



**OFFICE OF THE COMMISSIONER FOR FUNDAMENTAL RIGHTS
THE NATIONAL HUMAN RIGHTS INSTITUTION OF THE UNITED NATIONS**

**Inputs of the Office of the Commissioner for Fundamental Rights (NHRI
Hungary) to the Eleventh Session of the UN Open-ended Working Group
on Ageing**

**I. Thematic focus areas of the eleventh session (“Right to work and access to the
labour market” and “Access to justice”)**

a.) Right to Work and Access to the Labour Market

A few ideas on the measures that currently restrict the employment of pensioners:

In the employment of pensioners, the biggest problem is that few employers are willing to employ older persons and they are not encouraged to do so by the statutory environment either. Currently, the employer pays one half of the social contribution tax of 22 percent, i.e. 11 percent up to a gross monthly salary of 100 thousand Forints in the case of employing a person over 55 years of age but the employer has no other benefits. Instead of, or in addition to the introduction of the new form of cooperatives, it would make sense to extend this social contribution benefit, or total exemption, to the entire gross salary of pensioners employed in a form different from cooperatives, in order to make the employers interested in employing highly qualified pensioners. There is an explicitly prohibitive provision on the employment of pensioners in the public sector. (There have previously been several cases before the European Court of Human Rights (ECHR) regarding receiving both salaries and pensions, which is not allowed for the employees of the public sector by the Hungarian State.)

Pensioners’ cooperatives of public interest – novelty in the labour market

Pensioners’ cooperatives of public interest are a new form of cooperatives introduced in Hungary by Act LXXXIX of 2017. The law took effect on July 1, 2017. The activities of such cooperatives may be targeted at sales, procurement, production and providing services. According to the data provided by NAV (the National Tax and Customs Administration), as many as 24 pensioners’ cooperatives of public interest were already registered on August 25, 2017.

The goal of pensioners’ cooperatives of public interest (hereinafter referred to as: pensioners’ cooperatives) is to ensure employment and reactivation in the labour market for those older persons who are still active, as well as to improve the financial and social situation of their members. Furthermore, the goal of pensioners’ cooperatives is to ensure that the knowledge, professional and life experience accumulated by the members are transferred to the next generations. By realizing these goals, the pensioners’ cooperatives also serve public interests.

Pensioners’ cooperatives of public interest provide services for companies that can be booked as costs. Through this, accounting is simplified, there is no termination procedure, and the division of labour becomes more flexible. For operating these, the pensioners’ cooperatives have their own administrative staff. The salaries are paid by the pensioners’ cooperatives. The work of the members who receive old-age pension, which is performed in the framework or by commission of the cooperative, does not qualify as income generated from independent activity, only the 15% personal income tax is imposed on such salaries, the cooperative is exempted from the payment of 10% pension contribution and the 4% health



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care contribution that are otherwise imposed on the salaries of pensioners in other forms of employment.¹⁴ However, this means that, as they do not pay pension contributions, they will not receive the annual 0.5% increase granted for work performed by pensioners.

Equality and non-discrimination – developments, proposals (continuous implementation)

1. There is a high number of persons with disabilities and special needs who have multiple handicaps among the elderly, this is why policies on persons with disabilities and old age policies should be harmonized, and the situations caused by accumulating disadvantages should be explored.
2. With a view to taking determined action against discrimination, the elaboration of programs which represent the approach through which the anti-discriminatory endeavors can be clearly realized, from a special perspective and horizontally, with special regard to the strengthening of advocacy groups relevant for this age group
3. Paying increased attention to the needs of older persons in the media (e.g. the establishment of a “channel for the elderly”, information programs)
4. Ensuring the presence matching the age proportions in the media and among public figures, as well as increasing the media appearance of older persons; providing information on the questions related to aging, the problems of the elderly, as well as supporting the use of media by the elderly

b.) Access to Justice

Older persons are guaranteed access to justice, including judicial and non-judicial means and mechanisms on an equal basis as all other persons. Furthermore, having signed and ratified the UN CRPD, Hungary promotes equality and ensures that vulnerable groups, such as the elderly, receive the necessary support in empowering them to effectively exercise their rights.

