

CDDH(2017)11

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

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### **Implementation of the Recommendation CM/Rec(2014)2 of the Committee of Ministers to member States on the promotion of human rights of older persons**

#### Introduction

1. The texts of Recommendation CM/Rec(2014)2 of the Committee of Ministers to member States on the promotion of human rights of older persons, adopted on 19 February 2014<sup>1</sup>, as well as its explanatory memorandum, were prepared by the CDDH. As a reminder, the text of the Recommendation appears in Appendix I below.
2. At its 88<sup>th</sup> meeting (5-7 December 2017), the CDDH is called to exchange views on the organisation of the work to be undertaken during the next biennium (2018-2019), regarding in particular the follow-up activities to this instrument.
3. The Recommendation invites the Committee of Ministers to examine its implementation five years after its adoption, that is, in 2019. In view of this deadline, the CDDH has been invited by the Committee of Ministers, in its terms of reference for the next biennium, to organise as appropriate a thematic debate on the issue.

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<sup>1</sup> At the 1192<sup>nd</sup> meeting of the Minister's Deputies.

4. At its 88<sup>th</sup> meeting (5-7 December 2017), the CDDH is called to provide further guidance. The present document contains elements to facilitate an exchange of views on this matter.

### **Contents of the Recommendation**

5. The main message of the Recommendation is the necessity to assure that older persons can enjoy fully and on an equal footing with other individuals their rights and liberties guaranteed by the European Convention on Human Rights. For a first time, a legal instrument of the Council of Europe has developed an approach based on the human rights of older persons.
6. The text underlines that older persons have the right to conduct their lives in an independent, self-determined and autonomous way, which encompasses the right to take independent decisions on all questions which concern themselves, notably regarding their heritage, their income, their finances, their place of residence and all questions relating to their health. All restrictions on this principle should be proportionate to the situation of the person in question and accompanied by safeguard measures in order to prevent abuse and discrimination.
7. The Recommendation invited the member States to take three actions:
  - (i) to ensure that the principles it sets out are complied with in national legislation and practice relating to older persons;
  - (ii) to ensure, by appropriate means and action a wide dissemination of the Recommendation among competent authorities and stakeholders, with a view to raising awareness of the human rights and fundamental freedoms of older persons;
  - (iii) to provide examples of good practices related to the implementation of this recommendation with a view to their inclusion in a shared information system accessible to the public.

### **Follow-up to the Recommendation**

8. The Recommendation envisions a review of its implementation five years after its adoption, that is, in 2019.
9. In this context, the CDDH, at its 87<sup>th</sup> meeting (6-9 June 2017, CDDH(2017)R87, § 75) “considered the possibility to organize a thematic conference in June 2019 involving the CDDH and the civil society, allowing for a review of the follow-up taken by the member States to this instrument. That being said, if one of the member States which will take over the Presidency of the Committee of Ministers during the biennium 2018-2019<sup>2</sup> expresses a wish to hold the event under its aegis, the planned date could be modified by the CDDH at its 88<sup>th</sup> meeting (5-7 December 2017).”

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<sup>2</sup> November 2017 – May 2018 - Denmark  
May 2018 – November 2018 – Croatia  
November 2018 – May 2019 - Finland  
May 2019 – November 2019 - France  
November 2019 – May 2020 - Georgia

10. The preparation of such an event could benefit the work which is being carried out notably by the NGO *Age Platform* on the issue of abuse against older persons (for example, the Brussels Workshop on 14 June 2017) and those carried out by the ENNHRI Network with the support of the European Union (publication of a report and a guide, workshops and conference to be organised in Brussels at the end of 2017, etc.). A research of the Court's case law and relevant decisions of the European Committee of Social Rights could also be conducted in view of the conference, as well as a collection of statistics through the FRA.
11. The event could take the form of a practical Workshop of half-day duration during a plenary meeting of the CDDH. The basis for discussion could be an updated version of the existing collection of national good practices (see Appendix I below).
12. A number of relevant instances could be invited to take part in the event (see Appendix II below).
13. The outcome of the Workshop could then be discussed by the CDDH during its plenary meeting, in order to communicate it to the Committee of Ministers in an appropriate form.
14. The proceedings of the Workshop would be published.

