

**Extract from the report<sup>1</sup> of the Council of Europe  
Steering Committee for Human Rights (CDDH)  
on the implementation of the Committee of Ministers'  
Recommendation CM/Rec(2014)2  
on the promotion of human rights of older persons**

**(adopted by the CDDH at its meeting held on 27-30 November 2018  
and transmitted to the Committee of Ministers for information)**

**Information pertaining to some of the focus areas of the X and XI session of the UN  
General Assembly Open-ended Working Group Ageing**

**A. Social protection and social security**

1. To promote social protection and employment of older persons, Council of Europe member States have recently reported on the plans and actions to improve living conditions of older persons, and measures to improve access to and quality of employment.
2. In the area of social protection, the issues of allocating financial resources and ensuring sustainability of pension systems appear crucial to maintaining decent living conditions of older persons. Relevant measures taken by member States include a support scheme for pensioners' households with low income (Cyprus), a development programme for housing for older people (Finland), care insurance scheme (Luxembourg), housing allowance and social solidarity benefit (Greece), a supplementary support scheme (Estonia), a cash social assistance (Lithuania), or a solidarity supplement for the elderly (Portugal). The Finnish Act on Supporting the Functional Capacity of the Older Population and on Social and Health Services for Older Persons imposes on different authorities, including the police, the duty to notify social welfare authorities of an older person's service needs, if the older person is obviously unable to take care of himself or herself, his or her health or safety. Regarding employment, Finland, France and Turkey have implemented measures to promote and support active ageing and ensure appropriate working conditions for older persons; this may include also provisions prohibiting setting up of an obligatory retirement age (e.g. in Denmark, new legal provision came into force in January 2016 making it illegal for collective or individual agreements to require employees to retire by the age of 70.). Projects have been undertaken in Cyprus, the Czech Republic, Denmark, Lithuania, Luxembourg, Estonia, France (the "new chance" work contract), setting up incentive schemes to promote employment of older persons. In Belgium, a specific programme to transfer business ownership, targeting older entrepreneurs, has been implemented by the government of Flanders. In Finland, municipalities and the third sector run projects to promote the integration of immigrants aged over 65.

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<sup>1</sup> Based on the answers provided by 21 member States of the Council of Europe (which were also called to indicate their good practices in the relevant areas), namely: Armenia, Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Greece, Ireland, Luxembourg, Lithuania, Netherlands, Poland, Portugal, Slovakia, Switzerland and Turkey. The whole report is available on the CDDH website: <https://rm.coe.int/steering-committee-for-human-rights-cddh-cddh-report-on-the-implemента/1680906e2f>.

3. In its report to the Committee of Ministers, the CDDH observed that member States are bound to ensure a minimum level of well-being for older persons. Many member States have indeed reported on new measures aimed at granting additional resources to older persons in risk of exclusion and at improving their living conditions. Those States which do not provide for such minimum social income should, in the light of the Recommendation, be encouraged to do so. More efforts should also be made in the field of social housing and adaptation of the housing to the needs and state of health of older persons.<sup>2</sup> Relevant rights are notably warranted by the European Social Charter (revised), notably its Article 23.

## **B. Long-term and palliative care**

4. Residential and institutional care has an increasing importance in Council of Europe member States. Most of them have adopted regulations or documents defining the quality of care and standards which should ensure human rights of the residents; this is the case of Belgium, Cyprus, Estonia, Georgia, Greece, Luxembourg and Switzerland. Moreover, initiatives such as the Irish “Nursing Homes Support Scheme”, the “Integrated Assistance Program” of Lithuania or the network of district and local offices implementing relevant programs of the Social Welfare Services in Cyprus were developed to improve access to and the quality of the care needed. In Cyprus, the Care Services Subsidy Scheme covers home, residential, day, respite and child care of persons whose income is not sufficient to cover the cost of their care needs.
5. Platforms and centres were created and studies conducted in Belgium, France, Ireland or Switzerland to raise awareness, provide support and training and contribute to a better understanding of palliative care. In Poland, a programme of free of charge medicines for older persons, called “Programme 75+”, has been developed.
6. According to the CDDH, it is essential that care is affordable for all older persons and that they are assisted with covering the necessary costs. It derives from the member States’ replies that there is now a better understanding of the importance to have affordable home and community care services available, which confirms the trend towards de-institutionalisation. In this regard, member States have implemented programmes enhancing day-care and home-care centres, to avoid, if possible, residential care; it would be advisable to continue efforts in this direction, as well as to develop prevention programmes such as those developed in several member States regarding the early diagnosis of dementia. Notwithstanding that the information provided by member States shows a rather positive picture of the situation in the field of care, very few information has been submitted on the practices pertaining to the consent to medical care and to the issue of palliative care<sup>3</sup>; it should be underlined in this context that older

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<sup>2</sup> In its Recommendation R(94)9 concerning elderly people, the Committee of Ministers observed that adequate housing and social protection systems that take into consideration the needs of particularly vulnerable groups are an essential factor in preventing social exclusion. Moreover, the Council of Europe Commissioner for Human Rights recommended in this respect that States should ensure that their social protection systems, health care and housing policies are suited for older people (*Aged people are too often ignored and denied their full human rights*, Viewpoint of the Council of Europe Commissioner for Human Rights, 28 April 2008).

