fact that many states remain indecisive, makes this a crucial time for NHRIs to advocate at the national, regional and international levels in favour of a new Convention.

This advocacy rests on two elements. Firstly, to gain sufficient support from states to adopt a decision to establish an Intersessional Working Group which will draft an official UN document on gaps in international law regarding human rights of older persons at the meeting of the UN Open-Ended Working Group on Ageing in April 2023. Secondly, to convince states that these gaps require a new binding instrument.

Background

Human rights actors, including NHRIs, have long recognised the need for a new Convention on the Human Rights of Older Persons. The existing international human rights framework for the protection of the rights of older persons is largely fragmented and results in inconsistencies in coverage of the human rights of older persons both in law and in practice. Several actors including [OHCHR](#) and the [Independent Expert on the enjoyment of all human rights by older persons](#) have identified that the lack of a dedicated instrument on this topic is a significant contributing factor in these shortcomings.

In 2010, the [UN Open-Ended Working Group on Ageing \(OEWGA\)](#), consisting of UN Member States, was established as a platform to consider the existing international framework of the protection of human rights of older persons and identify possible gaps and how best to address them. In 2012, it was [mandated](#) to present to the General Assembly, at the earliest possible date, a proposal containing, inter alia, the main elements that should be included in an international legal

instrument to promote and protect the rights and dignity of older persons, which are currently not addressed sufficiently by existing mechanisms and therefore require further international protection.

NHRIs have been [actively taking part](#) in this debate and have been formally [granted](#) the right to take the floor at the OEWGA since 2017. However, there has been little [progress](#) in fulfilling the Working Group's mandate regarding the creation of an international legal instrument on the rights of older persons.

Collectively and individually, NHRIs have supported the development of a new binding instrument, as per [statements](#) by GANHRI and the [common position](#) reached through ENNHRI. The GANHRI Working Group on Ageing and Human Rights of Older Persons and ENNHRI Core Group on Human Rights of Older Persons serve as information and co-ordination hubs in this advocacy work.

Processes towards a new Convention on the Human Rights of Older Persons

There is currently a two-track approach on the development of a new Convention, which was introduced and is largely led by UN member states that are the most engaged in the discussion. It involves work at two levels: in Geneva at the UN Human Rights Council (HRC) with the support of the Office of the High Commissioner for Human Rights ([OHCHR](#)), and in New York at the UN OEWGA with support from the UN Department of Economic and Social Affairs ([UNDESA](#)). This approach considers the fact that UN processes based in New York are the political forum where global political decisions are made, while considerable human rights expertise at the technical level can be found at the UN presence in Geneva.

Thus, the work on the content and language of a new Convention would be conducted at the UN based in Geneva i.e. by adopting another substantive resolution, and then passed on to the UN based in New York. In addition, it is important to continue to exert political pressure at the level of the UN OEWGA in New York to maintain momentum for this process.

In their activities at both fora NHRIs can already resort to extensive language and standards agreed and presented in the first substantive resolution on human rights of older persons of the UN Human Rights Council (UN HRC) as well as evidence presented in reports by the [Independent Expert on the enjoyment of all human rights by older persons](#) and by OHCHR.

Key recent developments:

- Geneva, September 2021: First substantive [UN HRC Resolution](#) on the human rights of older persons with a focus on ageism and age-based discrimination, in which the HRC asked

OHCHR for a report on normative standards and to organise a Multi-Stakeholder meeting to discuss the report. This resolution introduced the concept of [ageism](#) to UN-agreed language.

- September 2021 - April 2022: NGOs and NHRIs issue a [joint open letter](#) calling for the drafting of a new Convention (with over 300 signatories).
- March 2022: First '[Global Rally](#)' as part of the [#AgeWithRights](#) campaign.
- Geneva, March 2022: Official presentation of the [OHCHR Report on normative standards and obligations under international law in relation to the promotion and protection of the human rights of older persons](#) at the HRC 49th Session.
- New York, April 2022: Argentina [proposes](#) establishing an interregional core group with a task to prepare a draft decision on establishing an Intersessional Working Group which would prepare a document on related gaps in international law. This draft decision should be considered and adopted during the 13th OEWSGA Session. This proposal has been supported by 28 countries, out of which 7 are from Europe (see Annex below).
- Geneva, August 2022: [OHCHR Multi-stakeholder meeting on the human rights of older persons](#). The language and arguments used by participants will be presented in a report to the 52nd HRC Session in March 2023. This language can be then used for a new HRC substantive resolution on the human rights of older persons.
 - During this meeting Argentina and Slovenia presented a joint informal contribution of 20 MS in which they directly supported a new convention on the human rights of older persons. This is treated as a measure of growing support for a convention.
- Geneva, September - October 2022: the Independent Expert presented her annual report. 74 member states, 4 NHRIs and 10 NGOs took the floor during the Interactive debate. The [mandate](#) of the Independent Expert was renewed for an additional three years in a HRC resolution co-sponsored by over 50 member states.

