

## **14th session of the Open-ended Working Group on Ageing**

### **Guiding questions on the normative content related to right to health and access to health services**

#### **Replies provided by:**

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#### **Definition 1. How is the human right of older persons to the highest attainable standard of physical and mental health defined in the national and local legislation in your country? If definitions are not available, how should such rights be defined considering relevant existing national, regional and international legal frameworks?**

As for legislation and policy falling within MHA's remit, the principal legislation in this respect is the United Nations Convention on the Rights of Persons with Disabilities Act (Cap. 627), and the Persons on the Autism Spectrum (Empowerment) Act (Cap. 557). Principal policy documents are the 2021-2030 National Disability and Autism Strategies. All such legislation and policies employ an intersectional, life-course approach to implementing and monitoring disability rights, with specific actions directed to be additionally age-sensitive, while encouraging phenomena such as active ageing to also be, in turn, disability sensitive.

As to more specific provisions covering said intersectionality, one could refer to Article 25(b) of the Second Schedule to Cap. 627 in respect of Health-related rights, and Article 28(2)(b) in respect of rights related to an adequate Standard of Living and Social Protection. Cap. 557 also mandates the Autism Advisory Council to tackle the phenomenon of autism and ageing in article 10(1)(j). The National Disability Strategy makes specific reference to accessibility and inclusion of third age education in Output 7.5.1, while the National Autism Strategy dedicates Action 6.7 to specifically addressing the topic of autism and ageing.

Furthermore, in respect of data collection and disaggregation specifically, mentioned in the documentation, the inter-ministerial and inter-departmental efforts being undertaken by DDI through its Inter-Departmental Coordination Committee (IDCC) should be mentioned, whereby work has commenced towards a unified national system, whereby such data, including in respect of older persons, is integrated into such system, allowing better visibility of the nexus with disability issues. MHA-PSAA's participation in this exercise has also been solicited.

However, a watershed step in respect of the rights of older persons, in a manner that will be cross-cutting in respect of many different sectors, will be the promulgation of the Protection of Adults in Situations of Vulnerability Act (PASVA). This legislation will finally provide a domestic legal framework addressing such protection, in respect of the risk of harm, abuse or neglect, while additionally making provision for the delivery of relevant services to counter such instances.

#### **2. The human right to health encompasses both access to health care and attention to the material and other conditions which are necessary for its full enjoyment. What provisions have been made to ensure that older persons enjoy access, on an equal basis with others, to social protection, adequate water and sanitation, adequate housing and to health education?**

Social protection: Malta has a pensions system based on ongoing contributions by the employer and the employee during the working life of the individual. The rate of the Retirement Pension depends on the average of contributions paid and on the pensionable income earned from gainful occupation

in the last eleven years prior to retirement. In Malta the health services are funded by the state and all citizens have access to free health services. Domiciliary clinical services are also offered to older persons who are housebound.

Water and sanitation: All areas in Malta are easily connected to water and sanitation services, water consumption is paid depending on amount used and sanitation connection is a one-time payment for connection.

Housing: The state provides assistance with long term care for older adults with complex medical conditions and who cannot cope to live independently in their own homes with the support of community services.

Health education: several informative talks are held in settings frequented by older persons, such as Active Ageing Centres about health. Such information includes health prevention talks by primary health, resilience programme by primary health, nutrition programmes, programmes about staying active in old age combined with exercise programme, psychological support groups.

### **Scope of the right**

**3. What are the key normative elements of the human right of older persons to the enjoyment of the highest attainable standard of physical and mental health? Please provide references to existing standards on elements including but not limited to:**

**a) Prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in all matters related to health.**

Discrimination in all forms against older persons is prohibited. In Malta there is a commissioner for older persons. The role of the Commissioner is to create more awareness on the rights of older persons, to push for stricter legal measure against age discrimination and to raise awareness about loneliness and social isolation in later life. The Commissioner can also investigate any alleged breaches of the rights of older persons and initiate measures which safeguard their rights.

**b) Provision of promotive, preventive, curative, rehabilitative and palliative health facilities, goods and services, as well as health care and support, including on aspects such as quality of care, longterm and palliative care and support.**

In Malta health services are funded by the state, including primary health care which focuses on prevention, acute care, rehabilitation services and mental health services. Effort to improve the quality of care are ongoing. Malta has issued the 2nd National Strategic Policy for Active Ageing and one of its three pillars is healthy ageing. The Active Ageing and Community Care is improving palliative care in Care Homes, and collaborating with Hospice Malta regarding improving palliative care for older persons living in the community.

**c) Availability, accessibility, acceptability and quality of health facilities, goods and services as well as health care and support, including aspects such as quality of care, long-term and palliative care and support.**

Every effort is made to ensure that the services provided are of a high standard and to expand the services to improve availability and accessibility.

**d) Exercise of older persons' legal capacity on an equal basis with others, including the ability to make an informed consent, decisions and choices about their treatment and care.**

Older persons are at the core of the multidisciplinary team and they actively participate in the decisions and choices about their treatment and care. Discussions about Advance Care Planning in the community services for older persons are at an advanced state and Malta is to start implementing this concept in the near future.

**e) Access to prompt and effective remedies and redress when older persons' right to health is violated.**

The Active Ageing and Community Care has a customer care section which deals with all complaints in a serious manner. The complaints are channeled to the respective manager and the action taken is recorded. As previously mentioned in Malta there is also a commissioner for older persons who also investigates any alleged breaches of the rights of older persons and initiates measures which safeguard their rights.

**State obligations**

**4. What are the measures that should be undertaken by the State to respect, protect and fulfil the human right of older persons to the highest attainable standard of physical and mental health, regarding the normative elements as provided above?**

There needs to be better collaboration and sharing of resources between different departments to ensure a more comprehensive and seamless provision of services between different departments, for example between the acute care and long term care services. The move to integrate the elderly ministry into the health ministry is a positive development in this aspect.