

## QUESTIONNAIRE

Human Rights Council resolution 24/20 requested the United Nations Independent Expert on the enjoyment of all human rights by older persons to **assess the human rights implications of the implementation of the Madrid International Plan of Action on Ageing (MIPAA)**.

MIPAA was adopted at the Second World Assembly on Ageing in 2002. It requires that States take measures to address ageing in order to achieve a society for all ages and calls for the mainstreaming of ageing into national and global development agendas. It also contains recommendations for action focused on three priority areas: (i) older persons and development; (ii) advancing health and well-being into old age; and (iii) ensuring enabling and supportive environments, which are divided into specific issues, objectives and actions.

The Independent Expert prepared the questionnaire below with the objective to collect information about whether the implementation of MIPAA has enhanced the enjoyment of all human rights by older persons or whether it has had a negative impact and which rights have been affected. It also seeks to identify good practices and challenges encountered by Member States regarding the promotion and protection of all human rights by older persons in the implementation of MIPAA.

All information collected is intended to help the Independent Expert on the enjoyment of all human rights by older persons to elaborate her comprehensive report that will be presented to the Human Rights Council in September 2016.

The questionnaire should preferably be completed in English, French or Spanish by **31 July 2015**. Kindly indicate whether you have any objection for the responses provided to be made available on the OHCHR website of the Independent Expert on the enjoyment of all human rights by older persons.

## Question 1:

### **What is the role of your organization? Do you participate in MIPAA implementation or monitoring thereof?**

The Austrian Ombudsman Board (AOB) is the National Human Rights Institution in Austria. The AOB is a constitutional supreme body, has the following responsibilities and tasks:

- Monitoring and controlling of public administration
- Protection and promotion of human rights
- Obligation to report to federal/state parliaments and international bodies
- Public relations – Awareness raising
  - on AOB's work (e.g. weekly TV-show)
  - among public administration and citizens on issues of good administrative practice
  - on human rights

The AOB holds the following mandates:

- Ex-post control of public administration:

Everybody can lodge a complaint with AOB against alleged maladministration of Austrian authorities (federal, regional, municipal level) including the violation of human rights.
- Preventive mandate for the protection and promotion of human rights: The AOB should
  - regularly visit and examine places of detention as defined in Art. 4 of the OPCAT,
  - monitor the conduct of executive bodies and officers carrying out direct orders and coercive measures, and
  - regularly visit and examine facilities and programs designed to serve persons with disabilities.

The AOB deals with matters concerning the rights of older persons within the realm of both mandates. As a result of its examination work it can:

- Find cases of maladministration
- Issue recommendations

- Propose supervisory measures
- Apply to constitutional court to review legality of (administrative) regulations
- Propose amendments/adoption of laws

The AOB is not directly involved in the implementation of the MIPAA – the responsibility lies within the competences of the government – but it can detect short-comings regarding the rights of older person and promote those rights vis-à-vis the federal and regional governments.

**Question 2:**

**Has a human rights-based approach been integrated in the implementation framework of MIPAA in your country and if so, how did this translate into concrete policies and normative actions? Are there any mechanisms to monitor and assess the impact of MIPAA implementation on the enjoyment of all human rights by older persons?**

The Austrian Federal Ministry for Labour, Social Affairs and Consumer Protection (Federal Ministry) has developed a programme for the prevention of older persons in institutions or at home care. Institutions can apply for the National Quality Certificate which aims at making high quality levels visible and encourages developing high quality procedures even further.

According to the Federal Ministry a special strategy for ensuring the dignity of persons with dementia is currently being developed. Furthermore, a parliamentary conference addressing special measures for ageing in dignity had been organized.

The AOB monitors homes and institutions for older persons on a regular basis through visits of expert commissions and evaluates the findings in particular with a view to the prevention of abuse, violence and exploitation.

At the same time, cases examined by the AOB concerned, *inter alia*, the areas of eradication of poverty, social protection, older persons with disabilities, access to health care facilities or matters of self-determination and participation.

In June 2015 the AOB *inter alia* organised a conference concerning the areas of ageing in dignity and legal capacity.

