**Reply of the Republic of Slovenia to some of the questions from the questionnaire by the Special Rapporteur on the rights of persons with disabilities on the rights of older persons with disabilities**

***1. Please provide information on the legislation 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.***

- With ratification in 2008, Slovenia committed to implement the Convention on the Rights of Persons with Disabilities and its Optional Protocol. The **Slovenian Constitution** explicitly mentions the right of persons with disabilities to equality before the law. The Constitutional Court established years ago that the right of persons with disabilities to special protection is a special human right, a right of a positive status. As such, the state undertook to actively manage disability policy and to take various measures within the scope of the policy to improve the situation of persons with disabilities in our society. Therefore, the right of persons with disabilities to special protection is a collection of various rights carried out through different regulations and legislation and does not differ specifically for elderly but are the same for all groups of persons with disabilities.

The rights of persons with disabilities in Slovenia are not guaranteed under a single umbrella act, it is regulated by various Acts, as follows:

**Action Programme for Persons with Disabilities 2014–2021** that also includes objective 13. **Ageing with a disability** and whose purpose is to protect, promote and guarantee full and equal enjoyment of human rights by persons with disabilities, and to promote the respect of their dignity. The programme comprises thirteen fundamental objectives with a total of 91 measures which comprehensively regulate all areas of life of persons with disabilities and was adopted by Government in 2014.

In 2016, the **Protection Against Discrimination Act** was adopted, which determines the protection of all persons against discrimination irrespective of their gender, nationality, race or ethnic origin, language, religion or belief, disability, **age**, sexual orientation, sexual identity or sexual expression, social status, financial situation, education, or any other personal circumstance in various fields of social life, when exercising human rights and fundamental freedoms, and when exercising rights and obligations and in other legal relationships in political, economic, social, cultural, civil or other fields.

In 2017, the Government adopted a new **Active Aging Strategy** that also include elderly persons with disabilities and on the basis of Strategy, Council for Active Aging and Intergenerational Cooperation was established in March 2018. Ministries have already prepared a draft of Action plans regarding the Strategy.

- With regard to the field of police work, the reply relates to the first and second question on the legislative framework and information on discrimination against persons with disabilities before the law and in practice.

Under the Police Tasks and Powers Act (ZNPPol; Official Gazette of the Republic of Slovenia, Nos. 15/13, 23/15 - corrigendum, and 10/17), the police ensure greater safety and the protection of freedom and human rights in police procedures. The Act highlights (separately listed) principles for exercising police powers. The principles promote the highest standards of police work, respect for the rule of law and human rights in all police activities, public confidence in policing, appropriate systems of accountability for the work of police officers, and citizens’ understanding and openness towards the police.

One of the fundamental principles of the Act is the principle of respect for human dignity and other human rights and fundamental freedoms (Article 13). The aforementioned article specifically underlines that, in performing police tasks, police officers must respect and protect the right to life, human dignity and other human rights and fundamental freedoms. Police officers must be particularly considerate in treating victims and persons who need additional attention, assistance and care, such as children, minors, the elderly, persons with disabilities, pregnant women and victims of domestic abuse. In addition, police officers may never cause, incite or permit torture or other cruel, inhuman or degrading treatment or punishment. Another fundamental principle enshrined in the Act is the principle of equal treatment (Article 14), according to which police officers must, in performing police tasks, ensure every person the same protection of their rights. They may not discriminate against anyone on the basis of nationality, race, colour of skin, gender, language, religion, sexual orientation, political or any other conviction, material standing, birth, genetic heritage, education, social status, disability or any other personal circumstance. The Act also stipulates that, as a rule, police officers may not use instruments of restraint against so-called privileged persons, including persons with disabilities. These are persons who due to their physique or other physical characteristics would find it difficult to offer strong resistance to police officers, assault them, escape or inflict self-harm, therefore, in accordance with Article 76 of the Act, police officers may use instruments of restraint against them only in exceptional circumstances. Moreover, Article 19 specifically stipulates that, in verbal communication with persons who can communicate only through sign language, police officers must use an interpreter. The aforementioned provision is enforced through exercising the right to a sign language interpreter, therefore, in order to facilitate the exercise of that right, the police/the Ministry of the Interior have concluded agreements with certain interpreters to that end (a list of these interpreters is available to police officers on the police intranet). To ensure better understanding of the aforementioned personal circumstances, the police collaborate with the Association of Slovenian Sign Language Interpreters in the training of police officers.

