

Identification of possible gaps in the protection of the human rights of older persons and how best to address them

QUESTIONNAIRE

Identification of gaps

1. For each of the topics that have been considered by the Open-ended Working Group since its eighth session, please state possible gaps your Government/organization has identified in the normative framework and practical implementation for the protection of the human rights of older persons. (500 words each)

a) Equality and non-discrimination

In the Republic of Bulgaria, a horizontal principle of legislative regulation related to the elderly has been adopted. There is amended legislation in the field of equal opportunities and non-discrimination in accordance with the European framework, incl. by age.

The guarantee of the rights of the elderly is ensured by several normative acts, which attribute responsibilities to a number of public institutions according to their competences. Bulgarian legislation guarantees non-discriminatory treatment to everyone, including the elderly, equal treatment and equal access to rights, goods and services – access to education, healthcare, labour market, income, social protection and social care, social security, transport and movement, housing conditions, household services, etc.

The Constitution of the Republic of Bulgaria regulates the basic rights of citizens by prohibiting discrimination on all grounds and guarantees the equality of citizens. The Anti-Discrimination Act transposes the European Equality Directives, regulating the protection of all-natural persons in the territory of the Republic of Bulgaria against all forms of discrimination, at the same time assists in its prevention and approves measures for equal opportunities.

The principle of equal opportunities and protection against discrimination, including and the elderly are also regulated in the Labour Code, Civil Procedure Code, Criminal Code, Criminal Procedure Code, Social Security Code, Employment Promotion Act, Social Assistance Act, Civil Servant Act, Higher Education Act, Law on Health and Safety at Work, etc. Special protection is also provided by the Ombudsman Act, the Persons with Disabilities Act, the Anti-Trafficking in Persons Act, the Domestic Violence Protection Act, the Personal Data Protection Act, the Statistics Act, etc.

All forms of discrimination are protected by a special Protection against Discrimination Act. It ensures equality before the law, equality of treatment and opportunities for participation in public life and effective protection against discrimination.

In conclusion, we don't identify gaps in the normative framework and practical implementation for the protection of the human rights of older persons in the field of equality and non-discrimination.

b) Violence, neglect and abuse

The Bulgarian government adopted a Protection against Domestic Violence Act, which aims to provide immediate and effective protection and to provide help and support to persons who have suffered from or at risk of domestic violence, and to exercise a preventive and deterrent action on the perpetrator of the violence. This Act regulates:

- the rights of persons who are victims of domestic violence or are at risk; the measures for protection against domestic violence;
- the bodies and the mechanisms for the implementation of state policy in prevention and protection against domestic violence and the interaction between them;
- the prevention programs and the specialised services for provision of protection, assistance and support to persons who are victims of domestic violence or are at risk;
- proceedings for enforcement of measures for protection against domestic violence.

The issue is marked as one of the five priority areas within the National Strategy for the Promotion of Equality between Women and Men 2021-2030.

In conclusion, we don't identify gaps in the normative framework and practical implementation for the protection of the human rights of older persons in combating violence neglect and abuse.

c) Long-term care and palliative care

In accordance with the National Strategy for Long-Term Care, the priority of the adopted National Action Plan 2022-2027 is the development of an adequate network of quality and accessible social and integrated health and social services in home and community settings. The new services should comply with the principles of deinstitutionalization of care for the disabled and the elderly while respecting their rights according to their needs.

A new emphasis in the NAP is the implementation of innovative measures for the introduction of information and communication technologies in the provision of services in a home environment such as telecare and tele-assistance. New approaches to support independent living for people with disabilities such as "shared living organization" and "active care" will also be piloted. The plan envisages:

- provision of quality care and support in new services in the community for a minimum of 2,700 persons with mental disorders, physical disabilities, sensory disorders and dementia, who will be discharged from specialised institutions;
- creation of new services for residential and day care and support for over 8,300 disabled and elderly people unable to care for themselves;
- closing 41 existing specialized institutions for people with disabilities;
- care and support at home and in the community, including through patronage care, remote services and assistant support for over 50,000 disabled and elderly people unable to care for themselves.

