



Assessment of
Ukraine's policy
and legal framework
related to the
**rights of older
people to social
protection** in the light
of Article 23 of
the Revised
European Social
Charter

Ms Ivana Roagna
Ms Olena Ivanova
Ms Yana Simutina

October 2020



European
Social
Charter

Charte
sociale
européenne



Assessment of
Ukraine's policy and
legal framework
related to the
**rights of older
people to social
protection** in the
light of Article 23
of the Revised
European Social
Charter

Ms Ivana Roagna
Ms Olena Ivanova
Ms Yana Simutina

October 2020

*The opinions expressed in this work are
the responsibility of the authors and
do not necessarily reflect the official
policy of the Council of Europe.*

*The publication is developed within the
framework of the Council of Europe Project
“Promoting social human rights as a key factor
of sustainable democracy in Ukraine”.*

*All requests concerning the reproduction
or translation of all or part of this
document should be addressed to the
Directorate of Communication
(F-67075 Strasbourg Cedex
or publishing@coe.int).*

*All other correspondence
concerning this document should
be addressed to the Department of
the European Social Charter, DGI,
Council of Europe, F-67075 Strasbourg
Cedex or social.charter@coe.int.*

*Cover design and layout:
Nizhynskyi Sergiy PE*

Photo: © Freepik

*This publication has not been
copy-edited by the SPDP Editorial
Unit to correct typographical
and grammatical errors.*

*© Council of Europe,
October 2020
Printed at the Council of Europe*

Contents

LIST OF ABBREVIATIONS	5
EXECUTIVE SUMMARY	6
INTRODUCTION	8
1. Background information	8
2. Methodology	10
3. How to use this Report: structure and recommendations	11
INTERNATIONAL LEGAL AND POLICY FRAMEWORK RELEVANT TO OLDER PEOPLE	12
4. Ukraine and the European Social Charter	12
5. CoE standards applicable to the social rights of older persons	13
6. Other European normative and policy instruments related to the rights of older people	22
7. Universal legal framework related to older people	23
8. Covid-19 pandemic, older persons and human rights	25
NATIONAL LEGAL AND POLICY FRAMEWORK AND THEIR IMPLEMENTATION IN SELECTED AREAS OF CONCERN UNDER ARTICLE 23 ESC EUROPEAN BEST PRACTICES AND RECOMMENDATIONS	26
9. State of play of related to rights of the older persons in Ukraine: the policy framework and practice	26
10. Non-discrimination	31
11. Autonomy and participation of older persons in decisions related to their life	33
12. The right to adequate resources	36
13. Housing and independent living	43
14. Provision of social and health services and facilities, including palliative care and for people with dementia	49
15. Social rights of older persons and non-discrimination at the time of COVID-19 pandemic	56
16. Protection from abuse	59
SUMMARY OF RECOMMENDATIONS	64
The State Policy Strategy for Healthy and Active Longevity for the period 2018-2022 and the related Action Plan	64
Non-discrimination	65
Autonomy and participation of older persons in decisions related to their life	66
The right to adequate resources - Pensions	66
Other benefits	67
Housing and independent living	67
Social and health services	68
Palliative care	69
Older persons suffering from dementia	70

Social rights of older persons and non-discrimination at the time
of COVID-19 pandemic 70

Protection from abuse 70

ROADMAP 71

LIST OF MEETINGS 81

List of abbreviations

AAI	Active Ageing Index
AP	Action Plan implementing the Strategy of the 2018-2022 State Policy on Healthy and Active Longevity
CDDH	Steering Committee for Human Rights (CoE)
CC	Civil Code
CFREU	Charter of Fundamental Rights
CM	Committee of Ministers (CoE)
CoE	Council of Europe
COFACE	Confederation of Family Organisations in the European Union
EC	European Commission
ECHR	European Convention on Human Rights
ECSR	European Committee on Social Rights
ECtHR	European Court of Human Rights
ESC	European Social Charter
EU	European Union
GA	General Assembly (UN)
WHO	World Health Organization
MIPPA	Madrid International Plan of Action on Ageing
MoH	Ministry of Health
MoSP	Ministry of Social Policies
NHRI	National Human Rights Institution
NHSU	National Health Service of Ukraine
UNOCHR	United Nations High Commissioner for Human Rights
PA	Parliamentary Assembly (CoE)
PFU	Pension Fund of Ukraine
SDGs	Sustainable Development Goals
TCs	Amalgamated Territorial Communities
UDHR	Universal Declaration of Human Rights
UN	United Nations

Executive summary

Ukraine ratified the Revised European Social Charter on 21.12.2006, accepting 76 of the 98 paragraphs of the Charter. Amongst these is Article 23, entitled “The rights of elderly persons to social protection”. Compliance with the obligations stemming from Article 23 of the Charter has been the object of review by the European Committee for Social Rights in 2009, 2013 and 2017. Despite the efforts put in place by Ukraine, the Committee constantly concluded for a situation of non-conformity in that the level of the minimum pension is manifestly inadequate. A number of other areas appear to warrant attention: these are, for instance, age discrimination outside employment, for which little or no national case law or statistics seem to exist, participation of older persons in decision-making, also with regard to the deprivation of legal capacity, awareness and prevention of older persons abuse, quality and availability of social services for the older persons, the participation of aging population in cultural and leisure facilities and availability of information concerning such opportunities, the implementation of the right to suitable social accommodation, accessibility and quality of specialized health services, including domiciliary nursing services, availability of places in institutional facilities, as well as their supervision and accountability.

Within the project “Promoting social human rights as a key factor of sustainable democracy in Ukraine”, the Council of Europe commissioned the present needs assessment, with a view to assess the level of protection and enjoyment of social rights by the older persons segment of the population and identify, also in the light of European best practices, the policy and legal framework revisions needed to ensure full implementations of the international obligations. Desk research and meetings with relevant stakeholders revealed that despite Ukraine’s Strategy and Action Plan on Healthy and Active Longevity, in still too many areas the enjoyment of social rights by older persons cannot be considered satisfactory. The assessment suggests that the Strategy and Action Plan are not sufficiently internalized by those who should implement it and known by the beneficiaries. Awareness of the services older persons are entitled to appears somehow problematic and this, coupled with the decentralization process and the relative confusion as to whom is responsible for providing what, increases the overall confusion. The issue of pensions, in relation to the amounts, procedures and state of implementation of the reform initiated in 2017, remains problematic and require actions, also to address gender inequalities, that the Government should adopt without further delays. Lack of funds inevitably impacts on the quality and quantity of services and support provided. The circumstance that private residential institutions are totally outside the radar of the State, is particularly worrisome and does not allow assessment of the quality of life and care of the older persons living there. Meaningful data about instances of discrimination and in the other areas where social rights of older persons are at stake does not exist, hampering the adoption and proper implementation of suitable solutions. The situation of particularly vulnerable older persons, such as suffering from dementia and the terminally ill, and their families and carer is also a source of concern, leading to discrimination and inequalities.

Overall, whilst the Ukrainian Government has showed good will to address exclusion, vulnerability and discrimination of older persons, reality is that older persons are too often than not merely considered as subjects of interventions, rather than active right-holders and functional components of evolving societies. The mental and physical well-being of the older persons also passes through their empowerment, warranting actions that stimulate the inter-generational understanding and knowledge that are very much needed in a society, such as the Ukrainian one, where people start to “feel old” way before they reach the pensionable age – an age that in other countries and context would be considered a “second youth”.

Under the current circumstances, the Strategy and Action Plan on Healthy and Active Longevity can

be regarded as a good starting point: to reach the sought impact and results, effectively increasing the enjoyment of social rights by the older persons, the road ahead remains long. The present Report aims at contributing to the increased efforts required with a series of recommendations, which are translated into a non-exhaustive roadmap that draws inspiration from best practices across Europe that show that higher standards are not only desirable but also possible.

Introduction

1. Background information

Under the project “Promoting social human rights as a key factor of sustainable democracy in Ukraine”, the Council of Europe (CoE) commissioned the present needs assessment, with a view to picture the level of protection and enjoyment of social rights by the older persons segment of the population and identify, also in the light of European best practices, the policy and legal framework revisions needed to ensure full implementations of the obligations stemming from Article 23 of the Revised European Social Charter (ESC) and align the current situation with the international standards.

Population ageing has been identified as one of the four global demographic “megatrends”¹ — together with population growth, international migration and urbanization. Virtually every country in the world is recording a stable increase in the number of older persons. As noted by the Steering Committee for Human Rights (CDDH)²,

”The Council of Europe member States will face many challenges regarding human rights of older persons in the forthcoming decades. These challenges concern various issues such as long-term health care, housing, decent incomes, labour market perspectives, continuing powers of attorney and advance directives for incapacity, among others. All these topics, very relevant at the present time, will become a major issue in a near future due to one common factor: the demographic trend in developed countries.

To date, no commonly agreed legal definition of “old person” exists. Senior citizens are not a homogeneous group and experience of old age may differ according to gender, race and socio-economic or other status. Older people can, on the one hand, be a relatively powerful group in society, with accumulated wealth, benefiting from the support of their descendants and a culture

1. Report of the Secretary-General on the review and appraisal of the Programme of Action of the International Conference on Population and Development and its contribution to the follow-up and review of the 2030 Agenda for Sustainable Development (E/CN.9/2019/2).

2. CCDH, Relevant statistical data concerning demographic trends pertaining to ageing in the Council of Europe member States, 2018

which bestows respect, while on the other hand they may be viewed as a vulnerable segment of the population experiencing poverty, discrimination, isolation, dependency and even abuse. The CoE's Committee of Ministers (CM) observed in its Recommendation R(94)9 concerning older people that it is *"useless to attempt to define exactly when old age begins"* and that *"ageing is a process: being old depends on the individual's circumstances and the environment"*.³ The CoE's Parliamentary Assembly (PA) noted in its Recommendation 1796 (2007) on the situation of older persons in Europe⁴ that *"a person's age is no longer an indicator of health, wealth or social status"*. The World Health Organisation (WHO) defined ageing as the *"process of progressive change in the biological, psychological and social structures of individuals"*.⁵ According to the United Nations (UN),

”For human rights purposes, age is not merely a numerical designation, but a social construct based on custom, practice and the perception of the role a person plays in his or her community. The specific vulnerabilities of older persons can be the result of physical and mental conditions, but can also result from the obstacles encountered due to societal perception and the interaction of an individual with his or her environment.”⁶

Of all the regions in the world, in 2010 Europe had the oldest population and is expected to continue to do so, reaching 236 million older persons by 2050, thus with an increase of 34%.⁷ With 22.6% of its population currently aged 60+ years, Ukraine is expected to reach a total of 30.5% of people aged 60+ in 2050.⁸ Although the increase is lower than the globally expected one, according to which the number of persons aged 60 and above is estimated to more than double by 2050, the growth in the number of the older persons component of Ukrainian society is stable.

Demographic changes have prompted many States across Europe and beyond to place older people at the centre of public debate in relation to the allocation of social and public resources. These, however, must be functional to ensure increased protection of the rights of all segments of the society, that do not decrease as people grow older. As noted by Nils Muižnieks, former CoE Commissioner for Human Rights,

”Older persons have exactly the same rights as everyone else, but when it comes to the implementation of these rights, they face a number of specific challenges. For example, they often face age discrimination, particular forms of social exclusion, economic marginalization due to inadequate pensions, or are more vulnerable to exploitation and abuse, including from family members.”⁹

3. Steering Committee for Human Rights (CDDH), CDDH Report on the implementation of the Committee of Ministers' Recommendation CM/Rec(2014)2 on the promotion of human rights of older persons, p. 8

4. <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17545&lang=en>

5. A life course perspective of maintaining independence in older age, World Health Organisation, Geneva, 1999, p.4.

6. <https://www.ohchr.org/en/issues/olderpersons/ie/pages/ieolderpersons.aspx>

7. Report of the United Nations High Commissioner for Human Rights, E/2012/51, 2012, cited in

<https://www.ohchr.org/en/issues/olderpersons/ie/pages/ieolderpersons.aspx>

8. According to the Strategy of the State Policy on Healthy and Active Longevity of the Population until 2022 General part Ukraine in 2015, the number of people aged +60 accounted for 21.8% of the total population and the share of persons aged 65 and more accounted for 15.5% of the total population. According to the national population projection until 2025, the share of persons aged over 60 will be 25 per cent of the total population, aged 65 and more will be 18.4% of the total population, and in 2030, it will be over 26 per cent and over 20%, respectively.

9. Council of Europe Commissioner for Human Rights, Human Rights Comment "The right of older persons to dignity and autonomy in care", available at <https://www.coe.int/en/web/commissioner/-/the-right-of-older-persons-to-dignity-and-autonomy-in-care>

2. Methodology

This Assessment is the results of desk review and consultations conducted by the Experts in the months of July-September 2020. Due to the Covid crisis, all meetings with relevant stakeholders, whether at regional or central level, took place online. The list of meetings held is annexed to this Report.

As per the Terms of Reference, and at the specific request of the Government of Ukraine, the assessment focuses on some of the areas that are the object of monitoring of the implementation of Article 23 of the ESC by the European Committee of Social Rights (ECSR or the Committee) through the periodic reports submitted by the State parties. The present work, thus, analyses social protection of older persons in relation to the existence and provision of sufficient resources by the State, protection from discrimination outside the employment sphere (with a special focus to the challenges posed by the pandemic), prevention from abuse, the existence of adequate services and facilities related to assistance and care, housing, healthcare, geriatric institutions/institutional care (with a special focus on people with dementia) and property rights. Considering the importance of involvement of right holders in decisions related to or affecting their life, the issue of capacity and participation was also considered.

Desk review included the examination of the national legal framework applicable to the selected areas, the analysis of the ESC standards and the ESC case-law relevant under Article 23 ESC, as well as identification and analysis of the universal policy frameworks applicable to the older persons. Consideration was paid to the Conclusion issued by the ECSR vis-à-vis the reports submitted by Ukraine in 2009, 2013 and 2017, as well as to the case-law of the ECSR issued against other State parties, with a view to identify the best European practices that could inform the future steps of Ukraine. When relevant and applicable, standards deriving from the application of the European Convention on Human Rights (ECHR) were cited. Other sources reviewed include the work of the Steering Committee for Human Rights (CDDH) related to the rights of the older persons, also in relation to implementation of Recommendation CM/Rec(2014)2 of the Committee of Ministers (CM) of the CoE on the promotion of human rights of older persons¹⁰, of the European Agency of Fundamental Rights (FRA), and the Madrid International Plan of Action on Ageing 2002 adopted by the Second World Assembly on Ageing under the aegis of the United Nations (UN). Additional ILO and EU papers related to pensions and the pensions reforms were consulted. All documents referred to are cited in footnotes.

Following the desk research, meetings with relevant stakeholders were held. The purpose of the meetings was to validate the findings of the document review and collect data and information as to the practical application of the policies and legislation both at central and regional level, so as to allow the triangulation of findings and the identification of critical issues. In order to ensure the collection of sufficiently representative data, stakeholders were selected so as to have enough representatives of the State and of civil society. To guarantee sufficient geographical coverage, meetings were held with representatives of the main institutional actors in the capital, as well as in the regions of Kiev, Lugansk, Chernihiv, and Chernivtsi. With the exception of Kiev (where all central authorities are headquartered) and Chernivtsi Regions, the areas selected register, according to 2018 demographical data, the highest percentage of inhabitants over 60. Chernivtsi, on the other hand, was selected as being, at the time of drafting, one of the most affected areas by the Covid pandemic.

The Experts would like to thank all those met in the course of the mission, whose inputs were key in drafting the Report, as well as the Senior Project Officer of the Council of Europe Project “Promoting social human rights as a key factor of sustainable democracy in Ukraine”, Ms Siuzanna Mnatsakanian for her continuous and invaluable support.

10. Available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

3. How to use this Report: structure and recommendations

This Report is structured into three main parts. The first section includes the presentation of the main European and international human rights standards applicable to older people, followed by an overview of the status of application of Article 23 ESC by Ukraine. The second part focuses on the state of play of national laws, policies and practices applicable to areas which are the object of the present report, namely autonomy and participation of older persons in decision-making processes related to them, the right to adequate resources, services and facilities, housing and healthcare (including at the time of Covid-19 and in relation to older persons affected by dementia), and protection from abuse. For each problem areas, some of the European best practices are presented and recommendations formulated. The third part builds on the first two and proposes a roadmap and action plan. Considering that in 2018 Ukraine has adopted a Strategy of the State Policy on Healthy and Active Longevity of the Population until 2022 (hereinafter the Strategy) and the ensuing Action Plan (AP), the proposal will aim at filling the inconsistencies and challenges that have been detected in the course of the assessment exercise and that are not adequately reflected in the current AP. Special attention was paid to developing recommendations that are practical and sustainable. Some of them will require legislative interventions not foreseen in the current Plan of Action, whilst others can be of immediate application. Whilst Recommendations are addressed mainly at the national authorities, they can be very well used to identify areas that can benefit from future CoE support or intervention.

Recommendations will only address flaws or critical issues disclosed by the analysis of the Ukrainian law and practice. They will be silent when compatibility with international standards is not at stake. Due to the breadth of the topic at stake, the review provided is necessarily incomplete and the recommendations non-exhaustive.

This report has been drafted by Experts in the area of human and social rights. Therefore, the suggestions and recommendations proposed can only be interpreted as suggesting courses of action in relation to such rights, with no intention to enter into considerations of other nature (i.e. medical, psychological...). The recommendations are proposed having in mind ordinary situations and might not be of immediate application due to the Covid-19 pandemic.

Part I

International legal and policy framework relevant to older people

4. Ukraine and the European Social Charter

Ukraine ratified the Revised European Social Charter (ESC or the Charter) on 21.12.2006, accepting 76 of the 98 paragraphs of the Charter. The Treaty is automatically incorporated into domestic law. The table below indicates, *in blue, the accepted provisions numbers* (there are: 1.1; 1.2; 1.3; 1.4; 2.1; 2.2; 2.4; 2.5; 2.6; 2.7; 3.1; 3.2; 3.3; 3.4; 4.2; 4.3; 4.4; 4.5; 5; 6.1; 6.2; 6.3; 6.4; 7.1; 7.2; 7.3, 7.4; 7.5; 7.6; 7.7; 7.8; 7.9; 7.10; 8.1; 8.2; 8.3; 8.4; 8.5; 9; 10.1; 10.2; 10.3; 10.4; 10.5; 11.1; 11.2; 11.3; 12.3; 12.4; 14.1; 14.2; 15.1; 15.2; 15.3; 16; 17.1; 17.2; 18.1; 18.2; 18.3 18.4; 20; 21; 22; 23; 24; 26.1; 26.2; 27.1; 27.2; 27.3; 28; 29; 30; 31.1; 32.2) and *in white the non-accepted provisions numbers* (there are: 2.3; 4.1; 12.1; 12.2; 13.1; 13.2; 13.3; 13.4; 19.1; 19.2 19.3; 19.4; 19.5; 19.6; 19.7; 19.8; 19.9; 19.10; 19.11; 19.12; 25; 31.3).

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3										

Enforcement of the ESC is submitted to the same monitoring mechanism as the 1961 Charter, namely via the reporting system and the collective complaint procedure. Neither the collected complaint mechanism nor the 1991 Amending Protocol, that further developed and strengthened the monitoring system, have been ratified by Ukraine.

Therefore, the scrutiny of Ukraine by the ECSR, which is the body in charge of monitoring compliance of the Treaty by State parties, is limited to the national reports submitted on a regular basis according to a set calendar. Reports provide an overview on the implementation of the Charter in both law and in practice.

In the framework of the reporting system, the ECSR adopts conclusions as to the conformity of

the situation presented to the Charter. National reports are confidential, whereas conclusions are public. Conclusions are not enforceable in the domestic legal systems. However, even if they are not binding the country concerned, they provide the basis for positive developments in social rights through legislation and case-law at national level.

The follow-up of the conclusions of the ECSR is ensured by the Committee of Ministers (CM) of the CoE, which intervenes in the last stage of the reporting process, adopting a Resolution that closes each supervision cycle and may contain individual recommendations to the States parties concerned. If a State takes no action, the CM may address a Recommendation to that State, asking it to change the situation in law and/or in practice. Ultimately, it falls to the ECSR to determine whether the situation has been brought into compliance with the Charter. This is done by the ECSR in the framework of the reporting system or the collective complaints procedure.

5. CoE standards applicable to the social rights of older persons

5.1. The Revised European Social Charter

Article 23 ESC, entitled “The rights of elderly persons to social protection” reads as follows:

Every elderly person has the right to social protection

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

■ to enable elderly persons to remain full members of society for as long as possible, by means of:

- ▶ a) adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
- ▶ b) provision of information about services and facilities available for elderly persons and their opportunities to make use of them;

■ to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:

- ▶ a) provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;
- ▶ b) the health care and the services necessitated by their state;

■ to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.

The ESC, which is the point of reference for social rights in Europe, was the first international Convention to include a provision specifically protecting the rights of and providing for care of the older persons. The measures envisaged by this provision, by their objectives as much as by the means of implementing them, point towards a new and progressive notion of what life should be for older persons, obliging the Parties to devise and carry out coherent actions in the different areas covered.¹¹

11. Conclusions XIII-3, Statement of Interpretation on Article 4 of the Additional Protocol (Article 23)

The focus of Article 23 is on social protection of older persons outside the employment field¹², which will thus not be examined in the course of the present work. Non-discrimination legislation, including on the basis of age, should exist at least in certain domains, namely in access to goods, facilities and services, healthcare, education, services such as insurance and banking products, participation in policy making/civil dialogue, allocation of resources and facilities.¹³

The scope of Article 23 of the Charter overlaps with other provisions of the Charter which protect older persons as members of the general population, such as Article 11 (Right to protection of health), Article 12 (Right to social security), Article 13 (Right to social and medical assistance) and Article 30 (Right to protection against poverty and social exclusion). Article 23 requires States Parties to make focused and planned provision in accordance with the specific needs of older persons.

5.1.1 Autonomy and participation

One of the primary objectives of Article 23 ESC is to enable older persons to remain full members of society for as long as possible, suffering no ostracism on account of their age. This includes enabling them to lead independent lives in their familiar surroundings as long as they wish and are able, by adapting their housing to their state of health, also via grants, and loans, as the average older person usually cannot afford the costs of modernisation, and by providing the health care and the services they need.

The expression “full members of society” means that older persons must suffer no exclusion on account of their age and that every individual, retired or active, living independently or in an institution, should enjoy the right to take part in society’s various fields of activity. For the purpose of the application of this paragraph, the term “for as long as possible” refers to the older person’s physical, psychological and intellectual capacities.

Article 23 is also concerned with the situation whereby older persons have reduced capacity-making powers or no such powers or capacity at all. The provision, therefore, strives to ensure the existence of a national legal framework related to assisted decision-making for the older persons guaranteeing their right to make decisions for themselves, unless it is shown that they are unable to make them. This means that older persons cannot be assumed to be incapable of making their own decision just because they have a particular medical condition or disability, or lack legal capacity. An older person’s capacity to make a particular decision should be established in relation to the nature of the decision, its purpose and the state of health of the older person at the time of making it. Older persons may need assistance to express their will and preferences, therefore all possible ways of communicating, including words, pictures and signs, should be used before concluding that they cannot make the particular decision on their own. In this connection, the national legal framework must provide appropriate safeguards to prevent the arbitrary deprivation of autonomous decision making by older persons, also in case of reduced decision-making capacity. It must be ensured that the person acting on behalf of older persons interferes to the least possible degree with their wishes and rights.¹⁴

5.1.2 The right to adequate resources

States parties to the ESC should provide older persons with resources which are sufficient to lead a decent life and play an active part in public, social and cultural life. Under the ESC, the primary focus of the right to adequate resources is on pensions. Pensions and other state benefits must

12. Issues related to age discrimination in employment are primarily examined under Articles 1 para. 2 (Non-discrimination in employment) and 24 (Right to protection in cases of termination of employment) of the Charter.

13. Conclusions 2009, Andorra Article 23

14. Conclusions 2013, Statement of Interpretation Article 23

be sufficient in order to allow older persons to lead a 'decent life' and play an active part in public, social and cultural life.

However when assessing adequacy of resources of older persons under Article 23, all social protection measures guaranteed to older persons and aimed at maintaining a sufficient income level are taken into account. In particular, pensions, contributory or non-contributory, and other complementary cash benefits available to older persons are examined. These resources are then compared with the median equivalized income.¹⁵ The European Committee on Social Rights (ECSR) has specified that pensions should be indexed, linked and compared to the average wage levels and cost of living, including costs of transport and of medical care. The Committee usually assesses the resources of older persons in relation to the poverty line, which is calculated by Eurostat or by the Committee itself on the basis of the national poverty lines.¹⁶ In its Recommendation 2000 (2012) on decent pensions for all, the Parliamentary Assembly expressed concerns about the need to ensure the sustainability and adequacy of pension systems, in particular in times of ageing populations and economic and financial crisis.

