

Austria's Comprehensive Responses to the Co-Facilitators' Questionnaire

Content

Identification of gaps	2
a) Equality and non-discrimination	2
b) Violence, neglect and abuse	3
d) Autonomy and independence.....	5
e) Protection et sécurité sociales (y compris protection sociale minimale)	5
f) Education, training, lifelong learning and capacity-building	6
g) Right to Work and Access to the Labour Market	7
h) Access to justice	7
i) Contribution of Older Persons to Sustainable Development.....	8
j) Economic security	8
k) Right to Health and Access to Health Services.....	9
l) Social Inclusion	10
m) Accessibility, infrastructure and habitat (transport, housing and access).....	10
n) Participation in the public life and in decision-making processes	11
Options on how best to address the gaps	12
1. Please state how your Government/organization has engaged with international and regional human rights mechanisms (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms), specifically with regard to older persons.....	12
2. Have those engagement resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate.	14
3. What other options can be considered to strengthen the protection of older persons? Please elaborate	15
4. If applicable, what is your assessment on the protection of the human rights of older persons according to regional and international instruments?	17
Contact Information in Austria	17

Identification of gaps

1. For each of the topics that have been considered by the Open-ended Working Group since its eighth session, please state possible gaps your Government/organization has identified in the normative framework and practical implementation for the protection of the human rights of older persons.

a) Equality and non-discrimination

As the principle of equality is enshrined in Austrian legislation (Article 7 Federal Constitutional Act), the legal system does not provide for specific protection of older persons. Regarding equality and non-discrimination, there is no comprehensive and specific anti-discrimination legislation that covers age as a ground of discrimination in all areas of life, such as education, health, social services, and access to goods and services. However, Article 21 section 1 Charter of Fundamental Rights of the European Union (CFR) stipulates the prohibition of discrimination specifically based on age.

Although Austria has transposed the EU directives on equal treatment in employment and occupation, and on equal treatment in the access to and supply of goods and services, into its national law, these laws only apply to certain sectors (*mostly employment-related*) and do not cover all forms of discrimination, such as multiple and intersectional discrimination.

The Equal Treatment Act, for instance, stipulates a ban on direct and indirect discrimination on the ground of age for the entire area of employment. Beyond the area of employment, no prohibition of discrimination on grounds of age has yet been enacted at federal level. In practice, however, a number of further provisions prove advantageous especially for older persons, such as consumer protection legislation, the Residential Home Contracts Act and legislation on residents' rights, regulations in the fields of custodian legislation (in particular since the implementation of the so-called Second Adult Protection Act), patients' living will/advance decision and patients' rights. A challenge in this regard may be found in the distinction between care dependency and case of illness under social law.

From a practical perspective, also the frequently stereotypical representation of old age in media, for instance in advertisements, has discriminatory effects. The edited advertising content presented in print and electronic media frequently depicts senior citizens in dire straits, misery and infirmity and also includes a large number of pejorative statements and descriptions (linguistic "ageism"). Recent studies show that many older persons feel discriminated in road traffic and on public transport.

It is very seldom, however, that people tend to talk about their own relevant experiences. Objective discrimination is a phenomenon in the workplace environment, for instance, where older workers are in fact discriminated. Research confirms that changes are not only desirable but are - in fact - a must, because companies do appreciate experience and knowledge. Other kinds of discrimination of senior citizens are faced with in their everyday lives relate to learning opportunities that take little account of their specific needs, lack of consideration in road traffic and on public transport and existing barriers in the field of housing.

Austria has established several ombudspersons and commissions that deal with different human rights issues, such as the Ombudsman Board, the Equal Treatment Commission, the Disability Ombudsman, and the Human Rights Advisory Council. Improvements in the human rights protection of older persons may be found in the consideration of appointing a specific and comprehensive mandate to address the

human rights of older persons to these bodies, to hand them the power to initiate investigations, to issue binding decisions, or to impose sanctions.

b) Violence, neglect and abuse

Violence, abuse and neglect of older persons is still a taboo subject, but one that is often present in the everyday lives of older persons. In addition to the usually more visible physical violence, there are various forms of psychological violence, which are facilitated by existing dependency relationships.

In recent years, the informed public has become increasingly aware of the different forms of violence against older persons. Violence includes physical, sexual, mental/emotional/psychological, financial abuse/violence, institutional violence, restriction of self-determination, neglect and self-neglect.

Austrian law does not contain special provisions to protect older persons from violence, but general standards apply for protection against violence, such as those found in the Criminal Code. Legal provisions that apply in the event of violence against older people are widely scattered across various laws (including Federal Constitutional Act, Ombudsman Act, notification and reporting obligations, the Medical Practitioners Act, the Healthcare and Nursing Act, hospital laws at regional level, the Medicinal Products Act, the Medical Devices Act, Medical Law, Nursing Home Residence Act, Placement Act, Guardianship Law, Criminal Law, Data Protection Law, Telecommunications Act, Federal Act against Unfair Competition, Consumer Protection Act, Social Assistance Acts, Care Allowance Acts, Civil Law, Tort Law, Exclusion Law, Inheritance Law, Employment Law etc.).

Legal frameworks require the coverage of all forms of abuse against older persons to safeguard certainty and consistency and comprehensive reporting. A specific legal definition of elder abuse/mistreatment could facilitate the identification, reporting, investigation, recognition, prosecution and sanctioning of such acts.

