

## **SERBIA**

### **Provisions of Serbian law concerning elderly persons in the prison**

Article 7 of the Law on Enforcement of Criminal Sanctions prescribes that a person subjected to a criminal sanction must not be placed into an unequal position for any personal property, and the treatment of elderly people is determined accordingly in order to enable them to enjoy effectively all guaranteed rights.

Recognition of special needs of elderly people shall commence at the reception ward and the treatment programme shall be adjusted to their individual needs, especially in the area of health and social care, which shall also effect the method of classification, accommodation, work engagement and application of other programmes for their treatment. The establishment of the most adequate treatment programme assumes the knowledge of aging process and proper selection of methods and techniques to respect individual specificities and personalities of convicted persons. With elderly people the stress is on their inclusion into group advisory forms of activities and since the feeling of lack of perspectives and ambitions for any change is often present with such people, the correctional activities with them are focused on creation of perspectives and preparations for future. The Penal Institution in Šabac should be pointed out as a positive example, where they have a specialized geriatric treatment for persons over 65 years of age, which is primarily directed to development of sense of closeness and relations. The contact service of this Institute makes contacts with the families of elderly convicted persons, if they are not able to make contacts themselves, in order to improve their relations and arrange visits to the Institute and provide support by family members during sentence service. Also, if family members are socially handicapped, which is often the case under the circumstances that a convicted person is from a household whose other members are also elderly people, the services of the Institute make contacts with the competent social welfare institutions. Contacts with families are also made on the occasion of exercise of other special rights outside the Institute, such as, for example, the right to visit families and relatives for weekends and on holidays.

As a rule, elderly people are accommodated at dormitories with a smaller number of occupants, who are, if possible, of similar age, interests, social origin and education, at the premises in which their access to other premises and walking to be active and satisfy their needs would be easy (mostly in rooms on the ground floor not far from canteens and where they can easily access other services of the Institute. As an example of adequate accommodation, let us mention the Penal Institution in Sremska Mitrovica, which includes Rest Building, where the largest number of elderly population of convicted persons is accommodated, which enables this category of convicted persons to have better communications, new social contacts and formation of sense of belonging to a group.

In view of the fact that health conditions of elderly persons are failing in most cases, greatest attention is paid to their medical treatment and adequate care while at the Institute, where doctors examine disabled or badly ambulatory persons outside medical units, at dormitories, visit them more often and monitor their health conditions, make additional efforts to provide necessary medical aids or medicines and take care of everyday therapy, meals and sanitation. If necessary, meals are delivered to them to dormitories and a special diet menu prepared by the doctor of the Institute is also foreseen. Elderly people often have priority to specialised medical examinations, and for the purpose of preservation of their mental and

physical health while staying at penalty they are enabled to spend more time outside going for walks and in the fresh air, in accordance with the possibilities of the Institute. In addition to a ward where ill persons in need of constant medical supervision, the Institute also has special premises with adequate bathroom, furniture, special beds, orthopaedic aids and special timetable of activities, where persons requiring this kind of care because of their health conditions are accommodated.

Health conditions of elderly convicted persons also conditions the options of their work engagements, their motivation is taken into account if it is assessed they are capable of working. In practice, it is often the case that elderly people express their need to work not to waste time and because of already established work habits. Their work posts shall be established in accordance with their age, affinities and health conditions, whereas usually minor jobs are assigned to them, such as gardening. There are also jobs for persons with no legal capacity or for those who do not wish to do any jobs. They may be assigned occupational jobs, such as making models of fancy goods, hobbies, minor household jobs, knitting, crocheting and similar jobs or playing games and reading press and books. At the Penal Institution in Niš, convicted persons who are released from work due to health reasons may be placed at the Work Release Ward, which is a separate correction group accommodated at the premises partly adjusted to requirements of elderly persons (sanitary premises, one level beds, with separate area for walks, wheelchair ramp). For all persons, free time is for various social activities: sports, recreation, culture, entertainment, technical and scientific activities, namely, it is possible to attend various courses, use sports facilities for periods suitable for their age, organized performances by choirs, literary evenings and theatre performances, and since there is a considerable percentage of elderly people who have difficulties with writing, reading and communications, practicing such skills is stressed. Also, in case of elderly people of bad financial standing who are not able to perform assigned jobs because of their health conditions, the institutions shall contact the social welfare centres they are in charge of, with the aim to ensure single financial aid during their stay at the penal institutions, as well as the Red Cross Organisation and various non-governmental organisations to provide clothes and footwear and other personal belongings.

In the process of preparations for discharge from the institutions, they contact families of convicted persons to ensure adequate gradual acceptance and, afterwards, also with the competent social welfare centres, gerontological centres or with the Red Cross and religious organisations for persons who need social care and have no adequate accommodation after they serve the sentences. The institutions shall also make additional efforts to provide the documentation necessary to accomplish social care.

Finally, please be reminded that the Law on Amnesty (the Official gazette of RS, no. 107/12) prescribes that the provisions of the Law excluding certain categories of persons from amnesty do not concern persons over 70 years of age on the date of the Law entering into force.

### **Recommendations and opinions of the Commissioner for Protection of Equality with regard to elderly people**

In respect of age-based discrimination, the Commissioner for Protection of Equality has issued several important recommendations ordering that all necessary measures are to be undertaken in order to eliminate unequal treatment of male and female citizens in the area of employment and rendering of financial services.

