



## The Public Defender (Ombudsman) of Georgia

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

Submission for the OEWSGA inter-sessional questionnaire

November 2023

## **The Questions**

### **Identification of gaps**

Georgia is a small European country with a population of about 4 million. Unfortunately, like many other countries in Europe, older people in Georgia, who make up 15.6% of the population, face severe challenges. They are often exposed to negative attitudes and age discrimination when it comes to accessing healthcare, employment, goods and services, information, and education. This leads to increasing barriers to their participation, making them more dependent on others and causing them to lose some or all their personal autonomy. These threats to their dignity can also make them more susceptible to neglect, abuse, and violation of their rights.

Office of the Public Defender (Ombudsman) of Georgia is an A-status NHRI which supervises the protection of human rights in Georgia. Although the Public Defender has discussed these problems and provided recommendations to the responsible state institutions, the state has failed to take effective measures to improve the well-being of older persons. In 2013, the government of Georgia, in partnership with the United Nations Economic Commission for Europe (UNECE), designed a roadmap for addressing the challenges of population ageing in accordance with the Madrid International Plan of Action. This roadmap and its recommendations served as a basis for the 'State Policy Concept on the Ageing Issue in Georgia', which was adopted by the Parliament in May 2016.

The State Policy Concept references the National Action Plan (2017-2018), which proposes 13 priority areas for improving the well-being of older people. These include mainstreaming ageing, integrating older persons into society, improving the perception and image of older persons in media reporting, ensuring social protection, improving labour markets and employment, providing life-long learning opportunities, improving health and wellbeing, mainstreaming gender approaches, promoting intergenerational solidarity, addressing migration issues, integrating into international processes, conducting research and data collection, and monitoring and evaluation.

Unfortunately, the Action Plan for 2017-2018 was only approved in November 2017, which means that the responsible state agencies had only one year to fulfil their obligations under the plan. Additionally, the process of implementing the State Policy Concept is hampered by the lack of a regular and stable mechanism ensuring cooperation between the state agencies on this issue.

### **Long-term care and palliative care**

The provision of residential facilities for older persons in the country lacks a clear policy framework and vision. These institutions operate within administrative and normative guidelines that have been established in response to changing circumstances over time. The country has four types of institutions, including two state-owned residential facilities, facilities that receive state-sponsored voucher financing, residential institutions supported by local governments, and facilities supported through private financing. Some institutions receive financial support from religious and charitable organizations, whereas others rely on funding from beneficiaries or their families.

The Office of the Public Defender conducts systematic monitoring of these institutions to evaluate the quality of protection of the human rights of older persons living there. However, the state lacks a systematized approach to oversee the enforcement of existing legislative regulations governing residency institutions. The relevant state agencies do not conduct systemic monitoring and thus fail to adequately react to existing violations. As a result, older persons face significant challenges, including ill-treatment of beneficiaries, lack of mechanisms to enforce existing standards, shortcomings in maintaining documentation, insufficient and unqualified personnel, poor feedback mechanisms and low awareness of beneficiaries about their rights, non-adapted physical environment and poor infrastructure, social passivity, threat of isolation from society, problems with access to timely and adequate medical services, and problems with infrastructure and sanitary-hygienic conditions.

One of the main factors leading to these problems is the inadequate funding of institutions. The services received by beneficiaries in long-term care institutions are not tailored to their special needs. Due to the absence of a supervisory mechanism, the state does not oversee the protection of the rights of older persons or the quality of services.

According to Georgian legislation, palliative care is provided for persons with incurable illnesses in the terminal stage. Each person is entitled to express consent on palliative care in case of detention of such illness. Palliative care is offered under the state program Service of palliative care of incurable patients. The program includes outpatient palliative care for incurable patients and inpatient palliative care for incurable oncologic patients as well as patients with HIV/AIDS. Outpatient palliative care for incurable patients of all ages is provided by the state in full, while for inpatient palliative care, patients aged above 18 years have to contribute 30% of the costs and patients below this age limit have to contribute 20%.