**Question 3:**

**Have the needs of specific groups of older persons been taken into consideration in the process of implementation of MIPAA and if so, how?**

Partly; examples for the consideration are:

“The Austrian Interdisciplinary Study on the Oldest Old”

The Federal Ministry of Labour, Social Affairs and Consumer Protection, the Federal Ministry of Health, the Federal Ministry of Science and Research, Health and Care Management Styria and the Federal Association of Austrian Social Security Institutions finance this study carried out by the Austrian Interdisciplinary Platform on Ageing (ÖPIA). The Austrian Interdisciplinary Study on the Oldest Old (ÖIHS) investigates the health, living conditions and support and care situation of the oldest old. So far a survey was conducted of 410 residents of Vienna and Styria aged between 80 and 85. The importance of the study lies in the fact that to date, only limited information exists about this group of persons, despite increasing relevance with regard to demographics and public health.

The Senior Citizen Council drafted and developed the Federal Plan for the Elderly. As a result of the analysis the Council described special care requirements of migrants and recommended the following steps:

- Target-group oriented, differentiated offerings for older migrants, in particular in the areas of social inclusion, health promotion, safety and activity
- Informational and educational measures for older women and men with an immigrant background
- Consideration of diversity of origin in statistical findings and through systematic and differentiated inclusion of older women and men of foreign origin
- Basic research with regard to older women and men with an immigrant background

#### **Question 4:**

**Have older persons been informed about MIPAA and if so, how? How are older persons participating in the implementation of MIPAA including in decision-making about MIPAA implementation?**

The Austrian government established the Senior Citizens Council in 1998. According to the Federal Ministry, representatives of the Council of Senior Citizens' Organizations took part in the Madrid World Assembly on Ageing in 2002 and in the Ministerial Conference on the review and appraisal of the implementation of MIPAA in 2007 and 2012. The Ministerial Conference in 2012 took place in Vienna. In course of the conference a special NGO had been organised. Furthermore, the Senior Citizens Council is involved in the conception of policies and strategies as well as in the assessment of outcomes of their implementation. The Austrian Federal Plan for Senior Citizens was commissioned by the Council.

#### **Question 5:**

**What impact has MIPAA implementation had on equality and non-discrimination of older persons?**

MIPAA and its central aim of “Mainstreaming Ageing” helped to introduce a paradigm change. Ageing should not further be seen as a burden, but as an opportunity. This changed also discriminatory behaviours. The Council of Senior Citizens’ Organizations established a Media Award on non-discrimination of older persons in reporting and journalism. However, non-discrimination legislation is very fragmented in Austria and there is a lack of awareness among older persons of the existence of specific legislation and their respective rights.

In general, MIPAA is an excellent tool for the promotion and protection of older persons. It serves the AOB as basis for argumentation vis-à-vis legislative and administrative actors in order to improve the situation for older persons and foster their rights. However, the AOB would also welcome the drafting of a convention of the rights of older people.

**Question 6:**

**What impact has MIPAA implementation had on the fulfillment of the right of older persons to an adequate standard of living?**

As mentioned above the MIPAA serves as basis for argumentation in order to improve the situation of older persons with respect to their right to an adequate standard of living. Currently the prevention of violence and abuse as well as the strengthening of older persons ability to self-determination are issues which the AOB is dealing with. However, for example, tools like minimum pensions as well as means-tested minimum income schemes existed already before the adoption of MIPAA.

**Question 7:**

**Please provide examples of best practices from a human rights perspective in your country in the implementation, monitoring, review and appraisal of MIPAA.**

The AOB identifies room for improvement in all MIPAA relevant areas. This is why best practice examples cannot be listed.

**Question 8:**

**Please provide information about the main challenges (such as institutional, structural and circumstantial obstacles) your country faces at the various levels of government (communal, provincial and national etc.) to fully respect, protect and fulfill the human rights of older persons in the implementation of MIPAA.**

Austria like many other countries faces challenges regarding the (long-term) care in institutions as well as home and family care. Although older people can usually choose between varieties of housing options, further steps are needed to ensure that older people can remain in their homes, if they wish to. This includes challenges regarding a barrier-free environment and the lack of a sufficient legal framework to meet respective demands.

Furthermore, the AOB noted at several occasions the prevalence of potentially inappropriate medication as well as the risk of violence and abuse in care institutions.

Examples of measures taken by public authorities in order to tackle the risk of violence and abuse are listed below:

- Sensitisation of the public

Folder series “Recognising Violence” (due to great demand, a print run of 45,000 to 58,000)

Recognising Violence. Questions and Answers about Violence against the Elderly (Federal Ministry of Labour, Social Affairs and Consumer Protection, 2009)

Recognising Violence. Questions and Answers about Violence against the Elderly (Federal Ministry of Labour, Social Affairs and Consumer Protection, 2010)

Recognising Violence. The Elderly in Institutions (Federal Ministry of Labour, Social Affairs and Consumer Protection, 2012)

Theatre project “I’ll Be with You Right Away” (Forum theatre, SOG.THEATER – Centre for Theatre Pedagogy and Strategic Staging (Zentrum für Theaterpädagogik und Strategische Inszenierung))

World premiere, October 2014

Contents: Staging based on the folder “Recognising Violence. The Elderly in Institutions”, published by the Federal Ministry of Labour, Social Affairs and Consumer Protection.

- Building regional advisory expertise

Workshop series “Recognising Violence against the Elderly and Confronting It Professionally” in order to build advisory expertise within existing structures in Austria (autumn 2011 and autumn 2012, workshops were offered in all Laender, with participation of victim assistance organisations, organisations for seniors, regional support services, retirement and nursing homes, police, etc.)

Creating and implementing a concept for a Guide for the Prevention of Violence in Care and Support Organisations (Group Homes and Mobile Services) (Margit Scholta, Pro Senectute Österreich)

Concept has been completed, implementation beginning in 2015

Contents: Identifying possible solutions that can be implemented by way of a step-by-step plan as concrete preventive measures in the respective institution or facility (pilot facility: Perisutti Pflegezentrum Eibiswald).

Service for professional events (Josef Hörl, Office for Social Technology and Evaluation Research (Büro für Sozialtechnologie und Evaluationsforschung))

Initial duration: June 2014 to October 2015

Contents: Acceleration and support of professional events in educational institutions and social and health care institutions through advice on both content and organisation on the topic of violence against the elderly.

Austria-wide point of contact regarding violence against the elderly at Pro Senectute Österreich

Ongoing project

Contents: Expansion of the “advice telephone”, which was set up in 2011 upon the instructions of the Federal Ministry of Labour, Social Affairs and Consumer Protection due to the numerous enquiries that were directed to Pro Senectute Österreich as a result of the previously mentioned folder.

- Basic research on the reasons, the extent and the context of violence against the elderly

Study “Assault, Violence and Aggression against the Elderly. Experts’ Experiences in Austrian Advisory and Support Facilities” (Josef Hörl, Office for Social Technology and Evaluation Research, Federal Ministry of Labour, Social Affairs and Consumer Protection, 2009)

Study “Prevention and Intervention in Cases of Violence against the Elderly. Concepts and Measures in an International Context and Legal Aspects in Austria” (Josef Hörl, Office for Social Technology and Evaluation Research, Federal Ministry of Labour, Social Affairs and Consumer Protection, 2012)

EU study “Prevalence Study of Abuse and Violence against Older Women” (Gert Lang, Research Institute of the Red Cross, 2011, co-financed by the Federal Ministry of Labour, Social Affairs and Consumer Protection)

EU study “Intimate Partner Violence against Elderly Women” (Birgit Haller, Institute for Conflict Research, 2011, co-financed by the Federal Ministry of Labour, Social Affairs and Consumer Protection)

Study “Possibilities and Obstacles in the Implementation of Statutory Regulations regarding Violence against the Elderly” (Josef Hörl, Office for Social Technology and Evaluation Research, publication on 15 June 2015)

- Measures for a more positive image of the elderly in society

Film “And Every Life Is Different” and companion book “There is Still a Reason for Living” (Federal Ministry of Labour, Social Affairs and Consumer Protection, 2009)

It shows the life circumstances of 83-year-old people who live in different care situations. It is used by educational institutions, regional offices, etc. for discussions on the topic of ageing with dignity.

Film “We Accompany the Elderly. Insights into a Colourful World” (presentation on 1 October 2015)