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Parallel session

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PROTECTION OF RIGHTS OF ELDERLY PERSONS

I. Introduction

One of the key factors influencing the situation of the world's population is ageing and the increase of life expectancy. As a result of these demographic changes, in the year 2050 the world's population will be composed of old and young people to an equal degree. According to global estimates, published by the UN, between 2000 and 2050 the percentage of persons aged 60 plus will double and reach two billion, while the proportion of young people will decrease by one third. It should be acknowledged, however, that there are regional differences in demographics, which will continue to deepen.

- It is necessary to reflect on the involvement of elderly persons in economic, social and public life. In the modern states and societies which face increasing unemployment and economic crises, preventing age discrimination is important. The European Union announced the year of 2012 as the European Year for Active Ageing and Solidarity between Generations. This emphasized the need to pay particular attention to this social group and its untapped potential, while remembering that it is particularly vulnerable to unequal treatment. The International Plan of Action on Ageing (the so-called Madrid Plan), adopted by the UN in 2002, anticipates demographic changes and acknowledges that governments should address risks posed by the ageing process in the 21st century. It also aims to secure full rights for the elderly allowing them to age in a

dignified and safe atmosphere. The protection of the elderly should be of interest to Ombudsmen around the world, as we are often faced with the problem of a lack of the protection the elderly in our legislations.

Protecting the rights of elderly persons also needs to be addressed at the national level. Institutions doing so engage in dialogue between citizens, NGOs, public authorities and international institutions. These exchanges should address cases where there have been violations of the rights of the elderly but also contribute to an overall improvement of the conditions necessary for the full participation of them in society.

II. Ombudsmen should monitor the actions of the state with regard to fair treatment of ageing societies. This includes:

- building and implementing strategies within the state that avoid alienation and segregation of the elderly
- providing systematic support for inter-generational dialogue that fosters communication and cooperation.

In accordance with these ideas, in 2010 as the Human Rights Defender, I appointed a council of experts (lawyers, sociologists, geriatricians) and representatives of NGOs, which includes elderly persons. The task of the council is to prepare recommendations for the Ombudsman and other public bodies, which includes Parliament. The council monitors the implementation of specific recommendations which encourage the participation of elderly persons in the labour market and in social and cultural life.

III. Poland and its ageing society

In Poland the last 23 years of transformation have had a profound effect on all aspects of society. Poland is still struggling with problems arising from the heritage of the previous regime. Since the collapse of Communism, life expectancy has increased significantly. This means a new challenge for the state

and for society. With such an increase of life expectancy comes benefits, including economic ones, but also challenges, which need to be addressed.

Let us now take a look at specific issues relating to the ageing society in Poland.

- Professional activity of elderly persons

Increasing employment among elderly persons, preferred by Governments, may be achieved by the extension of the retirement age for both women and men but also by strengthening ties between generations in the workplace. Implementing a model of flexibility with security and stability of work is known as the flexicurity model. The implementation of such a model is particularly urgent in times of global economic crises, during which the weakest members of society are often most vulnerable to financial changes in the policy of the state.

For example, in May 2012, the change in the mandatory retirement age, consisting of the gradual extension of the retirement age for women and men to 67 years, was enacted in Poland. Until then, Polish women retired at the age of 60 and men – at the age of 65. An on-going public debate continues around the necessity to introduce other changes accompanying this reform. This includes providing jobs or training reflecting the needs of elderly persons in enterprises. Therefore, any changes related to the extension of the retirement age should be accompanied by a series of actions of the state related to professional inclusion of elderly persons.

The Office of the Human Rights Defender, as an independent body for equal treatment, dedicates a significant part of its activity to the protection of the rights of elderly persons. The Defender provides support to victims of age discrimination and analyses, monitors and supports equal treatment of elderly persons. Here, it is also worth mentioning that in 2010 the Supreme Court, on the basis of the Ombudsman's proposal, passed a resolution according to which the retirement age must not be the only reason for which an employer makes an

employee redundant. The Supreme Court stated that this could result in direct age discrimination and indirect sex discrimination. Obviously, this judgment was a real breakthrough.

The role of the Ombudsman is also to promote good practices. The Human Rights Defender took patronage over a competition held by a Polish NGO entitled "Profit from maturity 50+", awarding good practices in the labour market for persons over 50.

- Health care for elderly persons

Health care for elderly persons is the subject of the work of the Office of the Human Rights Defender, including the council of experts. Our findings show that a multidisciplinary approach is necessary in order to achieve a significant improvement in health care. This, for example, not only includes a change of health care procedures but also of the attitudes of the health care employees. However, it seems that the most important thing is the development of a geriatric health care system.

The Polish Ombudsman has paid particular attention to the development of such a system and my office's suggestions have been gradually implemented by the respective state authorities. These are: the training of geriatricians at medical schools, and a geriatric training programme for 5400 medical employees, among these there are 2000 family doctors and 2000 nurses.

General preventative measures are also important for quality of life and life expectancy. Therefore information regarding access to medical services should be widely distributed, particularly at the local level, and formulated in an understandable language.