However, the palliative care service provided by the state is insufficient to meet the needs of all older persons in need of such care. There is no properly developed network of home care, and the number of beds in palliative hospices, as well as the number of hospices themselves, is insufficient to meet the needs of older persons in need of palliative services.

## **Autonomy and independence**

In Georgia, some older individuals strive to maintain their independence and remain engaged in social activities. However, others face the risk of homelessness, poverty, and social isolation due to the lack of adequate services and protection mechanisms. Discrimination against older persons is based on various characteristics, such as gender, socioeconomic status, ethnic origin, and even health status.

The existing mechanisms for the protection of older individuals' rights fail to address modern-day challenges and meet international requirements. The state programs and services are insufficient and inadequate, and older individuals are often subjected to violence. Moreover, the existing state programs do not provide alternative care services for this category.

Old-age pension is the social support provided exclusively to older persons. Georgia has a non-contributory pension scheme, which provides a flat rate benefit to all eligible individuals. The state

guarantees the pension to all Georgian citizens who have reached the official retirement age, which is 60 years for women and 65 years for men. The amount of the old-age pension increases periodically and is set at 295 GEL (109 US dollars) for individuals under the age of 70 and at 365 GEL (135 US dollars) per month for individuals aged 70 or older. Pensioners residing in high mountainous zones have their pensions increased by 20%.

However, given the country's current economic status, this measure is insufficient to meet the needs of older individuals. The pension amount is not enough to ensure a life of dignity, good health, or full participation in society.

There is a significant lack of adequate housing for older persons. Disaggregated statistical information regarding living conditions for different groups, such as different age groups, older individuals with IDP status, individuals with a disability, below the poverty line, etc., cannot be found in official sources. The majority of older persons live in multi-generational family settings. The 2014 General Population Census showed that only one-third of individuals aged 65 and over lived independently, either with their spouse or alone.

One of the challenges in ensuring the independent living of older persons is related to age discrimination in employment, especially during the hiring, promotion, and training of employees.

On the other hand, many people in Georgia remain active during their old age. The 2014 Census recorded a labor force participation rate of 48.4% for the entire old-age population of 65 and over. This implies that almost half of the older individuals were either working or actively seeking a job. However, the census shows that the majority of working older individuals (85.1%) are employed in the agriculture sector, and a similar 84.8% have an occupation as farmers, almost all of whom are subsistence farmers. Since agriculture is one of the least productive sectors in the country, most older workers are stuck in low-productivity employment.

## **Social protection and Security**

The rights to social security and social protection are recognized in several legal provisions, such as the Law of Georgia on State Pensions, the Law of Georgia on Social Assistance, the Law of Georgia on Funded Pensions, and the 2017-2018 action plan of the state policy on ageing in Georgia.

However, the majority of older people in Georgia do not have access to adequate housing, social services, and protection mechanisms. As a result, they live below the poverty line, lack shelter, and are at risk of isolation. The social guarantees offered by the state often fail to ensure even minimal standards of living for these individuals. The shortage of programs designed for them, and the measures implemented on a local level to ensure their well-being, do not satisfy the appropriate needs of the group.

The existing social assistance system for older persons is basically limited to the issuance of a non-contributory retirement pension to citizens who have reached the retirement age (60 years for women

and 65 years for men). This pension scheme provides a flat rate benefit to all eligible individuals, but the pension amount is too low to guarantee the affordability of nutrition and medication.

The state only provides a minimum subsistence allowance or boarding house services for these individuals. There are no targeted programs developed for older people, and they can benefit from social programs only after getting registered in a common database on socially vulnerable families and being awarded a subsistence allowance. They must satisfy certain requirements to be awarded the minimum subsistence allowance.

### **Right to Work and Access to the Labour Market**

Freedom of labor and occupational safety are protected by the laws of Georgia, as well as the policy paper outlining the Concept of State Policy on Population Aging. This policy aims to support the development and utilization of the employment potential of older persons.

However, the National Statistics Office of Georgia does not provide unemployment statistics by age groups or for informal employment. This makes it difficult to discuss unemployment rates for older persons.

