**Protocol no.: Oi – K – SA – 63/19**

**Date: 8th April 2019**

**QUESTIONNAIRE ON THE RIGHTS OF ELDERLY WITH DISABILITIES**

**I- Legislation and policies ensuring the implementation of the rights of elderly with disabilities**

During the last 20 years, the trend of population decline in Bosnia and Herzegovina has continued. It includes the trend of fertility decline and increase in number of the elderly population. This is due to a combination of factors including the birth rate below the natural replacement rate, the loss of a significant number of working-age population during the war, the increase in the life expectancy of the population and the noticeable brain-drain, that is, a lot of young people leave Bosnia and Herzegovina[[1]](#footnote-1). For example, during the first nine months of 2018 in Bosnia and Herzegovina registered was 21,006 live born children, which is, compared to the same period of 2017, a decrease in the number of live born children by 2.09%, while 27,182 persons died, which is, compared to the same period of 2017, an increase in the number of deaths by 0.02%.[[2]](#footnote-2)

1. **Bosnia and Herzegovina**

Bosnia and Herzegovina has ratified a series of international standards guaranteeing human rights and freedoms, including the UN Universal Declaration of Human Rights[[3]](#footnote-3), the European Convention on Human Rights and Fundamental Freedoms[[4]](#footnote-4), the Convention on the Rights of Persons with Disabilities[[5]](#footnote-5) and the Protocol No. 12 with the European Convention for the Protection of Human Rights and Fundamental Freedoms, European Social Charter (Revised)[[6]](#footnote-6), the Recommendations of the Committee of Ministers and the Parliamentary Assembly of the Council of Europe, including, in particular, the Recommendation Rec (2009) 4 on Aging and Disability in the 21st Century[[7]](#footnote-7), which provides sustainable frameworks that enable higher quality of life in an inclusive society.

When it comes to domestic legislation, it should be primarily pointed out that the *Constitution of* *BiH* in Article 2 paragraph 3**-** Catalogue of rights provides that all persons on the territory of BiH enjoy human rights and freedoms listed in paragraph 2 of that Article, while paragraph 4 provides that the enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in Annex I to this Constitution shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as: sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

*Law on Prohibition of Discrimination in Bosnia and Herzegovina*[[8]](#footnote-8) in its Article 6 provides that it applies to actions of all public bodies at the level of the state, entity, canton and Brčko District of BiH, municipal institutions and bodies, and legal persons with public authorities, as well as to the action of all legal and natural persons, in all spheres of life, but especially in the following fields, including Social protection, including social insurance, social benefits, social assistance (housing allow- ances, allowances for youth, etc.) and ways of treating social protection beneficiaries. Law on Prohibition of Discrimination in Bosnia and Herzegovina as amended in 2016[[9]](#footnote-9), added the age as a personal characteristic based on which the discrimination is prohibited[[10]](#footnote-10). The Law includes the exceptions from principle of equal treatment, that is, legal measures and actions which are not considered discriminatory when reduced to unfavourable distinction or different treatment if based on objective and reasonable justification and if these measures realize a legitimate goal and if there is a reasonable relation ratio of proportionality between means used and goals to be achieved. Among other things, provided is that definition of maximum age as the most appropriate for terminating working relation and determination of age as a condition for retirement is not considered discriminatory[[11]](#footnote-11).

*Law on Ministries and Other Administrative Bodies of Bosnia and Herzegovina*[[12]](#footnote-12) defines the mandate and powers of the Ministry of Civil Affairs of Bosnia and Herzegovina in the establishment of basic principles of co-ordination of different activities, harmonization of the plans of the various entity-level authorities and definition of the strategies at the international level, while the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District of Bosnia and Herzegovina have the mandate to establish the rights and obligations, as well as conditions for the enjoyment and implementation of the rights and obligations.

The Council of Ministers of Bosnia and Herzegovina also adopted the *Action Plan for the Preparation and Implementation of the Qualifications Framework for Lifelong Learning in Bosnia and Herzegovina for the period 2014-2020[[13]](#footnote-13)* which is in fact a plan of activities for the development and implementation of the qualifications framework in Bosnia and Herzegovina for all institutions and individuals involved in the development and implementation of the qualifications framework in Bosnia and Herzegovina. The mentioned document includes, among other things, vision, mission, goals, as well as planned activities for the development of human resources from the perspective of lifelong learning, and the development and implementation of the qualification framework in Bosnia and Herzegovina.

