



Strasbourg, 21 May 2013

CDDH-AGE(2013)R3

**STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)**

**Drafting Group on the Human Rights of Older Persons
(CDDH-AGE)**

Meeting report

3rd meeting

Wednesday 15 May 2013 (9:30 a.m.) – Friday 17 mai 2013 (1:00 p.m.)
Council of Europe
Agora, Room G05

Item 1: Opening of the meeting and adoption of the agenda

1. The Drafting Group of the CDDH on the Human Rights of Older Persons (CDDH-AGE) held its third meeting in Strasbourg on 15-17 April 2013 with Mr Jakub WOLASIEWICZ (Poland) in the Chair. The list of participants can be found in Appendix I. The agenda as adopted and the references to the working documents appear in Appendix II.

Item 2: Discussion on the revised draft non-binding instrument on the promotion of the human rights of older persons

2. The Group discussed the draft instrument prepared by the Secretariat section by section and paragraph by paragraph, considering the relevant comments provided by delegations in writing prior to the meeting. The draft instrument as discussed and revised by the Group appears in Appendix III¹.

3. With regard to the Preamble, the Group agreed on a number of amendments. It agreed in particular on the way to refer to the UN Convention on the rights of persons with disabilities, and on a revised drafting of the paragraph underlining the need to take effective measures to ensure the full enjoyment of their human rights.

4. Concerning the body of the Recommendation, the Group agreed to propose that governments internally evaluate the effectiveness of the measures taken to comply with the principles set out in the Recommendation and in its appendix, and to provide examples and further clarification about possible ways to carry out such evaluation in the explanatory report. It was also agreed that the examination of the implementation of the recommendation by the Committee of Ministers should be carried out five years after the adoption of the Recommendation.

5. As regards Section I (“Scope and general principles”) of the Appendix, the Group agreed that, also in the light of the guidance provided by the CDDH, the first two paragraphs of the Appendix should respectively indicate the purpose and the scope of application of the recommendation. It also agreed on a number of drafting changes to the other provisions of this Section.

6. The Group decided that the examples contained in paragraphs 4 and 5 of Section II (“Non-discrimination”) about particularly relevant grounds of discrimination and multiple discrimination should be better placed in the explanatory memorandum, and agreed that it would not be appropriate for this instrument to encourage member States to ratify Protocol No. 12 to the European Convention on Human Rights.

7. As regards Section III, the Group agreed to change the title into “Autonomy and participation”, and to include in it a more general provision about the possibility for older persons to interact with others and to fully participate in social, cultural and learning activities, as well as to public life.

8. The Group also discussed the compatibility of the proposed provisions about autonomy and legal capacity with the UN Convention on the rights of persons with disabilities. In this respect, it was noted that while this Convention constitutes a very important source of reference, its provisions could not be simply applied as they stand to the situation of older persons, in particular since the latter may not be systematically assimilated to persons with disabilities. It was therefore agreed to redraft the relevant provisions of the draft recommendation and to include explicit references to possible limitation of their

¹ Appendix III has been renumbered, while the numbers and titles referred hereinafter refer to the original version of the draft recommendation, as contained in document CDDH-AGE(2013)01.

autonomy and legal capacity, while ensuring consistency with the principles set out in the Convention, especially as regards safeguards against abuses.

9. The Group agreed to include in Section IV – Violence and abuse a specific provision on financial abuse which appeared previously in Section III. It also redrafted other provisions of the Section according to the proposals made by the participants, for instance by merging paragraphs 16 and 17 and by moving the example contained in paragraph 18bis to the explanatory report.

10. It was decided to change the title of Section V into “Social protection and employment” and to delete from this section the provisions explicitly encouraging the ratification of Council of Europe Conventions other than the European Social Charter, as well as the provisions referring to specific Articles of the European Social Charter.

11. The Group agreed to merge Sections VI, VII and VIII into a single section entitled “Care”, with sub-sections, in order to avoid redundancies and to indicate that most provisions are applicable irrespective of whether care is provided at home, in residences, in institutions or elsewhere. As a result, a number of provisions were moved to the explanatory memorandum.

12. It was agreed to redraft the provisions about consent to medical care and possible exceptions thereto, with a view to their simplification and to ensure consistency with existing Council of Europe and other international standards. In addition, the Group agreed to reintroduce in the text a more explicit reference to the right to freedom of movement, and a provision concerning the possibility of complaining about deficiencies in the quality of institutional care.

13. The last Section of the draft was renamed “Administration of justice and its structure was reorganised. In addition, the Group agreed to add a provision indicating that consideration should be given to alternatives to detention of older persons.

14. The Group considered that the text of the Recommendation and of the Appendix, with the exclusion of the good practice boxes (see item 3 below) and without prejudice to possible further comments by the CDDH, could be considered as finalised.