The labor force participation rate is a measure of the working-age population that is either working or seeking work. According to the 2014 census figures, many people in Georgia remain active in the workforce up to an advanced age. Despite a decrease in the official retirement ages to 60 for women and 65 for men, participation rates remain high, even up to age 80 and over. The census recorded a 48.4 percent rate of labor force participation for the total old-age population (65 and over), indicating that almost half of the older persons were either working or actively seeking a job. For those aged 65 to 79, this participation level was at 51.1 percent, and for the oldest old (80 and over), it was still as high as 39.3 percent. These statistics imply that two out of every five old people in the country were still economically active.

To facilitate access to the labor market, the state created the online employment portal [Worknet.gov.ge](http://Worknet.gov.ge), which started operating in December 2013. However, according to statistics, job seekers aged 60 or over have low activity on the portal, which may be due to various reasons such as lack of information, less access to the internet, and less trust.

In addition, the number of older people employed varies from year to year and does not illustrate a trend. The Office of the Public Defender of Georgia has studied cases of alleged discrimination in labor and pre-contractual relations, which has created an alarming trend. Based on reviews of job announcements posted on various internet sites over the years, the Public Defender identified age-related discrimination and addressed the relevant Ministry with a general proposal in 2017. The Public Defender suggested introducing legislative regulations to prohibit discriminatory requirements in pre-contractual relations. However, to this date, the respective legislative changes have not been adopted.

The Public Defender recommends assessing employment opportunities for older persons based on labor market surveys. It is also essential to study the profiling and professional needs of older persons and provide relevant services through employment centers. Furthermore, it is crucial to increase awareness about Worknet.gov.ge among older persons and create additional development and advancement programs to ensure they can seek redress for the denial of their rights to work and access to the labor market.

## **Access to justice**

The national legislation of Georgia guarantees the right of every person, including older persons, to have unhindered access to a court for the protection of their rights.<sup>1</sup> Along with the judicial mechanism for the protection of human rights, non-judicial mechanisms, such as mediation, arbitration, and Public Defender's service, are available for everyone, including older persons. In addition, administrative appeals are yet another non-judicial tool, which allows older persons to exercise their rights through administrative judiciary proceedings.

However, in terms of affordability, the national legislation does not provide benefits explicitly for older persons. Legislation is general and provides only for the exemption of insolvent plaintiffs from the state duty<sup>2</sup> or the cases of various categories,<sup>3</sup> including the ones concerning social rights. At the same time, the legislation empowers the judge to decide in favor of full or partial exemption of the plaintiff from the judicial costs by considering his/her property.<sup>4</sup>

A free legal aid system is also available in the country, which enables any person to get legal advice on any legal issue.<sup>5</sup> Drawing up legal documents, as well as representation in the court and administrative bodies on civil and administrative cases is provided for insolvent persons,<sup>6</sup> while in cases of accused, sentenced or justified person's representation in the court and administrative bodies, the law requires additional assessment of the importance and complexity of the case.<sup>7</sup> As for the criminal cases, the Criminal Procedure Code of Georgia provides for the mandatory defense<sup>8</sup> of the defendant only in certain cases, while in other cases, insolvency is a mandatory requirement for benefiting from legal assistance. Thus, the applicable legislation does not consider the old age of a person as a separate precondition for vulnerability to provide legal aid at the expense of the state.

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<sup>1</sup> Article 31.1 of the Constitution of Georgia and Article 3.1 of the Organic Law of Georgia on Common Courts.

<sup>2</sup> Article 5.1 (m1) of the Law of Georgia on State Duty.

<sup>3</sup> Article 9.1 of the Administrative Procedure Code of Georgia and Article 46 of the Civil Procedure Code of Georgia.

<sup>4</sup> Article 47.1 of the Civil Procedure Code of Georgia.

<sup>5</sup> Article 2 (b) of the Law of Georgia on Legal Aid.

<sup>6</sup> The relevant person must be registered in the database of socially vulnerable families and must be granted a threshold score according to the socio-economic status assessment methodology approved by the Government of Georgia.

<sup>7</sup> Article 5.1, 5.2, 5.21 of the Law of Georgia on Legal Aid.