*Strategic Platform of Development of Education of Adults in the Context of Lifelong Learning in Bosnia and Herzegovina for the period 2014-2020[[14]](#footnote-14)* represents the legal framework and basis for the functioning and co-operation of the competent authorities, institutions, organizations and individuals at all levels of government in Bosnia and Herzegovina in the adoption and full implementation of the necessary strategic and/or other development related documents related to the education of adults. The Platform defines the trends of adult education in Bosnia and Herzegovina for the period 2014-2020.

The importance of these strategic documents is primarily reflected in giving the entity, cantonal and Brčko District governments the power to engage in improving the position of the elderly through lifelong learning activities and projects.

1. **Federation of Bosnia and Herzegovina**

*Law on Federal Ministries and Other Federal Administrative Bodies[[15]](#footnote-15)* stipulates that the Federal Ministry of Social Policy, Displaced Persons and Refugees carries out the administrative, professional and other professional affairs stipulated in the Law pertaining to the Federation's jurisdiction in the field of social policy, displaced persons, refugees, labor, pension and disability insurance.[[16]](#footnote-16)

*Law on Fundamentals of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children*[[17]](#footnote-17) defines the social protection beneficiaries including the elderly persons without the family care[[18]](#footnote-18). An elderly person without a family care is considered to be an adult older than 65 (male) or 60 (female) who has no family members or relatives who are legally obliged to maintain them, or if there are such relatives, but they are unable to meet this legal obligation[[19]](#footnote-19). Article 19 of the mentioned Law and the cantonal legislation provide that elderly persons should enjoy basic rights and social protection benefits such as: permanent financial and other material assistance, carer’s allowance, domestic care and household assistance, provision of institutional care to elderly and frail persons, alternative settlement of elderly persons without family care or elderly persons with disabilities to other family, day care of elderly through the day-care centers and elderly clubs, social and other professional work services, regulation of the entitlements to humanitarian aid and the appropriate subsidies (electric energy, firewood, burial costs etc.).

Article 22, paragraph 1 of the aforementioned Law stipulates that the right to permanent financial and other material assistance shall be granted to persons and families subject to the following conditions: that they are incapable of work or are prevented from exercising their right to work, that they do not have sufficient income for maintenance, that they do not have family members who has no family members or relatives who are legally obliged to maintain them, or if there are such relatives, but they are unable to meet this legal obligation. A person older than 65 years of age is considered to be incapable to work or prevented from exercising the right to work, within the meaning of Article 23, paragraph 1, item 2 of the said Law.

Financial allowance earmarked for other person’s care and assistance (carer’s allowance) can be granted to a person older than 65 years of age if they are frail and need the assistance because of permanently deteriorated health conditions so they cannot meet the basic needs for survival without somebody’s help ( Article 26 of the Law).

*Law on Health Care in the Federation of Bosnia and Herzegovina[[20]](#footnote-20)* regulates the principles, measures, manner of organization and implementation of health care, social care providers taking care of population health, rights and obligations of persons, beneficiaries of health care, and content, manner of carrying out and monitoring of health care provision on the territory of the Federation of Bosnia and Herzegovina. Article 94 of the aforementioned Law stipulates that hhh care in the social care institutions, which, among other things, provide care to frail and old persons, is provided by the health centers or private health practitioners. Paragraph 2 of the same Article stipulates that the provision of primary health care referred to in paragraph 1 of this Article is implemented based on a contract between the health center or the private health provider and the cantonal insurance institute. In social welfare institutions which provide care for persons dependent on other person's assistance who need health care and rehabilitation according to instructions and under the professional supervision of a doctor of medicine, health care measures are provided according to conditions prescribed by the Cantonal Minister in terms of space, personnel and medical and technical equipment.

*Law on Health Insurance in the Federation of Bosnia and Herzegovina*[[21]](#footnote-21)in itsArticle 89 stipulates that funds for cantonal or municipal budgets have to be approved by the legislative body of the canton or municipality on the basis of a request filed by a management board of the cantonal insurance institute, based on the plan for the provision of necessary funds for compulsory health insurance. The funds referred to in paragraph 1 of this Article are used, inter alia, to cover the health care costs of persons over the age of 65 beyond compulsory health insurance due to extraordinary or other difficult conditions of health care provision.

*Strategy for the improvement of the rights and status of persons with disabilities in the Federation of Bosnia and Herzegovina 2016-2021[[22]](#footnote-22)* defines strategic priorities, aims and activities in the area of disability in the Federation of Bosnia and Herzegovina.

S*trategy of deinstitutionalization and transformation of social protection institutions 2014-2020[[23]](#footnote-23)* has a purpose of raising the quality of life of children, people with disabilities and the elderly and the implementation of the deinstitutionalization and transformation process by providing conditions for community support to the beneficiaries who need that kind of support thus implementing the international standards stipulating that every person has the right to life in community equally with others. This document also responds to the need for systemic changes necessary in the area of traditional institutional care of the beneficiaries.