<sup>3</sup> In this regard, member States are invited to follow the Council of Europe guidelines on the implementation of palliative care in Europe, detailed in the Committee of Ministers Recommendation Rec(2003)24 on the organisation of palliative care.

persons should, in principle, only be placed in residential or institutional care if they have consented<sup>4</sup>.

7. In its report to the Committee of Ministers, the CDDH has furthermore recommended that more attention be given to residential and institutional care also in terms of funding, since economic and budgetary constraints may be a permanent threat and hinder access to such services. For these reasons, sustainable structures should be built. The Council of Europe Human Rights Commissioner has recently noted that, "Very worryingly, research and analyses of national policy reforms indicate that, despite the urgency of rethinking long-term care in the context of rapidly growing ageing population of Europe, many member States are not adequately planning for these future challenges, but are instead improvising, with short-term fixes... It is urgent for member States to thoroughly review, with the participation of older persons, their approach to long-term care in order to make it more human-rights-based".<sup>5</sup> A recent project conducted by the European Network of National Human Rights Institutions (ENNHRI) showed that, in spite of good practices and the hard work and dedication of many care workers, human rights concerns were found in care homes in all six countries concerned. Measures indicated by member States in reply to the questionnaire, aimed at establishing the foundations necessary for a system of long-term care, at ensuring the quality of care and defining standards of care available to persons in long-term and palliative care, as well as at improving access to such care, should thus be continued and implemented in all member States.

### **C. Autonomy and independence**

8. In terms of autonomy and participation, Council of Europe member States have since 2014 adopted a broad range of measures, including educational or other activities aimed at increasing social inclusion of older persons (Austria, Croatia, Cyprus, Estonia, Finland, Luxembourg, Poland) and their participation in the political life (through local advisory councils in Belgium or the programme "e-election" in Estonia), as well as legal measures aimed at protecting older persons in case of loss of autonomy (e.g. the new Family Act adopted in Croatia or amendments introduced to the Civil Code in Lithuania). Other measures intend to increase autonomy through mobility, as the "Social Card" implemented in Cyprus which aims also at encouraging participation in cultural activities, or the cultural passeport (*Kulturpass*) in Luxembourg and the programme "Accessible culture" in Poland which aims at facilitating access of older persons to cultural life. The *Info-Zenter Demenz* in Luxembourg offers information about dementia to persons concerned, their relatives and any other person interested. Important measures were oriented to home care, enabling older persons to stay at their homes as long as possible (actions have been taken in France and in Switzerland through the "Franco-Swiss cross-border Autonomy project 2020"). Various analyses about autonomy and needs of older persons have been conducted in several countries (France, Poland).
9. In its report to the Committee of Ministers, the CDDH noted that valuable efforts have been devoted by member States to enhancing the social inclusion of older persons and their participation in public and cultural life, as well as to improving services for persons

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<sup>4</sup> See *Stanev v. Bulgaria* (no. 36760/06), Grand Chamber judgment of 17 January 2012.

<sup>5</sup> <https://www.coe.int/en/web/commissioner/-/the-right-of-older-persons-to-dignity-and-autonomy-in-care?inheritRedirect=true>

suffering from dementia. However more attention should be paid to increasing information technology literacy of older persons, developing intergenerational activities, promoting self-determination of older persons and enabling them to make their own choices and lead independent lives in their familiar surroundings for as long as they wish and are able. In this regard, reference can be made to the recent report on the review of action taken by member States to follow up Recommendation CM/Rec(2009)11 on principles concerning continuing powers of attorney and advance directives for incapacity, prepared by the European Committee on Legal Co-operation (CDCJ)<sup>6</sup>. Indeed, older persons may suffer serious human rights violations stemming from the disregard of their dignity and, in the view of the CDDH, member States should thus continue reflecting on whether restrictions to older persons' autonomy and independence are necessary or justifiable and, if so, in which cases.

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<sup>6</sup>The [European Committee on Legal Co-operation \(CDCJ\)](#) commissioned a review of the follow-up action by member states of the Council of Europe in relation to the implementation of the recommendation. This Report, entitled [Enabling citizens to plan for incapacity - a review of follow-up action taken by member states of the Council of Europe to Recommendation CM/Rec\(2009\)11](#), was prepared by Mr Adrian D. Ward (Scotland, United Kingdom), and published in June 2018 in accordance with the decision of CDCJ (92nd meeting, 22-24 November 2017).