In their work, the police also observe other laws, such as the Equalisation of Opportunities for Persons with Disabilities Act (Official Gazette of the Republic of Slovenia, Nos. 94/10 and 50/14), namely those of its provisions concerning the prohibition of discrimination and the ensuring of equal participation in proceedings conducted before state authorities, accessibility of services and the use and adaptation of facilities for public use. The police comply with the provisions concerning unhindered access to the use of facilities in all new buildings, and, to the extent practicable, also in the case of major renovations of older buildings. In cases where this cannot be immediately ensured, alternative solutions are provided (e.g. a bell in front of a building that a person with disabilities can use to call a duty officer).

Complaints against the work of police officers filed by persons with disabilities due to discrimination are very rare.

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

In 2017, Slovenia conducted a survey on Violence against persons with disabilities and includes also elderly persons with disabilities. Slovenia doesn't have special Act or legislation on elderly persons with disabilities they are included in legislation as all other groups of persons with disabilities. Exception is Action Programme for Persons with Disabilities 2014–2021 in its objective 13. Ageing with a disability. Link:

<http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti__pdf/invalidi_vzv/API_2014-2021_ANG.pdf>

***3. Question/request: 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:***

New Non-Contentious Civil Procedure Act and Family Code (both entered into force on 15 April 2019) stipulate that a court shall place a person who for reasons of mental development disabilities or mental health problems or on any other grounds that affect their capacity to decide is not capable to defend their rights and interests on their own, under guardianship and appoint them a guardian. In the decision on placing a person under guardianship the court shall (after medical examination by the court expert) define the scope of the guardian's obligations and rights. The court shall immediately send to the social work centre the final decision by which it placed the adult under guardianship and appointed a guardian. The opinion of medical expert is crucial (Art. 262 of Family Code and 57.- 70 Art. of new Non-Contentious Civil Procedure Act).

Full deprivation of the capacity to contract as defined in other regulations shall mean the placing of a person under guardianship pursuant to Family Code so that such person may not enter into legally binding relations independently. Partial deprivation of the capacity to contract as defined in other regulations shall mean the placing of a person under guardianship pursuant to this Code so that such person may not enter into certain legally binding relations or may enter into certain binding relationships only with the guardian's approval.

A new law on long-term care is currently being drafted, which will comprehensively regulate the important field of social and health care for the elderly. The drafting of the aforementioned law lies within the responsibility of the Ministry of Health. Health care for the elderly (with disabilities) is specifically mentioned in the legislation currently in force, namely in the Rules on compulsory health insurance. Under this implementing regulation, the right of insured persons to primary health care also includes home health care, health care in residential homes for the elderly, health care in special social welfare institutions, and health care in training institutions.

* ***Admission procedures to social or healthcare services including involuntary admissions:***

Conditions for involuntary admissions to the psychiatric hospital or social care institution is regulated by the Slovenian **Mental Health Act**, Official Gazette of the Republic of Slovenia, No 77/2008

***Article 39***

*(1) Treatment of a person in a ward under special supervision without their consent shall be admissible if the following conditions are satisfied:*

*- if the person threatens his/her life or other persons’ lives, or severely threatens his/her or other persons’ health, or causes severe pecuniary loss to the person concerned or to other persons,*

*- if the threat referred to in the previous indent is a consequence of a mental disorder that results in the person’s severely disturbed assessment of reality and ability to control his/her actions,*

*- if the said reasons and threats referred to in the first and second indents of this paragraph may not be averted by means of any other form of help (treatment in a psychiatric hospital outside the ward under special supervision, out-patient treatment or supervised treatment).*

*(2) Admission for treatment without consent referred to in the previous paragraph shall be executed in the following cases:*

*a) on the basis of a court order issued under the proposal for admission to a ward under special supervision or*

*b) in emergency cases, prior to the issue of the court order, if the conditions referred to in Article 53 of this Act are fulfilled.*

*- Detention in a ward under special supervision on the basis of a court order may be determined no longer than six months.*

***Article 74***

*(1) A person shall be admitted to a secure ward with consent if the following conditions are fulfilled:*

*- if acute hospital treatment has been concluded or is not necessary,*

*- if the person needs permanent care and protection that cannot be provided in the person’s domestic environment or in any other way,*

*- if the person threatens his/her life or other persons’ lives, or severely threatens his/her or other persons’ health, or causes severe pecuniary loss to the person concerned or to other persons,*

*- if the threat referred to in the previous indent is a consequence of a mental disorder that results in the person’s having a severely disturbed assessment of reality and lacking the ability to control his/her actions,*

*- if the said reasons and threats referred to in the third and fourth indents of this paragraph may not be averted by means of any other form of help (outside a social security institution, in supervised treatment),*

*- if the person satisfies other conditions for admission to a social security institution as provided for by regulations in the field of social assistance.*

*(2) The consent referred to in the previous paragraph shall express the person’s free will based on their understanding of the situation and formed on the basis of an appropriate explanation concerning the nature and purpose of treatment. The consent shall be in writing.*

*(3) A person who consents to admission to a secure ward may at any time explicitly, or through actions from which this may be concluded, withdraw their consent and request to be discharged from the secure ward. In such cases, the person shall be discharged immediately.*

***Article 75***

*(1) If the person for whom the conditions for admission under the first paragraph of the previous Article have been fulfilled does not consent to admission, admission to the secure ward shall be permitted on the basis of a court order.*

*(2) The procedure of admission to a secure ward on the basis of a court order shall be subject mutatis mutandis to the application of the provisions of Articles 40 to 52 of this Act, unless otherwise provided for in this chapter. The proposal for the admission of the person to a secure ward may also be lodged by the social security institution.*

*(3) The proposal for admission to a secure ward on the basis of the court order shall be attached to the opinion of the social security institution concerning the fulfilment of the conditions for admission, unless the procedure has been initiated on the proposal of the social security institution.*

*- Detention in a secure ward on the basis of a court order may be determined for a maximum of one year.*

* **Older persons (with disabilities) living in institutions:**

As part of the right to services provided **at homes for the elderly**, special social welfare institutions, and training institutions, insured persons are also guaranteed the right to:

– medical treatment and nursing care in the event of a chronic disease and relocation from hospital based on the criteria set by the Ministry responsible for health, the Health Insurance Institute of Slovenia, and the Association of Social Institutions of Slovenia, and

– physiotherapy and other services, which are defined in the contract between the institute and the service provider at the home for the elderly, special social welfare institution, or training institution, taking into account residents' medical condition.

The aforementioned rights of residents **at homes for the elderly**, special social welfare institutions and training institutions also include the right to medicine and medical devices in accordance with the rules and the contract with the Health Insurance Institute of Slovenia.

* ***Access to free or affordable healthcare****:*  Yes, it is guaranteed according to the law.
* ***Access to free or affordable rehabilitation goods and services****:* Yes, it is guaranteed according to the law.

Medical assistive devices are tools needed for medical treatment or medical rehabilitation. The right to medical assistive devices is determined by the Health Care and Health Insurance Act (Law) and the Rules of Compulsory Health Insurance (Rules). On the basis of these regulations, the Health Insurance provides insured persons the medical assistive devices in the burden of compulsory health insurance. More precisely, the types of devices and the diseases and health conditions of the insured persons for whom an individual medical assistive device is provided, with authorizations, procedures for exercising rights and price standards and contract prices are defined in the List with the code list, medical criteria, powers, procedures and price standards.

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

Every Slovenian citizen who is insured has the right to palliative care services. Since palliative care is subject to other laws and regulations, those provisions also apply to palliative care.

In Slovenia there is a national plan of palliative care development, adopted in 2011. There are also certain laws which include the right of palliative care as a basic patients’ right /law of patients 'rights, Medical Chamber's Code.

The majority of elderly people now face malignancy and dementia. Besides the medical conditions the most challenging issue is their social support. They might not have the relatives or friends who could take care of them, they decline home care/nursing support/ or transfer to a senior home. A lot of impact has been given on organized home care, early introduction of carers /both formal and informal/ and advance care planning.

