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**OHCHR-UNOG**

**Independent Expert on the human rights of older persons**

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Ref.No.: KLJP-16-03/2021

Zagreb, 22 March 2021

**Subject:** Submission to the call for contributions on ageism and age discrimination – 2021

Dear Sir/Madam,

in relation to the call for contributions issued by the Independent Expert on the human rights of older persons, please find below the contribution referring to the issues of ageism and age-discrimination in Croatia prepared by Human Rights House Zagreb<sup>1</sup>, a human rights watchdog and advocacy organization founded in 2008 as a network of civil society organizations with the goal to protect and promote human rights and fundamental freedoms through research, monitoring, public advocacy and education.

National legal and policy framework concerning the status and rights of older people in Croatia comprises of the Social Welfare Act<sup>2</sup>, Family Act<sup>3</sup> and Social Welfare Strategy for the Elderly in the Republic of Croatia for the period 2017-2020<sup>4</sup>. In order to enable the elderly the right to a dignified life and lasting social inclusion, the strategy aimed to establish a comprehensive approach and long-term social welfare efforts. In addition, social welfare is provided in accordance with the general acts of local and/or regional self-government units in

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<sup>1</sup> Human Rights House Zagreb website, available at: [www.kucaljudskihprava.hr/en](http://www.kucaljudskihprava.hr/en)

<sup>2</sup> Social Welfare Act (OJ 157/13, 152/14, 99/15, 52/16, 16/17, 130/17, 98/19, 64/20, 138/20), available at: <https://www.zakon.hr/z/222/Zakon-o-socijalnoj-skrbi>

<sup>3</sup> Family Act (OJ 103/15, 98/19), available at: <https://www.zakon.hr/z/88/Obiteljski-zakon>

<sup>4</sup> Government of the Republic of Croatia, Social Welfare Strategy for the Elderly in the Republic of Croatia for the period 2017-2020, available at:

<https://mrosp.gov.hr/UserDocsImages/dokumenti/MDOMSP%20dokumenti/Strategija%20socijalne%20skrb%20za%20starije%20osobe%20u%20RH%20za%20razdoblje%20od%202017.-2020.%20g.pdf>



Croatia, which define social programs in their area of competence as well as their content, scope and methods of financing.<sup>5</sup>

Marking the International Day of Older Persons in October 2020, the Ombudswoman of the Republic of Croatia shared the most relevant statistics and warned about problems faced by older persons in Croatia.<sup>6</sup> According to the most recent data, almost 850 thousand citizens in Croatia are older than 65. The at-risk-of-poverty rate in Croatia is 19.3%, but viewed by age groups it is the highest among persons over 65 (28.1%), and single persons in that age group (48.1%) are in the most difficult situation. In addition, 60% of persons over the age of 65 state that they suffer from at least one chronic disease, which is more than EU average, while the rate of their unmet health needs is among the highest in the EU, which is greatly affected by the distance of health care institutions from the place of residence. More than 16 thousand elderly people live in public (i.e. state and decentralized) and private homes for the elderly, while more than 6.000 are on waiting lists.

The Ombudswoman also emphasized the following main long-term problems faced by the elderly persons in Croatia: poverty and low amounts of social benefits as well as strict criteria for their realization, lack of social and health services in rural areas, inadequate surveillance system of homes for the elderly, insufficient support for family member taking care of their elderly, domestic violence (1.138 senior citizens were victims of violence in 2019, but due to non-reporting the actual number is probably even higher), and often abuse of lifelong support contracts which leaves older people without property and care soon after signing the contract.

Croatian Anti-Discrimination Act<sup>7</sup> specially recognizes age as a ground for discrimination. According to its Article 1, the Act provides for the protection and promotion of equality as the highest value of the constitutional order of the Republic of Croatia, creates prerequisites for the realisation of equal opportunities and regulates protection against discrimination on the grounds of race or ethnic affiliation or colour, gender, language, religion, political or other

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<sup>5</sup> Ministry of Labour, Pension System, Family and Social Policy, Section Social policy - Older persons, available at:

<https://mrosp.gov.hr/istaknute-teme/obitelji-i-socijalna-politika/socijalna-politika-11977/starije-osobe-11991/11991>

<sup>6</sup> Ombudswoman of the Republic of Croatia, International Day of Older Persons - What is it like to be an older person in Croatia?, October 2020, available at:

<https://www.ombudsman.hr/wp-content/uploads/2020/10/Kako-je-biti-starija-osoba-u-Hrvatskoj-pregled-problema-i-preporuka.pdf>

<sup>7</sup> Anti-Discrimination Act (OJ 85/08, 112/12), available at:

<https://www.zakon.hr/z/490/Zakon-o-suzbijanju-diskriminacije>



belief, national or social origin, property, trade union membership, education, social status, marital or family status, age, health condition, disability, genetic heritage, native identity, expression or sexual orientation.

