

ЗАХИСТ ПРАВ ЛЮДИНИ І ГРОМАДЯНИНА



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HUMAN RIGHTS OF SENIOR PEOPLE IN UKRAINE: CURRENT REALITY AND EUROPEAN PERSPECTIVES

ABSTRACT. The article aims to provide a survey of the current situation with human rights of senior people in Ukraine, based on the legal analysis and sociological overview.

The questionnaire for the overview was built to show the level of seniors' knowledge about their rights and possible ways of protection, level seniors' human rights infringement and awareness about possible remedies in case of infringement.

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The sample of the sociological overview includes 1 379 persons. The interviews were done by students under the supervision of the authors of this paper in the framework of GRAGE Horizon 2020 project. Sample analysis and calibration resulted in 1 159 valid respondents' forms. The Gender structure of the responses constitutes 39 % women and 61 % men. The group includes people from 60 years old and older, including long-livers (90+).

Seven main questions were put to the interviewed: Do you know which rights and benefits do older persons have in Ukraine? Do you know any NGOs or societies, which deal with older person's rights protection? Do you meet information about older person's rights in newspapers or TV programs? Have you ever been discriminated on the basis of your age (in the sphere of employment, credits, insurance etc.)? Have you ever experienced physical or psychological violence because of your age (from your relatives, social workers, and other people)? Which rights of older persons are the most violated? Do you know where to appeal in your city in case of your (as older person) rights are violated?

The results of such analysis are represented in diagrams and show the real picture of seniors' rights protection in Ukraine and proper ways of its improvement. Two main rights of elderly which are the subject of violation are the right to proper material support (low level of pensions) and the right to medical care (low level of healthcare support). But one of the main problems of seniors' rights protection in Ukraine is the low level of elderly knowledge about their rights, ways of protection and possible remedies in the case of infringement.

The authors provide their view on the reforming approaches to increase the life level of elderly in Ukraine based on the current development of European practice and achievements of GRAGE Horizon 2020 project.

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KEYWORDS: human rights; senior people; discrimination; information policy; remedies.

1. Introduction

Human rights in general and human rights of specific categories of people are the topics which draws the attention of scholars and academics from different research fields. Encyclopedia Britannica proposes such universal notion of human rights:

Human rights, rights that belong to an individual or group of individuals simply for being human, or as a consequence of inherent human vulnerability, or because they are requisite to the possibility of a just society. Whatever their theoretical justification, human rights refer to a wide continuum of values or capabilities thought to enhance human agency or protect human interests and declared to be universal in character, in some sense equally claimed for all human beings, present, and future¹.

¹ Burns H. Weston, 'Human rights' (*Encyclopedia Britannica*, 14.12.2017) <<https://www.britannica.com/topic/human-rights>> accessed 15 May 2018.

Human rights are inherent to every natural person from the beginning of the life till its end. However, on different stages of human's life these rights obtain different peculiarities, so children's rights differ from the rights of adults and especially seniors (elderly).

Despite the situation that elderly rights are not especially focused on in particular international documents, they should be examined as a special part of human rights. Aging is one of the main trends of population development either in Europe or Ukraine.

According to Eurostat, population aging in Europe is a long-term trend which is destined to last for many years. The comparison of age pyramid for 2014 and 2080 shows that the EU population is projected to continue to age². GRAGE researchers provide the following statistic: EU counts 94 million people aged over 65. By 2050, 19 of 20 countries, worldwide, with the oldest population will be located in Europe. By 2060, the number of people aged over 65 will nearly double (to 30 %) and over 80 will nearly triple (to 12 %)³.

Ukraine belongs to the thirty countries of the world with the oldest population⁴. Despite the general trend of population decrease, the aging of Ukrainians is in progress. Such an approach will lead to the increase of elderly population in the society nearest decades. According to the population projection, made by Ptoukha Institute for Demography and Social Studies of the National Academy of Sciences of Ukraine, a quantity of Ukrainians of the age 70–85 will increase almost twice to 2061⁵. One of the peculiarities of aging in Ukraine is a weighty gender asymmetry: females prevail on the elderly.

So aging seems to be a global trend of human development. However, long life itself is not an aim. Such life should be of full value. Not in vain the slogan of UN Principles for older persons is “To add life to the years that have been added to life”⁶.

