**Reply of the Republic Slovenia** **regarding the OHCHR request to submit information on the normative standards and obligations under international law in relation to the promotion and protection of the human rights of older persons**

With regard to the request of the Office of the High Commissioner for Human Rights on the normative standards and obligations under international law in relation to the promotion and protection of the human rights of older persons (HRC resolution 48/3), we submit the information on the normative framework in relation to older persons in relevant areas:

1. **Social protection, temporary and occasional work of pensioners, the prohibition of discrimination**
	1. **Older persons and rights in the social protection system**

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

**The older persons may be entitled to the following rights in the social protection system:**

1. **Financial social assistance**  is intended to meet the minimum living needs in the amount that enables survival (the amount for a single person or the first adult in a family is currently EUR 402.18 per month).
2. **The right to pay a contribution for compulsory health insurance**  isgranted to the citizens of the Republic of Slovenia with permanent residence in the Republic of Slovenia who are not insured in any other respect under the act regulating health insurance (e.g. if they are not retired).
3. **The right to covering the difference to full value of health care services** isgranted to insured persons and their insured family members on the basis of the eligibility to financial social assistance or if they fulfil the conditions for the acquisition of financial social assistance, except in the case when the eligible person fulfils the conditions for the acquisition of income support, namely under the condition that the insured persons’ rights that originate from compulsory health insurance or any other insurance, are not completely guaranteed.
4. **Extraordinary financial social assistance** is intended to cover extraordinary expenses related to subsistence and which cannot be covered by one's own income or the family's own income and for cases where a person or family finds themselves in a situation of material danger for reasons beyond their control.
5. **Income support -** provides funds to cover living costs incurred in a longer period of time (costs of maintaining housing, replacing durable consumer goods) which are not the costs for providing minimum living needs (the limit for an individual currently amounts to EUR 591.20 per month).
6. **Bereavement payment** isintended for financial assistance to the relatives of the deceased, who are entitled to financial social assistance or income support, with a one-time transfer, currently amounts EUR 402.18.
7. **Funeral payment** isintended for financial assistance to cover the costs of the funeral. It amounts to EUR 617 for a single person and EUR 925 for a family, but not more than the actual costs of the funeral.
8. **Exemption of payment of social security services** Beneficiaries and other taxpayers are obliged to pay for certain social welfare services (institutional care). In a case of the request of the beneficiary, the social work center may decide on partial or total exemption of payment of social security services in accordance with the criteria prescribed by the Government of the Republic of Slovenia.
9. **Contribution to the payment of a family assistant –** Older person with disabilities to whom all the necessary assistance is provided by a family assistant and his or her dependents may claim a waiver and a contribution to the payment of the right to a family assistant.
10. **Rent subsidy**

Persons who are not independent in performing daily tasks and need permanent assistance and care and are entitled to financial social assistance or income support may also be entitled to **an attendance allowance)** if they do not receive an allowance for foreign care and assistance under other regulations.

**The application for the above rights has to be submitted to the locally responsible center for social work.**

**1. 2**. **Temporary and occasional work of pensioners**

According to the Labour Market Regulation Act all pensioners (except those who receive a partial old-age or early pension and are partly still in employment) are entitled to work temporary and occasional work. Temporary or occasional work allows pensioners to re-enter on the labour market and their reactivation, thereby maintaining social and individual participation and functioning. Temporary and occasional work for pensioners provides the possibility of additional earnings.

**1.3**. **The prohibition of discrimination**

The umbrella and general act that regulates the prohibition of discrimination in Slovenia is the Protection Against Discrimination Act (ZVarD). Article 1 of the ZVarD lays down personal circumstances for which protection against discrimination is provided, explicitly referring, among other things, to age. The list of personal circumstances on the base of which protection against discrimination is provided is not finite, which means that the same treatment is provided on the basis of personal circumstances that are not explicitly referred to in the ZVarD, such as health condition, citizenship, etc.

Article 2 of the ZVarD provides that state authorities, local communities, holders of public authority, and legal and natural persons are bound by this Act to ensure protection against discrimination and/or equal treatment of all persons in all areas of authoritative decision-making, legal transactions and their other activities or conduct in relation to third parties. The Act lists the areas of protection against discrimination, and protection is also provided in other areas which are not expressly referred to in the Act, namely areas of social or public life in which persons exercise their rights or perform their duties and participate in legal transactions.

The ZVarD also lays down competent authorities tasked with promoting equal treatment, establishes the Advocate of the Principle of Equality as an independent state authority and defines its responsibilities, tasks and the procedure to be followed in the event of a violation of the prohibition of discrimination.

