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| cid:image001.jpg@01D504C1.52E3D5C0 | **R O M Â N I A**  **Avocatul Poporului** | AP cu scris |

Please, find included our answer to the questionnaire concerning the rights of the elderly with disabilities.

1. **Please provide information on the legislative and policy framework in place in your country to ensure the realization of the rights of older persons with disabilities, including both persons with disabilities who are ageing and older persons who acquire a disability later in life.**

Promoting and respecting the rights of persons with disabilities is an obligation for the Romanian state authorities, for all legal entities of public and private law, as well as for all citizens of Romania. In this context, the realization of the rights of older persons with disabilities is ensured.

The State, through the central and local public administration authorities, has the obligation to provide specific protection and social assistance measures in accordance with the particular needs of the elderly with disabilities as well as their family and socio-economic situation.

Based on the principle of ensuring equal opportunities, the competent public authorities have the obligation to provide all necessary measures for the elderly with disabilities in order to:

* ensure direct and unhindered access to health, to justice, as well as to all types of public services of general interest and social services;
* facilitate active participation in the life of the community and the society in general.

To protect and promote the rights of people with disabilities, public authorities have an obligation to include the special needs of this category of people in all public policies, regional, county or local development strategies and programs, as well as government programs.

At legislative level, the main normative acts by which these persons are protected in Romania are: *the Constitution of Romania; Law no. 448/2006 on the protection and promotion of persons with disabilities; Law no. 292/2011 on social assistance; Law no. 17/2000 on social assistance for the elderly, Government Decision no. 479/2016 approving the program of national interest "Increasing the quality of life of older people in the residential homes for the elderly"; Order no. 1343 of 5 August 2016 of the Minister of Labor, Family, Social Protection and the Elderly for the approval of the Methodology for evaluation, selection and financing of applications under the program of national interest "Increasing the quality of life of older people in the residential homes for the elderly"; Order no. 29 of 3 January 2019 of the Minister of Labor, Family, Social Protection and the Elderly for the approval of minimum quality standards for the accreditation of social services for elderly people, the homeless, young people who have left the child protection system and other categories of adult persons in difficulty, as well as services provided in the community, integrated services and social canteens.*

1. **Please provide information on discrimination against older persons with disabilities in law and practice.**

The People's Advocate has received complaints about discrimination against people with disabilities, including sometimes the elderly with disabilities. The complaints concerned the violation by local authorities of the right to personal assistant of the persons with disabilities, difficulties regarding the accessibility for people using a wheelchair in means of transport, particularly in private transport (taxis or other means of transport owned by private companies) and the lack of access ramps (or the existence of access ramps that cannot be safely used, being non-compliant with technical standards) in public and/or residential buildings.

1. **Please provide information and statistical data (including surveys, censuses, administrative data, literature, reports, and studies) related to the realization of the rights of older persons with disabilities in general, as well as with particular focus in the following areas:**

**• Exercise of legal capacity;**

The People's Advocate Institution has not been notified with complaints confirming the existence of abuses regarding the restriction of the legal capacity of older persons with disabilities.

* **Admission procedures to social or healthcare services, including involuntary admissions;**

Although in the judgments on involuntary admission, the European Court of Human Rights has repeatedly stressed that involuntaryadmission is one of the most serious violations of human rights and that authorities must take effective measures to guarantee human rights with regard to the recognition and observance of their own will on admission, so that involuntaryadmission is no longer possible, the law in force still permits the **involuntary admission** of persons with disabilities to special institutions. Thus, LAW no. 487 of 11 July 2002 on mental health and the protection of persons with mental disorders, provides in CHAPTER V: Admission in a psychiatric unit, Section II, Involuntaryadmission: provides that the involuntaryadmission procedure only applies after all attempts at voluntary admission have been exhausted (Article 53).

* **Older persons with disabilities living in institutions;**

Given the aging of the Romanian population and the expected increase in life expectancy, the legal and practical response to cases where old age is accompanied by disability, vulnerability and dependence is becoming extremely important, being necessary adequate social services and adapted public policies.

The increase in the number of elderly people also led to an increase in the number of those who need assistance and protection in specialized institutions, especially those structured on medical-social assistance. The problem of the elderly persons, which in the past was, in particular, the responsibility of their families, now requires state intervention.

The choice of institutionalization, where institution means a residential home-hospital, a social housing establishment that receives elderly people who have lost their autonomy and whose health requires permanent medical supervision and treatment, is the last resort of the family after they have tried all the others. The admission process in these institutions is done at the request of the elderly person or of the family, addressed to the social assistance service.

As far as possible, the family prefers the receiving institution to be close to the former residence of the elderly person with disabilities in order to be able to get involved.

**Access to support to live independently in the community;**

As outlined in the ***National Strategy for Promotion of Active Aging and the Protection of the Elderly 2015-2020***, Romania is considering revising and improving the existing legislative provisions for the **return to work of those who benefit from disability pension**, including opportunities for **partial employment of persons with disabilities**, in order to capitalize on their work potential.

It has been proved that providing a healthy and appropriate working environment for elderly people with or without disabilities is beneficial to them, preventing the onset or aggravation of illnesses. Employers must monitor employee health through regular medical checks and intervene through necessary job adjustments so that the employees’ health can be regained. Where this is no longer possible, it is important to ensure access to the workplace adapted to the elderly employees or the employees with disabilities.

Also, the legal provisions in force in Romania support an independent living in the community, establishing that the central and local public administration authorities, as well as any legal entity of public or private law have the obligation to provide **information and documentation services accessible to people with disabilities.**

* **Access to free or affordable healthcare:**

The access of the elderly with disabilities to free or accessible health care is ensured by the Romanian legislation on the protection and promotion of the rights of persons with disabilities.