## APPENDIX I

Text of Recommendation CM/Rec(2014)2  
of the Committee of Ministers to member States  
on the promotion of Human Rights  
of older persons

(reminder)

*(adopted by the Committee of Ministers on 19 February 2014  
at the 1192<sup>nd</sup> meeting of the Ministers' Deputies)*

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 (The 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 Recommendation CM/Rec(2011)5 of the Committee of Ministers on reducing the risk of vulnerability of elderly migrants and improving their welfare, Recommendation CM/Rec(2009)6 on ageing and disability in the 21st century: sustainable frameworks to enable greater quality of life in an inclusive society, and Recommendation Rec(94)9 concerning elderly people;

Having regard to Parliamentary Assembly 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”, and 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 international conventions and instruments, as well as to the ongoing work of the United Nations, notably the United Nations Principles for Older Persons (1991), the Madrid International Plan of Action on Ageing (MIPAA) and the Regional Implementation Strategy for Europe, the Open-ended Working Group on Ageing for the purpose of strengthening the protection of human rights of older persons, and the decision by the Human Rights Council on the appointment of an independent expert on the enjoyment of all human rights by older persons;

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 the important human, social and economic contribution which older persons bring to 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 while existing international human rights standards apply to persons at all stages of life and form an adequate normative framework for the protection of the human rights of older persons, additional efforts should be made to assess the protection gaps that arise from insufficient implementation of, information about and monitoring of existing law as regards older persons;

Recognising that, as a result of these implementation gaps, including in information and monitoring, older persons may be victims of abuse and neglect and have their human rights 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 are 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 and security, free from discrimination, isolation, violence, neglect and abuse, and as autonomously as possible;

Recalling that respect for the dignity of older persons should be guaranteed in all circumstances, including mental disorder, disability, disease and end-of-life situations,

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. consider providing examples of good practices related to the implementation of this recommendation with a view to their inclusion in a shared information system accessible to the public;
4. examine, within the Committee of Ministers, the implementation of this recommendation five years after its adoption.

*Appendix to Recommendation CM/Rec(2014)2*

**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 and advantages by reason of their older age.
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.
5. Older persons should be appropriately consulted, through representative organisations, prior to the adoption of measures that have an impact on the enjoyment of their human rights.

**II. Non-discrimination**

6. Older persons shall enjoy their rights and freedoms without discrimination on any grounds, including age.
7. Member States should consider making explicit reference to “age” in their national anti-discrimination legislation.
8. 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 representatives of older persons, which forms the cornerstone of that country’s policy regarding older persons. The plan contains, *inter alia*, awareness-raising and other measures against age discrimination, including multiple discrimination against women.

In **Belgium**, a local public social action centre organises training courses on « intercultural communication » for services working with older migrants. The centre elaborated a guide of good practices for professionals working with these persons about the specificities of different cultures, for instance regarding nutrition, hygiene, language, funerals, etc.

The **Czech Republic** adopted a new National Action Plan promoting positive ageing (2013-2017), which explicitly underlines the protection of the human rights of older persons as a key principle. The Council for Elderly Persons and Population Ageing was established in 2006 as a permanent advisory body promoting healthy and active ageing and equal rights for older persons in all areas of life. A special prize is awarded annually to individuals or organisations active in the field.

**Finland** published, in 2012, a Diversity Charter and established a Diversity Network among employers established aiming at developing tools for managing diversity and exchanging good practices in working life. The “Occupy your own age” movement is a network for good ageing established between seven Finnish organisations for social work for the elderly.

**Germany** established, in 2006, the independent Federal Anti-Discrimination Agency which carries out various projects and organises awareness-raising events such as the 2012 thematic year on age discrimination, during which it awarded a prize to small and medium-sized companies for applying innovative strategies for the promotion of teams of workers of all ages. Some nursing homes and specific institutions in the country have developed special units to enable older migrants to receive care in an environment that respects their cultural and social way of life.