Additional challenges lie within providing comprehensive, adequate and accessible services and support for older persons who are victims or at risk of violence, abuse and neglect, as well as for their families and caregivers. These services and support may include awareness-raising, information, education, training, counselling, legal aid, health care, social assistance, long-term care, emergency and shelter services, and rehabilitation and reintegration services. Providing sufficiency, funding, staffing, regulation, monitoring and accountability of service and support, is definitely a challenge, because of the need to meet the diverse and specific needs and preferences of older persons, especially those who are marginalized, isolated, dependent, or have disabilities or chronic conditions.

The issue of violence against older persons has been an important focus of the Ministry of Social Affairs for many years. Policy measures in that field are not based on a narrow definition under criminal law, but on a broad definition that includes multiple forms of violence (see above). Projects and measures pursue two goals: On the one hand, the aim is to prevent violence against older persons and, on the other, to implement adequate intervention. Since adequate intervention and prevention require public awareness, the ministry sets and promotes many activities to sensitize the general public and the professional public, but also to support them in recognizing violence and reacting correctly. Projects and measures include – among others - cooperation projects with relevant organizations, awareness-raising for the professional public (e.g. employees in old age and nursing homes) and awareness-raising measures for the general public. Recently implemented projects include the

expansion of the "Violence in old age" helpline, the Stop! No Violence" traveling exhibition (a two-year, nationwide educational movement on the topic of "Violence against older persons" that moves continuously from place to place, stops in a large number of districts in all federal states and brings the topic to people throughout Austria), the information campaign "Recognizing violence against older persons (a folder-series on different topics in the context of violence against older persons, that was submitted several times to all general doctors, old age and nursing homes and pharmacies throughout Austria, as this is where older persons are most likely to be reached.), the Workshop and Event initiative on the topic of "Violence against older people" consisting of 40 events in various institutions, schools and old age and nursing homes and two symposia on violence against older persons in autumn 2023 and spring 2024 dedicated to representatives from social and health practice as well as students from relevant disciplines. The newest project "age-appropriate, temporary shelters and networks" aims at creating a needs-based and low-threshold refuge in the form of an interdisciplinary, multi-professional network for older persons with and without care needs in violent situations. The network is planned to help in reorganizing care and support for the family system in the original home environment or in alternative forms of housing. The aim is to mitigate acute violent emergency situations in the home environment by providing support and assistance from experts in psychosocial and nursing professions. If necessary - if it is impossible to remain at home - there should also be the option of external accommodation and care. With the support of the Ministry of Social Affairs, this project is currently being developed and will subsequently be implemented in two pilot regions in Austria.

c) Long-term care and palliative care

Due to the demographic situation in Austria, demand for long-term and palliative care is increasing exponentially. At the same time, it is generally recognized that a well-functioning long-term and palliative care sector is essential for active and autonomous ageing. Despite the legal and policy frameworks that Austria provides in this field, there are still significant challenges in the normative and practical implementation in the country. Attempts were made to improve the situation as part of the 2022/23 care reform, most of whose measures have already been implemented. This brought innovations, for example with regard to employees (wage increase allowance, care relief week from the age of 43), for trainees, caregiving relatives (relative bonus) or in the area of 24-hour care (increase in funding).

As long-term and palliative care for older persons lies within the competence of Austria's Federal States, possible challenges lie in safeguarding equal access, quality and affordability across the Federal States. On the other hand, this separation empowers the Federal States to adapt their policies to local requirements. In this regards, some Federal States, as Vienna, Tyrol and Vorarlberg, have established the explicit claim to respectful, professional care in line with current standards.¹

To safeguard a care system that is responsive and accountable to the needs and wishes of older persons, guaranteeing their autonomy, dignity and preferences, older persons and their representatives have to be able to participate in the decision-making and monitoring process related to long-term and palliative care as well as in the individual care planning and delivery. As in every form of participation, challenges may occur in this regard.

¹ (Quelle: zB § 4 Abs 2 Z 1 Wiener Wohn- und Pflegeheimgesetz, § 7 Abs 1 Tiroler Heim- und Pflegeleistungsgesetz, Burgenländische Altenwohn- und Pflegeheimverordnung, § 1 Pflegeheimgesetz Vorarlberg – ursprüngliche Quelle: Die unsichtbare, subtile Gewalt in der Pflege PETER MAYR, WALTER MÜLLER, 2. August 2018 im Standard)

d) Autonomy and independence

As already stated, the Austrian normative framework lacks comprehensive anti-discrimination legislation that covers age as a ground for discrimination in all areas of life. Age discrimination is only prohibited in the field of employment, and only for specific age groups. This means that older persons are not explicitly protected from discrimination in other domains, such as access to goods and services, health care, education, social security, housing, and participation in public and political life. This circumstance may also affect autonomy and independence of older persons.

When it comes to the Austrian guardianship law, the Committee on the Rights of Persons with Disabilities noted in September 2013, that Austrian guardianship laws appeared to be old fashioned and out of step with the provisions of article 12 of the Convention on the Rights of Persons with Disabilities. In the meantime, the situation has improved significantly since the second Adult Protection Act came into force. It provides for different forms of adult representation (guardianship) depending on the individual need. The aim is to ensure that representation only takes place in those areas where it is actually absolutely necessary. Hence, adult representation should always be the exception. In the event of mental disability or a similar impairment, all support options should be exhausted so that the person can manage their affairs as independently as possible.