<sup>8</sup> Article 45 of the Criminal Procedure Code of Georgia.

Regarding accessibility, the State has not identified the needs of older persons, while the policy documents refer to the study of these needs and elimination of the identified problems only in relation to juveniles, persons with disabilities, ethnic minorities, women, children, and other groups.

In view of the foregoing, the major problem is the fact that national legislation and state policy documents do not consider the specific needs of older persons in terms of access to justice. In the absence of legal safeguards, the State neglects the legitimate interests of older persons for ensuring equal access to judicial and non-judicial protection mechanisms.

### **Contribution of Older Persons to Sustainable Development**

Georgia's Constitution recognizes the right of every human being to participate in and contribute to sustainable development. However, the general legal framework does not specifically mention the rights of older persons. They are not recognized as contributors to sustainable development, nor are their voices always heard, as they are not included in all surveys. They also face barriers in accessing information and technology, which hinders their participation in social, cultural, economic, and political life.

The only legal framework that recognizes the rights of older persons in Georgia is the State Policy on Aging and the Concept of state policy on population aging, which set out 10 commitments to ensure full integration and inclusion in the older persons' community and promote equal and sustainable economic growth in response to an aging population. However, there is currently no national action plan in place to enforce these commitments.

Older persons face challenges in realizing their right to contribute to sustainable development at national and international levels. For example, during the COVID-19 vaccination process, older people and those living in rural areas did not have easy access to the online registration service.

There is no information available on measures taken by the Georgian Government to eliminate ageism and stereotypes that devalue older persons' contribution to sustainable development. However, the Public Defender's Office has taken steps to eliminate discrimination against older persons. For instance, the PDO examined a case where an insurance company in Georgia excluded medical expenses coverage for people aged 70 and above. The PDO assessed this fact as discriminatory under the Law of Georgian on the Elimination of all forms of Discrimination.

### **Economic security**

The Georgian Government provides support to the most destitute of the country's population through the "Targeted Social Assistance Program" (TSA), which covers both cash transfer and in-kind benefits. The program was introduced in 2006, along with a methodology for assessing families' socio-economic status. However, the demand for social assistance is high, and it only covers poor families. As of

December 2022, up to 1.8 million people (approximately 40% of the population) are registered in the TSA database, with a third of them receiving subsistence benefits.

Unfortunately, many poor families are left without social assistance, as the state only provides subsistence allowance to some registered families. This is due to the high poverty rate in the country, and the fact that the TSA provides little opportunity to overcome poverty. Beneficiaries risk losing their subsistence allowance if they find employment, as any change in income would result in an increase in the rating score. The Public Defender has recommended making changes to the program to encourage beneficiaries to overcome poverty.

Older persons' poverty and social vulnerability are among the most pressing issues in the country. There is neither a proper social protection system nor a relevant strategy that would ensure the delivery of fair, targeted, and effective assistance to the population while focusing on empowering vulnerable groups and overcoming poverty.

General regulations in force in Georgia prohibit the simultaneous receipt of two or more social packages, as well as the enjoyment of age-related pension or a state compensation together with a social package (with some exceptions). This rule negatively affects older people, such as those with disabilities or dual citizenship. The poverty rate of older persons in the country is not officially recorded, but based on observation and monitoring, they often depend on social benefits and pensions and live in difficult socioeconomic conditions. More than 25% of the population registered in the TSA are older persons, and over 42,000 socially vulnerable older persons live alone in Georgia according to the data maintained by the Social Service Agency.

### **Right to Health and Access to Health Services**

Georgia does not have separate legislation that guarantees the right of older persons to enjoy good health, although the right to healthcare is recognized by various legislative acts for everyone, including older persons. In 2018, the Georgian parliament adopted the concept of state policy on aging populations in the country, which provides a framework for health protection and welfare provisions for older people.

The National Health Protection Strategy, adopted in 2022, outlines the policy approach for the country and sets a clear path for the development of the healthcare system until 2030. The strategy recognizes that the age structure of the population has changed, and Georgia is experiencing the demographic aging process. With age, the need to use health services increases, and promoting a healthy and active aging policy is critical for Georgia.

