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

**Autonomy and Independence**

**COLOMBIA**

**National legal framework**

1. **What are the legal provisions in your country that recognize the right to autonomy and independence? Do they have a constitutional, legislative or executive foundation?**

**Normative elements**

1. **What are the key normative elements of the rights to autonomy and independence? Please provide references to existing laws and standards where applicable.**

***Answers to questions 1 and 2:***

First, the Political Constitution of Colombia of 1991 established in article 46 that the State, society and the family shall promote the integration of the elderly into active life and community life.

Second, there are regulatory frameworks for the protection, promotion and defense of the rights of older persons, where the concepts of independence and self-realization, solidarity and dignity are defined (law 1251/2008); where new criteria are established for comprehensive care of the elderly in “life centers” (law 1276/2008); where the minimum conditions are established for a dignified stay of older persons in protection centers, day centers and care institutions (law 1315/2009). In this normative block, it is important to highlight law 1751/2015 or Health Statutory Law, which recognized older persons as vulnerable populations, subject to special protection and attention by the State, respectful of their independence and autonomy.

Third, in observance of the national legal framework, the National Policy on Ageing 2007-2019, updated for the period 2015-2024, was constructed in a participatory process. This document specifies the importance of preserving functional capacity and autonomy, participation and care of the elderly, including effective access to health services, with a differential approach and emphasis in overcoming social and gender inequalities. It is framed in the five principles of the United Nations in favor of the elderly: Dignity, Self-realization, Independence, Participation and Care.

1. **How should *autonomy* and *independence* be legally defined?**

**Autonomy**. Represents the ability to make decisions using personal argumentation, as well as the possibility of materializing the decision, assuming the responsibilities and consequences that may follow. The ability to decide appears when there is not only absence of external coercion, but when the resources required to decide are available, in the form of goods and services, and in addition, when the subject’s personal and social circumstances allow him to take advantage of those resources (Source: ECLAC, 2014) (National Policy on Ageing).

**Independence:** Ability of the older adult to perform daily activities: i) Basic, self-care roles (bathing, dressing, personal grooming, continence, mobility, feeding); ii) Instrumental roles that allow performing with the immediate environment (use of telephone, taking medications, performing light work, performing accounting) and iii) Advanced roles that allow engaging in community functions (going to church, support groups) (Source: National Policy on Ageing).

**Implementation**

1. **What are the policies and programmes adopted by your country to guarantee older person’s enjoyment of their right to autonomy and independence?**

The National Policy on Ageing established as a general objective to encourage older adults to achieve an autonomous, dignified old age in all aspects of their lives. Likewise, the Ministry of Health and Social Protection promoted the strategy "Bank of times and talents at the service of the common good", as an invitation for the competent national institutions to recognize the potentialities and talents of the elderly.

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

**Challenges:** It is necessary to guarantee the appropriation of resources to encourage the qualified representation of the elderly in the planning and decision-making instances, and to promote the protection and exercise of their rights throughout the national territory. In addition, it is important to strengthen the strategies of inter-institutional and intersectoral coordination, regarding the co-responsibility of society and the State in response to the demands of attention and care of the elderly. Likewise, it is necessary to support the processes of dissemination of the legal, regulatory and conceptual frameworks in public and private entities, academia, civil society organizations and organizations of older persons, as well strengthening human capacities, to ensure the protection of the rights of the elderly in all processes and services that are executed by national and territorial public entities.

**Equality and non-discrimination**

1. **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 vulnerable groups or those in vulnerable situation?**

Law 1171 of 2007 establishes some benefits such as discounts and preferential access for the enjoyment of social and cultural events. It also regulates the provision of preferential windows for providing attention for the elderly intended to facilitate and accelerate their procedures; preferential seats; and prohibition of placing age as a criterion to define acceptance to institutions of higher education in the country or to access jobs in the public or private sector, among other measures of a legal nature.

Through Resolution 1904 of 2017, progress was made in a legal framework that may facilitate decision-making with a legal support for the elderly, because it allows entities to have technical support and facilitate access to information that illustrates older adults adequately in the exercise of their independence and autonomy.

**Participation**

1. **The design and implementation of the normative and political framework related to autonomy and independence included an effective and meaningful participation of older persons?**

The Ministry of Health and Social Protection structured the Integrated Methodology of Social Participation of the Elderly -MIPSAM, which promotes the organization and qualification of older adults who intend to be representatives of the elder community in institutional spaces (councils or territorial committees of the elderly and social policy councils). Work has also been done on academic content in training courses for elderly care, which include topics such as recognition and promotion of the rights of older adults, specifying their scope. On the other hand, the process of construction of the National Policy on Ageing was attended by 406 people from 217 organizations, in regional forums that took place in the cities of Medellín, Cali, Bucaramanga, Santa Marta and Bogotá. Additionally, the draft Policy was socialized on the Internet and 110 people from 21 organizations also attended this public consultation process.

**Accountability**

1. **What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to autonomy and independence?**

Law 1276 of 2009 contemplates the figure of “Citizen Watch Councils” (Veedurías Ciudadanas) for older adults. On the other hand, when alleged irregularities arise, citizens can also reach out to the National Health Superintendence to report failures in the provision of palliative and long-term care services. There is also the possibility of resorting to other mechanisms such as “houses of justice”, municipal and district offices, police stations and family defense offices, to file complaints or legal actions for the violation of the rights of older persons.

