

GUIDING QUESTIONS FOR THE NORMATIVE FRAMEWORK OF THE ISSUES EXAMINED AT THE IX SESSION OF THE OPEN-ENDED WORKING GROUP ON AGEING:

Zunächst wird angemerkt, dass der Bereich der Palliativpflege in den Zuständigkeitsbereich der Sektionen VIII oder IX (Gesundheit) fällt.

Long-term and Palliative Care

National legal framework

1. What are the legal provisions in your country that recognizes the right to long-term and palliative care? Do they have a constitutional, legislative or executive foundation?

According to federal constitutional law, the competence for this lies largely with the federal states. Examples include mobile, outpatient and inpatient care and nursing services.

Normative elements

2. What are the key normative elements of the rights to long-term and palliative care? Please provide references to existing laws and standards where applicable.

The federal government is responsible only for monetary social transfers ("care allowance") and the bulk of the funding of the long-term care fund. By granting the special subsidies from the long-term care fund, the Federal Government supports the provinces and municipalities in the area of long-term care in securing and in the need-based expansion and development of the provision of care and nursing services. The long-term care fund will be endowed with 382 million euros in 2019. For the extension of the offers of hospice and palliative care, an additional 18 million euros per year are earmarked for the duration of the financial equalization period 2017 - 2021. The legal bases on the side of the federal states are above all their social assistance laws, on the side of the federal government in particular the federal care allowance law and the nursing care fund law.

3. How should long-term care and palliative care be legally defined?

There is no legal definition for long-term- and palliative care. The term care is defined in the nursing care law and also exaggerated. This includes care and assistance. The Nursing Fund Act, among other things, provides legal definitions for the provision of care and nursing services in the area of long-term care.

Implementation

4. What are the policies and programmes adopted by your country to guarantee older person's enjoyment of their right to long-term and palliative care?

The National Quality Certificate is a uniform third-party evaluation procedure throughout Austria. Specially trained external certifiers provide a systematic assessment of the quality of the service provided in a house. At the heart of the National Quality Certificate is the quality of life of the residents. Above all, the process and result quality is assessed.

As measures for the quality assurance house calls are intended for people in need of care. In the context of the home visits it is examined whether a care appropriate to the needs of the person in need of care is

given and if necessary by information and advice to their improvement contributed. If possible, the persons involved in the specific care situation should also be included. Such home visits can also be carried out at the request of the person in need of care or relatives.

In addition, caregiving relatives can be offered support calls in the context of such home visits as a contribution to prevention and as a further quality assurance measure (Section 33a Federal Care Benefits Act).

In 2019, the introduction of the Austrian Quality Certificate for recruitment agencies in 24-hour care is planned. The placement agencies provide caregivers to persons in need of care and also offer advice and support regarding this activity.

The quality certificate should create an incentive for the placement agencies to meet higher quality standards beyond the legal obligations. Certification will be voluntary on the basis of independent third parties.

In 2015, the Dementia Strategy with impact targets and recommendations for action was developed in 6 working groups on behalf of the Social Ministry and the Federal Ministry of Health and Women in a broad participatory process. Subsequently, to support the implementation of these goals and recommendations, the Dementia Strategy Platform was established. The Platform Dementia Strategy acts as a promoter for the implementation of the strategy. The aim is to provide impetus for the implementation of the dementia strategy, to support the transfer of information and knowledge, and to promote public relations work in various areas. The aim is to improve the living conditions of people with dementia and their relatives.

Austria offers a range of palliative care services, including palliative care units and mobile palliative care teams, as well as hospices for long-term care. While palliative care is not recognized as a medical specialty in Austria, a new prescription for the training of doctors mandating palliative care and specific palliative care is an integral part of general and specialized medical education.

5. What are the best practices and main challenges in adopting and implementing a normative framework to implement these rights?

Ensuring a decent and high-quality care according to the state of nursing science and medicine as well as the support of people in need of care and their relatives has the highest priority in Austria. To demonstrate its commitment, the Austrian Federal Government has adopted the "Master Plan for Nursing" in December 2018 in the Council of Ministers.

Equality and non-discrimination

6. Which are the measures adopted to ensure equitable access by older persons to the enjoyment of the right to long-term and palliative care, paying special attention to those who are vulnerable or in vulnerable situation?

Ensuring a decent and high-quality care according to the state of nursing science and medicine as well as the support of people in need of care and their relatives has the highest priority in Austria. To this end, the Austrian Federal Government has announced in the "Master Plan Nursing", which was adopted in December 2018 in the Council of Ministers. From a legal point of view, the biggest challenges in long-term

care arise from the different responsibilities under the Federal Constitutional Law (federalism) as well as taking account of the demographic development of securing their medium and long-term financing.

Participation

7. Does the design and implementation of normative and political framework related to long-term and palliative care include an effective and meaningful participation of older persons?

In the course of assessments of proposed legislation, in addition to the local authorities, especially affected NGOs, which represent, inter alia, older people or people in need of care, are regularly given the opportunity to submit their comments.

Parliamentary Enquete and Enquete Commissions also involve such organizations as experts for advice. The instruments of direct citizen participation are popular referenda and referendums.

Accountability

8. What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to long-term and palliative care?

Depending on the legal matter, the jurisdiction of different courts is established. Concerned people - if they disagree with the decision taken - have the right to appeal to the courts of first instance down to the courts of the last instance (the Supreme Court, the Constitutional Court or the Administrative Court).

Complaints can be made in a variety of places. Examples include in the Länder the respective competent district administrative authorities (magistrates or district authorities), or patient advocacy. On federal level, the Ombudsman or the Federal Ministry of Labor, Social Affairs, Health and Consumer Protection - by the "BürgerInnenservice" or written or telephone inquiries shall be named.