In a large part of the already existing social services, activities delegated by the state, the environment will be improved, including through measures to ensure energy efficiency. All

existing homes for the elderly will be reformed in accordance with the quality standards of residential care for the elderly, defined in the Ordinance on the Quality of Social Services. In addition to the state budget, the reform is also supported through the Human Resources Development Program (BGN 632 million) and the Regional Development Program (up to BGN nearly 140 million). According to the National Plan for Recovery and Sustainability, the investments amount to BGN 753 million.

According to data from the Social Assistance Agency, 51 new social services for adults in the community were created in 2022, including and for residential care, with 1,020 places, which are financed by the state budget. At the same time, 6 specialised institutions for adults with disabilities with 412 places were closed. In 2023, 86 new social services for adults were created, including residential type of care, with a total of 1,546 places.

As of August 2023, 648 social services in the community are provided with funding from the state budget on the territory of the country only for adults, including for residential care with a total of 12,090 places. In addition, assistant support is provided by 263 municipalities for 20,250 persons.

As a summary, we would like to note that measures are being implemented at the national level, which aim to improve the support and care of elderly people and persons in homes for people with disabilities, which are legally regulated and which are laid down in the strategic documents in the field of social services.

In conclusion, we don't identify gaps in the normative framework and practical implementation for the protection of the human rights of older persons in the field of long-term care and palliative care.

d) Autonomy and independence

With regard to the formulation of a national strategic framework for meeting the challenges of population aging, the Ministry of Labour and Social Policy carried out a comprehensive coordination activity on the development and adoption of a National Strategy for Active Ageing in Bulgaria (2019-2030) by the Council of Ministers. The long-term goal of the strategy is related to creating conditions for an active and dignified life for the elderly by providing equal opportunities for their full participation in all of life.

The Strategy defines four main priorities - Promoting the active life of the elderly in the field of employment; Encouraging the active life of the elderly in the field of participation in society; Encouraging the active life of the elderly in the field of independent living; Creating capacity and a favourable environment for the active life of the elderly at the national and regional level. Two-year plans and reports for the implementation of the National Strategy for Active Ageing are being adopted, which present the operational framework for undertaking and reporting complex actions and measures in response to the challenges posed by the aging population.

The implementation of the National Strategy for Active Ageing in Bulgaria (2019-2030) emphasizes the adaptation of policies to overcome the consequences of the aging process on the functioning and financial stability of important social systems as the labour market, pension

system, healthcare, social care and education system. This implies the development of complex measures to adapt the public sector to aging processes and to provide better conditions for the inclusion of the elderly population in public and economic life.

In conclusion, we don't identify gaps in the normative framework and practical implementation for the protection of the human rights of older persons in the field of autonomy and independence.

e) Protection and social security (incl. minimum social protection)

A transformation of the social assistance system was carried out with the amendments made to the Social Assistance Act and the Rules regarding the Social Assistance Act adopted as of 2023, which expand access and increase the amount of benefits, as well as their regular update. This ensures more effective social protection for those in need of social support.

The amount of social benefits is determined according to the national poverty line and is no longer linked to the guaranteed minimum income. The focus is giving priority to incentive measures and relaxing restrictions. The administrative burden for the submission of the assistance application has also been reduced. The regulatory changes also ensure the implementation of the recommendations of the European Commission addressed to Bulgaria over the years, enshrined in the National Recovery and Resilience Plan of the Republic of Bulgaria.

In accordance with the objectives of the Social Assistance Act, Ordinance No. RD 07-5/16.05. 2008 on the conditions and procedures for granting targeted heating benefits was also amended. The amendments to the Ordinance expand the scope of beneficiaries, optimizing the mechanism of granting the targeted heating benefits, refining the differentiation of beneficiaries and creating a mechanism to prevent dropouts. Additionally, in 2022 certain categories of individuals and families were supported with extra funds for the heating season 2022/2023.

The social insurance system, as part of the social protection system, aims to provide adequate support for vulnerable groups, including the elderly. The existing international framework in this area, taking into account the differences in the economic and social development of the countries, contains more generally formulated subjective rights, usually declaring only the objectives of the social policy. That is why it is of decisive importance how individual states fulfill the obligations arising from the relevant international acts.

