**Questionnaire on the rights of older persons with disabilities**

**Questions for National Human Rights Institutions (English):**

1. Please provide information on the legislative and policy framework in place in your country to ensure the realization of the rights of older persons with disabilities, including both persons with disabilities who are ageing and older persons who acquire a disability later in life.
2. Please provide information on discrimination against older persons with disabilities in law and practice.

**1-2. Legislative and policy framework**

First of all, it should be pointed out that practically, there is no specific set of norms for the elderly. However, there is a law in place for the rights of persons with disabilities. Some basic care mechanisms are regulated by the laws that stipulate the criteria of using the individual services, which more or less cover the needs of the social groups concerned. However, the service sector needs to be modernized in many respects both in the case of state-owned institutions and in those that are maintained and operated by the church.

a) With regard to the social groups concerned, the **Fundamental Law of Hungary** contains the following provisions:

*Creed:*

We hold that human existence is based on human dignity.

We hold that we have a general duty to help the vulnerable and the poor.

*The state’s protection obligation*

*Article I* (1) The inviolable and inalienable fundamental rights of MAN shall be respected. It shall be the primary obligation of the State to protect these rights.

(2) Hungary shall recognize the fundamental individual and collective rights of man.

(3) The rules for fundamental rights and obligations shall be laid down in an Act. A fundamental right may only be restricted to allow the effective use of another fundamental right or to protect a constitutional value, to the extent absolutely necessary, proportionate to the objective pursued and with full respect for the essential content of such fundamental right.

*The right to equal human dignity*

*Article II* Human dignity shall be inviolable. Every human being shall have the right to life and human dignity; the life of the fetus shall be protected from the moment of conception.

*Equal opportunities, non-discrimination*

*Article XV* (1) Everyone shall be equal before the law. Every human being shall have legal capacity.

(2) Hungary shall guarantee the fundamental rights to everyone without discrimination and in particular without discrimination on grounds of race, color, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status.

(3) Women and men shall have equal rights.

(4) By means of separate measures, Hungary shall promote the achievement of equality of opportunity and social inclusion.

*Protection of vulnerable social groups*

(5)By means of separate measures, Hungary shall protect families, children, women, the elderly and persons living with disabilities.

*Enforcement of social rights*

*Article XIX* (1) Hungary shall strive to provide social security to all of its citizens. Every Hungarian citizen shall be entitled to assistance in the case of maternity, illness, disability, handicap, widowhood, orphanage and unemployment for reasons outside of his or her control, as provided for by an Act.

(2) Hungary shall implement social security for the persons referred to in Paragraph (1) and for other persons in need through a system of social institutions and measures.

(3) The nature and extent of social measures may be determined in an Act in accordance with the usefulness to the community of the beneficiary’s activity.

(4) Hungary shall contribute to ensuring the livelihood for the elderly by maintaining a general state pension system based on social solidarity and by allowing for the operation of voluntarily established social institutions. The conditions of entitlement to state pension may be laid down in an Act with regard to the requirement for stronger protection for women.

*The right to physical and mental health*

*Article XX* (1) Everyone shall have the right to physical and mental health.

b) In other aspects, it is the **Social Act** (Act III of 1993) that regulates the frameworks of residential care homes, home support, as well as the care provided in the context of the village administration service.

c) Act XXVI of 1998 on t**he Rights and Ensuring the Equal Opportunities of People with Disabilities (Disabled Persons Act)** contains special conceptual definitions and the description of the support system.

d) Act CXXV of 2003 on **Equal Treatment and Promotion of Equal Opportunities (Equal Treatment Act)** promotes presence in the different service sectors, which ensures the efficient protection of the rights of those persons who are discriminated against.

e) Act XCII of 2007 on the Promulgation of the UN Convention on the Rights of Persons with Disabilities and the Additional Protocol (**CRPD**). It is a full-fledged mechanism for protecting fundamental rights.

**Special care methods**

1. Basic Professional Dementia Program

*Program supporting the special daycare and residential care services provided to persons with dementia* (Catholic Service of Charity)

1. Home alarm system (Market-based service)
2. Special basic programs of civil society organizations for the disabled (Down Foundation, Hand in Hand Foundation (Kézenfogva Alapítvány), Hungarian Association for Persons with Intellectual Disability (ÉFOÉSZ))

**Intergovernmental Organization**

Data on the enforcement of the rights of the social groups concerned are gathered from the government and civil sectors in the context of the Human Rights Working Group at the Ministry of Justice.

 - Thematic Working Group on the Rights of the Elderly

 - Thematic Working Group on the Rights of Persons with Disabilities

1. Please provide information and statistical data (including surveys, censuses, administrative data, literature, reports, and studies) related to the realization of the rights of older persons with disabilities in general, as well as with particular focus in the following areas:
* Exercise of legal capacity

Older persons are subject to the same legal regime vis-à-vis legal capacity and agency as any other adults in Hungary. Legal capacity may be restricted by the court if the person, as a result of a mental disorder, is shown to be lacking the mental capacity required to foresee the possible outcomes of his or her decisions.

* Admission procedures to social or healthcare services, including involuntary admissions

Admission is based on a waiting-list system; the average waiting time may be rather lengthy, as there is an increasing number of applications. Admission to an institution close to the place of residence may bring further difficulties to the system. Admission into social care homes is voluntary, however, if the person has restricted legal capacity (is under guardianship), he or she may be admitted to an institution even against his or her will.