While progress also has been made in recent years in the area of accessibility of buildings, transportation and information, accessibility remains poor outside urban areas. A number of cities and Federal States have developed plans for improving accessibility to facilities, but there is no uniform nationwide plan to provide comprehensive barrier-free accessibility.

Moreover, autonomy and independence are hindered due to the circumstance that accessibility in rural areas is more restricted than in urban areas. Distances to facilities for everyday activities are longer, and destinations and spatial structures are often too dispersed for organizing efficient and dense public transport.

Providing adequate and affordable long-term care services and supports fully respecting the dignity, preferences, and choices of older persons, enabling them to live independently and autonomously in their own homes and communities presents another practical challenge. Older persons in Austria may face obstacles in accessing quality and personalized home-based care services. Relying on informal and unpaid care provided by family members, friends, or neighbors may not meet older persons' needs and expectations, and may entail risks of exploitation, abuse, and isolation. Moreover, older persons who require residential care may face challenges when looking for sufficient options and alternatives to choose from, and may encounter problems in maintaining their autonomy and independence in institutional settings, such as lack of privacy, autonomy, and participation, inadequate staffing and training, and insufficient safeguards and oversight.

e) Protection et sécurité sociales (y compris protection sociale minimale)

Austria has a comprehensive system of social security and welfare schemes. Social security mostly falls within the responsibility of the central government, notably social insurance, including pension insurance and universal benefits covering the entire resident population. Local governments (*i.e. provinces and municipalities*) are responsible for part of health care, housing and most of the social services. The system operates at two levels: the insurance-based system, which includes pensions and which covers all gainfully employed persons and, to a large extent, their dependents; and public

welfare benefits that are made available by the federal, provincial and municipal authorities to citizens in need, and who are not covered by the insurance system.

One of the main gaps in this regard is the sustainability and adequacy of

The social security system is based on the principle of intergenerational solidarity and the pay-as-you-go mechanism. The system faces challenges, such as the demographic aging, the low fertility rate, the high unemployment rate, the increasing health care costs, and the fiscal constraints. Other challenges lie in adequately addressing the diverse and changing needs and preferences of older persons, such as the desire for active aging, independent living, and social participation.

Another challenge in the practical implementation of human rights of older persons in Austria is the coordination and integration of the various actors and institutions involved in the provision and delivery of social protection and security measures. The social protection and security system in Austria is characterized by a high degree of fragmentation and complexity, with multiple levels of governance, administration, and financing. The system involves the federal, provincial, and municipal authorities, as well as the social insurance institutions, the social partners, the civil society organizations, and the private sector. At the same time social services include a range of services, including for the benefit of older persons, such as older persons' homes and nursing homes, day-structuring and extramural services as well as housing schemes for people with special needs. Coordination between the different providers and between the provinces in the provision of these services remains challenging. The quantity and quality of social services varies across regions, particularly between urban and rural areas. In terms of provision of services, some social local governments run social services themselves, while other services are outsourced to non-profit organizations, associations or private providers. The public sector plays a dominant role in the area of homes for the elderly and nursing homes.

f) Education, training, lifelong learning and capacity-building

In general, the right to education is recognized in Austria. For instance, it is explicitly addressed in Article 14 of the CFR. However, it has to be taken into account that there is no comprehensive legal framework that specifically protects the right to education of older persons and prohibits discrimination based on age in access to education and training. The existing anti-discrimination laws only cover employment-related training and vocational education, and do not apply to other forms of education and learning.

Infrastructure that promotes education and provides older persons with easily accessible learning opportunities in the vicinity of their home towns thus encouraging the older generation's participation, is very unevenly distributed across Austria and particularly poor in rural areas and small towns and villages. In general, the number of available opportunities is very low in the fields of intergenerational projects. Access barriers and lack of age-group related services that are tailored to senior citizens' specific needs and living conditions have long been empirically established problems.

The level of educational qualifications is on average lower among today's older generation than it is among younger generations. In this sense, one may speak about relative educational disadvantages in old age. People who state that their highest educational qualification is completed compulsory education are described as educationally disadvantaged and/or poor. A few years ago, this hold up true for 55 % of women aged 65 and over and 27 % of men in the same age group.

Hence, there is a lack of adequate and diverse provision and participation of education and training for older persons, especially for those who are more vulnerable and marginalized, such as older women, older migrants, older persons with disabilities, older persons living in rural areas, and older persons with low income and education levels. The participation rate of older persons (*aged 55-74*) in education and training in Austria was 6.9% in 2019, which is below the EU average of 8.6%. Moreover, there is a lack of variety and innovation in the content and methods of education and training for older persons, which often do not reflect their needs, interests, preferences and aspirations.

These problems are not sufficiently addressed by the existing legal framework in Austria.

g) Right to Work and Access to the Labour Market

For Austria's economy older and experienced workers are of great value. In times when the workforce is progressively ageing, work environments are becoming more and more dynamic and social security systems need to be put on a sustainable footing, it is all the more important to promote the capacity and ability to work of all generations. Over the past few years, a solid regulatory framework has been put in place to consistently promote the participation, integration and reintegration of older workers. For instance, a scheme of pre-retirement part-time work ("*Altersteilzeit*") and a flexible retirement scheme ("*Korridorpension*") were introduced. When it comes to age-discrimination in the working environment, the Equal Treatment Act stipulates a ban on direct and indirect discrimination. It is intended to prevent people from being unfairly disadvantaged in the world of work because of stereotypical ideas relating to their age.