5.1.3 Services and facilities: availability and information

Article 23 ESC refers to the provision of information about services and facilities, thus presupposing their existence and the fact that older persons have a right to them. Therefore, the provision aims at evaluating not only the quality of information but also of the services and facilities themselves. In particular the existence, extent and cost of home help services, community-based services, specialised day care provision for persons with dementia and related illnesses and services such as information, training and respite care for families caring for older persons, in particular, highly dependent persons, as well as cultural leisure and educational facilities available to older persons.¹⁷

Additionally, States Parties must have a system for monitoring the quality of services and a procedure for complaining about the standard of services.¹⁸

Insufficient regulation of fees for services may also amount to a violation of Article 23 ESC.¹⁹

5.1.4 Housing and healthcare

According to the ESC, older persons should be able to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able. The needs of older persons must be taken into account in national or local housing policies. The supply of adequate of appropriate (to their needs and state of health) housing for older person must be sufficient. Housing law and policy must take account of the special needs of this group. Policies should help older persons to remain in their own homes for as long as possible through the provision of sheltered/supported housing and assistance for the adaptation of homes.²⁰

In the context of a right to adequate health care for older persons Article 23 ESC requires that health care programmes and services (in particular primary health care services including domiciliary nursing/health care services) specifically aimed at the older persons must exist together with guidelines on healthcare for older persons. In addition, there should be mental health programmes for any psychological problems in respect of the older persons, and adequate

15. Conclusions 2013, Statement of Interpretation Article 23

16. The Rights of Elderly Persons under the European Social Charter, Draft Information Document drawn up by the Secretariat of the Council of Europe, Department of the European Social Charter, March-April 2011

17. Conclusions 2003, France (Article 23)

18. Conclusions 2009 Andorra (Article 23)

19. The Central Association of Carers in Finland v. Finland Complaint No 71/2011 decision on the merits of 4 December 2012

20. Conclusions 2005, Slovenia, Conclusions 2013, Andorra (Article 23)

palliative care services.²¹

The final part of Article 23 ESC deals with the rights of older persons living in institutions. In this context, it provides that the following rights must be guaranteed; the right to appropriate care and adequate services, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain personal contact with persons close to the older person and the right to complain about treatment and care in institutions.²²

There should be a sufficient supply of institutional facilities for older persons (public or private), care in such institutions should be affordable and assistance must be available to cover the cost. All institutions should be licensed, and subject to an independent inspection regime. Emphasis is put on the importance of a truly independent inspection body.²³

Issues such as the requirements of staff qualifications, staff training and the wage levels of staff, compulsory placement, social and cultural amenities and the use of physical restraints are also examined under this provision.

5.1.5 Protection from abuse

Article 23 ESC also requires States Parties to take appropriate measures against elder abuse. States Parties must therefore take measures to evaluate the extent of the problem, to raise awareness on the need to eradicate elder abuse and neglect, and adopt legislative or other measures.²⁴

5.2 Conclusions adopted for Ukraine in relation to Article 23 ESC

Following the decision taken by the CoE's CM in 2006, the provisions of the Charter have been divided into four thematic groups. States parties present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently, each provision of the Charter is reported on once every four years. Between 2008 and 2020, Ukraine has submitted 12 reports on the application of the Revised Charter. The Conclusions against Ukraine concerning the group of provisions related to Health, social security and social protection, thus also encompassing Article 23 ESC have been adopted by the ESCR in 2009, 2013 and 2017.

Although the ESCR constantly concluded for a situation of non-conformity by Ukraine in relation to Article 23 of the Charter, in that the level of the minimum pension is manifestly inadequate, a number of other areas appear to warrant attention. These are, for instance, age discrimination outside employment, for which little or no national case law or statistics seem to exist, participation of older persons in decision-making, also with regard to the deprivation of legal capacity, awareness and prevention of older persons abuse, quality and availability of social services for the older people, the participation of aging population in cultural and leisure facilities and availability of information concerning such opportunities, the implementation of the right to suitable social accommodation, accessibility and quality of specialized health services, including domiciliary nursing services, availability of places in institutional facilities, as well as their supervision and accountability.

21. Conclusions 2003, France, (Article 23)

22. Conclusions 2003, Slovenia (Article 23), 1210 Conclusions 2003, France

23. Conclusions XX-2 (2013) Czech Republic

24. Conclusions 2009 Andorra Article 23.

5.3 Other CoE instruments relevant for human rights of the older persons

Besides the ESC, the Coe has conducted normative work in relation to the rights of older persons. The outputs produced, in the forms of Recommendations or Resolutions, are non-binding: they aim to raise awareness of public authorities and civil society to human rights and fundamental freedoms of older persons, facilitating the attainment of sought results also by sharing good practices. The following instruments are relevant for the purpose of the present Report: Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons; Recommendation CM/Rec(2009)6 on ageing and disability in the 21st century: sustainable frameworks to enable greater quality of life in an inclusive society; Recommendation 1796 (2007) on “The situation of elderly persons in Europe”; Recommendation 1749 (2006) and Resolution 1502 (2006) on “Demographic challenges for social cohesion”; Recommendation 1591 (2003) on “Challenges of social policy in Europe’s ageing societies”; and Recommendation Rec(94)9 concerning older people. Other instruments related to the rights of seniors, not directly applicable to this work, include: Recommendation CM/Rec(2011)5 of the Committee of Ministers on reducing the risk of vulnerability of older migrants and improving their welfare, the PA Resolution 1793 (2011) on “Promoting active ageing – capitalising on older people’s working potential”; Recommendation 1619 (2003) on “The rights of elderly migrants”; and Recommendation 1418 (1999) on “The protection of the human rights and dignity of the terminally ill and the dying”.

5.3.1 Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons²⁵

Of all the relevant instruments mentioned above, it appears opportune to concentrate on the more recent one, namely Recommendation CM/Rec (2014)2, that encompasses and reflects previously expressed positions and that was also the object of an assessment of its implementation at national level five years after its adoption. One of the innovative features of Recommendation Rec (2014)2 is that, in its Appendix, it lists a number of European good practices as examples to other Member States of how its principles can be and have been implementing. Some of such good practices will be used later in this work to ground practical recommendations.

The main message of the Recommendation is the need to assure that older persons can enjoy fully and on an equal footing with other individuals their rights and liberties guaranteed by the ECHR and the ESC. This instrument calls to respect their autonomy and legal capacity in daily life. The Recommendation aims at promoting older persons’ protection in societies where the ageism is rising, or in situations where they may be vulnerable. The instrument acknowledges that older persons may face domestic violence, abuse, neglect or poverty; they may lack adequate care or be discriminated against because of their age. The Recommendation responds to those concerns and aims at finding the right balance between the autonomy and the protection of older persons.

For these reasons, the Recommendation adopts a flexible and illustrative approach and does not include an exhaustive definition of older persons, for example by setting a minimum age for a person to be considered as being of old age. Nevertheless, the Recommendation recognises that CoE member states have identified chronological ages at national level whereby persons enjoy specific rights and advantages by reason of their older age.

The Recommendation outlines a number of principles based on international standards, aimed at reinforcing the autonomy and, at once, the human rights of older people, any time when older age represents, alone or in interaction with other factors, including perceptions and attitudes, a barrier

25. Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

to the full enjoyment of fundamental freedoms and full and active participation in societies on an equal footing. These principles are:

Non discrimination

The Recommendation invites member states to make reference to “age” when passing new or amending existing anti-discrimination legislation. In its Resolution 1793 (2011) on promoting active ageing: capitalising on older people’s working potential, the Parliamentary Assembly considered that the phenomenon of age discrimination is “often unconscious, but it undermines older people’s dignity, their human rights and self-esteem and is a huge waste of talent”. The PA acknowledged that ageism “is a harmful prejudice that results in widespread lack of respect for older people [...] they are the victims of physical and financial abuse, in the workplace, where they are subject to unequal treatment, or in the health sector where they do not always receive appropriate medical care and services.”

The Recommendation also addresses the issue of possible multiple discrimination²⁶ of older persons. Member states should be particularly sensitive to the situation and specific problems of older women, as well as conscious that multiple discrimination may also arise where an older person has, for instance, a disability or a different sexual orientation. In its Recommendation 1796 (2007) on the situation of older persons in Europe, the PA also pointed out that older women form a particularly vulnerable group which is discriminated against in many ways and whose financial insecurity is exacerbated by inadequate social support and their low income. Often older women often receive a reduced pension allowance because they have had to care for family members rather than being professionally active.

Autonomy and decision making

As the general principle of individual autonomy and self-determination apply to older persons, they should be enabled to lead independent lives in their familiar surroundings for as long as they wish and are able, to take and communicate decisions with regard to personal and legal matters, including decisions about living conditions, to interact with others and to fully participate in social, cultural and education and training activities, as well as in public life, to enjoy respect for their private and family life, including respect for their sexual intimacy, to the fullest extent. In its Recommendation CM/Rec(2009)6 concerning ageing and disability in the 21st century, the CM recommended also that free and accessible modern information systems and counselling – including via Internet – should be available to help individuals make their own decisions and organise their lives independently.

Emphasising the autonomy of older persons, the Recommendation considers older persons as having the ability to decide in their own best interests about their person and affairs, and therefore recognizes their legal capacity on an equal basis with others. However, when an older person suffers from a mental disorder, disability or a disease, s/he may need different degrees of support to facilitate decision-making in accordance with the principle of supported decision-making including, in exceptional cases, the designation of another person to take decisions on his or her behalf.

The Recommendation admits the possibility of limiting the older persons’ decision making and legal capacity for protection purposes without, by this, meaning to encourage the widespread application of such limitations. Appropriate safeguards must be in place when such limitations are possible in accordance with national law. Specifically, Member states should ensure that restriction measures respect the rights, will and preferences of the older person concerned, are free of conflict

26. This refers to a situation in which a person is being discriminated against for several reasons.

of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body.

Protection from violence and abuse

The Recommendation also deals with the serious problem of violence, abuse and neglect of older persons²⁷ and calls upon Member States to guarantee special protection from such acts, irrespective of whether they occur at home or within an institution. In most cases maltreatment is a hidden phenomenon: the perpetrator may be a relative whom the older person is reluctant or unable to denounce and/or the older person may be unable to defend her/himself against.

The prohibition of violence and abuse directly applies to carers providing services to older persons at home or in institutions. The ECtHR, however, has considered that older persons often are not in a position to draw attention to shortcomings concerning the provision of care on their own initiative.²⁸ The protection of older persons goes even beyond this obligation, as the ECHR also imposes a positive obligation on states to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment, including such ill-treatment administered by private individuals.

The Recommendation suggests to Member states to take appropriate awareness-raising and other measures so that the detection of violence and abuse becomes easier. Measures may include for instance information and advice to the medical staff, caregivers and persons providing services to older persons on how to detect maltreatment and how to react if it is suspected to have occurred. In addition, member states may consider providing guidance to medical and forensic staff on how to better detect violence against older persons and death from an unnatural cause.

Further proposals for measures to prevent maltreatment were made by the CoE who, in 2008, suggested the setting up of independent complaints and inspection systems. In Recommendation CM/Rec(2009)6 on ageing and disability in the 21st century, the CM suggested the establishment of easy access to telephone hotlines to protect older persons and people with disabilities from abuse. Moreover, in Recommendation 1428 (1999) on the future of citizens: protection, participation and promotion, the PA suggested to member states to consider establishing information services for older persons to assist in preventing and punishing maltreatment (with particular attention to drug misuse in institutions).

The issue of abuse might be further complicated should the professionals responsible for treating the older persons refuse to acknowledge that abuse has occurred. The Recommendation invites member states to encourage caregivers to report to competent authorities if they have knowledge of possible act(s) of abuse.

To this effect and in the light of the case-law of the ECtHR, the Recommendation encourages Member States to take legislative or other measures to protect persons having reported maltreatment ("whistle-blower") from dismissal or other reprisals. The ECtHR has decided that the national courts' upholding of a dismissal of a carer for having reported in the public domain, deficiencies in an institution concerning the quality of care ("whistle-blowing"), may under certain circumstances be in violation of Article 10 ECHR (freedom of expression).²⁹ Thus, a certain level

27. The World Health Organisation has defined "elder abuse" as "a single or repeated act or lack of appropriate action occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person. It can take various forms: physical, psychological or emotional, sexual, financial or simply reflect intentional or unintentional neglect", European Report on preventing older maltreatment, Regional Office for Europe of the WHO, 2011.

28. *Heinisch v. Germany*, application no. 28274/08, judgment of 21 October 2011.

29. *Ibid.*

of protection of “whistle-blowers” is required from States, in particular where the employee/civil servant concerned is the only person, or part of a small category of persons, aware of what is happening and is better placed to act in the public interest by alerting the employer or the public at large.

However, national legislation may submit the reporting to some requirements, for instance, before reporting to competent authorities, carers should have previously informed their superior or other authority of the institution (duty of loyalty and discretion). It is only where this is clearly impracticable or without effect that the information can, as a last resort, be disclosed to the public. The information disclosed should be accurate, and the person reporting should have acted in good faith. The PA has established a number of principles for the protection of the “whistle-blowers” in its Resolution 1729 (2010), inviting member states to review their legislation in this area.

The Recommendation also recalls the procedural obligations stemming from Article 3 ECHR (Prohibition of torture) to carry out an effective and quality investigation when there are credible claims or the authorities have reasonable grounds to suspect that violence or abuse has occurred.

Older persons who have suffered from abuse should receive appropriate and timely help and support, including appropriate medical and psychological assistance. In the light of Article 13 ECHR, the Recommendation stipulates that older persons are entitled to an effective remedy before a national authority and should receive, where appropriate, adequate redress. Depending on the older person’s age, the national authority should decide promptly and the situation should be redressed in reasonable time.³⁰

Social protection and housing

As regards social protection of older persons, the Recommendation is primarily based on Article 23 ESC and mainly refers to retirement pensions and any other benefits which States may grant.

Member States should take measures to facilitate mobility of older persons and proper access to infrastructure for them. In terms of housing, the Recommendation thus invites Member States to facilitate home renovation and access to social housing for older persons with a view to ensuring adequate and safe living conditions and preventing difficulties that may impact on the state of health or the well-being of older persons. In order for older persons to be able to adapt gradually their housing to their needs and state of health, Member States should provide adequate measures of support and anticipate possible future needs of the older persons. With a view to enable seniors to continue to live at home and maintain an adequate standard of living, older persons may need some additional arrangements such as the preparation of meals, day care, nursing, and any other supplementary service, at a relatively low cost to allow the broadest possible access.³¹ In its Resolution 1502 (2006) on demographic challenges for social cohesion, the PA recommended Member States to adapt long-term care for the increasing number of older people and ensure that those who live alone have access to formal support (nurses, doctors, hospitals) and informal networks (friends, neighbours).

30. The European Charter of Rights and Responsibilities of Older People in Need of Long-Term Care and Assistance (developed in 2010 by the EUSTaCEA project “A European Strategy to fight elder abuse”) is an additional source on that issue. It recognises in Article 9 that older persons have the right to redress in case of mistreatment, abuse or neglect. The Charter is available at https://www.age-platform.eu/sites/default/files/22204_AGE_charte_europeenne_EN_v4.pdf

31. Normative standards in international human rights law to older persons, Analytical Outcome Paper, United Nations Office of the High Commissioner for Human Rights (August 2012), p. 28, available at <http://social.un.org/ageing-working-group/documents/ohchr-outcome-paper-olderpersons12.pdf>

Care

Sub-Chapter A of the Recommendation refers mainly to the provision of long-term care for older persons³² in both home-based and institutional care. Older persons need specific geriatric care to meet their long-term care needs, taking into due account the specific needs of persons with dementia. Geriatric care generally aims at maintaining and improving their physical and mental health, which are equally important components for a person's well-being.

A variety of affordable community and home care services for older persons should be promoted and attention should also be paid to the social support available to carers, particularly in low-income households who wish to keep older persons relatives at home.³³

One of the most significant barriers to a quality and appropriate health care is the lack of competent care providers, in diagnosis and treatment, to deal with older persons. The Recommendation suggests to Member States to support the training of both informal and professional caregivers and promote the cooperation of competent services through a multidimensional approach. In its Resolution 1793 (2011) on promoting active ageing: capitalising on older people's working potential, the PA advised Member States to develop new approaches to care of the older persons and support informal carers through extending parental leave provisions to enable all unpaid carers responsible for dependent relatives to enjoy an adequate protection of their social rights, including pension rights. The Confederation of Family Organisations in the European Union (COFACE) has developed a "Charter for family carers" which aims at recognising the rights of family carers and highlights their role and the challenges they face.³⁴ The PA also recommended to provide special training for medical practitioners and individuals caring for older persons at home in its Recommendation 1796 (2007) on the situation of older persons in Europe.

Consent to medical care

The principle of free and informed consent makes clear patients' autonomy in their relationship with health care professionals. When an older person does not have, according to law, the capacity to consent to an intervention, in particular because of a mental disability or a disease, the intervention may only be carried out with the authorisation of his or her representative, an authority or a person or body provided for by law. The older person concerned should as far as possible take part in the authorisation procedure. Appropriate and effective safeguards should be provided to prevent abuse.

Residential and institutional care

Sub-chapter C of the Recommendation deals explicitly with the situation of older persons in residential and institutional care. The Recommendation suggests the provision of sufficient and adequate institutional care for those older persons who are no longer able or do not wish to reside in their own homes. Both Article 23 ESC and the CM Recommendation R(94)9 concerning older people, grant to older persons the right to participate in decisions concerning their treatment, as well as the living conditions of the institution. The latter Recommendation states also that older persons should be able to participate in the establishment and the provision of services for themselves, including in their setting up, management and evaluation.

32. The term "long-term care" has been defined by the Organisation for Economic Cooperation and Development as "a range of services for people who depend on ongoing help with activities of daily living caused by chronic conditions of physical or mental disability".

33. [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/482a0aced8049067c12563ed005acf9e?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/482a0aced8049067c12563ed005acf9e?Opendocument)

34. <http://www.coface-eu.org/en/Publications/Charter-for-Family-Carers/>

The vulnerability of older persons or, in some cases, their limited capacity to look after themselves are risk factors for violence, abuse or neglect against them, sometimes endangering their lives. This is why the ECtHR has held that under Article 2 of the Convention, States have positive obligations to make regulations compelling hospitals to adopt appropriate measures for the protection of their patients' lives and to set up an effective independent judicial system so that the cause of death of patients in the care of the medical profession can be determined and those responsible made accountable.³⁵ The Recommendation suggests the inspection of the residential institutions and the setting up of accessible and effective complaint mechanisms allowing to redress any deficiencies in the quality of care.

6. Other European normative and policy instruments related to the rights of older people

Before the entry into force of the Charter of Fundamental Rights (CFREU), the EU approached the rights of older persons mainly from the perspective of non-discrimination in employment. With Article 25 CFREU, however, the EU explicitly addressed the rights and principles regarding the treatment of older people, stipulating that: "[t]he Union recognises and respects the rights of the elderly [older people] to lead a life of dignity and independence and to participate in social and cultural life", whereas its Article 34 recognises older people's right to a social protection safety net. This marked a shift towards adopting a more comprehensive and rights-based approach towards older people, who are no longer perceived solely as 'retired' former workers, nor as a homogenous, vulnerable group. Transforming the new rights-based approach reflected in the CFREU into concrete EU legislative measures and policy actions has been a slow process and to date is limited. The most important instrument appears to be the Victims' Rights Directive³⁶ that though applicable to all individuals, is relevant for older people who are victims of crime, both for compensation purposes and in the context of criminal proceedings. Other more recent EU legislative initiatives contributing to mainstreaming a rights-based approach to ageing include the draft European Accessibility Act, the draft Directive on work-life balance for parents and carers, and the draft Regulation on a Pan-European Personal Pension Product, which have not yet been finalized. These instruments aim, in their intention, at promoting accessible, affordable and quality goods and services, foster independent living and inclusion in the community, intergenerational solidarity, resulting in better and more respectful tailor-made and home-centred caring services for older people, and more options to people who want to invest financial resources in view of supplementing their future retirement income. This focus is reflected in the European Innovation Partnership on Active and Healthy Ageing³⁷ which seeks to promote the perception of ageing as "an opportunity [more] than a burden" and to replace reactive and hospital-based care with proactive and home-based services and health care. Active ageing and intergenerational solidarity have also been the topic of the 2012 European Year for Active Ageing and Solidarity between Generations, which resulted in a relevant Council Declaration and guiding principles, as well as in the development of the Active Ageing Index (AAI). The AAI aims to provide comparative data and evidence among EU Member States regarding the contribution and potential of older people in various aspects of life and to help identify challenges, priorities and possible policy developments in the future. The last initiative launched by the EU relevant to older persons was the joint proclamation of the European Pillar of Social Rights, adopted by the EU institutions in 2017. The Pillar, which is non-binding, reaffirms the principles of equal opportunities, particularly of unrepresented groups, work-life balance, particularly relevant for people with caring responsibilities, adequacy of pensions and the right to affordable quality long-term care in particular home-care and community-based services.

35. *Calvelli and Ciglio v. Italy* (n° 32967/96), judgment of 17 January 2002, [Grand Chamber] para. 49

36. Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32012L0029&from=en>

37. https://ec.europa.eu/eip/ageing/home_en

7. Universal legal framework related to older people³⁸

The 1982 Vienna International Plan of Action on Ageing was the first international document on ageing, created by the first World Assembly on Ageing, and later endorsed by UN General Assembly (GA) resolution 37/51. The plan is developmental in focus, outlining principles and recommendations on areas such as the family, social welfare, health and income security. General references are made to human rights via reaffirmation of the applicability of the principles and objectives of the Universal Declaration of Human Rights (UDHR) to older people. With resolution A46/91 of 1991 the GA adopted the UN Principles for Older Persons, built around the concepts of independence, participation, care, self-fulfilment and dignity, as a framework for any intervention for old people.

The 2002 Madrid International Plan of Action on Ageing (MIPAA) was adopted by the Second World Assembly on Ageing, along with a political declaration. It contains three priority themes: development; health and well-being; and enabling environments. Eliminating age-based discrimination and promoting the human rights of older people are issues that do emerge in this non-binding document. However, as the report of the United Nations High Commissioner for Human Rights (UNOCHR) to the Economic and Social Council noted in July 2012,³⁹ implementation of the Plan of Action “*does not systematically consider linkages to the obligations of the State parties under international human rights instruments.*” Regional action plans have been created but the monitoring of their implementation has been weak. The limited and sometimes non-existent awareness of MIPAA and its limited implementation was recognised by the UN GA in 2011 in resolution 65/182.⁴⁰ Its lack of impact is further evidenced by the fact that only 42 States out of the then 192 responded to the request for information on its implementation within that same resolution.⁴¹ Ukraine’s national progress report on the regional implementation of the MIPAA for the period 2007-2011⁴² reached a number of conclusions which are relevant for the purpose of the present work:

■ a) Whilst national legislation related to older persons, especially with regard to age discrimination prevention, improving social benefits targeting, protection of rights of older persons in family relationships, provision of essential medical and social care for older people exists, its enforcement is not satisfactory and for this purpose parliamentary monitoring of the work of executive authorities should be improved;

■ b) Maintaining health in older age and extending longevity should become a priority of the national policy on ageing and should be attained by ensuring inclusive access for older persons to means of health preservation and active longevity – e.g. modern means of medical diagnostics, prevention, treatment and rehabilitation. The system of geriatric care in Ukraine requires further development and coordination. This is preconditioned by establishing a unified inter-sectoral system of geriatric education, staffing of outpatient health care facilities with geriatric nurses, increasing wages of geriatricians and geriatric nurses, developing the network of geriatric rehabilitation institutions, establishing coordination bodies on medico-social care for older persons within local executive authorities, mainstreaming geriatrics in the work of all health and social care establishments;

38. Taken and adapted from International human rights law and older people: Gaps, fragments and loopholes available at <https://social.un.org/ageing-working-group/documents/GapsinprotectionofolderpeoplesrightsAugust2012.pdf>

39. Report of the United Nations High Commissioner for Human Rights (E/2012/51), April 2012, pursuant to General Assembly resolution 48/141

40. <http://www.un.org/Depts/dhl/resguide/r65.shtml>

41. <http://www.ohchr.org/EN/Issues/OlderPersons/Pages/Submissions.aspx>

42. Available at https://www.unecp.org/fileadmin/DAM/pau/age/country_rpts/UKR_e_report.pdf

■ c) The Ukrainian system of social security of older persons requires improvement and adaptation to the accelerating demographic ageing. In the medium term, the following goals were identified: increasing retirement age for generations that will participate in the second (funded) tier of the pension system (to 65 years for both men and women), further diversification of pension schemes (options are implementing a basic level of pensions and/or reform of the redistribution-based system into conditionally funded system), integration and complementation of governmental and non-governmental organizations in the area of social protection of older persons, creating enabling conditions for extending the labour life, providing incentives for people to take part in private pension schemes;

■ d) The creation of a friendly environment for older persons remains challenging. Their demands regarding housing, workplaces, transportation, leisure sites should be fully met;

■ e) The quality of care by social services should be increased, and so should awareness about availability and scope of such services, increasing the number of residential buildings and institutions for older persons who cannot receive care elsewhere and improving the living conditions thereof, increasing the availability of psychological, legal and other types of support for older persons;

■ f) There is a necessity to develop theoretically justified and practically feasible conceptual approaches to education in older age, to cultivate traditions of life-long self-learning, to adapt the adult education methodologies to the needs of the older people, accounting for their physiology, psychology, motivations etc;

■ g) An important issue is scaling up information, education and communication activities as an integral element of the national ageing policy, and improving inter-institutional cooperation in its formulation and implementation. There should be more information sources on the issues of concern to older persons (especially in villages). Collaboration between governmental and non-governmental organizations should be promoted. International best practices in integrating older persons into social life should be learned and more widely used. Volunteer activities of older persons should be propagandized and supported wherever possible.