**Sweden**, in January 2013, strengthened protection against age discrimination by including in the Swedish Discrimination Act the areas of social protection, health care and access to goods and services, to the labour market and to qualification and development resources for older persons.

**“The former Yugoslav Republic of Macedonia”** adopted, in 2010, the National Strategy for Senior Citizens (2010-2020), designed to create a co-ordinated policy to protect older persons, improve the quality of their lives and their social and economic status, promote their independence, prevent marginalisation and strengthen the system of social and health protection. In 2012, the country adopted the National Strategy for Equality and Non-discrimination, designed to ensure equality and equal opportunities for all.

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 companies with regard to older customers in areas such as motor and travel insurance.

### III. **Autonomy and participation**

9. Older persons have the right to respect for their 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 proportionate to the specific situation, and provided with appropriate and effective safeguards to prevent abuse and discrimination.

10. 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 in public life.

11. 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.

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

13. Older persons have the right to receive appropriate support in taking their decisions and exercising their legal capacity when they feel the need for it, including by appointing a trusted third party of their own choice to help with their decisions. This appointed party should support the older person on his or her request and in conformity with his or her will and preferences.

14. 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.

15. Member States should ensure that all measures that relate to decision making and 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 proportionate to the degree to which such measures affect the older person's rights and interests.

### ***Good practices***

**Belgium** adopted new legislation (in force as from 1 June 2014) reforming restrictions to legal capacity. The new legislation will protect older persons by allowing them to benefit from assistance or representation according to their legal capacity.

In the **Czech Republic**, full deprivation of legal capacity of any person will no longer be possible as from 1 January 2014. Any person being limited in his or her legal capacity will be provided with a trustee protecting his or her interest or a legal counsellor. The new Civil Code also introduces some new forms of supported decision making.

**Denmark** adopted, in 2010, a new Dementia Strategy with specific recommendations to strengthen and improve services for persons suffering from dementia. The country also allocates funds to support activities for such persons and their families.

In **Germany**, guardians have a limited mandate, being appointed according to the needs of each individual and for the performance of specific tasks. Their appointment does not suspend the individual's legal capacity to contract and self-determination.

**Greece**, in 2012, established a programme to ensure autonomy for older persons in their homes through the organisation of social services, psychological support and domestic help. The programme also encourages the participation of older persons in cultural activities and seeks to ensure that older persons live in conditions not incompatible with their dignity. Since 2009, in the framework of the programme "Parents' schools" of the General Secretariat for lifelong learning, more than 5 000 trainees attended 295 classes on the theme of old age to familiarise themselves with the physical and psychological problems that older persons may face and with the means available to prevent or remedy to them. The Centres of open protection contribute to the independence of older persons, to the awareness raising of the general public and key actors about their needs, and to the improvement of their living conditions.

**Poland** has established "Golden Age Universities" which organise educational events for older persons in compliance with the philosophy of lifelong learning. The country has implemented a national Programme for the Social Activity of the Elderly focusing on education and volunteer work of older persons, their integration and participation in society, as well as on social services for older persons.

In **Spain**, the Council of Older Persons, composed of representatives of all administrative levels and of the civil society, deals with issues concerning the conditions and quality of life of older persons and also makes them participate in the decision-making process concerning a wide range of public policies on older population.

In **Switzerland**, private structures operating nationwide are entrusted by the federal administration with contributing to the health of older persons, ensuring them access to information and advice, and providing direct help. In many Swiss cities there is a tradition of solidary neighbourhoods (quartiers solidaires), in which resources are pooled and solutions to older persons' problems provided by putting them in contact with other people and local actors (municipalities, social and medical structures, associations, etc.)



In **Turkey**, day support/solidarity services are provided for older persons at home in order to assist them in daily activities (small repairs, shopping, personal care, cooking, cleaning) and strengthen their social relationships (legal and social security consultancy services, social and cultural activities etc.). The Ministry of Family and Social Policies of Turkey has initiated a wide, community-based campaign to ensure full access and use of all public buildings and public roads by older persons.

