



Number: Oi – K – BL – 120-1/23**Contribution of older persons to sustainable development****1. How are the key human rights relating to older persons' participation and, therefore, their contribution to sustainable development defined in the national legislation in your country? If definitions are not available, how should such rights be defined considering relevant existing national, regional, and international legal framework?**

¹ As a State Party to the Madrid International Plan of Action on Ageing and the Revised European Social Charter (2008), Bosnia and Herzegovina has accepted to develop policies, strategies and action plans which will enable healthy and active ageing of their respective population, as well as facilitate regular data collection and international reporting on successes related to active ageing of the population. Under the Constitution of the Federation of Bosnia and Herzegovina², the FBiH and cantonal authorities are responsible for social policy, and accordingly for issues concerning the position of older persons. This competence is exercised jointly or separately or by the cantons coordinated by the FBiH authorities. Accordingly, the FBiH authorities are responsible for setting up policies and enacting laws concerning social policy, while the cantons in this area are responsible for setting policies and law enforcement, including social policy and setting up social protection services.

When we talk about human rights of older persons in the Republika Srpska³, the constitutional grounds for adopting the Strategy for the Improvement of the Position of Older Persons for the period 2019-2028 is enshrined in Amendment XXXII, Article 68 item 12 of the Republika Srpska Constitution, under which the Republika Srpska National Assembly is competent for adopting, *inter alia*, the Republika Srpska development plan. The Social Protection Act (*RS OG*, no 37/12 and 90/16), Article 14, stipulates that social protection stakeholders are the RS and local self-governance units, and that the RS governs the social protection system, adopts policies and development strategies, establishes social protection rights, criteria and beneficiaries, ensures part of the funds for exercising the rights stipulated by this Act, monitors the situation and exercise of

¹ FBiH Ministry of Justice, Strategy for the Improvement of the Position of Older Persons in the Federation of Bosnia and Herzegovina for the period 2018-2027.

² *FBiH OG*, no 1/94

³ RS Ministry of Health and Social Protection, Strategy for the Improvement of the Position of Older Persons in the Republika Srpska for the period 2019-2028.

the rights, establishes and directs the work of social protection institutions and ensures that the optimal development of social protection is provided within the economic and social policy.

Article 17 of the same Act defines older persons as one of the priority groups, users towards whom the social protection system is obliged to act to provide them with social support.

**2. Please provide references to existing national legal standards relating to older persons' contribution to sustainable development on normative elements such as:
Right to equality and prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in the context of sustainable development;**

When reviewing the state of human rights in different areas, in particular the areas of social, economic and cultural rights, rights of persons with disabilities, civil and political rights, and in connection with this and other forms of discrimination, ⁴the Institution of Human Rights Ombudsman of Bosnia and Herzegovina also faced the phenomenon that in these human rights areas there is a large number of older persons who are complainants. IHROBiH decided to visit care institutions for older persons as the only possible way to check the state of their human rights. The result of these visits is the only indicator of the state of human rights of older persons, and it is likely it is even worse when it comes to the human rights of older persons who are outside the system of institutions. The visits to institutions, experiences in the work on complaints and in the public, and universally known facts regarding the position of older persons, in particular infirm persons, abandoned by their families, the poor and vulnerable, were the reasons for drafting this Special Report on the Rights of Older Persons. The lack of an adequate and specific normative framework on the support to older persons in their exercise of human rights, the fact that society provides for a relatively small number of older people via social benefits for the vulnerable and mostly those accommodated in homes and other institutions which there are not enough of, and some are outside the social protection system, and the assessment of vulnerability and social alienation of a number of older persons, were the reasons for IHROBiH for drafting this Report. Based on the Report, IHROBiH drafted recommendations whose implementation should contribute to improving the situation of this category of people and to resulting in ensuring and exercising fundamental human rights of older persons as guaranteed by international standards accepted by Bosnia and Herzegovina. Recommendations are expected to be used with a view to adopting required and new measures of the relevant authorities falling within their respective competences in order to ensure the protection of human rights of older persons.

