



Open-ended Working Group on Ageing
Tenth working session
15–18 April 2019

Substantive Inputs on the Focus Area “Social protection and social security (including social protection floors)”

**Working document submitted by
the Office of the High Commissioner for Human Rights (OHCHR)**

Table of Contents

Page

I. Introduction	2
A. Background.....	2
B. International human rights framework.....	2
II. Analysis of Submissions Received	3
A. Availability.....	3
1. National legal framework.....	4
2. Social security system.....	4
3. Challenges regarding social protection coverages.....	6
B. Adequacy.....	6
C. Accessibility.....	8
1. Equality and non-discrimination	8
2. Participation and information.....	10
D. Remedies and Accountability.....	11

I. Introduction

A. Background

1. The Open-ended Working Group on Ageing, established by the General Assembly in its resolution 65/182 with the purpose of strengthening the protection of the human rights of older persons, will hold its tenth session at United Nations Headquarters from 15 to 18 April 2019. The substantive discussions will focus on two thematic areas: social protection and social security including social protection floors, and education, training, lifelong learning and capacity-building in the context of older persons. To that end, the Bureau called for substantive inputs from Member States, national human rights institutions, non-governmental organizations and United Nations system agencies and bodies, following questionnaires prepared by the Secretariat on the two focus areas.

2. During the tenth session, the Open-ended Working Group on Ageing will consider and discuss the contributions received, based on the working documents prepared by the Secretariat. The present document contains the analytical summary of contributions received on the focus area: social protection and social security (including social protection floors).

B. International human rights framework

3. The right to social security is grounded in international human rights law and several treaties contain specific references to old age protection through social security schemes. The Universal Declaration of Human Rights recognizes that everyone has the right to social security.¹ It also contains specific references to old age, affirming that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including ... medical care and the right to security in the event of (...) old age”.² The right to everyone to social security and to an adequate standard of living are recognized in articles 9, 10 and 11 of the International Covenant on Economic, Social and Cultural Rights. Several other human rights treaties contain references to old age and the right to social security, as other regional and international treaties.³

4. The ILO has also adopted a normative framework in the field of social security and old-age benefits through several Conventions and Recommendations, providing concrete guidance for the realization of the human right of older persons to social security and an adequate standard of living, to support their health and well-being, including medical care and necessary social services.⁴

2/12

¹ UDHR, article 22.

² UDHR, article 25.

³ These include at the global level the Convention on the Elimination of All Forms of Discrimination against Women, arts. 11(1)(e), 11(2)(b) and 14(2)(c); Convention on the Rights of the Child, arts 26 and 27(1); Convention on the Elimination of All Forms of Racial Discrimination, art. 5(e)(iv); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, arts 27 and 54; Convention on the Rights of Persons with Disabilities, art. 28. At the regional level it includes the Inter-American Convention on Protecting the Human Rights of Older Persons, art. 17; African Charter on Human and Peoples' Charter.

⁴ Of this body of international social security instruments, the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Old-Age, Invalidity and Survivors' Benefits Convention, 1967 (No. 128), and its accompanying Recommendation No. 131, and the Social Protection Floors Recommendation, 2012 (No.202), provide an international reference framework setting out the range and levels of social security benefits that are necessary and adequate for ensuring income maintenance and income security,

5. According to the Committee on Economic, Social and Cultural Rights in its general comment 19, the right to social security encompasses the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, *inter alia*, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents.⁵

6. The right to social security includes social protection, which encompass a wide range of policies designed to address the risks and vulnerabilities of individuals and groups, irrespective of whether they can or cannot work. It can be divided in two main segments: social insurance and social assistance. Social insurance refers to all contributory insurance schemes providing prespecified support for affiliated members in the event of contingencies such as old age. Social assistance encompasses all initiatives providing both cash and in-kind assistance to those living in poverty. Social pensions consist of cash benefits received by persons above a given age without the requirement of compulsory contributions.⁶

