Commissioners for Human Rights of Poland answers for the X Session of the Open-ended Working Group on Ageing

Long-term care 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?

The Constitution guarantees to citizens the right to social security which takes, inter alia, the form of municipalities’ obligation to provide access to institutional long-term care or to assistance at home. The Constitution requires the state to provide special assistance to persons with disabilities. According to the Constitution, public authorities are obliged to provide equal access to health care financed out of public funds, regardless of the material status of the beneficiaries. Pursuant to the *Act on health care services*, beneficiaries are entitled to so-called guaranteed services which include palliative and hospice care services.

The Policy for Older Persons, adopted by the Council of Ministers, does not contain any definition of long-term care, although the document does provide for measures pertaining to such care. Palliative care, however, is not covered by the Policy document at all.

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

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?

On 26 October 2018, the Council of Ministers adopted the document *Social Policy for Older Persons until 2030. Security – Participation – Solidarity* which notes that the measures provided for in the Policy will not generate any extra costs. This raises doubts as to the sufficiency of the supply scale and range of the measures vis-à-vis the real needs of the ageing society. The document mentions projects addressed to older persons in need of support measures:

* reducing dependence on other persons by improving access to services enhancing self-reliance and adapting places of residence to the functional capacity of non-self-reliant older persons,
* ensuring optimum access to health, rehabilitation and care services tailored to the needs of non-self-reliant older persons,
* network of community-based and institutional services for non-self-reliant older persons,
* system for support provision by public institutions to informal guardians of non-self-reliant older persons.

Responding to demographic challenges, the Ministry of Family, Labour and Social Policy has developed a new programme, called “Care 75+”, designed to improve the access to care and specialist services among solitary persons aged 75 and more and living in rural areas. The programme will be continued in 2019.

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

The problem of care provision to older persons and of the **deficit of care services for persons who are ill and/or in need of assistance** is still unresolved. The Polish health care and older persons’ care system is ailing and unprepared for the rapidly changing demographics and the growing numbers of senior citizens. **Support efforts on the local level continue to lack coordination and there are insufficient numbers of geriatricians**, geriatric wards and new geriatric clinics, there are no new methods for diagnosing dementia-related disorders (the experts’ draft National Plan on the Alzheimer Disease is yet to be approved and implemented on the national level). There is insufficient training of physicians, social workers and nursing home personnel in the field of older persons’ care, as well as a lack of an adequate funding system and of support mechanisms for people who provide care to older persons.

Another challenge is the **lack of coordination between the health care sector and the social assistance sector**, leading to difficulties in establishing cooperation between the two on the local level.

**Access to palliative care in Poland is relatively good**, despite the fact that some “uncovered territories” still exist. However, due totheexistinginsufficiencies of the hospice infrastructure and **inadequate financing of palliative care and nursing services by the National Health Fund, access to such care is not unlimited and free choice of a hospice is not an option** available to the patients. Not every person requiring palliative care can get access to it without delay and at the place where he/she would find it convenient. Even though the level of funding of palliative and hospice care is increasing, patients do not always receive services that are optimal from the point of view of their needs. **Palliative and hospice care services are not available to all those in need, but only to patients diagnosed with specific illnesses**. There exist shortages in the number of so-called hospital-based palliative care support teams. The task of these teams is to provide medical advice in the field of palliative care, to facilitate patient’s discharge from a hospital and his/her transfer to a more suitable place, as well as to adequately educate the patients’ families and medical staff. It should be emphasized that in about 70% of the cases, hospice care is provided in the so-called home hospice system, i.e. in the patient’s home.

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?

As in point 1.

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?

See the part on autonomy and independence.

Despite the constitutional principle of subsidiarity and the fact that participation (in addition to security and solidarity) has been identified as one of the pillars of the new Social Policy for Older Persons until 2030, many examples of approaching older persons as objects, rather than as partners, could be indicated. There is a need to change the stereotypical perception of seniors and to shift the approach towards treating older persons as co-authors of measures that address their needs.

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 the regulations, citizens’ complaints against health care institutions and their staff are considered, in the first instance, by the head of the institution and/or by the authority in charge of the health care institution and, insofar as services covered by public health insurance are concerned, also by the voivodeship office of the National Health Fund.

Supervision over the professional conduct of physicians (as well as nurses and midwives) is the domain of the relevant professional association, which is represented by the professional liability supervisor of the relevant regional branch of the Professional Association of Physicians (or of the Professional Association of Nurses and Midwives). Where the conduct of a physician or another health care professional bears the hallmarks of a crime, the proceedings are conducted by the public prosecutor’s office with territorial jurisdiction over the case.

In order to protect patients’ rights, the office of the Patients Ombudsman has been established. The Ombudsman operates pursuant to the Act of 2008 on Patients’ Rights and on the Patients Ombudsman, and is the government administration’s national-level authority for the protection of patients’ rights, as defined in the said Act and in other legislation. According to the said Act, the Patients Ombudsman is required to carry out an explanatory proceeding following the receipt of every report on likely violation of patients’ rights.