In the **United Kingdom**, a coalition of organisations and individuals working together through research, policy and support to older persons launched the Campaign “To End Loneliness” in early 2011, intended to combat isolation in older age and help older persons to create and maintain personal connections. Since 1988, a programme has been established in the United Kingdom to encourage people aged 50 or over to get involved in local concerns as volunteers and to offer their skills and experience to the community.

In 2007, the **World Health Organisation** published a guide to help cities to become more age-friendly. Based on the principles of active ageing, the guide adopts a holistic perspective in presenting the physical and social experiences of older people in accessing the full range of places and services in cities and urban areas.

#### **IV. Protection from violence and abuse**

16. 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.

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

18. Member States should implement sufficient measures aimed at raising awareness among 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.

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

20. Older persons who have suffered from abuse should receive appropriate help and support. Should member States fail to meet their positive obligation to protect them, 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***

In **Austria**, workshops are organised to create regional expertise in counselling older persons in cases of violence and regional networks of advisory contact points interlinking competent services, care homes and medical staff to provide help to victims.

**Belgium**, the **Czech Republic**, **Finland** and **France** provide helplines to report abuse cases. Local support teams do home visits, propose solutions to improve older persons' situations and offer free advice and training.

In the **Czech Republic**, the new National Action Plan promoting positive ageing (2013-2017) foresees measures to support older persons in cases of abuse or neglect through psychological, legal and social help, educational material and training of professionals on how to prevent and to recognise abuse.

**Finland** adopted the Action Plan to reduce violence against women (2010-2015) which also envisages measures concerning older persons. Moreover, the Finnish Association of Shelters for the Elderly seeks to prevent violence against older persons and to raise awareness, for example by operating telephone helplines and providing other forms of support.

**France** set up, in January 2013, the National Committee for the good treatment and the rights of older and disabled persons to fight ill-treatment and promote their basic rights.

**Germany** established the programme “Safeguarding the elderly”, which helps to optimise the safety of older persons and implement preventive approaches (such as women’s shelters and counselling centres for older victims, and awareness raising and training of non-residential care staff to act as instances of prevention). An interdisciplinary group of experts has developed a guide for medical professionals to better detect homicide or unnatural causes of death in older persons. The German authorities have produced a brochure containing comprehensive information on fraud and deception targeting older persons. Moreover, there are training programmes for bank staff on how to recognise deception of critical financial situations for older persons.

In **the Netherlands**, the province of Noord-Holland has drafted a protocol to be used by external people in contact with older persons in residential care (for example hairdressers) in order to be able to recognise signs of abuse within the limits of their responsibilities and to act by contacting specific support teams. The city of Rotterdam has developed a Code of Conduct for detecting and reporting domestic violence. Professionals in health care and services to older persons, police and emergency services are trained to recognise abuse and report it to the Domestic Violence Advice and Support Centre.

The National Plan of Action on Ageing in **Turkey** intends to provide a reporting mechanism and vocational training for people working with older persons in order to help detect abuse and negligence and take measures in this respect.

**Portugal** has established a programme for the better security of older persons living alone and isolated, which is being implemented by the police, for example by establishing direct phone lines to police stations in older persons’ homes and by organising regular visits.

In the **United Kingdom**, employers and voluntary organisations have access to information about an individual’s criminal record before engaging persons providing personal care to older persons. There is also a special prosecution policy for crimes against older people to enable better tracking of such crimes. Special advocacy services for older people (such as the organisation “Victim Support”) provide support to older victims.

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**, 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

21. Older persons should receive appropriate resources enabling them to have an adequate standard of living and participate in public, economic, social and cultural life.
22. Member States should take measures to facilitate mobility of older persons and proper access to infrastructure for them.
23. Member States should provide adequate measures of support to enable older persons to have housing adapted to their current and future needs.
24. 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 adult day care, nursing care or preparation of meals.
25. 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) are invited to consider doing so. Those which have already ratified the revised Charter, but are not yet bound by Article 23 (The right to social protection of older persons), are invited to consider declaring that they consider themselves to be bound by that provision.
26. Member States should ensure that older persons do not face discrimination in employment, including on grounds of age, in both the public and private sectors. This should include aspects such as conditions for access to employment (including recruitment conditions), vocational initial and continuous 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.
27. Member States should include the promotion of participation of older persons in the labour market in their employment policies.
28. 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**

The **Austrian** Federal Plan for Older Persons contains, **inter alia**, awareness-raising measures concerning older people in the job market and has as its highest priority the issue of quality living conditions for older persons.