Item 3: Discussion on the elements of good practices on the protection of the human rights of older persons

15. The Group instructed the Secretariat to forward to the CDDH for information the compendium of good practices received so far and to publish it on the Council of Europe website, and agreed that, in the light of the changes made to the draft recommendation, additional time should be given to delegations to submit examples of good practices. It was therefore agreed that CDDH and CDDH-AGE members and observers wishing to provide further examples of good practices should send them to the Secretariat by 28 June at the latest.

16. The Group did not discuss at this stage the examples of good practices included in the draft recommendation, and instructed the Secretariat to revise it before the next meeting in the light of new examples to be provided by delegations. At the next meeting the Group will agree on the examples to be included in the draft and on the way they should be presented (i.e. either after each relevant provision or at the end of each Section or Sub-section).

Item 4: Discussion on the preliminary draft explanatory memorandum to the revised draft non-binding instrument on the promotion of the human rights of older persons

17. Having regard to the preliminary draft explanatory memorandum and to the changes to the draft recommendation agreed at this meeting, the Group provided guidance to the Secretariat for the revision of the document in view of its discussion at the next meeting.

Item 5: Other business

18. The Group noted that the results of the third meeting will be discussed by the CDDH at its next meeting (25-28 June). On the basis of the discussion, the CDDH will provide instructions to the CDDH-AGE for its final meeting.

19. The fourth and last meeting of the CDDH-AGE will be held in Strasbourg on 25-27 September 2013.

APPENDIX I

LIST OF PARTICIPANTS

MEMBER STATES/ETATS MEMBRES

AUSTRIA / AUTRICHE

Mr Markus WINDEGGER (A.E.I.S.), Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Excused/Excusé

FINLAND / FINLANDE

Ms Päivi ROTOLA-PUKKILA, Legal Officer, Ministry for Foreign Affairs, Unit for Human Rights Courts and Conventions

FRANCE

Mme Karine MANACH, Sous-direction des droits de l'Homme, Direction des affaires juridiques, Ministère des Affaires Etrangères, Paris

M. Alexis RINCKENBACH, Chef de Bureau, Direction générale de la cohésion sociale, Bureau des affaires européennes et internationales, Paris

GERMANY / ALLEMAGNE

Ms. Judith HILKER, Referentin, Federal Ministry of Justice, Berlin

GREECE / GRÈCE

Mme Athina CHANAKI, Conseiller juridique adjoint auprès du Service Juridique/Section de droit international public du Ministère grec des Affaires étrangères. Athènes.

ITALY / ITALIE

Dr. Alfredo FERRANTE, M.A., Head of Disabilities Policies Unit, Directorate General for Inclusion and Social Policies, Ministry of Labour and Social Policies, Rome

LATVIA/LETTONIE

Mr Emils PLAKSINS, Lawyer of the Agent's Bureau, Ministry of Foreign Affairs, Riga

POLAND / POLOGNE

Mr Jakub WOLASIEWICZ, [*Chair/Président*], Consul General in Donetsk, Ukraine

Mr Jerzy CIECHANSKI, Counsellor to the Minister, Department of Economic Analyses and Forecasts, Ministry of Labour and Social Policy, Warsaw

Mr Tomasz TADLA, Ministry of Foreign Affairs, Department of Proceedings before International Human Rights Protection Bodies, Warsaw

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mme Maria MOLOTSOVA, 1st Secretary, Department for International Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs, Moscow

SPAIN / ESPAGNE

M. Manuel Montero Rey, Head of International Service of IMSERSO (Institute for Older Persons and Social Services), Ministry of Health, Social Services and Equality (Spain), Madrid

SUISSE / SWITZERLAND

Mme Dominique STEIGER LEUBA, [*Vice-Présidente/Vice-Chair*], Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Domaine de direction Droit public, Unité Droit européen et protection des droits de l'Homme, Bern

TURKEY / TURQUIE

Ms Gönül ERÖNEN, Adjointe au Représentant permanent de la Turquie auprès du Conseil de l'Europe, Strasbourg

Mr Basrı YILDIZ, Legal Expert, Représentation permanente de la Turquie auprès du Conseil de l'Europe Strasbourg

UNITED KINGDOM / ROYAUME-UNI

Mr Rob LINHAM, Head of Council of Europe Human Rights Policy, Ministry of Justice, London,

PARTICIPANTS

Assemblée Parlementaire du conseil de l'Europe / Parliamentary Assembly of the Council of Europe

Mme Maren Lambrecht – Feigl, Secrétariat de l'Assemblée Parlementaire

European Committee on Legal Co-operation / Comité européen de coopération juridique (CDCJ)

Excused/Excusé

Conference of INGOs of the Council of Europe / Conférence des OING du Conseil de l'Europe

Excusé/excused

Union européenne / European Union

M. Giovanni Carlo BRUNO, Adjoint au Chef de la Délégation de l'Union Européenne auprès du Conseil de l'Europe, Strasbourg