In 2010 the GA established the Open-Ended Working Group on Ageing, a forum that aims to discuss concrete ways to strengthen the protection of our human rights as we age. It is the only group in the UN that brings together Member States, National Human Rights Institutions (NHRIs), NGOs and UN agencies on this issue.

More recently, the 2030 Agenda for Sustainable Development set out a universal plan of action to achieve sustainable development in a balanced manner and seeks to realize the human rights of all people. The agenda calls for leaving no one behind and for ensuring that the Sustainable Development Goals (SDGs) are met for all segments of society. As age is cross-cutting the goals on poverty eradication, good health, gender equality, economic growth and decent work, reduced inequalities and sustainable cities, it is essential that address exclusion, vulnerability and discrimination of older persons, not to be treated merely as subjects of interventions but active right-holders and functional components of evolving societies.

With a view to foster concerted, catalytic and collaborative action to improve the lives of older people, their families, and the communities in which they live, the WHO is considering to propose the period 2020-2030 as the Decade of Healthy Ageing.

8. Covid-19 pandemic, older persons and human rights

The Covid-19 pandemic has affected everybody's life: older persons, however, have been particularly touched by it. Although mortality rates related to Covid-19 vary widely across EU Member States, statistics confirm a much higher death rate among older persons.⁴³ Access to treatment and testing, the situation in institutional settings, limitations of visits and contacts, access to services and the impact of isolation on older persons were some of the challenges linked to the pandemic that clearly underline the profound threats to older persons' enjoyment of rights – from right to life and to health to right to private and family life, from the right to lead a life in dignity and independence to protection from abuse and to actively participate in the decision-making processes - presented by the Covid-19 pandemic. The particular vulnerability of older people prompted many countries to put in place specific restrictive measures or recommendations targeting older persons, including: stricter stay-at-home or self-isolation rules than for the general population; and special rules concerning shopping and accessing services, using public transport, accessing workplaces and participating in communal or voluntary activities. While certain measures were important to reduce the risk to health and life of older people by preventing infection, they also raised questions about potential discrimination on the grounds of age, as evidence pointed to a much higher death rate among older persons who contract Covid-19. During the peak of the crisis, many national health systems and medical professionals were put under extreme pressure and faced difficult choices about who to treat in view of scarce resources, putting the right to equal access to healthcare at risk. Although most EU Member States did not stipulate age as a decisive criterion when assigning or prioritising treatment for Covid-19, some examples of guidance collected by the FRA suggested that a patient's age could be used as a criterion for prioritising treatment. Reports emerged of the impact of restricted services on the mental and physical wellbeing of people with dementia. The suspension of non-urgent treatment, and the limitation to physical access to doctors and health services that many countries put in place, hit older people particularly hard, as they are more likely to have existing medical conditions requiring treatment.

43. According to the FRA Report "Coronavirus pandemic in the EU - Fundamental rights implications: with a focus on older people", Bulletin 3 available at https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-june_en.pdf as of late May, Hungary, Lithuania and the Netherlands each report that over 90 % of COVID-19-related deaths are of people over 60; in France the same applies to people over 65.

Part II

National legal and policy framework and their implementation in selected areas of concern under Article 23 ESC European best practices and recommendations

9. State of play of related to rights of the older persons in Ukraine: the policy framework and practice

9.1 The State Policy Strategy for Healthy and Active Longevity for the period 2018-2022 and the related Action Plan

Pursuant the 2030 SDGs, in 2018 the Cabinet of Ministry of the Government of Ukraine adopted the State Policy Strategy for Healthy and Active Longevity for the period 2018-2022⁴⁴ (hereinafter the Strategy) and the related Action Plan (AP).⁴⁵ The Strategy acknowledges the poor quality of life of older citizens and intends to provide a response, amongst others, to the insufficient level of pension provision and flawed system of state social standards and guarantees; absence of comprehensive targeted social support programmes aimed at identifying and addressing specific problems of individuals and families; insufficient awareness of the possibilities of participation in social support programmes, including those implemented by non-governmental organisations; unsatisfactory health status and low access to quality health care due to the low level of health care and prevention of morbidity throughout a human life; low level of awareness of healthy lifestyle in older age, ways to achieve healthy and active longevity, and opportunities for receiving geriatric care; insufficient development of relevant medical and social infrastructure; the existence of the concept of population ageing as an exclusively negative process to be addressed, as well as stereotypes about older citizens that form a negative attitude towards them and are the basis for their discrimination in different areas of life.

The main objectives of the Strategy are the following:

1. support to self-realization of the older persons and their participation in the society development through: stimulating the employment of old people and providing a flexible working hours; promoting volunteering; improving working conditions; modernization of the pension system to ensure a decent level of pensions; strengthening the targeting of social assistance programs for the poor, ensuring the availability of essential goods and services for socially vulnerable senior citizens; development of lifelong learning policy; promoting the resocialization of the older persons, including IDPs, into community life;

44. Resolution of the Cabinet of Ministry of Ukraine No 10-p for 11.01.2018.

45. Resolution of the Cabinet of Ministry No 688-p for 26.09.2018 p.

2. ensuring the health and well-being of older persons through the promoting physical activity; raising awareness about healthy and active longevity; regulatory and legal regulation and approval of geriatric care standards; training of medical and social workers to provide geriatric care; improving the system of health care and social protection of the population in terms of supporting the individual viability and independence of the older persons, disease prevention, providing services for their early detection and prevention of premature death; providing services for the prevention of premature aging, negative cognitive and emotional changes;

3. creating an environment to the active life trough of ensuring the availability of services for the older persons and their access to social infrastructure; development of innovative social services for the older persons in the community; introduction of standards for the provision of social services for the older people, including for people with mental illness; ensuring the diversity of organizational forms of care for the older people; construction of social housing; increasing the level of accessibility of educational, medical and other services for the older people living in rural and in depressed areas; support to a positive attitude of society to the older persons;

4. creating of a system of rights protection via the introduction of a mechanism for protection of property rights of older citizens; implementation of preventive measures to prevent the loss of property by senior citizens; improvement of the mechanism of return to the state (compensation) by the heirs of the cost of care for the older persons; carrying out preventive measures to protect against discrimination, domestic violence and abuse of the older people.

Sadly, the Strategy contains only one reference to human rights: not as an inspiring principle, but only in relation to non-discrimination, domestic violence and ill-treatment. The Law on antidiscrimination, moreover, does not contain explicit reference to multiple discrimination.

BEST PRACTICES

The **Czech Republic adopted a new National Action Plan promoting positive ageing (2013-2017), which explicitly underlines the protection of the human rights of older persons as a key principle.** The Council for Elderly Persons and Population Ageing was established in 2006 as a permanent advisory body promoting healthy and active ageing and equal rights for older persons in all areas of life. A special prize is awarded annually to individuals or organisations active in the field.⁴⁶

Austria adopted, in 2012, a **Federal Plan for Older Persons, elaborated with the participation of representatives of older persons**, which forms the cornerstone of that country's policy regarding older persons. The plan contains, inter alia, awareness-raising and other measures against age discrimination, including multiple discrimination against women.⁴⁷

RECOMMENDATIONS

R1. Adoption of any policy strategy, including those recommended as a result of this exercise, **should be supported by sufficiently disaggregated data and statistics** (for instance on the number of people who are already assisted by social services and the type of support provided, the number of people diagnosed with dementia, the number of those in need of palliative care, the number of people accommodated into residential institutions, the number of those on waiting lists to be admitted in such institutions, the number of privately run residential places and of their residents, the number and gender of family members taking care of older relatives,

46. Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

47. Ibid.

including the terminally ill, the number of awareness and information raising campaigns related to social rights implemented in the past 5 years, their impact, number of front-line staff providing social services, type and frequency of training...) so as to have an initial baseline allowing to focus the interventions, facilitate monitoring and evaluation of results.

R2. When adopting a policy strategy aimed at ensuring increased level of protection to vulnerable groups, **a human rights perspective should be adopted and human rights elicited as the guiding principles** of any intervention. Reference to the international human rights obligations of the country, should be included.

R3. The principle, for instance enshrined in the Law “On Basic Principles of Social Protection of Labour Veterans and Other Elderly Citizens in Ukraine” of December 16, 1993, No. 3721, according to which **older persons have the right to participate in decisions that directly affect their interests and to receive the necessary information must receive practical application.** This means that older persons should be appropriately consulted, through representative organisations, prior to the adoption of measures that have an impact on the enjoyment of their human rights.

9.2 Implementation of the Strategy and AP on Healthy and Active longevity: current state and challenges

The AP is impressive, and its adoption is certainly commendable. As its implementation is still in progress, it is sometimes difficult to comment on some of the activities that it lists, as they might have been understandably affected or slowed-down due to the current pandemic. Even with this premise, however, it is possible to express doubts to its overall feasibility as, regardless of the Covid-19 emergency, the activities appear overly ambitious for the timeframe allocated.

A few elements linked to the way the AP was designed, moreover, appear able to hinder its successful implementation. For instance, steps to be achieved are described in rather general terms and the division of responsibilities amongst the listed responsible institutions is often ambiguous.⁴⁸ Objectives are defined in qualitative terms, without reference to baseline data and targets, milestones and qualitative and quantitative indicators of achievements, thus making it difficult to analyse the information included in the progress report and the feedback collected during meetings. Whilst it is true that the progress report contains a few quantitative data, lack of baseline information and benchmark does not allow to assess the quality and quantity of the efforts put by the Government in the implementation of the AP. Moreover, lack of mechanisms to assess the impact of the various actions, diminishes the possibility to judge the extent to which the sought results are being achieved.

Reactions and feedbacks collected in the course of the meetings held, moreover, suggest lack of an appropriate communication strategy supporting the implementation of the AP, able to reach out not only the society at large, but also the institutions involved in its implementation. An AP, such as the one object of this analysis, should be regarded as the compass indicating the road to be undertaken by any professional asked, at all levels, to implement its actions. The impressions gathered in the course of the assessment exercise do not always point out to this direction and suggest that the adoption of the AP in fact has changed little in the modus operandi of the front-line offices and staff dealing with the older people.

48.This, for instance, made it difficult for an outside observer to identify the relevant actors responsible for the implementation of various activities, as the division of responsibilities amongst the listed responsible institutions was not always unambiguous.

Overall, the rationale of the Strategy, that is to stimulate and consolidate the active participation of the older persons into social life, including through volunteerism, community and policy work, does not seem to be sufficiently internalized by the implementers: older persons continue to be assisted and looked at as subjects of rights and decisions, individuals who have to be “cared about”, mainly through material and financial measures, rather than holders of rights and decision-makers. The focus of interventions, in other words, is on the satisfaction of older persons’ basic needs rather than stimulate their greater empowerment. As we write, we can certainly say that in Ukraine older persons are far from being responsible for their own quality of life and the State’s support is still perceived, both by operators and beneficiaries, as central and irreplaceable, particularly in addressing the needs of the most vulnerable older persons, namely those who cannot count on relatives, who have poor health or are in low-income households.

The shift in perception is certainly one of the most difficult results to be achieved and it would be unrealistic to pretend that the mere adoption of a document would be able to determine it. What emerged from the meetings, however, is that this change in the way older persons are regarded, has only minimally occurred and is far from being satisfactory to meaningfully implement the Strategy. This situation is not unique to Ukraine as still too many European states lag behind in eradicating ageism, age-related segregation, whether in residential institutions or in their own homes, in broadening involvement of older people in social life and fostering solidarity between generations. This, however, cannot be used as a justification for the current situation.

Certainly, on-going processes such as the decentralization and the creation of new institutional structures (amalgamated Territorial Communities, TCs) in charge of delivering social services to, amongst others, the older people, have had an impact on the capacity of the local authorities to correctly and meaningfully implement the AP. In this respect, and despite the decentralization process had already been in place at the time of the adoption of the Strategy, it ought to be noted that the AP contains no reference to the risks that can affect its correct implementation. According to the information provided by the interlocutors met in the course of the mission, around 25% of bylaws are still needed to implement the social reforms currently undergoing, thus affecting the proper implementation of the AP. This was certainly a risk that needed to be considered and that requires adjustments in the course of action.

In terms of sustainability, it is unfortunate that the Action Plan does not contain financial estimates and confides its implementation to the limits of the State and local budgets, funds of mandatory state social insurance, mandatory state pension insurance and other sources not prohibited by legislation. Whilst it might be difficult to set specific amounts in relation to the activities that have to be funded at local level, other steps have to be implemented by the central Government: at least for these actions, adequate financial resources should have been included.

Overall, the impression gathered during the mission is that the status of implementation of the AP is behind schedule and below standards and does not sufficiently hear the voices and reflect the views of the beneficiaries, providing a tailor-made response to the needs of a specific community. The conceptual flaws of the AP mentioned above, however, make it difficult to reach a quantitative conclusion based on solid data, as the ex-ante and ex-post extent of the anticipated actions are difficult to measure.

BEST PRACTICES

Poland started to establish **Senior Councils** in 2000. Currently, over 100 Seniors Councils are present in the country. These **are advisory and consultative bodies that support local political decision-making to assure that the views of older people are taken into account in the decision-making process**. Senior Councils are particularly relevant with regard to social policies and health policies. The number of Seniors Councils in Poland has grown in recent years thanks to favourable legislative changes in 2013 and 2015. Since 2015, the local executive administration is obliged to establish a Seniors Council if there is local demand for such a council. Seniors Councils, who play an advisory and consultative role, can support better informed local decision-making by helping to identify local needs and contributing to a better allocation of scarce resources. They may also help to draw more resources to health promotion and primary prevention for older people in an environment of financial constraints and a health care system that traditionally prioritizes curative care.⁴⁹

In **Spain**, the **Council of Older Persons**, composed of representatives of all administrative levels and of the civil society, **deals with issues concerning the conditions and quality of life of older persons and also makes them participate in the decision-making process** concerning a wide range of public policies on older population.⁵⁰

In Spain, the website **“EnclaveRural”** constitutes a **platform for exchanging good practices** concerning the improvement of the quality of life of both older and disabled persons in rural environments and for promoting the creation of quality proximity services.⁵¹

RECOMMENDATIONS

R4. The AP should be the object of proper outreach, aimed at ensuring that both the society and all those involved in its implementation, including at grass-root and operational level, are aware of it. **Achievement of such result must be monitored**. The spirit of the AP, namely moving from welfare and satisfaction of basic needs to empowerment of the older persons, from passive to active participation in the decision-making processes concerning their lives, from marginalization of older persons to full or at least increased inclusion in the social life, should be internalized by the staff asked to implement it and repeatedly explained to the society.

R5. The AP should be improved by introducing at least the following **additional items or indicators**: disaggregated baseline data enabling the tracking of changes that occurred during the implementation of the AP; disaggregated performance indicators, disaggregated final targets and objective, both expressed quantitatively and qualitatively; non ambiguous allocation of tasks to the various actors; specific identification of the financial resources needed to implement the different activities and how coverage should be guaranteed; risk identification and assessment; mitigating measures needed to counter the envisaged risk so as to ensure the attainment of the sought results.

R6. Monitoring and evaluation of the strategy should include not only the description of the activities conducted, but **also a qualitative assessment (through focus groups, sample polls etc.) of the achieved set goals, objectives and impact** of the various measures on the targeted population.

49. <https://www.sciencedirect.com/science/article/pii/S0168851019301368>

50. Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

51. Ibid.

R7. Successful implementation of the AP and ownership by the beneficiaries can only be reached through increased active engagement of the ultimate recipients. Participation **can be obtained, for instance, with the creation, at no costs, of local Senior Councils** by the local executive administration, gathering individuals and representatives of NGOs and older persons associations. These Council can effectively contribute to increased visibility of the older persons as active members of the society, and to the better prevention, health promotion and social inclusion, reducing the age gap.

R8. In order to ensure that best practices and lessons learned derived from the implementation of the Strategy at local level are shared amongst stakeholders, increased shared of information amongst local actors should be insured. This could be obtained, at very little cost, through **a regular mailing list, for instance at regional level, containing a selection of good practices** that were implemented at grass-root level. This mailing list should not replace the publication of information and best practices on the institutional websites. Instead, it should represent a more **user-friendly tool that contains a selection of examples, inspiring ideas or information about upcoming events** which are relevant for the targeted professionals, that can stimulate more effective actions at local level as well as favour replication of successful initiatives.

10. Non-discrimination

Since 2005, a number of sectorial normative acts have been adopted to implement the principle of non-discrimination enshrined in Article 24 of the Constitution. The first comprehensive anti-discrimination law⁵², however, was only adopted in 2012. The Law on anti-discrimination is a rather broad texts that is aligned with international standards. Commentators, however, underline that there is still a need to introduce legislative amendments to ensure that the legal system is comprehensive, that redress mechanisms are adequate, and that non-discrimination policies are implemented in all spheres of life. In particular, a number of gaps can be identified: a lack of legal certainty and consistency (definitions and grounds for discrimination should be unified across all laws); a lack of comprehensiveness of anti-discrimination legislation, especially in preventing discrimination and introducing positive actions; a lack of effective mechanisms for punishing violators and remedying victims (currently victims have the right to complain to the relevant government authorities, the Commissioner for Human Rights of the Verkhovna Rada of Ukraine or a court); poor implementation of anti-discrimination policies and action plans; and, finally, failure of the state to provide effective needs analysis before introducing certain changes. In addition to addressing these gaps, there is a need to develop mechanisms to evaluate the effectiveness of state anti-discrimination programs and action plans.⁵³

Worth of mention for the purpose of the present report is also the Law “On Basic Principles of Social Protection of Labour Veterans and Other Elderly Citizens in Ukraine”⁵⁴, which applies to all those who have reached the age of 60, which is the set retirement age in Ukraine, and persons who have not more than one and a half years left before that. The Law proclaims that older citizens shall enjoy all social, economic and personal rights and freedoms enshrined in the Constitution of Ukraine and other legislative acts. The law prohibits discrimination against older citizens in the field of labour, health care, social security, housing and other areas, and officials who violate these guarantees are prosecuted in accordance with applicable law.

52. Law “On the Principles of Prevention and Counteracting Discrimination in Ukraine” of September 6, 2012, No. 5207-VI

53. Iryna Fedorovych, Anti-discrimination legislation in Ukraine – box ticking for the EU or real reforms to ensure equality for Ukraine’s citizens? Policy report, available at https://rpr.org.ua/wp-content/uploads/2017/02/Renaissance_A4_1Discrimination.pdf

54. December 16, 1993, No. 3721

Unfortunately, the attempts made in the course of the present assessment to collect statistics about the instances of discrimination suffered by older persons in the social sphere were unsuccessful: the Ombudsperson institution does not collect statistics by age and sex of complainants and was only able to provide information related to the subject-matter of complaints (i.e. entitlement to pensions and their amounts, lack of adequate medical services, entitlements of rehabilitated persons, cultural rights...) brought to its attention. Disaggregated statistics concerning discrimination complaints dealt by the judicial system or other Governmental authorities are not available either and the few sociological researches conducted seem to focus on the labour sphere (which is outside the scope of the present Report).⁵⁵

The lack of disaggregated statistics about the instances of discrimination including the older persons is exacerbated by the absence of up-to-date census data. The last population census in Ukraine was carried out in 2001. During the last 18 years the next census has been rescheduled four times already (2011; 2012; 2013; 2016; 2020). On multiple occasions international monitors stressed that a population census is long overdue and that the lack of accurate and reliable data leaves a room for speculation relating to the size of particular groups. <...> Once the state fails to collect such data the burden falls on the civil society organizations, which have limited capacity and insufficient funding to carry out such a large-scale project. Current strategies are relying on segmented/sporadic data sets that do not fully reflect the diversity of Ukrainian population. Thus, the state can hardly accurately identify, estimate and remedy the population groups challenged by discrimination⁵⁶.

RECOMMENDATIONS

R9. Statistics, broken down by age and sex, related to discrimination complaints and cases should be collected by all the bodies dealing with such cases, namely the Ombudsperson and the governmental authorities mentioned by the Law “On the principles of preventing and combating discrimination in Ukraine”.

R10. Definition and grounds for discrimination should be unified across laws, so as to avoid inconsistencies and leeway in certain areas of life.

R11. Thematic monitoring of the implementation of anti-discrimination legislation should be undertaken with a view to strengthen the victim-centered approach needed when dealing with discrimination, particularly of vulnerable categories such as the older persons.

R12. As professionals dealing with the older persons do not necessarily have proper understanding of what discrimination entails, staff and managers of social service providers dealing with the older persons should receive, in addition to specialized training, at least **general training on antidiscrimination**. This training should be mandatory and part of the initial and continuous training required to maintain the qualification.

55. Balakireva, O. Lokteva, I. (2018). Sociological study “Social inequality: perception by Ukrainian society”. Sociological Association of Ukraine” with the support of the International Renaissance Foundation, cited by A. Horbovyi, A. Khaletska, The road ahead for age-friendly community in Ukraine, in Geopolitical, Social Security and Freedom Journal, Volume 2 Issue 1, 2019, page 52. According to the research conducted in 2018 every third person of 45-59 years faces age discrimination in the labour sphere. Among all respondents, every fifth respondent reported that he was denied employment due to his age (23.0%). Particularly in the employment area, almost every tenth respondent identified lack of digital skills as cause of being turned down (8.9%). The share of those who reported cases of discrimination in work placement due to a lack of these skills was highest in the 56-65 age group (15.0%) and the lowest among young people aged 18-25 (7.2%). The next most cited reasons, according to the respondents, related to employment refusals are health (6.9%) and gender of respondents (5.9%). Among women, a quarter (24.0%) reported that they had experienced discrimination in age-based employment. In the group of men, the number of those who confirmed having experience of age discrimination in employment constitutes a fifth (20.6%).

56. Kateryna Dronova. What is the Extent of the Discriminatory Practices in Ukraine? March, 20, 2019. <https://voxukraine.org/en/what-is-the-extent-of-the-discriminatory-practices-in-ukraine>.

R13. The Law “On the principles of preventing and combating discrimination in Ukraine” should be amended so as to explicitly include reference to multiple discrimination.

11. Autonomy and participation of older persons in decisions related to their life

Autonomy is generally understood as the ability to make independent decisions and manage their lives and is inherently linked to the issue of capacity. As in most legal orders, the Ukrainian Civil Code (CC) sets the condition for enjoyment full (Article 34) or limited (Article 36) capacity and regulate the procedure for recognition of legal incapacity (Article 39). The latter is declared in case a natural person is not capable to perceive and (or) control his/her actions due to chronic and stable mental disorder. Under such circumstances, a custodian operating under judicial supervision shall be appointed, with the task to take all legal actions on behalf and in favour of a legally incapable person. The guardian shall receive earnings, pension, fellowships and other incomes of a natural person with the restricted legal capability and dispose thereof. The guardian may provide a written permit to a natural person with the restricted legal capability to receive his/her earnings, pension, fellowships and other incomes and dispose thereof. A natural person with restricted legal capability may take only inessential legal actions.

