

Identification of possible shortcomings in the protection of the human rights of the elderly
and how to solve them best

Today, there are 6,647,003 inhabitants residing in Serbia, of whom 3,231,978 are men and 3,415,025 are women, according to the data provided by the Statistical Office of the Republic of Serbia. The average age of the population is 43.8 years, with women being on average three years older than men. The average age of women is 45.2 years, and of men 42.4 years. In the period between the two censuses, the number of people over 65 increased significantly. Previously, they accounted for about 17 percent of the population, and today for 22 percent.

Protection and respect of the human rights of the elderly are associated with specific challenges, both at the national and global level.

The fact is that there is no document exclusively related to the elderly, neither at the international nor at the European level. All that remains is to follow recommendations issued by United Nations treaty bodies to individual countries within the context of monitoring existing international treaties. Agenda 2030, which introduced the "leaving no one behind" principle, cannot be overlooked.

As Serbia is the first country to introduce the "leaving no one behind" principle into its normative framework, it is understandable why the policies that are being developed insist on not leaving the elderly behind. This is particularly reflected in the improvement of health and social care, lifelong learning, protection against violence and local development of specialized services, aimed at enhancing the quality of life of this population.

The Government of the Republic of Serbia's decision to increase pensions by 5.5 percent as of 1 October 2023, and by additional 14.8 percent as of 1 January 2024, as well as the system of Pensioner Cards which provide for payment discounts for the goods and services purchased are also aimed at improving their living conditions.

According to many reports and researches, members of certain groups are at increased risk of discrimination and social exclusion, thus in 2013 Serbia adopted the first Strategy for Prevention and Protection against Discrimination, which defined the goals for the period 2014-2018. This strategy was not divided into strategic areas, but was structured around the position of groups at risk of discrimination, including the elderly (8 related measures). Out of 127 analysed strategic measures, the least implemented were measures related to the improvement of the position of the elderly (12.5%).

The legislative and strategic framework was improved by adopting amendments to the Law on the Prohibition of Discrimination (aligned with EU *aquis*) as well as the Strategy for Prevention and Protection against Discrimination 2022-2030, with the accompanying Action plan for the period 2022-2023.

The general goal of the new Strategy is set in compliance with the provisions of Article 21 of the Constitution of the Republic of Serbia, which guarantees the equality of all before the law, but also the achievement of essential equality, as a prerequisite for social progress and development of all potentials of its citizens. As the path to this goal is long and complex, this process will be supported by enhanced mechanisms of prevention against discrimination, as well as protection after discrimination occurs, thus sending a clear message in the society that any discriminatory act is undesirable, harmful and subject to liability.

To achieve Strategy's general goal, four specific goals are determined: 1) national legislation aligned with international anti-discrimination standards and practice; 2) systemically introduced anti-discrimination perspective in the creation, implementation and monitoring of public policies; 3) enhanced equality and greater social inclusion of members of groups that are at risk of discrimination, and 4) improved prevention and protection against discrimination. These specific goals set, determine principal directions of action towards achieving actual equality in society, preventing discrimination and creating conditions to ensure that members of groups at risk of discrimination, on an equal basis with others, enjoy all human rights and basic freedoms and actively participate in all areas of social life. For each specific goal, corresponding measures that contribute to the achievement of the related specific goal are prescribed, while all measures together contribute to the achievement of Strategy's general goal.

In addition to the umbrella anti-discrimination strategy, also the *Strategy for the Improvement of the Position of the Elderly in the Republic of Serbia for the period 2024 to 2030* was adopted. The Council on Old Age and Aging was established¹, headed by Minister of Family Welfare and Demography.

The position of older citizens is also regulated by law regulations governing certain areas of social relations that have a direct impact on this population, such as: *Law on Pension and Disability Insurance*², *Law on Social Protection*³, *Law on Health Care*⁴, *Law on Health Insurance*⁵, *Law on protection of persons with mental disorders*⁶, *Law on Planning and Construction*⁷, *Law on Official Use of Languages and Scripts*⁸, *Law on Free Legal Aid*⁹, *Regulation on the National Program for the Health Care and Improvement of the Elderly*,¹⁰ etc.

As generally assessed, current regulations provide a good legal framework and adequate instruments for the protection against discrimination, its prevention and suppression aligned with the international and European standards. Nevertheless, the need to improve certain legal solutions has been pointed out in the reports of international organizations and the European Commission.

In addition to harmonizing the legislation with the EU *acquis communautaire*, it is of great importance for further development and enhancement of anti-discrimination legislation and policies, to ensure timely and adequate implementation of the applicable regulations, as well as the engagement of all relevant stakeholders in the process of drafting related regulations, along with obtaining the opinions of all authorities in accordance with the law.