Educational and informational campaigns should enable an earlier diagnosis and facilitate treatment. This could be achieved through the creation of local centres

and the organization of recreational and pro-health activities.

In Poland the understanding of rights especially among elderly persons is still poor. My co-workers developed and continuously distribute guidebooks addressed to elderly persons, their families and care-givers. These publications inform about the right to dignified treatment (including the prohibition of inhuman or degrading treatment), health care, social assistance, and equal access to financial services.

- The independent functioning of elderly persons in society

Weakening physical conditions, difficulties in the spatial orientation of elderly persons, as well as inaccessibility in the public space, has resulted in the need to introduce an appropriate housing policy, guaranteeing elderly persons more independence. An example of this could be co-housing projects, which promote contacts among neighbours of various ages, provide support where it is necessary and create a safe and secure environment. Such housing projects may be inhabited by single persons or persons aged 60+, or may be intergenerational. Co-housing also helps overcoming age-related stereotypes and contributes to creating much needed social ties.

When creating these places of residence friendly to the elderly, Poland should make use of the experiences of other countries. The co-housing multi-integration estates (e.g. in Dorset, UK) allow elderly persons to keep their independence while ensuring mutual intergenerational help. In France, such a programme is Ensemble 2 Generation, implemented by Christian associations which support students or pupils willing to share an apartment with an elderly person. In Germany there are houses with independent apartments reserved for elderly persons, purchased or rented on market principles with a possibility of additional services of care (e.g. in Hilden, Germany). Another German example is the intergenerational home (Mehrgenerationenhäuser), which allows for the care of elderly persons by their family members.

It should also be noted that local communities often lack natural areas where the young and elderly persons could meet. The role of the Ombudsman is therefore to draw public attention to such deficiencies and try to counter-balance them. Elderly persons should be empowered to have a greater influence on the design of communal space.

Another instrument increasing the independence of elderly persons is the development of a community nursing service.

- Support for the hospice movement

The hospice movement deserves special recognition of the ombudsmen, because of the right to health care, regardless of the patient's age and health.

A World Health Organization guidebook from 2007 indicates that palliative care aims at improving the quality of a patient's life by combating pain and other physical, social and spiritual problems in the face of a life-threatening disease. Often this is combined with terminal care at the final stage of life. In Poland, the hospice movement has been growing dynamically since the 1980s. Initially it was a grassroots social initiative and part of the "Solidarity" Movement. Later it was organized legally. Here, the task of the Ombudsman is to press for improving the legal framework and implementing subsidiarity as the key principle for building a friendly palliative care environment. This principle is important because hospices are being operated by public institutions but also by local NGOs - mainly churches and religious associations.

The legislation should - through public tasks – guarantee that palliative care serves the human right to dignity. It should also respect the patient's right to a dignified death, to health care services, to information, and to confidentiality. The protection against the unauthorized subjection of patients to medical experiments and the right to access to medical records are also public tasks. So is the right to freedom of religion and to pastoral care. The hospice care should also address a

patient's family, providing information and psychological assistance. The functioning of the hospice movement is described in the Declaration on Patient's Rights. The involvement of the state in ensuring adequate working standards of hospices should contribute to the level of services of private entities as well as NGOs.

- Full access to financial services

In recent years, the Polish Ombudsman has investigated the problem of the discrimination of elderly persons in the financial market, especially with regard to the accessibility of banking services. It is a sign of direct discrimination if banks refuse to give loans to elderly persons solely on the basis of a client's age. Banks should justify the reasons for a refusal in a consistent, transparent and, above all, reasonable manner. It is also necessary to look at the technical aspects preventing elderly persons from access to financial services – these include: forms or contracts with print that is too small, and bank offices not adjusted to the needs of elderly persons. The Human Rights Defender monitors the introduction of legal solutions facilitating the use of reversed mortgage loans, which should also aim at minimizing the risks of the confiscation of property.

The Ombudsman supports the development of services in the financial sector. In the past year, my office organized three conferences addressing the following: reversed mortgage, discrimination within banking services, and the bankruptcy of individuals. In addition, another research project is under way, which will identify non-culpable risks in financial services offered by banks to senior customers. Our cooperation with the Financial Supervision Authority, the banking industry and consumer organizations is very valuable. A series of actions favouring elderly persons, such as education and promotion, have been taken by my office.

- Universal design

In Poland it is becoming more and more necessary to introduce legal acts facilitating spatial planning and universal design. The needs of elderly persons

should be taken into account and incorporated accordingly. Local governments in Poland should use social management plans in order to systematically collect and analyze social demands, including those of elderly persons. They should also create a culture of social participation, encouraging people who belong to different generations to become involved in the decision-making processes.

The Ombudsman has the power to suggest to the national inspection authorities reviews of the quality of participation procedures conducted by local governments and, on this basis, identify the required reforms. These reforms should refer to the spatial development and transport services. It seems that networks consisting of local medical companies, grocery stores, and local public transport also increase the independent functioning of elderly persons. These networks should be close to the areas inhabited by elderly persons.

- Universities of the Third Age (U3A).