1. **Republika Srpska**

*Law on Social Protection*[[24]](#footnote-24) governs the system of social protection, the providers, the beneficiaries and rights of the social protection beneficiaries, the procedure and conditions for exercising these rights, the functioning of social welfare institutions, the independent provision of social protection services, funding, monitoring and other issues important for the functioning and implementation of social protection of citizens.[[25]](#footnote-25) Social protection is defined as an activity of general interest for Republika Srpska which by which is provided assistance to persons in social need in the framework of which are taken necessary measures to prevent the emergence and eliminate the consequences of such a state.[[26]](#footnote-26) Social protection includes measures and activities for the creation of the conditions for the fulfillment of the family's protective function, the conditions for independent living and the work of persons in social need or for their activation depending on their abilities, the provision of the means of subsistence to those in need and for creation of conditions for the work to persons with reduced abilities and other citizens in social need, as well as the provision of other forms of social protection.[[27]](#footnote-27) Beneficiaries of social protection are persons in social need, among other listed categories, the Law specifies persons without sufficient income, incapable of work, persons with disabilities and elderly persons without family care.[[28]](#footnote-28) Beneficiaries of social protection services are individuals, family members or families in general who reside in Republika Srpska whose needs cannot be met by their work, income originated from their property or other sources. The forms of social protection under this Law are: financial assistance, carer’s allowance, support for equalizing opportunities for children and youth with developmental problems, referral to an institution, referral to foster family, home help and assistance, day-care, one-time financial assistance and counseling:.[[29]](#footnote-29)

*Law on Health Care [[30]](#footnote-30)* governs the provision of health care, the principles of health care, the rights and obligations of citizens and patients in the implementation of health care, levels of health care, establishment, cessation of work and organization of health institutions, health care institutions, organization of work, working hours and strikes in a health institutions, health professional and hhh associate, certification and accreditation of health institutions, special provisions, financing of a health institution, supervision, expert commissions, and other issues of importance for the organization and implementation of health care[[31]](#footnote-31). It defines the health care as a set of services and activities intended at the improvement and preservation of human health, preventing illnesses and injuries, early detection of illness, timely treatment and rehabilitation[[32]](#footnote-32).

*Law on Health Insurance [[33]](#footnote-33)* governs the system of mandatory and extended health insurance, insurance rights, the way of exercising these rights and the principles of private health insurance[[34]](#footnote-34). Article 2 of this Law provides that the mandatory health insurance covers all the citizens of Republika Srpska and other persons pursuant to the Law. Enjoyment of the rights and benefits under the mandatory health insurance defines the Health Insurance Fund of Republika Srpska and the employers under conditions defined in this Law and the Fund’s documents[[35]](#footnote-35), while the rights or entitlements arising from health insurance are the following: health care, compensation of salary during the sick leave and temporary inability to work and other rights defined by the Law and the Fund’s legislative documents.

*Strategy for the improvement of the status of persons with disabilities in Republika Srpska 2017-2026[[36]](#footnote-36)* aims at creating a society of equal opportunities and carrying out the activities to enable equal participation of persons with disabilities in the civil, political, economic, social and cultural spheres of life.

1. **Brčko District**

*Law on Social Protection of Brčko District of Bosnia and Herzegovina*[[37]](#footnote-37) governs the principles of protection of the elderly, frail and other persons in situation of social need, the minimum of the rights to certain forms of social protection, and the conditions for its implementation, the basis of social protection and funding of this activity, as well as other issues of importance for the realization of social protection of citizens[[38]](#footnote-38). Through the social protection system, interventions aimed at ensuring the basic existential needs of a population that meets the prescribed conditions as well as a whole range of services intended for beneficiaries who need different forms of permanent or temporary accommodation or some other social service services are provided. Older people may, by virtue of the Social Welfare Act, enjoy some of the benefits covered by the social protection system such as: one-off assistance, care and assistance of another person, help and care at home, and placement in a social welfare institution.

*Law on Health Care of Brčko District of Bosnia and Herzegovina*[[39]](#footnote-39) stipulates that health care constitutes a system of social, group and individual measures, services and activities for the promotion and preservation of human health, prevention of illness and injury, early detection of illness, timely treatment, health care and rehabilitation as well as application of health technologies. According to Article 8 of the Law, special health protection measures are foreseen for the population over the age of 65.