M. Nicolas Serrano, Délégation de l'Union Européenne auprès du Conseil de l'Europe, Strasbourg

AGE-Platform Europe

Mrs Athina-Eleni GEORGANTZI, Legal Officer, Bruxelles

European Group of National Human Rights Institutions

Dr. Claudia Mahler, Department Legal Research Germany/ Europe, Legal Research and Policy, German Institute for Human Rights, Berlin, Germany

Conference of European Churches / Conférence des églises européennes (KEK)

Revd Richard FISCHER, Executive Secretary, Strasbourg, France

Global Alliance for the Rights of Older People

Mr Ken BLUESTONE, International Political and Policy Adviser, Age UK, London, UK

Mexique/Mexico

Alejandro Martinez Peralta, Chargé d'affaires, a. i., Mission Permanente du Mexique auprès du Conseil de l'Europe, Strasbourg, France

Mlle María del Carmen Olazabal Cardona, Attachée, Mission Permanente du Mexique auprès du Conseil de l'Europe, Strasbourg, France

SECRETARIAT

**DG I – Human Rights and Rule of Law / Droits de l'Homme et État de droit
Council of Europe / Conseil de l'Europe, F-67075 Strasbourg Cedex**

Mr Daniele CANGEMI, Head of Division / Chef de Division, Human Rights Law and Policy Division / Division du droit et politique des droits de l'homme

Mme Severina SPASSOVA, Lawyer, Human Rights Law and Policy Division / Juriste, Division du droit et de la politique des droits de l'Homme

Mme Valérie PEARD, Principal Assistant, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'homme

Mme Frédérique BONIFAIX, Assistant / Assistante, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'homme

Bioéthique / Bioethics

Mme Laurence LWOFF, Administratrice / Administrator

Service de la Charte Sociale européenne et du Code européen de sécurité sociale / Department of the European Social Charter and Social Security Code

Ms Patrycja POGODZINSKA, Administratrice/Administrator

INTERPRETERS / INTERPRÈTES

Sylvie BOUX

Michael HILL

Sara WEBSTER

APPENDIX II

AGENDA

Item 1: **Opening of the meeting and adoption of the agenda**

Item 2: **Discussion on the revised draft non-binding instrument on the promotion of the human rights of older persons**

Working Documents

Revised draft Recommendation of the Committee of Ministers to member states on the promotion of the human rights of older persons	CDDH-AGE(2013)01
Excerpts of the report of the 76 th and 77 th CDDH meetings concerning CDDH-AGE	CDDH-AGE(2013)03
Compilation of comments from members of the Committee on Bioethics (DH-BIO)	CDDH-AGE(2013)05 <i>restricted</i>
Comments from the European Trade Union Confederation (ETUC)	CDDH-AGE(2013)06
Comments of the Office of the High Commissioner for Human Rights (OHCHR) on the draft Recommendation	CDDH-AGE(2013)07
Comments of the European Group of National Human Rights Institutions on the draft Recommendation	CDDH-AGE(2013)08
Comments of Age-Platform Europe (AGE) on the draft Recommendation	CDDH-AGE(2013)09
Member States' comments on the draft Recommendation CM/Rec(20...)...	CDDH-AGE(2013)10

Reference documents

Report of the 2nd CDDH-AGE meeting	CDDH-AGE(2012)R2
Report of the 1st CDDH-AGE meeting	CDDH-AGE(2012)R1
Preliminary study on the promotion of the human rights of the elderly	CDDH(2012)002
Compendium of the case-law of the European Court of Human Rights concerning the human rights of the elderly	CDDH-AGE(2012)01
Selection of relevant Council of Europe texts concerning the human rights of the elderly	CDDH-AGE(2012)02
Reports of the United Nations Open-ended Working Group on Ageing	CDDH-AGE(2012)03

Activities carried out by the Committee on Bioethics (DH-BIO) which may be of relevance with regard to the protection of fundamental rights of elderly persons

CDDH-AGE(2012)05

Item 3: **Discussion on the elements of good practices on the protection of the human rights of older persons**

Working Document

Compendium of good practices

CDDH-AGE(2013)04

Item 4: **Discussion on the preliminary draft explanatory memorandum to the revised draft non-binding instrument on the promotion of the human rights of older persons**

Working Document

Preliminary draft explanatory memorandum to the draft Recommendation of the Committee of Ministers to member States on the promotion of the human rights of older persons

CDDH-AGE(2013)02

Item 5: **Other business**

APPENDIX III

Draft Recommendation CM/Rec(20...)... of the Committee of Ministers to member states on the promotion of the human rights of older persons

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its member states, *inter alia*, by promoting common standards and developing actions in the field of human rights;

Bearing in mind notably the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) in the light of the relevant case law of the European Court of Human Rights, the European Social Charter (ETS No. 35), opened for signature in 1961 and revised in 1996 (ETS No. 163), in particular its Article 23 (Right of elderly persons to social protection), in the light of its interpretation by the European Committee of Social Rights, as well as the relevant provisions of the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164);