Article 9 of the Anti-Discrimination Act prescribes exceptions to the prohibition of discrimination and, among others, lists cases when different treatment with respect to age is nevertheless allowed. Placing in a less favourable position shall not be deemed to be discrimination on the basis of age if such treatment is objectively and reasonably justified by a legitimate aim, including the legitimate objectives of social policy, social and health care, employment policy, promotion of labor market objectives and vocational training, and if the means are appropriate and necessary. For example, following cases are not considered as discrimination: determining the minimum or maximum age and/or professional experience and/or level of education as a condition for employment or as a condition for acquiring other employment benefits; determining the appropriate maximum age as a reason for termination of employment, which is in line with the conditions for acquiring the right to an old-age pension, prescribing the age or reasonable period of employment as a condition for acquiring or exercising the right to a pension or other social security rights, including the areas of social welfare, pension and health insurance and unemployment insurance, as well as determination of age as condition for access to education or certain goods or services. In addition, placing in a less favourable position shall not be deemed to be discrimination on the basis of age when contracting insurance premiums and other insurance conditions on the basis of generally accepted risk assessment principles, in accordance with relevant and accurate statistics and rules of actuarial mathematics.<sup>8</sup>

The Ombudswoman of the Republic of Croatia has a mandate of the central body for combatting discrimination according to the Croatian Anti-Discrimination Act. Anyone, including legal persons, who believes they have been discriminated against may lodge a discrimination complaint with the Ombudswoman. In cases of reported discrimination, the Ombudswoman conducts an investigation procedure and if a suspicion of discrimination is established, she can issue a warning or a recommendation to a person, an institution, a business or a company which discriminated against the claimant. She can also inform the claimant on how to proceed in order to protect himself/herself from discrimination (e.g. advise the client to instigate legal proceedings). However, in cases when the Ombudswoman is contacted by a person who has already instigated legal proceedings pertaining to the case,

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<sup>8</sup> Ibid.



she cannot investigate whether discrimination took place or not. This person can nonetheless turn to the Ombudswoman and request for her to join in the court case as an intervener.<sup>9</sup>

According to the Annual Report of the Ombudswoman for 2020<sup>10</sup>, out of 266 discrimination complaints received in total, 17 of them referred to the alleged discrimination on the base of age. The Ombudswoman noted that older people as users of social services are neglected and indirectly referred to insufficiently controlled and unprofessional service providers, sometimes without their own consent. The occurrence of illegal homes for elderly is particularly worrying and they continue operating despite the ban issued by the competent institutions. The Ombudswoman also warned about the additional pressure and unacceptable ageism encountered by the elderly during the COVID-19 epidemic. Instead of protecting them as a vulnerable group of citizens, the media reported about cases in which elderly citizens were portrayed as the main causes of the spread of infection and it was questioned whether they should leave the house at all because they, for example, endanger the health of customers and vendors when they go to the market.

With regards to discrimination on the basis of age, the Ombudswoman also noted that young people were specifically affected by epidemiological measures during 2020. The closure of schools and universities made access to education difficult, which particularly affected those of lower socio-economic status, and the quality of distance education is questionable. As a consequence of the lockdown, social participation of young people and activities of youth organizations have been significantly reduced which may have bad consequences for their mental health. In addition, the youth is often perceived as the group responsible for spreading the infection and making the elderly ill. The share of young people in the unemployment register increased by as much as 57% in 2020, which indicates an additional deterioration of their position in the labor market. Young people often work as precarious seasonal or fixed-term workers and thus they became a symbol of uncertain living conditions, uncertain incomes, unfavorable working conditions and limited access to the social welfare system.<sup>11</sup>

Finally, measures responding to COVID-19 crisis significantly affected older citizens, particularly residents of nursing homes whose freedom of movement was unproportionally

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<sup>9</sup> Website of the Ombudswoman of the Republic of Croatia, FAQ, available at:

<https://www.ombudsman.hr/en/frequently-asked-questions/>

<sup>10</sup> Ombudswoman of the Republic of Croatia, Annual Report for 2020, February 2021, available at:

<https://www.ombudsman.hr/hr/download/izvjesce-pucke-pravobraniteljice-za-2020-godinu/?wpdmdl=10845&refresh=6038a8291f2261614325801&fbclid=IwAR28WLzBLM1K-A924PpRqDeDgLmPgvKmRguYLJESieKW8aCUssOegf4Y2tE>

<sup>11</sup> Ibid.



restricted for reasons of protection of public health. Residents of nursing homes were not allowed to leave the premises of the nursing home for the entire duration of the epidemic, except for a short relaxation period in June 2020. After COVID-19 started spreading through nursing homes in April 2020, the functioning of their work and application of adequate protective measures was questioned, especially in the case of a nursing home in Split where 19 residents died of coronavirus. Ombudswoman of the Republic of Croatia received a number of complaints on organization of work of nursing homes and additional restrictions they imposed that go beyond the Civil protection headquarters' instructions.<sup>12</sup>

DIRECTOR OF PROGRAMS

Ivan Novosel

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<sup>12</sup> Human Rights House Zagreb, Impact of the COVID-19 epidemic on human rights in Croatia (March-October 2020), available at: [https://www.kucaljudskihprava.hr/wp-content/uploads/2020/12/TI-Utjecaj-epidemije-Covid19-na-ljudska-prava-u-Hrvatskoj\\_web.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2020/12/TI-Utjecaj-epidemije-Covid19-na-ljudska-prava-u-Hrvatskoj_web.pdf)