These spaces are widely disseminated and presented in the "Booklet on Good Treatment of Older Persons", containing essential terms and concepts such as autonomy and independence. This booklet also allows the reader to understand with greater accuracy aspects related to the care of the elderly. It also describes the types and forms of abuse, and potential risk factors.

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

**Long-term and Palliative Care**

**COLOMBIA**

**National legal framework**

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

**Normative elements**

1. **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.**

**Answers to questions 1 and 2:**

First, the Political Constitution of Colombia of 1991 established in article 46 that the State, society and the family shall promote the integration of the elderly into active life and community life.

Second, there are regulatory frameworks for the protection, promotion and defense of the rights of older persons, where the concepts of independence and self-realization, solidarity and dignity are defined (law 1251/2008); where new criteria are established for comprehensive care of the elderly in “life centers” (law 1276/2008); where the minimum conditions are established for a dignified stay of older persons in protection centers, day centers and care institutions (law 1315/2009). In this normative block, it is important to highlight law 1751/2015 or Health Statutory Law, which recognized older persons as vulnerable populations, subject to special protection and attention by the State, respectful of their independence and autonomy.

Third, in observance of the national legal framework, the National Policy on Ageing 2007-2019, updated for the period 2015-2024, was constructed in a participatory process. This document specifies the importance of preserving functional capacity and autonomy, participation and care of the elderly, including effective access to health services, with a differential approach and emphasis in overcoming social and gender inequalities. It is framed in the five principles of the United Nations in favor of the elderly: Dignity, Self-realization, Independence, Participation and Care.

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

**Long-term care:** Services that include medical attention (sanitary) and non-medical attention (complementary services that have an effect on health); that is, social health services for people with functional dependence and older persons with disabilities, chronic illness or trauma, which limit their ability to carry out basic personal care activities or daily tasks. They can be provided at home, in community settings, in care institutions or in welfare centers for the elderly. Some benefits are: reduction of inadequate use of health services due to demand for acute care; support to avoid or reduce medical expenses; greater availability of primary caregivers (mainly women) for the performance of other social functions.

**Palliative care:** Appropriate care for patients with terminal, chronic, degenerative and irreversible diseases. They focus on the control of pain and other symptoms. They may also include medical, social, spiritual, psychological and family support, during illness of the patient and during grief when passing occurs. They aim at the best quality of life possible for the patient and his family.

**Implementation**

1. **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?**

Through Law 1733/2014 and Resolution 2665/2018, Colombia began to regulate palliative care services for the comprehensive management of patients with terminal, chronic, degenerative and irreversible diseases. It regulated "the right of these patients to withdrawal voluntarily and in advance from unnecessary medical treatments that do not comply with the principles of therapeutic proportionality and do not represent a dignified life for the patient, specifically in cases where there is a diagnosis of a disease in chronic-terminal, degenerative and irreversible state, with a high impact on the quality of life ".

In this sense, five (5) rights were recognized, namely: right to palliative care, right to information, rights to a second opinion, right to subscribe a will, right to participate actively in the process of attention and decision making in palliative care. Under a comprehensive approach and life course approach, the norm also specified the rights of children and adolescents and the rights of family members.

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

**Best practices:** Some practices adopted in the regions of Risaralda, Valle del Cauca and Nariño stand out, where, according to the responsibilities of the health agents, the provision of socio-sanitary services required by people with different degrees of functional dependence has been put in place.

**Challenges:** It is necessary to correct the dispersion of competencies among national entities that deal with matters affecting the elderly. In addition, greater socialization of knowledge on the scope and advantages of long-term care in accordance with international recommendations (WHO, OECD) is required. Interinstitutional and intersectoral coordination should be made effective and training of human talent should be encouraged to strengthen social and health responses, in order to ensure the protection, promotion and exercise of the rights of older adults in national and territorial entities. Finally, it is important to guarantee budgetary resources for the dissemination of rights, for encouraging qualified representation in planning and decision-making instances.

**Equality and non-discrimination**

1. **Which are the measures adopted to ensure equitable access by older persons to the enjoyment of the right to autonomy and independence, paying special attention to those who are vulnerable or in vulnerable situation?**

As a first measure, people have to be enrolled or affiliated to the health system in order to assure the provision of the benefits included in the Health Benefits Plan, which include palliative care. In the case of older adults, such services must be complemented with assistance and care in the geriatric homes or welfare centers for the elderly, fulfilling minimum quality standards. In these spaces, complementary services are provided to those covered by the Plan at lower costs. Through Circular 023 of 2016, "Instructions regarding the guarantee of the rights of patients requiring palliative care" were given. This constitutes a minimum level of protection for patients.

**Participation**

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

The normative framework on palliative care is built with the participation of public and private entities, representatives of families and patients with end-stage, chronic, degenerative and irreversible diseases. This has made it possible to introduce adjustments to the regulations in force. Additionally, there is a Guide for Clinical Practice, built with the participation of guilds and associations with mandate, interest or commitment in matters related to Palliative Care.

**Accountability**

1. **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?**

Law 1276 of 2009 contemplates the figure of “Citizen Watch Councils” (Veedurías Ciudadanas) for older adults. On the other hand, when alleged irregularities arise, citizens can also reach out to the National Health Superintendence to report failures in the provision of palliative and long-term care services. There is also the possibility of resorting to other mechanisms such as “houses of justice”, municipal and district offices, police stations and family defense offices, to file complaints or legal actions for the violation of the rights of older persons.