Guardians are subject to the supervision of the custodian and guardianship administrative authorities (district, district in the city of Kyiv state administrations, executive committees of city, district in cities, village and township councils). Duties of the guardian include ensuring the person’s care and adequate living conditions, protecting his/her rights and interests. Situations of conflict of interests are dealt by Article 70 CC, that prohibits the conclusion of agreements between his/her spouse or his/her close relatives and the ward, excluding the transfer of ownership by means of a deed of gift or free use within the framework of a lending agreement. Pursuant to Article 71 CC, the guardian must be authorized by the administrative authorities to proceed to the following legal transactions: waiver the ownership rights of his/her ward; issue written pledges on behalf of his/her ward; enter into agreements that will be subject to notarial authentication and/or registration by the State, including agreements on the sharing and exchange of real estate; enter into agreements concerning any other asset of value.

Only adults and capable citizens can be appointed as custodians (guardians). As a rule, they are relatives or otherwise close to the incapable. The law on guardianship had already become the object of scrutiny by the ECtHR in the case of *Nataliya Mikhailenko v. Ukraine* (2013), where the Court criticized the legal framework in the part that prohibited someone under guardianship from accessing a domestic court to challenge the guardianship.

The new version of the CPC (2017) contains an uncompromising break with this paradigm of Soviet-era punitive psychiatry. Currently, in cases of restriction of civil capacity of a natural person, recognition of a natural person incapable and restoration of civil capacity of the CPC, it is envisaged:

- mandatory participation of a person, directly or through a video conference, if the person is in a psychiatric institution (Article 299 CPC);
- the right of a person declared incapable to apply directly to the court to revoke the decision on recognition of incapacity (the principle established in the decisions of the European Court of Human Rights “Natalia Mykhaylenko v. Ukraine” (Article 300 CPC);
- periodic judicial control over the presence / continuation of the existence of grounds for restriction or deprivation of legal capacity (Part 6 of Article 300 of the CPC sets the maximum term of a court decision declaring an individual incapable in 2 years).

In addition to the deprivation of legal capacity, Article 78 CC foresees the possibility that an assistant is appointed to legally capable natural person who cannot exercise his/her rights and fulfill his/her obligations. The appointment is made by the guardianship authorities at the request of the beneficiary. The assistant has the right to receive a pension, alimony, salary, postal correspondence belonging to a natural person in need of assistance. The assistant has the right to make small household transactions in the interests of the person in need, in accordance with the powers granted to him and to represent the person in public authorities, local governments and the organizations which activity is connected with social services. The legislation foresees no supervision of the activity of the assistant, the only remedy being the appeal against actions of a guardian and decisions of the guardianship and trusteeship body (Article 79 CC).

The current legislation related to the appointment of an assistant to the legally capable is particularly relevant for the purpose of the present work, as this institute has a potentially wide application to the older persons, providing the support their need to deal with ordinary life issues whilst still maintaining full capacity, thus not being “unpersoned”. The gaps, however, are numerous.

In the first place, it ought to be noted that neither laws nor bylaws regulates the legal publicity of such an appointment, with the result that it is difficult for a third party, for instance in case of conclusion of a contract, to verify the powers of the assistant. Possibilities of abuse of property rights of the older persons are thus increased. Similarly, absence of an obligation upon the assistant to provide the administrative body with an inventory at the outset of the office or regular reports on the activities undertaken appears to leave the door open to financial abuse and conflict of interest. Unfortunately, neither data related to the application of such institute to the older persons nor about abuses or appeals lodged against assistants exist. The situation is further complicated by the fact that it is quite common, in practice, that older persons who are no longer able or feel comfortable to manage their own financial means, instead of requesting the judicial appointment of an assistant, appoint a proxy through a notary. In such cases, proxies operate outside any form of supervision. It was not surprising, thus, when interlocutors met pointed out that the likelihood that older people are lured into contracts whereby they give away their assets is currently very acute. This is particularly true in relation to rather common lifetime maintenance agreements older persons enters into due to low income, with the hope that such contracts will be honored.

Since the beginning of 2020, 29.300 older persons (amounting to 28% of the total number of applicants) requested assistance to the free legal aid system coordinated by the Ministry of Justice (MoJ) of Ukraine, bringing to the attention of the service some 43,000 cases. Although data about the type of cases is not available, these numbers seem to suggest the need to ensure that the older persons are adequately protected in the enjoyment of their rights, including that to property.

BEST PRACTICES

In **Germany**, since 1992, a guardian (that is the equivalent of an assistant under Ukrainian law) can be appointed to adults who, as a result of mental disease or physical, mental or psychological disability are incapable of managing their own affairs. **The appointment does not suspend the legal capacity and concerns only personal and estate matters, as well as medical treatment.** The mandate of the guardian, thus, is limited to the actual needs of the individual and the performance of the relevant tasks. Deprivation of legal capacity is a measure of last resort. Every guardian has to report annually to the guardianship court. Professional guardians normally hold university degrees in law or social work.⁵⁷

57. Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

Italy introduced the notion of partial guardianship in 2004. The system is very similar to the German one and focuses on **the need to provide frail people with a support in the management of the ward's financial resources and assets**. The partial guardianship is structured so as to ensure that the ward fully participates in the decision-making processes concerning for example the residential arrangements or medical. All decision taken by the guardians, who tend to be lawyers who expressed their availability for such office, are to be validated by a Judge who is specialized in dealing with vulnerable individuals. Citizens wishing to seek additional information on the partial guardianship and or support in the discharge of partial guardianship appointments can count on local offices providing free-of-charge assistance, support and information.

Belgium adopted new legislation (in force as from 1 June 2014) reforming restrictions to legal capacity. **The new legislation will protect older persons by allowing them to benefit from assistance or representation according to their legal capacity.**⁵⁸

In the **Czech Republic**, full deprivation of legal capacity of any person is no longer possible as from 1 January 2014. **Any person being limited in his or her legal capacity will be provided with a trustee protecting his or her interest or a legal counsellor.** The new Civil Code also introduces some **new forms of supported decision making.**⁵⁹

RECOMMENDATIONS

R14. The Civil Code should be amended so as to include an obligation to prepare an inventory to the guardianship authorities as one of the first duties to be discharged, with a view to prevent property abuse and conflict of interest.

R15. Rules of Custody and Guardianship should be amended so as to include appropriate legal publicity whenever an assistant for capable persons who, due to their health, cannot perform their duties on their own, is appointed.

R16. Actions of the assistants should be subject to regular scrutiny by the guardianship authorities and their reporting obligations should be similar to those foreseen for guardians of legally or partially incapable persons;

R17. Professionals who can be involved in potentially fraudulent transactions involving older persons (i.e. state registrars, notaries) should receive adequate training on the rights of the older persons, possible sources of abuse, protection obligations and mechanisms;

R18. Minimum qualifications for those acting as guardianship authorities should include induction and continuous training on the rights of the older persons, possible sources of abuse and protection obligations and mechanisms;

R19. MoJ should collect disaggregated data related to the deprivation and limitation of legal capacity and appointment of assistants. Such data should be the object of regular review to assess whether the correct application to the most intrusive institutes to the older persons. In any event, the appointment of an assistant to an older persons should preferred whenever possible;

R20. Awareness and information raising campaigns about the most relevant problems encountered by older persons, as well as possible abuse of property to which older persons

58. Ibid.

59. Ibid.

might be lured into should be implemented widely through religious institutions, post offices, medical cabinets, third age universities, social services and other places commonly frequented by older persons;

R21. Guardians and assistants, particularly those chosen amongst family members and non-professional individuals, should be able to receive support in the discharge of their duties, as well as information material about the law and ethical responsibilities when implementing their tasks, undergo basic training on reporting, non-discrimination, social rights of older persons, responsibilities and protection from abuse, and ethical issues such as conflict of interest.

Decision-making issues of older persons in the medical sphere are directly related to the person's civil capacity. Ukrainian health legislation provides that a patient or his or her legal representative has the right to refuse medical intervention. It is stipulated that an adult capable person, who is aware of the significance of his actions and can manage them, has the right to refuse treatment. In the case of a patient under the age of 14 (a minor patient), as well as a patient who has been declared incapable in accordance with the procedure established by law, medical intervention is carried out with the consent of their legal representatives. In addition, Part 5 of Art. 43 of the Fundamentals stipulates that in the event that the refusal is given by the patient's legal representative and it may have serious consequences for the patient, the doctor must notify the guardianship authority⁶⁰.

BEST PRACTICES

In **Germany**, the Third Adult Guardianship Reform Act (2009) confers particular importance to **advance medical directives** in the area of medical interventions. The medical services of the health insurance funds also examine whether the restriction of liberty is accompanied by the required consent.⁶¹

The Czech Republic, the Netherlands, Switzerland and the United Kingdom provide for the possibility of an act whereby a person can make arrangements for a **third person to be authorised to make decisions on his or her behalf should the person become incapable**. In addition, or as an alternative, a power of attorney may be granted to a trusted person to take decisions concerning financial affairs and medical treatment in accordance with the wishes set out in that document.⁶²

RECOMMENDATIONS

R22. At policy level, legislation should be enacted to allow older persons to regulate their affairs, including in the medical sphere, in the event that they are unable to express their instructions at a later stage.

12. The right to adequate resources

12.1 Pensions

Under Article 23 ESC, the right to adequate resources, which primarily encompasses the amount of pensions and other benefits, has been the object of criticism by the ECSR since the accession to Ukraine to the ESC. The country's pension system has undergone significant changes over the

60. Law of Ukraine "Fundamentals of the Legislation of Ukraine on Health Care" on November 19, 1992 № 2801-XII.

61. Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

62. Ibid.

years and in 2017 a new pension reform started to be implemented. Pensions and other types of social payments and assistance that are the principal sources of subsistence shall ensure a standard of living not lower than the minimum living standard established by law. The subsistence wage is the basic state social standard provided for by law.⁶³ The subsistence wage is determined by the normative method per month per person, as well as separately for those who belong to the main social and demographic groups of the population, in particular children, able-bodied persons and for persons who have lost the ability to work and who include persons who have reached the established by law retirement age, persons who have reached the retirement age, which gives the right to receive a pension on preferential terms, and non-working persons recognised as persons with disabilities. The subsistence wage for persons who have lost the ability to work is set at a level lower than for able to work persons that can be considered a discriminatory provision. The subsistence wage is annually approved by the Verkhovna Rada of Ukraine in the Law on the State Budget of Ukraine for the corresponding year.

Currently the state pension programme is financed through mandatory contributions and the state budget. Amount of pension awarded from the PFU depends on three indicators: salary, the contribution⁶⁴ period and average salary. Men over the age of 60 and women over 58 may claim a pension if they have contributed for a minimum of 15 years, which arose to 25 years from 1 January 2018 and which will step up one year each to 35 in 2028. Currently the benefit rate is 30% after 30 years of contributions. The law provides for a gradual, six months annually, increase in the retirement age for women. Previously, this age was 55, and from April 2021, it will be 60.⁶⁵ For every full year of pension insurance record over 35 years for men and 30 years for women, the retirement pension is increased by 1% of the pension amount, but not more than 1% of the minimum retirement pension.

Maximum pension entitlements (taking into account allowances, increases, additional pension, targeted monetary assistance, pensions for special services to Ukraine, indexation and other additional payments to pensions established by law, except for additional payments to allowances for certain categories of persons who have special merit to the Motherland) cannot exceed ten subsistence levels established for persons who have lost the ability to work. In case of an insufficient qualifying period, the person will be entitled to a minimal pension which is tied to the level of minimum subsistence income. The minimal pension by age for those who have a full qualifying period in Ukraine is set at UAH 1712 (from July 1 through November 30, 2020) and from December 1 through December 31, 2020, it will be UAH 1769 (€ 54)⁶⁶. According to the statistics, on 01.01.2020 the average amount of assigned monthly pensions is UAH 3851 of men and UAH 2602,47 of women⁶⁷.

According to the Pension Fund of Ukraine (PFU)'s statistics, as of July 1, 2020, the total number of

63. Law of Ukraine "On State Social Standards and Social Guarantees" of October 5, 2000, No. 2017-III and the Law of Ukraine "On Living Wage" of July 15, 1999, No. 966-XIV. There are, however, more than two dozen regulatory acts governing retirement benefits:

The Law of Ukraine "On Mandatory State Pension Insurance" (2003)

The Law of Ukraine "On Pension Provision" (1991) – in part concerning retirement pensions on preferential terms and pensions for years of service, as well as previously assigned social pensions;

The Law of Ukraine "On Status and Social Protection of Population Suffered from Chernobyl Catastrophe" (1991);

The Law of Ukraine "On Pension Provision of Persons Discharged from Military Service and Some Other Persons;

12 Laws and 1 Resolution of the Verkhovna Rada of Ukraine concerning special pensions for civil servants, local government employees, people's deputies and their assistants, scientific and scientific and educational workers, journalists, judges, prosecutors, etc.;

9 laws establishing state additional increase / increases to pensions for veterans and children of war, miners, donors, residents of mountain settlements, for special merit, as well as many by-laws.

64. This is short of the 40% minimum level suggested by ILO in Convention no. 102 Social Security (Minimum Standards) Convention, 1952

65. Law of Ukraine "On Mandatory State Pension Insurance" of July 09, 2003, № 1058-IV.

66. Law of Ukraine "On the State Budget for 2020" of November 14, 2019 № 294-IX.

67. State Statistics Service of Ukraine. Social protection of the population in 2019: a statistical collection. Kyiv, 2020, p. 26.

the retired people in Ukraine is 11,241,834. These are supported by 10 million workers, whereas this number should be triplicated to ensure stable financing. Hidden economy, particularly amongst women and youth, seriously undermines the system as it decreases the overall contributions received by the State pension system. In 2020 the deficit of the pension budget is UAH 202,3 billion out of a total UAH 448 billion. In the long run, this will seriously put at risk the entitlement to future pensions.

The average pension is UAH 3393.54 (nearly € 100)⁶⁸ Around 82.7% of pensioners receive a pension up to UAH 4,000, which is below the minimum wage set for 2020 at UAH 4,723.⁶⁹ The amount of pension is reviewed annually, taking into account (i) the increase of average salary and (ii) the rate of inflation in the preceding year. It is expected that starting from 2021 amounts of pension will be re-calculated by inclusion of inflation index which equals 50% of inflation rate during the preceding year and 50% of the average salary increase rate during the last three years. Indexation of pensions by 11% has been provided from May 2020. According to the calculations of the Ministry of Social Policy of Ukraine, 8,5 million pensioners will receive a guaranteed increase after indexation.⁷⁰

Until 2017 the indexation of pensions was not linked to the inflation and not calculated regularly. Currently, inflation is based on the consumer price index, which also provides for the formation of the subsistence level (set for 2020 at UAH 2,118). The consumer basket used as reference contains a set of food, non-food goods and services which is approved by the Cabinet of Ministers of Ukraine. The contents of the basket consist of approx. 300 items.⁷¹ In accordance with Article 5 of the Law of Ukraine “On Subsistence Minimum”, the Ministry of Social Policy on the basis of statistics on consumer prices calculates monthly the actual subsistence level per person, as well as separately for those belonging to major social and demographic groups. For example, according to the calculations **the actual subsistence level in July 2020 prices per month per person** was:

■ taking into account the amount of personal income tax and military duty - **UAH 4,466.23** (excluding payments - **UAH 3,894.68**);

■ for children under 6 years of age - **UAH 3,619.98**;

■ for children aged 6 to 18 - **UAH 4,434.81**;

■ for able-bodied persons taking into account the amount of obligatory payments in accordance with the current legislation - **UAH 5,053.52** (excluding payments - **UAH 4,068.08**);

■ for persons who lost their ability to work - **UAH 3,267.48**, that is the lowest amount.

BEST PRACTICES

In Italy the consumer basket lists more than 1500 amongst good and services, including technology and communication, medical, social and entertainment expenses, such as adult diapers, pay tv, holiday packages.... In the UK the list of items is more than 700, whereas in the Netherlands it reaches 1400, and includes also consumer-related taxes such as road taxes and complementary health insurance premiums.

68. <https://www.pfu.gov.ua/2123698-dani-pro-serednij-rozmir-pensiyi-stanom-na-01-07-2020>

69. <https://www.msp.gov.ua/news/18309.html>

70. <https://www.kmu.gov.ua/news/minsocpolitiki-z-1-travnnya-85-miljoniv-pensioneriv-otrimayut-proindeksovani-pensiyi>

71. The basket includes basic foodstuffs; non-food products; socio-cultural and communal services. In addition to a quite limited set of products, it provides, for example, one pair of trousers for women for four years, one winter boots for 3 years, two antipyretic drugs, one baby cream and cologne, 6 books and one newspaper subscription. Unfortunately, according to the list of socio-cultural services, Ukrainian citizens can do without mobile communication and the Internet. And in order to look good, it is enough 4 visits to the hairdresser a year. It is believed that 6 books and 6 trips to cultural events a year will be enough to satisfy them. Costs related to going to the movies or going on vacation at least once a year are not contemplated.

RECOMMENDATIONS

R23. In order to safeguard long-term adequacy of the pension benefits, **adequate indexation rules must be put in place** to avoid substantial pension erosion and massive loss of purchasing power over time. A revision of the current basket of goods and services seems needed to better reflect the real and actual cost of life so as to provide a genuine reflection of the value of the subsistence level, which actually exists in the state and on the basis of which social benefits and pensions should be made.

R24. **With a view to guarantee substantive equality, a special basket applicable to pensioners**, including amongst others higher heating, medical supplies and equipment, and transport expenses **should be developed for the purpose of better reflect the costs that older persons** are more likely to face due to their life conditions.

R25. **Principles of social justice and solidarity should be reflected in the amount of equalization of pensions indexed to inflation:** whilst the equalization can reach 100% for the lower pensions, richer pensions can be increased only partially.

At present, the pension system includes Level 1, where retired Ukrainians receive a pension on a solidarity basis depending upon length of service and amount of salary; and Level 3, where employees make voluntary payments to non-state pension funds. Discussions related to Level 2, where employees/employers make mandatory payments to state or non-state pension funds, which was supposed to enter into force as of 2019, are still undergoing.

The 2017 reform extended the scope of general rules of calculating pensions to those groups of employees who have previously received various pension benefits. Pensions of state employees, prosecutors, judges, scientists, teachers, healthcare workers, as well as a number of other groups, will be accrued based on general rules and principles. As of 2018, only military staff is able to get such “long-term-service”- pensions. In order to favour older persons work and to ensure sustainability of the system, since 01.10.2017 employed retired individuals are no longer required to pay 15% tax on their pension amounts.

BEST PRACTICES

Since 1999, the **Swedish Pensions Agency is running every year a month-long campaign raising awareness on pension entitlements by sending around 6 million “orange envelopes” with updates on individual public and occupational pension entitlements.** Furthermore, people have a one-step access to an overview of their pension rights via the dedicated website which also includes a simulation tool, providing information on the expected future total pension. In 2019, a new tool called ‘plan for retirement’ was launched. It will help citizens take informed decisions before retirement, notably by simulating the best possible time to retire, by indicating the amount of benefit and by clarifying certain insurance terms.⁷²

The **Danish national tracking system**, PensionInfo, gathers around 2.9 million users. It **offers consumer friendly presentation, the possibility to generate a full report in PDF format summarizing users’ individual pension situation** (including public entitlements) and to access the system directly via one’s online banking portal.

Belgium also has a national pension tracking system, through which all individuals registered

⁷² European Union, Final Report of the High-level group of experts on pensions, December 2019, p. 20, available at <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=38547>

in Belgium can access – information on their accrued statutory and occupational pension rights and expected statutory and occupational pension entitlements when they will retire if they continue to work at the same level.⁷³

The **Slovakian Orange Envelop project** led by a non-profit organisation seeks to **enable everyone to calculate at any time their expected pension entitlements at the moment they plan to retire**. It provides an overview of pension rights accrued through the public, occupational and personal pensions. It is planned, that later on, it will also provide a broader picture of one's investments, insurance, credit and real estate assets.⁷⁴

RECOMMENDATIONS

R26. The current system, that foresees a number of different criteria for becoming entitled to a pension (age, seniority of service, type of activity sector..) is very **complicated and not sufficiently clear to the public**. Streamlining the scheme and providing clear and detailed information to the public, for instance via awareness campaigns or through personalized regular communications, should be implemented.

As for the level 2 of the pension system, which is yet to be implemented, the idea is to initiate a large-scale pension privatization similar to the one that many countries in Central and Eastern Europe have introduced over the last decades, that diverted part of pension contributions to individual accounts and private management. Certainly, the introduction of an accumulative pension system, along with economic effects, can have a significant social impact. Workers will be controlling their own “savings” and will be incentivized to provide their own contributions, which will later return to them with interests. This will encourage people to work in the official sector of the economy, thus earmarking fatter pensions than on the basis of the solidarity pension system. States also have their benefits, particularly if the funds collected through the accumulative pension system are invested in the national economy. However, as the experience of some Central and Eastern European countries show, statutory funded schemes based on diverting contribution from public pay-as-you-go to privately managed funded schemes were rolled back. For the time being, a number of questions are still unanswered – for instance who should pay (employer, employee, both), whether the accumulative system should be state or non-state or a combination, criteria on the basis of which pensions non-state pension funds and companies managing pension assets will be selected, how to secure the rights of participants in the accumulative pension system.

The present report does not aspire to dig further into the issue of pension reform, which is multifaceted, multi-layered and presuppose complex economical and financial analysis and projections. However, with a view to assist the Government in making choices which are compliant with the obligations under the ESC and human-rights oriented, there appear to stress out the importance that any such reform fully incorporate a gender perspective and takes in due consideration the inherent inequalities that women still experience in the work market. Generally lower incomes and shorter careers are one of the major reasons for women's lower pensions. This is often due to maternity and other childcare leave or family care duties, which significantly affect women more than men. Currently, family members who are taking care of a a sick relative by blood or marriage, which according to the medical institution needs constant third-party care, are entitled to unpaid leave for a period specified in medical report, but not more than 30 calendar days. Such leave is granted from the day requested by the employee, on the basis of his application and the relevant medical opinion.⁷⁵ Although relevant data is not available, it is realistic to believe that such leave is mostly enjoyed by women.

73. Ibid.

74. Ibid.

75. Paragraph 10 of Part 1 of Art. 25 of the Law of Ukraine “On Leaves”

According to SHARE data⁷⁶, in countries with a mature occupational pillar (which is not certainly the case in Ukraine) the gender gap in the coverage of current older population varies from 6 pro capita in Sweden to 34 pro capita in the Netherlands. Coverage is growing more rapidly for women, leading to gradual decrease in gender coverage gaps, but they remain large. Personal pension take-up also tends to be lower for women. Moreover, the gender differences in coverage per sector cannot be underestimated: highly feminine labour sectors tend to offer less opportunities to workers to contribute to occupational pensions. Furthermore, women are engaged more often than men in non-standard forms of employment for various reasons linked to gender-based disadvantage that accumulates over the life-course. As low-income workers, women also tend to have less access to supplementary pensions, thus fuelling inequalities, it is moreover fundamental that all layers of the population receive adequate information on the possible options and are put in a condition to make informed decisions.

BEST PRACTICES

To reduce the gender pension gap in Sweden, in the occupational ITP30 pension plans **contributions are paid by the pension provider during parental leave or time off for childcare for a maximum of 13 months**. The contributions are calculated based on the average of the last 12 months' income before the month prior to parental leave. In 2017, to further monitor gender differences in pension entitlements, an Action plan for gender-equal pensions including occupational pensions was adopted by a cross-party parliamentary Working Group on Pensions. Currently, the group is responsible for monitoring why women have shorter careers, what the pension entitlements for parental leave are and how this contributes to gender (in)equality in pensions. The group also investigates the impact of factors unrelated to the national pension system, such as the development of part-time work, the social security system for parents, the inequalities at the labour market, and the differences in occupational pension schemes coverage.⁷⁷

In Denmark during maternity, paternity and parental leave contributions are no longer paid to the private occupational pensions but are replaced by a doubling of the contributions made to the ATP (a statutory, fully funded, collective insurance based, defined contribution (DC) scheme) covering all workers. These contributions are paid for 1/3 by the beneficiary and 2/3 by the government/municipality of their residence. The government expense is covered by contributions paid to the scheme by private employers³¹. This helps mitigate the impact of career breaks due to childcare on pension entitlements.⁷⁸

In the private sector, gender equality is sometimes promoted in specific occupational pension plans on the basis of contractual obligations, with no state involvement. In Belgium and France, for example, some major companies have introduced mechanisms to mutualise parental leave within their occupational pension schemes, a form of redistribution covering some non-contributory periods. Within these companies' (old) defined benefit schemes there is a so-called "solidarity fund" funded by an annual percentage of the rates of return, rather than by the employers or employees. The solidarity fund pays out the premiums during employees' parental leave.⁷⁹

In Denmark credits are granted to people (mostly women) who during their work life took care of adult family members, though on a lower scale than for child care. Those credits are linked to the average wage or the minimum wage or they are considered as contributory periods for a minimum pension guarantee.⁸⁰

76. <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=38547> page 14

77. Ibid, page 15.

78. Ibid, page 15.

79. Ibid. p. 16.

80. Ibid. p. 15.

RECOMMENDATIONS

R27. Gender perspective should be adequately reflected in the pension reform, **particularly in relation to the so-called level 2**, to which women have traditionally less opportunity to participate meaningfully.

