

Guiding questions for the twelfth session of the General Assembly open-ended working group for the purpose of strengthening the protection of the human rights of older persons

Office of the Commissioner for Human Rights of Poland
Input for the 12th Session of OEWGA

Focus area 1: Contribution of older persons to sustainable development

The Scope:

Older persons have the right to contribute to sustainable development. The right to participate in, and contribute to, development is affirmed in the Declaration on the Right to Development. Article 25 of the International Covenant on Civil and Political Rights recognizes the right to participate in public affairs. Effective and meaningful participation enables the advancement of all human rights. On the other hand, when older persons are denied the ability or opportunity to contribute, or when their contribution is unrecognized or devalued, their dignity is denied. Understanding the contribution of older persons to sustainable development as a right enables States to identify steps that can be taken to uphold their dignity.

Substantive guiding questions:

National Legal and Policy Framework

1. What are the legal provisions, policy frameworks in your country that recognize older persons' right to participate in and contribute to sustainable development? This could include, but is not limited to:

In 2018, the Polish government adopted the [Social Policy for older people 2030: Safety. Participation. Solidarity](#). The document sets out a framework for senior policy in Poland but contains no direct references to the participation of older people in sustainable development. It does, however, create a certain framework for the participation of older people in economic life (area III.3: Creating conditions that enable the use of the potential of older people as active participants in economic life and the labour market and that are adapted to their psychological and physical abilities and family situation), and in social life (area III.2: Participation in social life and support for all forms of civic, social, cultural, artistic, sports and religious activity). Although participation constitutes one of the pillars of the policy, the scope of specific actions provided for in this area is limited, e.g. the action "Support for unemployed persons and jobseekers from older age groups in accessing professional activation programmes offered by labour offices" is, in fact, limited to persons who have not reached the retirement age, because according to the relevant parliamentary act, an unemployed person is defined as a person under 60 years of age for women, and under 65 years of age for men. The said document is a reflection of the social policy paradigm rather than the human-rights based approach seeking to ensure to older people the possibility to exercise all their rights. While appreciating the efforts of the government it should be noted that the method of presenting data to be used as evaluation of the implementation of actions under the policy is not user-friendly, and is focused on the specification of implemented actions rather than their results. See: [Information on the situation of older people in 2020](#). Therefore, it is difficult to talk about the effectiveness of the measures taken.

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- a) ensuring that relevant human rights (in particular the right to freedom of opinion and expression, the right of access to information, and the rights to freedom of peaceful assembly and of association) are protected and implemented;
- b) protecting and enhancing civic space and collaboration with civil society that represents the voices of older persons in sustainable development;
- c) good practices to ensure older persons' participation in, and contribution to sustainable development.

2. What are the challenges faced by older persons for the realization of their right to contribute to sustainable development at national and international levels?

The SARS-CoV-2 pandemic has clearly revealed the problems faced on daily basis by older persons in our country in accessing the opportunities of contributing to sustainable development. First of all, the pandemic has increased the isolation of such persons. They limit going out of the house only to essential cases. Moreover, older persons are hardly visible in public policies as partners in the implementation of sustainable development policies. The prevailing approaches to such persons are: a paternalistic one, which is seen at the level of the language of public policies and in public discourse, in the statements of government members who use the phrase "our seniors", as well as a social one which is focused on combating poverty and social exclusion.

3. What data, statistics and research are available regarding older persons' contribution to sustainable development?

Equality and non-discrimination

4. What measures are being taken to eliminate ageism, ageist stereotypes, prejudices and behaviors that devalue older persons' contribution to sustainable development?

Remedies and Redress

5. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to participate in and contribute to sustainable development?

Focus area 2: Economic security

National legal and policy framework

1. What are the legal provisions and policy frameworks in your country that guarantees the minimum essential level of the enjoyment of economic, social and cultural rights, in particular the right to an adequate standard of living?

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The currently applicable legislation in Poland provides for a number of safeguards aimed at ensuring a minimum level of economic security. Older persons are not mentioned therein as a separate group but enjoy the same safeguards as other citizens, depending on their activity level, on whether they still remain in employment or are clients of social welfare. Regulations regarding pension rights apply directly to older persons. Social welfare benefits include cash benefits and non-cash benefits, and include allowances for persons who have experienced war.

1. Cash benefits:

- a) permanent benefit,
- b) temporary benefit,
- c) specific-purpose benefit and special-purpose benefit,
- d) benefit and loan for economic empowerment,
- e) benefit for starting independent life and for continuation of education,
- f) subsistence allowance and allowance for covering Polish language lessons for foreign nationals who have been granted the refugee status, subsidiary protection or a temporary residence permit in the Republic of Poland,
- g) guardianship allowance granted by a court for guardianship of another person.

2. Non-cash benefits:

- a) social work,
- b) prepaid ticket for transport,
- c) health insurance contributions,
- d) social insurance contributions,
- e) in-kind support, including for economic empowerment,
- f) funeral cost coverage,
- g) specialist counselling,
- h) crisis intervention,
- i) provision of shelter,
- j) provision of meals,
- k) provision of necessary clothing,
- l) care services in the person's place of residence, a support centre or a family care home,
- m) specialist care services in the person's place of residence or a support centre,
- n) sheltered accommodation,
- o) stay in a social welfare home.

To persons who have given up or never taken up employment or other gainful activity due to raising children, an additional parental benefit is available.

