



REPUBLIC OF CROATIA
Ombudsman

Zagreb, 5 May 2017

Formal input for the Eighth Session of the Open-ended Working Group on Ageing
- Neglect, violence and abuse

Following the request by his Excellency, Mr. Martín García Moritán, the Ombudswoman of the Republic of Croatia, as an “A status” NHRI hereby submits formal input to the work of the forthcoming Eighth Session of the Open-ended Working group on Ageing, on the issue of neglect, violence and abuse.

In regards to this specific issue, Croatia lacks specific studies/surveys. While the proposed Domestic Violence Prevention Strategy 2017-2022 fails to put a special focus on domestic violence experienced by older persons, the Welfare Strategy for Older Persons 2017-2020 (currently under discussion) admits that the relevant data is yet to be collected.

In 2012, a pilot research on the rights of older persons recognized three different settings where violence, abuse and neglect occur – family, LTC and public space. More instances of violence were reported in LTC than at home, however, streets and means of public transport were deemed unsafe for older persons – while in public, one in five older persons was insulted, ridiculed, cursed at and one in eight was pushed or physically threatened.

Croatian legislation does not explicitly address issues of violence, abuse and neglect against older persons in a public setting or LTC and such incidents are covered by general provisions of the Criminal Code and the Misdemeanour Act. However, since the Law on the Prevention of Domestic Violence is currently under review, the Ombudswoman suggested that a definition of an „older person“ as well as certain types of domestic abuse where they are potential victims (e.g. neglect of an older person in need of care), should be more precisely identified.

Financial abuse of older persons, including fraud, is unfortunately common in Croatia. People claiming to be therapists, bank clerks, undercover police officers, etc. talk their way into the homes of older persons, only to rob them of their possessions. Another form of financial abuse is committed by actual agents working for telecommunication companies, power companies and insurance salesmen who, because they get a percentage for each new contract,



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use aggressive and deceitful business practices to overcharge and sell their services whether needed or not. Older persons can seek protection under the Consumer Protection Act, but only within a short period of time, which they are often unaware of.

As for the financial abuse that happens under the maintenance-until-death contracts (prescribed under the Civil Obligations Act), a common scenario includes an older person, property owner, in need of assistance and care. He or she signs a written contract before the notary public, committing to transfer a part or their entire property on to the provider, in exchange for care until their death, and the provider commits to caring for the older person in return. As a consequence, the property is transferred to the provider during the life of the beneficiary, essentially right after the signing. Experience shows that older persons often enter the contract in a hurry, after being manipulated and lied to, and without being fully aware of its legal and other consequences. Unfortunately, many providers see the situation only as an opportunity to get their hands on real estate easy, and since there is no registry of care providers and no limit to how many beneficiaries one provider can care for, there are no safeguards to prevent the realization of such plans. Furthermore, the current stipulation and its implementation does not provide adequate protections for the beneficiary living in an arrangement organized by the care provider, including LTC, as to the quality of the care received. Finally, a maintenance-until-death contract can be terminated at the request of one party only by a court ruling but with all the expenses that it entails and the length of the proceedings, judicial protection alone is not in any way adequate.

The Ombudswoman recommended to the relevant ministries to include stronger protection mechanisms for the beneficiaries of those contracts, to introduce monitoring of their implementation and to continue trainings and targeted counseling on the potential negative effects. Other recommendations aimed at amending the Social Welfare Act to include a provision preventing social services providers, their employees and family members from entering these contracts as care providers, as well as to expedite judicial proceedings in cases initiated by beneficiaries.

With all said above, the Ombudswoman fully supports the efforts to create an international legal instrument to promote and protect the rights and dignity of older persons, based on the holistic approach in the work carried out in the fields of social development, human rights and non-discrimination, as well as gender equality, with the intention that such an instrument promotes and protects the rights and dignity of older persons, which are not currently addressed sufficiently by existing mechanisms and therefore require further international protection.

OMBUDSWOMAN OF CROATIA


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