**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**

**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?**

Autonomy is implied and guaranteed under the Constitution of the Republic of Slovenia as well as various legislative acts. It is important to note that autonomy is also guaranteed under international human rights conventions ratified by the Republic of Slovenia. Article 14 of the Constitution guarantees everyone equal human rights and fundamental freedoms, irrespective of any personal circumstances. Article 21 of the Constitution ensures for everyone respect for the human personality and dignity in criminal and in all other legal proceedings, as well as when deprived of liberty or subject to punitive sanctions. In terms of national legislation, no specific legislative act addresses older persons generally, or their autonomy and independence specifically. Social care provided to older persons is governed by the Social Assistance Act and various subordinate rules and regulations. The Social Security Act in Article 4 provides that rights to services and financial social assistance are exercised on the basis of the principles of equal accessibility and free choice of forms and beneficiaries. The Slovene Mental Health Act includes provisions on the deprivation of liberty governing the treatment of (all not just older) persons requiring mental health treatment. The Patient Rights Act determines a patient's right to take part in decision-making regarding their medical treatment and the right to be actively involved in the choice of treatment.

**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.**

Autonomy is implied and guaranteed under the Constitution, as well as various legislative acts. It is important to note that autonomy is also guaranteed under international human rights conventions ratified by the Republic of Slovenia. The National Social Protection Program (2013) provides several guidelines regarding autonomy and independence: accessibility (local, information, physical), availability (price), orientation towards community integration, adaptation to the needs of the user, and integrity. Institutional care services are carried out according to the methods of individual and teamwork, taking into account the general professional principles of activity and autonomy, choice and accessibility. Older persons also have the right to equal treatment when dealing with representatives of institutions.

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

Autonomy and independence should be defined as the freedom to decide about oneself. Autonomy and independence should be defined (as older persons’ right) in all other related laws concerning the elderly population. It should be taken into account that older persons are not a homogenous group, so special attention should be given to vulnerable older persons who need different forms of help. (Decision-making regarding all aspects of life, participation, living arrangements, support services for independent living).

**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?**

Autonomy is implied and guaranteed under the Constitution.

Social protection:

Within the social protection system, older persons enjoy the following rights:

* Financial social assistance
* Permanent social assistance
* Income support/supplementary allowance
* Extraordinary financial social assistance
* Bereavement payment and funeral payment
* Rent subsidy
* Right to coverage of the difference to full cost of health-care services
* Right to the payment of contributions for compulsory health insurance
* Institutional care and home-based care: accessible to all; for those with a low income, subsidised by their municipality.

Social insurance: The pension and disability insurance system in the Republic of Slovenia is based on an inter-generational contract, qualifying as a pay-as-you-go system. The system is uniform and mandatory for all employed persons and those receiving any income from employment or other gainful activities, while inactive persons may join the system on a voluntary basis. The compulsory insurance scheme is regulated by the Pension and Disability Insurance Act (ZPIZ-2) and managed by the same insurance provider, i.e. the Pension and Disability Insurance Institute of Slovenia (ZPIZ).

The right to an **old-age pension depends** on two parameters which must be met cumulatively: the age of the insured person and the pension qualifying period. An insured person may acquire the right to an old-age pension at the age of 65 if the insurance period is at least 15 years. An early old-age pension may be claimed at the age of 60 with a minimum 40 years of pension qualifying period. In special cases, the required retirement age for an old-age pension may be lowered in case of carefor each born or adopted child during the first year of the child’s life**,** compulsory military service or inclusion in the insurance scheme before the age of 18.

**The right to a disability pension** is acquired by an insured person who has been afflicted with a disability (1) of category I; (2) category II and is not able to do full-time work without occupational therapy, to which only those under 55 years of age are entitled; (3) category II and is not able to do part-time work for at least 4 hours daily without occupational therapy; (4) category II or III and who is not offered suitable employment after 65 years of age. Disability means an altered health status which cannot be remedied by treatment or medical rehabilitation, and is established in accordance with the legislation. In the case of disability, the capacity of an insured person to obtain or maintain a job, or to be promoted professionally has been reduced. Disability may be classified into three categories, and may be caused by occupational injury, occupational disease, and illness or injury outside work. The amount of the pension varies according to the cause of disability.

In the case of a **survivor's pension,** certain conditions have to be fulfilled by the insured person and by persons entitled to the pension. A widow, widower or other family member of a deceased insured person or a rightful beneficiary is entitled to a widow/widower pension or survivor’s pension provided that the insured person fulfilled the conditions for entitlement to, or was beneficiary of, early retirement benefit, an old-age pension or a disability pension under compulsory insurance.

A survivor's (widow/er's) pension may be claimed by a widow or widower of a deceased insured person or beneficiary of rights if they are at least 58 years old at the time of the spouse's death, if they are incapable of work, or if they became incapable of work within a year after the spouse’s death, or if they are left with a child or more children who are entitled to a survivor's pension and for whom they have a duty of care.

A survivor's pension may also be claimed by children, stepchildren, grandchildren and other children who were dependent on the insured person, or dependent parents whom the insured person or beneficiary was obliged to sustain pursuant to the regulations governing marriage and family relations. The child of a deceased insured person or a beneficiary of rights is entitled to a survivor's pension until 15 years of age or until the completion of regular schooling, but only up to 26 years of age.

The amount of survivor’s pension is calculated based on the old-age pension or disability pension the insured person would be entitled to at the time of death, or based on the pension the beneficiary was entitled to at the time of death. The survivor’s pension base is determined as a percentage of the above allowance, depending on the type and number of surviving family members: for a single family member, the base is set at 70%; for two family members, at 80%; for three family members, at 90%; and for four family members or more, at 100%.

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

In 2017, the Government of the Republic of Slovenia adopted an Active Aging Strategy, on the basis of which the Council for Active Aging and Intergenerational Cooperation was established. This is a comprehensive and inter-generational body, with a representative of the older generation acting as vice-president. A special chapter of the Strategy is devoted to the protection and enforcement of the rights of older persons, ensuring that human rights protection plays a greater role in future action plans.

**Equality and non-discrimination**

**6. 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 groups in vulnerable situation?**

Article 14 of the Constitution guarantees everyone equal human rights and fundamental freedoms, irrespective of any personal circumstances. Article 21 of the Constitution provides for respect for the human personality and dignity in criminal and all other legal proceedings, as well as when deprived of liberty or subject to punitive sanctions.

**Participation**

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

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**Accountability**

**8) What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for their right to autonomy and independence?**

Autonomy and, consequently, independence are implied and guaranteed under the Constitution.

For vulnerable persons who need residential or home-based care, the following procedures are in place to ensure autonomy and independence.

* Internal control of the contractor (the possibility of giving feedback and making complaints at the reception, in writing or orally with a social worker, head nurse or another responsible person or director of the institution).
* Complaints may also be addressed to the social chambers or to the Chamber of Health and Nursing Care, to establish possible violations of the Code of Ethical Principles in Social Care and Healthcare.
* External inspection (social inspection, health inspection).
* The Ombudsman of the Republic of Slovenia is responsible for the National Preventive Mechanism.