Opportunities for NHRIs to contribute

The development of a new Convention on the Human Rights of Older Persons requires broad support from United Nations Member States. While some European countries have directly supported a new Convention and/or supported processes that advance an informed discussion on this matter, others have fallen short of doing so.

Therefore, ENNHRI believes that recent developments bring new opportunities for European NHRIs to advocate for a new binding instrument. First, a proposal will be voted on at the level of the UN OEWSGA in April 2023, to establish a Working Group to draft an official UN document on gaps in international law regarding the human rights of older persons. Secondly, there is renewed support for directly supporting the creation of a new instrument, as in August 2022 a total of 20 countries issued a joint informal contribution directly supporting a new Convention.

At the level of the European Union (EU), there has been some attention to the topic as the European Commission has [proposed](#) a recommendation on long-term care, tackling the topic through a care-based and demographic perspective. However, ENNHRI identifies the need for stronger engagement at the level of the European Union (EU) on a human rights-based approach to ageing.

In this context, European NHRIs can contribute by:

1. Informing their governments and civil society of recent developments, with the goal to raise awareness of [the need to shift](#) from a social care perspective toward a human rights-based approach to ageing.
2. Cooperating with civil society organisations, including international and regional networks, such as the Global Alliance for the Rights of Older Persons ([GAROP](#)) [HelpAge International](#), the International Network for the Prevention of Elder Abuse ([INPEA](#)), International Disability Alliance ([IDA](#)) and [Age Platform Europe](#), and with NGOs at the national level. This cooperation may provide a key opportunity to link the stories of those with lived experience to human rights protection gaps and to showcase these as an illustration of the need for a new Convention on the Human Rights of Older Persons.
3. Advocating that their governments support a new substantive resolution on the human rights of older persons at the 52nd Human Rights Council in March 2023 (there will be a renewal of [HRC Membership](#) in December 2022).
4. Asking their governments to voice support at the UN OEWSGA in April 2023 for the decision to establish an Intersessional Working Group which would prepare a document on gaps in international legal framework, as a procedural step forward in fulfilling the OEWSGA mandate.
5. Advising their governments of the need for a new binding instrument and encouraging authorities to cooperate closer with leading delegations (Argentina, Slovenia) and other like-minded states.
6. Advocating for stronger engagement by their government at the regional level on both procedural progress and support for the new Convention, for example through the Working Party on Human Rights ([COHOM](#)) of the Council of the European Union.

7. Asking governments to recommend that the EU enhance its work on the human rights of older persons, including through the European Commission Directorate-General for Justice and Consumers (DG JUST). For example, NHRIs can advocate for the need for full time staff members at the European Commission to work on the human rights of older persons.
8. Advocating that there be further prioritization and mainstreaming of the rights of older person at all levels of the work at the UN.
9. Advocating for prioritization of the work on the human rights of older persons, within OHCHR offices including in New York and Geneva as well as in field Offices.
10. Speaking in support of the [Independent Expert](#) and encouraging that delegations support that the Independent Expert [formally reports](#) as part of human rights discussions, as this is the only [Special Procedure of the HRC](#) that reports under the social development agenda. This would contribute to a human rights-based approach to ageing.
11. Taking part in the Human Rights Council, Universal Period Review, sessions of UN Treaty Bodies and of the OEWGA, Interactive dialogues with Independent Expert and to use these opportunities to call for stronger protection of the human rights of older persons, also in cases of intersectionality.

Annex

States that supported Argentina's proposal at the OEWSGA 12th Session for the establishment of an interregional core group to draft a decision on establishing a smaller working group to draft a document on gaps in international law.

28 states, out of which 7 are from Europe (in bold):

Angola, **Austria**, Bangladesh, Bolivia, Brazil, Burundi, Cameroon, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, **Germany**, Guatemala, **Italy**, Mexico, Morocco, Nigeria, Panama, Peru, Philippines, **Slovakia**, **Slovenia**, **Turkey**, **United Kingdom**, United States, and Uruguay.

Member States that supported a joint informal contribution in August 2022 in which they directly supported a new convention on the human rights of older persons

20 states, out of which 7 are from Europe (in bold):

Argentina, **Austria**, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, **Montenegro**, Namibia, **North Macedonia**, Panama, the Philippines, **Portugal**, **Serbia**, **Slovenia**, Thailand, **Turkey**, and Uruguay.