7. The Committee highlighted that States are duty-bound to progressively ensure that everyone is covered by contributory or non-contributory systems. It also notes that States cannot rely solely on contributory systems for old-age pensions, as all individuals will not always be able to secure sufficient means to maintain an adequate standard of living. States must have a non-contributory pension system in place. Therefore, within the limits of available resources, States must provide non-contributory old-age benefits to assist, at the very least, all older persons who, when reaching the retirement age, are not entitled to an old-age insurance-based pension.⁷

8. The Committee also developed the key elements of the right to social security. In the present document, submissions received are analyzed in the context of the elements that particularly apply to older persons that are indicated in the questionnaire, namely: availability, adequacy, accessibility, equality and non-discrimination, participation, and remedies and accountability.

II. Analysis of Submission Received

A. Availability

HUMAN RIGHTS STANDARDS (Art. 11 CESCR and GC 19)

- The right to social security requires that a system, composed of a single scheme or variety of schemes, is in place to ensure that benefits are provided for older persons for the relevant risks and contingencies they face. The system should be established under domestic law.

as well as access to health care, in old age. The extension of coverage to all older persons is an underlying objective of these standards, with the aim of achieving universality of protection, as explicitly stated in Recommendation No. 202.

⁵ General Comment No. 19: The right to social security (art. 9). E/C.12/GC/19, 2008, para. 2.

⁶ Report of the independent expert on the question of human rights and extreme poverty. A/HRC/14/31, 2010, para. 26-28, pg. 7.

⁷ General Comment No. 19: The right to social security (art. 9). E/C.12/GC/19, 2008, para. 4 and 5.

ILO STANDARDS (R202 and C102)

- The schemes should be sustainable, including those concerning provision of pensions, to ensure that the right can be realized for present and future generations.

1. National Legal Framework

9. Most countries have constitutional provisions that recognize the right to social security or social protection according to the responses received. The Constitution of Costa Rica establishes the right to social security and provides measures to achieve the universalization of social insurance. The Constitution of the Republic of South Africa recognizes everyone's right to social security, including appropriate social assistance. The Constitution of Argentina establishes social rights, including benefits of social security, compulsory social insurance, pensions and mobile pensions. Old-age benefits are secured through the Danish Constitution. The Constitution of Kenya provides that the State shall provide appropriate social security to persons who are unable to support themselves and their dependents, with a focus on vulnerable groups including older members of society. The Constitution of Poland recognizes the right to social security to every citizen, including after reaching the retirement age. The Dominican Constitution recognizes that everyone has the right to social security and the progressive development towards universal access to adequate protection including in old age. The Constitution of Uruguay states that the old age pension is the right of those who have reached the limit of their productive age, after long residence in the country, and who lack the means to provide for the necessities of life. Under the Canadian Constitution, the federal, provincial and territorial governments share responsibility for social security. The Portuguese Constitution recognizes the right to social security and social protection, including access to non-contributory and contributory old-age benefits, along with other social rights (health, education). Social protection is also recognized in the Constitution of Nigeria.

10. While most responses received indicated the existence of national legislation regulating the provision of contributory benefits under social insurance schemes, only a few responses mentioned a legal framework on non-contributory benefits. Responses referred to existing legislation covering social security and social protection benefits, such as pensions, illness and invalidity benefits, nursing home shames, old-age benefits, including farmers' old-age security, dependency benefits, retirement, and their application to specific groups as persons with disabilities.

2. Social Security System

11. The responses received indicate that the most commonly reported type of old-age scheme is contributory old-age benefits, linked to the employment status and to contributions made, usually compulsory. Non-contributory schemes, in the form of universal schemes, social assistance or social safety nets, are reported less frequently. In addition to the contributory and non-contributory schemes, some responses mentioned tax measures, social services, and employment policies as other measures that contribute to income security in old age.