Taking into account the Committee of Ministers' Recommendations CM/Rec(2011)5 on reducing the risk of vulnerability of elderly migrants and improving their welfare, CM/Rec(2009)6 on ageing and disability in the 21st century, and No. R(94)9 concerning elderly people;

Having regard to the Parliamentary Assembly's Resolution 1793 (2011) on promoting active ageing: capitalising on older people's working potential, Recommendation 1796 (2007) on the situation of elderly persons in Europe, Recommendation 1749(2006) and Resolution 1502(2006) on demographic challenges for social cohesion, Recommendation 1591(2003) on challenges of social policy in Europe's ageing societies, Recommendation 1619 (2003) on the rights of elderly migrants, as well as Recommendation 1418(1999) on the protection of the human rights and dignity of the terminally ill and the dying;

Recalling the provisions relevant to older persons in the United Nations Convention on the Rights of Persons with Disabilities and in the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe (2006-2015);

Having regard to the relevant conventions and instruments, as well as to the ongoing work of the United Nations, notably the United Nations Principles for Older Persons (1991), the International Plan of Action on Ageing (MIPAA) and the Regional Implementation Strategy for Europe;

Conscious of the demographic changes in Europe and the ever-increasing number of older persons in our societies;

Stressing that the great increase in life expectancy which has taken place in the past century should not be perceived as a burden for society but as a positive trend;

Recalling that older persons form an important human, social and economic asset within society;

Reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated, and their full enjoyment, without any discrimination, by older persons needs to be guaranteed;

Recognising that older persons may be victims of abuse and neglect and that their human rights have been ignored or denied, and stressing therefore that effective measures should be taken to ensure the full enjoyment of their human rights.

Recognising that solidarity and respect between generations is of great importance and should be encouraged, both in the family and on the individual level, as well as on the private and public institutional level;

Stressing that older persons should be able to fully and effectively participate and be included in society and that all older persons should be able to live their lives in dignity, security, free from discrimination, isolation, neglect and abuse, and as autonomously as possible;

Recommends that the governments of the member states:

1. ensure that the principles set out in the appendix to this recommendation are complied with in national legislation and practice relating to older persons, and evaluate the effectiveness of the measures taken;
2. ensure, by appropriate means and action - including, where appropriate, translation - a wide dissemination of this recommendation among competent authorities and stakeholders, with a view to raising awareness of the human rights and fundamental freedoms of older persons;
3. examine, within the Committee of Ministers, the implementation of this recommendation five years after its adoption.

Appendix to Recommendation CM/Rec(20...)...

I. Scope and general principles

1. The purpose of the present recommendation is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all older persons, and to promote respect for their inherent dignity.
2. The present recommendation applies to persons whose older age constitutes, alone or in interaction with other factors, including perceptions and attitudes, a barrier to the full enjoyment of their human rights and fundamental freedoms and their full and effective participation in society on an equal basis. It takes note that Council of Europe Member States have identified chronological ages at national level whereby persons enjoy specific rights for being older.
3. Older persons shall fully enjoy the rights guaranteed in the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: “European Convention on Human Rights”) and the Protocols thereto, the European Social Charter opened for signature in 1961 and revised in 1996, and other relevant international human rights instruments, to the extent that member states are bound by them.
4. Older persons should have access to sufficient information about their rights.

II. Non-discrimination

5. Older persons shall enjoy their rights and freedoms without any discrimination on any grounds, including age.
6. Member states should consider making explicit reference to “age” in their national anti-discrimination legislation.
7. Member states should take effective measures to prevent multiple discrimination of older persons.

Good practices:

Austria adopted in 2012 a “Federal Plan for Older Persons”, elaborated with the participation of older persons, which forms a cornerstone of that country’s policy regarding older persons. The plan contains, *inter alia*, measures against age discrimination, including multiple discrimination, and awareness-raising measures concerning older people in the job market.

Finland established a “National Programme on Ageing Workers” and the “Finnish Workplace Development Programme” which helped increasing the employment rate amongst older persons and their well-being at work. It has also introduced a job application model that emphasises the applicant’s skills and aims at decreasing the impacts of factors such as nationality, age or gender.

Germany established an independent Anti-Discrimination Agency which organises awareness events on age discrimination and awards a prize to small and medium-sized companies for applying innovative strategies for the promotion of teams of workers of all ages. It also established a committee of experts to make proposals for further action to eliminate age discrimination. Concerning older migrants, some nursing homes and specific institutions have developed special units to enable them to receive care in an environment that respects their cultural and social way of life (e.g. religion-based day structure or special nutrition).

Serbia has appointed a “Commissioner for the Protection of Equality” which has issued several recommendations on age discrimination, including in areas such as employment (e.g. abolishing vacancy announcements referring to age) or access to financial services.

Sweden has strengthened in January 2013 the protection against age discrimination by including in the Swedish Discrimination Act areas such as social protection, health care, access to goods and services as well as working life.

