

## ECONOMIC, SOCIAL AND CULTURAL RIGHTS FOR THE ELDERLY

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### ABSTRACT

According to official data, the world's population is aging rapidly. The total number of people aged 60 and over, from 200 million in 1950 to 400 million in 1982, and 600 million in 2001, is projected to reach 1.2 billion by 2025. , which at the time over 70 percent of them would live in developing countries. The number of people over the age of 80 has increased and continues to grow even more rapidly. These data are illustrations of a great revolution, but which has a wide impact and unpredictable consequences, and which now affects the social and economic structures of society, both globally and nationally, and that will have an even greater impact in the future. Most states, as well as industrialized states in particular, face the task of adapting their social and economic policies to the ages of their population, especially in terms of social security. In developing countries, the lack or shortage of social security coverage becomes even more severe due to the migration of members of the younger age group and that weakens the traditional role of the family, especially to support the elderly category. According to the statistical data of the Statistical Agency of the Republic of Kosovo in 2012, when the last official census was conducted, Kosovo had 1,739,825 inhabitants, the population density is 195 p / km<sup>2</sup>; Albanians about 93%, Serbs 1.5%, other ethnic groups 5.5%. Whereas, the distribution by age has been: 0 - 14 years 33%, 15 - 64 years 33%, 65 and older 6%. Whereas the territorial area of Kosovo before the demarcation with Montenegro was 10,908 km<sup>2</sup>.<sup>1</sup>

**Keywords:** Rights, elderly people, conventions, state, obligations.

### SIGNED INTERNATIONAL DOCUMENTS RELATING TO THE ELDERLY

In 1982, the World General Assembly adopted the Vienna International Plan of Action for the Elderly on the issues of the elderly. This important document has been signed by the General Assembly and is a very useful guide, because it very clearly defines the measures to be taken by states to ensure the rights of the elderly, in the context of the rights secured. also with the International Convention on Human Rights. This document contains 62 recommendations, most of which are relevant to the convention.

In 1991, the General Assembly adopted the principles of the United Nations for the elderly, which, due to their programmatic nature, is a very important document in the current context. This document consists of five chapters, which are in strict accordance with the rights contained in the Convention.

The first chapter on independence under these principles means access to adequate food, water, shelter, clothing, and medical care. And to these basic rights are added the opportunities for paid work as well as access to education and training.

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<sup>1</sup> Kosovo Agency of Statistics, Population Registration Results in Kosovo, published in September 2012

Meanwhile, in the second chapter, when it comes to participation, it is thought that older people should actively participate in the drafting of documents on the implementation of policies related to their well-being and share their knowledge and skills. with the younger generations, and I will enable them to form movements and associations.

The third chapter on care presents the issue that older people should benefit from family care, and will have the opportunity to enjoy human rights and fundamental freedoms where they reside in facilities such as shelters, care facilities or treatment.

Regarding the fourth chapter that deals with self-preservation, this is related to the principles that older people should be convinced of the possibilities for full development of their potentials, through access to recreational resources in education, culture, etc. within their societies.

Finally, the chapter on dignity is based on the fact that older people need to be assured that they will live with dignity and security and will be free from their exploitation as well as from physical and mental abuse. This should be achieved in such a way that they should be treated fairly, regardless of their age, gender, ethnicity and race, their disability, financial situation or any other status, and should be assessed regardless of their contribution. economic.

Later, in 1992, the General Assembly prepared eight global goals for the elderly for 2001 as well as a brief guide to these goals which would serve to strengthen the obligations of states towards this category.

Also, in the same year, at the conference for the elderly, the General Assembly approved the Declaration on the Elderly, which encouraged the support of age initiatives. So older women are adequately supported for their contributions that have not been recognized by society and that older people are encouraged to develop the social, cultural and emotional capacities for which they have been prevented from developing. during the time they worked.

Various international specialized agencies such as the United Nations, and in particular the International Labor Organization, have also paid special attention to the problem of the elderly.

### **THE RIGHTS OF THE ELDERLY ACCORDING TO THE PRINCIPLES SET OUT IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

Regarding the terminology used to identify the elderly, it also differs significantly in international documents, such as: "the elderly", "the elderly", "the elderly", "the third generation", "the mature (ancient) ", and to represent people over the age of 80, the "fourth generation" (in French, *personnes âgées*; in Spanish, *personas mayores*), the term was included in United Nations resolutions. 47/5 and 48/98. According to the United Nations statistical service practice, these terms include persons aged 60 and over (EUROSTAT, the statistical service of the European Union, considers that the term "elderly persons" means persons over 65 years of age, as age 65 years is the age that usually these people retire and that the trend is towards later retirement).

