

RESPONSES

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

a. Equality and non-discrimination

The Constitution of the Republic of Armenia, by virtue of Article 29 prohibits discrimination based on sex, race, skin colour, ethnic or social origin, genetic characteristics, language, religion, world view, political or other views, belonging to a national minority, property status, birth, disability, age or other circumstances of a personal or social nature.

In spite of this provision there is no comprehensive anti-discrimination legislation in Armenia. Some of the gaps in this regard include the lack of definition for types of discrimination and clear-cut rules on discrimination in general.

There are provisions prohibiting discrimination in other legal acts governing specific areas of socio-economic relations. For instance, article 3.1 of the Labour Code prohibits discrimination, based on age among other characteristics, in a much clearer manner. The article introduced the notion of direct and indirect discrimination in labour context. It does not, however, address other forms of discrimination such as harassment, segregation, victimization, associated discrimination, or the failure to offer reasonable accommodations to vulnerable individuals. The latter two being particularly important for the protection of the elderly.

Other areas of the socio-economic rights are regulated to an even lesser extent. For example, there are no provisions prohibiting discrimination in the context of financial loans which can be of particularly grave consequences for the elderly. Therefore, there is a clear need for a comprehensive anti-discrimination legislation that would encompass all social and economic relations.

Another critical concern lies in the effectiveness of enforcing these anti-discrimination provisions. The lack of adequate mechanisms or procedures for individuals to report discrimination and seek redress is yet another gap in the field. Without robust mechanisms in place, these laws risk remaining on paper, failing to protect those they are intended to shield.

Article 203 of the Criminal Code of the Republic of Armenia attempts to criminalise discrimination in the following manner:

“Discrimination – a manifestation of a differential treatment, which violates the person’s honour and dignity or the rights and freedoms or by which the person is given advantages, absent of any objective grounds or legitimate purpose, on the basis of sex, race, skin colour, ethnic or social origin, genetic features, language, religion, world vision, political or other opinions, being a national minority, property situation, birth, health, disability, age or other circumstances of personal or social nature — shall be punished by a fine in the maximum amount of ten-fold, or public works for the term of maximum hundred hours, or restriction of liberty for a term of maximum one year or short-term imprisonment for a term of maximum one month.”

While the criminalization of discrimination is vital for the effective protection of vulnerable groups such as the elderly, the provision itself is deficient. The article is too vague to warrant criminal liability and in general be in line with the principle of legal certainty

It relies heavily on subjective elements, such as the impact on the "person's honour and dignity" or the presence of "objective grounds or legitimate purpose." Such subjectivity can make it difficult to determine what constitutes discrimination, making it challenging for both law enforcement and individuals to understand their rights and obligations. Moreover, there must be a clear line between discrimination that constitutes a criminal offence and that which warrants a civil penalty which is not drawn by the current legislation. All of the above reasons make Article 203 of the Criminal Code inoperable in practice.

It is clear from the above, that while there is an attempt to prohibit and address discrimination in Armenia, the regulations are scattered and not comprehensive enough to efficiently protect the rights of vulnerable groups, including the elderly.

To bridge the above-mentioned gaps, the Ministry of Justice of the Republic of Armenia has undertaken the development of a draft law titled "Equality before the Law", which aims to establish a more comprehensive anti-discrimination framework in line with international best practices. This initiative is specifically intended to afford persons' protection from discrimination in the civil law context.

The adoption of the law on "On Ensuring Equality before the Law" is enshrined in the Human Rights Strategy Action Plan for 2023-2025. It is intended to pass the legislation by the end of 2024.

b. Violence, neglect and abuse

Order of the Minister of Labor and Social Affairs of the Republic of Armenia No 171-A/1 was adopted on 9 November 2021 to detect, prevent cases of violence against elderly beneficiaries and/or beneficiaries with disabilities at round-the-clock caretaking institutions for social protection of the population that operate in the Republic of Armenia, as well as in organizations providing round-the-clock care services for elderly and/or persons with disabilities and having concluded a contract with the Ministry on the provision of grants, and report them to relevant bodies, as well as to carry out social and psychological activities with persons subjected to violence and to take other necessary actions.

