Ljubljana, February 2019

**GUIDING QUESTIONS FOR THE FOCUS AREAS OF THE X SESSION OF THE OPEN-ENDED WORKING GROUP ON AGEING:**

**Social protection and social security (including social protection floors)**

**Input by SLOVENIA**

# National legal framework

**1.** **What are the legal provisions in your country that recognizes the right to social security and social protection, including non-contributory and contributory old-age benefits? Do they have a constitutional, legislative or executive foundation?**

The social protection system in Slovenia is complex, and consists of rights and services deriving from various compulsory social insurance systems (old age, disability, health, unemployment, professional disease) and a system of rights (benefits and services) which are tax-financed and categorical or mostly means-tested (protection of persons with disabilities, social assistance, child and family care).

Social protection: The social protection system in the Republic of Slovenia is a non-contributory system provided on the basis of the Constitution of the Republic of Slovenia (Articles 2, 14, 34, 51, 50 and 78) and, more specifically, regulated by social protection laws. The rights of older persons are exercised in the proceedings of the state authorities, which issue enforcement acts. Slovenia has renewed its legislation on social protection, with several amendments due to economic, social and demographic circumstances.

Social insurance: Under the Constitution, Slovenia is a law-governed welfare state (Article 2). The chapter on human rights and fundamental freedoms specifically guarantees the right to social security, including the right to a pension (Article 50), stipulating that, under the conditions laid down by law, citizens of the Republic of Slovenia have the right to social security. It is the duty of the state to provide for compulsory health, pension, disability and other social insurance, and to ensure the operation thereof. The compulsory pension and disability insurance scheme includes old age and early pensions, disability pensions, survivor’s, widow/er’s and partial pensions, and is regulated by the Pension and Disability Insurance Act. The system also covers disability insurance rights, rights to assistance and an attendance allowance, part of a widow/er’s pension and other rights (annual grant). The system is financed through social security contributions. The total contribution rate for pension and disability insurance is 24.35% of gross wage without upper limit. The employee´s contribution is 15.5%; the employer´s contribution is 8.85%.

# Availability

1. **What steps have been taken to guarantee universal coverage, ensuring that every older person has access to social security and social protection schemes including noncontributory, contributory and survivor old-age pensions, to ensure an adequate, standard of living in older age?**

Social protection:

Under the social protection system, the elderly have the following rights:

* Financial social assistance: acts as a final safety-net to cover basic living costs for a limited period
* Permanent social assistance: may be granted to a person who is considered permanently unemployed or permanently incapable of work or who is unemployed and is over 63 years of age for women and 65 years old for men and is without assets, as regulated by the act on the exercise of rights deriving from public funds, or a person who is in institutional care, as well as his/her family members, upon meeting the conditions set out in this paragraph.
* Income support/supplementary allowance: intended to **cover long-term living expenses** (accommodation expenses etc.) and not expenses for meeting minimum living requirements
* Extraordinary financial social assistance: **granted in exceptional circumstances** (when a person is in a situation of temporary material deprivation due to extraordinary living expenses which cannot be covered by the person's own income)
* Bereavement payment and funeral payment: aimed at providing financial assistance to relatives of the deceased and to partially cover funeral costs
* Rent subsidy: rent subsidy for non-profit housing and other dedicated apartments
* Right to covering the difference to the full value of health-care services: the right is granted to insured persons and their insured family members if they are eligible for cash social assistance or if the conditions for cash social assistance are met,
* Right to payment of contributions for compulsory health insurance: for persons entitled to financial social assistance or who qualify for financial social assistance, where the wrong reasons and not taken into account and have permanent residence in the Republic of Slovenia and are not insured persons under any other provision of the law governing health insurance.

