

## **11th Session of the Open-ended Working Group on Ageing**

**Ombudswoman of Croatia – statement to be delivered by Orhideja Skale Družak,  
Legal Affairs Advisor to the Ombudswoman on Wednesday, March 31st, 2021  
(Access to justice)**

Mr. Chair, Excellences, delegates, ladies and gentlemen,

it is an honor to take part in the 11th Session of the OEWG on Ageing.

In order to fight physical, psychological, financial, and other types of abuse perpetrated against older persons, they, as rights holders need to have unhindered, age-appropriate access to justice.

For older persons in Croatia who live in rural and remote areas, reaching the court and protecting one's rights can be difficult. The judicial reforms of the last decade made courts less accessible, many of them closed their outposts and moved the judges to bigger cities, which made legal proceedings a costly and time-consuming venture.

Furthermore, national statistics show that one in two persons who are over 65 and live alone are at risk of poverty and cannot afford high court fees and expensive legal services. Many rely on the free legal aid system, which is struggling because of delayed government funding – so much so that and in some, especially remote parts of Croatia, the free legal aid providers have to scale back or shut down their operation. As a result, many older persons cannot reach free legal aid or afford professional legal services, which curtails their access to justice.

Even with legal aid, accessing justice requires age-appropriate procedures. In maintenance-until-death cases, vulnerable plaintiffs are left without property or adequate care and face desperate, unsafe conditions during lengthy proceedings. The Ombudswoman heard from a 91-year-old plaintiff who was waiting for an appeal court ruling for over a year. Despite the evident risks surrounding maintenance-until-death contracts, the Ministry of Justice of Croatia did not implement the recommendation of the Ombudswoman to expedite all such proceedings and collect data on their duration and the number of plaintiffs that died before the rulings were issued. With a backlog of cases and lack of sensitivity on the matter, older persons cannot rely on timely judicial protection.

In the Council of Europe framework, the European Court of Human Rights finds the advanced age of a person relevant in considering whether a case is heard “within a reasonable time” under Article 6(1) of the ECHR and the right to a fair trial. In these cases, the Court established that the administrative and judicial authorities are obliged to act with “exceptional diligence” in light of the applicant’s age and state of health.

On an international level, Croatia joined the CRPD in 2007., and Article 13 of the CRPD explicitly mentions effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations. However, in Croatia, the CRPD is rarely interpreted or implemented with older persons in mind.

Therefore, due to national policies that fail to protect the rights of older persons and a fragmented, inadequate international framework, we show our support for a comprehensive international instrument that will address the rights of older persons and guarantee access to justice in an affordable and timely manner.

Thank you.