

# PROMOTION OF HUMAN RIGHTS OF OLDER PERSONS



Legal instruments

Recommendation CM/Rec(2014)2  
and explanatory memorandum

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

# PROMOTION OF HUMAN RIGHTS OF OLDER PERSONS

## **Recommendation CM/Rec(2014)2**

Adopted by the Committee of Ministers  
of the Council of Europe  
on 19 February 2014  
and explanatory memorandum

French edition:

*La promotion des droits de l'homme  
des personnes âgées  
(Recommandation CM/Rec(2014)2  
et exposé des motifs)*  
ISBN 978-92-871-7849-7

Reproduction of the texts in this publication is authorised provided the full title and the source, namely the Council of Europe, are cited. If they are intended to be used for commercial purposes or translated into one of the non-official languages of the Council of Europe, please contact [publishing@coe.int](mailto:publishing@coe.int).

Cover design and layout:  
Documents and Publications  
Production Department  
(SPDP), Council of Europe

Council of Europe  
F-67075 Strasbourg Cedex  
<http://book.coe.int>

ISBN 978-92-871-7850-3  
© Council of Europe, May 2014  
Printed at the Council of Europe

# Contents

---

<b>RECOMMENDATION CM/REC(2014)2</b>	<b>5</b>
Appendix to Recommendation CM/Rec(2014)2	8
<b>EXPLANATORY MEMORANDUM</b>	<b>29</b>
I. Introduction	29
II. Comments	30



# Recommendation CM/Rec(2014)2

---

## of the Committee of Ministers to member States on the promotion of human rights of older persons

*(Adopted by the Committee of Ministers on 19 February 2014  
at the 1192nd 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 No. R (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 within 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 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 populations.

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 Organization* 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. Caregivers 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 who 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 Organization* 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.

# Explanatory memorandum

---

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

### I. Introduction

1. Europe is currently undergoing demographic changes brought about by growing life expectancy and reduced birth rates. The increasing number of older persons in Europe<sup>1</sup> augments the need to address the issue of their position in society, including the need to promote their autonomy and to ensure their protection from a human rights perspective. Even though the Convention for the Protection of Human Rights and Fundamental Freedoms obviously applies also to older persons, and some general human rights provisions are particularly relevant for them, it is important to highlight possible barriers to the full enjoyment of human rights by older persons and measures to be taken to eliminate these barriers.

---

1. *Recent demographic developments in Europe 2005*, Council of Europe Publishing, Strasbourg (2006). This study estimated that by 2050 the population aged between 65 and 79 years will have grown by 41%. The population of the oldest, 80 years or older, will have increased by 155%. This means that the old-age dependency ratio will have more than doubled from 22% to 45% by 2050.

2. The starting point of the recommendation is the recognition that all human rights and fundamental freedoms apply to older persons, and that they should fully enjoy them on an equal basis with others. This instrument calls for respect for their autonomy and their legal capacity in daily life. The recommendation aims at promoting older persons' protection in societies where ageism is rising or in situations where they may be vulnerable. Older persons may face domestic violence, abuse, neglect or poverty; they may lack adequate care or be discriminated against because of their age. The recommendation responds to those concerns and aims at finding the right balance between the autonomy and the protection of older persons.

3. The Drafting Group on the Human Rights of Older Persons (CDDH-AGE), which was set up by the Steering Committee for Human Rights in February 2012 with a view to elaborating a non-binding instrument on the promotion of the human rights of older persons, met four times in order to draft the recommendation.

## II. Comments

### General considerations

4. The recommendation outlines principles with a view to reinforcing the autonomy and, at the same time, the protection of the human rights of older persons. These principles are based on existing international human rights standards with particular emphasis on the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter the "Convention") and the European Social Charter (hereinafter "the Charter", or, where appropriate, "the revised Charter"), as interpreted in the relevant case law of the European Court of Human Rights and the conclusions of the European Committee of Social Rights. Most principles are further illustrated with examples of good practices from national systems. The recommendation also draws inspiration, *inter alia*, from different texts adopted by the Parliamentary Assembly and the Committee of Ministers of the Council of Europe, which are specifically aimed at the situation of older persons in Europe, as well as from the provisions relevant to older persons of the United Nations Convention on the Rights of Persons with Disabilities and of other relevant instruments, in particular the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.

5. The recommendation is not a legally binding instrument. Member States are only bound to the extent that they have ratified the instruments

on which the principles are drawn. However, governments of member States are invited to ensure compliance with the principles set out in its appendix in national legislation and practice relating to older persons. Governments are also encouraged to ensure, by appropriate means and action, a wide dissemination of this instrument among competent authorities and stakeholders. Where appropriate, such dissemination may be achieved by translation of the text into a national language.

6. Concerning follow-up to the recommendation, governments are invited to continue providing examples of good practices related to its implementation with a view to their inclusion in a shared information system accessible to the public, and to examine its implementation within the Committee of Ministers five years after its adoption.

## I. Scope and general principles

### *Paragraphs 1 to 5*

7. In the light of the European and universal human rights treaties quoted above, the overall aim of the recommendation is to promote the human rights and fundamental freedoms of older persons and their effective participation in society, as well as to protect those whose older age constitutes a barrier to the full enjoyment of the rights.

8. To date no commonly agreed legal definition of “older persons” exists. Older persons are not a homogeneous group.<sup>2</sup> The Committee of Ministers asserted in its Recommendation No. R (94) 9 concerning elderly people that it is “useless to attempt to define exactly when old age begins” and that “ageing is a process: being old depends on the individual’s circumstances and the environment”. The Parliamentary Assembly noted in its Recommendation 1796 (2007) on the situation of elderly persons in Europe that “a person’s age is no longer an indicator of health, wealth or social status”. The World Health Organization defined ageing as the “process of progressive change in the biological, psychological and social structures of individuals”<sup>3</sup>

9. For these reasons, the recommendation adopts a flexible and illustrative approach and does not include an exhaustive definition of older persons, for

---

2. *Normative standards in international human rights law to older persons, Analytical Outcome Paper*, United Nations Office of the High Commissioner for Human Rights (August 2012), p. 7.

3. “A life course perspective of maintaining independence in older age” (1999), World Health Organization, Geneva, p.4.



example by setting a minimum age for a person to be considered as being of old age.<sup>4</sup> Nevertheless, the recommendation recognises that Council of Europe member States have identified ages at national level whereby persons enjoy specific rights and advantages because of their older age.

10. The information for older persons about their rights and their participation in the decision-making process on measures that have an impact on the enjoyment of their rights plays a crucial role in achieving the aim of this recommendation. In order for those rights to be enforced, visibility and awareness raising should be ensured among older persons and they should have access to sufficient information. In this regard, Article 23 of the revised Charter recognises that States should “enable elderly persons to remain full members of society for as long as possible, by means of: [...] b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them.” In its Recommendation R(94)9 concerning elderly people, the Committee of Ministers also recognised the importance of information and education for older persons themselves, as well as for families, for professional and voluntary workers, and for the community as a whole, in order to increase sensitivity to the issues of relevance to older persons. Moreover, prior to the adoption of measures that have an impact on the enjoyment of their human rights, older persons should be appropriately consulted, through those representative organisations which would be relevant in the light of the issue under discussion.

## II. Non-discrimination

### *Paragraphs 6 to 8*

11. The recommendation reaffirms the principle of the full enjoyment of all human rights and freedoms by older persons without any discrimination. This principle is inspired by Article 14 of the Convention and Article E of the revised Charter prohibiting discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. The list of grounds for discrimination is not exhaustive, but rather illustrative, and age can be included in “others status” referred to in these articles.<sup>5</sup>

- 
4. The Regional Office for Europe of the World Health Organization defined older maltreatment as regards “people aged 60 years and older”, Sethi D. et al (eds), *European report on preventing elder maltreatment* (2011), World Health Organization Publications, Copenhagen.
  5. As far as member States of the European Union are concerned, Article 21 of the European Charter of Fundamental Rights and the Employment Equality Directive 2007/78/EC prohibit age discrimination explicitly.