In the past three years, the Ministry for Human and Minority Rights and Social Dialogue, which initiated the introduction of the LNOB principle, pursued significant practice in monitoring and implementing sustainable development goals, as well as in encouraging local self-governments to implement the 2030 Agenda and introduce the "leaving no one behind" principle", including

¹"Official Gazette of RS", no. 29/23

²"Official Gazette of RS", nos. 34/03, 64/04 – CC Decision, 84/04 – other law, 85/05, 101/05 – other law, 63/06 – CC Decision, 5/09, 107/09, 101/10, 93/12, 62/13, 108/13, 75/14, 142/14, 73/18, 46/19 – CC Decision and 86/19

³"Official Gazette of RS", no. 24/11

⁴"Official Gazette of RS", no. 25/19

⁵"Official Gazette of RS", no. 25/19

⁶"Official Gazette of RS", no. 45/13

⁷"Official Gazette of RS", nos. 72/09, 81/09 - corr., 64/10 – CC Decision, 24/11, 121/12, 42/13 – CC Decision, 50/13 – CC Decision, 98/13 – CC Decision, 132/14, 145/14, 83/18, 31/19, and 37/19 – other law

⁸"Official Gazette of RS", nos. 45/91, 53/93, 67/93, 48/94, 101/05 – other law, 30/10, 47/18, and 48/18 - corrig.

⁹"Official Gazette of RS", no. 87/18

¹⁰"Official Gazette of RS", no. 8/17

organization of 55 social dialogue events, with more than 3.500 participants, dedicated to topics that covered each of the 17 UN Sustainable Development Goals.

In addition to the continuous marking of the International Day of Older Persons, also within the marking of the International Human Rights Day, we take special care of this vulnerable social group. Thus, in 2022, December 10 was marked under the slogan "*No one should be left behind – towards the marking of the 75th anniversary of the Universal Declaration of Human Rights*" and three social dialogue events were organised where representatives of state bodies and institutions, civil society organizations, professional and international community analysed the position of the most vulnerable members of society. They particularly focused on the position of persons in a situation of homelessness, persons treated for addiction, persons who have served a sentence of deprivation of liberty, the elderly and the young, and intergenerational solidarity, as well as the development of the mental health care concept.

Much the same, the International Human Rights Day in 2023 was marked by a campaign under the slogan "75 days for 75 years of the Universal Declaration of Human Rights", within which a photo exhibition "The Beauty of Aging" and a social dialogue dedicated to intergenerational solidarity were organised.

The main challenges that the elderly still face in the enjoyment of human rights are: *discrimination, poverty, social exclusion, violence and abuse, and the lack of specific measures and services.*

The elderly population is a heterogeneous, vulnerable social group, and it is necessary to recognize additionally vulnerable members of this group. Elderly households are increasingly numerous both in rural and in urban areas. The gendered nature of aging shows that women live longer than men and that more older women than older men live alone. When they live in a community household, sometimes their pensions constitute the only regular income.

Also, in community households, the elderly support younger members by taking care of children, household, etc. There are also cases of domestic violence to which some older persons are exposed at their homes. All forms of violence are present, not only physical violence, to which women are most exposed.

There are still prejudices that the older persons should spend their lives passively enjoying their retirement days. Their huge life and work experience is neglected, though it constitutes an inexhaustible resource, worthy of respect, valuable not only for young generations, but for society as a whole. Development of intergenerational solidarity would give a momentum to the development of society by using all the advantages of youth along with the enormous potential and experience of older age.

As Serbia is the first country to introduce the "leaving no one behind" principle into its normative framework, we expect that the elderly will certainly not be left behind within the enhancements of the areas of health and social protection, lifelong learning, protection against violence and local development of specialized services, so as to enhance the quality of life of this population. At the same time, it is necessary to develop a framework for enjoying all those activities, which are understood to be "reserved" for the younger population. In this context, it is important to establish programs for the active life of the elderly so that they can fill their free time with activities in which they develop their talents and acquire new knowledge, such as: enjoying trips, going to the theatre, cinema or various courses, etc., which would be financially supported and affordable.

Also, it is necessary to develop social awareness that the better living conditions of our older fellow citizens will be reflected in the overall benefits for ourselves, our families and society as a whole.

Workers over the age of 50 have the least chance of getting a job again, and they are also

exposed to discrimination at work.¹¹ Employers generally do not employ them, even when they apply for positions that require a lower qualification than the one older workers possess, which is also evident in the practice of the Commissioner for the Protection of Equality.¹²

Elderly people also face difficulties in exercising their health care rights. According to the Special Report of the Commissioner for the Protection of Equality on Discrimination against Elderly Citizens¹³, data from earlier years¹⁴ show that long-term care and treatment in the Republic of Serbia are provided in 13 health care institutions at the secondary level, in which palliative care units with 140 beds have been formed, while special health institutions for palliative care and treatment of patients in the terminal phase of the disease do not exist, that the predictors of visiting a general practitioner were a higher level of education, a better financial condition and a greater allocation from own income for outpatient health care services, while among those hospitalized prevailed male, persons with a lower level of education and those who assessed their health as bad or very. This research has confirmed that the elderly in the Autonomous Province of Vojvodina are exposed to significant inequalities in health care and use of health care services, which are related to their social and economic characteristics (poverty, low living standards), and that women are in a particularly unequal position, because among women there are significantly more those who belong to the category of uneducated, as well as the poor, compared to men.

