**Intervention- Ageism**

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1. What forms does age discrimination affecting older persons take and which ones are the most prevalent? Where available, please provide concrete examples and collected data including in employment, education, social protection, and health, financial and social services.

Labour market is one of the sections of the society where age-based discrimination is the most noticeable. In a research report done by Commissioner for Protection of Equality in 2019, 46% of the unemployed population in the sample felt they were discriminated against based on their age, while 45% of the employed also reported being discriminated on the basis of their age. Another Commissioner’s report from the same year shows that older persons share the fourth place with LGBTI population in terms of prevalence of discrimination (preceded by poor people, Roma population and persons with learning disabilities and mental ailments) with the perception of 21% of the sample being that the discrimination affecting older persons is “severe”. Older women are notably reporting more perception of discrimination with 45% of them reporting being discriminated against on the bases of their gender and 44% reporting being discriminated against on the basis of their age.

A less visible but significant form is structural discrimination, related to the way resource allocation and strategic policy planning consistently deprive population of remote and rural areas, that nowadays consists mostly of older persons, of access to essential services. Basing service son population density means that healthcare and social welfare services are much less accessible to this population, but the same is true to access to justice as well. As the process of population movement to urban areas continue, rural areas are mostly inhabited by older couples and individuals and while their need for healthcare and social welfare services is higher than for any other age group, their access to these services is significantly lower and rich with obstacles.

As an example, there is currently no sign of the education system working to compensate for the effects of demographic ageing so the number of geriatric specialists about physicians, as well as geriatric nurses and other specialised support staff, that is already lower than needed, is unlikely to significantly increase, putting a growing population of older persons at a clear disadvantage.

2. Please provide information and data collected about the causes and manifestations of ageism in society, both for younger and older generations, and how it translates into discriminatory practices.

There is a prevalent attitude in public that older persons are frail and have little to no own agency, so they must be treated as a population in need of protection but with virtually no voice. This is often compounded by internalised ageism with older persons themselves adopting this “frail” identity and believing it is their duty to sacrifice themselves for the younger generation, willingly putting their resources at others’ disposal even if it means some of their basic needs might not be met. There are often comments that older persons do not contribute to the society – so they are just an expense – and that they are just crowding public transportation and healthcare facilities. During the COVID-19 crisis this has been visible in the way the older population was treated with a strong protectionist stance, resulting in their movement being severely restricted for months, with them having no say in it. At the same time, the contribution of older persons – for example older volunteers of the Red Cross of Serbia providing remote psychological first aid and psychosocial support to their peers – was not sufficiently promoted to demonstrate the valuable contribution of older persons in a very trying time. However, one older volunteer was in the end recognised for her tireless work and she received a medal from the President of Serbia in a public ceremony.

It is also important to note that data collection is still not of the desired quality, with insufficient disaggregation, so it is the civil sector that tends to collect better quality data than most institutions. One notable exception is the work of Commissioner for Protection of Equality.

3. From an intersectional perspective, are there specific factors that aggravate ageism and age discrimination and how? Please provide concrete examples and collected data where available.

One of the most visible risks of discrimination for older persons is income/ material status. Older persons who are at a higher risk of poverty are also at a higher risk of being discriminated. This is not the only aggravating factor but research shows that it is among the most significant ones. Geography, gender, education and health status also play significant roles and research shows that creating a profile of an older persons most likely to suffer discrimination would show us an older woman, with lower education level, low or no income, living with some sort of functional disability in rural/ remote area. It is also worth noting that issues, problems and discrimination against older members of LGBTI population are not at all visible and that it is fair to assume that it is an issue of stigma, internalised shame and fear of further marginalisation.

4. What international, regional and national legal instruments are in place to combat ageism and age discrimination?

Key documents on protection of human rights ratified by the Serbian government: UN Charter from 1945, Universal Declaration on Human Rights from 1948, International Covenant on Civil and Political Rights from 1966, International Covenant on Economic, Social and Cultural Rights from 1966, International Convention on the Elimination of All Forms of Racial Discrimination from 1965, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment from 1984, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) from 1979 and Convention on the Rights of Persons with Disabilities from 2006.

