

## **Guiding Questions: Neglect, violence and abuse**

- 1) In your country, are there specific studies or surveys (from governmental, non-governmental or academic sources) on violence, abuse and neglect experienced by older persons?

Yes. The Red Cross of Serbia has done three research studies in collaboration with the national Commissioner on Protection of Equality: [Elder Abuse: Research in Domestic Abuse](#) (Red Cross of Serbia, 2012); [Introduction to ageing and human rights of older people in Serbia](#) (Red Cross of Serbia, 2015); [Financial Abuse of Older Women in Serbia](#) (Journal of Elder Abuse & Neglect, 2015); [Well-kept family secret: Elder Abuse](#) (Red Cross of Serbia, 2015).

- 2) **(a)** What forms of violence, abuse and neglect (e.g. physical, psychological, sexual, financial, or other) are registered? What is the setting in which they occurs (i.e. residential and non-residential)? Is there information about the type of perpetrators?

The latest research study (Well-Kept Family Secret) was done via a telephone survey covering 800 persons above the age of 65 (the average age of the interviewee was 73). It established that 19.8 percent of the interviewees have been exposed to some form of abuse and violence in their older age whereas 11 percent have experienced some form of abuse in the last 12 months. As for the specific types of abuse, the highest risk seems to be of financial abuse. Looking at specific forms of financial abuse, it can be established that 11.5 percent of the interviewees were exposed to at least one of its forms. The most frequent form of financial abuse perpetrated against older persons is theft. The indicator of a high risk of financial abuse is the fact that 13.5 percent of the interviewees stated that they do not have complete control of how they use their finances. At the same time 54 percent have reported using their income to support the other members of the household. It is important to underline here that older people frequently do not perceive this as financial abuse, including the fact that they do not control their own finances.

3.9% of our interviewees were exposed to physical abuse, with 2 percent stating they have experienced it in the last 12 months and 0.7 being exposed to it three or more times in the last year. Psychological/ verbal/ emotional abuse was reported by 7.8 percent of the interviewed persons with 4.6% reporting it in the last 12 months.

Sexual abuse was proven to be the biggest taboo for the interviewed older persons with 50% of them declining to answer questions related to it and only one person reporting that they were target of an attempt of sexual contact by a third party.

Neglect is, unlike other forms of abuse, closely related to one's social status: persons with lower education level and lower income (less than 15,000 RSD per month) are more likely to be exposed to neglect. 3.4% of interviewees have reported neglect.

All of the above data pertains to family setting. As for the residential care setting there is no consistent collection of data related to abuse. Official data on domestic violence collected by Centres for Social Welfare shows an increase in reported cases of elder abuse, however it is notable that financial abuse does not even have its own category and is bundled with "other" forms of abuse, making a very small ratio in the overall sum. Abuse is divided into five categories: physical, sexual, psychological, neglect and others. In 2012 from 9.325 reported cases of domestic violence 1.204 (12.9%) was against older people. In the majority of cases acts of violence were committed against older women (69.93%). Most prevalent form of abuse was physical abuse 38% and older women were subject to physical abuse in 71% of reported cases. As mentioned, financial abuse is bundled within the category "other" and there were only 9.63% of reported such cases where 62% of the victims were women. Therefore, it is essential to explore and describe the phenomenon in much bigger detail as well as to improve the normative framework tasked with protecting older people from abuse. Yet, it is equally essential to improve the level of knowledge of older people regarding

their rights and the information flow from the institutions of the system in order to provide the older people with best possible support and services.

**(b)** Does violence, abuse and neglect particularly affect specific groups of older persons? If so, which groups and how?

Research shows that older women are at a higher risk of all forms of violence and abuse. A research study done in 2016 (pending publishing) by Natasa Todorovic showed the higher risk of abuse and neglect among socially excluded older people and older people with mental health issues.

3) Does your country's legislation explicitly address issues of violence, abuse and neglect against older persons? If not, what legislation applies to such issues in the context of older persons? Does this legislation sufficiently address the full range of violence against older persons?

The legislation in Serbia does not make explicit references to older persons in the documents pertaining to protection from violence, abuse and neglect. The short list of documents relevant to the issue is as follows: Criminal Law (which in its latest iteration includes explicit references to domestic abuse), Family Law (explicit protection from abuse in the family context, stipulating duties related to provision of livelihood in the family context, defining the conditions for depriving a person of legal capacity), Misdemeanour Law (one of its protection measures relates to domestic abuse), Law on Inheritance (providing terms for inheritance of material property as well as stipulating the terms of life care contracts that may be abused for financial gain). The Red Cross of Serbia is through its continued activities advocating for amendments to legislation that would make abuse, violence and neglect targeting an older person to be aggravating circumstances that would affect the severity of the legal punishment.

4) What legislation exists to protect older persons specifically against financial abuse, including inheritance abuse?

Law on Inheritance. However, in terms of inheritance, older people are not well informed about their legally granted rights and there are recorded cases of fraud where they were falsely lead to believe certain things about their rights: in practice it is quite common that all of the property acquired through marriage tends to be registered under husband's name even though legally it should be considered marital property. Therefore, the widow should be entitled to requesting that marital property is not subject to the probate proceedings and for the rest of the property (inheritance) she should be an equal inheritor with the rest of the legal heirs. During probate proceedings many older women do not request marital property to be excluded from the inheritance because they are not aware of this entitlement. As a rule, older persons do not want to enter litigation against the other heirs – usually their own children – and they also lack financial means to hire a lawyer and pay court fees so they commonly drop their claim. Those who do enter litigation are faced with the process that may take many years to complete and with an uncertain outcome.

On the other hand, there are common cases in practice where descendants of the decedent suggest to the surviving marital partner to renounce the inheritance and there are also recorded cases where the surviving partner renounced the inheritance under duress, under threat, through fraud or under misapprehension, and there are cases of violation of the right to the forced share of the inheritance where commonly no judicial protection is sought. The surviving marital partner who is entitled to a share of the decedent's inheritance alongside with the decedent's parents and their children and who is without the necessary means of livelihood can – within one year upon the decedent's death – request to be granted use of the parts of or the whole of the inheritance inherited by other heirs for life, or even request to inherit the whole inheritance as property.

However, as a rule older persons do not know of this opportunity so they do not use it even when living in great poverty.

In practice it is also fairly common that older persons assign and distribute their property to their descendants during their lifetime and are left without any property. This contract belongs to the category of formal contracts with the same rules applicable as for the life care contracts.

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