

## **ARGENTINA**

### **Guiding Questions for the focus areas of the IX Session of the Open-ended Working Group on Ageing: Long-term care and palliative care**

#### **1) In your country/region, how is long-term care for older persons defined and provided for in legal and policy frameworks? What types of support and services are covered?**

The legal framework that defines the long term care of older persons is provided by Article 12 of the Inter-American Convention on the Protection of the Human Rights of Older Persons, which establishes that *“Older persons have the right to a comprehensive system of care that protects and promotes their health, provides social services coverage, food and nutrition security, water, clothing, and housing, and promotes the ability of older persons to stay in their own home and maintain their independence and autonomy...”*.

Among State’s responsibilities with respect to long term care are the respect for a person’s dignity and opinion, as well as the promotion of the involvement and participation of the person in its own care. In that sense, care must always be centered on people and their needs and respect the will of the person. Furthermore, care services must be provided by specialized personnel that provide comprehensive and adequate attention, among other things.

In the case of direct assistance to older persons that require long term care in institutions, the “Regulation for Extended Stay Care Institutions for Older Persons” of the National Directorate of Public Policies for Older Persons (DINAPAM) establishes the rights and obligations of residents as well as those of the care providers and the cohabitation rules, besides the protocols and procedures for attention.

PAMI offers housing for older persons in its own homes, food support, economic subsidies for sustainable housing and domestic care services, which are complemented by the services offered by PAMI with regards to the medical needs of its beneficiaries, particularly those aged 60 years or older, be them dependent or semi-independent and/or with a psychophysical deterioration and that require personalized and specialized care.

#### **2) What are the specific challenges faced by older persons in accessing long-term care?**

Among the most frequent challenges that older persons face to Access long term care are the economic difficulty to hire care workers or to afford such care services in extended stay homes with the provision of quality services. In this line, the majority of people aged 65 or older that require long term care must spend great amounts of financial resources. On the other hand, in small cities and low population towns there can be a total absence of the entire range of services for older persons in need of care.

#### **3) What measures have been taken/are necessary to ensure high-quality and sustainable long-term care systems for older persons, including for example:**

- **Sufficient availability, accessibility and affordability of services on a non-discriminatory basis?**

PAMI's system is based on a solidarity scheme on which, upon the evaluation of social workers, the beneficiaries can equally access all care services provided.

DINAPAM works in the formation of human resources in the areas of care as well as in gerontological studies in order to strengthen the promotion of human rights, which ultimately improves the provision of all services for older persons. In its "Regulation for Extended Stay Care Institutions for Older Persons", DINAPAM establishes the norms and operational guidelines which include requisites and conditions for access. These norms and guidelines are based on equality and on the respect for human dignity that favor social integration and promote the entitlement and exercise of all rights and obligations. In order to improve accessibility and availability of such services, DINAPAM implements the "Institutional Strengthening Program" which finances the improvement of extended stay care homes and the day-care centers through equipment and maintenance, in order to improve the quality of life of the older persons that reside in those institutions.

- **High quality of services provided?**

With regards to the dependency attention, all services directly provided must be high quality. The area of social services of PAMI updates the operational guidelines which include biosecurity norms and updated gerontological standards. In the same line, the "Regulation for Extended Stay Care Institutions for Older Persons" clearly establishes the detailed requisites, duties and obligations of the provider, in order to achieve the highest quality.

- **Autonomy and free, prior and informed consent of older persons in relation to their long-term care and support?**

The measures implemented to ensure long-term high quality sustainable systems are in line with the criteria established by the Inter-American Convention in its Articles 7, on autonomy and independence, 11, on free and informed consent on health matters, 12, on the rights of older persons receiving long-term care, and 19, on right to health.

However, there's still no national legislation on Argentina with regards to extended stay homes, despite the fact that there are several degrees of development of legislation at the provincial level. Nonetheless, frequent violations are registered in long-term care institutions with regards to the rights to autonomy and independence, to intimacy, to freedom of movement, to informed consent and to the possibility of exiting the premises on one's own will.