Elderly people with disabilities receive free medical care, including free medication, both for outpatient treatment and during hospitalization, within the framework of the health insurance system under the conditions set out in the framework contract.

* **Access to free or affordable rehabilitation goods and services;**

According to the Romanian legislation, a priority component of the protection of the elderly with disabilities concerns the provision and facilitation of access to habilitation / rehabilitation programs, medical devices intended for the recovery of organic or functional deficiencies, as well as technical assistance equipment to facilitate daily life of these people. As rehabilitation assistance is concerned, disabled persons are entitled to: **free outpatient medical devices; free accommodation and meals, also for the person accompanying the adult with severe or accentuated disability**, in medical units with beds, in sanatoriums andbalneary spa resorts, at the recommendation of the family doctor or specialist doctor; a **free balneary spa treatment ticket** during one year based on the individual rehabilitation and social integration program and the recommendation of the family doctor or specialist doctor.

* **Access to social protection schemes;**

Elderly persons with disabilities are provided with home services, specialized assistance and community support. At the same time, according to the law on the promotion and protection of persons with disabilities (Law no. 448/2006), severely disabled people enjoy the following rights:

* **granting a living room, in addition to the minimum living standards stipulated by law**, on the basis of **rental contracts** for dwellings belonging to the public or private domain of the state or of its administrative-territorial units;
* **exemption from rent** for residential dwellings owned by the State or by its administrative-territorial units and which are used by such persons.

These provisions also apply to the family or legal representative for the period in which they take care of a severely disabled adult.

At the same time, the rent exemption is also granted to the adult with accentuated disabilities.

* **End of life and palliative care.**

Currently, palliative care services in Romania are offered through different providers in contractual relationships with health insurance houses within the national health insurance system, or with the Ministry of Labor and Social Justice or local authorities, for the social services component of palliative care.

Palliative care at home is still underdeveloped, and its funding through the health insurance system is low, although most patients express their desire to receive home care at the end of their lives.

In this sector, health insurance houses operate on the basis of prioritization criteria for health care at home. There is a priority list, established by points assigned to different categories of diseases (oncological, neurological, others). Depending on the necessary monthly amounts for this purpose, eligible persons are selected from the priority lists in descending order of the score obtained.

Palliative care was one of the components of the ***Project to improve the quality and efficiency of the public health system in Romania as part of the reform of the health sector***, for which the World Bank approved a 250 million euros loan to Romania in March 2014. This project focused on the component of ***strengthening the outpatient care system, the establishment of outpatient diagnostic and treatment centers, the strengthening of primary and community assistance and the development of new capacities of long-term care and palliative care.***

According to the National Health Strategy 2014 – 2020, Romania has set a strategic goal of covering 60% of the palliative care need by 2020.

1. **Please 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.**

In Romania, the demand for social services is very high, with a large proportion of the population in dependency situations and therefore not fully covered. For this reason, long-term care is provided by families and carers. In the future, the demand for long-term care services is expected to grow further, which will require the allocation of important resources to provide the sector with the necessary resources.

In the National Strategy 2015-2020, development of the long-term care system is envisaged, emphasizing the importance of its development towards the integration of people in need of community care, creating an environment conducive to the general policy objectives to support elderly people with disabilities to stay within the family and / or at home for as long as possible.

1. **Please describe how is access to justice guaranteed for older persons with disabilities. Please provide information on jurisprudence, complaints or investigations in relation to violence, abuse and neglect against older persons with disabilities.**

Access to justice is guaranteed in Romania to all persons, and therefore to elderly people with disabilities as well. However, if we refer to ex officio notifications / complaints that come from or are in connection with elderly persons with disabilities and which the People's Advocate institution solves within its legal jurisdiction, they refer to abusive behaviors against this category of persons, from the part of civil servants / public administration institutions. Any vulnerable segment of the population is inclined to be the target of abusive behavior, and the elderly with disabilities represent such a segment that may suffer a certain degree of social exclusion on grounds of age and disability.

On this subject, the current policies in Romania aim at increasing the social security level of the elderly with disabilities, including by strengthening the legislation on abuse of the elderly and / or disabled. A particular emphasis is put on the training of professionals who are frequently in contact with this category of people, and they are trained to recognize, prevent and report abuses against elderly people with disabilities.

1. **Please describe to what extent and how are older persons with disabilities involved in the design, planning, implementation and evaluation of policies related to ageing and/or disability.**

The participation of the elderly, and especially the elderly with disabilities in shaping and implementing policies on aging and / or disability and generally in the country's social life, is directly influenced by the respect these people feel they enjoy in society.

Therefore, all measures taken at the level of public authorities aim at removing the barriers to active participation of the elderly with disabilities in public life and ensuring an inclusive and participatory climate for this category of people.

Discrimination on the grounds of age or disability restricts the access of elderly people with disabilities to work, health care and social services and limits their ability to actively engage in society, leading to the appearance of self-exclusionary attitudes and behaviors of the elderly with disabilities.

1. **Please provide information on any innovative initiatives that have been taken at the local, regional or national level to promote and ensure the rights of older persons with disabilities and identify lessons learned from these.**

In Romania, public information campaigns are organized to facilitate the access of elderly people with disabilities to public health and social assistance programs. There are also targeted public campaigns aimed at elderly people (with or without disabilities) to help them regain a well-deserved place in society, encouraging volunteering and including older people in volunteering activities.

However, despite the efforts to actively promote the social participation of the elderly with disabilities, the level of social participation of this category of people is low in Romania, due to the fact that the general mentality concerning the elderly in general and the elderly people with disabilities, in particular, is difficult to change.