

**Replies by the Federal Republic of Germany to the Guiding Questions for the Focus Areas of the 9th 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?

In 1995, Long-Term Care Insurance (LTCI) was introduced as a mandatory insurance. It covers more than half of the costs of care-related expenses. In principle, the type of care benefits for out-patient as well as inpatient care may be chosen freely (e.g. cash benefits, benefits in kind, a combination of cash benefits and benefits in kind as well as counselling services and even full case management). Support is classified into five grades of care according to the need for long-term care, and can be supplemented, if necessary, with social assistance or welfare benefits provided by social compensation (care assistance). The general rule is: out-patient before inpatient care.

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

Benefits under the LTCI are granted upon application. In principle, the Health Insurance Medical Service (Medizinischer Dienst der Krankenversicherung, MDK) visits the applicant at home and assesses his/her need for care. Based on this assessment, the MDK then recommends a respective grade of care. The new definition of the need for long-term care (introduced in 2017) now covers persons whose independence or abilities are limited due to health impairments and who consequently need support for an estimated period of at least 6 months. With regards to social assistance, benefits may be provided even if it is estimated that the person needs support for a period of less than 6 months. Since 1 January 2017, for the first time not only physical but also cognitive and mental impairments are taken into account when assessing the grades of care. It is important to ensure that these legal regulations and sub-statutory arrangements, e.g. concerning the access to benefits, are put into practice.

- 3) What measures have been taken or need to be taken to ensure high-quality and sustainable long-term care systems for older persons, including for example:

Between 2015 and 2017, Germany carried out extensive reforms of the long-term care insurance by means of three Long-Term Care Strengthening Acts (LTCSA). The 2017 Care Professions Reform Act serves to secure the supply of skilled labour (improving the quality of vocational training, rendering nursing professions and training more attractive, increasing the appreciation of the training qualification and the profession as a whole). A modern consumer protection act, the Residence and Care Contract Act (Wohn- und Betreuungsvertragsgesetz, WBVG) strengthens the rights of elderly and care-dependent persons as well as persons with disabilities when signing nursing home admission contracts for accommodation in connection with care and support services. The network Campaign for Healthy Nursing (Offensive Gesund Pflegen) has been launched under the umbrella of the Initiative New Quality of Work (Initiative Neue Qualität der Arbeit, IN-QA), funded by social partners. It is the network's objective to preserve and promote the health of nursing professionals as well as to improve their working conditions and professional prospects. Its work centres on the transfer of knowledge about health-promoting and attractive working conditions to long-term care facilities.

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

The new regulations in Germany have led to a considerable increase in benefits for all care services since 2015/2017, particularly with regards to out-patient care. Care facilities have received additional nursing personnel. The coordination of care and support services has been improved, for example by strengthening the role of local authorities.

Most persons in need of care receive higher benefits than prior to the introduction of the reform. Especially persons with dementia benefit from the newly introduced grade of care 1, which gives up to 500,000 persons access to benefits under the LTCl for the first time.

- high quality of services provided?

All care services provided must comply with the respect of human dignity and guarantee quality management. The MDK examines all long-term care facilities and out-patient nursing services on an annual basis with regards to these and many other quality requirements. The results are published in 'transparency reports' and may lead to corrective or punitive measures.

Necessary requirements are:

- sufficient trained staff to secure the provision of care;
- further strengthening of professional skills necessary for care provision, in particular regarding the autonomy of care-dependent persons (e.g. greater attention to privacy and habits of patients, even greater consideration of the previously followed daily routines and of familiar surroundings);
- good provision of care in rural areas;
- improved coordination of different support services and agencies.

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

The LTCl benefits are intended to help care-dependent persons lead a life as dignified, independent and self-determined as possible. Persons in need of care can choose between institutions and services offered by various providers. Reasonable requests concerning care aspects, for example to provide same-sex nursing or to consider religious needs when nursing, shall be fulfilled. Individual counselling, also for relatives, is offered timely and on a regular basis.

- continuous elimination of all restrictive practices (such as detention, seclusion, drug-based and physical coercive measures) in long-term care?

The 5th quality report of the MDK (January 2018) confirms a further decline in the use of measures that restrict the patient's freedom<sup>1</sup>.

The results of the project "Non-Violent Nursing - Prevention of Violence against Older Persons in Long-Term Care", carried out by the Federal Ministry of Health, will be published soon.

German NGOs consider it necessary

- to offer more educational training on alternatives such as "redifix" in care facilities as well as for legal guardians and judges;
- to incorporate human rights education in the curricula of nursing training programmes;
- to further develop independent complaints mechanisms in the care sector.

- sustainable financing of long-term care and support services?

The three Long-Term Care Strengthening Acts have particularly led to increased expenditures for LTCl, amounting to more than 5 billion EUR (+20 %) per year. These additional expenditures are financed via compulsory contributions by employers and employees.

These are offset by measures including the increase of LTCl contribution rates for all insured persons.

- redress and remedy in case of abuse and violations?

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<sup>1</sup> Despite the decline, measures restricting the patients' freedom were detected in the case of 8.9% of residents. A required consent or permission could only be presented in the case of 92.5% of those affected.

Apart from the annual examinations it is possible to request additional, incident-related checks.

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

- right to detailed information on entitlements and support benefits;
- right to reconciliation of work and care;
- right to identify possibilities for adaptation and optimisation.

The recent reforms of the LTCI are currently being evaluated. The evaluation takes into account the perspectives of those in need of care. The Charter on the Rights of Persons in Need of Assistance and Care is currently being updated, also with the aim to make the rights enshrined therein more effective in practice.

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

Comprehensive medical, nursing, psychosocial and, if needed, spiritual support and care for most severely ill and dying persons with the aim to provide a dignified and self-determined life during the final stage of life. Care may be provided as an out-patient service at home, as an inpatient service, or at a long-term care facility.

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

- access to information on palliative care and support; access to care and support within the chosen environment; care and support according to needs and desires of the patients and their relatives;
- the project "Dying at the nursing home - hospice culture and palliative competence in inpatient long-term care", supported by the Federal Ministry of Health, aims at gaining further and better knowledge about the last life stages of nursing home residents and bringing conditions for a 'good dying' into focus. It further sets out to explore the extent to which good practice is inter-related with the conceptional framework of the nursing home, the employees' attitudes and qualifications and the cooperation with other relevant actors. The results are scheduled to be presented at a symposium in the second quarter of 2018.

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

Within the statutory health insurance, all insured persons are entitled and have access to palliative care. No distinction is made regarding age or gender.

- 8) How is palliative care provided, compared with long-term care as described above and other support services for older persons?

The aim of palliative medicine is to alleviate the consequences of a disease (palliation) when there is no prospect of recovery any more. Palliative care can be provided as inpatient and out-patient care.

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

- it is a guiding principle that dying persons are members of society and are entitled to receive the care and support they need and desire, also in their last stage of life;
- public debate in society as a whole; education and awareness-raising (Charter for the Care of the Critically Ill and Dying in Germany)

- close cooperation and networking among all parties involved in the care and support of dying persons;
- combination of care concepts, staff training and development of skills in palliative care in care facilities is effective and promotes quality development.