Among the measures implemented by DINAPAM, the contents of the capacitation courses for care providers aim to strengthen the autonomy, independence, the respect of the opinions, beliefs and traditions of older persons and the good treatment as the axis of all care practices. The "National Program of Promotion of Personal Autonomy and Universal Accessibility for Older Persons" aims at strengthening autonomy in terms of housing adaptations and generating accessible settings that enable the right to decide. In relation to the care in extended stay homes, the aforementioned Regulation establishes that "...the right to autonomy, meaning the possibility to make decisions and act independently, will be guaranteed. In that sense, all actions undertaken in benefit of older persons are

to be oriented to strengthening their independence, their decision making capacity and their personal and community development”.

The home shall foster to the maximum possible extent the autonomy of all residents in relation to the ability to choose their own life plan; participate in decision making and be respected in their opinions; access complete and intelligible information adapted to their special needs; reject to participate in activities, services or treatment, with the due informed consent; and to be able to present suggestions and/or complaints through any other administrative or judicial channel provided for in the current legislation. Equally, in all social services provided by PAMI, the informed consent of the beneficiary is mandatory, in order to guarantee that such requirement be a tool to protect the beneficiary’s rights rather than a measure to protect the institution and/or the care provider.

- **Progressive elimination of all restrictive practices (such as detention, seclusion, chemical and physical restraint) in long-term care?**

The promotion of the rights of older persons is highlighted in the formation courses for caregivers, and this element is incorporated across the entire process of capacity building.

With regards to the progressive elimination of all restrictive practices and long-term physical or chemical impediments, the before mentioned Regulation establishes that access to information in order to access to services of public health policy will be guaranteed. When it comes to restrictions and abuses, the residents have the right to reject all restrictions that limit their physical mobility, except in emergency situations or due to express medical order, and the right to be free of all forms of violence, abuse and/or mistreatment (verbal, physical, sexual, psychological), any type of corporal punishment, neglect, involuntary seclusion and others.

In relation to voluntary discharge, all residents will be able to put an end to their stay on their own will, having to sign, in those cases, a “certificate of voluntary discharge” explaining his/her decision. Furthermore, such resident shall sign a permit for diagnostic and/or medical procedures which authorizes to perform treatments that must be clearly explained, with regards to both its risks and benefits.

All of PAMI’s rules are oriented in such way.

- **Sustainable financing of long-term care and support services?**

The financing of direct assistance and formation of care providers programs in the framework of DINAPAM come from the general national public administration budget and are destined to the Programs for the Promotion and Protection of the Human Rights of Older Persons. Specifically, such public funds are distributed among the different programs targeted to long-term care and support and containment services such as “Extended Stay Homes for Older Persons”, “National Program of Domestic Care”, and “National Program for the Promotion of the Quality of Life for people with cognitive impairment, Alzheimer’s disease and other forms of dementia”.

PAMI has a budget which contemplates long-term care, within a solidarity distribution framework based on the evaluation of social services.

- **Redress and remedy in case of abuse and violations?**

In case of detection of cases of abuse and violations, all appropriate administrative reporting measures are taken in order to provide for the intervention of the judicial system. In different local and provincial jurisdictions, diverse reporting mechanisms of cases of violations and abuses are implemented, both through personal reporting in police stations and judicial offices as well as through specialized free telephone hotlines.

**4) What other rights are essential for the enjoyment of the right to long-term care by older persons, or affected by the non-enjoyment of this right?**

All rights are essential for the enjoyment of the right to long-term care for older persons, since all human rights are interconnected and interdependent. However, as highlighted before, the income level (economic security) and the right to health (and access to medicines) may be considered as the rights that most greatly affect the enjoyment of the right to long-term care. The universal coverage of a minimum income is essential for older persons to enjoy a good quality of life and enjoy all social, economic, cultural, civil and political rights. On the other hand, it is fundamental to guarantee the right to health in order for older persons to be able to access quality health-care services according to their specific needs. Not fully enjoying such rights negatively affect the quality of life and wellbeing in old age and therefore deteriorate older persons' health. The lack of respect for these rights increases isolation, a high socio-sanitary risk and the extreme psychosocial vulnerability of older persons.