In terms of human rights, the right to work is enshrined in Article 23 of the Universal Declaration of Human Rights, in Article 6 of the International Covenant on Economic, Social and Cultural Rights and Article 15 CFR. All these provisions are applicable in Austria, however, they are not considered as enforceable rights. Furthermore it should be noted that these are general guarantees which means that older persons are not addressed specifically.

One of the challenges from a normative and practical point of view is the low employment rate of older workers, especially women. According to the Eurostat, the employment rate of persons aged 55-64 was 54.7% in 2020, below the EU average of 59.9%. The employment rate of women in this age group was 48.9%, compared to 60.6% for men.

A challenge can also be seen in the limited access to the labor market for older persons who are unemployed or wish to re-enter the labor market. Older jobseekers face multiple barriers. Older persons who are migrants, refugees, or asylum seekers may face additional difficulties, such as the lack of language skills, the recognition of foreign credentials, and the integration into the host society.

h) Access to justice

Access to justice can be defined as the ability of people to seek and obtain a remedy through formal or informal institutions of justice for grievances in compliance with human rights standards. Access to justice for older persons entails not only the availability and affordability of legal services and mechanisms, but also the adequacy and responsiveness of such services and mechanisms to the specific needs and situations of older persons. Access to justice is enshrined both in Article 13 of the European Convention on Human Rights (ECHR) and in Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR). Procedural guarantees are also part of the scope of protection. Article 6 ECHR and Article 14 ICCPR set out the procedural guarantees in civil or criminal matters.

Among older persons and legal professionals, there may be a lack of awareness and information about the rights of older persons and the available legal services and mechanisms. Older persons may not know about their rights, how to claim them, where to seek legal advice or assistance, or how to access formal or informal justice institutions. Legal professionals, such as lawyers, judges, prosecutors, and mediators, may also lack the necessary knowledge and skills to deal with the specific issues and needs of older persons, such as cognitive impairment, disability, dependency, or vulnerability. This may result in older persons being denied access to justice or receiving inadequate or inappropriate legal services or outcomes.

The lack of accessibility and affordability of legal services and mechanisms for older persons can be considered as a further challenge. Older persons in Austria may face physical, financial, or procedural barriers to access legal services and mechanisms. For example, they may have difficulties in reaching legal offices or courts due to mobility or transportation problems, or they may not be able to afford the fees or costs of legal proceedings or representation. They may also encounter complex or lengthy procedures that are not adapted to their capacities or circumstances, or they may face language or communication barriers due to linguistic or cultural diversity or illiteracy.

i) Contribution of Older Persons to Sustainable Development

No poverty (*SDG 1*), zero hunger (*SDG 2*), good health and well-being for people at all ages (*SDG 3*), quality education and lifelong learning (*SDG 4*), gender equality (*SDG 5*), decent work and economic growth (*SDG 8*), reduced inequalities (*SDG 10*) and sustainable cities and communities (*SDG 11*) are key goals that are prioritized by current political measures for older persons. The principle of "Leave no one behind" enshrined in the Austrian SDG report is institutionally safeguarded in Austria.

The well-developed Austrian social and healthcare system makes a significant contribution to preventing and combating poverty and social exclusion. It also guarantees high-quality healthcare for disadvantaged and particularly vulnerable groups. The cross-policy "Dialogue on healthy & active ageing through social participation" contributes to increasing the number of healthy years of life and social participation in the older population, strengthening positive images of old age and promoting social cohesion. As part of the dialog, various stakeholders are to be networked and the implementation of specific measures stimulated.

Steps to actively put into practice the commitment to "leave no one behind" during the social and economic digital transformation also include the "fit4internet" initiative, launched in 2018, as well as the various measures involving digital transformation and older persons that are supported by the Federal Ministry of Social Affairs, Health, Care and Consumer Protection. "Fit4internet" is aimed at giving everyone an opportunity to expand their digital skills and benefit from digitalization.

Prima facie no major normative gaps can be identified with regard to the contribution of older persons to sustainable development. The extent to which this also applies to practical implementation will have to be assessed in the future.

j) Economic security

In 2022, 15% of the total Austrian population was considered to be at risk of poverty. That is around 1,314,000 people. 244,000 of these are people over the age of 65. This means that 15% of the group of people at risk of poverty and exclusion are older than 65. If only the group of people at risk of poverty is considered, the proportion of over 65-year-olds rises to 18%. These proportions are well above the

Austrian average. Older persons therefore have a higher risk of being affected by poverty than other sections of the population. It should be noted that the at-risk-of-poverty rate among older women is significantly higher than the at-risk-of-poverty rate among older men. These figures indicate that, in normative and practical terms, the human rights of older persons cannot yet be said to be satisfactorily protected.

For instance the COVID-19 pandemic has exacerbated the existing inequalities and vulnerabilities of older persons and thus shown the need for action when it comes to the economic security of older persons and the human rights linked to it. It has not only posed a serious threat to the health and life of them, but also to their economic security and social participation. Older persons have been disproportionately affected by the lockdown measures, the restrictions on mobility and travel, the closure of public and private facilities, and the disruption of essential services.