*Law on Health Insurance of Brčko District of Bosnia and Herzegovina [[40]](#footnote-40)* provides that persons above 65 of age are entitled to health insurance based on their age ( that is, older than 65) unless they can enjoy this rights on some other basis. An elderly person without a family care, in sense of this Law, is considered to be an adult older than 65 without the family members or relatives who are legally obliged to maintain them, or if there are such relatives, but they are unable to meet this legal obligation. As an organization unit functioning within the Health and Other Services Department of the Government of Brčko District of Bosnia and Herzegovina is the Sub-Department for Social Protection with a mandate covering the social and family care.

**II - Discrimination of old people with disabilities in law and practice**

The prohibition of discrimination in Bosnia and Herzegovina is prescribed by the Constitution of Bosnia and Herzegovina[[41]](#footnote-41), as well as the Constitution of the Federation of Bosnia and Herzegovina[[42]](#footnote-42) and the Constitution of the Republika Srpska[[43]](#footnote-43). In addition, the European Convention for the Protection of Human Rights and Fundamental Freedoms is directly applicable in Bosnia and Herzegovina. The Law on the Prohibition of Discrimination in Bosnia and Herzegovina was adopted in 2009, followed by the adoption of the Amendments to the Law on the Prohibition of Discrimination in Bosnia and Herzegovina in 2016[[44]](#footnote-44). Article 6 of the said Law prescribes that the Law shall apply to the actions of all public authorities at the state, entity, canton and Brčko District of Bosnia and Herzegovina, general institutions and bodies, as well as legal entities with public authority, as well as the treatment of all legal and natural persons, in all, and in particular in the following areas of life, including, inter alia, social protection, including social security, social benefits, social assistance (housing allowances, youth benefits, etc.) and the way they treat social welfare beneficiaries. The mentioned amendments to the Law are very important for the consideration of the subject area, since the age is added to them as a personal property on the basis of which discrimination is prohibited.

The law contains exceptions to the principle of equal treatment, that is, it is prescribed that legal measures and actions will not be considered discriminatory when they are reduced to an unfavorable distinction or different treatment if they are based on objective and reasonable justification, as well as if it achieves a legitimate aim and if there is a reasonable ratio of proportionality between the resources used and the goal that is being sought. Among other things, it is stipulated that the determination of the maximum age period most appropriate for termination of employment and the determination of the age as retirement conditions will not be considered discriminatory[[45]](#footnote-45). For the purposes of Article 7 of the said Law, the Ombudsperson Institution is the central institution for the protection of discrimination, so the role of the Ombudsman is also to ensure that public authorities treat people fairly, and when it comes to elderly people, fairly means without discrimination, with due regard to their physical and mental abilities, and above all with respect to their human dignity, with the understanding of the fact of the certainty of everyone's aging and the role that those who are now elderly have had in their efforts to secure the economic well-being that their descendants now enjoy.

For example, the Ombudsmen of Bosnia and Herzegovina issued a recommendation to the Insurance Supervision Agency of FBiH and Uniqa osiguranje d.d. Sarajevo upon the complaint of the complainant who was the candidate for the work of the assessor of damage in the said insurance company. In the complaint, he stated that after the interview he was told: "If you are not called in the second circle, that is, you do not enter the shortlist, it will only be because a minimum of 5 years is required for education, and bearing in mind your age. .. ". Finally, the complainant was not called to the second round, i.e. he did not get a job.[[46]](#footnote-46) Old people with disabilities are exposed to discrimination in many areas, in particular in the provision of services, based on their age or in combination with other personal characteristics, such as gender, disability or health status, which requires support from competent public authorities through strategic documents and various policies create conditions for easier and more efficient realization of the rights of this category of persons.

**III-Information on the realization of the rights of the elderly with disabilities**

The life cycle of man also implies the aging process. Demographic trends expressed globally are accompanied by an increase in the population, which also increases the proportion of older people. According to the United Nations Population Fund (UNFPA), the share of elderly over 60 years of age is 12.3% globally, with an estimate that the proportion of elderly people by 2050 will increase to 22%.[[47]](#footnote-47) A similar situation exists in Bosnia and Herzegovina. The number of elderly people is constantly increasing, while the number of young people and children decreases, and the birth rate is getting lower. According to UN estimates, by the middle of this century, the number of elderly people will double in BiH[[48]](#footnote-48)

Due to the fact that the elderly have special needs, and if we add to this the circumstance of disability, previously acquired or acquired in old age, the society regards the mentioned category as a social problem, as unproductive and incapable of further contributing to society, that is, "burden of societies".[[49]](#footnote-49) Many are obstacles on the way to the conditions for their dignified age. Primarily it is poverty, and so many still live in unacceptable conditions and cannot meet basic living needs.

All this sets the challenge for the authorities to create adequate regulations and policies that will provide the elderly with the conditions for a dignified life with equal participation in all spheres of social life.