In **Croatia**, older persons benefit from financial support (maintenance benefit, care and assistance benefit, personal disability benefit) and social services (accommodation in institution or in foster family, care and assistance services). Two programmes, “In-Home Assistance for Elderly Persons” and “Day-Care and In-Home Assistance”, provide food, domestic help, basic health care, mediation in exercising rights and educational, sports, cultural and entertainment activities. Priority is given to single persons and persons with low income.

In **Denmark**, a long-running campaign on age-friendly practices in the workplace is implemented at local level. Municipalities help older persons to find purpose and passion and encourage them to work for longer.

In **Finland**, employers have made efforts to increase the employment rate among older persons and arranged for flexible working hours for their well-being. Authorities have introduced a toolkit

for “age management”, including a guide for older employees and their employers. A job application model emphasising applicant’s skills and decreasing the impacts of factors such as nationality, age or gender has been tested. The Finnish Parkinson’s Association carries out a project together with a local association on “Parkinson’s at work” to improve the well-being and working capacity of employees suffering from that disease.

In **France**, the law establishing the “generations contract” (**contrat de génération**), adopted in March 2013, allows companies with less than 300 employees to obtain financial support from the State for three years if they hire on a contract of indefinite duration a person who is less than 26 or more than 57 years old. A 2009 handbook on “Good practices of companies on keeping older persons among their employees or bringing them back to work” provides support to companies on these issues.

The **German** Federal Anti-Discrimination Agency started a nationwide pilot project for the depersonalisation of job applications, particularly for people from a migrant background, older job seekers and women with children. Numerous enterprises, public bodies and local authorities implement the project.

In **Greece** and in **Spain**, older people benefit from social tourism programmes offering holidays and/or hydrotherapies at affordable prices through State subventions.

In **Ireland**, older people are supported in remaining in their own homes for as long as possible. Local authorities help people with low income in need of housing and also grant an aid for the adaptation of homes. Voluntary housing bodies also provide accommodation to meet special needs of older persons.

In **Poland**, older persons in need may receive assistance in everyday personal, administrative, medical and home activities. The cost of these services is partially reimbursed. If an older person needs long-term care, he or she is entitled to receive pecuniary benefits, as well as required equipment, granted by municipalities.

**Portugal** has established, in co-operation with local communities, the voluntary initiative “Intergenerational Programme”, in order to avoid isolation of older persons living by themselves and to create an aid platform.

**Serbia** appointed a Commissioner for the Protection of Equality who has issued several recommendations on age discrimination, including in the areas of employment (avoiding references to age in vacancy announcements) and of bank services (eliminating age conditions in accessing to financial services).

In **Spain**, the website “EnclaveRural” constitutes a platform for exchanging good practices concerning the improvement of the quality of life of both older and disabled persons in rural environments and for promoting the creation of quality proximity services.

**Switzerland** contributes for a maximum of 12 months to the salary of a person over 50 years old whose recruitment was difficult and who needs in-depth training to the new job. All measures included in unemployment insurance, such as training and employment measures, are available to older job seekers. Older job seekers receive indemnities for a longer period than other age groups. When their rights expire, they can participate in new training and employment measures.

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

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.

The **United Kingdom** allocates resources to local authorities in England and Wales to enable older persons with disabilities to live as comfortably and independently as possible in their homes. Further funds support local handypersons' services providing help with small repairs. Most older persons also receive an annual payment to help with fuel bills. In addition, in 2011 the **United Kingdom** abolished the default retirement age, so that individuals can no longer be forced to retire because they have reached a certain age. Employers may still set a fixed retirement age if it can be justified for objective business reasons, but this can be challenged before a tribunal.

## **VI. Care**

### ***A. General Principles***

29. Member States should take appropriate measures, including preventive measures, to promote, maintain and improve the health and well-being of older persons. They should also ensure that appropriate health care and long-term quality care is available and accessible.

