

Guiding questions for defining the normative content of the issues examined at the twelfth session

Focus Area 2: Economic Security

Definition

1. How are the key human rights relating to older persons' economic security defined in the national legislation in your country? If definitions are not available, how should such rights be defined considering relevant existing national, regional, and international legal frameworks?

Economic security in the Republic of Slovenia is defined as a key human right for all persons, therefore including older persons. The right to the Financial Social assistance (FSA) and Supplementary Allowance (SA) are one of the fields of social security. They are based on the provision of the Constitution of the Republic of Slovenia (Slovenia is social state (Article 2); The state is guaranteeing the right to social security (Article 50); Equality and non-discrimination (Article 14); The right to personal dignity and security (Article 34)). The basic starting point of FSA and SA is guaranteeing dignity and equal opportunities and preventing social exclusion.

The main legislation relating to guaranteed minimum resources or social assistance or schemes which ensure a minimum level of subsistence in Slovenia are Social Benefits Act (Official Gazette of the Republic of Slovenia, no. 61/2010, and subsequent amendments) and Exercise of Rights to Public Funds Act (Official Gazette of the Republic of Slovenia, no. 62/2010, and subsequent amendments).

For retired persons, economic security is guaranteed by the right to a pension. The right to a pension is defined in the Republic of Slovenia as one of the fundamental rights to social security. This right is based on the provisions of the Constitution of the Republic of Slovenia, which in its Article 50 stipulates that citizens "under the conditions laid down by law have the right to social security, including the right to a pension". The right to a pension thus occupies a special place among social security entitlements. An important feature of a pension is that it is a right of a long-term nature, since it provides a substantial part of the beneficiaries with the sole source of income for subsistence during the inactive period of the insured person, when it is considered that he is no longer able to provide himself with income from work or activity due to the onset of a certain age.

The inclusion of the right to a pension as a human right protects the legal position of persons who under the law were obliged to pay contributions to compulsory pension and disability insurance as a percentage of their salary or income throughout their employment, self-employment or other work activity, which is why they reasonably expect the right to a pension once they meet the statutory conditions. Therefore, the State cannot unduly interfere with the right to a pension, or even abolish it, since it arises on the basis of contributions paid by future pension beneficiaries and on the basis of other conditions laid down by law.

Scope of the rights

2. Please provide references to existing national legal standards relating to older persons' economic security on normative elements such as:

- a. right to social security; including regular adjustment of benefits with changes in living costs;
- b. right to adequate standard of living, including housing, clothing, food and water, among others;

In accordance with the second paragraph of Article 50 of the Constitution of the Republic of Slovenia, the State is obliged to establish and maintain a system of pension and disability insurance, on the basis of which individuals are entitled to certain rights based on paid contributions, and to take action with constant (but not too fast) changes in the event of changes in social relations and when the functioning of the system is threatened. It is a social insurance scheme, which as such is a statutory insurance scheme and is intended to ensure a safe age for individuals in the event of a risk.

As regards the adjustment of pension benefits, we would point out that Pension and Disability Insurance Act — ZPIZ-2 determines the purpose of the pension adjustment institute, which is to maintain the monetary value of pensions at the time of their payment and thus to ensure the social security of

pensioners. To this end, all pensions must adapt once a year to changes in the level of average monthly gross earnings in the Republic of Slovenia and the average increase in consumer prices determined by the Statistical Office of the Republic of Slovenia for the prescribed period. The regular annual adjustment of pensions is thus made once a year when pensions are paid for the month of February of the current year, namely 60 % of the increase in the average gross earnings paid for the period January-December of the preceding year compared to the average gross salary paid for the same period of the previous year and by 40 % of the average increase in the cost of living in the period January-December of the preceding year compared to the same period of the previous year. Since the amount of the adjustment is based on a certain part of the growth in gross wages and consumer prices, but not on their reductions, the adjustment of pensions can only result in an increase in pensions, but no negative adjustment is provided for by law. There is also a safeguard clause that the adjustment cannot be lower than the observed half of the increase in consumer prices, which ensures that the real value of pensions is maintained at least half in the event of a low or zero increase in the average wage.

ZPIZ-2 also contains a provision on the possibility of extraordinary adjustment of pensions if the conditions laid down by law are met. The Act thus provides that in the year following the year in which the positive economic growth of gross domestic product is established, or in the year when the growth of the lowest pension base is two consecutive years lower than the increase in consumer prices in the period January-December of the previous year, an extraordinary adjustment of pensions may be made on the proposal of the Council of the Pension and Disability Insurance Institute of Slovenia and with the consent of the Government of the Republic of Slovenia.