Article 39 of the ZVarD stipulates that anyone who has been discriminated against on grounds of any personal circumstance may institute a special action. A person who believes that they have been or are being discriminated against may request an action seeking an end to discrimination, the payment of compensation due to discrimination and/or the publication of the ruling in the media. A person subjected to discrimination is entitled to financial compensation paid by the person responsible for discrimination. The financial compensation is recognized in the amount of EUR 500 to EUR 5,000.

**1.4**. **Long- term care**

In compliance with the definition of the European Commission, the scope of long-term care services is regulated by: the Pension and Disability Insurance Act , The Health Care Act , the Health Care and Health Insurance Act and the Social Protection Act (. Social Protection Act in article 11 stipulates services intended to eliminate social hardships and problems, including home help, social services and institutional care, which are available to the older persons who, due to age or the phenomena that accompany old age, are not capable of living completely independently. In accordance with the Rules on Standards and Norms of Social Welfare Services, family home help is tailored to the needs of each beneficiary and includes assistance with basic daily chores, household assistance and assistance in maintaining social contacts. Among other things, the social service includes the following tasks: bringing prepared meals, buying and bringing food or other necessities, protecting and monitoring the user overnight and a full-day connection via a personal telephone alarm. Institutional care includes personal and social care and health care according to regulations in the field of health care.

1. **The area of long-term care, public health**

**The area of ​​long-term care**

At the end of 2017, the Ministry of Health of the Republic of Slovenia (hereinafter: MoH) took care of the regulation of the field of long-term care and the preparation of a systemic law in this field. Even before that MoH recognized the importance of this area, especially due to the fact that Slovenia is one of the fastest aging societies, and included the area of ​​long-term care in its **Resolution of the National Health Care Plan 2016-2025 "Together for a health society"**.

The Resolution cites the establishment of a comprehensive and integrated system of long-term care as a key challenge, with an emphasis on de-institutionalization and the development of community forms of care. It will be necessary to establish conditions for the development of various forms of long-term care and support for independent living in the home environment, and to ensure the integration of the health and social care sectors and the involvement of the local community and non-governmental organizations. At the same time, in order to stay in the home environment for as long as possible, it will be necessary to strive to ensure conditions for a healthy lifestyle and social inclusion at all stages of life, including old age.

All these challenges are addressed by the current Proposal of Long-Term Act, which was prepared within the MoH with close cooperation of the Ministry of Labour, Family, Social Affairs and Equal Opportunities, and other important stakeholders.

**Currently, at the end of November 2021, the Proposal of Long-Term Act passed the second reading in the Parliament. The key challenges that are addressed are the following:**

1. Uniform definition of long-term care;
2. Unification of rights;
3. Uniform assessment of needs, establishment of one stop shop (single entry point), and active involvement of user;
4. Defining of the rights;
5. Integrated provision of long-term care services with emphasis on the provision of long-term care at home;
6. Greater support for informal caregivers (training, counselling, possibility of respite care);
7. Provision of new services, in particular to strengthen and maintain autonomy (rehabilitation and reintegration services, counselling and training, use of information and communications techologies, i. e. e-care),
8. Integrated public supervision; and
9. Integrated financing of long-term care.

**Public health**

**Nutrition and physical activity**

In 2015 **Resolution on national programme on nutrition and health enhancing physical activity 2015-2025** was adopted. The purpose of the Programme is to improve eating habits and physical activity habits from the early life to the old age and to have an impact on a decrease in the incidence of chronic diseases and, consequently, on the sustainability of the health-care system. The planned measures aim to establish equal opportunities for health of the entire population, including the socially and economically disadvantaged or other vulnerable groups, such as children and **older persons**.

**A healthy lifestyle of the population older than 65 years of age is becoming an increasingly important aspect of an integrated approach to solving economic, health-care related and social issues.** By pursuing regular and appropriate physical activity with appropriate diet, the degeneration processes of the organism of an older adult may be slowed down, and an individual may maintain good physical fitness for a longer time, and in the occurrence of a disease and its treatment, treatment is more successful. The issue in regard to older adults is not only high body mass but also the loosening of muscle and bone mass.

**Older adults who do not eat properly are particularly at risk when decreasing their physical activity**. Daily chores may become difficult, there is a greater risk of falls and injuries which result in an increased number of hospitalizations and visits to other institutions for senior citizens.

**The national programme is targeting those problems with specific goals aimed at older persons:**

* Improve the quality of nutrition for patients and older adults in hospitals and in social care settings, with particular focus on local and sustainable supply.
* Increase the proportion of physically active older adults.
* Promote intra-generational cooperation with physical activity.
* Within the scope of health-care, ensure early detection and efficient treatment of inappropriate eating habits and insufficient physical activity of adults, in addition to lower functional abilities and inabilities of older adults with a special focus on specific needs of women and men, socially disadvantaged and other vulnerable groups.