12. Some responses indicated that States have adopted both, contributory and non-contributory pension schemes. For instances in Portugal, it is the coordination between contributory and non-contributory schemes that guarantees that social protection is granted to everyone in old age,

including in case of poverty and social exclusion. The core of the Swedish social insurance system is the income-based pension, a contributory benefit paid out to everyone who has paid income tax in the country and earned their pension entitlement. It is supplemented by guarantee pension, for those with low or no income-based pension and 40 years of residence in the country. It also includes housing supplement and maintenance support for the elderly – for those over the age 65 years with no earned pension and no guarantee pension.

13. In Argentina the National Security System provides contributory and non-contributory benefits. The pension system of retirement ensures benefits to men (65) and women (60) after completing 30 years of contribution. The universal pension for elderly aged 65 years and over provides old-age benefits intended to guarantee a social protection floor for the elderly by providing pensions for those who are not covered by the contributory pension scheme because they do not have enough years of service with the required contributions. The Uruguayan social security system includes the contributive scheme, where people above the age of 60 got retirements funds if they had completed 30 working years. Among the non-contributory transfers to the elderly are the *Old Age Assistance Program* and the *Old-Aged Pensions*. If older persons integrate households in a situation of socio-economic vulnerability, they will also receive the Uruguay Social Card or the Family Allowances-Equity Plan. In Colombia the general pension system establishes a) compulsory affiliation for all dependent workers and independent; and b) a non-contributory pension system that extends a welfare pension to older persons who do not receive a retirement pension. The Social protection system in Nigeria recognizes contributory and non-contributory pensions, including a non-contributory pension among citizens above 60 years of age.

14. Canada's social security system consists of a non-contributory public pension, the *Old Age Security program*, the *Canada Pension Plan* that provides monthly retirement benefits based on an individual's contributions, and other social assistance programs and health and social services. In Germany, social security and social protection are granted to older people through various systems which are linked to the employment status and to contributions made. Other provisions include social assistance benefits - basic income support in old age and in the event of reduced earning capacity. The social pension scheme in Denmark consists of a basic amount, a supplement and a yearly supplementary benefit (lump sum). It also provides social services free of charge to older persons, including home care services. In Myanmar, a social pension is provided through a non-contributory scheme which in principle covers all citizens once they reach the age of 85 years. The National Social Protection Strategic Plan urged to lower the eligibility age and increase the benefit amount.

15. In a lesser extent, submissions referred to the existence of universal health insurance coverage. For instance in Costa Rica, health insurance covers all the inhabitants of the country. In Germany there is compulsory health insurance coverage either under a private or a statutory health insurance scheme. Insurance benefits are provided irrespective of the actual income and financial situation of the insured person. For socially disadvantaged people, health insurance and long-term care insurance are included in social assistance schemes, to ensure access to adequate and affordable health and long-term care benefits under the same conditions as for other people. The access to the health system in Uruguay is universal and includes the palliative care and mental health programmes. The Public Health Service including hospitalized treatment and all medications is free of charge for all Seychelles citizens. In Denmark, social security, social

protection and health care are free of charge, and the social pension scheme secures a reasonable basic standard of living when persons reach the pensionable age.

3. Challenges regarding social protection coverages

16. A joint submission by several non-governmental organizations⁸ indicates that many older persons around the world are experiencing poverty and social exclusion due to inadequate social protection mechanisms. 32 per cent of the world's working age population are not covered by legal guarantees of either a contributory or non-contributory pension. This lack of legal coverage is higher for women, 36 per cent of whom have no legal guarantee of a pension.⁹ Referring to the ILO data, the same submission indicates that there are significant regional variations, ranging from nearly 100 per cent legal coverage in higher income countries, to 23 per cent in sub-Saharan Africa and 24 per cent in South Asia.¹⁰ Similar concern is extended to access to adequate and affordable health care, as "60 per cent of older persons surveyed in low- and middle-income countries¹¹ and up to 10 per cent in high-income countries¹² report they cannot access essential healthcare because of the cost."