To ensure equal access to healthcare services and effective healthcare planning, the need for medical services will be determined based on geographic locations and clinical areas. Special emphasis will be placed on the needs of vulnerable groups, including persons with disabilities and the older population. Quality geriatric care practices are especially important for primary care to establish, given that the

average life expectancy of the population has increased significantly over the last century, and more older persons seek medical services for various chronic diseases.

The universal healthcare program launched in Georgia in 2013, and it aims to ensure the best possible state of health and well-being for all citizens, including older persons without private health insurance. However, the Office of the Public Defender considers that equal access to healthcare services for older people is not ensured in both rural and urban areas, especially for older persons living in mountainous regions who have limited access to local comprehensive medical services.

Improving the knowledge and skills of healthcare personnel is crucial, especially in managing the condition of older patients, but there are no effective measures in place in the country. The Public Defender recommends that the state increase access to medicine and provide regular oversight of physical access to medicines. The Competition Agency has been briefed to develop an annual action plan for detecting and monitoring illegal competition in the pharmaceutical market based on this recommendation.

Furthermore, access to means of transport for people with special needs, and connectivity in remote and rural areas are important issues to consider in ensuring an age-friendly environment in the country. This is especially important when it comes to reaching hospitals or other care facilities.

## **Social Inclusion**

In Georgia, older people are increasingly becoming isolated and marginalized. The National Statistics Office of Georgia reports that as of 2022, the population aged 65 and above accounts for 15.5% of the entire population, with most of them living at or below the poverty line. Many of them live in loneliness or have been abandoned. Even those who live with their families may feel lonely as they are often considered a burden. The COVID-19 pandemic has put older people at risk of poverty, discrimination, and social isolation. The restrictions imposed to prevent the spread of the virus have led to a threat of social exclusion among older people living alone. This long social isolation also has a negative impact on the mental health of older persons, especially those with cognitive decline and dementia, and those who are dependent on care.

To address this issue, psychosocial support programs should be implemented for the older people to help them cope with the stress caused by the pandemic and social isolation. It is also important to improve their access to mobile telephones and modern technologies to increase their access to digital technologies. Remote counselling sessions can be provided to older persons placed in care institutions to provide psychological support and help them cope with the stress caused by the high risk of disease. However, older persons who live outside care institutions do not have access to such support. Increasing access to counselling, especially for those living alone, is crucial for their mental health.

Care facilities for older people often lead to feelings of loneliness and exclusion. The existing standards in the country should protect older persons from exclusion and promote their participation in cultural, recreational, and other programs, which positively impact their physical, social, intellectual, and

creative activity. However, these standards are not properly observed in practice. Monitoring by the Office of the Public Defender showed that the motivation of older persons to engage in relevant activities is low. The lockdown of aged beneficiaries during the first phase of the pandemic resulted in some negative consequences even after regulations were eased. It is essential to address these issues and provide better care and support for older people, especially during these difficult times.

### **Participation in the public life and in decision-making processes**

There are several challenges that hinder the involvement of older persons in decision-making processes and policy development. These obstacles include social isolation, digital exclusion, gender roles, ageism, cultural beliefs, habits, and the lack of concrete opportunities to participate. In addition, a lack of political will or insufficient financial and human resources can also create barriers to implementing participatory approaches.

In Georgia, there is a considerable representation of older persons in legislative authority. However, the same cannot be said for local self-governments, which unfortunately lack significant representation of older persons. Consequently, older persons are often excluded from participating in policy-making processes within local governments. Research conducted by the Office of the Public Defender shows that the needs of older women, including their daily mobility, access to transport, and time resources allocated for movement, are not adequately considered by municipalities.

Older persons living in rural areas face several challenges, including inadequate access to social, health, and basic services, as well as economic opportunities. They also have limited opportunities to participate effectively in political and public life, especially in decision-making related to the agricultural sector. This limits their ability to exercise their active and passive electoral rights.

The absence of a mandatory regulatory mechanism that addresses these challenges and issues is a significant concern. Therefore, the Public Defender supports the creation of a new international, legally binding instrument to protect the human rights of older persons.