2. How is poverty defined in the national policy framework?

Poverty is a complex and multidimensional phenomenon. Thus, there is no single universally applicable definition of poverty. The size and socio-demographic characteristics of the population living in poverty depend, to a large extent, on the adopted measurement method. However, of key significance is the minimum living wage which enables satisfying the person's needs at the minimum level. Consumption below this level poses a risk to survival and a threat to mental and physical development of a human being. The second adopted limit is the minimum subsistence level which sets out a border of social

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exclusion. The poverty thresholds are calculated based on household budgets and expenditure levels.

3. What are challenges faced by older persons living in poverty, including the impact of intersectional discrimination and inequality based on age, gender and other grounds?

Older persons living in poverty face, primarily, the challenge of normal functioning on month-to-month basis. The necessity to pay monthly household bills such as rent, utility fees and telephone bills means that such persons do not have enough money to meet all their current needs. Because of the limited budget, some of the needs have to be eliminated. This includes elimination of buying essential products. The purchase e.g. of permanently used medicines results in limiting the amounts of food bought. Lack of money leads to excessive saving on water and electricity, which results in lower quality of life. The necessity to allocate money to meet basic living needs eliminates the possibility of being active in the society. Depending on the place of residence, access to assistance can be limited, e.g. in the case of older persons living in rural areas. It should also be noted that there is a pension gap caused by the difference in the functioning of women and men on the labour market throughout their professional life cycles; the gap includes vertical segregation ("glass ceiling") as well as horizontal segregation (feminisation of certain low-pay professions).

4. What data, statistics and research are available regarding older persons living in poverty?

The Polish Committee of the European Anti-Poverty Network (EAPN Poland) has published a report on poverty in Poland. It shows that in 2020 the extent of extreme poverty increased from 4.2 to 5.2 percent, and the number of Poles living in **extreme poverty** increased by about 378,000, from 1.6 million in 2019 to 2 million in 2020, including **312,000 seniors** (an increase by about 49,000).

Information on the Situation of Older Persons, which is mandatory information presented by the government on annual basis, covers also financial issues. However, the manner of data presentation by Statistics Poland, also with regard to the financial condition of older persons and extreme poverty among seniors compared to other age groups, in most cases raises additional questions. This relates, in particular, to the State activities aimed at counteracting poverty: some data do not take into account the age criterion but refer e.g. to measures taken by the State with regard to all people with disabilities.

Progressive realization and the use of maximum available resources

5. What steps have been taken to address economic insecurity and poverty in older age and to ensure the right to an adequate standard of living for older persons?

In order to improve the situation of pensioners, the additional cash benefit in the form of the so-called 13th pension in a year has been introduced. The benefit was paid for the first time in 2019, and starting from 2020 it is guaranteed to all persons on retirement or disability pension, as an additional benefit paid annually without any income criterion. The 13th pension is paid in the amount equivalent to the

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lowest retirement pension. In 2021, another annual cash benefit, the so-called 14th pension, was introduced for persons on retirement or disability pension. The benefit is paid to persons who meet an income criterion. The measures introduced are of ad hoc nature. There is no coherent system of support in the form of infrastructure and public services. Currently, the social consultations are ongoing for the social services strategy whose effects can be assessed only in the future, after its adoption and the passage of some time.

6. What is the impact of macroeconomic policies on economic insecurity and poverty among older persons and vice versa? What policy options are available and/or implemented in order to expand fiscal space and maximize available resources to ensure economic security and the right to an adequate standard of living for older persons?

The legislator conducts regular analyses of the impact of macroeconomic policies on the economic situation of older persons. One of the basic instruments used is the pension adjustment system. Yet, it does not fully prevent the increase of poverty among older persons. Their situation is also influenced by the current crises: the pandemic and inflation. Of significance is also the fact that since 2017, a lower retirement age (60 for women and 65 for men) has been reintroduced, which has resulted in the payment of lower pensions to many people, particularly women.

7. What good practices are available in terms of ensuring older persons' economic security, including through a life-course approach?

The examples include the establishment of senior support centres which operate within local social welfare offices. The centres provide financial, legal and psychological advice and counselling. The consultations by experts constitute a form of protection of older persons against their economic exploitation. The centre counsellors may include older persons with appropriate professional qualifications and experience. Such support services should be available in every municipality.

Equality and non-discrimination

8. What measures are being taken to eliminate ageism and discrimination based on age that prevent older persons to access economic and other productive resources, including financial services, land, adequate housing and the right to inheritance?

Poland has no public policy on combating ageism. Discrimination on the grounds of age is prohibited by law only in the field of employment. Data (report of the Polish Institute of Economics entitled *Ageism in Poland* of 2022) shows, however, that ageism does exist in practice (in job recruitment procedures, younger candidates under 30 years of age were invited to an interview on average twice as often as older candidates over 50 years of age). In other areas, research is conducted sporadically and its results show internalised ageism in part of the Polish society (see e.g. data included in the CHR's *presentation* for the 2017 OEWSA session).

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Remedies and redress

9. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their economic security and enjoyment of the right to an adequate standard of living?

Depending on the type of benefit, older persons seeking some forms of temporary or permanent support have the right to appeal against unfavourable decisions issued with regard to them, in line with the appeal procedure applicable within the system in question. They may lodge an appeal with a labour and social insurance court (persons on retirement or disability pension) or with an administrative court. However, such persons may encounter *obstacles to which we pointed out last year* when describing the difficulties in accessing the system of justice.