**Council of Europe: the new recommendation on the Promotion of Human Rights of Older Persons**

I am pleased to be able to present you today the Council of Europe Recommendation on the Promotion of Human Rights of Older Persons, a new soft law standard for the protection of older persons in all 47 member states of the Council of Europe. The Committee of Ministers of the Council of Europe, in which all member states are represented, have unanimously adopted the Recommendation on 14 February 2014.

The Recommendation consists of a set of 54 principles to promote, protect and ensure the full enjoyment of all human rights by all older persons, and to promote respect for their inherent dignity. The text of the recommendation is accompanied by a guide of good practices from our member states, to illustrate possibilities and good ideas for the implementation of the principles. I have brought along from Strasbourg around 100 copies of the recommendation in both English and French (the working languages of the Council of Europe), and you are invited to pick up a copy from the back of the room. The recommendation also comes along with an explanatory memorandum that helps as guidance to the principles. Because the recommendation is so new, we could not include the memorandum in the first print edition which has been particularly completed for the present event. However, you may find the explanatory memorandum on our website very easily.

A few words about the character of the new instrument: member states chose to make it a Recommendation, i.e. a non-binding instrument. Is it therefore toothless? I hardly think so for several reasons. The Recommendation reiterates already existing standards, in particular from the European Convention on Human Rights and the European Social Charter, by tailoring them for the needs of older persons, by trying to fill the implementation gap of these provisions and by presenting them as a common position accepted by all 47 member states of the Council of Europe.

Being not an international treaty, the Recommendation went into force the day it was adopted (14 February) without the lengthy need to obtain a certain number of ratifications, and it applies to all member states. It can also be adapted in the future should certain issues change, without the need for lengthy renegotiations for an additional protocol.

Let me know explain you the purpose of the recommendation and then its content.

The Council of Europe has been advocating the rights of older persons for many years, in particular through the European Convention on Human Rights as several cases in the case-law of the European Court of Human Rights have directly or indirectly dealt with issues relevant in particular for older persons. Moreover, the Revised European Social Charter contains one of the few provisions in international treaties explicitly referring to older persons – Article 23 – which states that they have the right to social protection. Apart from these two treaties, there exist numerous soft-law standards such as the recommendations and resolutions of our Committee of Ministers and Parliamentary Assembly promoting the rights of older persons and their social inclusion.

Despite these already existing standards, there remained the perception that the human rights and dignity of older persons are not sufficiently guaranteed, and that the demographic changes and the increasing number of older persons, in Europe but also elsewhere, will pose even bigger challenges for their human rights and dignity. It is on this basis that the Committee of Ministers in 2012 gave the mandate to the steering committee for human rights, which in turn set up the drafting group, to address the promotion of the rights older persons at regional level. The drafting group was composed of experts from 12 European states and representatives of the civil society and of international NGOs, which elaborated the text during a period of about 18 months.

**The Recommendation**

During the drafting process, particular attention has been paid to the existing instruments and on-going work of the United Nations and of the European Union. It is only through close cooperation that the Council of Europe could identify where it could add value and avoid duplication through its activities.

The Recommendation begins by defining its overall aim and scope and setting a number of general principles. It also attempts to indirectly define older persons by stating that the recommendation applies to “persons whose older age constitutes, alone or in interaction with other factors, including perceptions and attitudes, a barrier to the full enjoyment of their human rights and fundamental freedoms and their full and effective participation in society on an equal basis”. It does not attempt to define from when a person is considered as aged, but recognises that states may indicate a chronological age in their relevant national legislation.

Chapter II is entirely devoted to the non-discrimination of older persons, by inviting member states to make explicit reference to the ground of “age” in their anti-discrimination legislation. This chapter also addresses the need to avoid multiple discrimination, in particular as regards older women, older migrants or persons with disabilities.

Chapter III deals with the autonomy and participation in decision-making. The main idea is to recognize older persons’ right to self-determination and their legal capacity to decide in their best interests about their person and affairs. This part covers also situations where older persons may not be able to exercise their legal capacity and intends to ensure help for them and to prevent abuses. The explanatory report refers explicitly to art 12.4 of the UN CRPD, from which we take inspiration – and not only in this context. At the same time, our member states took the view that the recommendation could not simply endorse the CRPD provisions, but should adapt them to the specificities of the older persons.

Chapter IV calls upon members states to ensure protection of older persons from violence, abuse - physical, psychological, emotional, financial, sexual -, and intentional or unintentional neglect, irrespective of whether this occurs at home or within an institution. In order for the detection to become easier, awareness-raising measures, including training of the care givers should be implemented, and reporting should be encouraged (of course “whistle-blowers” should be given protection from dismissal or other reprisals). In the cases of maltreatment, older persons should receive appropriate support and an effective investigation should be carried out, which may lead to proceedings before a national authority and prompt redress for the harm suffered.

Chapter V entitled “social protection and employment” mainly concerns the living and the working conditions of the elderly. It relates firstly to the access to and adaptation of housing, facilitating the mobility and strengthening the participation in society. These matters require public support and finances. Secondly, it intends to offer older persons equal conditions of recruitment, training, working and retiring.

Chapter VI has been designed with a view to ensuring appropriate and affordable health and long-term quality care for older persons at home or in institution. Specific provisions deal with consent to medical care and to placement in institution and with situations where an older person may not be able to express consent. As to medical care, the Recommendation is primarily based on of the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (Articles 5 to 9). This Chapter addresses also the issue of palliative care as necessary care providing an appropriate environment for older persons to cope with the pain and other distressing symptoms.

The last Chapter VII solicits member states to accommodate the justice system to the progressive needs of older persons by facilitating the access to justice (e.g. by providing free legal assistance or aid), ensuring a fair trial within a reasonable time (even an expeditious trial), improving the detention conditions (ensure that the well-being and dignity are respected, consider alternatives to detention).

In conclusion, I would like to state that the Recommendation proposes a series of special measures to contribute to older people's full enjoyment of human rights. The Recommendation foresees a voluntary follow-up process 5 years after its adoption. We believe that this is an interesting contribution, from the European side, to the development of the rights of older persons in a wider perspective, without prejudice to further discussion and development at the international level. And we are ready to put our experience at disposal of your work. Thank you.