## Options on how best to address the gaps

On June 7, 2021, the Public Defender of Georgia submitted information to the UN Committee on the Elimination of All Forms of Discrimination against Women. The document was prepared on the basis of the 6<sup>th</sup> periodic report of the State and lists problematic issues in the country in terms of the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>9</sup>

In the document, the Public Defender refers to the challenges in the implementation of gender mainstreaming, the issue of early marriage, alarming statistics on gender-motivated killing of women (femicide) and shortcomings in investigations, as well as gaps in legislation relating to sexual abuse, scarcity of social protection services in the direction of violence against women and domestic violence, challenges in combating trafficking, equal participation in the country's political life, challenges relating to the effective implementation of women's sexual and reproductive health and rights, lack of targeted social services for older women, etc.

According to the document lack of social services for older women is problematic. Georgian government lacks legal instruments, policies, and programmes to address the challenges faced by older women. Older women face specific concerns in enjoying their economic, social, and cultural rights (social protection, health, education, work, adequate standard of living, and land and property ownership). Older women may face multiple discrimination, mainly on two grounds: gender and age. Challenges for older women are also lack of access to health programs and medications, lack of a care system, and a stigma in society that detracts them from active lives. Older persons, living alone are in difficult socioeconomic and living conditions, they face threat of poverty and homelessness. The main challenges they come across are the lack of adequate targeted programmes and measures for the welfare.

On June 28, 2021, the Public Defender of Georgia submitted the first Comments to the European Committee of Social Rights relating to the Government's National Report. The Georgian National Report on the Implementation of the European Social Charter includes information on the implementation of commitments in the areas of health, social security, and social protection. The report reviews also Care Needs of Older People.<sup>10</sup> According the report, the Public Defender has been discussing the challenges faced by older persons at the local level. These are the difficult socio-economic and living conditions, the threat of poverty and homelessness, inadequate targeted programmes, the lack of measures for the welfare of older persons, the necessity for the assessment of the needs of older persons living in municipalities as well as for planning targeted programmes tailored to their interests.

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<sup>9</sup> Submission of the Public Defender of Georgia to the UN Committee on the Elimination of Discrimination Against Women, 81<sup>st</sup> Pre-sessional Working Group, 5-9 July 2023, List of Issues  
[https://ombudsman.ge/res/docs/2021070623160390187.pdf?fbclid=IwAR3OaDyk2TScbfbjtcuZPOzyI7r\\_NuZqiF6EsMXbh4d9qAj2fkDa4HxSzU](https://ombudsman.ge/res/docs/2021070623160390187.pdf?fbclid=IwAR3OaDyk2TScbfbjtcuZPOzyI7r_NuZqiF6EsMXbh4d9qAj2fkDa4HxSzU)

<sup>10</sup> Comments on Georgia's 14th National Report on the Implementation of the European Social Charter  
<https://ombudsman.ge/res/docs/2021062917075585728.pdf> p.25

Participation in international or regional mechanisms can increase awareness and visibility of older persons. However, little is being done to actualize their rights, with neither the state nor stakeholders taking meaningful actions. This makes it seem that these procedural involvements lack substantive effectiveness. While existing frameworks present some opportunities, they remain inadequate in fully promoting and protecting the human rights of older persons worldwide. Older persons are often not a high enough priority to be included in recommendations when word limits are in place, and there is no mandatory document directly addressing their rights in the country. The sole existing ministerial order that governs service delivery standards in long-term care facilities for older persons represents a limited scope of regulatory coverage. Furthermore, the document outlining the state policy on the issue of population aging in Georgia is too general and lacks specific mandatory or non-mandatory mechanisms for effective implementation. This regulatory landscape raises concerns about the comprehensive protection and realization of the rights of older persons within the legal framework.

Based on PDO experience, a binding UN convention on the rights of older persons is the best way to address the limitations, deficiencies, and gaps in the international human rights framework to the benefit of all older persons around the world. Protecting and promoting the human rights of older persons requires a comprehensive and effective legal instrument to address. The only effective way to ensure proper understanding and implementation of all rights is through a new convention on the rights of older persons.