R28. Family members looking having a gap in contribution do to part-time employment or interruption of employment due to the documented need to care for a dependant older person relative should not be penalized for the purpose of pension. **Special “pension credits for the care” should be foreseen.**

R29. Considering that the legislation related to the implementation of level 2 of the pension system is already in place, that the current solidarity is not self-sustainable, and that much time will be needed before the impact of the introduction of level 2 can be recorded, the envisaged scheme should be implemented as soon as possible, also with a view to set clear horizons for future generations of pensioners.

12.2 Other benefits

Article 23 of ESC is concerned not only with the amount of pensions but also with the availability to older persons of other social benefits. Article 46 of the Constitution of Ukraine states that “citizens have the right to social protection that includes the right to the provision in cases of complete, partial or temporary disability, the loss of the principal wage-earner, unemployment due to circumstances beyond their control and also in old age, and in other cases established by law.” This right is guaranteed by general mandatory state social insurance on account of the insurance payments of citizens, enterprises, institutions and organisations, and also from budgetary and other sources of social security and following the establishment of a network of state, communal and private institutions to care for persons incapable of work.

For persons who are not eligible for pensions and persons with disabilities state social aid is provided in the amount of 30 to 100% of the subsistence wage for persons who have lost the ability to work⁸¹. If the monthly amount of pension payments and social aid to persons who do not have the right to a pension and persons with disabilities do not reach the subsistence wage established by law for persons who have lost the ability to work, such persons are provided with monthly state targeted aid in the amount to reach subsistence wage.⁸²

Also, since April 1, 2020, a supplemental payment (monthly compensation payment) to pension in the amount of UAH 500 has been set for 1.5 million holders of a pension, who are 80 years old or above and whose monthly pension payments (including allowances, increases, additional pensions, targeted money aid, indexation amounts, monthly compensation in case of loss of a breadwinner due to the Chernobyl disaster, other additional payments to pensions established by law) do not reach UAH 9 205 (the average wage (income) in Ukraine, from which insurance premiums were paid and which is taken into account for calculating the pension for 2019).

Following this monthly compensation payment, should the sum of pension payments, taking into account the pension insurance record – 25 years for men, and 20 for women, not reach UAH 2600,

81. Law of Ukraine “On State Social Aid to the Persons not Eligible for Pension and Persons with Disabilities” of May 18, 2004, No. 1727.

82. The Resolution of the Cabinet of Ministers of Ukraine “Certain Issues of Pension Provision of Citizens” of March 26, 2008, No. 265

such persons are provided additional payment to the pension so as to reach that amount and is taken into account in further recalculations of the pension⁸³.

To maintain an adequate standard of living, older people are also entitled to other income support measures, for example:

■ the right to receive free of charge medicines on prescriptions of doctors in the case of outpatient treatment (applicable to pensioners who receive a retirement pension in the amount not exceeding the minimum amount).⁸⁴

■ housing allowances – if the amount of payment for housing and communal services exceeds 20% of the average monthly total household income.⁸⁵

■ the right to free travel for senior citizens using public urban passenger transport (except for subway and taxi) and suburban routes.⁸⁶

BEST PRACTICES

Ireland has enacted a support scheme designed to remove financial hardship from many individuals and their families who would otherwise have to sell or re-mortgage homes to pay for the cost of nursing home care. Support under this scheme is provided irrespective of whether the person is in a public, private or voluntary nursing home.⁸⁷

RECOMMENDATIONS

R30. The provision of income support measures should not be reduced as it currently represents already a minimum contribution that is fundamental, particularly for those older persons who only receive a minimum pension.

R31. Procedures related to entitlement of house allowances should be streamlined in order to facilitate their accessibility by older persons, as currently the process to obtain them is very complex.

13. Housing and independent living

According to article 23 ESC and the general principle of autonomy and self-determination it embodies, older persons should be able to lead independent lives in their familiar surroundings as much as possible and they wish. For this reason, older persons who decide to reside at home have the right to receive appropriate support, which can be provided a) through cash aid for care, or b) through social services. Housing can be provided by the State in residential institutions or through social housing.

In Ukraine, independent living is envisaged through a) cash benefits, b) social services on home

83. Resolution of the Cabinet of Ministers of Ukraine "Some issues of increasing pension benefits and providing social support to certain categories of the population in 2020" of April 1, 2020, № 251

84. Resolution of the Cabinet of Ministers of Ukraine "On adjustment of the free and preferential release of medications prescribed by doctors in case of outpatient treatment of certain groups and certain categories of disease" of August 17, 1998, No. 1303

85. Resolution of the Cabinet of Ministers of Ukraine "On the new amount of costs for payment of housing and communal services, the purchase of LNG, solid and liquid stove fuel in the event of a housing allowance" of July 27, 1998, No. 1156

86. Resolution of the Cabinet of Ministers of Ukraine "On free travel of pensioners in public transport" of July 17, 1993, No. 354

87. Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

care and day care, supported housing, care in residential institutions⁸⁸, c) social housing⁸⁹. Seniors who are not capable of self-care are entitled to a care allowance (in kind or cash). This right is ensured by various regulatory documents:

■ Care allowance for retirement pension for lonely pensioners who according to the conclusion of medical institutions need constant outside care – for caring for them in the amount of a social pension (in this case – 50% of the minimum retirement pension).⁹⁰

■ State social allowance for the care of lonely persons who reached the age of 80 and need constant outside care (according to the conclusion of the medical social expert commission) and receive a pension or certain categories of persons with disabilities, is provided monthly in the amount of 25 to 100% of the subsistence wage for persons who have lost the earning capacity, depending on the category of the recipient. The allowance is paid regardless of any other assistance, scholarships, alimony, or other income they receive. Persons who are fully supported by the state in the social care institution are paid 20% of the amount of aid, and 80% is transferred to the institution and directed to improve the living conditions of these persons there.⁹¹

■ Monthly allowance to care for a person with a mental disability (group I or II) requiring constant outside care (according to the conclusion of the medical commission of the health care institution). This allowance is provided to an able-bodied person (caregiver) who lives with him/her. The amount of the care allowance is calculated as the difference between the three minimum wages for each family member and the average monthly total family income for the previous six months, but it cannot be more than the minimum wage per person per month⁹².

■ Compensatory payments to individuals who constantly provide social services to older citizens who, according to the conclusion of the medical social expert commission, need constant outside care and are not capable of self-service, in the amount of 10% of the subsistence wage for persons who have lost their ability to work.⁹³

Home care is the most popular social service for older persons in Ukraine. In recent years, however, more and more social services provide day care in centers where older persons can revert to for the fulfilment of basic daily needs such as meals, personal care and administration of medicines. Supported housing and social housing, for which no data exist, do not appear to be common practices.

Low-income older persons or those who cannot count on a family network to support them are often institutionalized. According to the Ministry of Social Policy, as for 1 January 2020 there are 286 residential institutions for vulnerable categories in Ukraine, of which 88 are designed for the older persons. These are geriatric boarding houses, residential facilities for older people and persons with disabilities, as well as for war and labor veterans, which have become a new home for almost 12.000 old people (women 55+ and men 60+)⁹⁴. The numbers seem to suggest very large residential homes which have the advantage of reaching significant economies of scale but

88. Classifier of Social Services approved by the Order of Ministry of Social Policy of 23 June 2020, No. 429

89. Law of Ukraine "On social housing" of 12 January 2006, No. 3334-IV

90. Law of Ukraine "On Pension Provision" of November 5, 1991, No. 1788-XII.

91. Law of Ukraine "On State Social Aid to the Persons not Eligible for Pension and Persons with Disabilities" of May 18, 2004, No. 1727

92. Law of Ukraine "On Psychiatric Aid" of February 22, 2000, No. 1489-III; Resolution of the Cabinet of Ministers of Ukraine "On providing monthly financial assistance to a person living with a person with a mental disability (group I or II) due to the conclusion of the medical commission of the health care institution requires constant third-party care, to care for him/her" of August 2, 2000, No. 1192

93. Resolution of the Cabinet of Ministers of Ukraine "On approval of the Procedure for the appointment and payment of compensatory payments to individuals who provide social services" of April 29, 2004, No. 558

94. Information on residential institutions on social protection in Ukraine

<https://www.msp.gov.ua/timeline/Dovidki-toshcho.html>

do not necessarily favour the creation of friendly and homey environments. This was confirmed by discussions held with various interlocutors in the course of the assessment, which suggested that once entered into a residential institution, the individual loses independence and is looked at as the recipient of activities implemented according to pre-determined, standardized protocols as opposed to being regarded as an active component of the community s/he lives in. In addition to the above-mentioned structures, territorial centres for social services have inpatient departments where older persons can permanently reside.

BEST PRACTICES

In Germany it is now a quality standard that the **nursing homes are primarily the residents' "home" and not the working place of the caregivers**. This means, for example, that every resident can decide his/her wake-up time. It is up to the management to organize the time schedule for the staff.⁹⁵

In France, the Council for Social Life is set up each residential institution and is composed of elected representatives of residents, families, and staff. Residents can also regularly meet to discuss meals and other services provided in the institution.⁹⁶

In Belgium, weekly group discussions are held between carers and care recipients. In a care centre in Flanders, the residents participate in their own care through weekly group discussions made of 15 people. They are consulted about what needs to be changed in their care, environment and care center policy, to enhance their quality of life. A psychologist coordinates these discussions.⁹⁷

Germany has issued a Charter of Rights for People in Need of Long-term Care and Assistance to improve the provision of residential and home care. The quality of both residential and non-residential care is scrutinised on a regular basis on the basis of standards set up at the national level. The initiative "Alliance for Dementia" was set up to implement an action plan for improvements in care given to people suffering from dementia, and to help them to remain in their homes.⁹⁸

RECOMMENDATIONS

R32. A written declaration or clear standard rules on the rights of older persons living in residential institutions, whether private or public, should be elaborated and families and residents duly informed about it prior to admittance. Respect of the Charter should also be considered by monitoring bodies.

R33. Public residential institutions for older persons should establish residents' councils or committees composed of elected representatives of residents, families, and staff to discuss issues related to the well-being of the residents and implementation of their daily lives.

Institutional care, however, is not only provided by State institutions, as a number of private residential homes for older persons, based on private contracts related to accommodation, provision of medical and social services operates in the market. Statistics about these institutions

95. European Charter of rights and responsibilities of older people in need of long-term care and assistance, 2010 available at https://www.age-platform.eu/sites/default/files/European%20Charter_EN.pdf, p. 11.

96. Ibid.

97. Ibid.

98. Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

and their residents are not available. As most, if not all, such institutions, are not registered as private social service providers but as private enterprises offering their services on the market, they operate within the boundaries of private law, and are outside the control of State bodies.

BEST PRACTICES

English long-term care is governed primarily on two levels: the national level through the independent regulator, the Care Quality Commission (CQC), and on the local level through 152 Social Care Councils. The Councils are in charge of contracting with and purchasing LTC services directly from providers. At the national governance level, all providers of residential, domiciliary and community-based care services must register with the CQC. The CQC undertakes routine monitoring and regular inspections which are generally unannounced. Providers are required to fill in a ‘provider information return’, essentially a pre-inspection self-assessment. The inspections use a range of evidence gathered by means of interviews with residents and staff, observations of care, reviews of records and care plans, inspections of the physical environment, and a review of documents and policies (similar to what is carried out by LAs as outlined below under regulation). Each inspection results in the production of a report, publicly available on the CQC website. By law, CQC ratings have to be displayed in residential care facilities where they can easily be seen, and they also have to be shown on all providers’ websites. At local level Social Care Councils use a variety of policy instruments, including local inspection regimes, training programmes and quality related payments, to influence and assure the quality of the local provision of long-term care.⁹⁹

RECOMMENDATIONS

R34. The code for social service activities should be added to the existing classification of commercial activities.

R35. At policy level, legislation should be adopted in order to regulate the provision of private residential care to older persons, subjecting them to some form of licensing (currently minimum quality standards are set only if such institutions are registered as private social service providers). As most of them are not registered, they completely operate on the basis of artificially fragmented private contracts (accommodation, medical services, care services), therefore not falling under the supervision of the MoSP. Appropriate sanctions (including criminal ones) should be introduced for those providing such services without authorization. Artificial fragmentation of services with a view to avoid supervision should be considered fraudulent and sanctioned accordingly.

R36. Even in the absence of, requirements related to minimum standards for the provision of services in private residential homes should be adopted. These should also encompass obligations r in relation to equipment, qualification and initial and continuous training of staff, staff-patient ratio.

R37. Inspection and monitoring of both public and private residential institutions, dealing with technical standards and compliance with human rights of residents (freedom of movement, consent to treatment...) should be entrusted to an autonomous and independent commission, either created ad hoc at local level (for instance including representatives of the civil society, of health institutions, and the Ombudsperson) or established at the level of the newly conceived National Social Service Agency, who would still act as an overall supervisory body. The

99. European Commission, Quality assurance practices in Long-Term Care in Europe. Emerging evidence on care market management, 2019, p. 22, available at <https://op.europa.eu/en/publication-detail/-/publication/bd0899c2-3293-11ea-ba6e-01aa75ed71a1>

commission should be able to sanctions situations of non-compliance, when needed referring cases to the relevant institutions, such as the police, for immediate action, up to interrupting the contact and closing the institution

Alternative housing options for older people, such as “silver neighbourhoods”, where residents share close ties with people who are not necessarily from one’s own family, inter-generational cohousing, that is the creation of a community of private homes clustered around shared common space and facilities, should be known concepts in Ukraine.¹⁰⁰ However, information gathered in the course of the meetings held suggest that such ideas are not common practices, despite the AP clearly states that one of its objectives is to reduce the number of older citizens who are accommodated in regional boarding houses for the older persons and people with disabilities and at the development on the supported residence for the older citizens, in particular in the specialised residential buildings, social apartments.

BEST PRACTICES

In **Italy, France and Belgium** a number of municipalities supported **intergenerational housing initiatives for students and older lonely persons by putting in contacts students or young workers looking for a cheap accommodation and older persons** looking for company. The older person who host a student provides him with cheap accommodation in compensation for services, but also with a place to live, meet and share. A written agreement states what is expected from both parties and a follow-up is ensured. The objective of the project is to create social links and foster exchange and solidarity between both generations, which can help address current societal challenges. In France about 900 students and older people are part of the project, run in 13 municipalities.¹⁰¹

Initiated in 2003 by the Municipal Housing Board of Alicante (Spain), the **Municipal Project for Intergenerational Housing and Community Services** works to address the specific housing needs of low-income older persons and young people through the provision of 244 affordable, intergenerational housing units in central urban areas. The project not only provides decent, accessible housing but also works to create a supportive, family-like environment and sense of belonging among residents, enabling older residents to maintain their independence and stay in their own homes as they age. A range of services is provided to the wider community and the project has contributed towards the regeneration of the surrounding areas. The main objective of the project is to resolve the serious problems faced by many low-income older persons living in inadequate housing conditions and experiencing isolation, loneliness and vulnerability through the provision of affordable housing that allows older persons to live happily and independently. Additionally, the project aims to provide decent housing for low-income young people, contribute towards the revitalisation of the surrounding urban areas and provide a range of services to the community.¹⁰²

In **Italy** the shelter housing run by the Community of Saint Egidius consists of blocks of little flats (40-60 square meters) for one or two persons, meant for self-sufficient yet vulnerable older persons (evicted, homeless, lacking in relations or so). The guests can enjoy shared services and support for their needs provided by or with the cooperation of the Community.

100. The AP implementation report mentions an example in Lugansk region. Also, the AP includes the possibility to convert former military villages into alternative housing for the older persons.

101. WHO, Age-friendly environments in Europe. A handbook of domains for policy action, 2017 p. 46, available at <https://www.euro.who.int/en/publications/abstracts/age-friendly-environments-in-europe.-a-handbook-of-domains-for-policy-action-2017> and <https://www.age-platform.eu/good-practice/intergenerational-housing-initiatives-students-and-older-lonely-persons>

102. <https://world-habitat.org/world-habitat-awards/winners-and-finalists/municipal-project-for-intergenerational-housing-and-community-services-in-alicante/>

This way they can remain at home and in a secure environment. The **Family Home** is meant for not entirely self-sufficient older persons who lack adequate accommodation, incomes or relations therefore they cannot survive on their own. They can find a familiar environment in the constant company of members of the Community. The rooms are furnished like at home. The guests are encouraged to bring their furniture with them. Absence of architectural barriers and many aids for daily living help them not to lose their autonomy.¹⁰³

In the **Netherlands Senior co-housing communities** offer an in-between solution for older people who do not want to live in an institutional setting but prefer the company of their age peers. Since the 1990s, the municipality of The Hague has tried to encourage community living in general and among seniors in specific. There is, for instance, an organization in The Hague which provides information and advice about co-housing, and in 2016, the municipality introduced subsidy to support and stimulate citizens of The Hague with the creation of a new co-housing community. Currently more than 60 co-housing experiences are in place. Residents of co-housing communities live in their own apartments but undertake activities together and support one another. Co-housing communities offer social contacts, social control, and instrumental and emotional support. Residents are free to set boundaries regarding the frequency and intensity of support. The provided support partly relieves residents' adult children from caregiving duties but does not substitute formal and informal care.¹⁰⁴

In **Germany** more and more **flat-sharing communities for older people** are developing, where not only the flat but also the housekeeper and the care assistance are shared.

In **Finland**, a regional association is constructing a **community house** with 35 apartments for older persons who can manage their everyday life by themselves as an alternative to residential institutions. Communal meals and activities are organised.¹⁰⁵

RECOMMENDATIONS

R38. The few senior flat-sharing or co-housing communities for the older persons implemented so far under the AP should be looked at as pilot initiatives. Therefore, an assessment of their impact, cost-effectiveness, flaws and strengths should be carried out so as to set the premises for replication;

R39. A needs and feasibility assessment of inter-generational housing could be launched with a view to examine the existence of a market interested in such practices.

R40. Study visits of managerial and front-line staff in countries that have implemented innovative examples of housing for the older persons should be implemented so as to facilitate the understanding of the aspects involved in such experiments and how to deal with their implementation

103. <https://www.santegidio.org/pagelD/30096/langID/en/COHOUSING.html>

104. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6801586/>

105. CCDH, Request for information on the implementation of the Committee of Ministers' Recommendation CM/Rec(2014)2 on the promotion of human rights of older persons, 2018, p. 14 available at <https://rm.coe.int/steering-committee-for-human-rights-cddh-request-for-information-on-th/16807b5957>

14. Provision of social and health services and facilities, including palliative care and for people with dementia

14.1 Social and health services

Over the past five years Ukraine undertook important legal changes related to the protection of social rights. For the purpose of the present work, the most important have been the reform of the social service and healthcare systems.

The reform of the social services is intimately linked with the decentralization process that the Government started since 2014. According to Article 25 of the Law on Social Services, effective January 1 2020, the executive bodies of city councils, councils of cities of regional significance, councils of the newly created amalgamated Territorial Communities (TCs) will bear novel responsibilities in relation to the organization and delivery of social services, including needs assessment, coordination with non-state service providers, inclusive information and awareness raising about the available social services amongst the population, identification of persons in difficult life circumstances, provision of personalized services in cooperation and coordination with public and private service providers, planning and funding, oversee the quality of the service delivered, also by ensuring the competence and qualifications of the staff, cooperate and coordinate with the private sector with a view to provide support to people in need, maintain a register of service providers and recipients of social services, financial control on the use of funds, appoint executives of the social service providers created by them. Overall, the Law aims at improving the management and delivery of the social services, whilst at the same time optimizing resources.

The two most ground-breaking innovations of the Law consist in the identification of 16 basic social services including home care, day care, palliative care and supported housing that should be made available to the communities. 6 basic social services (counselling, informing, crisis or emergency intervention, asylum, sign language interpretation, representation of interests) should be provided free of charge for all populations. Whilst special groups (victims of domestic and gender violence, children with disability and adults with I group of disability and some other) are entitled to free of charge all services, the remainder of the population is entitled to free services only if the average monthly total income is less than two subsistence wages and with partly payment if the average monthly total income is less than four subsistence wages. In the same time local authorities can decide to provide free of charge services to some other groups or even all populations of their community. Reality is, however, that the network of 825¹⁰⁶ territorial centres on social services (providing of social services) is insuring limited support to their older beneficiaries according to their provision¹⁰⁷ only with home care, day care, residential care (permanent or temporary residence), natural aid, social-medical support and social adaptation through day recreation activities or Third Age Universities. MoSP developed a new provision with wider scope of services that is waiting on adoption¹⁰⁸. As for now it would be up to the local authorities to create center of social services (still in the process of establishment in Ukraine because the relevant provision was adopted just on March 2020¹⁰⁹) could provide wider spectrum of services but local institutions lack sufficient funding to provide the services they are asked to implement. As there is no liability in case of lack of provision of social services, beneficiaries have

106. Directory of territorial centres of social services, social services centres in Ukraine as for 1 January 2020

<http://www.msp.gov.ua/files/sp/dov-01012020.xlsx>

107. Typical provision on territorial centre on social services (providing of social services) adopted by Resolution of the Cabinet of Ministries of Ukraine on 29 December 2009 No 1417 URL: <https://www.kmu.gov.ua/npas/243237372>

108. The Draft of Resolution of the Cabinet of Ministries of Ukraine "Some issues of territorial centre on social services (providing of social services)" URL: <https://www.msp.gov.ua/projects/583/>

109. Typical provision on centre on social services adopted by Resolution of the Cabinet of Ministries of Ukraine on 3 March 2020 No 177 URL: <https://zakon.rada.gov.ua/laws/show/177-2020-%D0%BF#Text>

virtually no avenues to complaint. The cooperation between NGOs providing social support and local institutions is not always satisfactory and structured, and occurs mainly in large urban areas.

Whilst State institutions do not lack good will in the provision of social services, it is a fact that the system is severely under-resourced, both in terms of staff, equipment and funds. This is particularly true in rural areas, where older persons are at major risk of isolation. As a result, the type of assistance provided to the older persons is mainly limited to care and in-kind benefits rather than empowerment (possibly with the exception of cultural activities, such as University of the third age, which are somehow more frequently offered and available in cities). For the time being, the discrepancy between the list of services envisaged by the Law and the reality of the field is dramatic and the way to set up effective community-based social services is still long, requiring not only the availability of the needed, qualified resources, but also a shift in the perception of old age and how to support it. This can only be achieved through illuminated and highly skilled executives and case-managers, constant training of staff (both of which have to receive adequate training), continuous monitoring of the services and capillary dissemination of information able to reach all those interested.

Awareness by the beneficiaries of the services they could be entitled to also proves to be problematic. Interlocutors met in the course of the assessment quite unanimously concluded that the information campaigns run so far were not able to reach out the intended recipients and that news about services available travel mainly through words of mouth. Post-offices, doctor's cabinets, churches and other place of worship, were indicated as the best places for sharing information in this way, whereas flyers that are the object of general dissemination are considered less effective. Public radio and TV (channels currently used to disseminate information) are sufficiently effective, particularly in reaching out older persons in rural and isolated contexts. But unfortunately, the state radio broadcast is gradually shutting down.

BEST PRACTICES

United Kingdom: Guide on Dignity in care. This guide provides information for service users on what they can expect from health and social care services, and a wealth of resources and practical guidance to help service providers and practitioners in developing their practice, with the aim of ensuring that all people who receive health and social care services are treated with dignity and respect. 'Dignity tests' allow the professionals to check if their practices respect the beneficiary's dignity.¹¹⁰

In Slovenia independent and self-controlled life of mobile older people is promoted through programmes to reduce pressure on institutional care and to **motivate participants to contribute peer support through volunteer activities**. Partly subsidised home care is organised on municipal level for those who are not able to leave their homes.¹¹¹

Finland "Help at home Services offer". This is a leaflet published by Helsinki Home care services with information on available health care and nursing services, domestic help, mobility and other wellbeing services. The leaflet also provides information about fees charged to customers with examples of prices for combined services.¹¹²

In terms of healthcare, the reform was initiated in 2014-2015 and came into force in 2018. The new National Health Service of Ukraine (NHSU) operates as state health insurance fund, tasked

110. European Charter of rights and responsibilities of older people in need of long-term care and assistance, 2010 available at https://www.age-platform.eu/sites/default/files/European%20Charter_EN.pdf, p. 11

111. Ibid. p. 12

112. Ibid. p. 24

with purchasing health care services from private and public providers. This, in the idea of the legislators, should result in improved services and more efficient management of resources, which are allocated according to the real needs. One of the novelties of the reform is the introduction of family doctors, freely chosen by clients on a contractual basis and whom are paid per capita. These are now the first point of contacts in all health-related issues. Last but not least, the legislation introduces the notion of partial or total payment by patients of services not included in the list of emergency, primary healthcare, childbirth, palliative and pharmaceutical treatment of cardiovascular diseases, diabetes type 2 and bronchial asthma.

