

The Commissioner for Human Rights of the Republic of Poland
Submission to the Eleventh working session, New York, 6-9 April 2020

**Guiding Questions for Defining the Normative Content of the Issues Examined at the Tenth Working Session of the Open-ended Working Group:
Social Protection and Social Security (including social protection floors)**

Definition

- 1. What is the definition of the right to social security and social protection (including social protection floors) for older persons in the national legislation in your country? Or how should such a right be defined, considering existing national, regional and international legal framework?**

In the Republic of Poland, the right to social security, including social protection, is regulated in the Constitution of the Republic of Poland, the Labour Code, the *Act on retirement pensions and disability pensions paid from the Social Insurance Fund*, the *Act on the social insurance system*, and the *Act on social welfare*. These laws are commonly applicable to all citizens.

The content of these laws guarantees to all citizens the right to receiving benefits under the broadly understood social security system, primarily in the case of illness, disability or old age which entails the inability to work and the impossibility to satisfy one's living needs. The implementation of this right should be ensured in an effective way and without any discrimination.

Scope of the right

- 2. What are the key normative elements of the right to social protection and social security for older persons? Please provide references to existing standards on such elements as below, as well as any additional elements:**

a) Availability of contributory and non-contributory schemes for older persons

The availability of the schemes is determined by relevant provisions of the *Act on retirement pensions and disability pensions paid from the Social Insurance Fund*.

b) Adequacy of benefits to guarantee older person's access to an adequate standard of living and adequate access to health care

The value of the benefits and, consequently, the standard of living are dependent on the size of social security contributions paid by citizens. As regards access to healthcare, it is the same for all citizens covered by the health insurance scheme.

c) Accessibility, including older person's coverage by social security systems, eligibility criteria, and affordability of contributions

There is universal accessibility of, and coverage by, the social security system. Persons entitled to social insurance coverage are paid social insurance benefits. Other persons are covered by social welfare benefits.

d) Equitable access by older persons to the enjoyment of the right to social security and social protection, paying special attention to groups in vulnerable situation

The Act on social welfare regulates the possibilities of support provision e.g. based on the criteria concerning income, family situation, financial situation, age and disability. Access to social

security should effectively cover all older persons without any discrimination.

e) Participation of older persons in the design and administration of the social security system

Ensuring the participation in social consultations to older persons as well as organizations working in cooperation with and to the benefit of seniors.

Poland is implementing a system of seniors' councils which act as opinion-making bodies of local governments. The challenge is to develop the seniors' councils as effective and representative bodies.

State obligations

1. What are the measures that should be undertaken by the State to respect, protect and fulfil the right of social security and social protection for older persons, regarding the normative elements as provided above?

Activities should be undertaken to increase the availability of social security in view of the changing demographic conditions. Social security provision in the form of long-term care should seek de-institutionalization of social care and measures to ensure long-term care in the place of residence.

Special considerations

2. What special measures and specific considerations should be considered in developing the normative content of the right of older persons to social protection and social security?

The legislator should take into account the postulate, arising directly from the principle of social justice, to maintain a just and equitable proportion between the size of the retirement pension and the amount of the contribution paid, the duration of the professional activity period and the income generated within this activity. The legislator should also comply with the principles of equality and equal treatment, and introduce the obligation to maintain the real value of the benefit i.e. its regular adjustment mechanism.

3. How should the responsibilities of non-State parties such as private sector be defined in the context of the right of older persons to social protection and social security?

These responsibilities are regulated by relevant laws e.g. the Labour Code and *The Act on social welfare*. Their provisions also determine the responsibilities of non-governmental organizations and religious associations.

Implementation

4. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on social security and social protection for older persons?

Deinstitutionalization, introduction of long-term care solutions, various forms of seniors' activation (the 50+ programme, workshops, Third Age Universities, volunteering, seniors' councils, mentoring).