As a UN member state, Serbia is obliged to respect the standards and follow the recommendations contained in the acts of specialised UN organisations, organs, bodies and agencies, such as the Declaration on the Rights of Disabled Persons from 1975, Convention No. 159 concerning Vocational Rehabilitation of Employment of Disabled Persons from 1983, Principles for the protection of persons with mental illness and the improvement of mental health care from 1991, etc. Also of note are the conventions of the International Labour Organization, as well as the documents of the World Health Organisation, with especially important being the Toronto Declaration on the Global Prevention of Elder Abuse from 2002, which defines elder abuse as „ a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person”. It can be of various forms: physical, psychological/emotional, sexual, financial or simply reflect intentional or unintentional neglect. “Another important element of the international legal framework for protection of older people is the United Nations Millennium Declaration adopted by the UN General Assembly in September 2000. Also relevant are plans of actions and UN recommendations specifically referring to older people: The Vienna International Plan of Action on Aging from 1982, as well as United Nations Principles for Older Persons adopted by the UN General Assembly Resolution in 1991, that recommend to governments to create their national programmes targeting older people by respecting the principles of independence, social participation, social care, self-fulfilment and dignity of older people. Also of note is the Political Declaration on Ageing adopted alongside the Madrid International Plan of Action on Ageing at the Second World Assembly on Ageing held in 2002 in Madrid.

At national level, the Constitution of the Republic of Serbia is the highest act that explicitly prohibits discrimination including based on age. The second most important piece of legislation is the Law on Prohibition of Discrimination that also explicitly mentions age-based discrimination as a specific case. This law in addition establishes the office of Commissioner for Protection of Equality as an independent body protecting citizens from discrimination based on different bases. It also describes the mechanisms of reporting cases of discrimination and the ways the Commissioner works on protecting the citizens and preventing discrimination in the future.

There are other laws that do not explicitly mention older persons and age but are important due to the clear intersectional ties with older persons. These are the Law on Prohibition of Discrimination against Persons with Disability and the Law on Gender Equality.

Other legal acts that support protection of older persons from discrimination include the Law on Health Insurance that identifies older persons as a population group in a higher risk of illness and stipulates specific measures to ensure their protection, the Law on health Protection that again recognises older persons as a specific group, the Law on Social Protection, the Family Law and the Law on Inheritance. These laws include insights related to specific risks of discrimination that older persons face – for example the way older women are frequently excluded from inheriting their late husband’s property in favour of their children.

5. Please also note any action plans or policies to raise awareness and combat ageism (including antiageism in school curricula) and to move toward a more age-friendly and inclusive society.

At the moment such initiatives originate in the civil sector. Public sector and policy makers still do not tackle this issue in a structured fashion.

6. At the national level, please outline the legal protections available against age discrimination and indicate whether age is explicitly recognised as a ground for discrimination? If so, are there specific areas for which equality is explicitly guaranteed? Are there any areas where differential treatment based on older age is explicitly justified?

As mentioned above, the Law on Prohibition of Discrimination explicitly mentions age-based discrimination as a specific case. The Law on Health Insurance identifies older persons as a population group in a higher risk of illness and the Law on Health Protection recognises older persons as a specific group, as does the Law on Social Protection. These laws do not stipulate preferential treatment per se but they do identify possible risks specific for older persons and explicitly draw attention to potential measures to ensure these risks are minimised so that no discrimination occurs.

7. Do the existing legal protections against age discrimination allow for claims based on intersectional discrimination, that is discrimination which is based on the intersection of age and other characteristics such as race, ethnicity, gender, disability, sexual orientation or other status?

Yes, they do, specifically the Law on Prohibition of Discrimination lists many different bases for discrimination and allows for claims to be based on any number of them that apply.

8. What legal and other measures have been taken to address and protect from racism, sexism, ableism or other similar forms of discrimination that might be useful models for addressing ageism?

As listed above, there are different laws that prohibit specific discrimination that can be used to model measures against ageism, notably the Law on Prohibition of Discrimination Against Persons with Disability and the Law on Gender Equality

9. Please indicate if there are institutional or complaints mechanism to address inequalities or grievances related to ageism and age discrimination. If so, please provide statistics on cases and types of cases received?