12. The recommendation invites member States to make reference to “age” when passing new or amending existing antidiscrimination legislation. In its Resolution 1793 (2011) on promoting active ageing: capitalising on older people’s working potential, the Parliamentary Assembly considered that the phenomenon of age discrimination is “often unconscious, but it undermines older people’s dignity, their human rights and self-esteem and is a huge waste of talent”. The Assembly acknowledged that ageism “is a harmful prejudice that results in widespread lack of respect for older people [...] they are the victims of physical and financial abuse, in the workplace, where they are subject to unequal treatment, or in the health sector where they do not always receive appropriate medical care and services.”

13. The European Committee of Social Rights has stated that Article 23 of the revised Charter requires States Parties to combat age discrimination in a range of areas, namely in access to goods, facilities and services. The committee has pointed out the existence of pervasive age discrimination in many areas of society throughout Europe (health care, education, insurance and banking services, participation in policy making and in civil dialogue, allocation of resources and facilities) and considered that an adequate legal framework would be a fundamental measure to combat age discrimination in these areas.<sup>6</sup> Article 23 therefore requires States to enact antidiscrimination legislation to protect older persons.

14. However not all difference in treatment automatically leads to discrimination. National authorities enjoy a margin of appreciation in assessing whether and to what extent differences in similar situations justify different treatment. The European Court of Human Rights and the European Committee of Social Rights both have held that any difference in treatment is justified if the treatment furthers a legitimate aim and is proportionate to achieve that aim.<sup>7</sup>

15. The recommendation also addresses the issue of possible multiple discrimination of older persons and effective measures needed to avoid it. The term “multiple discrimination” refers to a situation in which a person is being discriminated against for several reasons. Member States should be particularly sensitive to the situation and specific problems of older women

---

6. European Committee of Social Rights, Conclusions 2009, Vol. 1, page 272 (concerning Finland) ([www.coe.int/t/dghl/monitoring/socialcharter/conclusions/Year/2009Vol1\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/Year/2009Vol1_en.pdf)).

7. The case law of the European Court of Human Rights under Article 14 combined with other Articles of the Convention is well established in this sense. The European Committee of Social Rights dealt with this issue in the case of *Genop-Dei and Adedy v. Greece*, collective complaint No. 66/2011, decision of 23 May 2012, paragraph 68.

and older migrants, as well as be conscious that multiple discrimination may also arise where an older person has, for instance, a disability or a different sexual orientation. In its Resolution 1793 (2011) on promoting active ageing: capitalising on older people's working potential, the Parliamentary Assembly recommended the establishment of special support programmes for ageing migrants, women and people with disabilities.

16. In its Recommendation 1796 (2007) on the situation of elderly persons in Europe, the Assembly also pointed out that older women form a particularly vulnerable group which is discriminated against in many ways and whose financial insecurity is exacerbated by inadequate social support and their low income. Moreover, the Council of Europe Commissioner for Human Rights pointed out the problem that older women often receive a reduced pension allowance because they have had to care for family members rather than being professionally active.<sup>8</sup>

17. The Council of Europe has recognised in several instruments that older migrants and their families should be informed and supported in benefiting from residence, social welfare, health care, adapted language courses, pension rights and incentives to participate in society. Article 19 of the revised Charter gives migrant workers and their families the right to protection and assistance. Parliamentary Assembly Recommendation 1619 (2003) on the rights of elderly migrants and Committee of Ministers Recommendation CM/Rec(2011)5 on reducing the risk of vulnerability of elderly migrants and improving their welfare also focus on the sensitive situation of older migrants.

18. Persons with disabilities also face particular difficulties which increase during the ageing process, such as reduced vision, reduced hearing or reduced mobility. In this respect, the Council of Europe Commissioner for Human Rights suggested to member States to take this problem into account when designing policies and programmes and to consider ratifying the United Nations Convention on the Rights of Persons with Disabilities, as well as to give high priority to the implementation of the Council of Europe Disability Action Plan 2006-2015.<sup>9</sup>

---

8. Thomas Hammarberg (2011), "The rights of older people" in *Human rights in Europe: no grounds for complacency – Viewpoints by Thomas Hammarberg, Council of Europe Commissioner for Human Rights*, Council of Europe Publishing, Strasbourg, p. 203.

9. Ibid.

### III. Autonomy and participation

#### *Paragraph 9*

19. Any person has the right to be recognised everywhere as a person before the law, as laid down in Article 6 of the Universal Declaration on Human Rights and Article 16 of the United Nations International Covenant on Civil and Political Rights. Inspired by Article 3 of the United Nations Convention on the Rights of Persons with Disabilities and the Committee of Ministers Recommendation No. R (94) 9 concerning elderly people, the recommendation recalls that the general principles of respect for human dignity, individual autonomy and self-determination apply to older persons. Therefore older persons are presumed to be capable of self-reliance (capacity to provide for one's own needs), personal preference (capacity to express wishes and make own decisions and choices) and self-assertion (pursuit of the fulfilment of one's desires and goals).<sup>10</sup>

20. The direct consequences to be drawn from these principles are the following. Older persons should be enabled to lead independent lives in their familiar surroundings for as long as they wish and are able. Older persons should be able to take and communicate decisions with regard to personal and legal matters, including decisions about living conditions, and express wishes for a funeral in accordance with their beliefs.

#### *Paragraphs 10 and 11*

21. Social cohesion and active citizenship in Europe may be achieved through the integration in society of all generations. Policies oriented towards facilitating and supporting the participation of older persons in social, cultural and economic life, even in volunteering opportunities, contribute significantly to the goals of economic growth, prosperity and social cohesion in all countries,<sup>11</sup> as well as to the intellectual, social and physical state of the elderly.

22. Information technology literacy can foster the social inclusion of older persons and their ability to experience active ageing. In its Recommendation 1428 (1999) on the future of senior citizens: protection, participation and promotion, the Parliamentary Assembly suggested States provide for initiatives to bring retired and older persons into closer contact with new communication

---

10. George J Agich (2003), *Dependence and Autonomy in Old Age*, Cambridge University Press, Cambridge.

11. G8 Turin Charter "Towards Active Ageing", Labour Ministers Conference, November 2000, Italy.

technologies. In its Recommendation CM/Rec(2009)6 on ageing and disability in the 21st century, the Committee of Ministers recommended also that free and accessible modern information systems and counselling – including via the Internet – should be available to help individuals make their own decisions and organise their lives independently.

23. Some derived rights from the absolute prohibition of maltreatments under Article 3 of the Convention and from the right to a private and family life under Article 8 of the Convention are enshrined in the recommendation. The respect of human dignity is at the core of the prohibition under Article 3 and the respect for privacy, including intimacy is at the core of Article 8. The protection of sexual intimacy is relevant mostly in the context of residential care (and in case of detention) where the maintaining of sexual relationships may be restricted or the providing of (body) care may impact on the dignity of the person. Another aspect of this issue is that older persons should decide autonomously on their personal relations, including choices of friends and partners, and to be in contact with the people they wish.

### *Paragraphs 12 to 15*

24. Emphasising the autonomy of older persons, the recommendation considers older persons as having the ability to decide in their own best interests about their person and affairs, and therefore recognises their legal capacity on an equal basis with others. However, when an older person suffers from a mental disorder, disability or a disease, he or she may need different degrees of support to facilitate decision making in accordance with the principle of supported decision making including, in exceptional cases, the designation of another person to take decisions on his or her behalf.

