Questionnaire of the Independent Expert on the enjoyment of all human rights by older persons on best practices in the implementation of existing law related to the promotion and protection of the rights of older persons

The Human Rights Council, in its resolution 24/20, requested the Independent Expert on the enjoyment of all human rights by older persons, Ms. Rosa Kornfeld-Matte, to assess the implementation of existing international instruments with regard to older persons while identifying best practices and gaps in the implementation of existing law related to the promotion and protection of the rights of older persons and gaps in the implementation of existing law.

Pursuant to this request, the Independent Expert has prepared this questionnaire to identify best/good practices. The responses to the questionnaire, as well as the country visits undertaken will contribute to the comprehensive report of the Independent Expert that will be presented to the Human Rights Council in September 2016.

In order to enable the Independent Expert to consider the submissions in good time for the report, all stakeholders are encouraged to submit the responses to the questionnaire at their earliest convenience and no later than 18 December 2015.

Kindly indicate whether you have any objection for the responses provided to be made available on the OHCHR webpage of the Independent Expert on the enjoyment of all human rights by older persons.

Definition of good/best practices

The term "best practices" is defined broadly in order to include different situations that could be considered positive and successful in a country and could inspire others. Therefore, practice is understood in a comprehensive way, including legislations, policies, strategies, statute, national plans, regulatory and institutional frameworks, data collection, indicators, case law, administrative practices, and projects among others. The practice could be implemented by different actors, State, regional and local authorities, public and private providers, civil society organisations, private sector, academia, national human rights institutions, or international organisations.

To be a good/best practice, the practice should integrate a human rights based approach when implementing existing international instruments related to the promotion and protection of the rights of older persons.

The questionnaire should preferably be completed in English, French or Spanish. The responses to the questionnaire can be transmitted electronically to the Independent Expert, Ms. Rosa Kornfeld-Matte and to be sent to olderpersons@ohchr.org, with copy to Mr. Khaled Hassine, khassine@ohchr.org by 18 December 2015.

Please include in your submissions the name of the State/organization submitting the practice, as well as contact details. Feel free to attach additional pages if you have several good/best practices to share.

Your contact details:

Name: Public Defender's Office of Georgia
State/ Organisation: Public Defender's Office of Georgia
Email: info@ombudsman.ge
Telephone: (995 32) 2 91 38 76
Webpage: www.ombudsman.ge

The Independent Expert would like to thank you for your support!

For more information on the mandate of the Independent Expert, please visit: http://www.ohchr.org/EN/Issues/OlderPersons/IE/Pages/IEOlderPersons.aspx

Questionnaire

of the Independent Expert on the enjoyment of all human rights by older persons on best practices in the implementation of existing law related to the promotion and protection of the rights of older persons

1. Name of the practice:

Monitoring of the State of Rights of Older Persons in Daily Specialized Institutions.

2. Area concerned:

- ✓ Discrimination (e.g. legal/institutional framework, access to facilities and services, etc.)
- ✓ Violence and abuse
- ✓ Adequate standard of living (e.g. resource availability, housing, etc.)
- ✓ Independence and autonomy (e.g. legal guardianship, accessibility, etc.)
- ✓ Participation
- ✓ Social protection (e.g. social security, incl. pension)
- ✓ Education, training and lifelong learning
- ✓ Care (home, family or institutional care, long-term care, palliative care, geriatric services, quality of care and availability of services, care workers, etc.)

3. Type of practice:

- ☐ Legal (Constitution, law, etc.)
- ☐ Policy/Programme/Strategy/Action Plan on Ageing
- ☐ Institution
- ☐ Regulation
- ☐ Administrative practice
- ☐ Case law/jurisprudence
- ☐ Disaggregated statistical data by age/gender
- ☐ Training programme

- ✓ **Other** (please specify):..... Monitoring

4. <u>Level of implementation:</u>

- ✓ **National**
- □ Local (Sub-national, community, urban/rural area)
- □ Other (please specify):.....

5. <u>Please describe the practice, including a) its purpose; b) when and how it was adopted; c) how long it has been used/implemented; and d) its geographic scope.</u>

a) Public Defender's Office of Georgia's Department of Protection of Rights of Persons with Disabilities and the National Preventive Mechanism conducted "Monitoring of State of Rights of Older Persons in Daily Specialized Institutions" in 7 community organizations in Georgia that provide services within the framework of the state program in order to examine the condition of human rights protection of such persons.

b) During the monitoring, attention was focused on the standards and provisions and their improvement, which are mandatory for such institutions to fulfill. The work conducted within the scope of the monitoring involved analyzing international and national acts regulating the rights situation of older persons; requesting information from state entities;

c) During the period from 1 to 5 April 2015, residential institutions for older persons were inspected by members of the special preventive group and representatives of the Department of the Rights of People with Disabilities of Public Defender's Office1 to study the degree of protection of the rights of beneficiaries placed in those institutions, the conformity of those institutions with the standards defined in international documents and national legislation.

d) Monitoring of the State of Rights of Older Persons in Daily Specialized Institutions" in 7 community organizations in Georgia.