In this regard, it is important to note that the Bulgarian legislation, and in particular the Social Security Code, creates the necessary protection of rights in the field of pensions for the elderly. All workers and employees, regardless of the nature of the work, the method of payment, fall into the circle of compulsorily insured persons for all insured social risks (general illness and maternity, disability due to general illness, old age and death, occupational accident and occupational disease and unemployment) and from the source of funding. Self-insured persons are also compulsorily insured for disability due to general illness, old age and death.

In the general case, upon the occurrence of the conditions provided for in the law - reaching a certain age and accumulating a certain length of social security service, individuals acquire the right to a pension for social security service and age. Insured persons with reduced working capacity due to health impairment are entitled to a disability pension. Persons in need

who are not entitled to another type of pension, have low or no income, or have a certain type/degree of disability, due to which they have not had the opportunity to work, can receive pensions that are not linked to work activity – e.g. social pensions for old age, social pension for disability, personal pension, etc. On the basis of the Law on Health Insurance, all Bulgarian citizens are subject to mandatory health insurance, regardless of whether they are employed or not. The insurance of persons who receive a pension are at the expense of the state budget.

f) Education, training, lifelong learning and capacity-building

The extensive use of technology, digitalization and automatization of processes, the transition to a green economy, the ageing population and the reduction in labour force are all factors that pose new challenges to the labour market and new requirements to the skills of the labour force. In the forthcoming years, the main priority of the active labour market policy will be investing in building and developing the skills of the future, upskilling and reskilling in line with the new needs of the labour market, with a focus on improving digital skills of the labour force. Strengthening the training activities and the development of digital skills in particular are priorities of the Bulgaria 2030 National Development Programme and the Employment Strategy of Bulgaria 2021 – 2030, and will be priorities in the future Skills Strategy to be developed.

In order to prepare people to adapt to the new challenges posed by digital technologies and retain their jobs or successfully move to other jobs, various opportunities for training are provided – training for acquiring/raising vocational qualification or retraining, on-the-job training as traineeship, apprenticeship, dual training, specific training related to a concrete working place, training for key competence, including for digital competence. About BGN 1 billion are envisaged for training activities for the period until 2027 as the financial resources.

To address the challenge linked to the low level of digital skills of Bulgarian population, concrete steps have been undertaken to ensure broad access to training for basic and intermediate levels of digital skills. The Ministry of Labour and Social Policy has already started the implementation of a large-scale investment under the National Plan for Recovery and Resilience with a budget of EUR 194 million. The target to be achieved by mid-2026 is 500,000 unemployed and employed persons without any digital skills to be trained and certified for basic and/or intermediate levels of basic digital skills. Opportunities will also be provided for testing and certification of digital skills of at least 100,000 unemployed and employed persons acquired through non-formal and informal learning.

The investment envisages also elaboration by mid-2026 of a unified digital platform and electronic resources for online training of adults. As soon as the platform is fully operational all online training courses for unemployed and employed financed by the active labour market policy will be carried out through the platform. The platform will have features and programmes adapted for training of people from disadvantaged groups – people with disabilities, people without digital skills, with low level of education, elders. To ensure the access of disadvantaged groups to the digital platform, about 760 digital clubs will be established throughout the country and equipped with computers and Internet connection and trained staff to support people.

The disadvantaged groups in the labour market, among which are the unemployed persons over 55 years of age, are included with a priority in the training and employment measures and programmes of the active labour market policy. Tailored projects for training and employment of unemployed people from disadvantaged groups are initiated and implemented annually in partnership with the social partners. The projects implement a comprehensive approach, providing training in vocational qualifications, training in the key competences needed for successful performance of the profession and support for starting a job, in accordance with a preliminary survey on employers' needs and received requests from employers for labour force with certain qualification and competences.

The amendments to the Employment Promotion Act enrich the range of services provided by the active labour market policy to job seekers with the option for referral to a procedure for validation of professional knowledge, skills and key competences acquired through non-formal training or informal learning. The amendments make possible the budget allocated for active labour market policy to cover the expenditures for validation of professional knowledge, skills and competences of unemployed persons and to provide resources for scholarship, travel and accommodation expenses of the unemployed persons. Preliminary assessment shows that covering expenditures of the unemployed will increase overall access to validation and certification of professional qualification, thereby enhancing their access to continuing vocational training for upgrading the qualification and to employment.

g) Right to Work and Access to the Labour Market

According to data from the Labour Force Monitoring conducted by the National Statistical Institute of Bulgaria, in the second quarter of 2023 there were 107.8 thousand employed persons aged 65 and over. The employment rate for this group was 7.1%, with the growth compared to the second quarter of 2022 is 0.8 percentage points. For comparison, the employment rate of persons aged 65 and over, on average for the EU, is 6.4%.

