**QUESTIONNAIRE**

Human Rights Council resolution 24/20 requested the United Nations Independent Expert on the enjoyment of all human rights by older persons to **assess the human rights implications of the implementation of the Madrid International Plan of Action on Ageing** (MIPAA).

MIPAA was adopted at the Second World Assembly on Ageing in 2002. It requires that States take measures to address ageing in order to achieve a society for all ages and calls for the mainstreaming of ageing into national and global development agendas. It also contains recommendations for action focused on three priority areas: (i) older persons and development; (ii) advancing health and well-being into old age; and (iii) ensuring enabling and supportive environments, which are divided into specific issues, objectives and actions.

The Independent Expert prepared the questionnaire below with the objective to collect information about whether the implementation of MIPAA has enhanced the enjoyment of all human rights by older persons or whether it has had a negative impact, and which rights have been affected. It also seeks to identify good practices and challenges encountered by Member States regarding the promotion and protection of all human rights by older persons in the implementation of MIPAA.

All information collected is intended to help the Independent Expert on the enjoyment of all human rights by older persons to elaborate her comprehensive report that will be presented to the Human Rights Council in September 2016.

The questionnaire should preferably be completed in English, French or Spanish by 31 July 2015. Kindly indicate whether you have any objection for the responses provided to be made available on the OHCHR website of the Independent Expert on the enjoyment of all human rights by older persons.

**Question 1:**

**What is the role of your organization? Do you participate in MIPAA implementation or monitoring thereof?**

The Commissioner for Human Rights of the Republic of Poland, as the national human rights institution and equality body, is monitoring the implementation of MIPAA in Poland.

**Question 2:**

**Has a human rights-based approach been integrated in the implementation framework of MIPAA in your country and if so, how did this translate into concrete policies and normative actions? Are there any mechanisms to monitor and assess the impact of MIPAA implementation on the enjoyment of all human rights by older persons?**

*Please include information on existing data, legislations, policies, programmes and institutional mechanisms and resources allocated to respect, protect and fulfill all human rights of older persons through the implementation of MIPAA. Please provide references and copies/ translation of relevant instruments[[1]](#footnote-1).*

On 24 December 2013, the Government acknowledged *the Objectives of long term policy in ageing society 2014-2020* (*Założenia długofalowej polityki senioralnej na lata 2014-2020*)[[2]](#footnote-2) but since that time no Action Plan combined with *the Objectives* has been introduced. Although there is no specific mention to MIPAA in *the Objectives*, the document covers 56 fields of action provided for in the Madrid International Plan for Action. So there the challenge of providing relevant data about concrete indicators of change in the scope of implementation of MIPAA still remains. The existing data is gathered in a fragmentary and not coordinated manner. Some progress had been made in 2012, when the results of independent, nation-wide research dedicated to older persons (*PolSenior project – medical, psychological, economical and sociological aspects of ageing population in Poland[[3]](#footnote-3)*) were published. That was one of the most important data collection, boosting the discussion around the situation of older persons in Poland. In 2014, the Ministry of Labor and Social Affairs declared the beginning of an in depth analysis on that issue, but no results have been published as of January 2016.

The human rights-based approach has been mirrored in *the Objectives* indicated above. Although they are not mentioned as such, *the Objectives* stated the right to an independent, active, safe and healthy living for elderly people among its goals.

Before introducing *the Objectives, the Government* has launched two programmes referring to the implementation of MIPAA:

* *ASOS* – a programme supporting a range of local projects aimed for promoting active and healthy living for elderly persons.
* *Solidarity between generations* – a programme supporting persons aged 50+ on the labor market.

later on – in 2015 also another one:

* *Senior - Wigor*- a programme supporting day care for elderly persons.

Those programmes are an important, but not sufficient, part of the implementation of MIPAA.

The Ministry of Family, Labor and Social Affairs (the name of the Ministry changed after last parliamentary election in October 2015) is the institution responsible for the implementation of MIPAA. It seems that the current competencies of the Ministry do not allow it to serve as a leader and coordinator for the intersectional and interdisciplinary action in that field.

In these circumstances, on 11 September 2015 the Polish Parliament introduced a new Act on elderly persons which obligates the Government to monitor and report annually to the Parliament on the situation of elderly persons. The Prime Minister shall coordinate the fulfilment of tasks set out in the regulations, but the information shall be prepared by the Ministry of Family, Labor and Social Affairs. It will be possible to assess the quality of the information for the first time in November 2016 at the earliest.

In Poland there are two main audit institutions which have a legal basis to carry out particular research or audit. The Commissioner for Human Rights, as the National Human Rights Institution, responds to complains, it may introduce some controls and, as an equality body, conducts research focused on discrimination issues. The results of some of them are related to to the implementation of MIPAA. One of them is the control of accessibility of polling stations for elderly people and people with disabilities[[4]](#footnote-4) – which is led on regular basis – prior to each elections in Poland.