25. The Committee of Ministers Recommendation CM/Rec(2009)11 on principles concerning continuing powers of attorney and advance directives for incapacity is a particularly relevant and guiding text for assisted decision making. The term “advance directives” is understood as instructions given or wishes made by a capable adult concerning issues that may arise in the event of his or her incapacity. The European Committee of Social Rights asked States, under Article 23 of the revised Charter, for information on the legal framework related to assisted decision making for older persons and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision making by older persons.<sup>12</sup>

---

12. European Committee of Social Rights, Conclusions 2009, Vol. 1, p. 70 (concerning Andorra).

26. The recommendation acknowledges the possibility of limiting the older persons' decision making and legal capacity for protection purposes without, by this, meaning to encourage the widespread application of such limitations. While recognising that such limitations should be exceptional, based on a case-by-case assessment of the circumstances and needs, and should be accompanied by appropriate safeguards, such limitations may still be possible in accordance with national law. They require therefore an explicit mention in the recommendation to underline the need for specific safeguards in order to prevent abuse, which is particularly relevant in this context. The principles enshrined in Article 12.4 of the United Nations Convention on the Rights of Persons with Disabilities may likewise be adapted to the present context. Member States should ensure that restriction measures respect the rights, will and preferences of the older person concerned, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body.

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

##### ***Paragraphs 16 and 17***

27. The recommendation deals with the serious problem of violence, abuse and neglect of older persons and calls upon member States to ensure them special protection from such acts, irrespective of whether this occurs at home or within an institution. In most cases maltreatment is a hidden phenomenon: the perpetrator may be a relative whom the older person is reluctant or unable to denounce and/or against whom the older person may be unable to defend her/himself. The European Court of Human Rights has considered that older persons are not often in a position to draw attention to shortcomings concerning the provision of care on their own initiative.<sup>13</sup>

28. The European Committee of Social Rights<sup>14</sup> and the World Health Organization<sup>15</sup> have recognised that the abuse of older people is a significant global problem leading to poorer quality of life and reduced survival. The World Health Organization has defined "elder abuse" as "a single or repeated act or lack of appropriate action occurring within any relationship where there is an

---

13. *Heinisch v. Germany* (no. 28274/08), judgment of 21 October 2011, paragraph 71.

14. European Committee of Social Rights, *Conclusions 2009*, Vol. 1, pp. 274-5.

15. Sethi D. et al. (eds) (2011), *European report on preventing elder maltreatment*, Regional Office for Europe of the World Health Organization, Copenhagen.

expectation of trust which causes harm or distress to an older person". Elder abuse can take various forms such as physical, psychological or emotional, sexual and financial abuse. It can also be the result of intentional or unintentional neglect.<sup>16</sup> The neglect may be seen as the failure of the caregiver(s) to meet the needs of a dependant older person, and is generally considered as a form of maltreatment.

29. The protection from abuse in the first place derives from Article 3 of the Convention which prohibits in absolute terms torture or inhuman or degrading treatment or punishment.<sup>17</sup> The prohibition of such treatment directly applies to carers providing services to older persons at home or in institutions. The protection of older persons goes even beyond this obligation, as the Convention also imposes a positive obligation on States to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment, including such ill-treatment by private individuals.<sup>18</sup>

### **Paragraph 18**

30. The recommendation suggests member States take appropriate awareness-raising and other measures so that the detection of violence and abuse becomes easier. Measures may include, for instance, information and advice to medical staff, caregivers and persons providing services to older persons on how to detect maltreatment and how to react if it is suspected to have occurred. In addition, member States may consider providing guidance to medical and forensic staff on how to better detect violence against older persons and death from an unnatural cause.

31. Further proposals for measures to prevent maltreatment were made by the Council of Europe Commissioner for Human Rights who suggested the setting up of independent complaints and inspection systems.<sup>19</sup> In Recommendation CM/Rec(2009)6 on ageing and disability in the 21st century, the Committee of Ministers suggested the establishment of easy access to telephone hotlines to protect older persons and people with disabilities from abuse. Moreover,

---

16. World Report on Violence and Health (2002), World Health Organization, Geneva, pp.126-143.

17. *Gäfgen v. Germany* (no. 22978/05), judgment of 1 June 2010 [Grand Chamber], paragraph 87.

18. *Z and others v. the United Kingdom* (no. 29392/95), judgment of 10 May 2001 [Grand Chamber], paragraph 73.

19. Thomas Hammarberg (2011), "The rights of older people" in *Human rights in Europe: no grounds for complacency – Viewpoints by Thomas Hammarberg, Council of Europe Commissioner for Human Rights*, Council of Europe Publishing, Strasbourg, p. 203.

in Recommendation 1428 (1999) on the future of senior citizens: protection, participation and promotion, the Parliamentary Assembly suggested member States consider establishing information services for older persons to assist in preventing and punishing maltreatment (with particular attention to drug misuse in institutions).

32. The issue of abuse might be further complicated should the professionals responsible for treating older persons refuse to acknowledge that abuse has occurred. The recommendation invites member States to encourage caregivers to report to competent authorities if they have knowledge of possible act(s) of abuse.

33. To this effect and in the light of the case law of the European Court of Human Rights, the recommendation encourages member States to take legislative or other measures to protect persons having reported maltreatment (“whistle-blowers”) from dismissal or other reprisals. The European Court of Human Rights has decided that the national courts’ upholding of a dismissal of a carer for having reported, in the public domain, deficiencies in an institution concerning the quality of care (“whistle-blowing”), may under certain circumstances be in violation of Article 10 of the Convention (freedom of expression).<sup>20</sup> Thus, a certain level of protection of whistle-blowers is required from States, in particular where the employee/civil servant concerned is the only person, or part of a small category of persons, aware of what is happening and is better placed to act in the public interest by alerting the employer or the public at large. The European Court of Human Rights has held in *Heinisch v. Germany* that the reporting of flaws in the care of older persons is in the public interest and, taking into account the particular vulnerability of the patients concerned, is of vital importance with a view to preventing abuse.<sup>21</sup>

34. When assessing whether any reprisals, including the dismissal of a whistle-blower, disproportionately restrict and thus violate the freedom of expression, the European Court of Human Rights has regard to the following criteria: the authenticity and the accuracy of the information disclosed, the damage suffered by the employer as a result of the disclosure, the motive behind the actions of the whistle-blowing employee and the severity of the penalty imposed.<sup>22</sup>

---

20. *Heinisch v. Germany* (no. 28274/08), judgment of 21 October 2011.

21. *Ibid.* paragraph 71.

22. *Ibid.* paragraphs 66-70.



35. However, national legislation may subject the reporting of any suspected maltreatment to some requirements. For instance, before alerting competent authorities, carers should have previously informed their superior or other authority of the institution (duty of loyalty and discretion). It is only where this is clearly impracticable or without effect that the information can, as a last resort, be disclosed to the public.<sup>23</sup> The information disclosed should be accurate, and the person reporting their suspicions should have acted in good faith. The Parliamentary Assembly has established a number of principles for the protection of whistle-blowers in its Resolution 1729 (2010), inviting member States to review their legislation in this area.

### ***Paragraphs 19 and 20***

36. The recommendation invites member States to carry out an effective investigation when there are credible claims or the authorities have reasonable grounds to suspect that violence or abuse has occurred. This is a procedural obligation deriving from Article 3 of the Convention. The European Court of Human Rights has held that, in order for an investigation to be effective, it should respect the following requirements: the investigation must be capable of leading to the identification and punishment of those responsible (“adequacy”); it must be comprehensive in scope and address all of the relevant background circumstances (“thoroughness”); persons responsible for carrying out the investigation must be impartial and independent from those implicated in the events (“impartiality”); the investigation must be commenced with sufficient promptness in order to obtain the best possible amount and quality of evidence available (“promptness”); and there should be a sufficient element of public scrutiny of the investigation to secure accountability, maintain public confidence and to prevent any appearance of collusion (“public scrutiny”).<sup>24</sup>

37. Older persons who have suffered from abuse should receive appropriate help and support. Such support may take various forms, including appropriate medical and psychological assistance, and should be provided within reasonable time. In the light of Article 13 of the Convention, the recommendation stipulates that older persons are entitled to an effective remedy before a national authority and should receive, where appropriate, adequate redress. Depending on the older person’s age, the national authority should decide promptly and the situation should be redressed in reasonable time.