The right to the Financial Social assistance and Supplementary Allowance are one of the fields of social security. Financial Social Assistance is a social benefit which acts as a final safety-net. It is provided to individuals and families who are unable to secure their material needs for reasons beyond their control. The purpose of Financial Social Assistance is to provide for minimum needs at a level which allows basic subsistence. There are two types of Financial Social Assistance: Ordinary and Extraordinary. Extraordinary Financial Social Assistance is granted in exceptional circumstances only, when a person finds him or herself in a situation of temporary material deprivation, caused by extraordinary living expenses that he or she cannot cover with his or her own income. It is awarded on a discretionary basis.

The monthly amount of Extraordinary Social Assistance cannot exceed the amount of Basic Minimum Income for that family type, while the amount of one-off Extraordinary Assistance in one calendar year cannot exceed the amount of five Basic Minimum Incomes, from which three can be granted only for extraordinary costs incurred due to natural disasters or force majeure.

There are also two specific types of Extraordinary Financial Social Assistance: Special Extraordinary Financial Social Assistance after the Death of a Family Member; Special Extraordinary Financial Social Assistance for Covering Funeral Expenses. The purpose of these two types of extraordinary assistance is to provide financial assistance to relatives of the deceased and to partially cover funeral costs.

Supplementary Allowance can be provided to individuals and families who are unable to secure their material security for reasons beyond their control on the basis of the Basic Minimum Income, as included in the legislation. The Supplementary Allowance provides financial support to cover living costs over a longer period other than those required to meet minimum needs. to persons above age 63 (women) or 65 (men). No age restriction in case of permanent incapacity for work or permanent unemployed.

The amount of Financial Social Assistance and Supplementary Allowance is adjusted in parallel with adjustments of the Basic Minimum Income. The Basic Minimum Income is adjusted once a year, on 1st March based on the growth of consumer prices in the previous year according to the Statistical Office of the Republic of Slovenia. The indexation is included in a government act.

The Ministry responsible for social welfare is in accordance with the Social Benefits Act obliged, on the basis of a comparable methodology, to determine the amount of the minimum cost of living at least every six years. If the difference between the newly determined and the last determined short-term minimum cost of living (the means to meet the minimum subsistence needs of life at a subsistence level) exceeds 15 per cent, the Ministry sets a new level of the basic amount of the minimum income.

- c. right to work; and whether a national minimum wage or any alternative mechanism is in place to ensure an adequate standard of living, and whether a system of indexation and regular adjustment exists;

Slovenia has a statutory minimum wage enforced by the Minimum wage act.

Amount of the minimum wage cannot be lower than 120 % of minimum living costs and must not exceed 140 % of minimum living costs. Minimum living costs are calculated at least every six years for the determination of the minimum income as a part of the social security legislation. But other factors are also relevant, when determining the amount of the minimum wage such as inflation, employment rate, GDP growth and growth of wages.

Minimum wage is also yearly updated at least with the rate of inflation. Again, previously stated other factors are also relevant (such as employment rate, GDP growth and growth of wages).

New amount of the minimum wage must be set no later than three months after the new calculation of minimum living costs. Each year by the end of January minister responsible for labour also has to update the amount of the minimum wage at least with the level of inflation, and the new amount is valid for the work performed from the 1.st of January onwards.

All changes of the amount of the minimum wage must be made after prior consultation with the social partners and published in the Official Gazette of the Republic of Slovenia.

- d. prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in all matters related to economic security;

Under Article 14 of the Slovenian constitution, everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal circumstance. In 2016, Slovenia adopted the Protection against Discrimination Act, which provides for the protection of everyone against discrimination regardless of gender, nationality, race or ethnic origin, language, religion or belief, disability, age, sexual orientation, sexual identity and sexual expression, social status, financial status, education or any other personal circumstance.

- e. the connections between relevant economic, social and cultural rights with the right to freedom of expression, including freedom to seek, receive and impart information; and rights to peaceful assembly and freedom of association;

Under article 39 of the Slovenian Constitution, freedom of expression of thought, freedom of speech and public appearance, freedom of the press, and other forms of public communication and expression are guaranteed. Everyone may freely collect, receive, and disseminate information and opinions. Under article 42 of the Slovenian Constitution the right of peaceful assembly and public meeting are guaranteed, as well as the right to freedom of association with others.