The general conditions for all the aforementioned rights:

* permanent residence in Slovenia for citizens of Slovenia and foreigners,
* persons are entitled if they are not able to provide for their own physical safety as a result of circumstances which they are unable to change (those who are able to work must be active job-seekers, registered with the local employment office)
* Rent subsidy: foreigners may be entitled to this right only if reciprocity is granted with the other state
* A family assistant
* Contribution to the payment of a family assistant: a family assistant provides necessary assistance to a disabled person, but is not obliged to cover material costs of the disabled person's life.
* Exemption of payment for social security services: the costs of institutional care may be reduced; at the request of the applicant, the Social Work Centre which is responsible for the beneficiary decides on partial or total exemption from payment for services in accordance with the criteria prescribed by the Government Decree on criteria for determining exemptions from payment for social security services. On the basis of the material status of the applicant, the Social Work Centre determines the level of exemption and contributions to the payment for social security services.

Institutional care and home-based care: accessible to all; for those with a low income, subsidized by their municipality.

Social insurance: The pension and disability insurance system in the Republic of Slovenia is based on an inter-generational contract, qualifying as a pay-as-you-go system. The system is uniform and mandatory for all employed persons and those receiving any income from employment or other gainful activities, while inactive persons may join the system on a voluntary basis. The compulsory insurance scheme is regulated by the Pension and Disability Insurance Act (ZPIZ-2) and managed by the same insurance provider, i.e. the Pension and Disability Insurance Institute of Slovenia (ZPIZ).

The right to an **old-age pension depends** on two parameters which must be met cumulatively: the age of the insured person and the pension qualifying period. An insured person may acquire the right to an old-age pension at the age of 65 if the insurance period is at least 15 years. An early old-age pension may be claimed at the age of 60 with a minimum 40 years of pension qualifying period. In special cases, the required retirement age for an old-age pension may be lowered in case of carefor each born or adopted child during the first year of the child’s life**,** compulsory military service or inclusion in the insurance scheme before the age of 18.

**The right to a disability pension** is acquired by an insured person who has been afflicted with a disability (1) of category I; (2) category II and is not able to do full-time work without occupational therapy, to which only those under 55 years of age are entitled; (3) category II and is not able to do part-time work for at least 4 hours daily without occupational therapy; (4) category II or III and who is not offered suitable employment after 65 years of age. Disability means an altered health status which cannot be remedied by treatment or medical rehabilitation, and is established in accordance with the legislation. In the case of disability, the capacity of an insured person to obtain or maintain a job, or to be promoted professionally has been reduced. Disability may be classified into three categories, and may be caused by occupational injury, occupational disease, and illness or injury outside work. The amount of the pension varies according to the cause of disability.

In the case of a survivor's pension, certain conditions have to be fulfilled by the insured person and by persons entitled to the pension. A widow, widower or other family member of a deceased insured person or a rightful beneficiary is entitled to a widow/widower pension or survivor’s pension provided that the insured person fulfilled the conditions for entitlement to, or was beneficiary of, early retirement benefit, an old-age pension or a disability pension under compulsory insurance.

A survivor's (widow/er's) pension may be claimed by a widow or widower of a deceased insured person or beneficiary of rights if they are at least 58 years old at the time of the spouse's death, if they are incapable of work, or if they became incapable of work within a year after the spouse’s death, or if they are left with a child or more children who are entitled to a survivor's pension and for whom they have a duty of care.

A survivor's pension may also be claimed by children, stepchildren, grandchildren and other children who were dependent on the insured person, or dependent parents whom the insured person or beneficiary was obliged to sustain pursuant to the regulations governing marriage and family relations. The child of a deceased insured person or a beneficiary of rights is entitled to a survivor's pension until 15 years of age or until the completion of regular schooling, but only up to 26 years of age.

The amount of survivor’s pension is calculated based on the old-age pension or disability pension the insured person would be entitled to at the time of death, or based on the pension the beneficiary was entitled to at the time of death. The survivor’s pension base is determined as a percentage of the above allowance, depending on the type and number of surviving family members: for a single family member, the base is set at 70%; for two family members, at 80%; for three family members, at 90%; and for four family members or more, at 100%.