17. ILO in its submission emphasized the importance of guaranteeing contributory pension schemes as a fundamental element of income security in old age. However it noted that the level of contributory pensions in certain cases is not above the national poverty line, and that they do not therefore allow life in dignity on their own, especially for low wage earners and persons with short employment records. Furthermore, non-contributory pension schemes play an important role, alongside contributory schemes, in ensuring that persons who are not, or are not sufficiently covered by the latter benefit from at least basic protection. Non-contributory pension schemes can be an effective tool for poverty reduction, if benefits, together with other support measures, are above the accepted poverty line or the monetary value of a set of necessary goods and services.¹³ The long-term social protection policies should progressively achieve universal coverage and guarantee adequate old-age benefits to ensure access to necessary goods and services and allow life in dignity.¹⁴

B. Adequacy

HUMAN RIGHTS STANDARDS (art. 11 and 12 CESCR)

- Benefits, whether in cash or in kind must be adequate in amount and duration in order that older people realize their right to an adequate standard of living and adequate access to health care

6/12

⁸ Joint submission by AGE Platform Europe, HelpAge International, The Law in the Service of the Elderly and the National Association of Community Legal Centres Australia.

⁹ World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals International Labour Office – Geneva: ILO, 2017, page 78

¹⁰ World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals International Labour Office – Geneva: ILO, 2017, page 79

¹¹ WHO, *World Report on Ageing and Health*, 2015, p.91

¹² WHO, *World Report on Ageing and Health*, 2015, p.92

¹³ ILO, Parra. 545, pg. 207.

¹⁴ ILO, Universal social protection for human dignity, social justice and sustainable development, International Labour Conference, 108th Session 2019, parra. 504, page. 190.

ILO STANDARDS (R202 and C102)

- ILO social security standards provide a framework of internationally accepted minimum standards about social protection systems. For social protection floors, adequacy means that the basic social security guarantees should prevent or at least alleviate poverty, vulnerability, and social exclusion, and allow life in dignity
- The adequacy criteria should be monitored regularly to ensure that beneficiaries are able to afford the goods and services they require to realize their human rights.

18. Several submissions reported on existing mechanisms for adjusting the pension benefits, and the amount of social assistance. In Uruguay pensions received by those living in low-income households and meeting certain age requirements increased gradually since 2007. In Ecuador the average amount of retirement pensions increased by 51% between 2007 and 2016, to help older persons live in dignity.

19. Some submissions referred to the adoption of social assistance programs and other measures to elderly in poverty and extreme poverty, when the income does not suffice to ensure a decent subsistence level. South Africa reported payments of social grants (i.e., cash transfers) to vulnerable groups including older persons. Portugal indicated that social old age pension is in place to those not entitled to any contributory old-age pension, granted by the non-contributory scheme, to cover all residents who are in a situation of socio-economic deprivation. Germany, France and Canada established social assistance benefits - basic income support in old age and in the event of reduced earning capacity. Italy established health care free of charge, and social programmes such as the *Purchasing Card*, the *Social Allowance* and the *Citizenship Pension* to elderly people living in poor economic conditions. The Pension 65 Program grants a monetary sum to the elderly who are in a situation of poverty and extreme poverty in Peru, which reduces the social vulnerability of the elderly from 65 years of age and contributes to improving their quality of life. The Dominican Republic establishes a Solidarity pension regime for persons over sixty years of age who lack sufficient resources to meet their essential needs. Ecuador established a Pension program (*Mis Mejores Años*) for older persons living in extreme poverty). In Uruguay if older people integrate households in a situation of vulnerability, they are eligible to receive the *Uruguay Social Card* and the *Family Allowances-Equity Plan*. Through its *Social Protection Programme for Older Adults*, known as *Colombia Mayor*, Colombia provides bimonthly subsidies to pay for the necessities of older persons in extreme poverty. France reported three complementary benefits: a) the contributory minimum which raises the pensions of those who have contributed on the basis of very low wages; b) the solidarity allowance for the elderly, which is granted to any person over 65 whose resources are below a certain level; and c) the minimum old age, part of a non-contributory approach to the fight against poverty of the elderly.