The International Covenant on Economic, Social and Cultural Rights does not contain any special reference to the rights of the elderly, although under Article 9 which deals with the rights of everyone to social protection, including social security, clearly recognizes the right to benefits for the elderly. However, with regard to the fact that the provisions of the pact apply

to all members of society, it is clear that older people are given the opportunity to enjoy a full range of rights recognized in the Covenant. This approach is also fully reflected in the Vienna International Action Plan for the Elderly. Moreover, when it comes to the rights of the elderly, this pact requires special measures to be taken by the state to enable them to enjoy these benefits. Another important issue to consider is whether age-based discrimination with this pact is prohibited. Neither the Pact nor the Universal Declaration of Human Rights specifically refers to age as a prohibited basis (for committing a violation of the law). And in order not to be seen as a deliberate exception, this omission is certainly best explained by the fact that, when these principles were approved, the problem of the demographic issue of the elderly was not evident or was not as pressing as which is in the present tense.

Therefore, the Committee on Economic, Social and Cultural Rights is of the opinion that the state is obliged to pay special attention to the promotion and protection of the economic, social and cultural rights of the elderly, in order for this category of persons the elderly not to be marginalized.

In 1993, the Committee and the Commission on Social and Cultural Economic Rights attached special importance to this issue, in order to plan future activities in this area.

International mechanisms, in particular the Commission on Economic, Social and Cultural Rights, have paid special attention to issues related to the promotion, advancement and addressing of these problems in the responsible institutional entities.

### **OBLIGATIONS OF STATE ENTITIES TOWARDS THE ELDERLY**

Elderly people as a group are considered to be heterogeneous and change as well as the rest of the population and their position depends on the economic and social situation of the country where they live, demographic factors, environment, cultural and individual, family status, level of education. , rural and urban environment as well as the profession of workers and retirees.

In addition to the elderly who are in good health and whose financial situation is acceptable, there are many who do not have adequate support, even in developed countries, and who are ranked among the groups. weaker, more marginalized, and more vulnerable. At a time of economic disintegration and restructuring, the elderly are particularly at risk. And as the Committee has previously pointed out (General Comment 3 (1990), para. 12), even in the most difficult times during various crises, the state has obligations to protect members of society, especially of this age group.

The methods that the state uses to fulfill their obligations as provided in the Covenant, as far as the elderly are concerned, must be largely the same as those methods to meet other obligations that include the need to determine the nature of the spectrum of problems in the state through regular monitoring, the need to regularly adopt policies and programs designed to meet the requirements, the need to issue laws or bylaws when necessary to eliminate inequality and the need to provide budget support as much as possible state.

In this context, attention can be paid to the global goal no. 1, adopted by the General Assembly in 1992, which calls for the establishment of national support infrastructures to promote policies and programs for the elderly in local and international development plans and programs. And in this regard, it is more important that one of the principles of the United Nations for the elderly is that governments should encourage that their programs and strategies should also include the elderly so that they have the opportunity to do so. form movements or associations of elderly people.

*Article 3: Equal rights for men and women*

In accordance with Article 3 of the Covenant, which obliges the state to “ensure equal rights for men and women, in the enjoyment of all economic and social rights and cultural”, the state should pay special attention to older women who, because they have devoted their entire lives or a part of their lives to family care without engaging in activities that would be paid for, not to be marginalized and to have special care and attention, especially from a social point of view.

To deal with such situations and in full compliance with Article 9 of the Covenant, non-contributory benefits must be established for the elderly or other benefits for all elderly persons regardless of gender, who are without it. material goods for their age.

*Articles 6 to 8: Rights to work*

Article 6 of the Covenant requires the state to recognize the right to work, which includes the right of every person to gain the opportunity to make a living from a job chosen or freely accepted; appropriate measures must be taken to protect this right. Given this, older workers who have not reached retirement age often face problems finding and retaining a job, measures are needed to prevent discrimination in employment in this regard.

The right of every person to enjoy fair and favorable working conditions, which provide them in a special way”(Pact, Article 7) is of particular importance to ensure that older people enjoy safe conditions. of work until their retirement. In particular, it is desirable to employ older people in circumstances where their experience can be exploited their knowledge.

