

Guiding questions on the normative content related to social inclusion

Definition

1. *How are the key human rights related to older persons' social inclusion defined in the national and local legislation in your country? If definitions are not available, how should such rights be defined considering relevant existing national, regional and international legal frameworks?*

The Law of Ukraine "On the Basic Principles of Social Protection of Labor Veterans and Other Elderly Citizens in Ukraine" of December 16, 1993, No. 3721-XII, defines the basic principles of state policy towards elderly citizens.

The legal status of elderly citizens, as defined in this Law, guarantees elderly citizens the opportunity to enjoy all socio-economic and personal rights and freedoms enshrined in the Constitution of Ukraine and other legislative acts; prohibits discrimination against elderly citizens in the field of labor, health care, social welfare, housing and other areas, and provides that officials who violate these guarantees are held accountable.

Local councils, local executive authorities and local self-government bodies, enterprises, institutions and organisations may establish additional guarantees for the social protection of older persons at their (local bodies) own expense and at the expense of charitable receipts.

Scope of the right

2. *Please provide references to existing national legal standards relating to older persons social inclusion on normative elements such as:*

a) the right of older persons to take part in cultural life;

b) older persons' inclusion in the digital sphere;

c) ensuring that older persons can live independently and be included in the community;

d) ensuring the social inclusion of older persons living in institutions;

e) older persons' inclusion in intergenerational policies and programmes;

f) Access to prompt remedies and redress when older persons' rights related to social inclusion are violated.

The Law of Ukraine "On the Basic Principles of Social Protection of Labor Veterans and Other Elderly Citizens in Ukraine" provides guarantees for the enjoyment of these rights. A number of strategic documents have been adopted to ensure the enjoyment of the rights of older citizens.

Order No. 366-p of the Cabinet of Ministers of Ukraine dated April 14, 2021 approved the National Strategy for Creating a Barrier-Free Space in Ukraine for the Period up to 2030, and Order No. 372-p of April 25, 2023 approved the Action Plan for 2023-2024 for the implementation of this Strategy. One of the tasks set by these documents is digital barrier-free access; ensuring physical activity of the population (measures are envisaged to update the state policy on healthy and active longevity of the population - development and submission to the Cabinet of Ministers of Ukraine of a draft order on approval of the State Policy Strategy on Healthy and Active Longevity of the Population for the period up to 2030 and approval of the operational action plan for 2024-2025 for its implementation).

It is worth noting that the current State Policy Strategy on Healthy and Active Longevity of the Population until 2022¹ provided for comprehensive measures to support elderly citizens, ensure their active participation in social development, improve the quality of life, and protect their rights. The Ombudsman's monitoring showed that the measures to implement this Strategy² at the state and regional levels were not financially supported.

¹ <https://zakon.rada.gov.ua/laws/show/10-2018-%D1%80#Text>

² <https://zakon.rada.gov.ua/laws/show/688-2018-%D1%80#Text>

State obligations

3. What are the measures that should be undertaken by the State to respect, protect and fulfil relevant human rights to ensure the social inclusion of older persons?

The state is obliged to ensure that the rights of older people declared in legislation are implemented in practice to ensure their social integration, first and foremost by providing the necessary financial support.

Special considerations

4. What special measures and specific considerations should be considered to respect, protect and fulfil relevant human rights to ensure the social inclusion of older persons?

In 2023, the Ombudsman received 454 complaints of discrimination in various spheres of life, including 29 complaints of discrimination on the basis of age, 36 on the basis of gender, 60 on the basis of disability and 54 on the basis of health status. The relevant responsive measures were taken by the Ombudsman.

The monitoring carried out by the Ombudsman's Office has shown the need to strengthen measures to ensure that citizens are aware of their rights and the services they can receive in the communities.

Implementation

5. What are the best practices and main challenges faced by your country in the adoption and implementation of relevant human rights to ensure the social inclusion of older persons?

The state policy is increasingly focused on ensuring European standards, in particular with regard to the functioning of social protection institutions and the provision of social services, through the informatisation of processes.

Thus, a number of digital technologies have been introduced in the pension system. For example, by using a qualified electronic signature, a person can independently register on the web portal of the Pension Fund of Ukraine and submit applications for: automatic pension granting, pension granting and recalculation; changes to the electronic pension file etc. However, many older people do not have access to technology or are unable to use it to its fullest potential. This barrier prevents them from fully participating in social, cultural, economic and political life.

An example of one of the positive practical initiatives aimed at promoting the digital inclusion of older people is the creation by the Ministry of Digital Transformation of Ukraine of an Educational Series with the support of the project "Digital, Inclusive, Accessible: Supporting the Digitalisation of Public Services in Ukraine" (Diya Support Project), which UNDP in Ukraine is implementing with financial support from Sweden, for the Diia.Osvita platform. The course includes 10 episodes, during which grandchildren tell their older relatives how to install messengers on their smartphones, use search engines, make an appointment with a doctor, top up their mobile accounts, and use Diia.Osvita digital education hubs.

The government is taking some measures to gradually bring the pension and social welfare system to a higher level, but they do not fully meet the actual social needs of older people and do not enable them to lead a full life and actively participate in public, social and cultural life.

The monitoring carried out by the Ombudsman's Office has established that in the context of the decentralisation reform, the rights of older people to receive social services in the community are not ensured, as the latter are provided not in accordance with the needs of the person, but with due regard to the community's capabilities.

Regarding the enjoyment of cultural rights and freedoms by older people. The Ombudsman's monitoring shows that, unlike social services, which are clearly regulated in territorial communities, the provision of cultural services to the population of communities requires further institutional and resource support.