20. A joint submission by several non-governmental organizations¹⁵ highlighted that an adequate standard of living and adequate income cannot only be measured in terms of paying for basic survival needs. Rather, under human rights standards, it must allow for full participation in the community and society and guarantee personal dignity. The value of non-contributory schemes

¹⁵ Joint submission by AGE Platform Europe, HelpAge International, The Law in the Service of the Elderly and the National Association of Community Legal Centres Australia.

may be set too low and for many pensions do not meet adequacy standards. Payments may also be inadequate for specific sub-populations¹⁶ to enjoy an adequate standard of living and cover their needs, both material and in terms of services.

21. A submission by a non-governmental organization, based on a survey with older persons, indicate that many older people are unable to afford basic necessities to survive, such as food, water, clothing, housing, medical care and care and support. As the value of pensions is very low, it fails to fulfil the right to social security and social protection because they do not provide an adequate standard of living and prevent older people living dignified, autonomous and independent lives and fully participating in society.¹⁷

C. Accessibility

HUMAN RIGHTS STANDARDS (Art. 11 CESCR and GC 19) and ILO STANDARDS (R202, C102 and C128)

- *Coverage:* All older persons should be covered by the social security system, without discrimination.
- *Eligibility:* Qualifying conditions for benefits must be reasonable, proportionate and transparent. The withdrawal, reduction or suspension of benefits should be circumscribed, based on grounds that are reasonable, subject to due process, and provided for in national law.
- *Affordability:* If a social security scheme requires contributions, they should be stipulated in advance and must be affordable for all and must not compromise the realization of other Covenant rights.
- *Participation and information:* Older persons must be able to participate in the administration of the social security system.
- *Physical access:* Benefits should be provided in a timely manner and older persons should have physical access to the social security services to access benefits and information.

1. Equality and non-discrimination

22. Various submissions underlined that older persons should enjoyed the right to social protection without discrimination based on their age, gender, disability or any other grounds. A joint submission by several non-governmental organizations¹⁸ underlined discrimination practices against women, older migrant workers penalized because their pensions are not portable; age limits and other age-related barriers related to disability benefits and services; and older persons who are homeless or without identity document excluded from universal schemes.

¹⁶ For example, older women, older persons with disabilities, older widows, older migrants or refugees, older indigenous persons and those who have never contributed to a social security or social protection scheme.

¹⁷ Submission by HelpAge International on social protection and social security.

¹⁸ Joint submission by AGE Platform Europe, HelpAge International, The Law in the Service of the Elderly and the National Association of Community Legal Centres Australia.

Older Women

23. Various contributions highlighted that gender gaps in social security and social protection are the result of multiple, intersecting and cumulative discrimination against women throughout their lives. According to ILO, because of gendered discrimination throughout women's life, they are often excluded from the labour market, and more represented in the informal economy, employed in precarious, ill-paid or unpaid care responsibilities for children and older or sick household members. As a result, it is not possible for them to accrue pension rights on an equal basis with their male counterparts, resulting in lower pension insurance coverage among women.¹⁹

24. According to ECLAC, older women compose the majority group without any income of their own. According to the latest available data, the proportion of women aged 60 or over who lack their own income in Latin America stands at 17.8%, or over 6 million older women. ESCWA reported that women are also the most affected by the limited pension coverage in the Arab Region, as the majority of whom are informally employed or unemployed.

25. According to UN Women, the global gender gap in access to old-age pensions stands at 10.6 percentage points. Even where women are relatively well covered, their benefit levels tend to be lower than men's. In the European Union, for example, women's pensions are on average 36.6 percent lower than those of men.

26. Some States reported on older women living in situation of vulnerability and gender gaps in the access to pensions. In Uruguay, 63.9% of older women received a retirement provision, compared to 84.6% of men. This lower access corresponds to women's "smaller and more discontinuous trajectories in the labor market derived from the sexual division of labor". In Sweden 80 percent of older persons that receives the guarantee pension – a benefit for those with low or no income-based pension - are women. The Swedish government is improving the basic cover benefits for pensioners to reduce the inequality on income gap between older women and men.