Elimination of all forms of ageism and age discrimination from sustainable development laws, frameworks, programmes, policies and practices;

⁵Article 5 paragraph 1 item 1 of the Act on the Prohibition of Discrimination of Bosnia and Herzegovina⁶ stipulates that legal measures and actions shall not be considered discriminatory

⁴ Institution of Human Rights Ombudsman of Bosnia and Herzegovina, Special Report on the State of Human Rights of Older Persons

⁵ Prohibition of Discrimination Act of Bosnia and Herzegovina, The Official Gazette of Bosnia and Herzegovina, no 59/09 and 66/16

⁶ BiH Act on the Prohibition of Discrimination, *BiH OG*, no 59/09, 66/16

when reduced to unfavourable distinction or different treatment if based on objective and reasonable justification. The following measures shall not be considered discriminatory if they realise a legitimate goal and if there is a reasonable proportionality between means used and goals to be achieved and when: a) they come out of implementation or adoption of temporary special measures designed to prevent or compensate damages that persons suffer and on grounds given in Article 2 above in particular for members of vulnerable groups, such as: persons with disabilities, members of national minorities, women, pregnant women, children, youth, older persons and other socially excluded persons, civilian victims of war, victims in criminal proceedings, displaced persons, refugees and asylum seekers; i.e. to enable their full participation in all spheres of life.

Right to freedom of expression, including freedom to seek, receive and impart information;

Article 10⁷ of the European Convention on Human Rights stipulates that everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article does not prevent states to request work permits for radio, television and cinematography companies. The said Article does not strictly stipulate that older persons in Bosnia and Herzegovina have restrictions or are discriminated in some way when it comes to the right to freedom of expression, freedom to seek, receive and impart information.

Also, ⁸⁹ Article 4 of the Freedom of Information Act of Bosnia and Herzegovina and Freedom of Information Act of the Republika Srpska stipulates that every natural person and legal entity has the right to access information under control of public authority and every public authority has a corresponding obligation to disclose such information. This right to access shall only be subject to formalities and restrictions, as prescribed by this Act.

Right to peaceful assembly;

When it comes to public assembly, in Bosnia and Herzegovina this right is governed by the following pieces of legislation: ¹⁰ BiH Public Assembly Act of Bosnia and Herzegovina, *BiH OG*, no 32/2009 and 11/2011; RS Public Assembly Act, *RS OG*, no 21/96. The said legislation does not decisively stipulate that the said right is restricted for older persons, except in cases stipulated in Article 5 of the BiH Public Assembly Act, reading as follows:

- 1) Only this Act may stipulate the restrictions on freedom of public assembly necessary in a democratic society to protect the constitutional order, rights and freedoms of other people and public health.
- 2) Freedom of speech and public appearance at public gatherings shall be restricted by a ban on any call and incitement to armed conflict or use of violence, to national, racial, religious or other type of hatred.

⁷ European Convention on Human Rights, Article 10

⁸ RS Freedom of Information Act

⁹ BiH Freedom of Information Act

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- 3) A public gathering shall not be organised by a political organisation or citizen association whose work is banned.
- 4) A public gathering shall not be convened nor shall a person appear at a public gathering against whom a security measure of public appearance ban has been imposed.

Article 6 of the RS Public Assembly Act reads as follows: A public gathering shall not be convened nor shall a person appear at a public gathering against whom a security measure of public appearance ban has been imposed through a court decision.

Right to freedom of expression;

According to the Constitutional Court of Bosnia and Herzegovina, freedom of expression is not absolute and it has its limitations. In democratic states where the rule of law applies, almost no human right and freedom, regardless of how primary or important, are not and cannot be absolute and unrestricted. Given that absolute freedom and absolute right *contradictio in adjecto*, is decisive, and disputable at the same time, there is a way in which a certain established legal principle is interpreted and practically implemented. That is why it is the key role and task of independent courts is to clearly determine the border between justified and necessary and unjustified and unnecessary restrictions, which confirm a principle as a rule or negate it as a sheer declaration, in each individual case.

Active, free and meaningful participation of older persons and their representative organisations in all matters related to sustainable development, including in political processes;

Through their membership in associations or foundations, older persons can exercise their rights which are not guaranteed pursuant to the relevant legislation in the entire territory of Bosnia and Herzegovina. Access to quick remedies and redress when the above mentioned rights of older persons are violated.