According to the Order, in performance of their activities the above-mentioned institutions shall be guided by the fundamental principle of protecting the rights and freedoms of the human being and the citizen and respecting the dignity of the human being, are aware of recognized methods and mechanisms for protecting any manifestations of violence (physical, psychological, sexual, economic) and careless, inhuman and degrading treatment and social isolation and neglect when providing social assistance.

Based on Order No 171-A/1, directors of organizations providing social services to the elderly shall ensure the participation of employees of the organization (medical personnel and other specialists) in trainings, workshops and other awareness-raising activities on types of violence, their detection, prevention of these incidents. Awareness-raising activities shall also be regularly organized for beneficiaries of the organization.

c. Long-term care and palliative care

Social Inclusion

The Ministry of Labor and Social Affairs regularly carries out activities for improvement of social services provided to the elderly, as well as for development and launch of programmes for social inclusion of the elderly.

The care standards for the elderly has already been improved by Decision of the Government of the Republic of Armenia No 1744-N of 10 November 2022, as a result of which the cost of annual home care for the elderly has increased from AMD 61.875 to AMD 231.600 per person, as compared to 2020.

According to the data of 2022, the majority of elderly persons visit day-care centers for meals service. On 3 November 2022 the Government of the Republic of Armenia adopted a decision, as a result of which already 6 Marzes of the Republic and the city of Yerevan have day-care centres in place, where elderly persons may enjoy services provided by the social worker, psychological, legal, cultural and entertainment services.

As of 2023, community services provided to the elderly cover both the capital and all Marzes of the Republic, 1250 persons enjoy home care service, and another 1200 persons enjoy day-care service, and another 1260 persons are provided with round-the-clock care in Yerevan, Vardenis, Gyumri and Vanazdor, in the last two cities — through delegated service.

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

Starting from 2024, the Republic of Armenia will introduce a new Vulnerability Assessment System based on the principle of social needs assessment and social service provision proportionate thereto, thus boosting the socio-economic potential of a person. It is envisaged that families that turned to be in difficult life situation and in need overcome poverty by applying models for gradually overcoming poverty, more families are provided with social services by increasing the number of self-sufficient, dignified families with own earnings and gradually reducing their dependence on the state support. The recommended amendment is important in terms of raising the level of addressability of benefits granted by the new assessment system and inclusion of persons in extreme poverty (**including also the elderly**).

The new vulnerability assessment system provides for the guaranteed minimum income policy, where the threshold for the right to the guaranteed minimum income or benefit is set to be the value of the minimum food basket, which will allow overcoming extreme poverty. The system is targeted at those entitled to benefits in the system that is the population in extreme poverty according to the minimum food threshold (**including the elderly**, persons with disabilities and beneficiaries of other vulnerable groups).

It is envisaged to make the average amounts of the minimum pension and the pension equivalent to the costs of food and consumer baskets, according to point 4.6 of the 2021-2026 Programme of the Government of the Republic of Armenia.

Since 1 July 2023, the amount of the minimum pension has increased from AMD 31.600 to AMD 36.000 by the decision of the Government of the Republic of Armenia.

f. education, training, lifelong learning and capacity-building

Points 1 and 2 of Article 38 of the Constitution of the Republic of Armenia prescribe that everyone shall have the right to education, and everyone shall, in the cases and under the procedure prescribed by law, have the right to receive free education on a competitive basis within state higher and other vocational education institutions. Article 86 states that the main objectives of state policy shall include ensuring development of free of charge higher and other vocational education.

Pursuant to Article 2 of the Law of the Republic of Armenia "On education" (Law No HO-297), objectives of the legislation in the field of education shall include ensuring and protecting the right to education of citizens of the Republic of Armenia as referred to in the Constitution. Article 6 of the same Law establishes the state guarantees for the right to education, according to point 1 of which, the Republic of Armenia shall ensure the right to education, irrespective of national origin, race, gender, language, religion, political or other opinion, social origin, property status or other circumstances, and according to point 6, the State shall create necessary conditions for the purpose of receiving education in line with the peculiarities of development of citizens in need of special conditions for education and for ensuring social adaptation. Article 49 of the same Law prescribes the rights and social protection of learners in the education system.

According to point 76 of part 2 of the State Programme for Development of Education in the Republic of Armenia by 2030" approved by Law HO-441-N, the ultimate objective of the Programme is to establish an effective and internationally competitive education system based on national and universal values, aimed at the development of the Republic of Armenia, which shall provide everyone with the opportunity to receive high-quality education meeting his or her needs and capacities at all stages of the life.