27. To strengthen women's income security in old age, UN Women²⁰ suggested to expand non-contributory social pensions to reduce gender gaps in pension coverage. As an example, this organization mentioned that Bolivia and Ecuador had overall coverage very low in the mid-1990s (35 and 22 per cent of older people had access to a pension in 1995), but the expansion of social pensions led to an increase in coverage to 96 and 66 per cent respectively by 2013, and gender gaps in coverage practically disappeared. UN Women also indicated that universal social pension schemes are the most effective way to reach women as individuals, and that benefit levels of social pensions should be at least high enough to keep older women out of poverty.

Older Refugees

28. According to UNHCR, older refugees, asylum seekers and IDPs are particularly vulnerable to poverty and exclusion, due to the compounding risks associated with both age-related

¹⁹ ILO, Universal social protection for human dignity, social justice and sustainable development, International Labour Conference, 108th Session 2019, parra. 525 pg. 199.

²⁰ UN Women's policy brief on gender-responsive pension systems.

discrimination and forced displacement. Older displaced persons often lose their economic and physical assets and report experiencing discrimination in access to work opportunities, both on the basis of age and their status as ‘outsiders’. Older refugees, asylum seekers and IDPs, particularly women face discrimination in access to housing, land and property rights, exacerbated by limited economic resources or legal protection, and separation from family and social networks.²¹ Despite being particularly vulnerable, older refugees are often not included in national social protection systems, due to legal and administrative barriers. Further, restrictions on movement (e.g. to complete administrative processes or medical assessments to access pensions) create a barrier to inclusion in social protection systems for older persons in armed conflict. The Global Compact on Refugees sets out a commitment to meet the food and nutrition needs of refugees, including through social protection systems.²²

2. Participation and information

29. Most submissions reported on existing mechanisms for participation of older persons inside the national institutions in charge of social protection, and specific institutions representing older persons. For instance the Austrian Senior Council constitutes facilitates dialogue between political decision makers and the representatives of older persons to ensure that the concerns of older persons and the proposals on how to address them are brought to the attention of the Government. The Argentina National Social Security Administration includes a Consultative Body for Retirees and Pensioners that has among its priorities the institutionalization of concrete forms of participation and consultation of the beneficiaries through their representatives. In Uruguay, the Social Security Bank and the Ministry of Social Development have attention and advice offices through the territory, providing information on the rights of retirees and pensioners. The National Institute for the Elderly, composed by representatives of State agencies and civil society, is responsible for protecting elderly rights.

30. In Sweden, the Pensions Agency is responsible for providing adequate and accessible information about the pension system. Every year the Pensions Agency send a letter with information about current pension entitlements to everyone who works in Sweden. Six pensioners’ organizations are part of the national pensioners’ committee in which the responsible minister meets on a regular basis the organizations that represent elderly people. In Dominican Republic the institution named Directorate of Defense of the Affiliate promote and inform affiliates of the Social Security System about their rights, receive complaints, and supervise the operation of the Dominican Social Security System. France created the High Council of Family, Childhood and Age in September 2015, which is in charge of consulting the people concerned by family, childhood and age issues (including pensions, adaptation to ageing, prevention and anticipation of the loss of autonomy). The *Départements*’ (local) Councils of Citizenship and Autonomy also ensure the participation of elderly people in the drafting, implementation and monitoring of policies pertaining to autonomy.

31. Some submissions reported the existence of specific information mechanisms on social security and social protection schemes, including on eligibility, entitlements, application procedure. It includes a variety of tools to disseminate information, including engagement with

²¹ UNHCR Age, Gender and Diversity Accountability Report 2017 <https://www.refworld.org/pdfid/5bd03df04.pdf>

²² https://www.unhcr.org/gcr/GCR_English.pdf see paragraph 81

media, through television, local FM radio stations, by online available information, information letters, talks, trainings, and workshops on the available system of social security and social protection. In Denmark there are several platforms that provides information such as *Borger.dk*, citizens' digital access to the public sector and *Ældresagen*, a private organization that engages in older person's wellbeing. In Canada information about the Old Age Security program to older persons are provided through various channels, including in-person Service Canada Centres, government websites and toll-free telephone lines.