1. **What steps have been taken to ensure that every older person has access to social security and social protection schemes, which guarantee them access to adequate and affordable health and care and support services for independent living in older age?**

Article 14 of the Constitution guarantees everyone equal human rights and fundamental freedoms, irrespective of personal circumstances. Thus, it safeguards against breaches of autonomy, which are usually observed in relation to personal circumstances, such as old age and disability. Article 19 of the Constitution guarantees everyone the right to personal freedom. Furthermore, Article 21 provides for respect for human personality and dignity in criminal and all other legal proceedings, as well as when deprived of liberty or subject to punitive sanctions. This is especially important in the context of the deprivation of liberty of persons suffering from mental disabilities, such as persons with dementia, whose freedom may be restricted in special units of care facilities. In such cases, every detained person has the right to appeal to an independent, impartial court constituted by law (Article 23).

Article 22 of the Constitution also partially touches on this area, as it guarantees equal protection of rights of everyone in any proceedings before a court and before other state authorities, local community authorities and bearers of public authority that decide on an individual's rights, duties or legal interests.

Regarding national legislation, there is no specific legislative act addressing older persons generally or their autonomy and independence specifically. Social care provided to older persons is governed by the Social Assistance Act and various subordinate rules and regulations. The Slovene Mental Health Act includes provisions on the deprivation of liberty governing the treatment of (all not just older) persons requiring mental health treatment. The Patient Rights Act determines a patient's right to take part in decision-making regarding their medical treatment and the right to be actively involved in the choice of treatment.

For vulnerable persons who need residential or home-based care, the following procedures are in place to ensure autonomy and independence.

* Internal control of the contractor (the possibility of giving feedback and making complaints at the reception, in writing or orally with a social worker, head nurse or another responsible person or director of the institution).
* Complaints may also be addressed to the social chambers or to the Chamber of Health and Nursing Care, to establish possible violations of the Code of Ethical Principles in Social Care and Healthcare.
* External inspection (social inspection, health inspection).
* The Ombudsman of the Republic of Slovenia is responsible for the National Preventive Mechanism.

# Adequacy

1. **What steps have been taken to ensure the levels of social security and social protection payments are adequate for older persons to have access to an adequate standard of living, including adequate access to health care and social assistance?**

Social protection:

Financial social assistance (FSA) and the supplementary allowance (SA) are not fixed benefits; the amount depends on the beneficiary's income. If the person receives any other social security benefits, the FSA or SA will be reduced by the amount of other benefits. If the personal income from a pension is lower than the prescribed financial social assistance or supplementary allowance, the person has the right to the difference in the amount of one or both rights.

Social insurance: The amount of an old-age, disability and survivor's pension depends on a person's previous earnings. The pension base takes into account the insurance period of 24 most favourable consecutive years from 1 January 1970 onwards. The lowest pension base is set at 76.5% of the average gross wage(EUR 839.48 as of April 2018) calculated based on the average rate of paid taxes and contributions. The maximum is limited to four times the minimum (EUR 3,357.92 as of April 2018). The accrual rate is set at 1.25% for each year after the 15 contribution years (26% for men, 29% for women) and reaches 57.25% of the pension base for men and 60.25% of the pension base for women for 40 contribution years[[1]](#footnote-1). Pensions are indexed to 60% of the increase in the average gross salary and to 40% of the average increase in the cost of living. The pension indexation should not fall below half of the increase in the cost of living. In addition to regular indexation (2.2% in 2018), extraordinary indexation is possible, subject to the economic situation and government decision (1.1% in 2018).

Last year, an amendment to the Pension and Disability Insurance Act introduced the new instrument of a lowest guaranteed old-age or disability pension in the amount of EUR 500 (EUR 516 in 2018) if the old-age or disability pension for legally prescribed full pensionable service as per current regulations fails to reach the relevant amount.

# Accessibility

1. **What steps have been taken to ensure older persons have adequate and accessible information on available social security and social protection schemes and how to claim their entitlements?**

Social protection:

The information on social security options are available from, and provided by, the Social Work Centres, where entitlements may be claimed by means of a single application.

Social Insurance: The relevant information on the rights arising from the pension and disability insurance are available and provided by the single insurance provider, i.e. the Pension and Disability Insurance Institute of Slovenia (ZPIZ), where entitled persons can claim their rights.