The Employment Promotion Act contains provisions that guarantee equal opportunities. Art. 23 stipulates that it is prohibited for employers to determine vacancies under conditions based on gender, age, nationality, ethnicity and health status. Exceptions are allowed only in relation to gender, age and reduced capacity for work, when, due to the nature of the work, gender, respectively age or state of health, constitutes an essential element of it.

The Employment Promotion Act regulates intermediary services that help pensioners find work. Persons who receive a pension for social security service and age in the country, an occupational pension for early retirement, an old-age pension in another country or a pension for social security service and age in a reduced amount under Article 68a of the Social Insurance Code, who are not working, may register with the "Labour Bureau" directorates that provide mediation services. In the normative framework of the national employment policy, they are defined as one of the groups of jobseekers who are supported through the following services: provision of information on advertised vacancies, information and employment mediation and psychological support. Access to employment is important not only as an opportunity for additional income, but also as a prospect for an independent and fulfilling life.

h) Social Inclusion

Social Inclusion is related to improving the targeting of measures and implementing an integrated approach, as it is a multi-sectoral policy implemented not only by the Ministry of Education and Culture, but also by other institutions, including local and regional authorities. To achieve the goals of the social inclusion policy, a number of legislative measures and strategies are implemented in the field of poverty reduction, the development of long-term care services and social services for all target groups, which are financed from the state budget and with funds from the European structural funds and international programs and projects.

Social services are only one of the policy instruments for social inclusion. The Law on Social Services, aims to improve the mechanisms for planning, financing, control and monitoring of services, as well as to increase their quality, efficiency and sustainability. In accordance with the Social Security Act and the strategic priorities for ensuring equal access to quality social services and deinstitutionalization, priority continues to be given to implementing the regulations in the field of social services. There is a draft of the National Map of Social Services, for which full or partial funding is provided. It should be noted that public consultations are yet to be held before the Map is submitted for adoption. In a long-term 10-year plan, the Map will serve as a prerequisite for the creation of a complete network of social services with a view to meeting the needs of the population at the national and local levels. The Map will make it possible to balance the existing significant territorial differences and disparities in the distribution of social services, taking into account the number of the population and its age structure.

With the adoption of the Ordinance on the Quality of Social Services in 2022, for the first time in the country standards and quality criteria for all types of social and integrated health and social services have been legally established and applied, regardless of the way they are financed and their property. An important stage in the reform process is the deadline (June 2023) by which social service providers had a commitment to bring the services they provide in line with the quality standards defined in the Ordinance on the Quality of Social Services.

For this purpose, accompanying actions were planned and carried out to increase the capacity of the employees involved in planning, implementation, monitoring and control of social services, as well as the activities for the development of programs for the quality of social services for each individual service. On the part of the Agency for the quality of social services, continuous control is carried out on compliance with the standards for the quality of social services in all social services, including and in homes for the elderly and adults with disabilities.

In conclusion, we don't identify gaps in the normative framework and practical implementation for the protection of the human rights of older persons in the field.

[Options on how best to address the gaps](#)

- 1. Please state how your Government/organization has engaged with international and regional human rights mechanisms (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms), specifically with regard to older persons. (500 words)**

A significant international document related to the guarantee of human rights in the Republic of Bulgaria is the UN Convention on the Rights of Persons with Disabilities (CRPD). Bulgaria, through its policy, continues its work to achieve one of the main objectives of the Convention, namely to promote the strengthening of an inclusive environment for persons with disabilities in a way that allows them to lead independent lives.

Bulgaria is strongly committed to the rights of persons with disabilities and their inclusion in society on an equal basis with others. Bulgarian legislation provides guarantees to promote the protection and guarantee of the full and equal exercise of the rights and freedoms of persons with disabilities. Conditions have been created for the social inclusion of persons with disabilities, which contribute to respect for the inherent human dignity of persons with disabilities. Last but not least, support is provided for persons with disabilities and their families in a way that provides an opportunity to increase the quality of life, by providing comprehensive care and creating conditions for real inclusion.