Article 4 of the Additional Protocol to the European Social Charter of 1988 guarantees elderly to be “full member of society”. So the question arises – what does it mean to be a full member of society⁷.

Par. 1 Article 25 of the Universal Declaration of Human Rights (1948) provides general issues of the full value life:

² Longo Eric and Vagni Laura, ‘Socio-Economic rights of senior people in urban areas: towards a new European perspective’ [2016] 4(41) Law and Administration XXI Century 63.

³ Grey & Green in Europe elderly living in urban areas <https://www.grageproject.eu/images/About/201704_GRAGE_Booklet_Mobilities.pdf> accessed 15 May 2018.

⁴ *Населення України: імперативи демографічного старіння* (АДЕФ-Україна 2014) 288.

⁵ Інститут демографії та соціальних досліджень імені М. В. Птухи Національної академії наук України <<http://www.idss.org.ua/index.html>> дата звернення 15 Травень 2018.

⁶ Principles for older persons (UN DESA) <<https://www.un.org/development/desa/ageing/resources/international-year-of-older-persons-1999/principles.html>> accessed 15 May 2018.

⁷ European Social Charter (Council of Europe) <<https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007cf93>> accessed 15 May 2018.

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control⁸.

UN principles for older persons⁹ address such fundamental issues of elderly life as independence, participation, care, self-fulfillment, and dignity.

The European Social Charter of 1961 (which is the counterpart of the European Convention on Human Rights in the sphere of economic and social rights) guarantees the enjoyment, without discrimination, of fundamental social and economic rights defined in the framework of a social policy that Parties undertake to pursue, by all appropriate means. Of the rights guaranteed by the Charter, the right to work, the right to social security, the right to social and medical assistance, the right to the social, legal and economic protection of the family, etc. are regarded as particularly significant¹⁰.

Charter of older persons (CIS) 1998¹¹ proclaims that elderly should have unalienable rights to have a guaranteed social support; right to housing, right to labor, right to free medical care; right to education and professional training; right to be presented in active social life; right to establish particular organizations of older persons, veterans for their interest representation etc.

Madrid International Plan of Action on Ageing and the Political Declaration adopted at the Second World Assembly on Ageing in April 2002¹² declares three priority directions: older persons and development; advancing health and well-being into old age, and ensuring enabling and supportive environments.

The analysis of mentioned concepts allows us to generalize that in order to be a full member of the society seniors should:

- know about their rights;
- know about state and regional support programs for elderly;
- be free from the discrimination and other kinds of violence;
- know the effective remedial mechanism of rights protection;

⁸ Universal Declaration of Human Rights (United Nations) <<http://www.un.org/en/universal-declaration-human-rights>> accessed 15 May 2018.

⁹ Principles for older persons (n 6).

¹⁰ European Social Charter (n 7).

¹¹ О Хартии пожилых людей: постановление Межпарламентской ассамблеи государств – участников Содружества независимых государств <<http://docs.cntd.ru/document/901901230>> дата обращения 15 Май 2018.

¹² Political declaration and madrid international plan of action on ageing <<https://www.un.org/esa/socdev/documents/ageing/MIPAA/political-declaration-en.pdf>> accessed 15 May 2018.

2. Main part

2.1. Questionnaire

In the framework of Horizon 2020 GRAGE project Ukrainian group of researchers together with Italian colleagues has developed a questionnaire for seniors in order to explore the situation with elderly rights in Ukraine from their point of view. The questionnaire was built on the criteria of elderly living as full members of the society. Do they feel respected? Do they know what to do in case of rights infringement? So seven main questions were put:

1. Do you know which rights and benefits do older persons have in Ukraine?
2. Do you know any NGOs or societies, which deal with older person's rights protection?
3. Do you meet information about older person's rights in newspapers or TV programs?
4. Have you ever been discriminated on the basis of your age (in the sphere of employment, credits, insurance etc.)?
5. Have you ever experienced physical or psychological violence because of your age (from your relatives, social workers, and other people)?
6. Which rights of older persons are the most violated?
7. Do you know where to appeal in your city in case of your (as older person) rights are violated?

The sample includes 1 379 persons. The interviews were done by students under the supervision of the authors of this paper in the framework of GRAGE Horizon 2020 project. Sample analysis and calibration resulted in 1 159 valid respondents' forms.

