



The potential of the CRPD for older persons with disability: enabling choices in long-term care

Thematic Briefing, 15th Working Session of the CRPD Committee

Friday, 8th April, 2016, 13.50-14.50

Meeting Report

Programme:

Session Chair: Mrs. Jasminka Dzumhur, Ombudsperson of Bosnia & Herzegovina

The CRPD's Potential: The Human Rights of Older Persons with Disabilities and Long-term Care

Ciara O'Dwyer, ENNHRI Co-ordinator of the Human Rights for Older Persons and Long-term Care project, funded by the European Commission

From care in homes to care at home: European experiences with (de)institutionalisation in long-term care

Stefania Ilinca, Researcher, European Centre for Social Welfare Policy and Research

Human Rights for Older Persons with Disabilities and in need of Care: European Commission Actions

Malgorzata Kozlowska, Policy Officer, European Commission, DG EMPL

Summary

Mrs. Dzumhur introduced the event and speakers, explaining that the briefing was important as community-based care services for older persons with disabilities are often limited. This can mean that such individuals have no choice but to live in a residential care setting, or may lack the ability to live independently in the community.

Ciara O'Dwyer, Co-ordinator of ENNHRI's *Human Rights for Older Persons and Long-term Care* project, explained that the ENNHRI's project on *The Human Rights of Older Persons and Long-term Care*, has helped to illustrate that there is no explicit right to long-term care for older persons. Article 19 of the CRPD is the only international treaty provision to provide the right to community living for persons with disabilities.

While the CRPD has a high importance in Europe, the implementation of Article 19 has been mixed. Older persons with disabilities face particular challenges in having their rights under Article 19 protected. Overall bed numbers in long-term care institutions for older persons have risen in all countries since 1995 and community-

based services are under-developed throughout the continent. This means that older persons in many countries have no choice but to enter an institution, or may not have the resources they need to live independently in their community. ENNHRI recommends that the CRPD Committee and States Parties recognise the relevance of the CRPD and Article 19 for OP with disabilities and greater investment by States Parties in the development of high-quality community-based services.

Stefania Ilinca, from the European Centre for Social Welfare Policy and Research, explained that there are two reasons for European states to prioritise community-based care over residential care – an overwhelming preference for “ageing in place” by older persons themselves and increased concerns about the fiscal sustainability of residential long-term care. Only a small number of countries have managed to reduce the proportion of the population aged 65+ cared for in institutions (Czech Republic, Finland, Italy and Sweden). A review of relevant literature has helped the European Centre to propose a few core principles for successful and sustainable deinstitutionalisation:

- Recognise the key role of family-based care
- Balance formal and informal care solutions in the community
- Integrate care and ensure continuity

Malgorzata Kozlowska from DG Employment, Social Affairs and Inclusion (DG EMPL) was unable to travel on account of the attacks in Brussels on the 22nd March but her comments on the European Commission’s actions, were presented by Ciara O’Dwyer.

Her account focused on how DG EMPL seeks to promote collaboration between social policy/social protection policy makers and human rights actors to ensure that pensions, health and long-term care policies are designed in a way that help older persons enjoy their rights. Although the prime responsibility for this policy area lies with Member States, the EU facilitates the exchange of good practice. Malgorzata’s own unit has been heavily involved in elder abuse prevention initiatives.

In 2009, an ad-hoc group on the transition from institutional to community-based care was convened by Mr Vladimir Spidla, then European Commissioner for Employment, Social Affairs and Equal Opportunities. Since 2010 a European Expert Group on Transition from Institutional to Community-based care (EEG) has continued to work to promote its recommendations. EU Structural and Investment Funds are used to implement the CRPD within the EU, particularly to foster the transition from institutions to community-based services. New forthcoming research by the EU Fundamental Rights Agency (FRA) aims to develop indicators on Article 19.

Q&A

Questions and comments following the presentations highlighted the high value CRPD Committee members placed upon ensuring that the CRPD, including Article 19, is relevant to older persons with disabilities globally.

CRPD Committee member Mr. Hyung Shik Kim (Korea) made the point that it can be hard to prioritise ageing issues and that there is a long way to go to campaign for the

rights of older persons with disabilities, an issue which Mr Liang You (People's Republic of China) agreed. Mr. Munthian Buntan (Thailand) advised ageing organisations to take accessibility issues more into consideration in their advocacy work.

Fellow Committee member Prof Teresia Degener (Germany) noted that it is high time that all relevant stakeholders think about the intersectionality between ageing and disability issues, as a high proportion of people with disabilities are aged 65 and over. This has implications for a number of issues, such as accessibility and legal capacity. She stated that all older persons with disabilities fall under the CRPD, even if they were not represented when the CRPD was being drafted.

Ms Diane Kingston (United Kingdom) asked the organisers to provide any available research on the barriers that older persons face in understanding their rights. Ciara O'Dwyer informed the Committee and other participants that ENNHRI's project on *The Human Rights of Older Persons and Long-term Care* would be able to provide some empirical information on this in due course and that it would be shared with the Committee and other interested parties. She also suggested that ageing organisations consider a Thematic Briefing at the CRPD Committee's next session on the possibility of/need for a new Convention on the Rights of Older Persons.

Ms Lydia Geny, assistant to Ms. Rosa Kornfeld-Matte, Independent Expert on the enjoyment of all human rights by older persons, reminded the Committee and all participants that Ms. Kornfeld-Matte presented her 2015 annual report to the Human Rights Council on the theme of care and autonomy, which contained a number of recommendations to States in developing and implementing appropriate and effective measures to ensure the autonomy of older persons.