According to the 2018 Household survey conducted by the MoH, the level of dissatisfaction of Ukrainians with the health system was quite high, reaching around 30%¹¹³. Certainly, the reform set the premises for an improved level of care but it is evident that all the population, but older persons in particular, who for many years were used to be asked for payment in order to get even the health services they were entitled to, need to be accompanied in the understanding of the reform which, otherwise, will not be able to provide them with the envisaged standards of services.

RECOMMENDATIONS

R41. An assessment of the level of information of the older population about the type of services should be conducted, in both urban and rural areas, to understand the average level of information and the means that are most effective. On the basis of the results, flaws in previous communication efforts have to be addressed in order to guide the older population, their carers and families to understand the novelties introduced in the provision of social services. Active support of and coordination of local actors should be sought.

R42. Regular coordination meetings should be established at local level to ensure synergies between public and other interventions, for instance by NGOs, in the social sphere area to maximize resources and results.

R43. Caregivers should receive sufficient training (role and function of caregivers, stress and burnout management, communication, rights of the assisted person, the social service system, care techniques, first aid...) and support (for example in the form of guided self-help group to share experiences and burdens) also to adequately ensure the quality of the services provided to the older persons.

R44. A protocol and clear, user-friendly, reliable system for presenting and dealing with complaints related to the poor quality of the social and medical assistance provided to the older persons should be introduced. Statistics should be collected (including log of calls or reports received) and follow-up ensured. Independent bodies should be charged with reviewing the reports and solutions adopted.

R45. Information campaigns should be addressed to the general public about social services. The impact of such campaigns should be measured, for instance through anonymous questionnaires administered to users of social services.

Third Age Universities are quite an institution in Ukraine and provide interesting learning and socializing opportunities for older persons. Their catalogue of courses, however, does not encompass all aspects of healthy ageing, promotion of dynamic lifestyles. The inter-generational component is missing, due to lower age limits.

113. http://caspienet.eu/2019/01/17/health-care-reform-in-ukraine-what-are-the-major-bottlenecks/#_ftnref4

BEST PRACTICES

In the province of Bergamo (Italy,) **walking groups (people walking together regularly several times in the week)** are open to all the community but are very interesting specifically for people with chronic diseases. The public health focus aims to involve in the “walking groups program” (WGP) people affected by chronic diseases: diabetes, hypertension, psychological/mental diseases. 115 Municipalities - out of 244 - with more than 3.000 walkers – are attending the WGPs. “Walkers” get benefits in terms of health but mostly of wellbeing. Inside the WGs are generated strong cohesion and relationships. The team spirit is the core of the program and for all these reasons, the Local Health Authority of the Province of Bergamo is supporting the participation of patients to contrast and delay disabilities caused by chronic and mental diseases. Therefore the program pursues two goals. The first is strictly related to the health of the participants and the second to the wellbeing and social features. Physical activities results in positive effects in patients suffering of diabetes, anxiety and depression, osteoporosis, hypertension, cardiovascular and muscle-skeletal diseases. Therefore, activity is a good practice to keep fit and control weight. The second goal is linked to social relationships. The participants of the walking group enjoy the health benefits of the physical activity but have also the chance to be in touch with people, sharing experiences and preventing loneliness and its negative effects on the mood. The WG involves actively the community. The Local Administrations support the program and the local voluntary organizations provide the WGs with people formerly trained by the local health authorities. They collaborate in animating the WG. Every WP can count on a coordinator- the walking leader – who supports the participants, facilitate a warm and positive social mood and motivates people to be firm and constant in attending the WG. A fundamental role is played by GPs and specialists who inform their patients and prescribe physical activity as specific therapy for diabetes and the other chronic diseases. Posters, leaflets and newsletters describe the benefits walking. They are distributed to the participants and contain useful advices for an active lifestyle, toll- free number of the local health authority, addresses of the WGs operating in Province.¹¹⁴

PIEDIBUS is a “Walk to school” program run by different municipalities involving children and adults in the promotion of physical activity, wellness and environment respect. PIEDIBUS is focused on three targets. The main target concerns health. The second goal is related to social habits. PIEDIBUS is an opportunity for establishing relationships and friendships between parents, grandparents, children and all the adults involved in the program. Walking and socializing make more enjoyable going to school. The third target is to reduce car traffic and air pollution. PIEDIBUS involves actively the community and fosters collaboration between schools, local administrations, parents/grandparents and voluntary organizations. Active ageing and physical activity are promoted involving actively parents, grandparents and adults in the PIEDIBUS program that consists in leading a group of children to school on foot, in condition of complete safety. The “PIEDIBUS driver” are voluntary adults: parents, grandparents or simply active-ageing retired volunteers. Spending some hours walking with children makes adult people more participative in the life of the community. The local health authority contributes to promote and support PIEDIBUS in the provinces.¹¹⁵

In the UK, Ireland and Italy (where they are called Universities of the Three ages, to underline their intergenerational character), third age universities do not have lower age limits. However, admission to the courses for the below 50 years old participants might be conditional to a small fee. Their catalogue of courses ranges from different sports to languages, from workout to art and literature, from gardening to computer literacy.¹¹⁶

114. Expert's personal knowledge

115. Ibid.

116. Ibid.

RECOMMENDATIONS

R46. Free walking or other sports groups (gym classes, yoga, pilates) suitable for older people, also open to inter-generational audience (who can join for a reasonable fee) can be introduced with a view to fight social isolation, promote mental and physical wellbeing, whilst helping promoting a positive image of the older persons. Such classes, as already done in some regions, could be also included in the catalogue of Third Age Universities.

R47. With a view to foster inter-generational cooperation, support and understanding, **third age universities** can be **open also to non-older**. Participation of younger participants can be linked to the payment of a symbolic fee.

14.2 Palliative care

For the purpose of the present report the provision of free-of-charge palliative care and pharmaceutical treatment of cardiovascular diseases, diabetes type 2 and bronchial asthma, that are more likely to be of interest of older persons, is commendable. In June 2020, the Ministry of Health issued a new Order №1308 to improve the organization of palliative care in Ukraine. The basis of palliative care is a multidisciplinary approach, which involves a multidisciplinary team, the composition of which may be different and is determined depending on the condition of the patient, the amount of care, the size of the service area. The activities of the multidisciplinary team are regulated by the procedure of interaction between palliative care providers and social service providers, approved by the Ministry of Health of Ukraine and the Ministry of Social Policy of Ukraine. The reality when it comes to palliative care, however, was depicted by the interlocutors met as quite grim, as despite the accreditation of public and private hospice and palliative care Units by the MoH and the provision of “home palliative care” by the MoSP, absence of multidisciplinary teams and pain management protocols hinders the possibility of receiving such terminal support, with the result that older persons remained confined in hospices without receiving the treatment they expect.

BEST PRACTICES

In **Austria**, the Hospiz Österreich is an umbrella association of organisations and a powerful promoter of **integration of the principles of palliative care into the standard long-term care services**. The province of Styria has a network of mobile palliative-care teams composed of medical doctors, care staff and social workers which collaborate free of charge with family doctors and carers for the benefit of older persons. Palliative-care teams receive training and supervision prior to and during their service.¹¹⁷

In **Belgium**, there must be a **carer trained in the field of palliative care in all residences and care structures for older persons**.¹¹⁸

The **United Kingdom** established in 2008 the **“End of life care strategy”**, which aims to improve care for people approaching the end of life, including enabling more people who so wish to be cared for and die at home. The strategy also aims to change people’s attitudes towards death so that they are comfortable with expressing their wishes and preferences for

117. CCDH, Request for information on the implementation of the Committee of Ministers’ Recommendation CM/Rec(2014)2 on the promotion of human rights of older persons, 2018, p. 15 available at <https://rm.coe.int/steering-committee-for-human-rights-cddh-request-for-information-on-th/16807b5957>

118. Ibid.

care at the end of life, and to develop the respective community services.¹¹⁹

Germany established a **Charter for the Care of the Critically Ill and Dying** in 2008 which contains guiding principles in the areas of social policy challenges, the needs of the individual and requirements for training, research and learning. The Robert Bosch Foundation gives geriatric nurses and care assistants the opportunity to learn basic skills in palliative care. A co-ordination office supervises palliative practice and serves as a source of information for training programmes. Moreover, non-residential hospice services, subsidised by health insurance funds, support terminally ill persons and their families in their own homes through specially trained volunteers.¹²⁰

In Italy, family members of a terminally ill relative within the third grade **can benefit from up to 36 days of paid leave** per year and up to 2-year unpaid leave, both in the private and public sectors.¹²¹

In France, the labour code provided for paid family solidarity leave of three months, renewable once for the descendants of a **terminally ill person**.¹²²

RECOMMENDATIONS

R48. At policy level, the Government should consider adopting an end of life care concept, ensuring death with dignity, including the provision of adequate palliative care. Adequate investments should be foreseen in order to ensure proper training and availability of staff taking care of the terminally ill, whose right to die at home, if they wish so, should be respected.

R49. The current palliative care units should be the object of a thorough evaluation, aimed at assessing the capacity of the institutions and staff to accompany older persons toward death in a dignified manner.

R50. Family member of the terminally ill taking care of them should receive professional support by local health institutions, for instance in the form of guided self-help groups and guidance and training on how to take care of their relative.

R51. Palliative care should be included in all undergraduate training of doctors and nurses. Standard curricula should be established, as well as postgraduate training and education, and there should be training programmes for experts in palliative care.

R52. Trained specialists in the field of palliative care should be available to lead education and research in the field. Programmes of palliative-care education should be incorporated into the training of all health and social-care workers concerned and co-operation of professionals in palliative care should be encouraged.

R53. Legislation should be amended so that special care leave for the relatives looking after the terminally ill ascendants should not go to the detriment of the worker for pension purposes.

R54. Palliative care services and policies must offer a wide range of resources in addition to those already existing (as home care, in-patient care in specific or conventional units) such day hospital and out-patient clinics, emergency call-out and respite care facilities.

119. Ibid.

120. Ibid.

121. Expert's personal knowledge

122. Ibid.

14.3 Older persons suffering from dementia

The situation is not better for people suffering from Alzheimer's disease and other forms of dementia. Older persons affected with such conditions have little if no chance at all to receive quality and professional assistance. Limited numbers of institutions able to provide the needed care, geographical distance of patients from such institutions, high costs of treatments, lack of adequate and correct information about the conditions and the possible treatments are obstacles faced by patients and their families. The limited efforts played by the Government in this respect did not lead to any significant result and even the various activities related to the subject listed in the AP have received poor implementation.

BEST PRACTICES

Denmark adopted, in 2010, a new **Dementia Strategy** with specific recommendations to strengthen and improve services for persons suffering from dementia. The country also allocates funds to support activities for such persons and their families.

In the United Kingdom to allow people living with dementia to fully participate in society, **Public Health England and the Alzheimer's Society have developed the joint initiative "Dementia Friends"**. Anyone in England can become a dementia friend by signing up online, and currently, over 1 million people have taken part. Dementia friends are given advice on how to help people with dementia living in the community. The initiative both increases awareness of dementia and encourages the general population to offer help and support enabling people living with dementia to participate in society for longer.¹²³

In **Bruges, Belgium, for example, the symbol of a knotted handkerchief is displayed in the windows of local businesses to indicate to those with dementia that they will receive empathic reception.** In the United Kingdom specific guidance has been assembled to strengthen the role of local councils in making areas better places to live for people with dementia.¹²⁴

In the **United Kingdom dementia friendly walks** are organized across the country by NGOs in coordination with local and national institutions for the benefit of people with dementia and their carers. Apart from the physical benefits, simple walks reduce the isolation and social stigma, increases the opportunities to network and establish friendly relationships and offers additional opportunities for the older persons to provide volunteer services to their peers whilst keeping active themselves.¹²⁵

In the UK, **Cumbria County Council began a programme of investment in its own Residential Care homes** in 2010. The first scheme at Elmhurst, Ulverston was awarded the University of Stirling Gold Standard **for dementia design**. Following evaluation there was a reduction in slips, trips and falls (reduction from 22 in a 4 month period to 0 in the 4 months after refurbishment) There was also evidence of a reduction in antipsychotic medication and improved food intake (half a pound additional intake per person per day. One service user's medication reduced from a cost of £124.82 to £89.84 per month). Simple changes such as different colours on walls and door frames, plain carpets that are similar in colour and texture

123. WHO, Ensuring a Human Rights-Based Approach for People Living with Dementia, p. 2, available at https://www.who.int/mental_health/neurology/dementia/dementia_thematicbrief_human_rights.pdf?ua=1

124. WHO, Age-friendly environments in Europe. A handbook of domains for policy action, 2017 p. 76, available at <https://www.euro.who.int/en/publications/abstracts/age-friendly-environments-in-europe.-a-handbook-of-domains-for-policy-action-2017>

125. WHO, Ensuring a Human Rights-Based Approach for People Living with Dementia, p. 2, available at https://www.who.int/mental_health/neurology/dementia/dementia_thematicbrief_human_rights.pdf?ua=1

and clear signage on rooms and cupboards can help reduce stress and anxiety levels of people with dementia. They also provide a safer environment by reducing the risk of slips, trips and falls. The same standards were used in subsequent schemes to upgrade a further five Residential Homes and three Day Centres across the county. The first wave of funding from Cumbria County Council to help Independent Care Homes improve their dementia care facilities followed this initiative in 2012. The scheme helped more Care Homes train staff and make improvements to lighting, decoration, signage and furniture which meets nationally recognized standards. The County Council then awarded grants of up to £ 20,000 per home (which were match-funded.) to support the process. Examples of improvements included interior decoration but also the creation of gardens which were dementia friendly. Approximately £ 300,000 was allocated to training days, and subsequent grant aid to nursing and Care Homes.¹²⁶

RECOMMENDATIONS

R55. At policy level, the Government should consider adopting a Dementia concept with the aim to improve availability and quality of services for persons suffering from dementia. Adequate funding should be allocated to support activities for such persons and their families.

R56. At field level, local governments should promote the creation of walking groups for people suffering from dementia and their family and carers, also to stimulate healthy aging.

15. Social rights of older persons and non-discrimination at the time of COVID-19 pandemic

All over the world the COVID-19 outbreak took a particularly heavy toll on older persons, at least in the initial phase of the pandemic. Across the EU, a tragedy has unfolded in care homes, a situation made even more painful by the fact that many people before or during the office could not see their family members, often, died alone, with no possibility of their loved ones to honor them a final tribute. Many other older persons were totally cut out from social life when this moved to the online world. According to the statistic available, older persons between 60 and 69 years of age accounted for around 28% of all COVID-19 deaths accounted for in Ukraine until the beginning of May. Ukraine, just like other States, has enacted measures to prevent the spread of the virus amongst the older population, particularly amongst those in residential care settings, in addition to the commonly followed hygienic standards: staff working for 14 days in order to avoid infection, total restrictions of access of outside visitors, recourse to telephone and video communication so that residents could keep in touch with the outside world.

BEST PRACTICES¹²⁷

Updated guidelines in Flanders, Wallonia and Brussels in Belgium, for example, included recommendations to organise physical exercise and other outside activities, as well as social activities. They also permitted services such as hairdressers to resume, provided precautionary measures are taken. Croatia allowed walks in nature, under certain conditions, as well as delivery of hygiene items, groceries and other supplies by family members and friends.

While restrictions on leaving nursing homes in France remained, **instructions adopted on 10th**

126. European Commission, A compilation of Good Practices. Innovation for Age-Friendly Buildings, Cities and Environments, 2013, p. 2015 https://ec.europa.eu/eip/ageing/sites/eipaha/files/practices/eip-aha_d4_a_compilation_of_innovative_practices_0.pdf

127. All best practices related to the situation generated by Covid-19 were taken and/or adapted from FRA, Coronavirus pandemic in the EU – Fundamental right implications: with a focus on older people, Bulletin no. 3, May 2020, available at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-june-1>

May 2020 allowed residential settings to organise collective activities, entertainment activities, or meals in small groups, depending on the specific situation in the institution and surrounding area. Admissions of new residents were authorised under certain conditions.

Understanding the true situation in institutional settings, however, is not easy and is hampered by lack of disaggregated data on the number of infections and deaths of people in public residential homes, that often host both older persons and disabled. The situation of private residential homes, which are not on the radar of the MoH, remains unknown. In relation to social rights, it ought to be acknowledged that the pandemic put tremendous pressure on national health systems, especially intensive care units. Limited resources asked medical staff to make difficult choices about prioritizing treatment, thus touching on the right to have access to healthcare with no discrimination based, amongst others, on age. Many EU countries issued national decrees, guidelines, and specific recommendations at the start of the pandemic stressing the importance of equal access to healthcare.

BEST PRACTICES¹²⁸

The **German Interdisciplinary Association for Intensive Care and Emergency Medicine recommended that the age of a patient is not a criterion for providing treatment**, because this would be group-based and potentially discriminatory. The main criteria are the urgency of treatment, and its chances of success. Longer-term survival probability and quality of life do not play a role.

In Slovenia, **the Advocate of the Principle of Equality (Ombudsperson)**, announced that they would examine possible discrimination against older people accommodated in nursing homes.

The **Swedish Health and Social Care Inspectorate initiated an in-depth inspection of residential care homes for older people** after evidence emerged of older persons being denied access to intubation.

Whilst social services, NGOs and the private sector mobilized in Ukraine in order to ensure that basic needs of older persons be met during lockdown, physical distancing regulations posed particular challenges to older persons, many of whom live alone and may lack the equipment or knowledge to take advantage of digital tools to maintain social contact. Prioritization of Covid-19 patients, suspension of non-urgent medical treatment and surgeries, and limitations of physical access to doctors and health services also affected quite seriously the equal rights of who often have existing medical conditions to access healthcare.

According to the less severe scenario, because of Covid-19 absolute poverty is expected to increase by 5.8 percentage points (from 37.8 percent to 43.6 per cent) in 2020 compared to 2019. The increase would be even steeper if the new poverty rate with COVID-19 is compared with what the poverty rate would have been in 2020 without COVID-19: 16.4 percentage points (from 27.2 percent to 43.6 percent). Overall the most vulnerable groups in terms of socio-economic impact of COVID-19 are the ones who cannot diversify their income. Single pensioners above 65 years of age are recognised one of the categories that are likely to be most severely affected (have the largest increase in poverty compared to the baseline scenario)¹²⁹.

In order to provide additional resources to vulnerable older persons Resolution of the Cabinet of

128. Ibid.

129. Nataliya Borodchuk, Liudmyla Cherenko. Fighting COVID-19 in Ukraine: Initial estimates of the impact on poverty. May, 2020. URL: <https://www.unicef.org/ukraine/media/5811/file/COVID%20impact%20on%20poverty%20ukr.pdf>

Ministers of Ukraine “Some issues of increasing pension payments and providing social support to certain categories of the population in 2020” of April 1, 2020 No. 251 provided for the payment of a one-time benefit due to the negative consequences of the acute respiratory disease COVID-19 caused by the SARS-CoV-2 coronavirus spread in Ukraine, in the amount of UAH 1000 to certain categories of the population (regardless of whether they contracted the virus or not) from among: recipients of pensions, whose amount of pension payments taking into account allowances, increases, additional pensions, targeted financial aid, the amount of pension indexation, monthly compensation in case of loss of a breadwinner due to the Chernobyl disaster, other additional payments to pensions established by law, does not exceed UAH 5,000 as of April 1, 2020. (There are more than 10 million such pensioners, according to PFU data).

The quarantine restrictions imposed by the Government of Ukraine directly affected the basic constitutional rights and freedoms of the older persons. In this regard, we consider it expedient to quote one of the judges of the Constitutional Court of Ukraine.

Persons who have reached the age of 60 and for whom they have been identified bans on movement and communication are more significant than for other categories individuals were particularly vulnerable. This was influenced by several factors.

First, many of them have not mastered the skills of using the tools of digital communication, which can not be ignored by public authorities. Secondly, given the age for some of them, even the usual means of communication are inaccessible due to loss of sight, hearing or due to other age features. Third, many such individuals are single or are on distance from families, so complete isolation, even with a justified purpose, creates additional difficulties for them. In addition, it is this category of people who need wider access to health services, including emergency medical care, in connection with traditional, except COVID-19, diseases (eg. cardiovascular disease), however, this access turned out to be much more complicated. The tool introduced by the government is “complete “self - isolation” for a certain category of persons as a phenomenon is unacceptable with constitutional point of view. This primarily applies to rural areas with infrastructure life support remains weak due to limited access to medical care, public transport, pharmacies, grocery stores that operate around the clock, bank branches (and even ATMs) and the Internet.

This means special protection for the older persons and other vulnerable populations should be implemented by the state not only by imposing stricter restrictions on them, and by giving them additional support. It is first of all about providing these categories of essential items. Experience of other European countries indicates the application of support measures for vulnerable groups, in particular, the allocation of individual hours for them to visit stores, pharmacies or park areas.
<...>

Thus, the practice of introducing by the Government separate or more severe restrictions for people over the age of 60 contradicts the fundamental values enshrined in Articles 21, 24 the Constitution of Ukraine”¹³⁰

130. Votum Separatum of the Judge of the Constitutional Court of Ukraine LEMAK V.V. regarding the Decision of the Constitutional Court of Ukraine of 28 August 2020, № 10-p/2020 in a case on a constitutional petition of the Supreme Court on the conformity of the Constitution of Ukraine (constitutionality) of certain provisions of the resolution of the Cabinet of Ministers of Ukraine “About establishment of quarantine for the purpose of prevention of spread on the territory of Ukraine of acute respiratory disease COVID-19, caused by coronavirus SARS-Co V-2, and stages of attenuation anti-epidemic measures... “. URL: http://www.ccu.gov.ua/sites/default/files/docs/10_p_2020_1_0.pdf

BEST PRACTICES¹³¹

In the **Czech Republic, mobile medical teams provided special support for older people in care homes** during COVID-19 peak.

France ensured the continuity of palliative care via access to dedicated hospital teams or with the support of mobile teams/expert teams in palliative care. It also adopted measures to facilitate health professionals visiting care homes for older people.

Austria provided financial assistance to those requiring 24-hour care and their relatives.

The **Romanian Ministry of Labour and Social Protection** launched a project, funded by the European Social Fund, to provide direct support to 100,000 older people and people with disabilities affected by COVID-19 related measures. It includes direct financial assistance, **and psychological and other tailored support to beneficiaries**, and will be implemented in partnership with 116 municipalities.

The **Swedish Ministry of Culture** presented in May an investment of SEK 100 million (€9.6 million) to support civil society organisations working with those most vulnerable during the COVID-19 crisis, **earmarking 50 million SEK (€4.8 million) for organisations addressing loneliness and isolation of older persons.**

In **Italy specially designed spaces called “hug rooms” have been installed in residential homes/institutions for older people.** They include glass walls with special gloved holes for hand holding, and a flexible plastic space for full hugs. They allow residents and their visitors to embrace in a COVID-safe way. Visitors to the hug room are required to pass several health and hygiene protocols before they can enter the space. Once passed, they can enter the space in small groups, put their arms through specially designed gloves attached to a see-through plastic curtain, and then cuddle and hold their loved one.

RECOMMENDATIONS

R57. The Ombudsperson Institution should consider launching an assessment on the level of enjoyment of social rights during COVID-19 as well as investigate with the health authorities whether any instance of discrimination based on age in the access to medical services occurred.

R58. MoH should issue a statement reminding all health professionals that age cannot be used as a decisive factor to determine priority in the access of medical care.

16. Protection from abuse

The Constitution of Ukraine (Article 28) states that “no one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment that violates his or her dignity.”