In modern Poland, U3As have become a phenomenon ever since they managed to attract more than One Hundred thousand retired persons throughout the whole country. Initially, U3As were established mainly in large cities and academic centres as part of the given university structures. Later they also began to grow in smaller cities. U3As are also established by associations and foundations and at cultural centres, public libraries or social assistance centres.

U3As allow elderly persons to use their right to education; they also have an integrational function. The possibility to co-operate with other people and to build mutual relationships has a significant effect on the state of health, self-esteem and satisfaction. Another positive aspect of the U3As is the possibility to use the potential of elderly persons through volunteering, and their engagement in NGOs. However, much needs to be done in order to integrate the young and the elderly persons at U3A. Student practices and training sessions, during which young students help their elderly counterparts, with computers and foreign languages or joint physical exercises, are more and more frequent, and

examples of solidarity between generations.

- **Building a positive image of elderly persons**

An essential element of shaping attitudes towards elderly persons is the promotion of a society which respects and offers support to its growing group of elderly members. Social campaigns portraying a positive image of senior age have become a part of the landscape in Western countries. The strengthening of multigenerational actions should also be addressed. This increases the social capital through breaking stereotypes and strengthening human ties. Building positive attitudes towards demographic changes is also important if a country wants to achieve a social understanding for policy decisions. Therefore, it is important to present elderly people as a group which has a significant social and economic role and contribution to make. This will help to promote the culture of dialogue between generations and build social relations based on the principle of solidarity of generations in many areas of life.

IV. Summary

The above mentioned actions for the participation of elderly persons in society, may be inspired, initiated and supported by the Ombudsman.

Ultimately, elderly people should be a part of a coherent social policy. First of all, a comprehensive approach toward demographic changes gives an opportunity to build social cohesion in the modern state. The Ombudsman may effectively defend the elderly persons' rights not only through individual cases but also by promoting good practices in social policy, aimed at improving their social situation.

It is clear that the activities of the Ombudsmen in these areas are extremely important. Naturally, the responsibility rests on the public authorities, including, the legislative and executive branches, which should create and implement policies responding to current trends in demographic and social development.

In my opinion, the current state of affairs of this in Poland, despite many significant achievements and changes, is still unsatisfactory. The demand for developing a national strategy for an ageing society, which has been recommended for several years, should be urgently implemented.

The Ombudsman should try to underline the importance of strategic actions, not only affecting the present social situation, but also shaping the longer perspective in order to assure a dignified treatment of elderly persons in social life.

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INTRODUCTION

- Ageing and the increase of life expectancy as the key factors influencing the situation of the world's population
- In the year 2050 the world's population will be composed of old and young people to an equal degree
- UN data: between 2000 and 2050 the percentage of persons aged 60 plus will double and reach two billion, while the proportion of young people will decrease by one third

INTRODUCTION

- involvement of elderly persons in economic, social and public life – preventing age discrimination
- 2012 as the European Year for Active Ageing and Solidarity between Generations
- Madrid Plan (2002): governments should address risks posed by the ageing process in the 21st century

Ombudsman's role

- The role of Ombudsmen: protection of the rights of elderly persons
- Monitoring function:
 - ✓ strategies that avoid alienation and segregation
 - ✓ support for inter-generational dialogue

Actions of the Polish Ombudsman

- Enhancement of the professional activity of elderly persons - retirement age reform
- Promotion of good practices

Health care for elderly persons

- Multidisciplinary approach: requires change of health care procedures and attitudes of the health care employees, plus the development of a geriatric health care system
- Training of geriatricians at medical schools
- Access to information regarding medical services
- Educational and informational campaigns
- Distribution of guidebooks addressed to elderly persons, families and care-givers

Independence in society

- Housing policy promoting contacts between neighbours, including between generations
- Examples: Dorset - UK, France - Ensemble 2 Generation, Germany – Hilden or Mehrgenerationenhäuser
- Widening influence of elderly persons on the design of communal space
- Development of community nursing services

Hospice movement

- The patient's right to health care, regardless of her or his age and health
- Improvement of the legal framework and implementation of a friendly palliative care
- The patient's right to a dignified death, to health care services, to information, and to confidentiality

Financial services

- Fighting discrimination of elderly persons in the financial market, especially the accessibility of banking services
- Preventing technical discrimination in forms or contracts with print that is too small, and bank offices not adjusted to the needs of elderly persons
- Conferences of the OM: reversed mortgage, discrimination within banking services, and the bankruptcy of individuals

Universal design

- Facilitating spatial planning and universal design. Role of local governments
- National inspection authorities should review procedures and identify reforms

Universities of the Third Age

- Dynamic: large cities and academic centres - smaller towns - associations and foundations
- Right to education
- Integrational function
- Role of NGOs

Positive image

- The promotion of a society respecting the group of its elderly members
- Social campaigns
- Breaking stereotypes and strengthening human ties
- Building positive attitudes towards demographic changes

Summary

- Need for a coherent social policy through comprehensive approach toward demographic changes
- Responsibility rests with public authorities, especially the legislative and executive branches. But role of the Ombudsman cannot be underestimated
- In Poland, the development of a national strategy for an ageing society should be urgently implemented
- The Ombudsman should shape the longer perspective

Thank you for your attention!