**5) In your country/region, how is palliative care defined in legal and policy frameworks?**

The Argentine national legal framework includes the right to receive comprehensive palliative care as part of the disease attention, enshrined in Law 26.742 on "Patient's Rights". This law recognizes the right to receive comprehensive palliative care in the process of caring for a disease or ailment (Article 5, Inc. h). Its regulatory Decree define palliative care as "...the multidisciplinary care of the terminally ill patient destined to guarantee hygiene and comfort, including pharmacological or other pain and suffering control procedures". However, the provisions of this law have been insufficient, since the administrative law system in Argentina grants each province autonomy to define its own legislation, and some of them have not incorporated palliative care services into their provincial legislations. Therefore, only 10 of Argentina's 24 provinces have legislation on this type of care.

Nonetheless, the Inter-American Convention, recently incorporated into the Argentine legal system, defines palliative care as *"the active, comprehensive, and interdisciplinary care and treatment of patients whose illness is not responding to curative treatment or who are suffering avoidable pain, in order to improve their quality of life until the last day of their lives. Central to palliative care is control of pain, of other symptoms, and of the social, psychological, and spiritual problems of the older person. It includes the patient, their environment, and their family. It affirms life and considers death a normal process, neither hastening nor delaying it"*.

**6) What are the specific needs and challenges facing older persons regarding end-of-life care? Are there studies, data and evidence available?**

The challenges that persons in need of palliative care face daily (not only specific to older persons) are: limitations to accessing health-care; excessive delay in obtaining appointments with health

professionals; poor quality health-care services; exposition to ineffective or useless treatments; and lack of specific coverage with regards to the provision of palliative care.

Regarding end of life care, patients have the right to receive comprehensive information about their diseases, ailments and treatments. Furthermore, adequate pain treatment is considered a therapeutic urgency bearing in mind the elevated negative impact of suffering in the quality of life and dignity of the person. The “National Program of Palliative Care” guarantees the accessibility to controlled use medications at the main tool for pain management.

**7) To what extent is palliative care available to all older persons on a non-discriminatory basis?**

Not all hospitals in Argentina provide palliative care. It depends on the place of residence, the accessibility and free nature of such services, and the requisites that medical institutions establish for accessing them. The “Mandatory Medical Plan” (PMO) defines a 100% coverage, under which all medical insurance providers have the obligation to provide such services in their plans.

With regards to the accessibility to palliative care services, although there’s a certain degree of development of such programmes, they are not generally included or systematically integrated in the national health programmes, beyond pathology or age group. Despite the fact that the coverage for palliative-care services is mandatory, the main social security systems do not ensure such coverage or, in the cases where they are provided for, due to a lack of a regulatory framework to manage them, non-specialized services are offered instead, which are of a much lesser quality.

**8) How is palliative care provided, in relation to long-term care as described above and other support services for older persons?**

Public health insurance systems such as PAMI provide long-term housing and specialized attention through recreational and therapeutic activities to maintain, recover or rehabilitate abilities, oriented to highly vulnerable persons. These services, according to the type of coverage, can be total or partial. That way, PAMI covers the totality of the cost of geriatric care institutions or part of it (between 20 and 80%), according to the type of coverage.

**9) Are there good practices available in terms of long-term care and palliative care? What are lessons learned from human rights perspectives?**

DINAPAM organizes encounters to Exchange good practices in domestic care. Those meetings work on requirements and guidelines for all practices to be compliant with the human rights obligations. In that sense, a special focus is placed on building capacities, updating the contents of formation programs, and developing creative and specific tools to ensure the provision of good quality care in order to strengthen the capacities and available tools for caregivers.

The “National Program of Palliative Care” develops the following action lines with the aim of facilitating the acquisition of knowledge, skills and attitudes of health professionals to adequately address the needs of persons with limiting diseases:

- the formation of human resources in pain treatment and opioid prescription through face-to-face activities (hospital rotations, and training fellowships), virtual courses and ongoing capacitation programs, and awareness raising activities;
- advice and consulting for health professionals (specially first level care providers) on pain treatment and opioid prescription through an exclusive telephone hotline;
- jointly with the “Argentine Program of Palliative Care” of Femeba Foundation, the International Hospice and Palliative Care Association and the Latin American Association of Palliative Care, the integration of education on palliative care in the curricula of nursery and medical schools is promoted through the ITES Initiative;

Finally, in order to guarantee for users the access to palliative medication in optimal conditions (adequate, timely and free products, in proper amounts), the “National Program on Palliative Care” promotes the public production and free distribution of morphine and methadone, in accordance with the specific requirements of the controlled substances in order to avoid their diversion.