The Concept of the State Social Program for the Prevention and Counteraction of Domestic Violence and Gender-Based Violence till 2023 approved by Order of the Cabinet of Ministers of Ukraine of October 10, 2018, No. 728-p explicitly acknowledges older persons as possible victims of domestic violence. The legislation, including the Criminal Code, provides for various levels of liability for the perpetrators, includes community service for a term of 150 to 240 hours, or arrest for a term up to six months, or restraint of liberty for a term up to five years, or imprisonment for a term up to

131. Ibid.

two years, as well as banning orders. The advanced age of the victim, its helplessness, the status of carer of the perpetrator are some of the aggravating circumstances applicable.

Information collected in the course of the meetings revealed that the topic of older persons abuse is far from being internalized by both victims and professionals working with older persons. Risk of abuse is generally minimized and in any event such instances are perceived more as situations taking place within households and families rather than in institutions. Professionals, particularly front-line social workers, do not receive any specific training on how to detect signs of abuse and family doctors and NGOs do not appear to be part of the network of professionals who can identify, report, and refer cases of abuse. When this is done, it is more on the personal initiative of the individuals.

BEST PRACTICES

Belgium, the Czech Republic, Finland and France provide helplines to report abuse cases. Local support teams do home visits, propose solutions to improve older persons' situations and offer free advice and training.¹³²

Ireland: « Your right to know » From 1st July 2009 the Social Services Inspectorate of the Health Information and Quality Authority is legally responsible for the registration and inspection of all residential care centres for older people in Ireland. Inspection reports provide information to residents, their families and the general public about the standards of care in individual centres. They deal with all aspects of living in residential settings such as residents' rights, management and staffing, and the quality of care provided by the service. Following an inspection, a report is produced and published on the Authority's website outlining the findings of the inspection and making recommendations where necessary. If inspectors find that the residential care centre is not safe or the standards are not being met, there are a number of actions that can be taken in the interests of the residents.¹³³

In Italy the Emilia Romagna Region launched the project Anziano e Non Solo (Not just an elderly) under a fund to promote the wellbeing and quality of life of older people. The objectives of the project were to raise awareness and prevent abuse against older people. It covered the rights and duties of older people in the city, savings and banks, and how to have access to the justice system. The objective was also to provide information and orientation with the creation of a data base based on FAQs (Frequently Asked Questions) providing information and advice on the most common legal issues related with older people.¹³⁴

As interlocutors suggested, guardianship can be a source of elder abuse, as some guardians, may take advantage of their position, and use the individual's income or assets for their own purposes rather than for the individual's needed care. Unfortunately, no data exists on the extent of older persons abuse in guardianship, although deprivation of property by carers has been identified by the stakeholders interviewed as a widespread form of abuse. The avenues available to victims, however, are not always trustworthy, known and accessible. There seem to be little attention to the skills of those professionals (members of the judiciary, law enforcement officers, notaries) that might be approached or witness instances of older persons abuse (physical, psychological, financial).

132. Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

133. European Charter of rights and responsibilities of older people in need of long-term care and assistance, 2010 available at https://www.age-platform.eu/sites/default/files/European%20Charter_EN.pdf, p. 20

134. Expert's own knowledge

The measures for the prevention of the abuse in State-run residential institutions are minimal. The impressions gathered in the course of the meetings is that the level of understanding of the risk of abuse in such closed institution is not sufficiently internalized by the management and, consequently, staff do not receive adequate training. The measures mentioned to counter such risks (letter boxes, in-person interviews with clients by multi-functional, internal commissions) do not appear sufficient to collect and redress all instances of abuse. Doubts exist as to the capacity of the institutions to disseminate sufficient information so as to raise the level of awareness about abuse amongst residents and family members. The risks of retaliations and the consequences victims of abuse might face when reporting such instances do not appear to be sufficiently considered.

BEST PRACTICES

In **Greece, social counsellors are in charge of controlling institutions**, by carrying out visits to check the proper functioning, the quality of care and the well-being of older persons.¹³⁵

In **France, structures hosting older persons provide them upon arrival with a charter informing them about their rights and freedoms**. Structures have a “social life council” in which persons living in the structures also participate.¹³⁶

Czech Republic: Stop violence against older people campaign by Zivot is a national campaign developed to raise awareness on the problem of violence against older people and to trigger public debate on this issue. In 2006 the campaign involved the launch of a leaflet “Stop violence against seniors” (STOP n.sil. na seniorech), containing advice and contact points for help. The leaflet also contains life stories of older people victims of violence “Voices we do not hear”. The campaign continues and Zivot90 runs a free non-stop Help-line Senior telefon accessible to all, for assistance and support.

Belgium: East Flanders and the reporting of elder abuse. In Flanders, anyone who has experienced or witnessed elder abuse at home can contact the Flemish Reporting Point for elder abuse through a central helpline to report the case, ask for information or advice, or request intervention. When an intervention is needed, the Flemish Reporting Point contacts the local Supporting Point for elder abuse. After an initial telephone contact, a home visit is scheduled with the victim to get an overview of the problem and see whether the support team needs to look for a solution to improve the older persons’ situation and ensure that this will not increase the problem. This service is free of charge and offers also free advice and training.¹³⁷

Netherlands: Protocol to report elder abuse for external visitors. The Dutch province Noord-Holland has taken the initiative of developing a protocol to combat elder abuse. The protocol can be used by external people who come in contact with older people in nursing homes and care institutions, such as the hairdresser, the neighbourhood nurse, the volunteer who brings meals or pays the older person a frequent visit. The protocol is designed to give them a method to recognise and address elder abuse within the limits of their responsibilities. The protocol lists signs of elder abuse they should learn to recognise and recommendations about what to do when they suspect elder abuse. These steps include answers to questions like ‘who do I notify?’ and ‘who is responsible for what?’ The protocol was developed by PRIMO NH

135. Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

136. Ibid.

137. European Charter of rights and responsibilities of older people in need of long-term care and assistance, 2010 available at https://www.age-platform.eu/sites/default/files/European%20Charter_EN.pdf, p. 36

on behalf of the Support Points against Domestic Violence of the province. Support Services also exist on the Municipal level. There are specific support points that deal with elder abuse in some municipalities. In other municipalities there are support points that are concerned with the broader field of domestic violence, and therewith also elder abuse. Someone who is in a situation of abuse or a witness of elder abuse can call this support point and ask for help. The support point will then tell them what to do next and how to get help from social and legal services.¹³⁸

The Netherlands: **the Amstelland police provide information on elder abuse to their staff.** The Police Amsterdam – Amstelland have developed a small booklet that all police officers can carry with them to recognize signs of elder abuse when they encounter it. The booklet also provides guidelines to what a police officer can do to help and support a possible victim of elder abuse.¹³⁹

The situation in private institutional settings for older persons is even more worrisome, as these institutions operate completely outside the radar of the MoSP, of local social service institutions and the Ombudsperson¹⁴⁰. Despite the critical services they provide, which can be assimilated in toto to the services rendered by the public institutions, they are subject to the regime of private enterprises, lacking forms of control and review of quality of services, the standards of assistance is provided and the well-being of the residents. Moreover, due to their essentially private nature, such residential homes operate outside the Strategy and are not bound by the ideals of promoting independence, active participation and well-being of older persons that underline the government efforts. Possible excessive restrictions of rights related to the Covid-19 pandemic taking place in such institutions have not been recorded.

BEST PRACTICES

Austria has introduced a national quality certificate for care homes for older persons based on a unified and objective process for assessing the quality of services on criteria such as the level of satisfaction of older persons living and staff working in those homes, as well as the organisation of daily routines to meet the needs of older persons.¹⁴¹

In **Belgium**, a quality charter has been set up to cover various aspects of life in an institution.¹⁴²

The Ombudsperson in the **Czech Republic** carries out visits in medical and residential institutions for older persons and issues reports and recommendations on the respect of human rights and dignity in those settings.¹⁴³

In **Turkey**, an Equality Charter has been set up covering all care models, including home care, day care, residential care, nursing homes, palliative and institutional care, based on the care criteria as set out in the WHO International Classification of Functioning, Disability and Health (ICF).¹⁴⁴

In **Switzerland**, private structures operating nationwide are entrusted by the federal administration with contributing to the health of older persons, ensuring them access to

138. Ibid. p. 37

139. Ibid. p. 36

140. Although, in principle, the Ombudsperson could ask to visit such institutions, supervision is in fact not exercised

141. Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c649f

142. Ibid.

143. Ibid.

144. Ibid.

information and advice, and providing direct help. In many Swiss cities there is a tradition of solidary neighbourhoods, in which resources are pooled and solutions to older persons' problems provided by putting them in contact with other people and local actors (municipalities, social and medical structures, associations, etc...).¹⁴⁵

RECOMMENDATIONS

R59. Professionals dealing with older persons, including judges, law enforcement officers, social and health workers, managers and health professionals, informal carers and other workers providing services to the older persons should receive adequate training on indicators of abuse.

R60. Uniform protocols /procedure to report abuse should be introduced in private and public residential institutions and information about it should be provided to all those entering in contact with the institution, including residents, and be visible at all times.

R61. Information campaigns about abuse the avenues to report and counter it should be launched (also on the basis of previous assessments on the best communication strategies addressing older persons and their families). Impact of such strategies should be monitored.

R62. Persons reporting abuse, particularly when taking care in public or private institutional settings, should be able to count on adequate protection from retaliation (whistle blower protection).

145. Ibid.

Part III – Conclusions

Summary of recommendations

The State Policy Strategy for Healthy and Active Longevity for the period 2018-2022 and the related Action Plan

R1. Adoption of any policy strategy, including those recommended as a result of this exercise, **should be supported by sufficiently disaggregated data and statistics** (for instance on the number of people who are already assisted by social services and the type of support provided, the number of people diagnosed with dementia, the number of those in need of palliative care, the number of people accommodated into residential institutions, the number of those on waiting lists to be admitted in such institutions, the number of privately run residential places and of their residents, the number and gender of family members taking care of older relatives, including the terminally ill, the number of awareness and information raising campaigns related to social rights implemented in the past 5 years, their impact, number of front-line staff providing social services, type and frequency of training...) so as to have an initial baseline allowing to focus the interventions, facilitate monitoring and evaluation of results.

R2. When adopting a policy strategy aimed at ensuring increased level of protection to vulnerable groups, **a human rights perspective should be adopted and human rights elicited as the guiding principles** of any intervention. Reference to the international human rights obligations of the country, should be included.

R3. The principle, for instance enshrined in the Law “On Basic Principles of Social Protection of Labour Veterans and Other Elderly Citizens in Ukraine” of December 16, 1993, No. 3721, according to which **older persons have the right to participate in decisions that directly affect their interests and to receive the necessary information must receive practical application**. This means that older persons should be appropriately consulted, through representative organisations, prior to the adoption of measures that have an impact on the enjoyment of their human rights.

R4. The **AP should be the object of proper outreach**, aimed at ensuring that both the society and all those involved in its implementation, including at grass-root and operational level, are aware of it. **Achievement of such result must be monitored**. The spirit of the AP, namely moving from welfare and satisfaction of basic needs to empowerment of the older persons, from passive to active participation in the decision-making processes concerning their lives, from marginalization of older persons to full or at least increased inclusion in the social life, should be internalized by the staff asked to implement it and repeatedly explained to the society.

R5. The AP should be improved by introducing at least the following **additional items or indicators**: disaggregated baseline data enabling the tracking of changes that occurred during the implementation of the AP; disaggregated performance indicators, disaggregated final targets and objective, both expressed quantitatively and qualitatively; non ambiguous allocation of tasks to the various actors; specific identification of the financial resources needed to implement the different activities and how coverage should be guaranteed; risk identification and assessment; mitigating measures needed to counter the envisaged risk so as to ensure the attainment of the sought results.

R6. Monitoring and evaluation of the strategy should include not only the description of the activities conducted, but **also a qualitative assessment (through focus groups, sample polls etc.) of the achieved set goals, objectives and impact** of the various measures on the targeted population.

R7. Successful implementation of the AP and ownership by the beneficiaries can only be reached through increased active engagement of the ultimate recipients. Participation **can be obtained, for instance, with the creation, at no costs, of local Senior Councils** by the local executive administration, gathering individuals and representatives of NGOs and older persons associations. These Council can effectively contribute to increased visibility of the older persons as active members of the society, and to the better prevention, health promotion and social inclusion, reducing the age gap.

R8. In order to ensure that best practices and lessons learned derived from the implementation of the Strategy at local level are shared amongst stakeholders, increased shared of information amongst local actors should be insured. This could be obtained, at very little cost, through **a regular mailing list, for instance at regional level, containing a selection of good practices** that were implemented at grass-root level. This mailing list should not replace the publication of information and best practices on the institutional websites. Instead, it should represent a more **user-friendly tool that contains a selection of examples, inspiring ideas or information about upcoming events** which are relevant for the targeted professionals, that can stimulate more effective actions at local level as well as favour replication of successful initiatives.

Non-discrimination

R9. Statistics, broken down by age and sex, related to discrimination complaints and cases should be collected by all the bodies dealing with such cases, namely the Ombudsperson and the governmental authorities mentioned by the Law "On the principles of preventing and combating discrimination in Ukraine".

R10. Definition and grounds for discrimination should be unified across laws, so as to avoid inconsistencies and leeway in certain areas of life.

R11. Thematic monitoring of the implementation of anti-discrimination legislation should be undertaken with a view to strengthen the victim-centered approach needed when dealing with discrimination, particularly of vulnerable categories such as the older persons.

R12. As professionals dealing with older persons do not necessarily have proper understanding of what discrimination entails, staff and managers of social service providers dealing with the older persons should receive, in addition to specialized training, at least general training on antidiscrimination. This training should be mandatory and part of the initial and continuous training required to maintain the **qualification**.

R13. The Law “On the principles of preventing and combating discrimination in Ukraine” should be amended so as to explicitly include reference to multiple discrimination.

Autonomy and participation of older persons in decisions related to their life

R14. The Civil Code should be amended so as to include an obligation to prepare an inventory to the guardianship authorities as one of the first duties to be discharged, with a view to prevent property abuse and conflict of interest.

R15. Rules of Custody and Guardianship should be amended so as to include appropriate legal publicity whenever an assistant for capable individuals who, due to their health, cannot perform their duties on their own, is appointed.

R16. Actions of the assistants should be subject to regular scrutiny by the guardianship authorities and their reporting obligations should be similar to those foreseen for guardians of legally or partially incapable persons;

R17. Professionals who can be involved in potentially fraudulent transactions involving older persons (i.e. notaries) should receive adequate training on the rights of the older persons, possible sources of abuse, protection obligations and mechanisms;

R18. Minimum qualifications for those acting as guardianship authorities should include induction and continuous training on the rights of the older persons, possible sources of abuse and protection obligations and mechanisms;

R19. MoJ should collect disaggregated data related to the deprivation and limitation of legal capacity and appointment of assistants. Such data should be the object of regular review to assess whether the correct application to the most intrusive institutes to the older persons. In any event, the appointment of an assistant to an older persons should preferred whenever possible;

R20. Awareness and information raising campaigns about the most relevant problems encountered by older persons, as well as possible abuse of property to which older persons might be lured into should be implemented widely through religious institutions, post offices, medical cabinets, third age universities, social services and other places commonly frequented by older persons;

R21. Guardians and assistants, particularly those chosen amongst family members and non-professional individuals, should be able to receive support in the discharge of their duties, as well as information material about the law and ethical responsibilities when implementing their tasks, undergo basic training on reporting, non-discrimination, social rights of older persons, responsibilities and protection from abuse, and ethical issues such as conflict of interest.

R22. At policy level, legislation should be enacted to allow older persons to regulate their affairs, including in the medical sphere, in the event that they are unable to express their instructions at a later stage.

The right to adequate resources - Pensions

R23. In order to safeguard long-term adequacy of the pension benefits, **adequate indexation rules must be put in place** to avoid substantial pension erosion and massive loss of purchasing

power over time. A revision of the current basket of goods and services seems needed to better reflect the real and actual cost of life so as to provide a genuine reflection of the value of the subsistence level, which actually exists in the state and on the basis of which social benefits and pensions should be made.

R24. With a view to guarantee substantive equality, a special basket applicable to pensioners, including amongst others higher heating, medical supplies and equipment, and transport expenses **should be developed for the purpose of better reflect the costs that older persons** are more likely to face due to their life conditions.

R25. Principles of social justice and solidarity should be reflected in the amount of equalization of pensions indexed to inflation: whilst the equalization can reach 100% for the lower pensions, richer pensions can be increased only partially.

R26. The current system, that foresees a number of different criteria for becoming entitled to a pension (age, seniority of service, type of activity sector...) is very **complicated and not sufficiently clear to the public**. Streamlining the scheme and providing clear and detailed information to the public, for instance via awareness campaigns or through personalized regular communications, should be implemented.

R27. Gender perspective should be adequately reflected in the pension reform, **particularly in relation to the so-called level 2**, to which women have traditionally less opportunity to participate meaningfully.

R28. Family members looking having a gap in contribution due to part-time employment or interruption of employment due to the documented need to care for a dependant older relative should not be penalized for the purpose of pension. **Special “pension credits for the care” should be foreseen.**

R29. Considering that the legislation related to the implementation of level 2 of the pension system is already in place, that the current solidarity is not self-sustainable, and that much time will be needed before the impact of the introduction of level 2 can be recorded, the envisaged scheme should be implemented as soon as possible, also with a view to set clear horizons for future generations of pensioners.

Other benefits

R30. The provision of income support measures should not be reduced as it currently represents already a minimum contribution that is fundamental, particularly for those older persons who only receive a minimum pension.

R31. Procedures related to entitlement of house allowances should be streamlined in order to facilitate their accessibility by older persons, as currently the process to obtain them is very complex.

Housing and independent living

R32. A written declaration or clear standard rules on the rights of older persons living in residential institutions, whether private or public, should be elaborated and families and residents duly informed about it prior to admittance. Respect of the Charter should also be considered by monitoring bodies.

R33. Public residential institutions for older persons should establish residents' councils or committees composed of elected representatives of residents, families, and staff to discuss issues related to the well-being of the residents and implementation of their daily lives.

R34. The code for social service activities should be added to the existing classification of commercial activities.

R35. At policy level, legislation should be adopted in order to regulate the provision of private residential care to older persons, subjecting them to some form of licensing (currently minimum quality standards are set only if such institutions are registered as private social service providers). As most of them are not registered, they completely operate on the basis of artificially fragmented private contracts (accommodation, medical services, care services), therefore not falling under the supervision of the MoSP. Appropriate sanctions (including criminal ones) should be introduced for those providing such services without authorization. Artificial fragmentation of services with a view to avoid supervision should be considered fraudulent and sanctioned accordingly.

R36. Even in the absence of, requirements related to minimum standards for the provision of services in private residential homes should be adopted. These should also encompass obligations in relation to equipment, qualification and initial and continuous training of staff, staff-patient ratio.

R37. Inspection and monitoring of both public and private residential institutions, dealing with technical standards and compliance with human rights of residents (freedom of movement, consent to treatment...) should be entrusted to an autonomous and independent commission, either created ad hoc at local level (for instance including representatives of the civil society, of health institutions, and the Ombudsperson) or established at the level of the newly conceived National Social Service Agency, who would still act as an overall supervisory body. The commission should be able to sanctions situations of non-compliance, when needed referring cases to the relevant institutions, such as the police, for immediate action, up to interrupting the contact and closing the institution

R38. The few senior flat-sharing or co-housing communities for the older persons implemented so far under the AP should be looked at as pilot initiatives. Therefore, an assessment of their impact, cost-effectiveness, flaws and strengths should be carried out so as to set the premises for replication;

R39. A needs and feasibility assessment of inter-generational housing could be launched with a view to examine the existence of a market interested in such practices.

R40. Study visits of managerial and front-line staff in countries that have implemented innovative examples of housing for the older persons should be implemented so as to facilitate the understanding of the aspects involved in such experiments and how to deal with their implementation

Social and health services

R41. An assessment of the level of information of the older population about the type of services should be conducted, in both urban and rural areas, to understand the average level of information and the means that are most effective. On the basis of the results, flaws in previous communication efforts have to be addressed in order to guide the older population, their carers and families to understand the novelties introduced in the provision of social services.

Active support of and coordination of local actors should be sought.

R42. Regular coordination meetings should be established at local level to ensure synergies between public and other interventions, for instance by NGOs, in the social sphere to maximize resources and results.

R43. Caregivers should receive sufficient training (role and function of caregivers, stress and burnout management, communication, rights of the assisted person, the social service system, care techniques, first aid...) and support (for example in the form of guided self-help group to share experiences and burdens) also to adequately ensure the quality of the services provided to the older persons.

R44. A protocol and clear, user-friendly, reliable system for presenting and dealing with complaints related to the poor quality of the social and medical assistance provided to the older persons should be introduced. Statistics should be collected (including log of calls or reports received) and follow-up ensured. Independent bodies should be charged with reviewing the reports and solutions adopted.

R45. Information campaigns should be addressed to the general public about social services. The impact of such campaigns should be measured, for instance through anonymous questionnaires administered to users of social services.

R46. Free walking or other sports groups (gym classes, yoga, pilates) suitable for older people, also open to inter-generational audience (who can join for a reasonable fee) can be introduced with a view to fight social isolation, promote mental and physical wellbeing, whilst helping promoting a positive image of the older people. Such classes, as already done in some regions, could be also included in the catalogue of Third Age Universities.

R47. With a view to foster inter-generational cooperation, support and understanding, **third age universities** can be **open also to non-older**. Participation of younger participants can be linked to the payment of a symbolic fee.

Palliative care

R48. At policy level, the Government should consider adopting an end of life care concept, ensuring death with dignity, including the provision of adequate palliative care. Adequate investments should be foreseen in order to ensure proper training and availability of staff taking care of the terminally ill, whose right to die at home, if they wish so, should be respected.

R49. The current palliative care units should be the object of a thorough evaluation, aimed at assessing the capacity of the institutions and staff to accompany older persons toward death in a dignified manner.

R50. Family member of the terminally ill taking care of them should receive professional support by local health institutions, for instance in the form of guided self-help groups and guidance and training on how to take care of their relative.

R51. Palliative care should be included in all undergraduate training of doctors and nurses. Standard curricula should be established, as well as postgraduate training and education, and there should be training programmes for experts in palliative care.

R52. Trained specialists in the field of palliative care should be available to lead education and

research in the field. Programmes of palliative-care education should be incorporated into the training of all health and social-care workers concerned and co-operation of professionals in palliative care should be encouraged.

R53. Legislation should be amended so that special care leave for the relatives looking after the terminally ill ascendants should not go to the detriment of the worker for pension purposes.

R54. Palliative care services and policies must offer a wide range of resources in addition to those already existing (as home care, in-patient care in specific or conventional units) such day hospital and out-patient clinics, emergency call-out and respite care facilities.

Older persons suffering from dementia

R55. At policy level, the Government should consider adopting a Dementia concept with the aim to improve availability and quality of services for persons suffering from dementia. Adequate funding should be allocated to support activities for such persons and their families.

R56. At field level, local governments should promote the creation of walking groups for people suffering from dementia and their family and carers, also to stimulate healthy aging.

Social rights of older persons and non-discrimination at the time of COVID-19 pandemic

R57. The Ombudsman Institution should consider launching an assessment on the level of enjoyment of social rights during COVID-19 as well as investigate with the health authorities whether any instance of discrimination based on age in the access to medical services occurred.

R58. MoH should issue a statement reminding all health professionals that age cannot be used as a decisive factor to determine priority in the access of medical care.

Protection from abuse

R59. Professionals dealing with older persons, including judges, law enforcement officers, social and health workers, managers and health professionals, informal carers and other workers providing services to the older persons should receive adequate training on indicators of abuse.

R60. Uniform protocols /procedure to report abuse should be introduced in private and public residential institutions and information about it should be provided to all those entering in contact with the institution, including residents, and be visible at all times.

R61. Information campaigns about abuse the avenues to report and counter it should be launched (also on the basis of previous assessments on the best communication strategies addressing older persons and their families). Impact of such strategies should be monitored.

R62. Persons reporting abuse, particularly when taking care in public or private institutional settings, should be able to count on adequate protection from retaliation (whistle blower protection).

Roadmap

The purpose of the Roadmap is to provide relevant authorities with a tool to better comply with the international obligations related to the social rights of the older persons, which follow as a result of the ratification by Ukraine of the ESC and acceptance of Article 23 ESC.

The present document is not meant to replace the Strategy and AP on healthy and active longevity, which is a major undertaking that encompasses many areas of life that were not examined by the present Report and whose implementation should continue as foreseen in the AP. Instead, this Roadmap should be used to better focus some of the interventions already foreseen as well as to point out the need that additional attention is paid to issues that were somehow not sufficiently addressed by the AP. Integration of public and private interventions, to arrange national action in one single effort, is not explicitly mentioned but should be considered as a guiding principle for the implementation of the Roadmap.