Since 2012, the Commissioner for Human Rights has also ordered a number of one-time, qualitative studies aimed at deepening the knowledge of the mechanisms of discrimination. This was to check the state of implementation of MPIAA in particular fields: accessibility to the financial market for elderly persons; prevention of abuse towards women, women with disabilities, elderly women; introduction of intergenerational dialogue. The studies were finalized by publishing reports (available in Polish only) containing certain recommendations for public authorities.

In 2015, the research project focused on the rules and scope of provisions concerning home care. The results shall be published in 2016.

The second audit institution is the Supreme Audit Office. One of the recent one-time audits on geriatric care is of the highest matter to the implementation of MIPAA <https://www.nik.gov.pl/en/news/nik-on-geriatric-care.html>. The Office has planned several audits concerning the elderly persons’ situation: on palliative care and on support for elderly persons waiting for institutional care, among others.

**Have the needs of specific groups of older persons been taken into consideration in the process of implementation of MIPAA and if so, how?**

*Please provide information about existing data, legislations, policies, programmes and institutional mechanisms, and resources allocated regarding the protection and promotion of the rights of older women, persons with disabilities, persons of African descent, individuals belonging to indigenous peoples, persons belonging to national or ethnic, religious and linguistic minorities, rural persons, persons living on the streets and refugees, among other groups. Please provide references and copies/translation of relevant instruments.*

*The Objectives* do not specify any particular groups of elderly persons in general. Elderly women, men, persons with disabilities, persons living alone and their needs are mentioned in a number of chapters of *the Objectives* dedicated to the fields of housing, security etc.

**Question 4:**

**Have older persons been informed about MIPAA and if so, how? How are older persons participating in the implementation of MIPAA including in decision-making about MIPAA implementation?**

*Please provide information about existing data, legislations, policies, programmes and institutional mechanisms and resources allocated that ensure the full and effective participation of older persons in decision-making regarding MIPAA implementation, assessment and follow-up. Please provide reference and copies/translation of adopted instruments.*

MIPAA has been officially translated into Polish in 2012 and then published on the web page of the Ministry of Labor and Social Affairs. The Ministry cooperated with a number of NGOs, Universities of the Third Age and local authorities when preparing *the Objectives*. Their representatives were invited to an advisory body established by the Ministry. As it was mentioned above, the MIPAA is not indicated in *the Objectives*, therefore the cooperation with the representatives of seniors was not about the MIPAA implementation, but about general policy in the ageing society.

The results of a recent study on the rules and scope of home care provisions, which was held in one of Polish counties[[5]](#footnote-5), indicate that the situation is more complicated at the local level. Although 80% of local community presidents in the county are aware of the need to consult the kind of provisions with the elderly persons themselves, but the way of conducting it varies from simple talks with older persons (80% of responses) to more formal consultations (19% of responses). Two thirds of the communities which conducted consultations in a more organized manner include bigger towns and cities. The mentioned consultations consider the need of care provisions. Consultations related to free time activities are declared to be conducted in 28% of the communities. Those results show declarations of the local communities’ presidents and provide only a distant picture of the participation of older persons in the field. More findings will be available after a more in-depth analysis of the material gathered from the research is conducted.

**Question 5:**

**What impact has MIPAA implementation had on equality and non-discrimination of older persons?**

*Please provide information about existing data, legislations, policies, programmes and institutional mechanisms and resources allocated that ensure equality and non-discrimination. Please provide reference and copies/translation of adopted instruments.*

There were no separate legislations nor programmes provided in order to ensure solely non-discrimination of older persons. Nevertheless, *the Objectives* directly mention the existence of discrimination in access to particular healthcare procedures, the phenomena of discrimination based on negative stereotypes associated with older age and the lack of programmes fighting against discrimination on all grounds in public education.

It was especially visible amongst patients of older age: limitations in particular medical treatments, money-saving procedures connected with age. Due to social campaign *Talks about time* (*Rozmowy o czasie*) led by NGOs under the auspices of the Ministry of Health in 2011 there was a broader social debate on age discrimination in access to oncological treatment. Fortunately, the Ministry of Health had backtracked from justifying such discriminatory circumstances.

Please find attached an extract from the *Report on the Activity of the Human Rights Defender in the Area of Equal Treatment in 2014[[6]](#footnote-6)*. It shows the examples of interventions of the Commissioner for Human Rights in the scope of age discrimination in access to medical treatment.

Some of the aims of the National Programme on Equal Treatment 2013-2016 (Krajowy Program na rzecz Równego Traktowania na lata 2013 – 2016) were connected with the improvement of equal treatment of older persons. However, it is rather an effect of the implementation of the EU Directives on equality than the MPIAA directly.

According to the results of a very recent representative research ordered by the Commissioner for Human Rights (concluded in December 2015 – not published yet), in the opinion of 19 % of our population discrimination of persons aged 55+ in Poland occurs very often and often. A further 20% of respondents think that it occurs rather rarely. At the same time, only 6% declare to be part of a group at risk of discrimination towards persons aged 55+. It allows us to assume that it concerns 1,8 million out of 11,5 million of person at that age in Poland, while the number of the whole population is 38,5 million (according to the national statistics from 2014[[7]](#footnote-7)).

