

14th session of the Open-ended Working Group on Ageing

Responses of the Commissioner for Human Rights of the Republic of Poland
to the 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?

Public policies addressed to older persons refer mainly to social participation¹ and activation of such persons² rather than about their social inclusion. The right to inclusion of older persons should be modelled on Article 19 of the Convention on the Rights of Persons with Disabilities³, in which it is connected with the right to independent living and to taking decisions regarding one's life.

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 *Act on older persons* of 2015⁴ does not contain definitions of the above aspects of social inclusion. The Minister for Policy for Senior Citizens (the position newly established in the Polish government at the end of 2023) has announced future works to amend the Act. One of the motions of the senior citizens community is to introduce, in the amended Act, definitions important for policies regarding senior citizens.

State obligations

3. What are the measures that should be undertaken by the State to respect, protect and fulfil

¹ Resolution No. 161 of the Council of Ministers of 26 October 2018 adopting the document "Social policy for older persons until 2030: Safety. Participation. Solidarity, <https://www.monitorpolski.gov.pl/M2018000116901.pdf> [access: 25 March 2024].

² Multiannual programme for older persons „Active+” for 2021-2025, <https://www.gov.pl/web/rodzina/program-wieloletni-na-rzecz-osob-starszych-aktywni-na-lata-20212025> [access: 25.03.2024 r.].

³ The Convention on the Rights of Persons with Disabilities was adopted by the United Nations General Assembly on 13 December 2006. The Polish government signed it on 20 March 2007. The ratification of the Convention by Poland took place on 6 September 2012 (Journal of Laws of 2012, item 1169).

⁴ Journal of Laws of 2015, item 1705.

relevant human rights to ensure the social inclusion of older persons?

The right of older persons to social inclusion is related to their other rights such as the right to work. To ensure the realisation of this right, the State should ensure the possibility of flexible employment conditions, availability of training or labour activation programmes for older people, and should ensure their equal access to the labour market without age discrimination. The right to social inclusion is also directly related to ensuring spatial accessibility and availability of services, including health care services, in the local community where older persons live. This should also include the right to effective information⁵.

There is also a need to implement a strategy for counteracting violence against older persons and to regulate crimes and hate speech in public space, motivated by prejudice on the grounds of age⁶.

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?

Mainstreaming aging in all action programmes, taking into account changes in the demographic structure and needs of older persons⁷.

The State should strive to deinstitutionalize support provision and to ensure that people in need of support have access to a mechanism for assisted decision-making; the possibility of legal incapacitation should be abolished⁸.

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?

⁵ See: Support for older persons during the pandemic. Report of the study on the situation of people aged 60+ during the COVID-19 pandemic in Poland, Office of the Commissioner for Human Rights, Warsaw 2022, p. 38-39, <https://bip.brpo.gov.pl/sites/default/files/2022-09/Raport%20RPO%20-%20Wsparcie%20os%C3%B3b%20starszych%20w%20czasie%20pandemii%20-%20wersja%20dost%C4%99pna.pdf> [access: 24.03.2024].

⁶ See: Situation of older persons in Poland. Challenges and recommendations. Report of the Expert Committee on Older Persons operating at the Office of the Commissioner for Human Rights, Warsaw 2020, p. 17, <https://bip.brpo.gov.pl/sites/default/files/Sytuacja-osob-starszych-w-Polsce.pdf>, [access 25.03.2024].

⁷ Ibidem, p. 7.

⁸ Letter of the Commissioner for Human Rights to the Secretary of State at the Office of the President of the Republic of Poland, of 2.01.2024 (ref. no. XI.503.4.2016), https://bip.brpo.gov.pl/sites/default/files/2024-01/Do_KPRP_ozn_asystencja_projekt_opinia_2.01.2023.pdf [access: 25.03.2024].