¹¹ According to the Initial Report of Bosnia and Herzegovina on the Implementation of the Madrid International Plan of Action on Ageing, healthcare and access to quick medications (healthcare), the following is stated:

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Activities in the health sector are based on the Work Program of the Federal Ministry of health for 2015 and the Work Program of the Government of the FBiH for the period 2015 - 2018, which stem from the Strategic Plan for Health Development for the period 2008 - 2018. In FBiH, the health protection system is organised in the form of primary, specialist and hospital health protection. According to the Preliminary report on the health condition of the population and health protection for 2015 in the FBiH, the reform determination is to increase efficiency and rationalisation of health protection, advancing primary health protection, rationalisation of specialist-consultative and hospital protection, and implementation of family medicine. Older persons in the FBiH acquire their primary healthcare services through dispensaries (in rural areas) and health centres (in urban areas). Primary healthcare services are hardly accessible in

¹¹ Initial Report of Bosnia and Herzegovina on the Implementation of the Madrid International Plan of Action on Ageing

diversified rural areas where older persons need to pass longer distances in order to reach health care centres. This is particularly an issue during the winter periods or during storms. Secondary and tertiary healthcare protection is available primarily in bigger urban areas, which aggravates the fulfilment of health needs of older persons, in particular those who live in rural areas and who do not have organised transport to the health centres (either by their relatives or by means of public transport). Taking into account that older persons are more prone to diseases and that they are the biggest users of health care services, this is threatening their health condition and affecting both the quality of life and life expectancy. The health insurance in the FBiH covers the elderly persons who receive pension or use any form of social protection. In the FBiH, the health protection and geriatric services are stipulated and prescribed by law and are offered at all levels of health protection. The estimated increase in the share of persons 65 years of age and older in the total population affected the rate of dependant population in the FBiH in 2015 to be rather high at 48%, which complicates the financing of social and health protection in the FBiH. The increasing rate of dependant population is a significant problem for financing health protection. This particularly refers to the fact that health protection costs significantly increase as the person is getting older. In addition to the above-mentioned compulsory forms of health care for the elderly, there is a range of local programs for prevention. These programs are being implemented at local communities' level (cantonal and municipal) and in compliance with the financial capacities of the local authorities (Law on Health Protection of FBiH). Furthermore, there is a range of institutions for older persons housing where same practices of health protection are provided as when the older persons are out of these institutions. In Sarajevo, Modriča and Bosanska Dubica, centres for Healthy Ageing have been opened with the support by the Federal Ministry of Health, in which various activities are taking place with the aim to ensure healthy ageing and protect mental health and physical activity. Such centres use the potential of persons of the third age, who are included as coordinators in many sections. The centres for healthy ageing also help the creation of inter-generational solidarity, which is especially visible in the support provided to socially vulnerable or disabled persons. Good cooperation has been established between schools and such centres, which contributes to better understanding among different generations but also encourages the development of various skills among the youth and the persons of the third age. In the FBiH, there are 40 centres for mental health in the community. These centres are competent to provide all types of services, from coordinated care (Keys management) to prevention services, psychological support services and treatment services. The centres cover about 60,000 citizens in rural and urban areas. The range of preventive programs includes both programs for promotion and prevention. So, in communities where centres for healthy aging exist, a relation has been created among such institutions, which especially contributes to prevention but also to reduction of depression among persons of the third age. The centres for healthy aging provide regular physical activity, so persons of the third age are organised into groups and practice gymnastics which is adjusted to their age and health condition. At the same time, a guidebook for physical activities has been published so every person of third age could do the exercise individually at home. Such exercises not only improve the physical condition but also the psychosocial condition of the person. Many persons, who had been depressed due to loneliness, have been directed to such centres through the centres for mental health in the community, where they have been integrated through various sections and activities and have even stopped using antidepressants.

Article 13 of the Constitution of RS stipulates that ‘human dignity, bodily and spiritual integrity shall be inviolable’, and article 37 stipulates that ‘everyone shall be entitled to health care’. The Ministry is dedicated to building a modern, efficient and quality healthcare system which shall focus on patients and citizens. Past reform processes have significantly improved legislation and the framework for improving health of RS citizens, a considerable experience and knowledge have been acquired in medical practise as well as in health care management and health care system management. A series of strategic documents in different fields have been adopted in compliance with the documents and recommendations of the World Health Organization of the European Union, the UN organizations and health care policies from the developed countries. Legislation implemented in this field is the following:

- The Law on Health Care (‘Official Gazette of RS’, No. 18/99, 58/01, 62/01, 106/09, 44/15);
- The Law on Health Insurance (‘Official Gazette of RS’, No. 18/99, 51/01, 70/01, 51/03, 57/03, 17/08, 01/09 and 106/09);
- The Law on Medicines (‘Official Gazette of RS’, No. 19/01).