Special attention was paid to translate recommendations into actions that are practical and of immediate implementation. Nonetheless, some of the actions envisaged encompass significant coordination and political will. For this reason, the Roadmap contains no timeframe nor indicators. The absence of such compelling elements, however, should not be used to justify delays in addressing the recommended actions, which are needed to ensure better protection of the social rights of the older people, who should be perceived as active right-holders instead of mere recipients of welfare measures, whose presence should be capitalized in the communities where they live so that a gradual shift in perception of the role older persons play in the society is possible – from being a burden to being active actors of a retirement period that should actually represent a second youth instead of a sad and lonely way out.

The Roadmap is built around the recommendations issued under the various areas examined in the course of the assessment Report. Recommended actions are grouped in macro areas. The order in which they are presented does not necessarily reflect the order of suggested implementation. For the reasons stated at the outset of this work, neither the recommendations nor the Roadmap can be considered exhaustive. It will thus be up to the relevant authorities to complement the Roadmap with additional steps, examples of which can be found in the Report, also in the light of the results of the implementation of the AP, so as to ensure increased compliance with the obligations stemming from Article 23 ESC.

Overall policy objective	Policy outputs	Actions	Responsible body
<p>Strengthening effectiveness and impact of the Strategy and AP on healthy and active longevity</p>	<p>Availability of reliable and disaggregated data and statistics functional to implementation and monitoring of the implementation of the AP (R1)</p>	<p>1. Improve the AP by introducing</p> <ul style="list-style-type: none"> ■ baseline situation analysis ■ disaggregated and measurable indicators (quantitatively and qualitatively): <ul style="list-style-type: none"> ▶ baseline data to enable the tracking of changes that occurred during the implementation of the AP; ▶ performance indicators, ▶ Indicators for tracking achievements to targets and objectives; ■ risk log matrix; ■ risks mitigation measures; <p>2. Identify in the AP the specific financial resources needed to implement the different activities and how coverage should be guaranteed.</p>	<p>Ministry of Social Policy of Ukraine;</p> <p>Ministry of Health of Ukraine</p>
	<p>Increased and effective participation of older persons in policy decision-making processes that directly affect their interests (R3 – R7)</p>	<p>1. Amend the Law “On Basic Principles of Social Protection of Labour Veterans and Other Elderly Citizens in Ukraine” so as to foresee the creation of Seniors Councils at local level, gathering individuals and representatives of NGOs and older persons associations by the local executive administrations and entrust them with consultative status in relation to policies affecting the older persons;</p> <p>2. The adoption of measures that have an impact in the enjoyment of the older persons’ human rights can only be taken after appropriate consultation with their representative organizations.</p>	<p>Ministry of Social Policy of Ukraine;</p> <p>Committee of the Verkhovna Rada of Ukraine on Social Policy and Protection of Veterans’ Rights;</p> <p>Local administrations;</p> <p>NGOs</p>
	<p>Increased understanding about the rationale and function of the Strategy and AP amongst professionals and general public (R4 – R8)</p>	<p>1. To implement presentations about the rationale and content of the Strategy and AP at the level of ATCs and local social service providers. Reference to human rights as a guiding principle for the implementation of the said policies should be underlined;</p> <p>2. To implement as a constant practice a regular mailing list at regional level, containing a selection of good practices that were implemented at grass-root level or information about upcoming events which are relevant for the targeted professionals;</p>	<p>Ministry of Social Policy of Ukraine;</p> <p>Local administrations</p>
	<p>Improved monitoring of the AP (R5 – R6)</p>	<p>1. To include in the Strategy not only the description of the activities conducted, but also a qualitative assessment (through focus groups, sample polls etc.) of the achieved set goals, objectives and impact of the various measures on the targeted population.</p>	<p>Ministry of Social Policy of Ukraine</p>

Overall policy objective	Policy outputs	Actions	Responsible body
<p>Enabling older person to remain full members of the society</p>	<p>Availability of inter-generational opportunities for older persons to take care of their health and wellbeing (R46-47)</p>	<p>1. Facilitate pilots in 3-5 regions (city, town, village TC) on establishment of inter-generation activities. In cooperation with social service centres/Third Age Universities, culture clubs, private sport clubs, and others relevant) create at least 10 leisure, learning and/or sports activities for older persons such as walking or other sports groups (gym classes, yoga, pilates etc.) suitable for older people, that can be open also to non-older with of a symbolic fee payment;</p> <p>Analyse the pilots in order to identify best practices and lessons learned for future implementation;</p> <p>2. Develop methodical recommendations/guide for social services centres on creation inter-generation activities based on results of piloting.</p>	<p>Ministry of Social Policy of Ukraine;</p> <p>Local administrations</p>
<p>Improving the level of protection of older persons from discrimination and ageism in the enjoyment of social rights (other than in the employment sphere)</p>	<p>Availability of reliable and disaggregated data and statistics related to instances of discrimination based on age and/ or affecting older persons (R9-R11, R57)</p>	<p>1. On the legislative level to introduce a clear mechanism for collecting and processing information on discrimination, actions of anti-discrimination authorities, information on assistance to victims of discrimination, as well as information that affects the development of this phenomenon in society;</p> <p>2. Population census must be held. This data must be publicly accessible and sufficiently disaggregated;</p> <p>3. Ombudsperson should conduct a study looking into possible instances of discrimination based on age in access to healthcare during Covid-19;</p> <p>4. Ombudsperson should collect disaggregated data (by gender, by age, by region) in relation to the complaints it received, so as to be able to better detect instances of ageism.</p>	<p>Ministry of Justice of Ukraine;</p> <p>Ombudsperson Office;</p> <p>State Judicial Administration;</p> <p>Ministry of Social Policy of Ukraine;</p> <p>State Statics Service of Ukraine</p>
	<p>Antidiscrimination legislation amended so as to provide more effective protection of discrimination (R10 – R13)</p>	<p>1. Supplement the Law of Ukraine “On the Principles of Prevention and Counteracting Discrimination in Ukraine” with definitions of “multiple discrimination” and “victimization”. The law should also be amended so as to explicitly include reference to multiple discrimination;</p> <p>2. Introduce a proportional and effective mechanism of responsibility for violation of the law on the prevention and combating discrimination, by establishing mechanisms for the imposition of administrative sanctions;</p> <p>3. Collect statistics on the imposition of administrative penalties in this area (with the introduction of such liability) in the appropriate form of static reporting of courts Ukraine</p>	<p>Ministry of Justice of Ukraine;</p> <p>Ombudsperson Office</p>

Overall policy objective	Policy outputs	Actions	Responsible body
	<p>Professionals dealing with older persons in various areas (health, social services, law enforcement) have better understanding of possible instances of discrimination based on age/ against older persons (R12, R58)</p>	<p>1. Develop a range of positive actions (e.g. continue trainings for the government and law enforcement officials, develop and carry out trainings for the members of targeted groups, intensify awareness campaigns, etc.) in prevention of discrimination against older persons.</p>	<p>Ministry of Justice of Ukraine; Ombudsperson Office</p>
<p>Strengthening protection of older persons who are no longer able exercise their rights and fulfil their rights</p>	<p>Deprivation and limitation of legal capacity are used as a measure of last resort (R19)</p>	<p>1. Collect disaggregated data related to the deprivation and limitation of legal capacity and appointment of assistants. Such data should be the object of regular review to assess whether the correct application to the most intrusive institutes to the older persons. In any event, the appointment of an assistant to an older persons instead of deprivation or limitation of legal capacity should preferred whenever possible;</p> <p>2. Amend the Article 78 of Civil Code of Ukraine so as the guardianship certificate also includes the scope of the assistant’s powers. In order to prevent property abuse and conflict of interest, the obligation to provide the guardianship authorities with an agreement on the provision of assistance should be enshrined in law and inventory of assets at the outset of the procedure should be foreseen;</p> <p>3. Amend the Civil Code and the Rules of Custody and Guardianship so as to include appropriate legal publicity whenever an assistant is appointed. Actions of the assistants should be subject to regular scrutiny by the guardianship authorities and their reporting obligations should be similar to those foreseen for guardians of totally or partially legally incapacitated persons.</p>	<p>Ministry of Justice of Ukraine; Ministry of Social Policy of Ukraine</p>
	<p>Increased professionalism of assistants (particularly when they are family members) and more stringent scrutiny on their actions (R14-18, 21)</p>	<p>1. Initiate adequate trainings for preventing property rights violations of the older persons for professionals who can be involved in potentially fraudulent transactions involving older persons (i.e. notaries);</p> <p>2. Conduct induction and continuous training on the rights of the older persons, possible sources of abuse, protection obligations and mechanisms for those acting as guardianship authorities;</p> <p>3. Provide training and practical support for</p>	<p>Ministry of Justice of Ukraine; Ministry of Social Policy of Ukraine; Local administrations (2,3)</p>

Overall policy objective	Policy outputs	Actions	Responsible body
		guardians and assistants, particularly those chosen amongst family members and non-professional individuals in the discharge of their duties, as well as information material about the law and ethical responsibilities when implementing their tasks, undergo basic training on reporting, non-discrimination, social rights of older persons, responsibilities and protection from abuse, and ethical issues such as conflict of interest.	
	Possibility to regulate one's affairs, including in the medical sphere, in advance, before loss of capacity occurs (R22)	<ol style="list-style-type: none"> 1. Promote self-determination for capable adults in the event of their future incapacity, by means of continuing powers of attorney and advance directives by amending existing legislation (in particular, the Civil Code of Ukraine) with a view to implementing the principles contained in the Recommendation CM/Rec(2009)11 of the Committee of Ministers to member states on principles concerning continuing powers of attorney and advance directives for incapacity. 	Ministry of Justice of Ukraine; Ministry of Social Policy of Ukraine
Ensuring that older persons enjoy adequate resources in the meaning of Article 23 ESC	Indexation rules for pension realistically reflect the cost of life (R23-24)	<ol style="list-style-type: none"> 1. To establish a clear moment (month) when the annual indexation of pensions foresee by Article 42 of the Law "On Compulsory State Pension Insurance" must be calculated; 2. Establish the indexation of pensions to certain categories of pensioners whose pensions have not indexed. 	Ministry of Social Policy of Ukraine; Committee of the Verkhovna Rada of Ukraine on Social Policy and Protection of Veterans' Rights
	Calculation and equalization of pensions respond to principles of social justice and solidarity (R25)	<ol style="list-style-type: none"> 1. To introduce a mechanism for recalculating the pensions of civil servants, local government employees, researchers, and journalists who retired before 01.05.2016 and who lost the right to recalculate their pensions; 2. To determine different levels of equalization depending on the size of pensions (100% or more for smaller pensions, lower percentages for higher pensions). 	Ministry of Social Policy of Ukraine; Committee of the Verkhovna Rada of Ukraine on Social Policy and Protection of Veterans' Rights
	Calculation of pensions is known and easily understandable by older persons (R26)	<ol style="list-style-type: none"> 1. Streamline the pension scheme and provide to the public clear and detailed information about pensions, for instance via awareness campaigns or through personalized regular communications. 	Ministry of Social Policy of Ukraine
	A set of minimum, stable income support measures is identified (R30)	<ol style="list-style-type: none"> 1. To revise the current basket used to equalize pensions and determine the minimum subsistence level so as to genuinely reflect the cost of life in all its aspects; 	Ministry of Social Policy of Ukraine;

Overall policy objective	Policy outputs	Actions	Responsible body
		<p>2. To develop a special basket applicable to pension-aged persons, including amongst others higher heating, medical supplies and equipment, and transport expenses for the purpose of better reflect the costs that older persons are more likely to face due to their life conditions;</p> <p>3. To bring the legislative value of the subsistence level in line with its actual value in order to ensure that the subsistence level fulfills its main function - to serve as a basic social standard.</p>	State Statics Service of Ukraine
	Sustainability of the system for future generations of older persons is ensured (R29)	<p>1. To accelerate the introduction of the second (accumulative) level of the pension system, so as to guarantee legal certainty and allow for individual projections;</p> <p>2. To promote the development of the third level of pension system, by improving the legal regulation of non-state pension p funds, increase the protection of property rights and interest to participate in the accumulative non-state pension provision system;</p>	<p>Committee of the Verkhovna Rada of Ukraine on Social Policy and Protection of Veterans' Rights;</p> <p>Ministry of Social Policy of Ukraine</p>
Improving gender mainstreaming into policies relevant to older persons	Women are not discriminated in relation to pension for reduced opportunities and lower salaries during their working life (R27-28, R53)	<p>1. Reduce the gender gap in the pensions of men and women by amending the labour legislation so as to increase the level of women's employment, reduce segregation in the labour market, and ensure equal pay for equal work.</p> <p>2. To amend the legislation (the Law "On Leaves", the Law "On Mandatory State Pension Insurance") so that special care leave for older persons should not go to the detriment of the worker for pension purposes.</p>	<p>Committee of the Verkhovna Rada of Ukraine on Social Policy and Protection of Veterans' Rights;</p> <p>Ministry of Social Policy of Ukraine</p>
Increasing availability of quality of housing options for older persons	All residential institutions for the older persons operates under the authorization the supervision of the State, not as private service providers offering their services on the free market (R34-37)	<p>1. Add a code for social service activities to the existing classification of types of commercial activities.</p> <p>2. Develop and implement a regulation for private residential homes for older persons. The regulation should include a procedure of authorization (registration/ licensing), inspection on relevance to minimum quality standards and mechanisms of complaints.</p> <p>3. Establish/appoint an independent, supervisory body to inspect private residential homes, with powers to apply sanctions in case of non-compliance</p>	<p>Ministry of Economic Development, Trade and Agriculture;</p> <p>Ministry of Social Policy of Ukraine;</p> <p>Ministry of Health of Ukraine State Regulatory Service</p>
	Alternative housing opportunities for older persons are available (R38-40)	1. Identify existing local practices and pilot initiatives of supported housing and assess their impact, cost-effectiveness, flaws and strengths. Develop a plan and recommendations for replication;	<p>Ministry of Social Policy of Ukraine;</p> <p>Local administrations</p>

Overall policy objective	Policy outputs	Actions	Responsible body
		<p>2. Facilitate a pilot on the local level a few senior flat-sharing or co-housing communities for the older persons with future assessment their impact, cost-effectiveness, flaws and strengths and replication a best practice.</p> <p>2. Conduct needs and feasibility assessment of inter-generational housing in selected cities and towns.</p> <p>3. On the basis of the assessment indicated above, implement a pilot initiative in cities and towns and carry out an analysis of the initiative's impact, cost-effectiveness, flaws and strengths so as to enable future replication a best practice.</p> <p>4. Initiate study visits of managerial and front-line staff in countries that have implemented innovative examples of housing for the older persons.</p>	
<p>Improving accessibility and quality of social assistance provided to older persons</p>	<p>Older persons and their caregivers are fully aware of the type of services available to them (particularly with reference to the legislative novelties) and are able to have easy access them (R41, R45)</p>	<p>1. Conduct assessment of the level of information of the older population about the type of services, in both urban and rural areas, to understand the average level of information and the means that are most effective.</p> <p>2. Develop and implement awareness raising campaign in order to guide the general public, and specifically older persons, their caregivers and families on provision of social services.</p>	<p>Ministry of Social Policy of Ukraine;</p> <p>Local administrations;</p> <p>Ministry of Social Policy of Ukraine;</p> <p>Ministry of Culture and Information Policy</p>
	<p>Not-for-profit and private interventions are integrated to respond to social needs of the older persons (R42)</p>	<p>1. Establish at local level regular coordination meetings of NGO, private and public bodies and service providers to ensure synergies, maximize resources and results to respond to social needs of the older persons.</p>	<p>Local administrations NGOs</p>
	<p>Family caregivers are supported in their endeavors and are able to provide adequate care to their older relatives (R43)</p>	<p>1. Facilitate development and implementation training courses on care for non-professional caregivers. Facilitate development and dissemination guide for caregivers.</p> <p>2. Establish on-demand advisory support to non-professional caregivers by local professionals.</p> <p>3. Facilitate establishment of self-help groups for caregivers.</p>	<p>Ministry of Social Policy of Ukraine;</p> <p>Ministry of Health of Ukraine;</p> <p>Local administrations NGOs</p> <p>Local administrations NGOs</p>

Overall policy objective	Policy outputs	Actions	Responsible body
	Complaints related to poor quality of social and medical assistance are fed into a system that provides effective responses and is able to redress the identified deficiencies (R44)	<ol style="list-style-type: none"> 1. Develop and introduce a protocol and clear, user-friendly, reliable system for complaints of poor quality of the social and medical assistance provided to the older persons. Ensure that complaints are duly followed-up and that they are used to improve the system; 2. Implement on regular basis at local level a collection statistic (including log of calls or reports received) and ensuring follow-up. 3. Ensure regular monitoring by appointed independent bodies reviewing the reports and solutions adopted. 	<ol style="list-style-type: none"> 1. Ministry of Social Policy of Ukraine; and Ministry of Health of Ukraine; Local administrations 2. Local administrations 3. Ombudsperson Office Ministry of Social Policy of Ukraine; and Ministry of Health of Ukraine;
Increasing availability and quality of palliative care	Capacity of institutions providing palliative care is increased (R48-52, R54)	<ol style="list-style-type: none"> 1. Adopt an end of life care concept, ensuring death with dignity, including the provision of adequate palliative care; 2. Implement quality and quantity monitoring of the palliative care system currently in place; 3. Expand the list of palliative care services in addition to those already existing (as home care, in-patient care in specific or conventional units) such as day hospital and out-patient clinics, emergency call-out and respite care facilities. 	<p>Ministry of Health of Ukraine;</p> <p>Ministry of Social Policy of Ukraine</p>
	Family members of terminally ill older persons receive adequate support in the discharge of their tasks (R50)	<ol style="list-style-type: none"> 1. Ensure proper training and availability of staff taking care of the terminally ill, whose right to die at home, if they wish so, should be respected; 2. Support family member of the terminally ill taking care of them by professional help of local health institutions, for instance in the form of guided self-help groups and guidance and training on how to take care of their relative; 3. To include palliative care in all undergraduate training of doctors and nurses. Standard curricula should be established, as well as postgraduate training and education; 4. Incorporate programmes of palliative-care education into the training of all health and social-care workers and to encourage co-operation of professionals in palliative care; 	<p>Ministry of Health of Ukraine (1-3);</p> <p>Ministry of Social Policy of Ukraine (1-5);</p> <p>Ministry of Education and Science of Ukraine (3);</p> <p>Local administrations</p>

Overall policy objective	Policy outputs	Actions	Responsible body
		<p>5. Amend the legislation (the Law “On Leaves”, the Law “On Mandatory State Pension Insurance”) so that special care leave for the relatives looking after the terminally ill ascendants should not go to the detriment of the worker for pension purposes (by analogy with paternal leave).</p>	
<p>Improving quality of life of older persons suffering from dementia</p>	<p>Appropriate and adequate legislative framework related to people suffering from dementia is in place (R55)</p>	<p>1. Adopt a Dementia concept with the aim to improve availability and quality of services for persons suffering from dementia and their carers. 2. Develop an action plan to implement the Dementia concept with adequate funding to support activities targeted on persons with dementia and their families/ carers.</p>	<p>Ministry of Health of Ukraine; Ministry of Social Policy of Ukraine Local administrations</p>
	<p>Increased social opportunities for persons with dementia and their carers (R56)</p>	<p>1. Promote the creation of walking groups for people suffering from dementia and their family and carers, also to stimulate healthy aging.</p>	<p>Ministry of Social Policy of Ukraine; Local administrations</p>
<p>Reducing instances of older people abuse</p>	<p>Increased awareness about older persons abuse amongst the general public (R61)</p>	<p>1. Assess effectiveness of the communication strategies related to abuse addressing older persons and their families. Develop and implement an awareness campaign about older persons abuse amongst the older persons, their families and general public.</p>	<p>Ministry of Social Policy of Ukraine; Ministry of Culture and Information Policy</p>
	<p>Increased awareness amongst professionals dealing with the older persons (R59)</p>	<p>1. Develop methodical recommendations with check lists to be disseminated amongst professionals dealing with older persons on how to identify signs of older persons abuse to facilitate (early) detection and report; 2. Provide trainings on older persons abuse (causes, signs and reactions) to professionals dealing with the older persons, including judges, law enforcement officers, social and health workers, managers and health professionals, informal carers and other workers providing services to the older persons. 3. Introduce specific components on older persons abuse into training curricula of relevant universities and institutes on advanced training of professionals.</p>	<p>1. Ministry of Social Policy of Ukraine; 2. Ministry of Social Policy of Ukraine; Ministry of Health of Ukraine Ministry of Internal Affairs Ministry of Justice of Ukraine Local administrations 3. Ministry of Education and Science Ministry of Social Policy of Ukraine; Ministry of Health of Ukraine Ministry of Internal Affairs Ministry of Justice of Ukraine</p>

Overall policy objective	Policy outputs	Actions	Responsible body
	Establishment of user-friendly, accessible procedures to report abuse (R60-62)	<p>1. Introduce a procedure for registering reports by relevant professionals (social services, health professionals, notaries, law enforcement) of offenses or instances that may amount to abuse of older persons. Establish that such complaint should be dealt with the priority recognized to complaints presented by vulnerable categories (i.e. victims of domestic violence);</p> <p>2. Amend the legislation with provisions on adequate protection from retaliation (whistle blower protection) for persons reporting abuse, particularly when taking care in public or private institutional settings.</p>	<p>Ministry of Internal Affairs (1);</p> <p>Ministry of Justice of Ukraine (1,2);</p> <p>Ombudsperson Office (1,2)</p>

List of meetings

18 AUGUST 2020 (ONLINE)

- ▶ D.F. Chebotarev Institute of Gerontology of the National Academy of Medical Sciences of Ukraine
- ▶ Ptukha Institute for Demography and Social Studies of the National Academy of Sciences of Ukraine
- ▶ 31 August 2020 (online)
- ▶ Committee of the Verkhovna Rada of Ukraine on Social Policy and Protection of Veterans' Rights
- ▶ Ministry of Health of Ukraine
- ▶ Ombudsperson's Office (Secretariat of the Ukrainian Parliamentary Commissioner for Human Rights)

1 SEPTEMBER 2020 (ONLINE)

International non-governmental organizations and civil society:

- ▶ Caritas Ukraine
- ▶ NGO "Care for the Elderly in Ukraine"
- ▶ ICF "Let's Help!"
- ▶ CF "Lifelover"
- ▶ NGO "Community of St. Egidius"
- ▶ Ministry of Social Policy of Ukraine

2 SEPTEMBER 2020 (ONLINE)

- ▶ Department of Social Protection of the Population of the Kyiv City State Administration
- ▶ Department of Social Protection of Chernihiv Regional State Administration
- ▶ Department of Labor and Social Protection of Chernivtsi City Council
- ▶ Department of Social Protection of Luhansk Regional State Administration

Territorial centers of social services (provision of social services):

- ▶ Territorial Center for Social Services (provision of social services) of Severodonetsk City Council
- ▶ Municipal Center for Social Services of Novopskovska Village Council
- ▶ Vyzhnytsya Territorial Center for Social Services (provision of social services)
- ▶ Bila Tserkva District Territorial Center for Social Services
- ▶ Zguriv District Territorial Center for Social Services (provision of social services)
- ▶ Novgorod-Siversky Territorial Center for Social Services (provision of social services)
- ▶ Municipal Enterprise "Social center" of the Tetiiv City Council

3 SEPTEMBER 2020 (ONLINE)

- ▶ Local Social Protection Departments:
- ▶ Department of Labor and Social Protection of Severodonetsk City Council
- ▶ Department of Social Protection of the Population of Irpin City Council
- ▶ Department of Labor and Social Protection of Darnytsia District State Administration in Kyiv
- ▶ Department of Labor and Social Protection of the Desnianska District State Administration in Kyiv
- ▶ Department of Social Protection of the Population of Solomyanska District State Administration in Kyiv

- Representatives of amalgamed Territorial Communities (ATG):
- Belovodsk Village Council, Luhansk region
- Polovynkyno Village ATG
- Baryshivka Village ATG
- Residential institutions:
- Kyiv geriatric boarding house
- Kyiv boarding house for labor veterans
- Chernihiv geriatric boarding house
- Chernivtsi geriatric boarding house

The European Social Charter, adopted in 1961 and revised in 1996, is the counterpart of the European Convention on Human Rights in the field of economic and social rights. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare.

No other legal instrument at pan-European level provides such an extensive and complete protection of social rights as that provided by the Charter.

The Charter is therefore seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

www.coe.int



European
Social
Charter

Charte
sociale
européenne



ENG