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

31. 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 co-operation amongst the competent services.

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

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

34. 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.

35. Member States should operate a system through which care delivery is regulated and assessed.

### ***Good practices***

**Austria** grants, at federal level, a long-term care allowance covering to a certain extent the required care of the person. In the recent past, provinces have also participated in the payment. **Austria** established a project for care institutions for older people who suffer from dementia targeting health professionals and their management. The project aims at achieving greater awareness for gender equality with regard to dementia patients, taking into account their special gender-dependent needs and different life stories.

The **Belgian** Flemish Community established the "Flanders' Care" programme which aims at improving the provision of care for older persons through the development of innovative technologies. The programme includes "demonstration projects" and "an experimental area for

innovation in health care". In addition, the Flanders' Care programme foresees the creation of a Flemish Centre of Expertise of Assistive Technology.

**Bosnia and Herzegovina** and the UN Population Fund have signed the first fully fledged Country Programme Action Plan (2010-2014), one chapter of which is entirely devoted to older persons and the creation of a legal framework for healthy ageing and old-age care.

The municipal district of Prague, in the **Czech Republic**, runs a special multilingual web site for older persons with useful information on their daily life in the district (social and medical services, cultural events, free-time and leisure activities, etc.). The district also provides a helpline and legal counselling service for older persons.

In **Denmark**, preventive and health-promoting efforts are being made, and funds are being allocated to improve training on the one hand, and rehabilitation methods on the other, at both national and local levels. The country is also making increased use of "welfare technology" for the care of older persons whenever this increases the quality of care and reduces costs.

**Estonia** adopted a new Strategy for Active Ageing (2013-2020) covering topics like social inclusion, participation, lifelong learning, employment and social and medical service delivery. A new active ageing index is being used to measure the effectiveness of the strategy. The country has also developed guiding principles for informal carers.

**Finland** has established a project to actively engage older people who suffer from loneliness, in particular those who are in hospitals, adult day-care centres or residential care institutions. Moreover, the country adopted an Act on support for informal care, which came into effect in 2006. Support for informal care is a statutory social service ensured by the State and the municipalities.

**France** adopted in 2003 a "Charter of the rights and liberties of dependent persons in care" which recognises the right to privacy, including intimacy, security and data protection. Moreover, the non-profit organisation "Vacances ouvertes" helps informal carers such as family members to take a break and go on holidays, while professional carers take care of the dependent person.

In **Germany**, a whole range of local government support services are available to senior citizens. There are also benefits in kind or monetary benefits from the statutory long-term care insurance scheme (SPV), which is a stand-alone branch of social security under the German Social Code. Older persons can choose between the provision of care at home or in an institution, and between the licensed facilities or services provided by agencies. Since the beginning of 2013, patients are able to make individual care arrangements from a large catalogue of services.

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 and various therapists (including physiotherapists and occupational therapists), home-care attendants and home helpers.

In **Italy**, the Long-term Care National Fund for people aged 65 or over allocates significant resources to regions for the purpose of improving and expanding health and social-care services, including at home, for older persons and strengthening the participation of older persons in society through solidarity and communication. In the province of Siena, the organisation "Un Euro all'Ora" launched a programme to support informal carers and prevent burn-out. In the province of Ragusa, public authorities co-operate with organisations active in the social field on the protection of family relationships and the management of services provided. Intergenerational family mediation allows families to co-organise such services together with the authorities.

In the **Netherlands**, the “National care for the elderly” programme was developed at the behest of the Dutch Government, with a view to improving care for older people with complex needs. Since the programme began in April 2008, numerous organisations have joined forces regionally and nationally to create a coherent array of care options which are better tailored to the individual needs of the elderly. For the elderly themselves, this programme leads to greater freedom and independence.

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

“**The former Yugoslav Republic of Macedonia**” supports NGOs and municipalities developing non-institutional forms of care of and assistance to older persons. There have been intensive activities to provide older people in need with adult day care, accommodation, home services, financial support.