National Assembly of the RS issued the ‘Programme of Health Care Policy and Health Strategy in the RS’ until 2010 (‘Official Gazette of RS’, No. 56/02), with the improvement of health of citizens and conditions affecting their health as its main objective. Health care policy has defined four basic objectives which are the basis for the development and reform of RS health care system, as follows: 1. Reducing differences in health conditions and access to health care of citizens with regard to geographic area and socio-economic group; 2. Improving the conditions of the health care system and increasing availability of health care to vulnerable groups of people; 3. Reorientation of the overall health care to improving health and disease prevention, and 4. Increasing efficiency and the quality of health care. Several strategic documents and projects have been developed with the purpose of improving existing conditions: A programme for detection and suppression of risk factors for cardiovascular and malignant diseases and other mass non-communicable diseases and early detection of these diseases (‘Official Gazette of RS’, No. 10/02); Strategy for reducing health differences and access to health care for the citizens, for reorienting and reorganizing health service, and increasing the efficiency and quality of work of health institutions (‘Official Gazette of RS’, No. 77/03); Health sector Enhancement Project (HSEP), financed from the credit arrangement with the World Bank and co-financed by local communities. The project ‘Reducing Health Risk Factors in Bosnia and Herzegovina’, implemented by the World Bank – Sarajevo Office – in cooperation with the Swiss Agency for Development and Cooperation (SDC). The project ‘Developing and Advancing Modern and Sustainable Public Health Strategies, Capacities and Services to Improve Population Health in BiH’ is implemented with the donation of the Novo Nordisk A/S Company. Strengthening Nursing in Bosnia and Herzegovina is the project funded from the donation of the Swiss Agency for Development and Cooperation (SDC). The project interventions are directed to: improving regulation in the field of nursing, strengthening of chambers and associations of nurses, developing the system of continuing education for nurses; developing nursing within the community/polyvalent patronage; as well as improving university level education for nurses and human resources planning in the field of nursing. The project ‘Mental Health in BiH’ - phases 1 and 2 – is implemented from the donation of the Swiss Agency for Development and Cooperation (SDC). In the process of improving mental health in RS, reform activities for strengthening the concept of providing mental health services in the community. With the purpose of improving primary health care the Government of the RS adopted the Primary Health Care Strategy (‘Official Gazette of RS’, No. 72/06). The Government implemented projects and programmes of establishing Family Medicine model in the RS, clinics for community based rehabilitation (CBR) and community based mental health protection. Through these systems and services older persons have new possibilities to use