However, in a global comparison older persons in Austria enjoy a relatively high living standard. Social transfers, and in particular the Austrian pension system, account for the largest part of the resources of older persons and significantly contribute to ensuring financial security of a large part of the older population. Successive pension reforms have made claims to a pension and pension levels more dependent on participation in the labor market. As career breaks, part-time work and low incomes result in lower pension benefits, it is mostly women who lack financial security in old age.

k) Right to Health and Access to Health Services

Increasing life expectancy is characteristic of current developments. A continuation of this trend strongly depends inter alia on the promotion and dissemination of basic knowledge on physical, mental and emotional changes the ageing process brings and the structure of health-related services. Central tasks in this context are thus the permanent expansion of health promotion and geriatric preventative healthcare. As research has extensively shown, older persons may have specific needs and problems which have to be met by the healthcare and social systems. It is therefore necessary to provide adequate geriatric care training among general practitioners, specialist physicians and care and nursing personnel in the healthcare system. However, it is important to note that old age does not necessarily bring ill health. Age-related changes do not generally impact people's capability to manage everyday challenges. Nonetheless, it is necessary to adapt the various areas of daily life to individual changes in conditions.

The Austrian legal system, in particular the constitutional legal system, is largely alien to a "right to health". The reason for this is that no one can guarantee a person's health. Nevertheless, the protection of health is the normative purpose of numerous legal provisions, and entire areas of law are dedicated to (preventive and restorative) health protection. In addition, Article 35 CFR, for example, stipulates that everyone has the right to access to preventive healthcare and medical care.

As there is a distinct division of "cure" and "care" in Austria, challenges may arise in the integration of health and social care for older persons. Health care is regulated mainly by federal government, whereas social care lies in the responsibility of the nine Federal States. Health care is financed by contributions of the social health insurance, by taxes and by patients' co-payments. Social care is carried out through a variety of individual measures in the context of social assistance schemes, many of them different within the Federal States. This allocation challenges coordination and cooperation between health and social care providers, continuity and quality of care.

Challenges regarding the practical implementation of human rights of older persons in Austria concerning health came to light as a consequence of the COVID-19 pandemic, which has exacerbated the existing inequalities and vulnerabilities of older persons. The pandemic has not only posed a serious threat to the health and life of older persons, but also to their access to health services and social support. Older persons have been disproportionately affected by the lockdown measures, the restrictions on mobility and travel, the closure of public and private facilities, and the disruption of essential services. These measures have limited their access to health care, health promotion, and preventive medicine, and have increased their isolation and loneliness.

l) Social Inclusion

Participation is the basic prerequisite to all forms of social inclusion. As divisive differentiations that have a high potential for conflict are omnipresent in social relations, targeted integration work is of fundamental importance. Since the 1990s, participation by older persons in the sense of pro-active contribution to and involvement in social, cultural and political opinion-shaping and decision-making processes has thus also been a key concern in Austria and the EU. It is linked with the call for empowering older persons to fully contribute to all areas of life. The fundamental principle thus to be achieved is “active ageing” aimed at optimizing health, safety and participation in order to promote ageing citizens’ quality of life. Studies show that social participation and engaging in voluntary and charitable work are closely linked with health and well-being.

However, reality shows that the picture of “senior citizen” is still strongly determined by the “deficit model” which is also internalized by the older generation itself and hinders social inclusion. This stereotype is in stark contrast with the productive output of this section of the population. Both in the formal and informal sectors as well as on all levels of social commitment, this utterly inaccurate concept is in contrast to a level of productive performance - such as nursing older family members - that is not to be underestimated. This clearly illustrates that it is necessary to define the term productivity in a much broader sense than is usually the case. It is thus desirable to make these services that are primarily, however not exclusively, performed in the informal sector more visible in order to promote the image of older persons among the public at large in a more positive way that is also more in line with reality. Consequently, there is a need for normative and practical measures in this field.

Since the integration of older persons into the labor market makes a major contribution to promoting their social inclusion, reference can also be made to the challenges listed under g) concerning access to the labor market. As stated, a challenge may be limited access for older persons who are unemployed or wish to re-enter the labor market.

m) Accessibility, infrastructure and habitat (transport, housing and access)

Accessibility, infrastructure and habitat are essential components of human rights of older persons, as they enable their mobility, autonomy, and quality of life. However, some challenges still may be found in the Austrian normative framework and in the practical implementation of accessibility, infrastructure and habitat policies and measures for older persons.

When it comes to housing, a normative and practical challenge is the large proportion of the 85 plus age group which lives in single-person households. Although living alone does not necessarily mean loneliness or isolation, the share of the lonely among those living alone is significantly higher. At the same time, the risk of having to depend on external assistance if help is required is also significantly

higher. The changes and the increasing diversity in housing arrangements and supply of types of housing require new information and counselling systems, taking sufficient account of the diversity of old age. Their home is not only a place older persons retreat to when mobility and physical fitness decline, but – due to lack of adaptation – it is at the same time the most frequent site of accidents. Although the general risk of suffering an accident markedly declines after people have stopped working and retire, the risk of suffering an accident at home clearly increases with residents' age. Furthermore, the consequences of accidents become increasingly serious, prolonging the average duration of treatment.

In terms of infrastructure and mobility, only little meaningful data is available on the situation in Austria. It is known that mobility is impaired by shortcomings in the field of infrastructure, i.e. insufficiencies in the field of public transport connections, closing of neighborhood stores, concentration of shops in large shopping centers. These developments tend challenge older persons. According to empirical findings based on socio-gerontologic research, problems related to transport, urban planning and infrastructure are over-proportionally often mentioned by older persons when asked about the most important problems they are faced with in their neighborhood/part of the city. Social networks and environmental issues are important sub-aspects in this context.

The Austrian normative framework does not contend a clear and binding definition of “age-friendly” infrastructure and habitat for older persons. There is no agreed definition of what constitutes an age-friendly infrastructure and habitat, and the existing guidelines and standards are often vague and voluntary. There is also no comprehensive national strategy or action plan on this issue. However, the human rights of older persons with regard to accessibility, infrastructure and habitat are addressed by various measures and initiatives, such as the Federal Plan for Senior Citizens or the Senior Citizens' Advisory Council. These measures and initiatives are commendable and contribute to the accessibility, infrastructure and habitat for older persons. However, considerations may be made about providing addressing the complex and multidimensional nature of this challenge sufficiently by developing a national strategy or action plan on accessibility, infrastructure and habitat for older persons. This plan may provide a more holistic and coordinated approach, and would set clear goals, indicators, and responsibilities for the implementation and evaluation of the policies and measures.

n) Participation in the public life and in decision-making processes

Social and political participation of older persons is considered as a guiding principle in Austria. It is led by the equitable political, social and cultural participation of older persons to be put into practice by mainstreaming political participation and co-determination as integral elements of political culture. In view of the increasing number of active older persons it is sensible to consider greater participation of senior citizens in terms of voluntary work and assumption of social tasks and responsibility as a form of socialization that is in accordance with an aging society. In a guidance note of August 2021, the UNECE states that older persons have a right to participate in decision-making processes and must be able to participate in policymaking in a meaningful way. According to the guidance note they are often excluded from mainstream policy development processes and face barriers to participation.

In Austria, however, there is a Senior Citizens' Advisory Council at the federal level and there are several advisory councils at subnational level. The Federal Senior Citizens' Advisory Council meets once

a year – or at the request of its members - under the chairmanship of the Minister for Social Affairs, Health, Care and Consumer Protection as a political dialogue on ageing policies. Its members comprise representatives of all ministries, of the Federal States, of social partners and of senior citizens organizations. The establishment of the Federal Senior Citizens' Advisory Council has therefore closed some gaps in the area of human rights for older persons with regard to political participation.

The general provisions of the Constitution and the Federal Electoral Act grant the right to vote and to stand for election to all citizens aged 16 and over also apply to older persons. In exercising their political rights, older persons may face specific barriers as lack of information, accessibility, mobility, or assistance. The Senior Citizens' Advisory Board is responsible for legally representing the interests of senior citizens in Austria.

Options on how best to address the gaps

1. Please state how your Government/organization has engaged with international and regional human rights mechanisms (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms), specifically with regard to older persons.

The protection of human rights in general and of older persons in particular is a core concern to the Austrian Government at every level. Respect for human rights and violations of international human rights obligations are not merely a domestic affair. Austria therefore has a long-standing record of active engagement to advance the international system for the promotion and protection of human rights of the United Nations, and of regional organisations such as the Council of Europe, the OSCE and the European Union, and is also very committed to actively engage with human rights protection mechanisms when it comes to its own human rights record. Austria has acceded to all major international human rights treaties and has extended a standing invitation to all Special Procedures' mandate holders.

Austria has a long tradition of policies and a strong legal framework aimed at promoting and protecting the rights of older persons and has consistently demonstrated its commitment in this regard at the international level.

Austria is a regular co-sponsor of UN resolutions on the human rights of older persons in the UN Human Rights Council and the Third Committee of the UN General Assembly. In addition, Austria supports Joint Statements to raise awareness of the human rights of older persons.

Austria endeavors, both at domestic and cross-border level, to identify gaps in current human rights legislation and to present such issues for debate at UN level. For this purpose, Austria – alongside Germany – co-funded, for instance, the update to the OHCHR's 2012 Analytical Outcome Study on the normative standards in international human rights law in relation to older persons, presenting it at a side event of the 11th Session of the Open-ended Working Group on Ageing. This study is the starting point for a process of adapting legal safeguards and protection mechanisms for older persons in Austria.

Since 2013, Austria has been actively participating in the Open-ended Working Group on Ageing, through the BMSGPK and Austria's Permanent Mission to the United Nations in New York.

Austria is a member of the Group of Friends of Human Rights of Older Persons in Geneva. Among other things, the group is committed to mainstreaming the issue in relevant debates in the Human Rights Council and in other Geneva fora (e.g. *WHO and ILO*).

Austria regularly engages with the Independent Expert on the Human Rights of Older Persons at the Third Committee of the UN General Assembly and in the Human Rights Council and other special procedures in relation to the rights of older persons.

The Austrian Claudia Mahler has been the Independent Expert on the Human Rights of Older Persons since 2020. Austria supports Claudia Mahler in raising awareness of the situation of the human rights of older persons among UN Member States, whether by facilitating meetings with State representatives during her visits to Geneva and during her country visits. Moreover, Austria supports the Independent Expert financially.

International Conferences on Human Rights of Older Persons were held in Vienna in 2018 and 2023.