The legislation of the Republic of Armenia guarantees the continuity of education of the elderly, but currently there are no target programmes for the elderly coordinated by the Ministry of Education, Science, Culture and Sports of the Republic of Armenia.

The Armenia Red Cross Society has conducted needs assessment among the elderly, which has established that in the Republic of Armenia there is a need for highly qualified specialists providing services to the senior generation (the elderly) and persons in need of special care. To fill this gap, the Armenia Red Cross Society has developed modules for Short-Term Projects "Care Nurse" and "Care Specialist" and submitted them to the Ministry of Education, Science, Culture and Sports of the Republic of Armenia for recommendation.

g. Right to Work and Access to the Labor Market

Pursuant to part 1 of Article 57 of the Constitution of the Republic of Armenia, everyone shall have the right to free choice of employment. Also, the Labor Code of the Republic of Armenia prescribes free choice of employment, the right to work (which everyone freely chooses or freely agrees to), the right to dispose of his or her working skills, to choose profession and type of activity as the main principle of the labor legislation.

In May 2023, a number of amendments were made to the Labor Code of the Republic of Armenia, as a result of which the regulations with respect to persons at the age of pension were amended as well.

Prior to these amendments, the Labor Code prescribed that the employer shall have the right to rescind the employment contract concluded with the employee for an indefinite time limit, as well as the employment contract concluded for a fixed time limit before the end of its validity period in case the employee entitled to age pension has attained the age of 63 and in case the employee not entitled to age pension has attained the age of 65, if the relevant ground is provided for by the employment contract. At the same time, the Labor Code also prescribed that contracts shall be concluded with persons entitled to age pension and having attained the age of 63 or persons not entitled to age pension and having attained the age of 65 for a fixed time limit, based on evaluation of the professional abilities of a person in the position or job offered by the employer.

As a result of the extensive amendments made to the Labor Code in May 2023, starting from 31 July 2023:

1. The employer shall not have the right to rescind the employment contract in case the employee **entitled to age pension** attains the age of 63, and in case the employee **not entitled to age pension** attains the age of 65.
2. The employer may not conclude a contract with a person for a fixed time limit, proceeding merely from the fact that he or she is a person **entitled to age pension** and has attained the age of 63 or is a person **not entitled to age pension** and has attained the age of 65. The Labor Code of the Republic of Armenia also prescribes that **age** may not be deemed to be a legitimate reason for rescission of the employment contract, except for cases prescribed by law.

The voluntary nature and free choice of employment, **excluding discrimination**, are among the main principles of the state employment policy, prescribed by Article 8 of the Law of the Republic of Armenia "On employment".

Pursuant to point 2 of part 1 of Article 4 of the Law of the Republic of Armenia "On employment", the person having attained the age of 16 who, regardless of the fact that he or she is involved in any type of activity deemed to be employment, has applied to a territorial center of the Unified Social Service of the Ministry of Labor and Social Affairs for the purpose of exercising his or her rights prescribed by law, shall be deemed to be a person seeking employment. Consequently, **elderly persons** may also be record-registered in territorial centers of Unified Social Service as person seeking employment.

Moreover, pursuant to part 1 of Article 21 of the Law of the Republic of Armenia "On employment", employed persons seeking employment (including elderly persons) shall, after being record-registered in a territorial center of the Unified Social Service, have the right to apply to receive, from an authorized body, professional consulting regarding the

legislation of the Republic of Armenia on employment and state employment programmes, to receive information on vacancies and jobs to be created, mediation for choice of employment and job recruitment, professional orientation and for appealing — by way of superiority or through court procedure — the actions or inaction of officials of an authorized body.

h. Access to justice

Several legislative and other issues hinder the ability of the elderly to seek and obtain justice. These barriers encompass financial concerns, a lack of familiarity with modern technologies, the increasing digitization of the justice system, costly legal proceedings, limited awareness of alternative dispute resolution (ADR) options, and the complexity of legal aid provisions.

The elderly often face financial constraints, which can significantly hinder their access to justice. Legal services, court fees, and associated costs including hiring lawyers can be prohibitive and daunting for elderly individuals on fixed incomes. These costs can deter them from pursuing justice, leaving them without recourse for their legal issues and vulnerable to abuse.