---

23. *Ibid.* paragraph 65.

24. *Ramsahai and others v. the Netherlands* (no. 52391/99), judgment of 15 May 2007 [Grand Chamber], paragraph 324.

The “European charter of rights and responsibilities of older people in need of long-term care and assistance” (developed in 2010 by the EUSTaCEA project “A European Strategy to fight elder abuse”) is an additional source on that issue. It recognises in Article 9 that older persons have the right to redress in cases of mistreatment, abuse or neglect.<sup>25</sup>

## V. Social protection and employment

### *Paragraph 21*

38. The provisions of Chapter V should be read in accordance with the national context and legislation of the Council of Europe member States. Some considerations relative to older persons’ participation in social, cultural and economic life are developed under Chapter III of the recommendation.<sup>26</sup>

39. As regards social protection of older persons, the recommendation is primarily based on Article 23 of the revised Charter which specifically guarantees some older persons’ social rights and requires States to put in place measures designed to meet their specific needs. This article is supplemented by other provisions, namely Articles 11 (right to protection of health), 12 (right to social security), 13 (right to social and medical assistance) and Article 14 (the right to benefit from social welfare services). As Article 23 does not include the field of employment, the question of age discrimination in this field is mainly considered under Articles 1, paragraph 2 (non-discrimination in employment) and Article 24 (right to protection in cases of termination of employment).

40. The recommendation summarises the part of Article 23 of the revised Charter which says that States shall adopt or encourage appropriate measures designed in particular “to enable elderly persons to remain full members of society for as long as possible, by means of: *a.* adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life”. Bearing in mind that Article 23 relates specifically to older persons who have stopped work, the resources in question are retirement pensions and any other benefits which States may grant. The European Committee of Social Rights has specified that pensions should be indexed, linked and compared to the average wage levels and cost of living, including costs of transport and medical care. The committee usually assesses the resources of older persons

---

25. [www.age-platform.eu/images/stories/Final\\_European\\_Charter.pdf](http://www.age-platform.eu/images/stories/Final_European_Charter.pdf)

26. Article 25 of the Charter of Fundamental Rights of the European Union “recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life” [www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf).

in relation to the poverty line, which is calculated by Eurostat or by the committee itself on the basis of the national poverty lines.<sup>27</sup>

41. Where countries have not accepted Article 23, the European Committee of Social Rights holds that States are nevertheless bound to ensure a minimum level of well-being for older persons, and justifies its assessment from the angle of other provisions of the revised Charter (e.g. Article 13, paragraph 1 on the right to social and medical assistance<sup>28</sup> and Article 14). In its Recommendation 2000 (2012) on decent pensions for all, the Parliamentary Assembly expressed concerns about the need to ensure the sustainability and adequacy of pension systems, in particular in times of ageing populations and economic and financial crisis.

### ***Paragraphs 22 and 23***

42. The recommendation invites member States to facilitate home renovation and access to social housing for older persons with a view to ensuring them adequate and safe living conditions and preventing difficulties that may impact on their state of health or well-being. In order for older persons to be able to adapt gradually their housing to their needs and state of health, member States should provide adequate measures of support and anticipate possible future needs of the elderly with a view to avoiding major difficulties in their lives. The European Committee of Social Rights has stressed that comfortable housing conditions are very important for older persons' well-being and the improvement of housing conditions of senior citizens requires considerable public funding under the form of grants, loans, etc., as the average older person usually cannot afford the costs of modernisation.<sup>29</sup>

43. In its Recommendation No. R (94) 9 concerning elderly people, the Committee of Ministers recommended that adequate housing and social protection systems that take into consideration the needs of particularly vulnerable groups are an essential factor in preventing social exclusion. Moreover,

---

27. "The Rights of Elderly Persons under the European Social Charter", Draft Information Document drawn up by the Secretariat of the Council of Europe, Department of the European Social Charter, March-April 2011.

28. See the conclusions under Article 13, paragraph 1 on Armenia: "Given that Armenia has not accepted Article 23 of the Revised Charter (the right of elderly persons to social protection), the Committee assesses the level of non-contributory pension paid to a single elderly person without resources under this provision." European Committee of Social Rights, Conclusions 2009, Vol. 1, p. 89.

29. European Committee of Social Rights, Conclusions 2009, Vol. 1, p. 72 (concerning Andorra).

the Council of Europe Commissioner for Human Rights recommended in this respect that States should ensure that their social protection systems, health care and housing policies are suited for older people.<sup>30</sup>

#### ***Paragraph 24***

44. In order to continue to live at home and maintain an adequate standard of living, older persons may need some additional arrangements such as the preparation of meals, adult day care, nursing, and any other supplementary service, at a relatively low cost to allow the broadest possible access.<sup>31</sup> In its Resolution 1502 (2006) on demographic challenges for social cohesion, the Parliamentary Assembly recommended member States to adapt long-term care for the increasing number of older people and ensure that those who live alone have access to formal support (nurses, doctors, hospitals) and informal networks (friends, neighbours).

#### ***Paragraph 25***

45. The recommendation encourages member States, if they have not yet done so, to consider the ratification of the European Social Charter (revised) and of the Additional Protocol to the European Social Charter providing for a system of collective complaints (ETS No. 158). The recommendation also contributes to reinforcing the protection of older persons by inviting member States which have already ratified the revised Charter, but are not yet bound by Article 23, to consider declaring that they are bound by that provision. Article 23 provides a fundamental basis for offering older persons specific protection suited to their needs and combating age discrimination in various areas.

#### ***Paragraphs 26 to 28***

46. Since access to employment for older workers may often be particularly difficult, the recommendation strongly encourages member States to apply to older persons the principle of equal treatment, based on Article 14 of the

---

30. Thomas Hammarberg (2011), "The rights of older people" in *Human rights in Europe: no grounds for complacency – Viewpoints by Thomas Hammarberg*, Council of Europe Commissioner for Human Rights, Council of Europe Publishing, Strasbourg, p. 201.

31. "Normative standards in international human rights law in relation to older persons", Analytical Outcome Paper, United Nations Office of the High Commissioner for Human Rights (August 2012), p. 28. (<http://social.un.org/ageing-working-group/documents/ohchr-outcome-paper-olderpersons12.pdf>).

Convention.<sup>32</sup> Exceptions to this principle may be admissible and the recommendation foresees a grid of analysis for such exceptions: any difference in treatment should be justified by furthering a legitimate aim of employment policy and should be proportionate to achieving that aim. These conditions should be assessed taking into consideration the national social and economic context in the field of employment.

47. The recommendation also highlights the importance of promoting the participation of older persons in the labour market<sup>33</sup> and of the prevention of and protection from recurrent schemes of negative action against older persons in the workplace.<sup>34</sup> In its Resolution 1793 (2011) on promoting active ageing: capitalising on older people's working potential, the Parliamentary Assembly encouraged member States to consider "adopting legislation to prohibit age discrimination and removing labour market barriers, and empowering older persons to enter, remain in or return to the labour market in accordance with their capabilities and willingness to work". Moreover, it recommended the implementation of programmes that "redirect both employees' and employers' attitudes towards a more positive assessment of active ageing and facilitating an efficient information and co-ordination process among employer organisations and trade unions, with regard to employment initiatives for an ageing workforce".

48. Notwithstanding the instruments affirming the principle of equal treatment, the adoption of a national scheme requiring compulsory retirement should not be considered as a discrimination if, within the context of national law, it is objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary.<sup>35</sup>

49. By paying specific attention to safety and health problems of older workers in member States, programmes, action plans and other relevant policy action are ways to ensure the right to safety and health in the workplace (Article 3 of the revised European Social Charter).