6. **Which actors are involved in the development and implementation of such practice?**

The monitoring group comprised members of special preventive group, employees of the Department of Prevention and Monitoring, and Department of the Rights of People with Disabilities of the Public Defender's Office.

7. Which rights of older persons does the practice promote and protect?

In March 2015, the Office of Public Defender developed "The Methodology of Protecting the Rights of Older Persons in State Care and Other Residential Institutions." This document is focused on the inspection of the following standards:

1. Information about the delivery of service;
2. Beneficiary-friendly environment;
3. Safety and sanitary conditions;
4. Observing confidentiality;
5. Individual approach in service delivery;
6. Catering;
7. Promoting social activity;
8. Health protection;
9. Feedback and complaint procedures;
10. Protection against violence and discrimination;
11. Requirements to personnel.

8. How does the practice promote or protect such rights?

The monitoring revealed a number of violations in institutional arrangement, flawed regulations and harmful practice. The Public Defender believes that the rights of older persons being under the state care are not properly realized; the level of their living is inadequate; on certain occasions they become victims of improper treatment. The state does not fulfil the obligations specified in international documents, including in The Madrid International Plan of Action on Ageing and the Political Declaration. National legislative acts regulating the field need further elaboration. Moreover, a poor mechanism of enforcement and supervision of existing norms represents a significant problem.

The Public Defender issued number of recommendations to the Ministry of Labor, Health and Social Affairs, to the legal person in public law the Social Service

Agency, to the administrations of specialized residential institutions for older persons, to the State Fund for Protection of and Assistance to Victims of Trafficking in Persons.

9. What groups of older persons

Older Persons in State Care and Other Residential Institutions.

10. How has the practice been assessed and monitored? Please provide specific information on the impact of the practice, with data, indicators, among others, if any.

The inspection involved the collection of both quantitative and qualitative data. The documentation reflecting institution's administrative management and delivered care was requested from the administrations of residential institutions for older persons. The information was collected through interviews with beneficiaries and employees of these institutions as well as inspections of living conditions therein. The living conditions were assessed and the working process of service providers observed.

The method of semi-structured interview was applied in interviews with beneficiaries of residential institutions for older persons. A qualitative interview was conducted with the help of a questionnaire designed in advance enabling to assess the issues related to factual and legal state of these persons.

Interviews were conducted upon the informed consent of beneficiaries, individually, mainly in private and in a quiet atmosphere with the right of interviewees to stop them at any stage and the confidentiality guaranteed. While strictly observing confidentiality, the information received from individual interviews of older persons were double-checked with other persons and service providers. To double-check particular information, brief informal interviews, by using indirect questions, were conducted with various employees of institutions.

To specify and complement the information obtained through monitoring, additional information was requested from the Ministry of Labor, Health and

Social Affairs of Georgia, the legal entity in public law, the State Fund for Protection of and Assistance to Victims of Trafficking in Persons, Tbilisi City Hall, the Gldani-Nadzaladevi Unit of Tbilisi Main Division of the Ministry of Internal Affairs of Georgia.

The monitoring revealed the following major problems:

- Instances of inadequate treatment of beneficiaries
- Absence of the mechanism for overseeing the compliance with the standards
- Shortcomings in maintaining documentation
- Lack and low qualification of personnel
- Poor feedback mechanism and low awareness of beneficiaries
- Non-adapted physical environment and poor infrastructure
- Social passivity of beneficiaries and threat of being isolated from society
- Problems with the access to timely and adequate medical service
- Problems with the access to medications.

As already has been noted, the Public Defender issued number of recommendations to the Ministry of Labor, Health and Social Affairs, to the legal person in public law the Social Service Agency, to the administrations of specialized residential institutions for older persons, to the State Fund for Protection of and Assistance to Victims of Trafficking in Persons and Public Defender's Office is continuing monitoring of implementation of these recommendations.

11. What lessons do you believe could be learnt from this practice? How could it be improved?

The monitoring revealed a whole set of systemic problems thereby providing the ground to conclude that the majority of special residential institutions for older people either improperly fulfill or fail to fulfill the requirements set out in international and national regulations, including the minimal standards approved by the Decree №1-50n of the Minister of Labor, Health and Social Affairs, dated 23 July 2014. Hence this, Monitoring

of the State of Rights of Older Persons in Daily Specialized Institutions has to be regular and more actors should be involved in monitoring process.

12. How could this practice be a model for other countries?

Other countries' national and local authorities, civil society organizations or other actors could implement a mechanism for monitoring the rights and conditions of older persons in state care and other residential institutions, in order to reveal the problematic issues with this group of older people and then follow up the progress in this field.

* * *