Within the **United Kingdom**, in England, the Care Quality Commission is the independent regulator of health and adult social-care providers; it assumes a key responsibility in assuring respect for essential levels of safety and quality of services. All providers of regulated activities must be registered and meet a set of registration, safety and quality requirements.

### ***B. Consent to medical care***

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

37. In case an older person is unable, in the particular circumstances, to give consent, 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.

38. When an older person does not have, according to national law, 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, 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.

39. When the appropriate consent cannot be obtained because of an emergency situation, 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.

### ***Good practices***

In **Germany**, the Third Adult Guardianship Reform Act (2009) confers particular importance to advance medical directives in the area of medical interventions. The medical services of the health insurance funds also examine whether the restriction of liberty is accompanied by the required consent.

The **Czech Republic**, the **Netherlands**, **Switzerland** and the **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 should the person become incapable. In addition, or as an alternative, a power of attorney may be granted to a trusted person to take decisions concerning financial affairs and medical treatment in accordance with the wishes set out in that document.

### ***C. Residential and institutional care***

40. 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.

41. 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 free and informed consent of that person, or as a proportionate response to a risk of harm.

42. 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 for any deficiencies in the quality of care.

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

### ***Good practices***

**Austria** has introduced a national quality certificate for care homes for older persons based on a unified and objective process for assessing the quality of services 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 **Belgium**, a quality charter has been set up to cover various aspects of life in an institution.

The Ombudsman in the **Czech Republic** carries out visits in medical and residential institutions for older persons and issues reports and recommendations on the respect of human rights and dignity in those settings.

In **France**, structures hosting older persons provide them upon arrival with a charter informing them about their rights and freedoms. Structures have a “social life council” in which persons living in the structures also participate.

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

**Germany** has issued a Charter of Rights for People in Need of Long-term Care and Assistance to improve the provision of residential and home care. The quality of both residential and non-residential care is scrutinised on a regular basis on the basis of standards set up at the national level. The initiative “Alliance for Dementia” was set up to implement an action plan for improvements in care given to people suffering from dementia, and to help them to remain in their homes.

In **Greece**, social counsellors are in charge of controlling institutions, by carrying out visits to check the proper functioning, the quality of care and the well-being of older persons.

**Ireland** has enacted a support scheme 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 provided irrespective of whether the person is in a public, private or voluntary nursing home.

In **Turkey**, an Equality Charter has been set up covering all care models, including home care, day care, residential care, nursing homes, palliative and institutional care, based on the care criteria as set out in the WHO International Classification of Functioning, Disability and Health (ICF).

#### ***D. Palliative care***

44. Member States should offer palliative care for older persons who suffer from a life-threatening or life-limiting illness to ensure their well-being and allow them to live and die with dignity.

45. 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.

46. 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.

47. Health-care providers involved in palliative care should fully respect patients' rights, and comply with professional obligations and standards.

48. Trained specialists in the field of palliative care should be available to lead education and research in the field. Programmes of palliative-care education should be incorporated into the training of all health and social-care workers concerned and co-operation of professionals in palliative care should be encouraged.

49. Member States should ensure the adequate availability and accessibility of palliative-care medicines.

50. In the organisation of their national palliative-care systems, member States should take into account Recommendation Rec(2003)24 of the Committee of Ministers to member States on the organisation of palliative care.

#### ***Good practices***

In **Austria**, the Hospiz Österreich is an umbrella association of organisations and a powerful promoter of integration of the principles of palliative care into the standard long-term care services. The province of Styria has a network of mobile palliative-care teams composed of medical doctors, care staff and social workers which collaborate free of charge with family doctors and carers for the benefit of older persons. Palliative-care teams receive training and supervision prior to and during their service.

In **Belgium**, there must be a carer trained in the field of palliative care in all residences and care structures for older persons.

**Germany** 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, the needs of the individual and requirements for training, research and learning. The Robert Bosch Foundation gives geriatric nurses and care assistants the opportunity to learn basic skills in palliative care. A co-ordination office supervises palliative practice and serves as a source of information for training

programmes. Moreover, non-residential hospice services, subsidised by health insurance funds, support terminally ill persons and their families in their own homes through specially trained volunteers.