---

32. See also the EU Directive 2000/78/EC "Establishing a general framework for equal treatment in employment and occupation".

33. See European Parliament Resolution on the European Semester for Economic Policy Coordination (1 December 2011, §78).

34. See Article 26 of the revised Charter and "Live Longer, Work Longer: A synthesis report", Organisation for Economic Co-operation and Development Report, 2006.

35. Directive 2000/78/EC, EU Court of Justice C-286/12 *Commission v. Hungary*, judgment of 6 November 2012.

## VI. Care

### A. General principles

#### *Paragraphs 29 to 35*

50. Sub-chapter A refers mainly to the provision of long-term care for older persons in both home-based and institutional care. The term “long-term care” has been defined by the Organisation for Economic Co-operation and Development as “a range of services for people who depend on ongoing help with activities of daily living caused by chronic conditions of physical or mental disability”.<sup>36</sup> Older persons need specific geriatric care to meet their long-term care needs, taking into due account the specific needs of persons with dementia. Geriatric care generally aims at maintaining and improving their physical and mental health. Mental health is an equally important part of the overall health and well-being of a person as physical health.

51. The European Committee of Social Rights has concluded that primary health-care programmes and services specifically aimed at older persons must exist, together with guidelines on health care for older persons. In particular, there should be mental-health programmes for any psychological problems in respect of the elderly, adequate palliative care services and special training for individuals caring for elderly persons.<sup>37</sup>

52. A variety of affordable community and home care services for older persons should be promoted. The Parliamentary Assembly deplored the fact that in some countries older persons may be denied treatment because of its high cost, and underlined the need for appropriate legislation or collective agreements, not least in respect of dependent older persons living in institutions or retirement homes.<sup>38</sup> The Council of Europe Commissioner for Human Rights suggested in this respect that health-care systems should implement age-friendly policies and practices and consider how to promote healthy ageing.<sup>39</sup> In its General Comment No. 6, the United Nations Committee

---

36. Organisation for Economic Co-operation and Development 2005, “Long-term Care for Older People”, p. 3 ([www.oecd.org/els/health-systems/long-termcareforolderpeople.htm](http://www.oecd.org/els/health-systems/long-termcareforolderpeople.htm)).

37. European Committee of Social Rights, Conclusions 2009, Vol. 1, p. 73 (concerning Andorra); p. 326 (concerning France) and p. 388 (concerning Ireland).

38. Parliamentary Assembly Recommendation 1796 (2007) on the situation of elderly persons in Europe, paragraphs 6-7.

39. Thomas Hammarberg (2011), “The rights of older people” in *Human rights in Europe: no grounds for complacency – Viewpoints by Thomas Hammarberg, Council of Europe Commissioner for Human Rights*, Council of Europe Publishing, Strasbourg, p. 202.

on Economic, Social and Cultural Rights specified that governments and non-governmental organisations should be encouraged to “establish social services to support the family when there are elderly people at home and to implement measures especially for low-income families who wish to keep elderly people at home”.<sup>40</sup>

53. In this respect, important suggestions may also be drawn from the 2010 “European charter of rights and responsibilities of older people in need of long-term care and assistance”, which is accompanied by a guide addressed specifically to long-term care providers, social services and policy makers.<sup>41</sup> Building on this charter, the “WeDO project” (a steering group composed of 18 partners from 12 EU member States) established in December 2012 the European Quality Framework for Long-term Care Services, which sets out principles and guidelines for the well-being and dignity of older people in need of care and assistance.<sup>42</sup>

54. One of the most significant barriers to appropriate quality health care is the lack of competent care providers to deal with the diagnosis and treatment of older persons. The recommendation suggests member States support the training of both informal and professional caregivers and promote the co-operation of competent services through a multi-dimensional approach. In its Resolution 1793 (2011) on promoting active ageing: capitalising on older people’s working potential, the Parliamentary Assembly advised member States to develop new approaches to the care of the elderly and support informal carers through extending parental leave provisions to enable all unpaid carers responsible for dependent relatives to enjoy an adequate protection of their social rights, including pension rights. The Confederation of Family Organisations in the European Union (COFACE) has developed a “Charter for family carers” which is aimed at recognising the rights of family carers and highlights their role and the challenges they face.<sup>43</sup> The Parliamentary Assembly also recommended providing special training for medical practitioners and individuals caring for older persons at home in its Recommendation 1796 (2007) on the situation of elderly persons in Europe.

---

40. [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/482a0aced8049067c12563ed005acf9e?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/482a0aced8049067c12563ed005acf9e?OpenDocument).

41. [www.age-platform.eu/en/age-policy-work/quality-care-standards-and-elder-abuse/1018-a-european-strategy-for-older-people-in-need-of-long-term-care-and-assistance](http://www.age-platform.eu/en/age-policy-work/quality-care-standards-and-elder-abuse/1018-a-european-strategy-for-older-people-in-need-of-long-term-care-and-assistance).

42. [www.wedo-partnership.eu/european-quality-framework-long-term-care-services](http://www.wedo-partnership.eu/european-quality-framework-long-term-care-services).

43. [www.coface-eu.org/en/Publications/Charter-for-Family-Carers/](http://www.coface-eu.org/en/Publications/Charter-for-Family-Carers/)

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

### ***Paragraphs 36 to 39***

55. Sub-chapter B deals with consent to medical care of older persons. In this part, the recommendation is based on Articles 5 to 9 of the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (ETS No. 164).<sup>44</sup>

56. In the context of the recommendation and in the light of the Convention on Human Rights and Biomedicine, the term “medical care” covers all medical acts, in particular interventions performed for the purpose of preventive care, diagnosis, treatment of a disease or rehabilitation.

57. The free and informed consent given by a legally capable person is an important principle of medical ethics and international human rights standards. An older person must be able to freely give or refuse consent to any intervention considered involving him or her, and no intervention should, in principle, be carried out without his or her free and informed consent. This rule makes clear patients’ autonomy in their relationship with health-care professionals.

58. The patient’s consent is considered to be free and informed if it is given on the basis of objective information from the responsible health-care professional as to the nature and the potential consequences of the planned intervention or of its alternatives, in the absence of pressure from another source. Thus the person concerned should have received appropriate (sufficient and clear) information in particular about the purpose, nature, risks and consequences of the intervention being contemplated.

59. Freedom of consent implies that consent may be withdrawn at any time and that the decision of the person concerned shall be respected once he or she has been fully informed of the consequences. In particular circumstances, professional standards and obligations, as well as rules of conduct may oblige doctors to continue providing care to avoid seriously endangering the health of the patient.

60. Some individuals may not be able to give full and valid consent to an intervention due to their mental disability or a disease. The incapacity to give consent must be understood in the context of a given intervention. Considering the diversity of the legal systems in Europe – in some countries the patient’s

---

44. <http://conventions.coe.int/Treaty/en/Treaties/Html/164.htm>



capacity to consent must be verified for each intervention taken individually, while in others the system is based on the institution of legal incapacitation, whereby a person may be declared incapable of consenting to one or several types of act – it is for the domestic law of each country to determine whether or not persons are capable of consenting to an intervention and taking account of the need to deprive persons of their capacity for autonomy only where it is necessary and in their best interests. The recommendation does not intend to harmonise relevant national legal systems, or to regulate possible conflicts of competences between States<sup>45</sup> as far as these complex issues are concerned.

61. In such cases where persons are not able to consent, an intervention may be carried out only if the prior authorisation of a legal representative or an authority or a person or body provided for by law has been given. The patient should be involved in the authorisation procedure whenever possible. Moreover, any previously expressed wishes by the patient should be taken into account, notably where they apply to the situation encountered and are still valid, in particular taking into account the technical progress in medicine. Whenever a person is acknowledged to be incapable of giving consent, he or she must be protected by appropriate and effective safeguards to prevent abuse, as set out in relevant national and international law. The intervention must be carried out for the direct benefit of the person.