Older persons are granted legal aid on an equal basis as other vulnerable groups of society, the system of support does not feature age-specific measures. Legal support – including legal representation where necessary - via state agencies and pro bono centers of NGOs are available on the local and regional levels, as well as via electronic communication. The National Strategy on Aging sets out aspects and principles vis-a-vis access to justice and remedies, nonetheless the realization of said principles may be lacking effective and consistent monitoring. The Hungarian Ombudsman has no official information or any experience in this field.



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II. Normative framework for the thematic focus areas discussed at the tenth session

a.) Education, Training, Life-Long Learning and Capacity-building

1. Definition, 2. Scope of the right

Pursuant to Paragraphs (1)-(2) of Article XI of the *Fundamental Law of Hungary*, every Hungarian citizen shall have the right to education. Hungary shall ensure this right by extending and generalizing public education, by providing free and compulsory primary education, free and generally accessible secondary education, and higher education accessible to everyone according to his or her abilities, and by providing financial support as provided for by an Act to those receiving education.

Discrimination on the grounds of age is prohibited by the Fundamental Law of Hungary. Using the services of higher education and adult education *is not dependent on age*, the elderly may also freely choose from the degree courses and the training programs offered by the educational institutions. The training criteria, the input and output requirements are equally valid for everybody, however, the use of these services of higher education and adult training by this age group is difficult for different reasons, this is why positive measures should be taken by the state to ensure that as many older people as possible take part in higher education and adult training. The Fundamental Law of Hungary ensures participation in higher education to any citizen, including elderly people.

In Hungary, the state ensures the free of charge acquisition of the first and second qualifications recognized by the state within the framework of school-based vocational training, irrespective of the age of the students. The legal background to all this is ensured by *Act CXC of 2011 on National Public Education*, as well as the laws regulating the system of vocational training, primarily *Act CVXXXVII of 2011 on Vocational Training*. The right of older persons to life-long learning and skills development is typically ensured by higher level vocational training and vocational training outside the school system. The legal background of higher level vocational training is partly provided by Act CCIV of 2011 on National Higher Education, and partly by the laws on vocational training, while the legal background and framework of professional qualifications outside the school system are provided by the laws on adult education, and primarily by *Act LXXVII of 2013 on Adult Education*.

The reduction of the digital gap in Hungary was a key goal set by the Hungarian strategies, in order to achieve which several training programs aimed at reducing the information and generation gap were launched. As a result of this, older people may join the different target programs as beneficiaries. According to the National Strategy on Aging¹, it is impossible to strengthen the effectiveness and efficiency of the social welfare systems without the harmonization of the instruments used in the social and health care sector, as well as those of educational and employment policies, and the development of services. Action Plan I of the National Strategy on Aging² requires that the National Curriculum be

¹ OGY (National Assembly) decision No. 81/2009. (X. 2.) on the National Strategy on Aging¹

² Government decree No. 1087/2010. (IV. 9.) on the 1st Action Plan of the National Strategy on Aging (2010-2012)



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reviewed with regard to the criteria of equal treatment, more precisely, those of the social equality of those aging and the elderly.

2. State obligations, 4. Special considerations

In the training of the elderly, providing them with up-to-date knowledge, as well as promoting active aging, a system of adult education that offers a wide range of training programs adjusted to the needs of the labor market and financially affordable for the elderly would be necessary. The scope of benefits that can be provided on the basis of age should be widened in the system of higher education too. The number of programs on healthy lifestyles, health consciousness, as well as the narrowing of the digital gap should be increased, furthermore, awareness raising- and orientation-type of training programs for the prevention of the victimization of those aging and the elderly should be elaborated, with a view to ensuring education adjusted to age specificities. All this puts the emphasis on the social responsibility of the private sector that provides adult education services on a market basis.

The legal regulation of adult education in Hungary ensures the legal conditions and frameworks for life-long learning but the realization of the relevant expectations is often hindered by narrow-minded attitudes both in the views of society and in how the elderly relate to their own age. This is why awareness raising and rights awareness programs and campaigns should be organized for changing the attitude of society, which will help the elderly feel that they are active and useful members of the society, and also help the rest of society identify with this kind of thinking.

Taking part in education and training may also help the elderly feel less lonely, so the primary responsibility of the municipalities in this respect lies in providing information and infrastructure (cultural centers, libraries, museums, sports and educational institutions), organizing cultural programs, services, mediating between the various civil society organizations and state partners, as well as supporting NGO initiatives. This should first of all be ensured by the forms of information adjusted to the needs of the groups concerned, and allowing the free of charge participation of those in need.

Implementation

As regards elderly people, their life-long learning, education and taking up active employment are prevented by their lack of speaking foreign languages on an adequate level, their lack of digital skills, or poor digital skills. The transformation of the Hungarian system of higher education (transfer to the Bologna system, the introduction of a two-level school-leaving examination system, the introduction of stricter foreign language requirements for awarding academic degrees) resulted in a decline in the number of older persons taking part in further education. The reason for low participation rates also lies in the considerable geographical and regional inequalities. Furthermore, there are not enough training programs adjusted to the needs of the elderly for the time being, there are scarce financial resources available for the training programs aimed at the preservation of the active life of the elderly, in the different tendering systems. A further development of the certification systems may become necessary in the area of adult education.

Although higher education still does not take an adequately active role in the education and training of the elderly, and very few courses that are specifically targeted at the older generation are launched, there are more and more positive initiatives in this area. The different Senior Academies can be mentioned as good practices in Hungary, which offer affordable or free of charge training options and attractive activities for



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the elderly on topics relevant to them. The development of social relationships is promoted by the special training methods such as tasks carried out in pairs or in smaller groups, in the form of project work or common field exercises. The Pécs Senior Academy, the Debrecen Senior Academy, the University of the Third Age for Active Aging at ELTE University and the Milton Friedman University may be good examples for Hungarian best practices. In October 2019, a Senior Academy was started at Semmelweis University too, which wishes to address the elderly population interested in health and medicine.

There are several Hungarian initiatives for the voluntary transfer, by students, of IT skills to the elderly. The transfer of IT knowledge to the elderly also strengthens the social relationships of older people and enriches their leisure time activities, while the involvement of young people in these activities on a voluntary basis also promotes a dialog between the generations. These services incur very low costs, due to the involvement of voluntary workers and the use of school infrastructures. In Hungary, the relevant best practices were realized in Veszprém County.

Furthermore, those training programs which help the elderly avoid victimization and strengthen their feeling of security can also be classified as best practices in Hungary. These crime prevention training programs are aimed at organizing self-help groups and the transfer of knowledge on the methods of criminal groups targeting older people, with a view to preventing victimization. The subjective feeling of security may be significantly improved if the elderly get prepared for the typical crimes committed against them. It is of key importance to involve the appropriate partners (police, senior citizens' clubs) in the training programs as well.

b.) Social Protection and Social Security

1. Older persons are specifically mentioned in a few paragraphs of the Fundamental Law of Hungary. It is stipulated by Paragraph (5) of Article XV of this law that Hungary protects families, children, women, *older persons* and persons with disabilities through special measures.³

Guaranteeing social security in Hungary is not a fundamental right granted on a universal basis but only a goal set by the state. It is the state's responsibility *to maintain and operate the social welfare system, without, however, generating a right ensured in the Fundamental Law of Hungary to anybody, with regard to the specific form and extent of any of these social services.* The specific form and extent of the individual benefits are freely determined by the legislator.

The right to social security means that the state should ensure such a minimum level of livelihood through the totality of social benefits which are indispensable for the enforcement of the right to human dignity.

Hungary has a National Strategy on Aging in place (81/2009. (X. 2.) National Assembly (OGY) decision). As regards the realization of the goals defined in this Strategy, the Office of the Commissioner for Fundamental Rights has not conducted any investigations.

2. Contributory schemes for older persons: old-age pension (in one's own right), widow's pension (bereavement allowance for relatives), parent's pension (pension for relatives) (Act LXXXI of 1997 on

³ See also: Paragraph 40, Article XIX of the Fundamental Law of Hungary



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Persons entitled to Social Security Benefits and Private Pensions, as well as the Funding for these Services).

As part of equitability, it is possible to establish pensions and exceptional pension increases, as well as one-time benefits.

Non-contributory schemes for older persons: *social benefits provided to the elderly* who are not entitled to receive pension in their own right after they have reached retirement age, in lack of time-in-service, or they receive a very low amount of benefits.

Cost-free public health care services, and *municipal social benefits* are also available).

Old-age pensions for those who provide long-term care may be claimed by those retiring parents who have been providing nursing care to their chronically ill or disabled children for several decades, based on predetermined criteria.

The goal of *village administrator's* or *farm administrator's services* is to mitigate the disadvantages arising from the lack of institutions in small villages and farm settlements, ensuring access to public utilities and certain basic services.

As regards *catering services*, those persons in a disadvantaged social status should be provided hot meals at least once a day.

In the category of *home assistance*, the services necessary for maintaining independent living should be ensured for the persons using these services in their own living environments.

You will find the detailed description of social benefits in Act III of 1993 on Social Governance and Social Benefits.

Elderly people over 65 years of age may travel free of charge, while those pensioners who are under 65 years of age may travel if they produce a pensioner pass, with a 50 and 90% discount in local and long-distance transport, 16 times a year.

Pensioners are entitled to use health care services.

For more information, please check the following:
<http://www.kormanyhivatal.hu/download/6/94/25000/Inform%C3%A1ci%C3%B3%20id%C5%91sek%202019%20-%20EMMI%20r%C3%A1j%C3%A9koztat%C3%B3.pdf>

The Hungarian Seniors Council run by the Government comments on the government decisions and draft legislation (with the exception of the draft municipality decrees) directly affecting the living conditions of the elderly, furthermore, it monitors the enforcement of these. The Council makes proposals and mediates the proposals made by older persons, religious communities and civil society organizations.

3-4. Challenges: The amount of minimum pensions in Hungary has been unchanged since January 1, 2008: it is HUF 28,500. its significance lies in that the criteria for and/or the extent of countless social and family support allowances are defined as the different percentages of the lowest amount of the old-age



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pension. In order to achieve that social allowances in fact ensure an adequate standard of living, the amount of the minimum pension should be increased.

The local distribution of services is uneven and access is not adjusted to the needs. It is an additional challenge in the area of social security that in the past few years, there has been a lack of beds and there have been extraordinarily long waiting lists in senior residential homes. Furthermore, the harmonization of social and health care services in the case of elderly persons requiring long-term care is of key importance.

The study prepared by Andrea Gyarmati in April 2019 gives a comprehensive picture of the situation and problems of old-age care in Hungary (<http://library.fes.de/pdf-files/bueros/budapest/15410.pdf>)

5. In our work, we mainly meet the players of the private sector as the maintainers of the social services.. With regard to the provision of services, they are also subject to the effect of Act III of 1993 on Social Governance and Social Benefits.

6. There are some well-known best practices in the field of social security and protection:

- Organization of free health screening for elderly people for conditions justified by their age (Budapest, district 13)
- Residential care home for patients with dementia (Szamossályi)
- Passenger transport and attendant services at rates lower than those of the taxis
- Providing assistance in senior citizens' clubs with administrative tasks, providing information on the available services (Budapest, Ferencváros district)

Further best practices: Molnár-Scharle-Tóth-Várad: Mit tehetnek a települési önkormányzatok az idősekért? (What Can Municipalities Do for the Elderly?) <https://library.fes.de/pdf-files/bueros/budapest/15637.pdf>