The *United Kingdom* brought into force in October 2012 relevant provisions in its Equality Act 2010, banning age discrimination in the provision of goods, facilities and services, the exercise of public functions, and the running of public clubs and associations. The Government also negotiated agreements with several insurance associations with regard to older customers in areas such as motor and travel insurance.

The *Organisation for Economic Cooperation and Development* (OECD) published in 2006 the report “Live longer, work longer” aimed at discussing employment and negative social policies, practices and attitudes that discourage work at an older age and are at the same time considered as costly for business, the economy and society as a whole.

III. Autonomy and participation

8. Older persons enjoy inherent dignity. They are entitled to lead their lives independently, in a self-determined and autonomous manner. This encompasses *inter alia* the taking of independent decisions with regard to all issues which concern them, including those regarding their property, income, finances, place of residence, health, medical treatment or care, as well as funeral arrangements. Any limitations should be provided with appropriate and effective safeguards to prevent abuse.

9. Older persons should have the possibility to interact with others and to fully participate in social, cultural and education and training activities, as well as to public life.

10. Older persons have the right to dignity and respect for their private and family life, including respect for their sexual intimacy, to the fullest extent.

11. Older persons enjoy legal capacity on an equal basis with others.

12. Older persons should be able to receive support in exercising their legal capacity when they feel the need for it, including appointing a trusted third party of their own choice to help with their decisions. Such appointed party should support the older person on his or her request and in conformity with his or her wishes.

13. Member states should provide for legislation which allows older persons to regulate their affairs in the event that they are unable to express their instructions at a later stage.

14. Member states should ensure that all measures that relate to the exercise of legal capacity of older persons, including possible restrictions which may be required for protection purposes, provide for appropriate and effective safeguards to prevent abuse. The safeguards should be proportional to the degree to which such measures affect the older person's rights and interests.

Good practices:

Denmark has adopted a new dementia strategy with specific recommendations to strengthen and improve service for persons suffering from dementia. It also allocates funds to support activities for such persons and their families.

Germany has produced a brochure containing comprehensive information on fraud and scam targeted at old age pensioners. Moreover, training programmes for bank staff provides them with information about these scams and how to recognise potentially critical situations for older persons.

Greece has established in 2012 a programme to assure autonomy for older persons in their own homes through the organisation of social work, psychological support, psychotherapy and domestic help. The programme also encourages the participation of older persons in cultural activities, and seeks to avoid of social exclusion as well as to assure that older persons live in conditions not contrary to their dignity.

In *Turkey* day support/solidarity services are provided to older persons at home in order to strengthen social relationships and lead a healthy life (legal and social security consultancy services, social and cultural activities etc.)

Various states (the *Netherlands*, *Switzerland*, *United Kingdom*) provide for the possibility of an act whereby a person can make arrangements for a third person to be authorised to make decisions on his or her behalf once the person becomes incapable. In addition, or as an alternative, a power of attorney may be granted to a trusted person to make decisions concerning financial affairs and medical care treatment in accordance with the wishes set out in that document.

IV. Protection from violence and abuse

15. Member states should protect older persons from violence, abuse, and intentional or unintentional neglect. Such protection should be granted irrespective of whether this occurs at home, within an institution or elsewhere.

16. Member states should provide for appropriate awareness-raising and other measures to protect older persons from financial abuse, including deception or fraud.

17. Member states should implement sufficient measures aimed at raising awareness amongst medical staff, care workers, informal carers or other persons who provide services to older persons to detect violence or abuse in all settings, to advise them on which measures to take if they suspect that abuse has taken place and in particular to encourage them to report abuses to competent authorities. Member states should take measures to protect persons reporting abuses from any form of retaliation.

18. Member states shall carry out an effective investigation into credible claims that violence or abuse against an older person have occurred, or when the authorities have reasonable grounds to suspect that such ill-treatment has occurred.

19. Older persons who have suffered from abuse should receive appropriate help and support. Should member states have failed to meet their positive obligation to protect those persons, older persons are entitled to an effective remedy before a national authority and, where appropriate, to receive adequate redress for the harm suffered in reasonable time.

Good practices:

Austria organises workshops, aimed at creating regional expertise in counseling older persons in cases of violence and creating regional advisory contact points for providing help and counseling.

Some states (such as *Belgium* and *France*) established a central helpline to report abuse cases. Local support points do home visits, propose solutions to improve the older person's situation and also offer free advice and training.

Finland adopted an action plan to reduce violence against women for the period 2010-2015 which also envisaged measures concerning older persons. Moreover, the Finnish "Association of the Shelters of the Aged" seeks to prevent violence against older persons and to raise awareness, e.g. by maintaining telephone helplines and providing other forms of support.