62. Only in cases of emergency which prevent practitioners from obtaining the appropriate consent, the latter may act immediately without waiting until the consent of the patient or the authorisation of the legal representative where appropriate can be given. However practitioners should make every reasonable effort to determine what the patient would want. This possibility is limited solely to medically necessary interventions which cannot be delayed and must be carried out for the immediate benefit of the individual concerned.

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

### ***Paragraphs 40 to 43***

63. Sub-chapter C deals explicitly with the situation of older persons in residential and institutional care.<sup>46</sup> The recommendation suggests the provision of sufficient and adequate institutional care for those older persons who are

---

45. See in this respect, for instance, the relevant provisions of the Convention of 13 January 2000 on the international protection of adults.

46. For the purposes of the recommendation the terms “residential care” and “institutional care” are deemed to be equivalent and refer to formal care provision outside the home.

no longer able or do not wish to reside in their own homes. Both Article 23 of the revised Charter and the Committee of Ministers Recommendation No. R (94) 9 concerning elderly people, grant to older persons the right to participate in decisions concerning their treatment, as well as the living conditions of the institution. The latter recommendation also States that older persons should be able to participate in the establishment and the provision of services for themselves, including in their setting up, management and evaluation.

64. The vulnerability of older persons or, in some cases, their limited capacity to look after themselves are risk factors for violence, abuse or neglect against them, sometimes endangering their lives. This is why the European Court of Human Rights has held that under Article 2 of the Convention, States have positive obligations to make regulations compelling hospitals to adopt appropriate measures for the protection of their patients' lives and to set up an effective independent judicial system so that the cause of death of patients in the care of the medical profession can be determined and those responsible made accountable.<sup>47</sup> The recommendation suggests the inspection of the residential institutions and the setting up of accessible and effective complaint mechanisms to allow redress for any deficiencies in the quality of care.

65. The European Committee of Social Rights has dealt with the issue of inspection systems regarding the standards of care and services provided in institutions and residential facilities, and recalled the importance of ensuring that any inspection system should be entirely independent of the body managing the facility.<sup>48</sup>

66. Institutionalisation may deprive older persons of their independence and autonomy. The placement of older people in institutions may often happen without their consent or appropriate safeguards,<sup>49</sup> and may have a particular impact on their freedom of movement. While noting a constant trend towards de-institutionalisation, and having underlined that older persons should be able to stay as long as possible in their homes, the recommendation dedicates some specific provisions to residential and institutional care, in the light of specific risks of abuse related to this situation. The recommendation reiterates the general principles that older persons have the right to freedom of

---

47. *Calvelli and Ciglio v. Italy* (no. 32967/96), judgment of 17 January 2002, [Grand Chamber] paragraph 49.

48. European Committee of Social Rights, Conclusions 2009, Vol. 1, p. 73 (concerning Andorra).

49. "Normative standards in international human rights law in relation to older persons", Analytical Outcome Paper, United Nations Office of the High Commissioner for Human Rights (August 2012), p. 28.

movement and should only be placed in residential, institutional or psychiatric care if they have consented. Without intending to encourage the practice of placement in institution without consent, the recommendation recognises, however, that there might be cases in which the consent may not be obtained because the older person is not able to give such consent, or the authorities consider that the placement in an institution is for that person's own benefit. Possible reasons could be that the person is becoming a danger to him/herself or third persons, is incapable of seeing to his or her basic personal needs or is becoming a threat to law and order.<sup>50</sup> On this basis, it is recommended that any restrictions on the right to freedom of movement must be lawful, necessary and proportionate, in accordance with international human rights law. In addition, any individual constraints for an older person should be implemented with the free and informed consent of that person, or, if imposed without the person's consent, as a proportionate response to a risk of potential harm. It should be possible to challenge these decisions, which should also be subject to regular monitoring and review.

67. The European Court of Human Rights case law has demonstrated that placement in an institution poses particular problems with regard to the right to liberty and security (Article 5, paragraph 1 of the Convention). In *H.M. v. Switzerland*, the applicant complained that she had been placed in a nursing home against her will. The European Court of Human Rights has considered that there had not been a deprivation of liberty within the meaning of Article 5, paragraph 1 of the Convention and consequently the provision did not apply. While the European Court of Human Rights took into consideration that the domestic authorities had ordered the applicant's placement in the nursing home for her own interests in order to provide her with the necessary medical care and satisfactory living conditions and standards of hygiene, the decisive factor appears to have been that the applicant, after having moved to the nursing home, had agreed to stay there.<sup>51</sup>

68. In contrast to the above case, the European Court of Human Rights found, in *Stanev v. Bulgaria*,<sup>52</sup> a violation of Article 5, paragraph 1 of the Convention with respect to the applicant's placement in a psychiatric institution. In that case, in order to determine whether the applicant had been deprived of his

---

50. Council of Europe Commissioner for Human Rights, Background paper for the seminar on protection of human rights and the special situation of elderly people in retirement homes or institutions CDDH-AGE(2012)02, p. 56.

51. *H.M. v. Switzerland* (no. 39187/98), judgment of 26 February 2002, paragraphs 44-48.

52. *Stanev v. Bulgaria* (no. 36760/06), judgment of 17 January 2012 [Grand Chamber].

liberty, the Grand Chamber found that the starting point must be the applicant's concrete situation, and account must be taken of a whole range of criteria such as the type, duration, effects and manner of implementation of the measure in question.<sup>53</sup>

69. According to the European Court of Human Rights, the notion of deprivation of liberty does comprise the objective element of a person's confinement in a particular restricted space for a not negligible length of time as well as the subjective element of a lack of consent to the confinement.<sup>54</sup> In the context of deprivation of liberty on mental-health grounds the European Court of Human Rights has found that there was a deprivation of liberty in circumstances such as the following: where the applicant, who had been declared legally incapable and admitted to a psychiatric hospital, at his legal representative's request, had unsuccessfully attempted to leave the hospital;<sup>55</sup> where the applicant had initially consented to her admission to a clinic but had subsequently attempted to escape;<sup>56</sup> or where the applicant was an adult incapable of giving his consent to admission to a psychiatric institution which, nonetheless, he had never attempted to leave.<sup>57</sup> The European Court of Human Rights has also held that the right to liberty is too important in a democratic society for a person to lose the benefit of the Convention's protection for the single reason that he may have given himself up to be taken into detention,<sup>58</sup> especially when it is not disputed that that person is legally incapable of consenting to, or disagreeing with, the proposed action.<sup>59</sup>

70. In cases in which Article 5, paragraph 1 of the Convention is applicable, any interference must be in conformity with national law, and it must also be necessary in the circumstances of the case.<sup>60</sup> Once Article 5, paragraph 1 of the Convention applies to a case, sub-paragraphs *a* to *f* contain an exhaustive list of permissible grounds for the deprivation of liberty. Measures which interfere with Article 5, paragraph 1 of the Convention are not lawful unless

---

53. *Stanev v. Bulgaria* (no. 36760/06), judgment of 17 January 2012 [Grand Chamber], paragraph 115; *Storck v. Germany* (no. 61603/00), judgment of 16 June 2005, paragraph 71; *Guzzardi v. Italy* (no. 7367/76), judgment of 6 November 1980, paragraph 92.

54. *Storck v. Germany* (no. 61603/00), judgment of 16 June 2005, paragraph 74.

55. *Shtukaturov v. Russia* (no. 44009/05), judgment of 27 March 2008, paragraph 108.

56. *Storck v. Germany* (no. 61603/00), judgment of 16 June 2005, paragraph 76.

57. *H.L. v. the United Kingdom* (no. 45508/99), ECHR 2004-IX, paragraphs 89-94.

58. *De Wilde, Ooms and Versyp v. Belgium*, judgment of 18 June 1971, Series A no. 12, paragraphs 64-65.

59. *H.L. v. the United Kingdom* (no. 45508/99), ECHR 2004-IX, paragraph 90.