In 2010, the Ombudsperson Institution made a special report on the state of human rights of the elderly.[[50]](#footnote-50) The lack of an adequate and specific normative framework on the support of the elderly in the realization of their human rights, the fact that the society takes care of the relatively small number of elderly people through social assistance endangered and mainly accommodated in homes and other institutions that are insufficient, and some are outside the social welfare system protection, and the assessment of the existence of vulnerability and social alienation of a number of elderly people, were the reason for ombudsmen to draft this report. The Ombudspersons of Bosnia and Herzegovina made recommendations on the basis of the reports, which were sent to the public authorities.[[51]](#footnote-51) The situation in this area has not changed significantly even today. It is particularly worrying that Bosnia and Herzegovina, that is, the Federation of Bosnia and Herzegovina and the Republika Srpska have not adopted their strategies to improve the position of the elderly. Draft strategies have been in the process, but to date they have not been adopted, and they represent documents that would certainly contribute to determining the directions of action and establish ways of supporting this category of persons.

On the quality of life of the elderly, the so-called "a system of informal social support: families, friends, neighbors and acquaintances, or the way these social networks mitigate some of the stresses that accompany aging. In the absence of such support, old people face a number of difficulties in achieving basic rights, which is particularly manifested in the exercise of rights in the field of social protection, pension insurance and health insurance. The economic situation has a strong impact on many aspects of the lives of the elderly: health, social relations, housing, social and political activities. Many retirees have very low incomes, although their needs and desires are no less than they were before. In order to remain full members of society as long as possible, it is necessary to have adequate resources that would enable elderly people to lead a decent life and play a more active role in public, social and cultural life. The primary focus of the right to adequate resources is on pensions. Pensions and other benefits received from the state are insufficient[[52]](#footnote-52) to enable older people to lead a decent and dignified life, to actively participate in public, social and cultural life. The fact is that with a large number of old people in retirement, the general standard of living is drastically worsened. For this reason, pensions must be compared and must be linked to the average level of wages and general living expenses.

The elderly with disabilities in Bosnia and Herzegovina face a number of difficulties, which are reflected above all in the difficult physical access to public authorities, health centers, local self-government units, and centers for social work, cultural institutions and other institutions of public importance, due to the lack of adequate ramps and access to people with disabilities[[53]](#footnote-53). Furthermore, the inaccessibility of services aimed at meeting everyday life needs, for example, delivery of meals, food supplies, home help, treatment and care in the home, are mainly done through non-governmental organizations and humanitarian organizations[[54]](#footnote-54).

In the context of the right to adequate health care for older persons, there is a need for health care programs and services (especially primary, including home care / services) specifically designed for the elderly, in particular mental health programs and all psychological problems of the elderly. Based on the direct insight and suggestions of the institutions and the competent authorities, the problem is the lack of sufficient number of institutions for elderly people, especially clubs, institutions for living quarters and homes (public and private), and there are high prices in relation to the income of the beneficiaries, and such are not affordable, so help is needed to cover the costs of using the services of institutions.

Promotion of the rights of old people is important and it is necessary to raise awareness that anyone who wants to provide help to an old man can work with the knowledge and material possibilities in the field of social protection. Therefore, in addition to the professional work of the respective institutions of social protection and care, voluntary work in the social protection area is socially justified and necessary and would greatly contribute to the successful performance of the social protection function in society.

**IV-** **Provide information on the existence of long-term care services in your country and describe to what extent they promote the autonomy and independence of older persons with disabilities.**

When it comes to the care of old people, institutionalization is one of the most important issues. Institutions for the accommodation of elderly people should not be understood as places of residence, but as places where services are provided. In this particular problem, there are differences between state and private institutions regarding the establishment of appropriate standards to help determine the violation of rights when it comes to space, general living conditions in these institutions, sociological-psychological and other professional treatment. Developing non-institutional and institutional forms of protection of old people in order to ensure basic living conditions from regular pensions, health care insurance, the pursuit of cultural and entertainment activities, safe housing, securing other social contents (in the house, in the apartment) or all this and beyond institutions dealing with the protection of the elderly and inclusion of the society as a whole (involving persons of all ages, children, youth, schools, humanitarian organizations, the Red Cross, etc.) and other subjects of society would have prevented the most severe consequences, such as the social isolation of the elderly.