Germany established the programme "Safeguarding the elderly" which helps to implement preventive approaches, such as the use of women's shelter for older women to be protected from domestic violence, counseling centers for older victims of abuse and the bolstering of the potential of non-residential care staff to act as instances of prevention through awareness-raising and training. Given that the risk of suffering a death from an unnatural cause which remains

undetected is highest if the victim is an older person, an interdisciplinary group of experts has developed a guide (including a checklist) for medical professionals to better detect homicide of older persons.

The *Netherlands*, in the Dutch province of Noord-Holland, developed a protocol to combat abuse of older persons, to be used by external people who have occasionally contact with older persons in residential care (e.g. hairdressers) in order to be able to recognise signs of abuse within the limits of their responsibilities. The protocol also gives advice about what to do when suspecting abuse and how to contact specific support points in such cases.

The national plan of action on ageing in *Turkey* foresees to provide vocational training to people working with older persons in order to help detecting abuse and negligence and taking measures in this respect, and the establishment of a reporting mechanism.

Portugal has established a programme for the security of older persons which is being implemented by the police to guarantee better security, e.g. by establishing in homes of older persons direct phone lines to police stations.

The *United Kingdom* ensured in its legislation that employers and voluntary organisations have access to information about an individual's criminal record concerning persons providing personal care to older persons to ensure that they do not pose a risk to older persons. The country also has a special prosecution policy for crimes against older people to enable better tracking of those crimes. Special advocacy services for older people (such as the organisation "Victim Support") provide support to older victims that goes beyond the criminal justice system.

The European Project "Breaking the Taboo", co-financed by the *European Commission* and carried out by project partners from *Austria, Finland, Italy, Poland* and *Germany* in collaboration with partners from *Belgium, France* and *Portugal*, has issued a brochure on "Violence against older women in families: recognising and acting" aimed at raising awareness amongst and giving guidance to staff members of care homes and health and social service organisations.

V. Social protection and employment

20. Older persons should receive appropriate resources enabling them to have an adequate standard of living and participate in public, economic, social and cultural life.

21. Member states should take measures to facilitate mobility of older persons and proper access to infrastructure for them.

22. Member states should provide adequate measures of support to enable older persons to have housing adapted to their current and future needs.

23. Member states should promote, either by public institutions or in co-operation with non-governmental organisations or with the private sector, sufficient supplementary services such as day care, nursing care or preparation of meals.

24. Member states which have not yet ratified the European Social Charter (revised) and the Additional Protocol to the European Social Charter providing for a system of collective complaints (ETS No. 158) should consider doing so. Those which have already ratified the revised Charter, but are not yet bound by Article 23 (Right to social protection of older persons), should consider declaring that they consider themselves to be bound by that provision.
25. Member states shall ensure that older persons do not face discrimination in employment, including on grounds of age, in both the public and private sector. This should include aspects such as conditions for access to employment (including recruitment conditions), vocational training, working conditions (including dismissal and remuneration), membership in trade unions or retirement. Member states should ensure that any difference in treatment is justified by furthering a legitimate aim of employment policy and by being proportionate to achieve that aim.
26. Member states should direct their employment policies towards promoting participation of older persons in the labour market.
27. Member states should pay specific attention to safety and health problems of older workers in their respective programmes, action plans and other relevant policy action.

Good practices:

Estonia has developed in 2012 a policy framework envisaged to establish a comprehensive ageing strategy policy covering social, labour, educational and health policies to be adopted in 2013.

In *Finland*, employers have arranged for flexible working hours for older persons and implemented a programme on well-being at work for older workers. Authorities have introduced a toolkit for “age management”, including a guide for aged employees and their employers. Moreover, grants can be made on social grounds for repairs to housing used by older persons and the disabled, and can cover up to 40% of the approved repair costs. In exceptional cases, grants can cover up to 70% of the costs if an old or disabled person would otherwise have to move out permanently because of obstacles to movement or because they could not be provided with the social and health services they need in the existing facilities. Concerning employees suffering from Parkinson, the “Finnish Parkinson Association” carries out a project together with a local Parkinson association on “Parkinson at work” to improve the well-being of those employees.

One of the objectives of the national plan of action on ageing in *Turkey* is to provide employment opportunities for all older persons wishing to work. This includes supporting older persons working in agriculture through teaching of new techniques and technologies and facilitating access to infrastructural and financial services.

In *Ireland*, government policy is to support older people to remain in their own homes for as long as possible. A person can apply for local authority housing if in need of housing and unable to afford it from his or her resources. In assessing an application the local authority will consider any special circumstances including age. There is also a scheme under which voluntary housing

bodies provide accommodation to meet special housing needs such as those of older persons. As regards the adaptation of homes, an essential repairs grant scheme administered by the local authorities is directed primarily at providing grant aid to older persons living in poor housing conditions.

Poland has established so-called “Third Age Universities” which are organising educational events for older persons in compliance with the philosophy of lifelong learning. The national “Programme for the Social Activity of the Elderly 2012-2013” focuses on education of older persons, their social activity and integration and participation as well as on social services for older persons.

Portugal established a voluntary initiative in cooperation with local communities to avoid isolation of older persons living by themselves and to create an aid platform.