60. *Witold Litwa v. Poland* (no. 26629/95), ECHR 2000-III, paragraph 78.

they fall within one of those grounds.<sup>61</sup> In the context of the placement of older persons in nursing homes or psychiatric institutions, authorities have to demonstrate that the person was of “unsound mind” and the three following conditions must be satisfied: he or she must reliably be shown to be of unsound mind, the mental disorder must be of a kind or degree warranting compulsory confinement and the validity of continued confinement depends upon the persistence of such a disorder.<sup>62</sup>

71. The first sentence of Article 5, paragraph 1 of the Convention imposes a positive obligation on the State to take measures providing effective protection of vulnerable persons (such as older persons), including reasonable steps to prevent arbitrary deprivation of liberty of which the authorities have or ought to have knowledge.<sup>63</sup> Moreover, Article 5, paragraph 4 requires that any decision to put an older person into compulsory placement must be open to appeal before a court, which must give a prompt ruling on the lawfulness of the placement order.

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

##### ***Paragraphs 44 to 50***

72. The rationale behind sub-chapter D is that human dignity should be respected throughout all stages of every individual’s life, including the terminally ill and dying, and that palliative care helps to preserve this dignity by providing an appropriate environment for such patients and helping them to cope with the pain and other distressing symptoms. Therefore palliative care should be proposed in all settings in response to the progressive needs of older persons. To this end, member States should ensure that trained specialists in the field are available and encourage co-operation among them. When providing palliative care, consideration should be given to the needs and preferences of the older person, including his or her beliefs, and to the use of a language that the person is able to understand.

73. Palliative care is defined by the World Health Organization as “an approach that improves the quality of life of patients and their families facing the problem

---

61. *Saadi v. the United Kingdom* (no. 13229/03), judgment of 29 January 2008 [Grand Chamber], paragraph 43; *Jendrowiak v. Germany* (no. 30060/04), judgment of 14 April 2011, paragraph 31.

62. *Winterwerp v. the Netherlands*, judgment of 24 October 1979, Series A no. 33, paragraph 39; *Shtukaturov v. Russia* (no. 44009/05), judgment of 27 March 2008, paragraph 108; *Varbanov v. Bulgaria* (no. 31365/96), ECHR 2000-X, paragraph 45.

63. *Storck v. Germany* (no. 61603/00), judgment of 16 June 2005, paragraph 102.

associated with life-threatening illness, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial and spiritual".<sup>64</sup>

74. The Council of Europe has laid down detailed guidelines on the implementation of palliative care in Europe in the Committee of Ministers Recommendation Rec(2003)24 on the organisation of palliative care.<sup>65</sup> In the preamble, the Committee of Ministers considered "that palliative care is an integral part of the health-care system and an inalienable element of a citizen's right to health care, and that therefore it is a responsibility of the government to guarantee that palliative care is available to all who need it".

75. Some other Council of Europe standards are also relevant in this field, such as Parliamentary Assembly Recommendation 1418 (1999) on protection of the human rights and dignity of the terminally ill and the dying and Committee of Ministers Recommendation No. R (89) 13 on the organisation of multidisciplinary care for cancer patients. The need to establish decent palliative and end-of-life care services for older persons was underlined by the Parliamentary Assembly in its Recommendation 1796 (2007) on the situation of elderly persons in Europe.<sup>66</sup> The World Health Organization published in 2011 the guide "Palliative care for older people: better practices"<sup>67</sup> which sets out the growing needs of older persons and gathers best practices in palliative care in the European region.

## VII. Administration of justice

### *Paragraphs 51 and 52*

76. Protection of human rights requires the effective functioning of the justice system, timely remedies for violations and specific guarantees that all persons are equal before the law and before courts.<sup>68</sup> The recommendation summarises Article 6 of the Convention and refers to older persons' access

---

64. [www.who.int/cancer/palliative/definition/en/](http://www.who.int/cancer/palliative/definition/en/).

65. [www.coe.int/t/dg3/health/Source/Rec\(2003\)24\\_en.pdf](http://www.coe.int/t/dg3/health/Source/Rec(2003)24_en.pdf)

66. Paragraph 11.4.2 (<http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta07/erec1796.htm>).

67. [www.csi.kcl.ac.uk/files/Palliative%20care%20for%20older%20people%20-%20better%20practices.pdf](http://www.csi.kcl.ac.uk/files/Palliative%20care%20for%20older%20people%20-%20better%20practices.pdf)

68. Follow-up to the Second World Assembly on Ageing, UN Secretary-General Report, 22 July 2011, Doc. A/66/173. (<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/428/83/PDF/N1142883.pdf?OpenElement>)

to justice and right to a fair trial. In *Süssmann v. Germany*<sup>69</sup> and *Jablonská v. Poland*,<sup>70</sup> the European Court of Human Rights has held that the advanced age of a person may be a relevant factor in considering whether a case was dealt with “within a reasonable time” and thus may tighten the requirement for prompt trial under Article 6, paragraph 1 of the Convention.

77. Examples of specific measures to ensure access to justice for older persons may be found in the UN Secretary-General’s Report on the follow-up to the Second World Assembly on Ageing of July 2011. Such measures include: the provision of legal aid or the existence of dedicated bodies to provide assistance, including technical assistance, to older persons; the deferral, reduction or exemption of litigation fees; the creation of special courts and jury systems to handle disputes involving older persons; the provision of human rights counselling services for older persons in welfare facilities; and the granting of loans to cover the expenses of trials.

78. The European Court of Human Rights takes the applicant’s age and situation into account when awarding pecuniary damages. In *Georgel and Georgeta Stoicescu v. Romania*, the Court found that the State had violated its obligation under Article 8 to protect the 72-year-old applicant from an attack by stray dogs and stated that regard must also be given to the applicant’s dire financial situation, her advanced age and deteriorating state of health, as well as to the fact that she had not benefited from free medical assistance until two and half years after the incident.<sup>71</sup>

### **Paragraphs 53 and 54**

79. As societies get older, so does their prison population. It can be assumed that older persons are currently the fastest growing category of prisoners and are more likely to suffer from chronic diseases or disabilities than other prisoners.<sup>72</sup> The European Court of Human Rights takes age into account in its case law when considering prison conditions. In general terms, the minimum

---

69. *Süssmann v. Germany* (no. 20024/92), judgment of 16 September 1998 [Grand Chamber], paragraph 61.

70. *Jablonská v. Poland* (no. 60225/00), judgment of 9 March 2001 [Grand Chamber].

71. *Georgel and Georgeta Stoicescu v. Romania* (no. 9718/03), judgment of 26 July 2011.

72. “Geriatric prisoners – in it for life”, *The Economist* (2 March 2013), referring, *inter alia* to a 128% rise in the number of prisoners over 60 in England and Wales since 2000 and to the fact that 80% of them suffer from a chronic disease or disability.

level of severity to meet the threshold of Article 3 of the Convention is a relative one, and the age of the applicant may be considered a factor for establishing that level.<sup>73</sup>

80. Cases involving older persons frequently concern the conditions of their detention. In *Sawoniuk v. the United Kingdom*, the European Court of Human Rights has held that “a failure to provide the necessary medical care to prisoners may constitute inhuman treatment and there is an obligation on States to adopt measures to safeguard the well-being of persons deprived of their liberty”.<sup>74</sup> The Court stressed in *Enea v. Italy* that “the detention of an elderly sick person over a lengthy period may fall within the scope of Article 3”.<sup>75</sup> It did not find a violation of Article 3 of the Convention even though the health of the applicant had deteriorated because the authorities had protected the applicant’s well-being by monitoring his state of health carefully, evaluating the seriousness of his health problems and providing him with appropriate medical care, including two major operations in a civil hospital.

---

73. *Selmouni v. France* (no. 25803/94), judgment of 10 July 2001 [Grand Chamber], paragraph 100.