D. Remedies and Accountability

HUMAN RIGHTS STANDARDS (Art. 11 CESCR and GC 19)

- Older persons should have access to effective judicial or other appropriate remedies, legal assistance and adequate reparation.

ILO STANDARDS (R202)

- Accountability mechanisms are central to strengthening and securing the implementation of old-age benefits including through a rights-based approach. The right of the beneficiary to complain and appeal is enshrined in ILO Standards.

32. Some States reported about administrative and judicial mechanisms in place that older persons can access to demand that social security and social protection systems be effective and responsible. In Germany, the social law system provides ordinary legal remedies for all persons concerned. Administrative acts can be reviewed in a preliminary administrative internal proceeding, and legal action can be taken in the social court against a potential decision on an objection²³. Social security recipients can lodge complaints out of court with the supervisory bodies in charge of social benefit agencies as well as with the petition's committees of the German Bundestag or of the respective German state parliaments.

33. In Uruguay, the National Institution for Human Rights has the mandate to promote and protect the human rights recognized by the Constitution and international law, including faculties such as inspection visits, filing criminal complaints, investigate alleged violation of human rights.

34. The Swedish National Audit Office audits all governmental authorities including the pension system and the Swedish Pensions Agency. An elderly person who is not satisfied with a decision made by the Swedish Pensions Agency is able to appeal to an administrative court or to the Parliamentary Ombudsmen.

35. In Costa Rica, the Ombudsman for older persons is responsible for monitoring the protection of the rights of older persons. The sustainability of pensions in Austria is monitored by the Pension Commission, whose reports on the long-term funding prospects of statutory pension insurance until 2050 are published every three years since 2007. The Commission's task is to propose

²³ The three-stage social jurisdiction consists of two trial courts ("Tatsacheninstanzen") (social court option to appeal to the Higher Social Court) as well as an appellate body at the Federal Social Court.

sustainable reform measures if it identifies financing problems. The Austrian Senior Council is the official representation of older persons.

36. In Denmark, the Minister of Employment supervises the board of Udbetaling Danmark, the authority in charge of paying the social benefits for older persons. The Appeals Board deals with complaints about decisions on persons right to social security and social protection, which also includes the right to social pension. The Board of Equal Treatment deals with cases regarding discrimination, including discrimination based on age.

37. In Canada, persons dissatisfied with a decision concerning their application for benefits may request reconsideration of their case. Seniors who remain unsatisfied after the reconsideration may appeal the decision to the Social Security Tribunal of Canada, the Federal Courts of Canada and, in some cases, the Tax Court of Canada. Older persons who believe that social security or protection legislation or policy discriminates against them on the basis of age can commence a court action to challenge the legislation under section 15 of the Canadian Charter of Rights and Freedoms, which guarantees the right to equality under the law and to equal protection and benefit of the law without discrimination.

38. A joint submission by several non-governmental organizations²⁴ indicated that in some cases older persons face barriers to seeking information on their legal rights and accessing legal proceedings. A recent report in Australia found that a significant number of older persons had low awareness of their rights, found it difficult to identify a legal problem and undertook minimal information-seeking. Difficulties accessing free legal assistance and legal aid, being subject to guardianship or experiencing financial abuse prevented older people from taking legal action.²⁵

²⁴ Joint submission by AGE Platform Europe, HelpAge International, The Law in the Service of the Elderly and the National Association of Community Legal Centres Australia.

²⁵The Law Council of Australia, *The Justice Report - Older Persons*, August 2018, <https://www.lawcouncil.asn.au/files/web-pdf/Justice%20Project/Final%20Report/Older%20Persons%20%28Part%201%29.pdf>