In the years leading up to retirement, retirement preparation programs should be implemented, with the participation of workers' representative organizations and other bodies involved in this issue, to prepare older workers to cope with new situations. Such programs should in particular provide information to older workers about: their rights and obligations as retirees; opportunities and conditions for ongoing professional activities or volunteer work; tools to combat harmful influences on their age; facilities for higher education and cultural activities, as well as for the use of time for entertainment.

The rights protected by Article 8 of the Pact, in particular, the rights of the trade union, including the time after retirement, which must also apply to the elderly.

*Article 9: The right to social security*

Article 9 of the pact generally obliges the state to recognize the right of every person to social security, without separating the type and degree of protection they must be guaranteed. However, the term “social security” covers all risks involved in the loss of means of subsistence for reasons beyond the control of the person.

In accordance with Article 9 of the Pact and the provisions relating to the implementation of the Conventions on Social Security, the State shall take appropriate measures to establish general regimes for the compulsory insurance of the elderly, starting with a certain age, which must be prescribed by law. In this sense to be in accordance with recommendation no. 162 contained in the Pact of the International Labor Organization, the state must determine the retirement age which is flexible, depending on the occupation of the persons and the work performed, taking into account demographic, economic and social factors.

Also, in order to be effective pursuant to Article 9 of the Covenant, the state must guarantee that the provisions of the beneficiaries-descendants and orphans apply after the death of the person who has supported the family and who has been covered by social security or who has retired. In addition, the state should, depending on the availability of available resources, offer elderly beneficiaries who have not contributed and provide assistance to all elderly people who, when they reach the age prescribed by law, have not completed the qualifying period. contribution and who have no retirement due to age or have no other benefits or other benefits and no other income.

*Article 10: Protection of the family*

Based on Article 10, paragraph 1 of the Pact and the recommendations 25 and 29 of the Vienna International Action Plan on Age, the state must make the necessary efforts to support, protect and strengthen the family and assist it, accordingly. with the systems of each society of cultural values, to be able to respond to the demands of older members by establishing social services to support the whole family when those families have elderly people at home and especially for those low-income families and who wish to keep these elderly people at home. This assistance should also be provided to persons living alone or elderly persons who are couples and wish to remain in their homes.

*Article 11: The right to a sufficient standard of living*

If we refer to the principles of the United Nations for the elderly, it is clear that the State recognizes the right of every person to a sufficient standard of living for himself and his family, including food, clothing, and housing. conditions of housing, as well as for a continuous improvement of living conditions. Accordingly, the state will take the necessary measures to ensure the realization of this right and for this purpose recognize the inherent importance of a freely accepted international cooperation. The state must pay great attention to this principle, which is in conformity with Article 11 of the Covenant, which deals with the rights of the elderly.

Recommendations 19 to 24 of the Vienna International Action Plan on age emphasize that the shelter for the elderly should be considered more than a simple shelter and that, in addition to the physical condition, it has a psychic social significance that must be taken into account. .

Therefore, the policies and strategies of state institutions should help older people to continue living in their homes as long as possible, offering them renovation, development and improvement of homes and their adoption for rich elderly people, access to them and use them (recommendation 19). Recommendation 20 emphasizes the need for urban reconstruction and development planning and to enact a law that would pay special attention to the issue of age, assistance in ensuring their social integration, while Recommendation 22 pays attention to the need to consider the functional capacities of the elderly in order to provide them with a better living environment as well as to assist them with adequate means of transportation.

*Article 12: The right to physical and mental health*

Regarding the realization of the rights of the elderly in the enjoyment of the satisfactory standard of mental and physical health, in accordance with Article 12, paragraph 1, of the Covenant, the state must take into account the content of recommendations 1 to 17 of the International Action Plan. of Vienna on age, which is entirely focused on ensuring health policy in order to protect the health of the elderly and comprehensively, ranging from prevention and rehabilitation to care in hospital facilities.

The increase in the number of chronic diseases and the large hospitalization costs imposed on them cannot be dealt with by temporary medical treatment alone. And in this regard, the state should keep in mind that throughout the life of individuals to invest in the health of persons until old age, primary is a healthy lifestyle (food, active physical life, elimination of tobacco and alcohol.). Prevention through regular medical check-ups benefits the needs of the elderly, and that it plays an important role, as does rehabilitation, maintaining the capacity of the elderly, with results in reducing the cost of investment in medical care and social services.

*Articles 13 to 15: The right to education and culture*

Article 13, paragraph 1 of the pact recognizes the right of everyone to education. In the case of the elderly, this right must be approached from two different and complementary points of view: (a) the right of the elderly to benefit from educational programs; and (b) provide new generations with the experience and knowledge of older people.

With regard to the past, the state should take into account: (a) the recommendations of Principle 16 of the UN Principles for the Elderly to the extent that ancient persons should have access to genuine education, thus on the basis of their preparation, opportunities and motivations, to be given access to different levels of education through the adoption of genuine measures in terms of training for education, long-term education, access to the University, etc .; and (b) Recommendation 47 of the Vienna International Action Plan on Age, which, in line with the concept of long-term education issued by UNESCO, recommends informal, recreational and community-based programs for older people in order to develop their sense of self-confidence and community sense of responsibility. Such programs should enjoy the support of the government and other responsible local and international entities.

Regarding the use of knowledge and experiences of older people, as referred to in the recommendations of the Vienna International Action Plan on age related to education (paragraphs 74 76), attention has been paid to the important role of older people. , which they have in most societies as transmitters of information, knowledge, traditions and spiritual values and the fact that this important tradition should not be lost. In addition, responsible entities should pay special attention to the message contained in Recommendation 44 of the plan: "Educational programs aimed at the use of the elderly as teachers and transmitters of knowledge, culture and spiritual values should be developed."

In Article 15, paragraphs 1 (a) and (b) of the Covenant, the state must recognize the rights of everyone to participate in cultural life; Benefit from scientific progress and its applications; Therefore, the responsible entities should be encouraged to take into account the recommendations contained in the UN Principles for the Elderly, and in particular Article 7: "The Elderly they must remain integrated into society, actively participate in the formulation and implementation of policies that directly affect their well-being, and share experiences, their and their skills with the younger generations "; and Principle 16: "Elderly people should have access to society's resources such as recreational, educational, cultural, spiritual."

Similarly, Recommendation 48 of the Vienna International Action Plan on Age encourages governments and international organizations to support programs aimed at providing easier physical access for the elderly to cultural institutions (museums, theaters, concert halls, cinema, etc.).

Recommendation 50 emphasizes the need for institutional entities, NGOs, and the elderly themselves to make efforts to tackle images of negative stereotypes about older people

suffering from physical and mental disabilities, who are unable to function-move in order to independent and that have neither a role nor a status in society. These efforts, in which educational institutions and the media must also participate, are essential to achieving a society that aims at the full integration of the elderly into society.

With regard to the right to benefit from scientific advancement and its implementation, the state should take into account the recommendations 60, 61 and 62 of the Vienna International Action Plan on Age and make efforts to promote research in biological, mental and psychological terms. social elders as well as ways to maintain functional capacity and prevent and delay chronic diseases and disabilities. In this context, it is recommended that the state, Intergovernmental Organizations and NGOs establish specialized teaching institutions in gerontology, geriatrics and geriatric psychology which in a specific and professional way can and should serve these age groups citizens.

### **THE RIGHTS OF THE ELDERLY IN THE REPUBLIC OF KOSOVO**

Kosovo is a small country and also the youngest country in Europe. The average age of Kosovo's population of 1.7 million is 30 years old, and only 6.2% are aged 65 or over. With a small turnout in the electorate, the elderly have been neglected for a long time by our politicians and unlike some of our neighbors, we do not have strong retirement parties. But even the nature of Kosovar society does not help much in this regard.

Since the elderly are almost always cared for by their families, their interests are largely ignored by society. They are ignored by civil society and there is not much will on the part of the government or the private sector to create special care facilities for the elderly, to help those who have lost their independence, or to provide access to adequate social services. which today either do not exist or are not properly adapted to the nature of our society.<sup>2</sup>

In Kosovo, where poverty is widespread, the unemployment rate reaches more than 30.6%, while the average income is 354 euros per month, among the lowest in Europe.<sup>3</sup> In 2015, a group of more than 75,000 people between the ages of 20 and 64, although most of them in their early teens, left the country, and many did not even take their families with them.<sup>4</sup> Thus, this system and this social and economic situation is not stable.

While the elderly are generally at greater risk of falling into poverty than the rest of the population, women are more exposed to this risk. While the income of most elderly people surveyed by a non-governmental organization in Kosovo was 150-200 euros per month, about 80% of older women reported income of 70-100 euros, or half of men's income.<sup>5</sup>

Among the main reasons for this is the contributory pension, as 60% of men benefit from this scheme compared to only 9% of women. The amount of the contributory pension is almost double the amount received from the basic pension, which starts from 75 euros per month, which is the amount that most pensioners receive (over 120,017).<sup>6</sup> This difference is reflected

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<sup>2</sup> Kosovo Statistical Agency, Statistical Yearbook 2017.

<sup>3</sup> KSI, Minimum Wage Study, 2016

<sup>4</sup> Kosovo Statistical Agency, Kosovo Population Calculation, 2015

<http://ask.rks-gov.net/en/kosovo-agency-of-statistics/add-neës/estimation-of-kosovo-population-2015>

<sup>5</sup> KSI Agenda for the Living Standards of the Elderly in Kosovo, 2017

<sup>6</sup> Kosovo Statistical Agency, Basic Pensions in Kosovo in 2016, <http://askdata.rksgov>.

in employment levels: in 2017, only 12.7% of women were employed with salaries versus 46.7% of men<sup>7</sup>, while of the women surveyed, 79% had never had a paid job before retirement. This massive difference has direct consequences on the economic situation of retired men and women, and explains the gap between their incomes and why most women enter the basic pension scheme and not the contributor one.

According to the Law on Social and Family Services and the Kosovo Social Services, whose duties are defined by the regulations of the Social Assistance Scheme, elderly citizens enjoy the right to home and health care through Social Work Centers or non-governmental organizations.<sup>8</sup> However, in practice, home care and health care obligations are often met by family members with whom the vast majority live.

Finding the means for the elderly to preserve or restore some of their independence, both physical, social and financial, is key to the further development of society. For a poor country, the burden on families to care for the elderly, with little help from the state, is already problematic, and as the percentage of the elderly increases, this problem will be even more pronounced. However, political attention is needed to develop the necessary services and conditions.

## CONCLUSION

- a) Attention can be paid to the global goal no. 1, adopted by the General Assembly in 1992, which calls for the establishment of national support infrastructures to promote policies and programs for the elderly in local and international development plans and programs. And in this regard, it is more important that one of the principles of the United Nations for the elderly is that governments should encourage that their programs and strategies should also include the elderly so that they have the opportunity to do so. form movements or associations of elderly people.
- b) Non-contributing benefits should be established for the elderly or other benefits for all elderly persons regardless of gender, who are without material benefits for their age.
- c) Retirement training programs should be implemented, with the participation of workers' representative organizations and other bodies involved in this issue, to prepare older workers to cope with new situations. Such programs should in particular provide information to older workers about: their rights and obligations as retirees; opportunities and conditions for ongoing professional activities or volunteer work; tools to combat harmful influences on their age; facilities for higher education and cultural activities, as well as for the use of time for entertainment.
- d) The state must guarantee that the provision of beneficiaries - descendants and orphans - applies after the death of the person who has supported the family and who has been covered by social security or who has retired.
- e) The state should, depending on the available resources, provide elderly beneficiaries who have not contributed and provide assistance to all elderly people who, when they reach the age provided by law, have not completed the qualifying period of the contribution and that have no retirement due to age or have no other benefits or other benefits and have no other income.

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<sup>7</sup> Kosovo Statistical Agency, Kosovo Labor Force Survey 2017

<sup>8</sup> Law no. 02 / L-17 on Social and Family Services



- f) The policies and strategies of state institutions should help older people to continue living in their homes as long as possible, offering them renovation, home development and improvement, and their adoption to have the elderly, access to them and exploit them.

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## AUTHOR'S PROFILE

Dr.sc. Ilir A. ISLAMI: Born on May 20, 1967 in the municipality of Podujeva. He graduated from Primary and Secondary School in his hometown, and graduated from the Faculty of Law at the Public University "Hasan Prishtina" in Pristina in 2000. Master of Legal-Financial Sciences. In 2016, he successfully completed his doctoral studies at the European University in Tirana and received the degree of Doctor of Laws.

He started his professional career in 2001 at the Ministry of Labor and Social Welfare in Prishtina, in the position of Regional Operations Manager for the Social Assistance Scheme. In 2004, he transferred to the Ministry of Finance / Tax Administration of Kosovo, initially as a Legislative Advisor and after two years he passed to the position of Human Resources Leader. Since 2012 he holds the position of Director of the Department of Legal Services in the Tax Administration of Kosovo.

Regarding his academic career, the author since 2011 has been engaged as a Lecturer in Law at the College "Juridica", and is currently engaged at AAB College in Pristina and the Public University "Ukshin Hoti" in Prizren. .

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