74. *Sawoniuk v. the United Kingdom* (no. 63716/00), admissibility decision of 29 May 2001.

75. *Enea v. Italy* (no. 74912/01), judgment of 17 September 2009 [Grand Chamber], paragraph 59.



# Sales agents for publications of the Council of Europe Agents de vente des publications du Conseil de l'Europe

## BELGIUM/BELGIQUE

La Librairie Européenne -  
The European Bookshop  
Rue de l'Orme, 1  
BE-1040 BRUXELLES  
Tel.: +32 (0)2 231 04 35  
Fax: +32 (0)2 735 08 60  
E-mail: info@libeurop.eu  
http://www.libeurop.be

Jean De Lannoy/DL Services  
Avenue du Roi 202 Koningslaan  
BE-1190 BRUXELLES  
Tel.: +32 (0)2 538 43 08  
Fax: +32 (0)2 538 08 41  
E-mail: jean.de.lannoy@dl-servi.com  
http://www.jean-de-lannoy.be

## BOSNIA AND HERZEGOVINA/ BOSNIE-HERZÉGOVINE

Robert's Plus d.o.o.  
Marka Marulića 2/V  
BA-71000 SARAJEVO  
Tel.: + 387 33 640 818  
Fax: + 387 33 640 818  
E-mail: robertsplus@bih.net.ba

## CANADA

Renouf Publishing Co. Ltd.  
22-1010 Polytek Street  
CDN-OTTAWA, ONT K1J 9J1  
Tel.: +1 613 745 2665  
Fax: +1 613 745 7660  
Toll-Free Tel.: (866) 767-6766  
E-mail: order.dept@renoufbooks.com  
http://www.renoufbooks.com

## CROATIA/CROATIE

Robert's Plus d.o.o.  
Marasovičeva 67  
HR-21000 SPLIT  
Tel.: + 385 21 315 800, 801, 802, 803  
Fax: + 385 21 315 804  
E-mail: robertsplus@robertsplus.hr

## CZECH REPUBLIC/RÉPUBLIQUE TCHÈQUE

Suweco CZ, s.r.o.  
Klecakova 347  
CZ-180 21 PRAHA 9  
Tel.: +420 2 424 59 204  
Fax: +420 2 848 21 646  
E-mail: import@suweco.cz  
http://www.suweco.cz

## DENMARK/DANEMARK

GAD  
Vimmelskftet 32  
DK-1161 KØBENHAVN K  
Tel.: +45 77 66 60 00  
Fax: +45 77 66 60 01  
E-mail: reception@gad.dk  
http://www.gad.dk

## FINLAND/FINLANDE

Akateeminen Kirjakauppa  
PO Box 128  
Keskuskatu 1  
FI-00100 HELSINKI  
Tel.: +358 (0)9 121 4430  
Fax: +358 (0)9 121 4242  
E-mail: akatilaus@akateeminen.com  
http://www.akateeminen.com

## FRANCE

Please contact directly /  
Merci de contacter directement  
Council of Europe Publishing  
Editions du Conseil de l'Europe  
FR-67075 STRASBOURG cedex  
Tel.: +33 (0)3 88 41 25 81  
Fax: +33 (0)3 88 41 39 10  
E-mail: publishing@coe.int  
http://book.coe.int

Librairie Kléber  
1 rue des Francs-Bourgeois  
FR-67000 STRASBOURG  
Tel.: +33 (0)3 88 15 78 88  
Fax: +33 (0)3 88 15 78 80  
E-mail: librairie-kléber@coe.int  
http://www.librairie-kléber.com

## GREECE/GRÈCE

Librairie Kauffmann s.a.  
Stadiou 28  
GR-105 64 ATHINAI  
Tel.: +30 210 32 55 321  
Fax: +30 210 32 30 320  
E-mail: ord@otenet.gr  
http://www.kauffmann.gr

## HUNGARY/HONGRIE

Euro Info Service  
Pannónia u. 58.  
PF. 1039  
HU-1136 BUDAPEST  
Tel.: +36 1 329 2170  
Fax: +36 1 349 2053  
E-mail: euroinfo@euroinfo.hu  
http://www.euroinfo.hu

## ITALY/ITALIE

Licosa SpA  
Via Duca di Calabria, 1/1  
IT-50125 FIRENZE  
Tel.: +39 0556 483215  
Fax: +39 0556 41257  
E-mail: licosa@licosa.com  
http://www.licosa.com

## NORWAY/NORVÈGE

Akademika  
Postboks 84 Blindern  
NO-0314 OSLO  
Tel.: +47 2 218 8100  
Fax: +47 2 218 8103  
E-mail: support@akademika.no  
http://www.akademika.no

## POLAND/POLOGNE

Ars Polona JSC  
25 Obroncow Street  
PL-03-933 WARSZAWA  
Tel.: +48 (0)22 509 86 00  
Fax: +48 (0)22 509 86 10  
E-mail: arspolona@arspolona.com.pl  
http://www.arspolona.com.pl

## PORTUGAL

Marka Lda  
Rua dos Correiros 61-3  
PT-1100-162 LISBOA  
Tel: 351 21 3224040  
Fax: 351 21 3224044  
Web: www.marka.pt  
E mail: apoio.clientes@marka.pt

## RUSSIAN FEDERATION/ FÉDÉRATION DE RUSSIE

Ves Mir  
17b, Butlerova ul. - Office 338  
RU-117342 MOSCOW  
Tel.: +7 495 739 0971  
Fax: +7 495 739 0971  
E-mail: orders@vesmirbooks.ru  
http://www.vesmirbooks.ru

## SWITZERLAND/SUISSE

Planetis Sàrl  
16 chemin des Pins  
CH-1273 ARZIER  
Tel.: +41 22 366 51 77  
Fax: +41 22 366 51 78  
E-mail: info@planetis.ch

## TAIWAN

Tycoon Information Inc.  
5th Floor, No. 500, Chang-Chun Road  
Taipei, Taiwan  
Tel.: 886-2-8712 8886  
Fax: 886-2-8712 4747, 8712 4777  
E-mail: info@tycoon-info.com.tw  
orders@tycoon-info.com.tw

## UNITED KINGDOM/ROYAUME-UNI

The Stationery Office Ltd  
PO Box 29  
GB-NORWICH NR3 1GN  
Tel.: +44 (0)870 600 5522  
Fax: +44 (0)870 600 5533  
E-mail: book.enquiries@tso.co.uk  
http://www.tsoshop.co.uk

## UNITED STATES and CANADA/ ÉTATS-UNIS et CANADA

Manhattan Publishing Co  
670 White Plains Road  
USA-10583 SCARSDALE, NY  
Tel: + 1 914 472 4650  
Fax: +1 914 472 4316  
E-mail: coe@manhattanpublishing.com  
http://www.manhattanpublishing.com

Council of Europe Publishing/Editions du Conseil de l'Europe  
FR-67075 STRASBOURG Cedex

Tel.: +33 (0)3 88 41 25 81 – Fax: +33 (0)3 88 41 39 10 – E-mail: publishing@coe.int – Website: http://book.coe.int

The Committee of Ministers adopted Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons on 19 February 2014. The recommendation applies for the first time a human rights-based approach to the situation of all older persons, with a view to ensuring that they enjoy their fundamental rights and freedoms on an equal basis with other people. The recommendation acknowledges and promotes the autonomy of older persons and, at the same time, it aims at ensuring them protection in societies where ageism is on the rise and in situations where they may be vulnerable. The principles contained therein are illustrated with examples of good national practices in Council of Europe member States. The recommendation should serve as a reference for governments, non-governmental organisations, practitioners and all those who are otherwise involved or interested in protecting and promoting the human rights of older persons.

[www.coe.int](http://www.coe.int)

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.



9 789287 178503

Council of Europe Publishing  
<http://book.coe.int>  
ISBN 978-92-871-7850-3  
8€ /16\$US

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE