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

1. **Autonomy and Independence**

*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?*

Article 7 of the **Inter-American Convention Protecting the Human Rights of Older Persons** was approved by Law No. 8384 of September 8, 2016, and ratified by the Executive Decree No. 39973 of October 12, 2016. In addition, article 6 of the Law No. 7935, **Comprehensive Law for the Older Person**, and Law No. 9379, **Law for the Promotion of the Personal Autonomy of Persons with Disabilities**, of August 18, 2016, regulate the full exercice of personal autonomy of the elderly and persons with disabilities, on equal terms with other rights.

*Normative elements*

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

The recognition of the ability to act (Article 7 of Law No. 9394 and No. 9379), the right of access to justice (art. 31 of Law No. 9394) and the right to accessibility and personal mobility (art. 26 of the same law), constitute key elements for the older person to fully exercise its right to autonomy and independence.

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

Article 7 of Law No. 9394 and of the Inter-American Convention defines the right to independence and autonomy as the right ‘to make decisions, to determine their life plans, to lead an autonomous and independent life in keeping with their traditions and beliefs on an equal basis, and to be afforded access to mechanisms enabling them to exercise their rights’.

*Implementation*

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

The National Policy on Aging 2011-2021, issued by the Executive Decree No. 38036-MP-MBSF of November 28, 2013, and its fourth strategic objective dedicated to consolidation of rights, seeks the full exercise of human and fundamental rights in old age, including autonomy and independence.

In addition, Law No. 9379, in its 16th and following articles, creates the *Program for the Promotion of Personal Autonomy of Persons with Disabilities,* allocating public resources for the development of this program with older persons.

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

The Program for the Promotion of the Personal Autonomy of Persons with Disabilities concerns older persons and can be seen as a very good practice to implement. Moreover, within the governmental Network of Care, developed by the Council of the Elderly person, alternatives are implemented that seek to balance the conditions and opportunities of the elderly through the care of all areas of life and well-being of the person, aimed at achieving an old age with quality of life; contributing to their autonomy and independence.

The existing paradigm on old age and autonomy must me shifted, the coverage of care programs for older persons and the creation of effective support networks must be improved, as well as effective judicial protection of the persons who have seen their autonomy diminshed.

*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 vulnerable groups or those in vulnerable situation?*

Law No. 9379 creates the figure of the Safeguard and Guarantor of Legal Equality, in order to recognize that right to the most vulnerable elderly people.

*Participation*

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

During the construction of the legal framework in the Legislative Branch, publicity was provided and the opinion of civil society was taken into account. In addition, the Policy on Aging 2011-2021 was duly agreed upon and consulted with the elderly population.

*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?*

At the judicial level, Law No. 7935 defines violence against the older adult, in its articles 2 and 47, within the denial of the right to autonomy and independence, and establishes the possibility of obtaining protective measures in favor of the person. The law also reformed the Law of the Republic’s Ombudsman, creating a special Ombudsman for the elderly which must know complaints against public entities that violated their rights.

1. **Long-term and Palliative Care**

*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?*

Article 12 of the **Inter-American Convention Protecting the Human Rights of Older Persons**, Law No. 9394 of September 8, 2016 and Article 51 of the Constitution raise the special protection of the State for older persons as a fundamental right.

Law No. 7935, Comprehensive Law for the Adult Person of October 25, 1999, encompasses the existence of private establishments that provide these long-term care services, in its arts. 3(e), 5, 35(c, g, h, i, ñ and r), 52 to 56, 63 to 66. In turn, its Regulation Executive Decree No. 30438-MP, in its articles 3, 6, 13, 28 inc. a), b), c), j), 38 to 45, contains similar regulations. Executive Decree No. 37165-S, of June 4, 2012, also establishes regulations for the provision of long-term care services for the elderly.

*Normative elements*

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

The right to receive a comprehensive quality of health and social services (Art. 12, Law No. 9394).

The right to have establishments and to have access to them (arts. 3(e,) 5, 35(c, g, h, i, ñ, and r), 52 to 56, 63 to 66, Law No. 7935).

The obligation of the State to provide special protection (Article 51 of the Constitution). The obligation of the State is to issue a regulation that allows to articulate and strenghten the long-stay homes of the elderly persons for the development and implementation of activities related to basic care, personal hygiene, support in activities of daily living, nutrition, rehabilitation, recreation, nutrition, mental simulation, with special emphasis on those who are at social risk (Executive Decree No. 37165-S).

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

According to the provisions of Article 12, Law No. 9394.