In order to continue the policy with regard to guaranteeing the rights of persons with disabilities, actions were taken to prepare several documents significant in relation to this policy, namely: NAP for the implementation of the final recommendations to the Republic of Bulgaria made by the CRPD after the First National Report in 2018 and a new National Strategy for Persons with Disabilities (2021-2030). The preparation of the two documents aims to expand and develop the social policies implemented so far in relation to persons with disabilities. It is noteworthy that the mentioned national documents are based on the implementation of the CRPD and a number of other international treaties in this field, follow a human rights-based approach and are being developed in consultation with persons with disabilities and CSOs.

The right to social security was elevated to a universal basic human right by UDHR, but it is also confirmed in the European Social Charter, as well as a number of acts of the ILO. The guarantee of adequate social protection, as well as the provision of other social rights, is enshrined in the treaties of the EU and a number of other acts of secondary legislation. In 2017, the European Pillar of Social Rights was established. It aims to strengthen achievements in the field of social rights and ensure new and more effective rights for citizens. On 3 March 2021, the Commission adopted an Action Plan for the implementation of the Pillar, which sets out specific initiatives. Responsibility for achieving these goals is shared by the EU institutions, national, regional and local authorities, social partners and civil society. The implementation of the objectives is monitored within the framework of the Recovery and Resilience Mechanism and the European Semester.

Bulgaria is part of the international legal order regarding social rights, having been a member of the International Labor Organization since 1920. To date, our country has ratified 101 conventions (of which 64 are in force). A large number of these conventions are in the field of social insurance (Conventions No. 35 and No. 36 on Old-Age Insurance, Conventions No. 37 and 38 on Invalidity Insurance, Conventions No. 39 and No. 40 on Insurance Death, etc.). ILO does not provide for sanctions for non-compliance with conventions by states, but relies on the good faith application of the principle that contracts are binding (*pacta sunt servanda*).

However, since 1927, the Expert Commission on the Application of the Conventions and Recommendations of the ILO exercises regular periodic control for compliance with the ratified conventions. The Standards Committee, which includes representatives of governments, employers and workers, also prepares periodic reports.

As part of the international legal order in the field of social rights, today the country has fully adopted the international standards in this field and in its domestic legislation. The Constitution of the Republic of Bulgaria regulates the right to work as a fundamental and inalienable right of citizens.

It should be noted that labour legislation does not provide for restrictions on concluding an employment contract with a person who has acquired the right to a pension for length of service and age. There is no obstacle to the continuation of work for workers or employees who have exercised their right to a pension. In this case, they have all rights under the employment relationship, incl. right to remuneration, leave, benefits, etc. A worker or an employee who believes that his right to work has been violated can report to the control authorities or seek his rights before the Commission for Protection from Discrimination (in case of discrimination) or before the competent court.

Bulgaria is committed to the core international human rights treaties. It regularly submits its reports to the individual UN treaty bodies. In November 2023, the XXIII-XXV national report is to be discussed before CERD. By the end of the year, the country will present a voluntary interim report on the implementation of the recommendations made during the Third Cycle of UPR.

2. Have those engagement resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate. (500 words)

As can be seen from the answer to the previous question, there is a complex of international norms regarding the social protection of all, incl. older persons. Despite the heterogeneous nature of the sources, the different time in which they were created and their different legal nature, they provide the necessary support for states to implement a strong social policy.

It is necessary to note that according to the Constitution of the Republic of Bulgaria, the ratified, promulgated and entered into force international treaties, to which the Republic of Bulgaria is a party, are part of the effective internal law and have priority over the norms of internal legislation that contradict them. This is another guarantee for the implementation of the high requirements and strict criteria that international norms in the field of social protection provide.

3. What other options can be considered to strengthen the protection of older persons? Please elaborate. (500 words)

All international organizations, within their competences and taking into account the different national practices and characteristics, should support and complement the activities of the member states in this field. Globalization, technological development and the changes they bring about affect the well-being of all persons, especially those in vulnerable situations.

Dealing with emerging challenges should be an urgent political goal of the international community, and it is necessary to use all possible mechanisms to ensure the application of the requirements of international acts, the fulfillment of the obligations of states and, ultimately, the implementation of their provisions rights for individuals.