**HIV – AIDS**

In 2017 a revised **National HIV prevention and control strategy 2017–2025** was adopted.

In Slovenia the HIV incidence is low and is decreasing. The results achieved so far are based on prevention, early detection, and universal access to testing and treatment. All people with HIV have access to all necessary health care services and medicines, registered with the European Medicines Agency. Post-exposure prophylaxis (PEP) is available to all people exposed to the risk of HIV infection. Access to professional psichological support and peer-to-peer support is also available. Pre-exposure prophylaxis (PrEP) as an additional possibility for the prevention of HIV infection for men who have sexual intercourse with men and who are due to their specific sexual practices exposed to a high HIV-infection risk, has been tested in Slovenia with the possibility of being implemented in the future. However, the proportion of people living with HIV is increasing, as HIV has become a chronic condition. As a result of progress in medicine we will also have to face challenges related to the ageing of people living with HIV.

The Strategy acknowledges the needs of older people living with HIV, particularly of those who depend on others and consequenty the need of various forms of care (e.g. the assistance of informal caretakers, assistance at home, community nursing services, institutional care).

According to slovene strategy providers of institutional care, as well as formal and informal caretakers in the domestic environment must therefore have the opportunity to receive additional education and training in this field, because equal access to such forms of assistance is extremely important for ensuring the quality life of the elderly living with HIV as well as those who offer various forms of help.

Epidemiological monitoring of HIV infection is the basis for an informed planning of the prevention and control of HIV infection in Slovenia and is coordinated by the National Institute of Public Health in accordance with the Health Services Act, professional guidelines of the European Centre for Disease Prevention and Control, World Health Organisation and UNAIDS. Epidemiological monitoring of HIV infection has many elements, including information on age and gender.

1. **Judicial system**

**The Act amending the Criminal Procedure Act**, which entered into force on 20 April 2019, systematically regulated the situation of criminal offence victims and introduced, among other elements, Articles 18a and 143č.

Article 18a of the Criminal Procedure Act explicitly provides that, during criminal and pre-trial proceedings, the police and other state authorities shall treat the injured parties, suspects, accused persons and convicts with particular care and act considerately where necessary due to their vulnerability (age, health condition, disability or other similar circumstances).

Article 143č introduced into the Slovenian legislation an individual assessment of specific needs for protection of injured persons. Paragraph two of the said Article stipulates that the competent state authority shall take particular account of the age and potential disability of the injured person when preparing the individual assessment.

Under the provisions regulating the examination of witnesses and the serving of a writ of summons, the **Civil Procedure Act** also takes into account the special vulnerability of older persons.

Article 237, paragraph two, of the Civil Procedure Act stipulates that those witnesses who cannot answer a summons due to their age, sickness or severe physical handicaps may be examined at the place of their residence.

Article 140, paragraph three, of the Civil Procedure Act provides an alternative way of serving a writ of summons to persons living in residential facilities for communal living or activities involving a 24-hour stay, such as nursing homes.

The vulnerability of older persons is also taken into account in the **Enforcement of Criminal Sanctions Act.** Its Article 18, paragraph seven, provides that, when deciding to which penal institution the convicted person is to be sent, the court shall take into account, among other factors, their age.

Pursuant to Article 60, paragraph two, of the Enforcement of Criminal Sanctions Act, convicted persons who, due to their age, illness or disability, require additional assistance with the meeting of basic needs in the form of nursing or social care, may reside in a modified area or department of a penal institution.

Article 239, paragraph four, of the Enforcement of Criminal Sanctions Act also stipulates that judicial police officers shall not use coercive means against a visibly ill, elderly or disabled person, unless otherwise unable to control their resistance or assault or if these persons endanger their lives or the lives of others, jeopardise their property or if, due to other factors, their life or health is put in imminent danger.

We would also like to draw attention to the **Legal Aid Act** and its Article 2, paragraph two, providing that legal aid is granted in the form of regular, extraordinary, exceptional or emergency legal aid. Notwithstanding the provisions of the Legal Aid Act relating to the financial circumstances of an applicant and the applicant’s family, legal aid may also be granted under certain conditions laid down by law.

In compliance with Article 22, paragraph two, item four, exceptional legal aid may be granted provided that the bulk of the income of the applicant or the applicant's family members is intended for the payment of institutional care services (e.g. care home fee).

Please find attached in the Annex working translations into English of the above-mentioned articles of the Slovenian legislation.

1. **Conclusion**:

Slovenia notes absence of an international legal instrument that would protect the human rights of older persons. We remain hopeful for international community's acceleration of efforts in this regard, including by the General Assembly’s working group that should work towards developing proposals for an international legal instrument to promote and protect the rights and dignity of older persons.