The **United Kingdom** established in 2008 the “End of life care strategy”, which aims to improve care for people approaching the end of life, including enabling more people who so wish to be cared for and die at home. The strategy also aims to change people’s attitudes towards death 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 2011 guidelines on **Palliative Care for Older people: better practices** containing numerous examples of good practices in this field.

The **Palliative Care Outcome Scale** is a free tool available in 11 languages for palliative-care practice, teaching and research to help advance measurement in palliative care; it includes free resources and training.

## **VII. Administration of justice**

51. 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, for example by providing, where appropriate, free legal assistance and legal aid.

52. 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.

53. Member States shall ensure that detention of older persons does not amount to inhuman or degrading treatment. The assessment of the minimum level of severity for a treatment to be considered inhuman or degrading depends on several factors, including the age and health of the person. Consideration should be given to alternatives to detention of older persons.

54. Member States shall safeguard the well-being and dignity of older persons 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***

In **Greece**, the sanctions system provides various advantages to older persons as regards alternatives to imprisonment and the calculation of the length of detention. For instance, for a 70-year-old person sentenced to life imprisonment, it is sufficient to serve sixteen years rather than twenty in order to obtain parole. Moreover, after 65 years of age, any outstanding period of imprisonment is reduced by half.

**Serbia** adopted special rules covering the detention of older persons, regarding for instance health care, accommodation (with persons of the same age, in areas allowing easy access to other facilities of the detention centres, etc.), planned activities, nutrition and social care in particular with a view to their release. A specialised detention centre provides for specific geriatric treatment, facilitation of contacts and visits with the families and support to the latter, in particular where other family members are older or disabled.

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 50 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.

## APPENDIX II

### Possible participants in the Workshop

*(preliminary elements)*

(1) Representatives from member States

(2) Representatives from civil society

*ENNHRI* - European Network of National Human Rights Institutions. Manages the project of long-term care for older persons.

*AGE Platform* - This NGO includes organisations from 32 countries: 30 from the Council of Europe (the 28 UE countries, Turkey and Switzerland) and two observer States (Japan and the United States). Funded mainly by the EU REC Program.

Other representatives that could be invited as participants:

*HelpAge International* - A network of national organisations promoting the right of older people to lead dignified, healthy and secure lives. Notably the Republic of Moldova, Ukraine, Albania, Armenia, Bosnia and Herzegovina, Russian Federation, and Serbia are part of this organisation.

*International Federation of Older Persons Associations (FIAPA)* – Holder of participatory statute in the NGO Conference of the Council of Europe. Participates at the Conference in the commissions “Human Rights”, “Democracy, Social Cohesion and Global Challenges”, “Education and Culture”.

*International Longevity Centre Global Alliance (ILC Global Alliance)* - An consortium of national NGOs, some of which are in member States of the Council of Europe.

*World Health Office* - This organisation created the Global Network of Age friendly Cities and Communities and the European Network of healthy cities and the European policy for health (HEALTH 2020). It also manages a global database on age friendly practices for older persons.

(3) Representatives from relevant sectors within the Council of Europe

[...]

(4) Representatives from other relevant bodies

#### *European Union*

1. REC Program (Rights, Equality, Citizenship).

2. FRA (*Fundamental Rights Agency*), which manages a multiannual program (2017-2019) to remove barriers preventing older people from living independently in the community, funded with 500.000 €. As of 2016, human rights of older persons are covered in their Fundamental Rights Report. FRA also looks at national and European measures promoting equal treatment of older people in employment.

*OECD* - The OECD is carrying out a new review of policies to encourage greater labour market participation at an older age by fostering employability, job mobility and labour demand.<sup>3</sup>

*UN* - The UN has approved the International Action Plan on Ageing (Madrid 2002) and the Principles for older persons on 1991.

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<sup>3</sup> This review will build upon the policy agenda that was presented in its major multi-country report, *Live Longer, Work Longer*, published in 2006. The review consists of several activities, in particular Country case studies that evaluate the impact of recent policy reforms and identify good-practice measures. Based on the findings of the review, a set of OECD policy guidelines for encouraging and supporting employment at an older age.