**V- Please describe how access to justice is guaranteed to older persons with disabilities. Provide information on case law, complaints or investigations related to violence, abuse and neglect in relation to elderly people with disabilities.**

A significant number of complaints received at the Ombudsman institution relate to the length of proceedings before the administrative and judicial authorities in Bosnia and Herzegovina, violating Article 6 of the European Convention on Human Rights and Fundamental Freedoms. After determining the violation of the right to make a decision within a reasonable time, the Ombudsmen of Bosnia and Herzegovina, as a part of the right to a fair trial, issue a recommendation to the public authority in order to eliminate the observed violations. The Ombudspersons of Bosnia and Herzegovina continuously point out that the state is obliged to establish an effective decision-making system, an effective remedy, but also an efficient system for executing decisions of administrative and judicial bodies. Generally speaking, there is a slowness in deciding on the right to a pension, and the major problem is the execution of court decisions at the expense of the public budget.

The Ombudsman Institution acted on complaint[[55]](#footnote-55) elderly, seriously ill, who, according to information from the Ministry of Finance of Sarajevo Canton, was on 1771 place in the Execution List. On this occasion, the Ombudsmen of Bosnia and Herzegovina took the following position:

*"... The Ombudsmen of Bosnia and Herzegovina conclude that there has been a violation of the right to effective legal protection of the complainant, in the manner that the competent authorities did not take all measures and activities in order to execute the said decision. The BiH Ombudsmen express special concern over the fact that the Decision in question is at 1771 place for execution in the order of the received decisions with Union Bank, which raises the issue of factual, realistic possibilities of achieving legal satisfaction and the settlement of all prosecutors from the budget of Sarajevo Canton, especially taking on the one hand, the slowness of the authorities responsible for enforcing outstanding claims and execution of the decision, on the other hand, the age and serious health condition of the complainant.“[[56]](#footnote-56)*

When it comes to violence, harassment and neglect of elderly people with disabilities, in recent years, the number of cases of violence against the elderly is on the rise, and especially vulnerable old women. According to statistics, the violence of children towards parents, but also grandchildren towards grandparents and nurses is on the increase. Violence against the elderly is an expression of gender discrimination, and in Bosnia and Herzegovina, there is no effective system for the protection of elderly persons or coordinated activities of institutions in order to timely detect cases of this type of violence, provide adequate assistance and support, and punish the perpetrators.[[57]](#footnote-57)

Also, the European Court of Human Rights in its verdicts[[58]](#footnote-58) continuously affirms the existence of a positive obligation for the state to take steps to protect each of the degrading treatment. This is relevant for the rights of older people living in institutions-homes. The latest trend of inadequate institutionalization of older people is ignoring the basic principles of dignity, autonomy and human rights, which may be contrary to the right to private life in combination with the right to non-discrimination. Another relevant argument relating to the effective protection of older people's rights and referred to by the Human Rights Court is the effectiveness of access to the court. For many mentally handicapped people, for example, elderly people suffering from dementia "access to an effective remedy is not so frustrating to impose unwanted advocates over the lack of any help or support" as a situation contrary to Article 6 of the European Convention on Human Rights.

**VI- Describe to what extent and how older persons with disabilities are involved in the design, planning, implementation and evaluation of aging and/or disability policies.**

Although the degree of participation of elderly with disabilities in the adoption of regulations and policies directed towards this category of persons could be significantly higher, persons with disabilities are usually members of non-governmental organizations, which by their actions and various forms of cooperation with public authorities, in designing and creating policies, are to a certain extent included in the above processes.

**VII- Provide information on all innovative initiatives undertaken at the local, regional or national level to promote and ensure the rights of older people with disabilities and lessons learned from them.**

Non-governmental associations within the activities defined by the programs of work are continuously initiating various awareness-raising campaigns for both citizens and people with disabilities. Thus, various activities are undertaken that contribute to the more effective realization of the rights of persons with disabilities. By organizing conferences supported by various donors and NGO partners, it seeks to promote as much as possible the work and needs of non-governmental organizations, but at the same time it seeks to indicate to public authorities the need to involve old people with disabilities in social flows on an equal footing with other citizens, but by taking affirmative measures in different spheres of life.

INSTITUTION OF THE OMBUDSMEN FOR HUMAN RIGHTS OF BOSNIA AND HERZEGOVINA

1. Although the official statistics on the number of young people who left Bosnia and Herzegovina in search of better living conditions are lacking, the media in Bosnia and Herzegovina report that in the last two years only in the Una-Sana Canton, 28,387 citizens left, or are in the process of leaving the country. In 2017 the Una-Sana Canton Ministry of Interior issued 15,921 no-conviction certificates. As much as 13,538 out of that number was for the purpose of the employment outside Bosnia and Herzegovina. In 2018, the number of issued no-conviction certificates rose to 16,668 out of which the most, precisely 14,849 was requested for the employment abroad. From 2013 until today, the Labor and Employment Agency of Bosnia and Herzegovina mediates in the employment of Bosnian-Herzegovinian citizens in Slovenia and for the graduates of the secondary medical school to work as carers in Germany. According to the statistics for the past period, in 2017 in Slovenia 9,923 workers got job in this way, while in 2018 by 31 October 2018 that number was 13,198. In 2017 and 2018, the most wanted profession, according to the job vacancy advertisements was a welder with 23%, followed by drivers with 22.8%, masons 6.5%, locksmiths 4%, and other workers in the construction sector. In 2017 in Germany 851 persons got job as a result of this agency and by 10 December 2018, this number rose to 963 workers, available at: <http://ba.n1info.com/Vijesti/a307317/Odlazak-mladih-iz-Bosne-i-Hercegovine.html>, accessed on 05 April 2019; [↑](#footnote-ref-1)
2. Available at the web site of the Bosnia and Herzegovina Statistic Agency: [www.bhas.ba](http://www.bhas.ba); [↑](#footnote-ref-2)
3. Adopted by the United Nations General Assembly on 10 December 1948 [↑](#footnote-ref-3)
4. Adopted in Rome on 4 November 1950 [↑](#footnote-ref-4)
5. Adopted by the United Nations General Assembly on 13 December 2006 [↑](#footnote-ref-5)
6. Adopted in Strasbourg on 3 May 1996 [↑](#footnote-ref-6)
7. Rec (2003)1591; (2007)1796; of the Council of Europe Parliamentary Assembly [↑](#footnote-ref-7)
8. “Official Gazette of BiH“no.:59/09 and 66/16. [↑](#footnote-ref-8)
9. Law on Amendments to the Law on Prohibition of Discrimination in Bosnia and Herzegovina, „ Official Gazette of BiH BiH“ no. 66/16) [↑](#footnote-ref-9)
10. Law on Prohibition of Discrimination in Bosnia and Herzegovina, Article 2, paragraph 1 [↑](#footnote-ref-10)
11. Ibid., Article 5, paragraph 1, Item d) [↑](#footnote-ref-11)
12. „Official Gazette of BiH “ br.:5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09, 103,09, 87/12, 6/13 i 19/16 [↑](#footnote-ref-12)
13. „Official Gazette of BiH BiH“no. 28/15 [↑](#footnote-ref-13)
14. „Official Gazette of BiH BiH“ no.: 96/14 [↑](#footnote-ref-14)
15. “Official Gazette of FBiH” no. 19/03, 38/05, 2/06, 8/06 and 61/06 [↑](#footnote-ref-15)
16. Article 10 [↑](#footnote-ref-16)
17. “Official Gazette of FBiH”, no. 36/99, 54/04, 39/06 ,14/09,45/16 [↑](#footnote-ref-17)
18. Article 12, paragraph 1, Item 6.i 7. [↑](#footnote-ref-18)
19. Law on Fundamentals of Social Protection, Protection of Civilian Victims of War and Protection of Families with Children of the Federation of Bosnia and Herzegovina [↑](#footnote-ref-19)
20. # "Official Gazette of the Federation of BiH", no. 46/10 and 75/13