1. **The design and implementation of normative and political framework related to social security and social protection benefits included an effective and meaningful participation of older persons?**

Social protection:

In Slovenia, the older population is represented by political representatives (political party) and through other non-political associations (The Association of Pensioners’ Associations in Slovenia, working groups, intergenerational centres, etc.). The European regulation governing their rights is transposed to, or implement in, national legislation, which thus follows the basic European guidelines on the provision of adequate and appropriate care for the elderly. The country also adopts special regulations in this field, taking into account the opinions of senior representatives in non-political groups.

The basic document is the national strategy for a long-lived society (Active Ageing Strategy), based on which concrete action plans are being prepared to achieve the goals, as well as operational programmes and national reform programmes. One of the strategy chapters covers the protection and enforcement of the rights of the elderly. In accordance with the Strategy, a Council for Active Ageing and Intergenerational Cooperation was established and a representative of older persons is nominated as its deputy president.

Social Insurance: Representatives of pensioners' associations and organisations at the national level also participate in the Council of the Pension and Disability Insurance Institute. The Council's tasks are to monitor the economic situation of pensioners and disabled workers, establish and publish indexation percentages of pensions and other benefits, determine payment dates for pensions and other benefits, adopt the financial plan and the annual report of the Institute, appoint and dismiss the director general of the Institute etc. The pensioners' associations and organisations are important partners in drafting new legislation on pension and disability insurance and as such are always included in the process.

# Equality and non-discrimination

1. **Which are the measures adopted to ensure equitable access by older persons to social security and social protection, paying special attention to groups in vulnerable situation?**

For vulnerable persons who need residential or home-based care, the following procedures are in place to ensure autonomy and independence.

* Internal control of the contractor (the possibility of giving feedback and making complaints at the reception, in writing or orally with a social worker, head nurse or another responsible person or director of the institution).
* Complaints may also be addressed to the social chambers or to the Chamber of Health and Nursing Care, to establish possible violations of the Code of Ethical Principles in Social Care and Healthcare.
* External inspection (social inspection, health inspection).
* The Ombudsman of the Republic of Slovenia is responsible for the National Preventive Mechanism.

# Accountability

1. **What mechanisms are in place to ensure social security and social protection schemes are effective and accountable?**

Answers included in other responses.

1. **What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to social security and social protection?**

Social protection:

Older persons can appeal against decisions of Centres for Social Work before the Ministry of Labour, Family, Social Affairs and Equal Opportunities, which issues the final decision. Judicial protection is granted to persons directly affected by this decision.

Answers also included in response No. 7.

Social insurance: According to the General Administrative Procedure Act, a person may appeal against a decision of the Pension and Disability Insurance Institute within 15 days of service of the decision. Appeals are resolved by the second instance authority of the central unit of the Pension and Disability Insurance Institute. The appeal procedure is free of charge for the party. An action against a second instance decision may be filed with the Labour and Social Court. Parties may request free legal aid in judicial procedures under conditions determined by the Free Legal Assistance Act.

Anyone who believes that his/her human rights or fundamental freedoms have been violated by an act or action on the part of social insurance institutions may turn to the Ombudsman. The procedure is regulated by the Human Rights Ombudsman Act.

The procedure for collecting social security contributions falls within the jurisdiction of the Tax Administration of the Republic of Slovenia. For the method of overdue contributions collection, control of the payment and calculation of contributions, the limitation period and late payment interest, the rules in force for taxes apply (Tax Procedure Act). Enhanced control of the payment and collection of social security contributions came into force in January 2018 and foresees a notification procedure in the event of unpaid social security contributions. The Pension and Disability Insurance Institute notifies both the employer and the insured person included in compulsory insurance based on the employment relationship if the employer fails to submit the withholding tax return. The notification is also sent to the Labour Inspectorate and the Financial Office of the Republic of Slovenia. The Financial Office is authorised to impose sanctions on employers who fail to comply with the legislation.

1. A special transitional period is in place for women until 2022. [↑](#footnote-ref-1)