- f. active, free and meaningful participation of older persons and their representative organizations in all matters related to ensuring their economic security, including in political processes;

The institution and provider of the compulsory pension and disability insurance scheme in the Republic of Slovenia is the Pension and Disability Insurance Institute of Slovenia, the governing body of which is the Board of the Institute. It has 27 members, of which 3 members are also nominated by associations or organisations of pensioners at country level. In this way pensioners, through their representatives, participate in the Board of the Institute, which is responsible for ensuring the effective operation of the Institute and the implementation of compulsory pension and disability insurance, for the adoption of all the necessary general acts for the implementation of compulsory insurance, as well as acts necessary for the efficient and rational operation of the Institute, but has no competence in the legislative field. Despite the latter, it can make initiatives and suggestions based on the consideration and monitoring of systemic issues in the field of pension and disability insurance.

- g. access to prompt remedies and redress when older persons' above mentioned rights are violated.

The Protection against Discrimination Act, which determines personal conditions (including age) for which protection against discrimination is ensured, also established the Advocate of the Principle of Equality, an independent and autonomous state body mandated to deal with discrimination, also based on age.

State obligations

3. What measures and special considerations should be undertaken by the State to respect, protect and fulfil the above-mentioned rights to ensure older persons' economic security?

The Constitution of the Republic of Slovenia refers to a more detailed statutory regulation of the right to a pension, since the right to social security and the right to a pension as constitutional rights can only be established on the basis of the Act (Pension and Disability Insurance Act — ZPIZ-2). However, the right to a pension is also subject to constitutional provisions on ensuring it to all beneficiaries regardless of personal circumstances and on ensuring judicial protection, including a constitutional complaint, when an individual has exhausted all other legal remedies.

According to ZPIZ-2, a pension is a regular monthly benefit which is based on pension and disability insurance and provides material and social security to the beneficiary in the event of old age, disability or death of the insured person. On the basis of the interpretation of the Constitutional Court of the Republic of Slovenia, the essence or core of the right to a pension means the right of an individual to acquire and benefit from a pension which guarantees him or her social security on the basis of paid pension insurance contributions and other reasonably defined conditions (e.g. pensionable years, old age). The pension is of a dual nature: it is an economic category, since pension rights depend largely on the duration and amount of contributions, and it also contains elements of solidarity which are taken into account in determining the amount of the pension, and not in the case of the acquisition of that right itself. It is an essential part of the insurance relationship. Despite the fact that the right to a pension is primarily of a property law nature, this does not mean that the Constitution of the Republic of Slovenia provides a pension of a certain amount. However, if the respective statutory conditions are met, the minimum pensions must guarantee a social minimum, which is not only a subsistence minimum, as guaranteed by the benefits provided by the social security system, but must guarantee pensioners a certain standard of living in relation to their work and the payment of contributions during their working life.

In the social security system, individuals who do not have sufficient means of subsistence can exercise their right to financial social assistance or income support. Financial social assistance and income support are social protection benefits intended for those individuals who cannot ensure their financial security due to circumstances beyond their control. By means of financial social assistance, entitled persons are provided resources for meeting minimum life needs in an amount enabling survival. By means of such income support, entitled persons are provided resources for covering the costs of life occurring during a longer period of time (housing maintenance costs, substitution of permanent consumable goods and similar).

Implementation

4. What are the best practices and main challenges faced by your country in the adoption and implementation of the above-mentioned normative framework to ensure older persons' economic security?

In the coming decades, due to an ageing population, increasing life expectancy, declining birth rates and other demographic trends that will have an impact on the labour market supply, Slovenia will face the challenge of, on the one hand, ensuring the long-term financial sustainability of the pension system and, on the other hand, maintaining an adequate level of pensions. The survey on the socio-economic situation of pensioners, working persons with disabilities and the elderly population, carried out in September 2022 by the Institute of Economic Research of the Republic of Slovenia, shows that the social and income situation of pensioners (particularly single persons) is already worse than the rest of the population. The at-risk-of-poverty rate for older people in Slovenia is higher than the EU average, especially for older women. Therefore, when addressing the appropriate level of pensions, particular attention should be paid to the vulnerable groups.

Similar is the case with the social transfer system in Slovenia, which significantly reduces the risk of poverty and, consequently, the risk of social exclusion, but there are some groups of the population for whom the risk of social exclusion could be improved compared to other EU countries. This is particularly the case for the social exclusion risk rate for women aged 65 and over and the social exclusion risk rate for individuals aged 75 and over, both of which are above the EU average.

Social transfers (as passive measures) are only poverty alleviators and, however large, they are not enough to reduce poverty on their own. Measures in the area of labour market or employment regulation, active approaches for the social inclusion of deprived and vulnerable groups and individuals, policies and measures in the areas of health, education, including lifelong learning, and housing are also important for changing people's social situation.