    [↑](#footnote-ref-20)
21. " Official Gazette of the Federation of BiH", br. 30/97, 7/02, 70/08, 48/11 [↑](#footnote-ref-21)
22. Document available at [www.fbihvlada.gov.ba](http://www.fbihvlada.gov.ba); [↑](#footnote-ref-22)
23. Ibid. [↑](#footnote-ref-23)
24. „ Official Gazette of RS“ no.: 37/2012 and 90/2016 [↑](#footnote-ref-24)
25. Article 1 of the Law [↑](#footnote-ref-25)
26. Article 2 paragraph 1 of the Law [↑](#footnote-ref-26)
27. Ibid., paragraph 3 of the Law [↑](#footnote-ref-27)
28. Article 17, paragraph 1, Item b) [↑](#footnote-ref-28)
29. Article 20 of the Law [↑](#footnote-ref-29)
30. „ Official Gazette of Republika Srpska" no. 18/99, 58/01, 62/01, 106/09, 44/15 [↑](#footnote-ref-30)
31. Article 1 of the Law [↑](#footnote-ref-31)
32. Article 2, paragraph 1 of the Law [↑](#footnote-ref-32)
33. “Official Gazette of Republika Srpska“ no. 18/99, 51/01, 70/01, 51/03, 57/03, 17/08, 01/09 and 106/09 [↑](#footnote-ref-33)
34. Article 1 of the Law [↑](#footnote-ref-34)
35. Article 3 of the Law [↑](#footnote-ref-35)
36. Decision of the National Assembly of Republika Srpska on the adoption of the Strategy for the improvement of the social status of persons with disabilities in Republika 2017-2026, no. 44/17 of 27 April 2017 [↑](#footnote-ref-36)
37. “Official Gazette of Brčko District of BiH”no.: 1/03, 4/04, 19/07 02/08 [↑](#footnote-ref-37)
38. Article 1 of the Law [↑](#footnote-ref-38)
39. “Official Gazette of Brčko District of BiH”no: 38/11, 9/13, 27/14 and 3/15 [↑](#footnote-ref-39)
40. “Official Gazette of Brčko District of BiH”no 1/02, 7/02, 19/07,2/08, 34/08 and 27/18 [↑](#footnote-ref-40)
41. "Official Gazette of Brčko District of BiH" No .: 1/03, 4/04, 19/07 02/08 [↑](#footnote-ref-41)
42. Article 1 of the Law [↑](#footnote-ref-42)
43. "Official Gazette of Brčko District of B & H" No .: 38/11, 9/13, 27/14 and 3/15 [↑](#footnote-ref-43)
44. Law on Amendments to the Law on the Prohibition of Discrimination in Bosnia and Herzegovina, Official Gazette of BiH, No. 66/16 [↑](#footnote-ref-44)
45. Ibid., Article 5, paragraph 1, item d). [↑](#footnote-ref-45)
46. Ž-BR-04-66/10, P-204/10 [↑](#footnote-ref-46)
47. Ageing in the Twenty First Century, UNFPA, <http://www.unfpa.org> [↑](#footnote-ref-47)
48. Beker, K., *"Age: The New Basis of Discrimination in Bosnia and Herzegovina"*, Analitika - Center for Social Research, 2018, p. 2 [↑](#footnote-ref-48)
49. Marthe Fredvang i Simon Biggs, *The Rights of Older Persons – Protection and Gaps under Human Rights Law*,

    Social Policy Working Paper no. 16 (Melbourne: The Centre for Public Policy, 2012), str. 6. [↑](#footnote-ref-49)
50. Available on [www.ombudsmen.gov.ba](http://www.ombudsmen.gov.ba) [↑](#footnote-ref-50)
51. *Special Report on the state of human rights of elderly persons, Institution of Ombudsmen for Human Rights of Bosnia and Herzegovina, November 2010, p.5* [↑](#footnote-ref-51)
52. Realized pensions in March 2019 in the territory of the Federation of Bosnia and Herzegovina: number of pensioners - 414,824, lowest pension - 359,20KM, guaranteed pension - 450,12KM, highest pension - 2,174,28KM, data available at <https://www.fzmiopio.ba/index.php?option=com_content&view=article&id=64&Itemid=67&lang=ba>,pristupljeno on 05.04.2019. Pensions realized in March 2019 in the Republika Srpska: number of pensioners - 261,323, lowest pension - 383,87 KM,, highest pension - 1,974.24 KM. data available at <http://www.fondpiors.org/category/vijesti/>, accessed on 04/05/2019; [↑](#footnote-ref-52)
53. In 2016, the Ombudsmen of Bosnia and Herzegovina drafted a Special Report: "Accessibility of Working Premises of Legislative Bodies in Bosnia and Herzegovina to Persons with Disabilities" in an effort to support legislative bodies to regulate the issue of accessibility of their work spaces in a normative manner in a manner that fully implements the general principles of the UN Convention on the Rights of Persons with Disabilities and to undertake activities towards the executive authorities, but also to other bodies in order to decide in the best interest of persons with disabilities by correct interpretation of positive regulations. [↑](#footnote-ref-53)
54. Although there are no official statistical data on the number of public kitchen users across Bosnia and Herzegovina, according to the data of humanitarian and non-governmental organizations providing this type of services to socially vulnerable categories, people’s kitchens in the territory of Bosnia and Herzegovina has at least 16,998 users, an article available at [https://www.klix.ba/vijesti/bih/u-bih-skoro-17-000-osoba-sebi-ne-moze-priustiti-obrok-narodne-kuhinje-jedini spas/180510082](https://www.klix.ba/vijesti/bih/u-bih-skoro-17-000-osoba-sebi-ne-moze-priustiti-obrok-narodne-kuhinje-jedini%20spas/180510082), accessed on 5 April 2019; [↑](#footnote-ref-54)
55. Ž-SA-05-704/16 [↑](#footnote-ref-55)
56. Recommendation number: P-99/17 of 18.04.2016; [↑](#footnote-ref-56)
57. *"The Prevalence and Characteristics of Violence Against Women in Bosnia and Herzegovina"*, Gender Equality Agency in BiH, 2013; [↑](#footnote-ref-57)
58. Price‐ United Kingdom 2001; Papin‐France 2001; Štuakaturov‐Russia 2008; [↑](#footnote-ref-58)