Gender structure

Gender structure of the responses constitutes 39 % (455 persons) women and 61 % (704 persons) men (Figure 1).

Results reflect the general situation in Ukraine (46,3 % (as on 1 January 2017 the gender structure of the Ukrainian population constituted 19 644,6 thousand persons, 46,3 %, men and 22 770,3 thousand persons, 53,7 %, women). The number of women increases with age. Noteworthy, women over 82 amount twice the number of men of the same age (20 women and 13 men) in the sample. The sample group of people over 90 includes five women and two men.

The key groups

The principal groups include people of 61–75 years old (375 persons; 32 %) and 67–72 years old (378 persons; 33 %). In sum, they embrace 65 % (753 persons) of the respondents. However, the basic group of respondents aged 55–82 years old consists of 1 126 persons and constitutes 97,5 % of the

sample. High social activity characterizes this group in Ukraine. People of 55–82 years old are essential from the electoral point of view, and their choices greatly influence the political projects' results in this country. People aged over 82 years old amounts 33 persons (2,8 %). This group represents people close in their mentality and living mode to the 90+ group of biological long-livers.

Interview results

Question 1. Do you know which rights and benefits do older people have in Ukraine?

Totally 1 157 responses, including 63 % (731 persons) positive and 37 % (426 persons) negative. The same ratio characterizes women and men parts of the sample for the whole group of 56–90 years old respondents, excluding the group of long-livers (over 90 years old) (*Figure 1*).

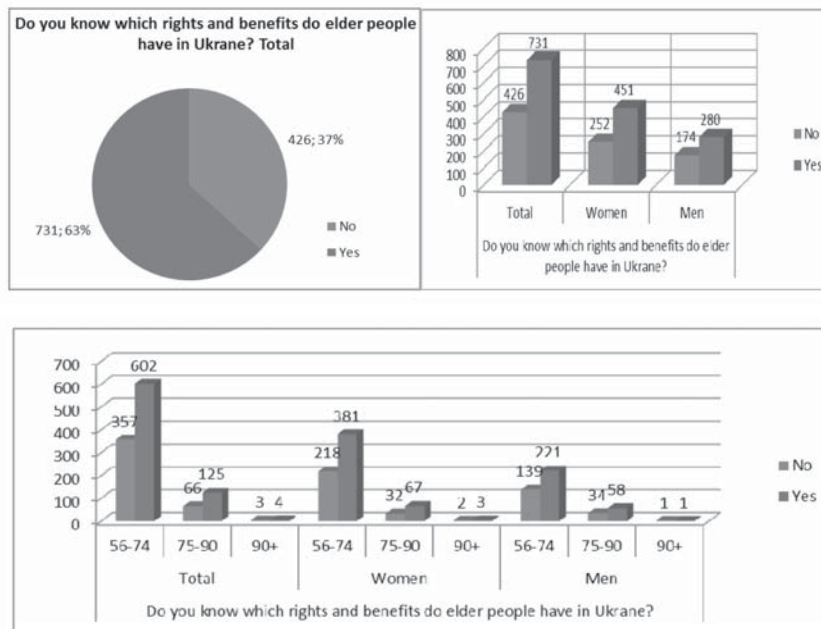


Figure 1. Responses structure, the question “Do you know which rights and benefits do older people have in Ukraine?”

Question 2. Do you know any NGOs or societies, which deal with older person’s rights protection?

This question was responded by 1 153 people, including 23 % (263 persons) positively and 77 % 890 (persons) negatively. The same ratio characterizes both gender groups within the whole group of 56–90 years old respondents,

excluding the group of long-livers (over 90 years old) with six negative responses out of 7 (Figure 2).

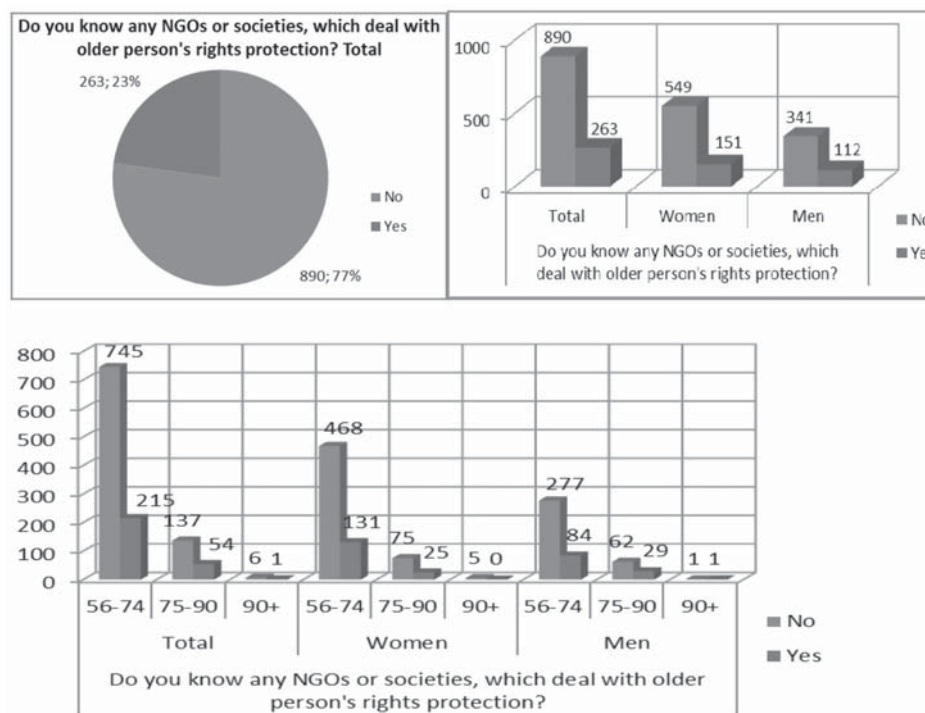


Figure 2. Responses structure, the question “Do you know any NGOs or societies, which deal with older person’s rights protection?”

Question 3. Do you meet information about older person’s rights in newspapers or TV programs?

Totally 1 150 responses include 48 % (556 persons) positive and 52 % (594 persons) negative one. The same ratio characterizes both gender groups within the whole group of 56–90 years old respondents, excluding the group of long-livers (over 90 years old) with five positive responses out of 7 (Figure 3).

Question 4. Have you ever been discriminated because of your age (in the sphere of employment, credits, insurance, etc.)?

Totally 1 145 responses include 30 % (342 persons) positive and 70 % (803 persons) negative one. The same ratio characterizes both gender groups, including the whole age group of 56–90+ women and 56–74 men. The results suggest that senior men of 75–90 years old mostly experience discrimination (53 % of definite answers, 49 out of 92 persons) (Figure 4).

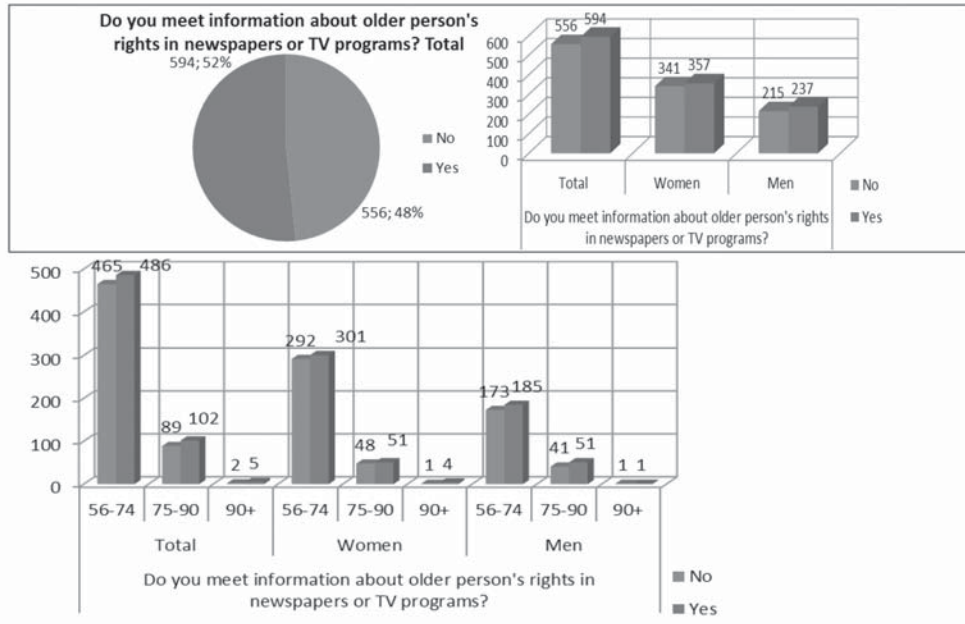


Figure 3. Responses structure, the question "Do you meet information about older person's rights in newspapers or TV programs?"

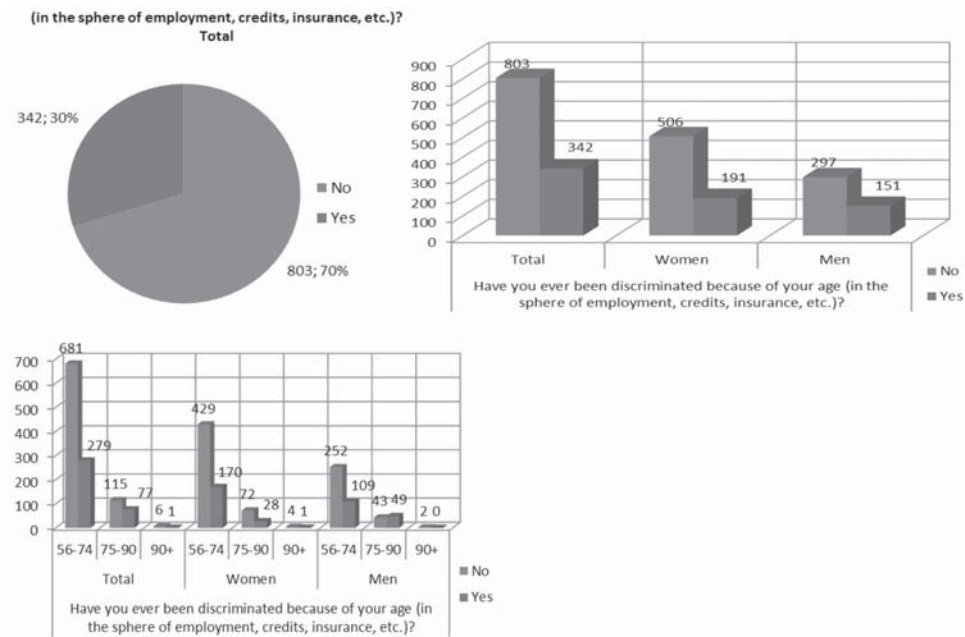


Figure 4. Responses structure, the question "Have you ever been discriminated because of your age (in the sphere of employment, credits, insurance, etc.)?"

Question 5. Have you ever experienced physical or psychological violence because of your age (from your relatives, social workers, and other people)?

Among 1 138 responses 21 % (236 persons) are positive, and 79 % (902 persons) are negative. The same ratio has both senior men and women (Figure 5).

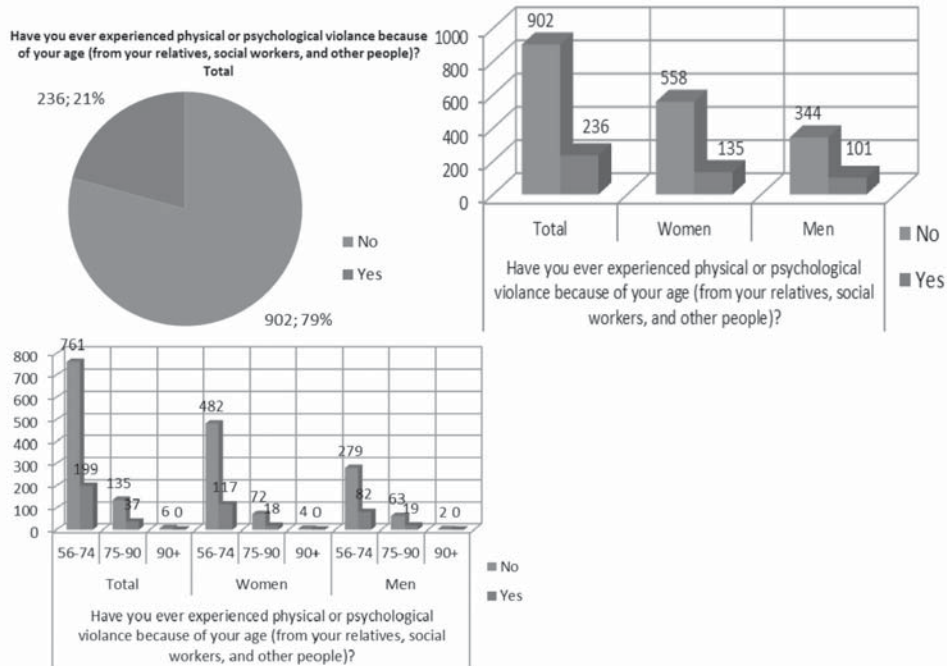


Figure 5. Responses structure, the question "Have you ever experienced physical or psychological violence because of your age (from your relatives, social workers, and other people)?"

Question 6. Which rights of the elderly are violated most often in your opinion?

Among 1 106 responses 55 % (603 persons) of respondents defined the low pension insufficient to provide a living wage as a critical problem. Next position takes the low quality of free medical services (16 %, 178 respondents). The above two problems are crucial for over 71 % (781 persons) of seniors in Ukraine.

Gender patterns are similar both for male and female respondents. The ratio is close to general population features in this country (33 % of male to 67 % of female participants) (Figure 6).

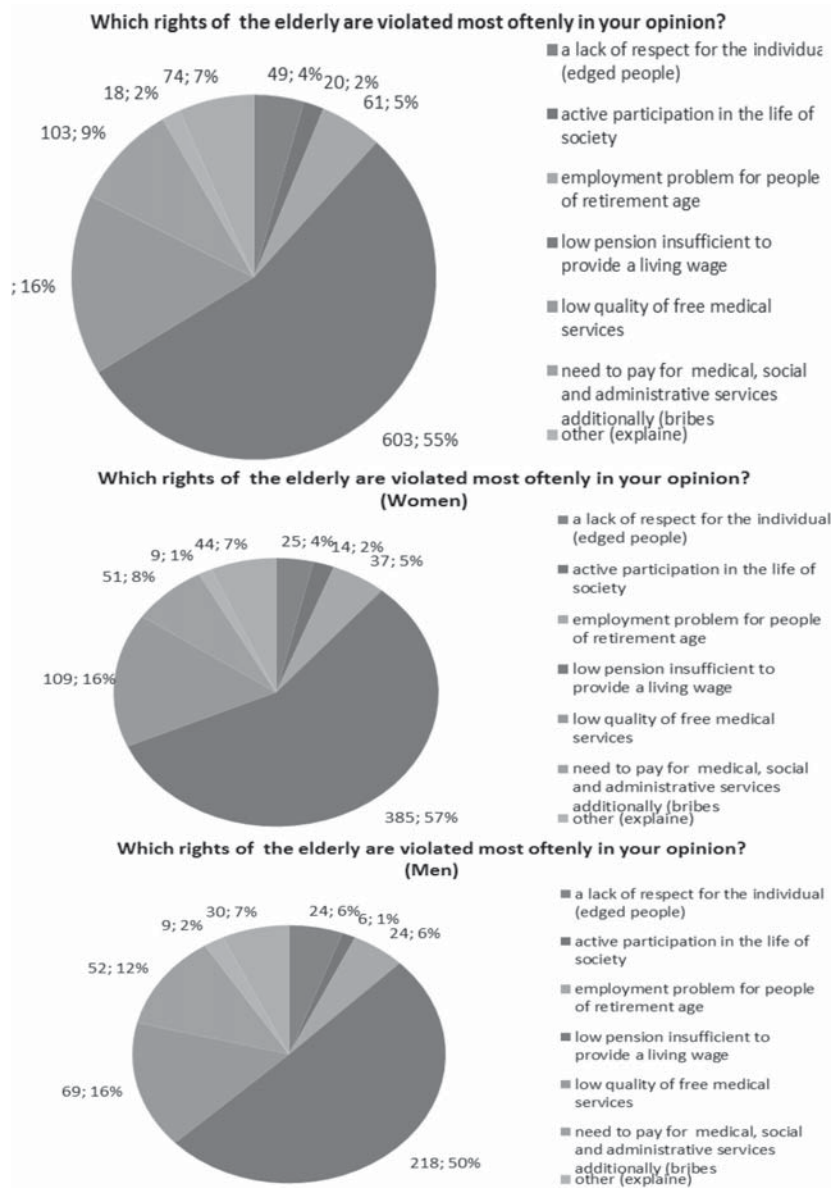


Figure 6. Responses structure, the question "Which rights of the elderly are violated most often in your opinion?"

Question 7. Do you know where to appeal in your city in case of your (an older person) rights are violated?

Totally 1153 responses include 27 % (317 persons) positive and 73 % (836 respondents) negative one. The same ratio characterizes both elderly male and female respondents (*Figure 7*).

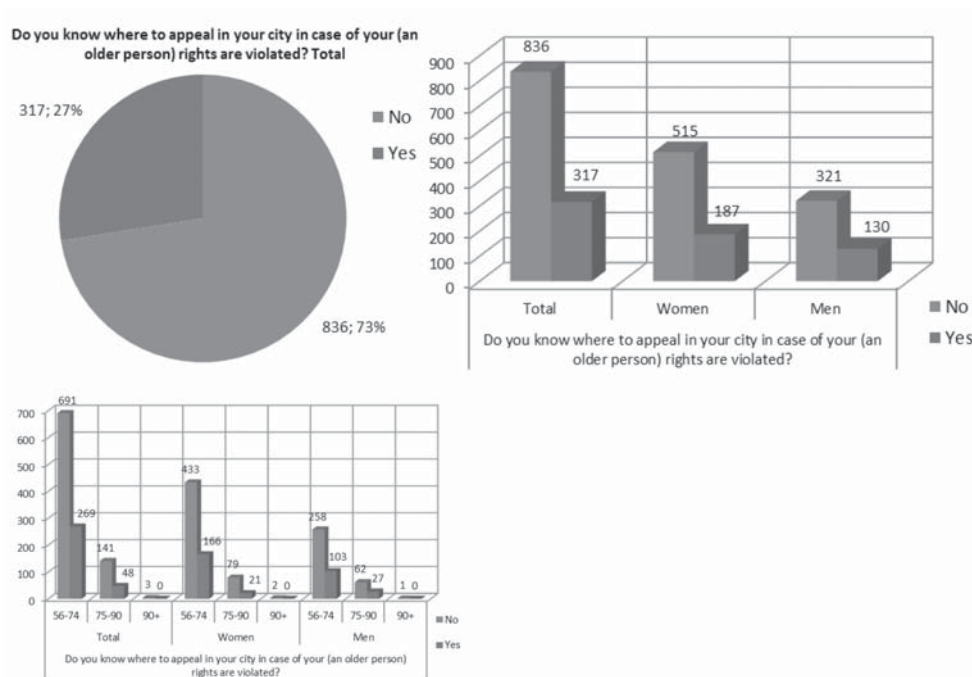


Figure 7. Responses structure, the question “Do you know where to appeal in your city in case of your (as older person) rights are violated?”

So the general picture of seniors’ human rights in Ukraine looks like the following. The majority of elderly (63 %) know about their rights and privileges based on the age. However, just 48 % of the respondents meet information about elderly rights in mass media and other information sources. The ratio of seniors’ discrimination in Ukraine is not very high. 30 % of elderly mentioned discrimination and 21 % mentioned other violation of their rights because of the age. However, still, such ratios are not completely perfect so the whole system of seniors’ right protection should be developed.

The central right of seniors in Ukraine which is mostly violated is a right to proper material support from the state. 55 % of respondents mentioned the low rate of pensions as an essential right violation. Low quality of medical service takes the second place in the list of elderly’s rights violation.

Exactly pension and medical reforms are the issues of great importance in Ukraine. The roadmaps of such reforms are already created, proper legislation is drafted etc. What should be done more is a change of information policy in the field of seniors' right in Ukraine. Indeed such information policy is not completely poor but still needs improvement. The state and civil society should provide more educative events and materials about elderly rights. That could be articles in the newspapers and journals, TV programs, public cultural events, etc. Information about elderly rights should be spread by social workers, medical personnel, volunteers etc.

Hospitals and other places of medical aid, social security bodies and other entities dealing with the elderly should create consulting services. Such kind of services will allow senior to ask about his/her rights in this body, to learn body competence and as a result to be more protected.

One more way is to establish phone hot-lines on the questions of pension support, other social services for elderly. This will allow senior to call and to ask about something he/she wants to know and increase elderly education level in the field.

The legislation base in the field of elderly rights in Ukraine is rather broad. It includes either the legislation on pension and other social security support or non- discrimination issues together with employment guarantees. Ukraine ratified European Social Charter and CIS Older Persons Charter. However, Ukrainian seniors still need some clear interpretation of legal provisions. Not all of them are lawyers and could read legal acts properly. The majority of seniors need the explaining of legal provisions in proper simple form. So it is also a task either for the state servant or to profile NGOs to help elderly to understand modern international and local legislation.

As more seniors are informed about their rights as better, they could protect them. Moreover, this will positively influence the general state of the society. Informed and educated elderly are less involved in corruption. They are rarely victims of the fraud and abuse.

CONCLUSIONS: European and Ukrainian population become older each decade. Aging is recognized as a general trend of modern social development. In this case, human rights of seniors are of high importance. The "red line" of all documents in the field of elderly rights is the statement that the age is not a disease. Seniors should be full members of the society with active involvement in all spheres of life. For this reason elderly need to know about their rights and privileges, support programs, effective remedial mechanism for their rights protection.

The questionnaire developed by Ukrainian GRAGE team shows that despite the comparatively low level of seniors' discrimination by age elderly don't feel as full members of the society. The main reasons are bad pensions support, low

level of medical care and weak information policy. Ukrainian society has a strong need for pension and medical reform. However, effective information policy for the elderly is not less important. Human rights education for the elderly, consulting about seniors' rights in the fields of employment, medical service, pensions, etc. will make the situation with elderly's rights in Ukraine better.

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ПРАВА ЛЮДЕЙ ПОХИЛОГО ВІКУ В УКРАЇНІ: СУЧАСНИЙ СТАН ТА ЄВРОПЕЙСЬКІ ПЕРСПЕКТИВИ

АНОТАЦІЯ. Метою статті є проведення огляду сучасного стану захисту прав людей похилого віку в Україні, що базується на правовому аналізі та результатах соціологічного опитування.

Анкета для соціологічного опитування була побудована таким чином, щоб показати рівень обізнаності осіб похилого віку про їхні права, можливі способи охорони, рівень порушення прав осіб похилого віку та допустимі засоби захисту у разі порушення.

Вибірка для соціологічного опитування включає 1 379 осіб. Анкетування здійснювалося студентами під керівництвом авторів цієї статті у межах проекту Горизонт 2020 GRAGE. Аналіз вибірки та її калібрування залишило 1 159 валідних форм відповідей. Гендерна структура опитуваних становила 39 % жінок та 61 % чоловіків. Група опитуваних включала людей від 60 років та старше, зокрема й довгожителів (90 років +).

Форма інтерв'ю включала сім основних запитань, а саме: Чи знаєте Ви основні права та привілеї, що їх мають люди похилого віку в Україні? Чи знаєте Ви якісь громадські організації або товариства, які займаються захистом прав людей похилого віку? Чи трапляється Вам інформація про права людей похилого віку в газетах або телевізійних програмах? Чи були Ви колись дискриміновані через вік (у сфері працевлаштування, отримання кредитів, страхування тощо)? Чи відчували Ви колись фізичне або психологічне насильство через вік (від родичів, соціальних працівників, інших людей)? Які права людей похилого віку, на Вашу думку, більш за все порушуються? Чи знаєте Ви, куди звертатися у разі порушення Ваших прав як людини похилого віку?

Результати проведеного дослідження подані у діаграмах, що відображають реальну картину захисту прав осіб похилого віку в Україні та окреслюють реальні шляхи виправлення ситуації. Два основні права людей похилого віку, які найбільше порушуються в Україні, це право на матеріальну підтримку (низький рівень пенсій) та право на медичну допомогу (низький рівень медичного обслуговування). Водночас одна з основних проблем у сфері захисту прав осіб похилого віку в Україні – це їхня низька обізнаність про свої права, шляхи захисту та можливі дії в разі порушення.

Автори пропонують своє бачення щодо реформування шляхів підвищення рівня життя людей похилого віку в Україні, що базується на сучасному європейському досвіді та досягненнях проекту Горизонт 2020 GRAGE.

Стаття виконана за підтримки дослідницько-інноваційної програми Марії Склодовської-Кюрі проекту Європейського Союзу Горизонт 2020 (грантовий номер 645706 (Проект GRAGE)). Вона відображає точку зору авторів. Проект не відповідає за будь-яке використання інформації, що тут міститься.

Ключові слова: права людини; люди похилого віку; дискримінація; інформаційна політика; засоби захисту.