In Slovenia there are minor studies to evaluate the need for palliative care in the elderly population. Palliative care is organized on every level of the Slovenian health care system, in the institution, at home and in the form of mobile unit as basic and specialized care.

We have some good examples of what can be achieved in the sense of transforming the values of a society with more respect for human beings. With the introduction of a **mobile palliative care unit**, a good connection has been established between the primary and secondary/tertiary levels. People tend to stay at home; it has become a value to be cared at home and to die at home.

***5. 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.***

In the Republic of Slovenia, there is no distinction between persons with disabilities and older people with disabilities as regards access to justice. For this reason, access to justice aimed to help all persons with disabilities is described.

The right to judicial protection is a fundamental human right declared in Article 23 of the Constitution, according to which "everyone has the right to have any decision regarding his rights, duties and any charges brought against him made without undue delay by an independent, impartial court constituted by law".

In the 240th article of the Contentious Civil Procedure Act it is regulated that if the witness has impaired hearing the questions must be asked in writing form and if the witness has impaired ability of speech he/she is asked to answer in writing form. If the witness cannot be questioned in the way mentioned before, an interpreter is invited to converse and translate for the witness. The court also warns the interpreter that he/she must interpret the questions and statements given to the witness precisely.

The Criminal Procedure Act has similar provisions in the 233th article in conjunction to the 243rd article which are valid if the witness or the accused has impaired speech or hearing. For those who have impaired hearing, the first and fifth paragraph of the 8th article are also valid because they regulate that the client, witness, suspect and others involved in the proceeding have the right to use their own language in the investigative and other court acts or main hearing.

It is important that the cost of translating and interpreting to these persons including those with impaired hearing is not billed to them.

If the accused has impaired hearing or speech or is otherwise unable to defend himself/herself he/she has the right to obligatory defence with a counsel who can only be a lawyer already at the first hearing according to Article 70 of the Criminal Procedure Act. If the accused does not take a counsel himself/herself in the cases of mandatory defence the court president assigns him/her one ex officio for the duration of the criminal law proceeding until the final judgment; In addition, if defendant was given a sentence of thirty years or a life sentence or if he/she has impaired hearing or speech or is otherwise incapable to defend himself/herself mandatory defence will extend also to the proceeding with extraordinary legal remedies.

It should furthermore be stressed that the Ministry of Justice has prepared a proposal of the Act amending Criminal Procedure Act (hereafter: ZKP - N), which is implementing EU victim`s directive 2012/29/EU and therefore generally strengthening the position of victims in criminal proceedings. The Parliament has adopted ZKP-N on 26 March 2019 and publication in the Official Gazette of the Republic of Slovenia is expected. Among other provisions of assistance and support, new Article 18.a which is introduced with ZKP-N urges police, public prosecutors, courts and other public authorities, experts, interpreters, and mediators to act particularly diligently and in a sensitive manner when they encounter vulnerability in victims and defendants inter alia due to their age, health, vulnerability.

We also stress the regulations of the new Legal order passed on the basis of Act of courts with which the content and form of invitations to meetings of the court and clients are adjusted so that the court is advised before the meeting that they need to make special adjustments when carrying out the meeting due to impaired hearing or speech or sight or other circumstances. The third paragraph of the 223rd article of Court order regulates that the invitation includes a notice that the attendees which are disabled or have special needs have the right to equally participate in the proceeding. Attendees who are disabled or are persons which special needs must inform the court before the meeting that they will enforce their right to equally participate in the proceeding.

Court and state prosecution office statistics are managed exclusively by crime. Personal circumstances are never specifically recorded since recording and statistical processing of data on personal circumstances can be discriminatory.

Free legal assistance constitutes the enforcement of the right to judicial protection, taking into account the social situation of persons who are not able to exercise this right without jeopardising their subsistence or the subsistence of their families. A person eligible to such assistance on statutory conditions may use it to cover fully or partially the costs of legal assistance and for the exemption from payment of legal costs.

***6. 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.***

Persons with disabilities and older persons and their representative organizations from both sites are always participating in the development and implementation of all strategies/plans or Acts.