*Implementation*

1. *What are the policies and programs adopted by your country to guarantee older persons’ enjoyment of their right to long-term and palliative care?*

The National Policy on Aging 2011-2021, (Decree No. 38036-MP-MBSF of November 28, 2013), within strategic objective number five, includes measures to ‘ensure compliance with human rights in health for the elderly, especially for those who are in terminal phase, and to ensure a dignified, equal, equitable and decent treatment’. Costa Rican social security provides a pain control and palliative care network, which forms a part of the comprehensive care services facilitated by the National Council for this population.

In addition, through its programs, CONAPAM grants public resources specifically for private legal entities that serve the elderly population, which include those that require palliative and long-term care.

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

Costa Rica has, at the community level, 45 pain control and palliative care clinics, long-stay homes and care networks for older adults. The challenges include the strengthening of human and economic resources in order to expand coverage and improve the infrastructure to provide better care, as well as the standardization of procedures.

*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 those who are vulnerable or in vulnerable situation?*

Equitable access of the elderly to the enjoyment of the right to long-term palliative care, paying special attention to the vulnerable or to those in vulnerable situation, is established in the measures adopted by Costa Rica, such as: The Inter-American Convention Protecting the Human Rights of Older Persons, Law No. 9394 (Article 12), the Comprehensive Law for the Elderly, Law No. 7935. In addition, it is established in the regulations that establish the allocation of economic resources for the care of the elderly in conditions of poverty, extreme poverty, social risk and vulnerability, according to the modalities of care, such as long-stay homes and care network.

*Participation*

1. *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?*

This participation is driven by consultative processes for the approval of regulations and the attention of observations posed by citizens to the implementation of norms, for example the ‘Public Manifesto: For the defense of the rights of the elderly adults’.

*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?*

According to Article 48 of Costa Rica’s Constitution, people have available remedies to maintain or restablish the enjoyment of fundamental human rights. At the administrative level, Law No. 7935 reforms the Law of the Republic’s Ombudsman, creating a special Ombudsman for the elderly who must know the complaints against public entities that have violated their rights. Law No. 9158 of August 8, 2013, creates at the national level a health services accountability office.

1. **Education, training, life-long learning and capacity building**

*National Legal Framework*

1. *In your country/region, how is the right to education, training, life-long learning and capacity building in older age guaranteed in legal and policy framework?*

Article 20 of the **Inter-American Convention Protecting the Human Rights of Older Persons**, Law No. 9394 of September 8, 2016, protects the human right to education of Older Persons. Article 83 of the Constitution establishes that States will sponsor and organize adult education, aimed at combating illiteracy and providing cultural opportunities to those who wish to improve their intellectual, social and economic condition.

In addition, articles 19, 20, 21 of the Comprehensive Law for Older Persons, No. 7935, of October 25, 1999, regulate the right to education of older persons, along with articles 16 to 18 of its regulation.

Finally, the National Policy on Aging 2011-2021, issued with Executive Decree No. 38036-MP-MBSF of November 28, 2013, guarantees through its strategic objectives I, II and IV, this right in several aspects.

*Availability, Accessibility and Adaptability*

1. *What are the key issues and challenges faced by older persons in your country/region with regard to the enjoyment of levels of quality education, training, life-long learning, and capacity building services?*

Older people have a lower level of education than the total population, even older women, due to restrictions they face, such as more restrained education opportunities. Poverty is greater among those who have less education and training. Much of the educational offer focuses on urban areas.

The challenge is to create the conditions and opportunities for older people to have access to education in their different cycles, including technical training and higher education, as well as the rest of the population, which would allow them to generate income or to satisfy their intellectual needs.

1. *What steps have been taken to ensure that education, training, life-long learning, and capacity building services are available and accessible to all older persons, adapted to their needs, suited to their preferences and motivations, and of high quality?*

At the normative level: Inter-American Convention on the Protection of the Human Rights of Older Persons, Law No. 9394 (Article 20) and the Comprehensive Law for Older Persons, Law No. 7935 (Articles 19, 20 and 21) impose the obligation of the State to guarantee the right to education and encourage the participation of the elderly in educational processes. As well as the institutional policies and programs established by the Ministry of Public Education (MEP), National Council of Rectors of Universities (CONARE), and the National Institute of Learning (INA).

1. *In your country/region, are there studies and/or data available on the access of older persons to the right to education, training, life-long learning and capacity building in older age?*

Yes, in 2008 the I Report on the Status of the Elderly in Costa Rica was published, in which the issue of education and training is studied across its chapters.

*Equality and non-discrimination*

1. *In your country, is age one of the prohibited grounds for discrimination in relation to education in older age?*

In principle, discrimination due to age is prohibited in general terms, which should be applicable to the educational field. Article 5 of the Inter-American Convention Protecting the Human Rights of Older Persons states the right to equality and non-discrimination based on age.