and the new quality of health care services. The Law on Social Welfare ('Official Gazette of RS', no. 37/12, 90/16), stipulates that legal and private persons providing services support beneficiaries in activating their potential to independently satisfy their needs, to have a productive life within the community, preventing their dependency on social welfare as well as reducing the risk of social exclusion. Article 8, paragraph 2 of the Law on Social Welfare stipulates that in addition to social welfare institutions, associations of citizens and other entities can provide social welfare service in compliance with the Law. Thereby, a statutory opportunity to provide older persons with social protection in rural areas also, where there is no economic interest for establishing social welfare institutions for housing or day-care for older persons has been created. Services can also be provided by private persons, who can establish social welfare institutions, and by implementing the provisions of the aforementioned Law in the RS a larger number of retirement homes have been established. Important reform activity in the RS is commitment to implement measures for promoting health and disease prevention. Programmes in this field have become obligatory for every member of a family medicine team and mental health centres. Programmes were controlled and supported by the Public Health Institute of RS and the Health Insurance Fund of RS. Considering the importance of the improvement of community based mental health protection, as the most important content within the deinstitutionalisation process in mental health, a system of 27 mental health centres, as a part of medical centres at the primary level of health care, has been established. Multidisciplinary teams have, through coordinated care for patients with mental disorders, primarily chronic patients, significantly improved the quality of lives of these persons and expanded the list of their services within the community. The most significant activities are directed towards combating chronic non-communicable diseases (cardiovascular disease, diabetes, malignant diseases, depression, dementia and other psychological diseases and disorders). Several strategic documents, programmes and projects have been developed with the purpose of improving the current state: - 'The Programme of detecting and suppressing risk factors of cardiovascular and malignant diseases and other mass non-communicable diseases and early detection of such diseases' (Official Gazette of RS, No. 10/02); - 'Strategy for reducing health differences and access to health care for the population, for reorienting and reorganizing health service, and increasing the efficiency and quality of work of health institutions' Official Gazette of RS, No. 77/03); - Project 'Diabetes mellitus' is implemented from the donation of Novo Nordisk A/S Company. Within the process of improving mental health in the RS, reform activities for strengthening the concept of providing service in community based mental health protection have been initiated. In its strategic documents the RS recognizes health as the greatest fortune for citizens and the society and without mental health there is no general health either. World Health Organization defines mental health as 'a state of well-being in which every individual realizes his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community'. Strategic documents regulating the issue of improving mental health are following: - Law on the Protection of Persons with Mental Disorders; - Rulebook on Organization, Work and Financing of Commissions for Protection of Persons with Mental Disorders; - Mental Health Policy (2005.); - RS Mental Health Strategy (2009 - 2015); and - RS Mental Health Strategy (2017 - 2027). A chapter in the new RS Mental Health Strategy for the period 2017 – 2027 is dedicated to elderly care (specificities of intervention during the life cycle – persons over 65 years of age). Old age can be a period of significant changes. Some of them are positive, for example more time for hobbies and other activities, while other can be negative, for example, loss of identity related to work, grieving the death of close ones, reducing social possibilities and health issues. Old age is a positive life experience for many people and a lot can be

done for older persons who do not experience it that way. Family environment and life within community proved to have protective effect on older people's mental health, unlike the life in geriatric institutions or in social isolation. Risk factors for older persons include somatic damage caused by diseases such as cancer, cardiovascular disease, chronic states such as arthritis and the consequences of cerebrovascular attack. There is a higher risk of depression for older persons who are isolated, who do not have sufficient social relations and support or who are grieving. Head trauma is a possible risk factor for Alzheimer's disease, and hypertension, diabetes, smoking and high cholesterol for vascular dementia. Protective factors include good physical health, support relations and social interaction and good socio-economic conditions. Higher intelligence and education could be protective factors for Alzheimer's disease, as well as anti-inflammatory drugs and substitution therapy. There are possibilities for preventive activities for dementia related to risk factors that can be influenced, for example, reducing alcohol abuse, prevention as an adequate treatment of cerebra and cardiovascular diseases, diabetes, and they are also important for the improvement of social activities and hobbies. It is necessary to improve depression and dementia screening in all mental health care settings and family medicine, particularly when somatic disorders, symptoms indicating to dementia, as well as social isolation and other stressful factors are present. It is desirable to introduce daily use of one of the validated assessment scales for most common psycho-geriatric difficulties, such as depression and dementia. It is necessary to apply selective psychosocial interventions, i.e. counselling, providing information, training, self-help groups and support for reducing anxiety-depressive symptomatology with caregivers and spouses of persons suffering from dementia and those who have lost their partners. There is evidence that training programme implementation slows down intellectual decline related to ageing.

What measures and special considerations should be undertaken by the State to respect, protect and fulfil the above-mentioned rights to ensure older persons' contribution to sustainable development?

The state, and at the same time the engagement of entire society is necessary to work on continuously stressing the importance of care for older persons and for creating an environment tailored to the needs and capacities of third-age citizens, as well as it is necessary to warn about the increase of number of older persons and the need to secure good quality of living conditions to such people.

What are the good practices and main challenges faced by your country in the adoption and implementation of the above-mentioned normative framework to ensure older persons' contribution to sustainable development?

Under its competence, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina issued recommendations to the highest-level authorities, whose implementation should contribute to enhancing the state of this category of people and to result in ensuring and exercising fundamental human rights of older persons, as guaranteed by international standards Bosnia and Herzegovina has accepted.