As examples of good practice, we would like to underline recommendations addressed to the National Employment Agency, the National Bank, A Bank, KCS Clinic, as well as 11 recommendations the Commissioner addressed to portals dealing with transmission of advertisements on the Internet job markets.

#### RECOMMENDATION

1. The National Employment Agency shall not announce in future job advertisements containing discriminatory employment conditions, such as those referring to sex, age, appearance of male/female candidates or some other personal property. The only exceptions may be in advertisements for jobs the nature of which or the conditions of performance are such that some personal property is an actual and decisive condition of job performance, if the purpose to be achieved is justified, pursuant to Article 16 paragraph 3 of the Law on Prohibition of Discrimination and pursuant to Article 22 of the Labour Act.

2. The National Employment Agency shall undertake without any delay all necessary measures to prevent any possibility of publication of a job advertisement containing, contrary to law, discriminatory conditions of employment and inform the Commissioner for Protection of Equality about measures undertaken not later than 30 days from the date of receipt of this recommendation.

#### RECOMMENDATION

1. The National Bank of Serbia shall undertake adequate measures, within the framework of its legal powers, to eliminate discriminatory condition of maximum age limit for bank services, prescribed by business banks in their statutes.

2. The National Bank of Serbia shall inform the Commissioner for Protection of Equality about the measures planned in order to act according to this recommendation within 30 days.

#### OPINION

The Statute of A. Bank *Description of Products: Current Account Overdrafts* of 18 January 2011, Article 3 paragraph 2 prescribes an acceptable category of clients – *natural persons not younger than 18 years and not older than 67 years at the time of the application and validity of overdraft*, which denies persons older than 67 years to use bank services of current account overdrafts, thus making them indirectly discriminated based on age.

Pursuant to Article 33 paragraph 1 item 1 and Article 39 paragraph 2 of the Law on Prohibition of Discrimination issues to A. Bank

#### RECOMMENDATION

1. A Bank shall delete from the statute *Description of Products: Current Account Overdrafts* of 18 January 2011 the criterion indirectly discriminating persons over 67 years of age to use bank service of current account overdraft based on age as personal property.

2. A Bank shall take care in future not to violate the Law on Prohibition of Discrimination in its general acts and decisions, namely to restrain from unjustified differences or unequal treatment and

omissions (exclusion, limitation or granting priority) of persons or a group of persons based on some personal property.

3. A. Bank shall inform the Commissioner for Protection of Equality about the measures to be undertaken in order to act according to this recommendation within 30 days from the date of receipt of the opinion and this recommendation.

#### OPINION

On 7 June 2011, through the National Employment Agency, the Belgrade Branch, KCS Clinic announced an advertisement for a job of nurse – technician for a limited period of time, stating a condition that *nurses must not be over 35 years of age*. This advertisement violated equal opportunities of employment in relation to persons over 35 years of age, thus making indirect discrimination based on age in the area of labour, prohibited in Articles 6, 16 and 23 of the Law on Prohibition of Discrimination.

The Commissioner for Protection of Discrimination, pursuant to Article 33 paragraph 1 item 1 and Article 39 paragraph 2 of the Law on Prohibition of Discrimination issues to KCS Clinic

#### RECOMMENDATION

1. KCS Clinic shall without any delay establish by the statute on systematisation of jobs the relevant jobs for which age of male/female employees, as a personal property, may present a special condition of performance of the job concerned, if there is justified necessity for such a job, in compliance with imperative legal regulations prescribing that age, as well as any other personal property, must be an actual and decisive condition of performance of the job concerned, in view of the nature and specifics of the job and the conditions for its performance.

2. On the occasion of issuance of job advertisements and delivery of such advertisements to the National Employment Agency to offer selection of persons for the employment concerned (Article 34 of the Law on Employment and Unemployment Insurance), KCS Clinic shall only specify the conditions of job performance established by the statute on systematisation.

3. KCS Clinic shall undertake all necessary measures in order to prevent violations of equal opportunities for employment on the occasion of job advertising and selection of male/female candidates, namely not to make unjustified differences or unequal treatment and omissions (exclusion, limitation or granting priority) based on some personal property of male/female candidates, also including age.

4. KCS Clinic shall inform the Commissioner for Protection of Equality about the measures to be undertaken in order to act according to this recommendation within 30 days from the date of receipt of the opinion and this recommendation.

#### RECOMMENDATION

1. I Ltd. from S. shall not announce in future job advertisements containing discriminatory employment conditions, such as those referring to sex, age, appearance of male/female candidates or some

other personal property. The only exceptions may be in advertisements for jobs the nature of which or the conditions of performance are such that some personal property is an actual and decisive condition of job performance, if the purpose to be achieved is justified, pursuant to Article 16 paragraph 3 of the Law on Prohibition of Discrimination and pursuant to Article 22 of the Labour Act.

2. I. Ltd. from S. shall undertake without any delay all necessary measures to prevent any possibility of publication of a job advertisement containing, contrary to law, discriminatory conditions of employment and inform the Commissioner for Protection of Equality about measures undertaken not later than 30 days from the date of receipt this recommendation.