The *United Kingdom* has allocated to local authorities a fund which helps to enable disabled people to live as comfortably and independently as possible in their homes. A further fund supports local handypersons services which provide help with small repairs, *inter alia* to older persons. Most older people also receive an annual payment to help with fuel bills. Moreover, the country also introduced in 2010 the Default Retirement Act, according to which individuals can no longer be forced to retire because they have reached a certain age. Employers may still set a fixed retirement age of it can be justified in particular circumstances, which may however be challenged before a tribunal.

VI. Care

A. General Principles

28. In order to maintain and improve the health and well-being of older persons, member states should guarantee that appropriate health and long-term quality care is available and accessible.

29. Services should be available within the community to enable older persons to stay as long as possible in their own homes.

30. In order to better assess and fulfil the needs of older persons, Member states should promote a multi-dimensional approach to health and social care for them and encourage cooperation of competent services.

31. Care providers shall treat any sensitive personal data of older persons confidentially and carefully in accordance with their right to privacy.

32. Care should be affordable for older persons and programmes should be in place to assist older persons, if necessary, with covering the costs.

33. Care givers should receive sufficient training and support to adequately ensure the quality of the services provided. Where older persons are being cared for at home by informal carers, the latter should likewise receive sufficient training and support to ensure that they are able to deliver the care needed.

34. Member states should operate a system through which care delivery is regulated and assessed.

Good practices:

Denmark has in some municipalities increased focus on training as an alternative to conventional home care services such as assisted living programmes. The country is also making increased use of “welfare technology” (e.g. vacuum cleaning robots in nursing homes) for the care of older persons whenever this increases the quality of care and reduces costs.

Estonia has developed guiding principles for informal carers.

Finland established a project to actively engage older people who suffer from loneliness, in particular those who are in hospitals, day care centers and residential care institutions.

France adopted in 2003 a “Charter of the rights and liberties of cared persons” which recognises the right to privacy, including intimacy, security and data protection. Moreover, the non-profit organisation “Vacances Ouvertes” help informal carers such as family members to take a break and go on holidays while professional carers take care of the dependent person. Informative leaflets enable the creation of social networks and activities on the issue of care.

In *Ireland*, a home care package initiative is aimed at older people who need more assistance to continue living in the community. The package includes services of nurses, home care attendants, home helps and various therapists (including physiotherapists and occupational therapists).

In *Italy* (province of Siena), the organisation “Un Euro all’Ora” as the Italian member of the European Anti-Poverty Network launched a programme to prevent burn-out amongst informal carers and support them.

In *Turkey*, relatives taking care of older persons in need of care them receive a monthly financial care support. In addition, support services are provided at home to improve living conditions of older persons and assist them in daily activities (household small repairs, guidance on providing medical equipment, shopping, personal care, cooking, cleaning etc.)

In the *United Kingdom*, the British Geriatric Society started an awareness campaign “Toilet access and use” to promote the privacy and intimacy of dependent care recipients.

The *Confederation of Family Organisations in the European Union* (COFACE), a civil society umbrella organisation aimed at solidarity between generations, has developed a “Charter for

family carers” which aims to recognise the rights of family carers and highlights their role and challenges.

B. Consent to medical care

35. Older persons should receive medical care only upon their free and informed consent, and may freely withdraw consent at any time.

36. In case an older person is unable, in the particular circumstances, to convey a decision, the wishes expressed by that person relating to a medical intervention, including life-prolonging measures, should, in accordance with national law, be taken into account.

37. Where an older person does not have the capacity to consent to an intervention, in particular because of a mental disability or a disease, the intervention may only be carried out with the authorisation of his or her representative or an authority or a person or body provided for by law. The older person concerned should as far as possible take part in the authorisation procedure. Appropriate and effective safeguards should be provided to prevent abuse.

38. When because of an emergency situation the appropriate consent cannot be obtained, any medically necessary intervention may be carried out immediately for the benefit of the health of the older person concerned. Appropriate and effective safeguards should be provided to prevent abuse.

C. Residential and institutional care

39. Member states should provide for sufficient and adequate residential services for those older persons who are no longer able or do not wish to reside in their own homes.

40. Older persons who are placed in institutional care have the right to freedom of movement. Any restrictions must be lawful, necessary and proportionate and in accordance with international law. There should be adequate safeguards for review of such decisions. Member states should ensure that any individual constraints for an older person should be implemented with the consent and for the safety of that person.

41. Member states should ensure that there is a competent and independent authority or body responsible for the inspection of both public and private residential institutions. Member States should provide for easily accessible and effective complaint mechanisms and redress about any deficiencies in the quality of care.

42. Older persons in principle should only be placed in residential, institutional or psychiatric care with their consent. Any exception to this principle must fulfill the requirements of the European Convention on Human Rights, in particular the right to liberty and security (Article 5).