Yes, the existing mechanisms include national Ombudsman/ Protector of Citizens and the Commissioner for Protection of Equality.

Protector of Citizens: Upon the complaints of citizens or at his/her own initiative, the Protector of Citizens applies a special procedure to check if there are or have been omissions in the work of public administration bodies. If such omissions are identified, the Protector of Citizens requires from the administration body to correct them and recommends an appropriate method. The administration body is obliged to inform the Protector of Citizens on its actions upon recommendation, and if no action has been done, the administration body must explain the reason for that. In addition to initiating and carrying out procedures, the Protector of Citizens is allowed to mediate, provide advice and opinions and urge administration bodies to improve their work and protect human rights and liberties. Thus the Protector of Citizens acts preventively (prevents future violation of rights) and educationally (educates citizens, but also staff of administration bodies, on human rights and their protection).

If citizens feel they have suffered damage while trying to exercise their rights due to incorrect application of the regulations of the Republic of Serbia by administration bodies (or failure to apply them) and if have already unsuccessfully tried to exercise or protect their rights in an appropriate legal procedure before competent state bodies, they can contact the Protector of Citizens by phone, mail or letter or come in person. If the problem is within the purview of the Protector of Citizens, the Secretariat staff instructs them on how to file a complaint. The entire procedure before the Protector of Citizens is free of charge.

The Protector of Citizens must not provide free legal assistance, write to other bodies in citizens’ name or represent citizens in court. If, based on the data and circumstances presented in the complaint, the Protector of Citizens evaluates that an omission may have occurred in the work of bodies or organizations exercising public authority, the Protector of Citizens will determine, impartially and in public interest, all facts and circumstances (including those that may not be to the complainer’s advantage) and judge whether citizen’s rights have been violated by other person’s unconscientious or erroneous actions.

In the latest annual report (2019), the Protector of Citizens explicitly states “Furthermore, apart from women and children victims of violence, special attention was dedicated to persons with disabilities and elderly, Romani men and women and LGBTI population.” “Although it was supposed to represent the backbone of the entire process of de-institutionalization, the system of services for the support of persons with disabilities and the elderly is still not adequate and sufficiently developed.” “Violence and neglect against the elderly is still “unnoticed” by the authorities, both because the elderly cannot, are not supported or do not want to report violence they suffer from the closest members of their family, most frequently children, and because of insufficient recognition of emotional, social and economic violence against the elderly.” However, in the cases handled by this office, only 3.82% related to persons with disabilities and older persons in 2019.

The Commissioner for Protection of Equality is competent to carry out the procedure based on complaints in cases of discrimination against persons or groups of persons connected by the same personal characteristic. The Commissioner is competent to receive and consider complaints of discrimination, to issue opinions and recommendations in concrete discrimination cases, and to stipulate measures defined by the Law.

In addition, the Commissioner is obliged to inform the complainant about his or her rights and possibilities to initiate a court procedure or another protection measure, including the reconciliation procedure. The Commissioner is also authorized to file complaints for protection from discrimination, with approval of the discriminated person.

The Commissioner is also competent to file offence reports against discrimination acts prohibited by the antidiscrimination regulations.

The Commissioner is authorized to warn the public about the most common, typical and severe cases of discrimination, to monitor the enforcement of laws and other regulations, to initiate adoption or amendments of regulations with the aim of making them more enforceable and improving protection from discrimination, and to recommend measures for achieving equality to public authorities and other parties concerned.

A part of the Commissioner’s competences is to monitor the situation related to protection of equality. This is also the topic of the Commissioner’s Annual report, submitted to the National Parliament.

In her work, the Commissioner has the obligation to establish and maintain collaboration with authorities competent for achievement of equality and human rights protection on the territories of the Autonomous Province and local self-governments.

In the latest annual report (for 2019), the Commissioner states “Based on the analysis of complaints, it can be concluded that age, as a ground of discrimination, often appears in combination with some other personal characteristics - disability, health status, etc. This is especially the case with discrimination against older people with disabilities in the provision of services and/or use of public spaces.”