

## 14<sup>th</sup> session of the Open-ended Working Group on Ageing

Responses of the Commissioner for Human Rights of the Republic of Poland

to the guiding questions for the **focus area on accessibility, infrastructure and habitat (transport, housing and access)**

### National legal and policy framework

1. What are the national legal provisions and policy frameworks that recognize older persons' rights to accessibility, infrastructure and habitat (transport, housing and access)? This could include, but is not limited to:

- a) the right of older persons to adequate housing, including land, property and inheritance.
- b) the right of older persons to access and enjoy, on an equal basis with others, the physical environment, transportation, information and communications (including ICTs), and other facilities and services open or provided to the public, both in urban and in rural areas (e.g. buildings, roads, transportation and other indoor and outdoor facilities, schools, housing, green spaces, medical facilities and workplaces; information, communications and other services, including electronic services and emergency services).
- c) policies/programmes that enable older persons to live independently and to be included in their communities as they age.

Ensuring architectural accessibility as well as information and communication accessibility is regulated by the *Act on ensuring accessibility for persons with special needs* of 19 July 2019<sup>1</sup>. Digital accessibility is regulated by the *Act on digital accessibility of websites and mobile applications of public entities* of 4 April 2019<sup>2</sup>. Both Acts include a definition of a person with special needs. According to the definition it is a person who, because of their external or internal characteristics, or because of the circumstances has to take additional action or apply additional measures to overcome a barrier in order to participate in a specific sphere of life on an equal basis with others. However, the Acts do not relate to private sector entities, including to the problem of housing accessibility.

The Commissioner for Human Rights has raised the urgent need to implement *Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services*, also known as the European Accessibility Act. Member states were required to enact, by 28 June 2022, legislative, regulatory and administrative provisions necessary for its transposition (Article 31(1) of Directive 2019/882) but to date the relevant solutions have not been introduced into the legal order (the legislative work is in progress).

Polish legislation does not include, either, regulations establishing the right of older persons to accessibility of private or public housing (apartments in publicly owned buildings), and no requirements for accessibility in this regard are set out. An older person seeking municipal assistance in the form of publicly owned apartment rental should meet the same conditions as any

<sup>1</sup> Journal of Laws of 2022, item 2240.

<sup>2</sup> Journal of Laws of 2023, item 1440.

other applicant. Some statutory regulations apply to older persons indirectly, e.g. the requirement for a court to decide on the right to social housing rental in cases where the court is ruling on eviction. Those statutory regulations require that account be taken of the person's health, disability, living on the only source of income in the form of retirement or disability pension, i.e. circumstances that usually apply to older persons.

No national legal act (Constitution, act of Parliament, regulation) sets out housing conditions that are appropriate for older persons, as none of such commonly binding acts explicitly introduces the right of older persons to adequate housing conditions. Undoubtedly, according to the Constitution of the Republic of Poland that protects human dignity, older persons, just like all people, should have decent housing conditions. Some courts invoke this constitutional principle in cases concerning housing conditions. Older persons with disabilities can count on housing adapted to their special needs, e.g. to the type of their disability (as there is a statutory obligation to take into account the needs of persons with disabilities). Yet, older persons from outside the group cannot invoke any regulations requiring the provision of special housing conditions to them in connection with their age. In practice, however, public bodies (municipalities) responsible for allocating public housing take into account the specific needs of older persons as well as their mobility limitations (e.g.. allocate apartments on the ground floor or lower floors if a building has no elevator). However, this approach is not a statutory obligation.

2. What are the challenges and barriers faced by older persons for the realization of their right to accessibility, infrastructure use and habitat (transport, housing and access) at the national and international levels?

Refusal by a person to accept a public sector apartment that does not meet the needs of older people results in a longer waiting time for suitable housing. Many apartments made available by municipalities are not adapted to the specific needs of older people, and in some of them such people are not able to function on a daily basis. These apartments are located in buildings without an elevator, or with bathrooms outside the apartment; they have coal-based heating systems (which require operating a stove) or have electric heating systems which are expensive.

It should also be noted that municipal buildings are usually quite old (several dozen years old, usually without elevators, and are in poor technical condition). Even if the municipalities are open to meeting the needs of older persons, they may not have vacant apartments that meet such needs.

Older persons who have problems with mobility and who live in buildings without elevators (in cities) or without surrounding pavements (in the countryside), especially those who live alone, face obstacles to moving freely and in practice have no possibility to go outside.

### Data and research

3. What data, statistics and research are available at the national level regarding older persons' rights to accessibility, infrastructure and habitat (public transport, housing and access)?

Statistics Poland published, in December 2023, data on older persons in Poland for 2022. According to the data, **in 2022, 28.8% of households formed exclusively by older persons were located in buildings with architectural barriers**. In cities, the problem concerned 32.3% apartments of such households, and in rural areas the proportion was much lower (16,8%)<sup>3</sup>.

<sup>3</sup> Situation of older persons in Poland in 2022. Statistical analysis, Statistics Poland, Branch Office in Białystok, <https://bialystok.stat.gov.pl/publikacje-i-foldery/ludnosc/sytuacja-osob-starszych-w-polsce-w-2022-r-,4,5.html> [access: 26.03.2024].

In 2023, the CHR conducted a qualitative study on the accessibility of social services for older persons in rural areas. It covered, among others, transportation services and infrastructure accessibility. The results will be published in 2024. Preliminary data reveals difficulties in the form of very limited availability of public transportation. The schedules make it impossible e.g. to make and complete a medical appointment in the closest town. The lack of pavements along roads in villages limits the possibility to leave the house. The other data will be provided in a separate report by the Commissioner for Human Rights. An additional source of knowledge on the subject is the complaints filed with the Commissioner with regard to transport exclusion that particularly affects older persons. Note should also be taken of the increasingly difficult situation of older women who have no driver's license (as driving has long been the cultural domain of men)<sup>4</sup>.

### **Equality and non-discrimination**

4. What measures are being taken to eliminate ageism, ageist stereotypes, prejudices and behaviours that hinder older persons' rights to accessibility, infrastructure and habitat (transport, housing and access)?

The National Action Programme for Equal Treatment for 2022-2030 (2022)<sup>5</sup> sets out certain activities to prevent ageism, e.g. by enhancing a positive image of older persons. Yet, they are not related to equal access to infrastructure and space.

### **Remedies and Redress**

5. What mechanisms are necessary, or already in place, for older persons to submit complaints and seek redress for denial of their rights to accessibility, infrastructure and habitat (transport, housing and access)?

In Poland, there are two different procedures for seeking accessibility and filing complaints in this regard. As regards architectural accessibility as well as information and communication accessibility, a request for such accessibility is processed within 14 days of the filing date. As regards digital accessibility, a request is processed and accessibility should be provided within 7 days of the filing date. Due to the difference in the deadlines, the two procedures are not understandable for the interested persons. A request may be filed by a person with special needs, after demonstrating a factual interest, and may not be filed by a social organisation representing the person.

<sup>4</sup> See: <https://bip.brpo.gov.pl/pl/kategoria-tematyczna/wykluczenie-transportowe> (access: 28.03.2024).

<sup>5</sup> <https://www.gov.pl/web/family/the-council-of-ministers-adopted-a-resolution-on-establishing-the-national-action-programme-for-equal-treatment-for-the-years-2022-2030> [access: 26.03.2024].