In addition, Article 33 of the Constitution establishes the fundamental right to equality and therefore prohibits any discrimination contrary to human dignity.

*Accountability*

1. *What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to education, training, lifelong learning and capacity building?*

Articles 48 and 29 of the Political Constitution and Law No. 7135, Law of Constitutional Jurisdiction, provide mechanisms for remedies and reparation when the right to education is violated. These mechanisms include the restitution or recognition of the right and compensation for damages can be awarded. In addition, Law No. 7935, created a special Ombudsman office for Older Persons, to follow up and know any complaints against public entities in the provision of the right to education.

Concerning instititutional guarantees, there is also the Contentious Administrative Jurisdiction in order to obtain compensation and payment of damages. Moreover, Civil Jurisdiction can also hear cases in which private subjects have violated such rights.

1. **Social protection and social security (including social protection floors)**

*National legal framework*

1. *What are the legal provisions in your country that recognize the right to social security and social protection, including non-contributory and contributory old-age benefits? Do they have a constitutional, legislative or executive foundation?*

Article 17 of the Inter-American Convention Protecting the Human Rights of Older Persons protects the human right to social security.

Article 73 of the Constitution creates the social security system in charge of Costa Rican Social Security Fund (CCSS).

Article 177 of the Constitution provides measures to achieve the universalization of social insurance and to guarantee the payment of State’s contribution as such and as employer.

Article 1 of Law No. 17 (Constitutive Law of the social security system) attributes to the CCSS the government and administration of social insurance, which has created compulsory health insurance, voluntary and by the State.

This law implements the Regime of Disability, Ageing and Death and the Non-contributory regime, which have their own regulation. In addition, various regulatory bodies provide for the existence of special contributory pension regimes charged to the National Budget.

*Availability*

1. *What steps have been taken to guarantee universal coverage, ensuring that every older person has access to social security and social protection schemes including non-contributory, contributory and survivor old-age pensions, to ensure an adequate, standard of living in older age?*

Health insurance regulations ensure that health insurance is universal and covers all the inhabitants of Costa Rica, and also encourages the affiliation of those who qualify to be insured, with the aim of achieving the realization of the principle of universality. Besides, regulations of the noncontributory regime and the Regime of Disability, Ageing and Death ensure the coverage of elderly population.

1. *What steps have been taken to ensure that every older person has access to social security and social protection schemes which guarantee them access to adequate and affordable health and care and support services for independent living in older age?*

Older people who do not contribute to the Social Security that administers the Fund can also receive social security benefits by processing the insurance by the State, which is aimed at those people who cannot contribute.

*Adequacy*

1. *What steps have been taken to ensure the levels of social security and social protection payments are adequate for older persons to have access to an adequate standard of living, including adequate access to health care and social assistance?*

Older people can receive the benefits of social security, including adequate access to medical care, processing insurance by the State, which is aimed at those people who cannot contribute.

In addition, the State through its public institutions finances assistance programs through NGOs dedicated to the care of the elderly population. CONAPAM also develops the Care Network program, which is aimed at the elderly in poverty and extreme poverty and is carried out with the delivery of alternative assistance.

*Accessibility*

1. *What steps have been taken to ensure older persons have adequate and accessible information on available social security and social protection schemes and how to claim their entitlements?*

Through the dissemination of information by talks, trainings, workshops on the available system of social security and social protection, as well as the procedures to claim their rights.

1. *Does the design and implementation of normative and political framework related to social security and social protection benefits include an effective and meaningful participation of older persons?*

In recent years, special care has been taken so that in all program design and standards include the active and effective participation of older adults, for example, the design and implementation of the Progressive Care Network for Comprehensive Care Program of Older Persons (Care Network), the approval of the Law of Strengthening of CONAPAM, Law No. 9188 and the Inter-American Convention Protecting the Human Rights of Older Persons, Law No. 9394.

*Equality and non-discrimination*

1. *Which are the measures adopted to ensure equitable access by older persons to social security and social protection, paying special attention to vulnerable groups or those in vulnerable situation?*

The Inter-American Convention Protecting the Human Rights of Older Persons, Law No. 9394, and the Comprehensive Law for the Older Person, Law No. 7935.

*Accountability*

1. *What mechanisms are in place to ensure social security and social protection schemes are effective and accountable?*

National regulations constitute the foundation for the elderly to go to any administrative and judicial instance to demand that the social security and social protection systems be effective and responsible.

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

The social security system offers a health services accountability office, where users can submit complaints that arise from the service received. The CCSS also offers the possibility of presenting the complaint electronically on its website. Law No. 7935 created a specific office of the Ombudsman for older persons.