Austria took on an active role in the negotiations for the Global Action Plan on Ageing and Health, both at the WHO global level in Geneva and at the WHO Regional Committee for Europe in Copenhagen, an effort through which the WHO member states succeeded to jointly initiate a global campaign against ageism at WHO level in 2016. In this context, Austria contributes at various levels, most recently at the 73rd World Health Assembly in the autumn of 2020, raising visibility for the topic within the scope of the UN Decade of Healthy Ageing (2021-2030). The comprehensive measures and activities taken by Austria – which are also in conformity with its obligations under MIPAA/RIS – contribute towards achieving the objectives of the WHO campaign.

Austria is fostering research on human rights for older persons and implementing the UN Generations and Gender Programme (*GGP*), developed for the standardized and systematic recording of family demographic topics.

Austria has received recommendations on the rights of older persons in the framework of the UPR. Within its latest State Report for the UPR, a separate chapter was dedicated to the rights of older persons.

Implementing the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (*OPCAT*), Austria passed a constitutional law, appointing the Ombudsman Board and the expert commissions to fulfill the tasks of the National Preventive Mechanism (NPM) and to observe and monitor the conduct of the bodies authorized to exercise direct command and coercive power, including visiting and reporting on nursing homes.

Austria has been at the forefront of active ageing policy planning and implementation in the European Union.

Applicable European Union law includes the CFR and the Treaty of Lisbon is applicable in Austria, serving explicit protection against discrimination on the grounds of age. The EU Council Directive 2000/78/EC (*Employment Equality Directive*) was implemented into Austrian law, leading to amendments in the Equal Treatment Act, the Austrian Federal Equal Treatment Act, and anti-discrimination and equal treatment laws of all Austrian Federal States with a view to combat discrimination in employment and occupation based on age, among others.

Linked to important international surveys and comparative indicators², Austria developed a strategy for lifelong learning “LLL:20”, also incorporating proposals on how to contribute to the Lisbon Strategy”.

Austria presented its first Voluntary National Review on the implementation of the Sustainable Development Goals at the UN High-Level Political Forum in July 2020, repeatedly mentioning older persons. The Austrian Health Targets, forming the framework of Austria’s health policy until 2032, play a key role in implementing the 2030 Agenda in Austria. The paper mentions as key concerns both the 2030 Agenda and an ageing society marked by longevity. Building on the Madrid International Plan of Action on Ageing and the UNECE Regional Implementation Strategy, the Federal Plan for Senior Citizens “Ageing and the Future” (*in force since 2012*) covers 14 fields for SDG action, at all levels of government and by NPOs. Regional ageing-related policies have also been linked with the 2030 Agenda in the Federal States.³

2. Have those engagement resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate.

The regular and systematic implementation of recommendations received by international treaty bodies, Special Procedures or within the UPR is taken forward by a network of human rights coordinators, which are appointed in all federal ministries and in the offices of the regional government. The human rights coordinators make a significant contribution to strengthening the structural anchoring of the human rights of older persons in Austria.

Austria’s approach towards issues of ageing and the prevention of ageism has dramatically changed and shifted over the last 20 years, the last few years have seen a major paradigm shift in ageing policy – the new approach being that social and health aspects must always be seen as complementary rather than separate. In line with this new approach, the need for an ageing culture and for positive images of age and ageing were identified as crucial for health and quality of life in old age. A whole slew of measures has since been introduced in this context.

Setting out objectives and recommendations in 14 areas of action, Austria’s Federal Plan for Senior Citizens “Ageing and the Future”, prepared in cooperation with the Federal Senior Citizens Advisory Board, is the most important document to support the political, economic, cultural and social participation of older persons in Austria.

Apart from “Ageing and the Future”, the Austrian Senior Citizens Council also considers the new Protection of Adults Act, the premiums on the equalization supplement and old-age pensions, the individual right to take full-time and part-time care leave to accommodate care obligations, and the improvements in patient care brought about by the Primary Care Act to be major achievements of the last 20 years.

² such as the OECD’s annual “Education at a Glance” survey, the European Commission’s “Europe 2020” strategy, the “Labor Force Survey” and Eurostat’s “Adult Education Survey”, as well as the EU structural indicators.

³ Steps to actively put into practice the commitment to “leave no one behind” during the social and economic digital transformation include the “fit4internet” initiative, the dialogue with civil society in the form of the “Leaving No One Behind” dialogue forum (more than 400 stakeholders discussing SDG-implementation in five workshops) as well as the various measures involving digital transformation and older persons.

The “Healthy and Active Ageing Dialogue” has been launched to promote the WHO Decade of Healthy Ageing 2021–2030. To implement the WHO Global Strategy and Action Plan on Ageing and Health, Austria has established a working group.

Political achievements which, according to the Austrian Senior Citizens Council, deserve special mention include the following: annual adjustment of old-age pensions; the annual valorization of care allowance; and the abolition, in 2018, of recourse to the assets of persons in residential care, their relatives and heirs to cover the cost of care.

The Austrian Federal Long-Term Care Act of 1993, which introduced a seven-stage means-tested care allowance scheme, marked a milestone in enabling care recipients to lead an independent life aligned with their specific needs. Putting 24-hour care on a legal footing was another important step in this respect.

One of the greatest achievements of the last 20 years is Austria’s national dementia strategy “Living well with dementia”. Its aim is to improve the quality of life of persons with various forms of dementia. Participation and autonomy are major focal points of the dementia strategy.

Maintaining physical and mental health throughout the course of working life has been drawing increased public attention in Austria. In force since 2011, the Austrian Safety and Health at Work Act raised awareness for the need for healthy workplaces and marked an important milestone in labor market and health policy.