In the Republic of Serbia, 40.2% of people over the age of 65 assess their health status as bad or very bad.¹⁵ In 2020, age as a basis for discrimination was one of the most common grounds for discrimination, and within that category, the largest number of complaints were filed due to discrimination against persons over 65 years of age.¹⁶ In 2017 survey, over 30% respondents regarded that they were exposed to discrimination because of their age, a fifth were dissatisfied with the treatment of the elderly in health institutions, while 13% regarded that more attention should be paid to ensuring better health care for the elderly.¹⁷ Older women slightly more often than older men reported that it was difficult for them to access health services,¹⁸ particularly those living in rural areas.¹⁹ Most often reported problems related to the provision of health services are: discrimination in the use of emergency services, long waiting time for getting specialists' services, unkindness and disrespect by specialist doctors, referral from state health

¹¹ See: Special report of the Commissioner for the Protection of Equality on discrimination in the sphere of labor and employment, December 2019

¹² See regular annual reports of the Commissioner for the Protection of Equality

¹³ Special report of the Commissioner for the Protection of Equality on discrimination in the sphere of labour and employment, December 2019

¹⁴ Social protection in old age: long-term care and social pensions, Team for social inclusion and poverty reduction of the Government of the Republic of Serbia, 2014, Available at: http://socijalnouključivanje.gov.rs/wp-content/uploads/2014/06/sipru_DTNSC_web_jan.pdf (retrieved on: 6 December 2021).

¹⁵ Nataša Todorović, Milutin Vračević (ed.), Initiative for social inclusion of the elderly, Successes and lessons learned, Red Cross of Serbia, 2019, p.2.

¹⁶ Regular annual report of the Commissioner for the Protection of Equality for 2020, op. cit., p. 155.

¹⁷ Commissioner for the Protection of Equality, Annual Report of the Commissioner for the Protection of Equality for 2017, 2018, p. 43-44.

¹⁸ Nadežda Satarić, Shadow report to the CEDAW Committee on the Discrimination of Older Women in the Republic of Serbia, "Strength of Friendship" Association - Amity, 2018, p. 13.

¹⁹ For more information, see: Brankica Janković et al., Position of the elderly in rural areas, Belgrade, 2016, Available at: <https://www.redcross.org.rs/media/1919/polozaj-starijih-na-selu-web.pdf> (retrieved on: 6 December 2021).

institutions to private practices where referring doctors work, and high drug prices.²⁰ In 2023, the largest number of complaints to the Commissioner were submitted due to discrimination based on age. Complaints related to the sphere of labour and employment are most often filed by persons aged 18 - 65, while those over 65 filed a slightly smaller number of complaints in the reporting period (16%)²¹.

Since 2017, in the Republic of Serbia, free medical examinations have been provided every third weekend of the month, for which no referrals or appointments are required. The focus is on prevention, and when necessary, patients are referred for further diagnostics and treatment. These examinations are especially important in rural areas.

The Pension and Disability Insurance Fund of the Republic of Serbia provides the possibility of obtaining a new generation Pensioner Card, which, in addition to proving the status of a pensioner, is used to obtain benefits and discounts in daily consumption and contribute to improving the financial status of pensioners and beneficiaries of other rights stemming from pension and disability insurance. This project involves a wider social community, including, above all the Government of the Republic of Serbia, local governments, socially responsible business entities and entrepreneurs who provide special discounts to pensioners who present their Pensioner Card when paying for goods and services, as well as public enterprises, companies and institutions that provide points-based benefits.

In Belgrade and larger cities, free public transportation is provided for people over the age of 65. In Belgrade and many local self-government units, there are available equipment for physical activity adapted to the elderly population in public areas and parks. Also, tickets for museums and theatres are available for pensioners and the elderly at discounted prices. Additional popularization and raising of social awareness would certainly contribute to better utilization of the aforementioned opportunities, which significantly contribute to the quality of life of older citizens.

As there is still no international convention that directly relates to the position of the elderly, we regard it necessary to intensify work on the drafting of such document. It is necessary to adopt soon for this vulnerable social group, which is constantly growing all over the world, an international legal document that would oblige member states to improve and secure the position of the elderly in all key segments.

²⁰ Commissioner for the Protection of Equality, Research on the Position of Older Women, Belgrade, 2019. Available at: <http://ravnopravnost.gov.rs/rs/istrazivanje-o-polozaju-starijih-zena-u-srbiji> (retrieved on: 6 December 2021).

²¹ Regular annual report of the Commissioner for the Protection of Equality for 2023.