Good practices:

Austria introduced a national quality certificate for care homes for older persons based on a unified and objective process for assessing the quality of services. Aimed at providing incentives to improve the quality of care homes, the assessment is based on criteria such as the level of satisfaction of older persons living and staff working in those homes as well as the organisation of daily routines to meet the needs of older persons.

In *Finland*, a regional association is constructing a community house with 35 apartments for older persons for those who can manage their everyday life by themselves as an alternative to residential institutions for older persons. Common meals and activities are being organised.

Ireland enacted a nursing homes support designed to remove financial hardship from many individuals and their families who would otherwise have to sell or re-mortgage homes to pay for the cost of nursing home care. Support under this scheme is irrespective of whether the person is in a public, private or voluntary nursing home.

Sweden established a project “Cultural activities for seniors – Culture and Health” aimed at creating opportunities and cultural activities for older people.

D. Palliative care

43. Member states should offer palliative care for older persons who suffer from a life-threatening or life-limiting illness to ensure their wellbeing and allow them to die with dignity.

44. Any older person who is in need of palliative care should be entitled to access it without undue delay, in a setting which is consistent with his or her needs and preferences, including at home and in long-term care settings.

45. Family members and friends should be encouraged to accompany older persons who are terminally ill or dying. They should receive professional support, for example by ambulatory palliative care services.

46. Health care providers involved in palliative care should fully respect patients’ rights, and comply with professional obligations and standards.

47. There should be trained specialists in the field of palliative care to lead education and research in the field. Programmes of palliative care education should be incorporated into the training of all concerned health and social care workers and cooperation of professionals in palliative care should be encouraged.

48. Member states should ensure the adequate availability and accessibility of palliative care medicines.

49. In the organisation of their national palliative care systems, member states should take into account the Committee of Ministers' recommendation Rec(2003)24 to member states on the organisation of palliative care.

Good practices:

Austria has in the province of Styria a network of mobile palliative care teams composed of medical doctors, care staff and social workers to collaborate free of charge with family doctors and carers for the benefit of older persons. Palliative care teams receive training and supervision prior and during their service.

Germany has established a charter for the care of the critically-ill and dying in 2008 which contains guiding principles in the areas of social policy challenges, needs of the individual, requirement of training, research and learning. The Robert Bosch Foundation gives geriatric nurses and care assistants the opportunity to learn basic skills in palliative care. A coordination office supervises palliative practice and serves as a source of information for schooling programmes. Moreover, non-residential hospice services which are subsidised by health insurance funds support terminally-ill persons and their families in their own homes through previously trained volunteers.

The *United Kingdom* established in 2008 an End of Life Care Strategy which aims to improve care for people approaching the end of life, including enabling more people to be cared for and die at home if they wish. The Strategy also aims to change people's attitude towards discussion of dying so that they are comfortable with expressing their wishes and preferences for care at the end of life and to develop the respective community services.

The *World Health Organisation* issued in 2004 their Guidelines on "Palliative Care: symptom management and end-of-life care" containing numerous examples of good practices in the field of palliative care.

The *Palliative Care Outcome Scale* is a non-profit resource available in eleven languages for palliative care practice, teaching and research to help advance measurement in palliative care, including free resources and training.

VII. Administration of Justice

50. In the determination of their civil rights and obligations or of any criminal charge against them, older persons are entitled to a fair trial within a reasonable time within the meaning of Article 6 of the European Convention on Human Rights. Member states should take appropriate measures to accommodate the course of the judicial proceedings to the needs of older persons, including where necessary the granting of free legal assistance and legal aid.

51. The competent judicial authorities should display particular diligence in handling cases in which older persons are involved. In particular, they should duly take into account their age and health.

52. Member states shall ensure that detention of older persons does not amount to inhuman and degrading treatment. In this respect, member states shall duly take into account that the minimum level of severity for inhuman and degrading treatment depends on several factors, notably the age and health of a person. Consideration should be given to alternatives to detention of older persons.

53. Member states shall safeguard the well-being and dignity of an older person in detention. In particular, they should ensure that the health of older persons is monitored at regular intervals and that they receive appropriate medical and mental health care. Moreover, member states should provide older persons in detention with conditions appropriate to their age, including appropriate access to sanitary, sports, education and training, and leisure facilities. Member states should ensure social reintegration of older persons after release.

Good practices:

Serbia has adopted special rules covering the detention of older persons, such as health and social care, specialised medical and geriatric treatment, the arrangements of visits where family members are handicapped, preferential accommodation of older persons in prisons as well as special nutrition suitable for the needs of older persons.

The *United Kingdom* has developed an “Older prisoner care pathway”, to assist the delivery of individually-planned care for older prisoners, followed by successful resettlement back into the community. A voluntary organisation (RECOOP) offers care and support to offenders aged fifty and over. A number of prisons in the country have a dedicated unit for prisoners who require palliative care. The organisation AGE UK has set up several local projects to run social engagement sessions and to provide training to staff and older prisoners.