

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 recognizes the right to autonomy and independence? Do they have a constitutional, legislative or executive foundation?

The civil rights of Austrian citizens were first guaranteed in 1867. These rights, together with the rights of the European Convention for the Protection of Human Rights and Fundamental Freedoms (of 4 November 1950), were adopted and incorporated into the present Constitution by Austria in 1958.

Normative elements

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

Article 7 (1) of the Austrian Constitution states that all nationals are equal before the law and that privileges based on birth, sex, estate, class or religion are inadmissible. No one should be discriminated against because of a disability.

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

Implementation

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

In 2012, following the adoption of Article 11 (2) of the Federal Senior Citizens' Act, Austria adopted a federal plan on aging entitled "Ageing and Future: Federal Plan for Senior Citizens". This long-term research plan aims to ensure and improve the quality of life of older people and to ensure their active participation in all areas of life. Specific recommendations include the economic situation, employment, health, education, older women, generations, housing and mobility, care, social security, media, discrimination and violence, migrants and infrastructure.

Beyond the federal level, each state has developed policies, plans and programs that specifically address older people. Austria's national action plan on disability 2012–2020 also devotes a chapter to older persons with disabilities

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

One challenge is the division of competences, financial coverage and communication between the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, the federal states and social security institutions

One best practice is National Quality Certificate for Old Age and Nursing Homes, which is a nationwide uniform sector-specific outside evaluation procedure for the assessment of the quality of services provided by old age and nursing homes in Austria. The quality of life of residents is at the center of the National Quality Certificate.

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?

The Equal Treatment Act of 2013 prohibits any direct and indirect discrimination (including on the basis of age) in the workplace (incl. agriculture and forestry) and access to and supply of goods and services. At the level of the federal provinces protection against discrimination is extended beyond the employment sphere to housing, social security & benefits and health (with the exception of Lower Austria).

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?

To strengthen the participation of older persons in relation to issues affecting them and to establish an institutionalized dialogue, the Federal Senior Citizens Advisory Council was created. It makes proposals for social, economic, health policy, housing policy and cultural measures in senior citizens' policy.

The Council is the official representation of older persons and has the same status as social partners, in all matters affecting the interests of older persons. It is a mechanism for dialogue between political decision makers and the representatives of older persons to ensure that the concerns of older persons and the proposals on how to address them are brought to the attention of the Government. This body helps to ensure the political participation of older persons.

Accountability

8. 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

The Ombud for Equal Treatment is an independent State agency that consists of three individuals, one of whom deals specifically with discrimination on the grounds of age. Its mandate, however, is limited to the area of employment and occupation. Irrespective of a person's race, ethnic origin, religion, age and sexual orientation, the agency is responsible for counselling and supporting victims of discrimination in relation to employment. It can conduct independent enquiries and surveys, publish independent reports and make recommendations on discrimination-related issues. In practice, it mostly negotiates out-of-court settlements and has almost no role before the courts. It can also, however, initiate proceedings before the Equal Treatment Commission at the request of the person concerned.

The patient and nursing advocates in the federal states are independent institutions of the federal states. They help to represent the rights of patients in the health and hospital area. The Nursing Advocacy protects the interests of people in need of care and assistance, their relatives, personal caregivers or legal representatives. The Ombudsman's Office is an independent inspection body. Their duties are defined in the Federal Constitution and the Ombudsman's Law. As of 1 July 2012, the Ombudsman's office has the

constitutional mandate to protect and promote respect for human rights under a UN mandate. Together with six regional commissions, institutions are inspected in which personal freedom can be withdrawn or restricted, for example in prisons or nursing homes.