The National Action Plan on Physical Activity likewise counts among the major achievements of the last 20 years. This plan was initiated the goal to raise awareness for measures to promote increased physical activity. It addresses older persons as one of its target groups.

Special note should be made of the lifelong learning initiatives taken by the BMSGPK. A broad range of empowerment projects for socially disadvantaged persons were carried out to promote social participation and enhance the quality of life of older persons. Studies analyzing good practice examples in the field of training of senior citizens and examining the special requirements of older persons in adult education gave important impetus to quality assurance and the development of lifelong learning activities.

Austria has also taken a broad range of initiatives in improving older persons’ digital skills, to enable them to participate in all areas of social activity. A comprehensive set of working materials for tablet and smartphone training programmes for beginners and advanced users commissioned by the BMSGPK was prepared and made available to trainers and participants free of charge.

Other projects, initiatives and associations protecting the human rights of older persons include the “Combat work-related cancer”, the „Leaving no one behind“ dialog forum and “active community.dementia“.

Diakonie Österreich sees an achievement in the fact that self-determination in old age is no longer just a catchphrase in Austria, but has become an objective in its own right, being pursued and taken into account in a great variety of services and areas. Nursing and care homes, which used to have a primarily institutional, hospital-like character in the past, have changed and become places of residence and well-being.

3. What other options can be considered to strengthen the protection of older persons? Please elaborate

To further strengthen the protection of older persons it is indispensable that the rights of older persons are not considered as a single issue but as part of the broader efforts to strengthen human rights. For international and regional mechanisms this means that the rights of older persons need to be mainstreamed and connected to other rights, a.o. women's rights, water and sanitation, right to food, right to mental health, the right to a healthy, clean and sustainable environment. The implementation of the SDGs, discussions on the Declaration on Future Generations or matters of peace and security need to consider the protection of older persons.

Moreover, it is important that the situation of older persons is taken into account in discussions on digitization, discrimination in general, people with disabilities, the labour market, social development, intergenerational exchange, sexual and gender-based violence etc. and that older persons have a voice.

The traditional role of older persons being the recipients of state welfare is no longer applicable, and Austria's approach today, within the "Ageing and the Future" plan, is to involve senior citizens in developing and implementing the policies that are relevant for them. For the purpose of working together in policy-making, a Federal Senior Citizens Advisory Board (*Bundesseniorenbeirat*) was set up at the Federal Ministry for Social Affairs, Health, Care and Consumer Protection (*BMSGPK*).

With the Federal Senior Citizens Act and the Federal Senior Citizens Advisory Board, Austria has an institutional and political representation of interests as well as a basis for an intensive exchange between the civilian population and politicians. In addition, the anti-discrimination offices at state level have been sensitized to the facts of age discrimination. The Federal Plan for Senior Citizens "Ageing and the Future" was developed in cooperation with the Federal Senior Citizens Advisory Board. The Board has informed strategic active ageing policies, including the Federal Plan for Senior Citizens, and serves to foster intergenerational relations. The scientific basis for an update of the "Ageing and the Future Plan" will be prepared by experts and available by 2025.

Further, strengthening the relationship between older persons and government institutions has been a strategic priority in Austria, both at a national and sub-national level. National-level reforms in service provision over the last decade, and particularly those related to the mobility of senior citizens, reintegration into the labour market and long-term care, have been informed by a number of studies and consultations targeting older persons to ensure service quality and accessibility. As a result, the 'Ageing and Future Plan' prioritises whole-of-government approaches to service delivery and enables the coordination of quality services to foster active ageing. This is done through the representation of all Ministries in the Federal Senior Citizens' Advisory Board and the implementation of instruments to foster their policy dialogue about cross-sectoral challenges related to active ageing. While the central state is responsible for framework legislation, Austria's federal system largely leaves the enactment of regulations and delivery of public services to each of the nine Federal States. This can result in Federal States being more responsive to local needs, such as the provision of specialised social care initiatives in rural communities.

Another approach to promote the potential of individuals is volunteering work, which is a widespread phenomenon in Austria. Voluntary activity has been proven to contribute to social participation, increase general well-being, enhance the quality of life and promote health. In Austria, volunteering is most widespread (57%) among people in the age cohort of 60 to 69. Volunteer engagement allows older persons to participate actively in society and strengthens social cohesion. It also constitutes a precious resource. Accordingly, the BMSGPK has launched a number of volunteering initiatives. Good practice examples, some of which focus specifically on intergenerational dialogue, include a psycho-

social project entitled “Grandma/Grandpa” (*Oma/Opa*) under which learning support is extended to socially and educationally disadvantaged children and youths; an initiative focusing on learning processes in voluntary work; and several (*model*) projects for encouraging intergenerational dialogue.

4. If applicable, what is your assessment on the protection of the human rights of older persons according to regional and international instruments?

The participants of ICHROP 2023 adopted a Conference Declaration. Being not only participant but also host of the conference, Austria’s assessment on the protection of the human rights of older persons is covered by the ICHROP Declaration. It is stated there, that “binding international provisions for the effective protection of the human rights and fundamental freedoms of older persons are fragmented and contained across multiple instruments, have been assessed as inadequate by UN bodies, civil society, NHRIs and relevant stakeholders and do not provide a single comprehensive, coherent, and integrated framework.”

Austria considers the OEWGA a key driver for developing policies for older persons both at the national and the international level.

Contact Information in Austria

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