The law of the Republic of Armenia on the Profession of Advocates (hereafter the Law) sets out the categories of persons who are eligible for public defence (free legal aid). In case of the elderly the services of the public defender are, however, accessible only to those pensioners who are living alone (Article 41 section 5 point 7 of the Law). A question then arises what happens if an elderly person is not living alone but with an elderly spouse? Current laws and policies may not account for these nuances, leaving such individuals in a legal grey area.

In an increasingly digitalized justice system, the elderly may struggle to navigate and use modern technologies. This lack of proficiency can hinder their ability to access legal information, online services, and electronic court filings, exacerbating their vulnerability. Moreover, while alternative dispute resolution mechanisms, such as mediation or arbitration, are often more cost-effective and less adversarial than traditional litigation, many elderly individuals may not be aware of these options, leaving them vulnerable to the financial burdens of the court proceedings.

k. Right to health and access to health services

Elderly persons are not included in the list of socially disadvantaged and certain (special) groups of the population prescribed by Annex No 1 to Decision of the Government of the Republic of Armenia No 318-N of 4 March 2004; thus, they may not benefit from the medical aid and services free-of-charge and under privileged conditions, guaranteed by the State (in-patient medical aid and services, hardly accessible diagnostic tests), as well as the medical services provided through the use of the latest and expensive technologies approved under point 3 of Annex No 5 to the aforementioned Decision.

Lonely pensioners at the age of 65 or older, to whom the commission referring them to

medical institutions may grant a pass to receive medical aid and services free-of-charge or under privileged conditions, guaranteed by the State for persons not included in the list of socially disadvantaged and certain (special) groups of the population (in case there are medical indications and based on the opinion given by medical specialists), are an exception.

Also, only dental-surgical (removal of tooth) medical aid and services that are free-of-charge and are guaranteed by the State shall be provided for persons at the age of 65 or older, while organization of therapeutic and orthopedic dental medical aid and services shall be carried out under privileged conditions, through application of the co-payment principle.

Starting from 2025, through the introduction of comprehensive health insurance in the Republic of Armenia, persons at the age of 63 or older will benefit from the insurance package.

m. Accessibility, infrastructure and habitat/transport, housing and access/¹

n. Participation in the public life and in decision-making processes

In 2021, Decision of the Prime Minister of the Republic of Armenia No 535-A was adopted, which concerns the Inter-Agency Commission in charge of Issues of Elderly Persons, its actions and composition. The Commission consists of different government agencies and non-governmental organizations which, by convening sessions three times a year, consider different issues related to elderly persons; the observations of non-governmental organizations providing round-the-clock care, care at home and day care for elderly persons — made on the basis of surveys conducted among own beneficiaries — are also considered.

The Government of the Republic of Armenia is committed to the obligations assumed in the areas of protection of the rights of elderly persons, promotion of active and healthy ageing for full participation in public life and ensuring the fight against discrimination and ensuring access to long-term care and support for caretakers and families.

Taking into account the importance of ensuring dignified, active and healthy ageing for elderly persons, the issues of elderly persons are also deliberated in the context of demography, as Armenia is classified among the ageing countries. Currently, the draft of the 2023-2040 Strategy on Demography is being actively deliberated.

The Strategy also addresses the role of elderly persons, the opportunities to use their potential, the provision of care services for elderly persons and persons with disabilities and a number of other important issues.

¹ To be discussed at the 14th Open-Ended Working Group on Ageing

Have those engagements resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate.

The Republic of Armenia has ratified Convention 111 of the International Labor Organization on Discrimination in Employment and Occupation. In accordance with the provisions of the Convention, a comprehensive definition of discrimination is provided and the prohibition of discrimination is enshrined in the Labor Code of the Republic of Armenia.

The Republic of Armenia has also ratified Article 24 of the Revised European Social Charter, according to the regulations of which a number of amendments to the provisions of the Labor Code of the Republic of Armenia with respect to elderly persons at the age of pension have been undertaken, the aim of which is to exclude rescission of the employment contract of an employee (dismissal of an employee from work) merely due to attainment of a certain age.

See also point g- Right to Work and Access to the Labor Market