It is worth to underline that respondents in the research were asked about discrimination described shortly as ‘non-equal or inferior treatment’. The results indicate that the term ‘discrimination’ is still not very prevalent in our society. We suppose that it might be related *inter alia* to the still poor understanding of the term’s meaning in practice. This causes a serious obstacle in implementing the principle of non-discrimination of elderly persons. In addition to that weak perception of discrimination, the legal instruments dedicated to the victims of age discrimination are also hardly used. Only 3% of respondents declared to have experienced discrimination within the last 12 months. From that group, 25% declared to have experienced discrimination on the grounds of age. Only 15% from the same group declared to have reported their case to any institution. The numbers are so low that it is already difficult to present them in a statistical perspective. The Commissioner for Human Rights, as an equality body, plans to continue and develop the path of research.

**Question 6:**

**What impact has MIPAA implementation had on the fulfillment of the right of older persons to an adequate standard of living?**

*Please provide information about existing data, legislations, policies, programmes and institutional mechanisms and resources allocated that ensure the right of older persons to an adequate standard of living. Please provide reference and copies/translation of adopted instruments.*

There are several research projects conducted on that issue. For example, a part of the *PolSenior* research mentioned above. An interesting report was also published in 2014, dedicated rather to entrepreneurs and developers than to policy makers which might be a sign of interest in that field from the business sector[[8]](#footnote-8).

Apart from some provisions in social policy e.g. dedicated to reasonable adjustment of households to the needs of elderly persons, the provisions connected with institutional care, there is no particular policy assuring the right to an adequate standard of living.

**Question 7:**

**Please provide examples of best practices from a human rights perspective in your country in the implementation, monitoring, review and appraisal of MIPAA.**

It is too soon to indicate any practice in that field as the best one. The one worth mentioning is the duty of the Government to report annually on the situation of elderly persons. But its effects still remain to be seen.

*Please explain why it is considered a best practice and provide concrete examples.*

**Question 8:**

**Please provide information about the main challenges (such as institutional, structural and circumstantial obstacles) your country faces at the various levels of government (communal, provincial and national etc.) to fully respect, protect and fulfill the human rights of older persons in the implementation of MIPAA.**

*Please explain and provide concrete examples.*

The main obstacle in the implementation of the MIPAA is still the lack of effective coordination at the national level. In recent years, the MIPAA itself has rarely appeared in the public debate. It seems that not only the broader public is not aware of the MIPAA’s existence, but so is the majority of politicians. The new Government has only taken up office in November 2015 so it might be to soon to make a visible move by the Ministry of Family, Labor and Social Affairs towards the implementation of the MIPAA, but so far we are observing the Ministry’s failure to prepare and implement an effective strategy and Action Plan based on MIPAA. Due to the fact that the implementation shall influence all sectors and involve additional financial resources, we rather expect that the process of implementation will be long and rather fragmentary. Hopefully, we are wrong.

Attachments:

1. *Long-term senior policy*
2. Extract form *Report on the Activity of the Human Rights Defender in the Area of Equal Treatment in 2014*

1. For instance, regarding the right to health, including primary, long-term and palliative care services; the rights to work, to an adequate standard of living, including adequate food, clothing, housing, transportation; the right to social security and social protection, including poverty strategies; the right to education, training and life-long learning, including access to new technologies; the right to legal capacity and equal recognition before the law, care and support for caregivers, among others. [↑](#footnote-ref-1)
2. The *Objectives* are described in the attached *Long-term Senior policy in Poland for the years 2014-2020. In outline.* *Based on the Council of Ministers Resolution No. 238 of 24 December 2013.* [↑](#footnote-ref-2)
3. <http://polsenior.iimcb.gov.pl/en/home> [↑](#footnote-ref-3)
4. <https://www.rpo.gov.pl/pl/content/lokale-wyborcze-dostosowane-do-potrzeb-os%C3%B3b-niepe%C5%82nosprawnych-w-wyborach-samorz%C4%85dowych-2014> [↑](#footnote-ref-4)
5. The research ordered by the Commissioner for Human Rights was representative for the **Lower Silesia province.**    [↑](#footnote-ref-5)
6. *The Human Rights Defender* that is previous translation for the position of the Commissioner for Human Rights. The new translation for the position has been used since September 2015. [↑](#footnote-ref-6)
7. *Population in Poland. Size and structure and vital statistics in Poland by territorial division in 2014. as of December 31, Warsaw 2015*  <http://stat.gov.pl/en/topics/population/population/population-size-and-structure-of-population-and-vital-statistics-in-poland-by-territorial-divison-as-of-december-31-2014,3,13.html> [↑](#footnote-ref-7)
8. look: <http://www.reas.pl/en/sectors/senior-housing> . The report is available in Polishonly: <http://www.kongresbudownictwa.pl/pliki/reas-%20perspektywy%20rozwoju%20budownictwa%20senioralnego.pdf>

   [↑](#footnote-ref-8)