* Older persons with disabilities living in institutions

There are specific institutional care-homes for elderly people. Nonetheless, a number of older persons live in homes for people with disabilities. The social care homes for the disabled show an ageing tendency.

* Access to support to live independently in the community

In the framework of home support, the care needed for maintaining independent living should be provided in the beneficiary’s own residential environment. More precisely, in the context of personal care, the supporting relationship should be established and maintained with the beneficiary, the care and nursing tasks should be performed, furthermore, among others, support should be provided with keeping the hygiene of the residential environment, with household activities, as well as in the prevention and aversion of emergencies.

* Access to free or affordable healthcare:

The healthcare system in Hungary is available to the elderly on the same basis as for other members of society, it is available free of charge (although a social security contribution is to be paid along with the taxes).

* Access to free or affordable rehabilitation goods and services

Older persons with disabilities are entitled to the same rehabilitation services as other persons with disabilities.

* Access to social protection schemes; and
* End of life and palliative care

According to government statistics, currently there are 278 hospice or palliative beds in 17 institutions (for all adults, not only for elderly persons). In 2010, the number of available beds was 152, thus, an increase in the accessibility of end-of-life care may be observed, which affects elderly persons with disabilities as well. Overall, the hospice and palliative care system is more accessible, however, the increasing demand for such services has to be kept up with. There is currently no statistical data available with a specific focus on elderly persons with disabilities. Home hospice care is available in 3177 cities or towns countrywide, provided by 65 providers and 4 mobile hospice teams are also available.

1. Please provide information on the existence of long-term care services in your country and describe to what extent they promote the autonomy and independence of older persons with disabilities.

Long-term care services to older persons are typically provided in residential care centers and old-age homes in Hungary. The main rules of the operation of old-age homes are stipulated by Act III of 1993 on on Social Administration and Social Services, as well as SzCsM (Ministry of Social and Family Affairs) decree No. 1/2000 (I. 7.) on the Professional Responsibilities and Operating Conditions of Social Institutions Providing Personal Care.

Within the frameworks of home support, it is in the beneficiary’s own residential environment that the care required for ensuring independent living should be provided. More precisely, in the context of personal care, the supporting relationship should be established and maintained with the beneficiary, the care and nursing tasks should be performed, furthermore, among others, support should be provided with keeping the hygiene of the residential environment, with household activities, as well as in the prevention and aversion of emergencies.

The institution providing personal care should be established in such a way that it should be easily accessible by public transport, that the architectural features of its buildings should ensure barrier-free accessibility, its furnishings, equipment, fittings and facilities, as well as the living conditions should be in line with the age of the patients, their health conditions and mobility. In Hungary, there are no specific regulations for older persons with disabilities, the persons with disabilities do not constitute a specific group within the group of the elderly, neither are the older persons put in a separate group within that of persons with disabilities.

The legal institution that most strongly affects the independence and autonomy of persons with disabilities is that of guardianship. In Hungary, only those persons can be subjected to guardianship who have reached 18 years of age and who cannot make independent decisions that best suit their interests due to their mental state or developmental abnormalities. It is a fundamental condition to subjecting a person to guardianship that such mental disorder or developmental abnormality affects the decision-making ability so gravely that it becomes necessary to protect the person concerned from the consequences of their own decisions. A mental disorder in itself does not substantiate anybody’s subjection to guardianship. This can only be a valid solution if the person concerned is not able to manage their own affairs properly because of such disorder. Only the court may decide on subjection to guardianship. The affected person’s capacity may be partially or fully limited. The consent of the guardian is required for the validity of the legal statement of a person with partially limited capacity with regard to the groups of affairs defined in the judgement adopted by the court. If the partially incapacitated person becomes fully capacitated, they may decide on the validity of their pending legal statements by themselves. It may be one of the grave consequences of subjection to guardianship that if the person under guardianship is restricted in selecting their place of residence, then their guardian may decide on where they should live. In old-age homes, dementia may be a common circumstance justifying placement under guardianship.

Supported decision-making is a less restrictive legal institution than guardianship. The public guardianship authority decides on the appointment of a supporter for, and at the request of a person of full age who requires support with the management of some of their affairs and with making some of their decisions due to this person’s slightly reduced cognitive abilities, with a view to avoiding the limitation of capacity. The appointment of a supporter does not affect the capacity of the person of full age.

1. Please describe how is access to justice guaranteed for older persons with disabilities. Please provide information on jurisprudence, complaints or investigations in relation to violence, abuse and neglect against older persons with disabilities.

Older persons with disabilities have the same access to justice as their healthy counterparts. If they live in a residential care center, they may use the services provided by the patient representative (http://www.ijsz.hu/ellatottjog.html), or they may consult the maintainer of the institution, or the Ombudsman directly.

1. Please describe to what extent and how are older persons with disabilities involved in the design, planning, implementation and evaluation of policies related to ageing and/or disability.
2. Please provide information on any innovative initiatives that have been taken at the local, regional or national level to promote and ensure the rights of older persons with disabilities and identify lessons learned from these.

6-7.

The Thematic Working Group on the Rights of the Elderly and the Thematic Working Group on the Rights of Persons with Disabilities within the Human Rights Working Group at the Ministry of Justice basically gather data from the government and civil sectors on the enforcement of the rights of the affected social groups.

The Hungarian Seniors Council, which is operated by the Government, comments on the draft government decisions and laws that directly affect the living conditions of the elderly and those that this council treats as priorities, except for the draft municipality decrees. Furthermore, this council monitors the execution of these regulations, it may make a proposal for government actions and forwards the proposals made by the elderly, the religious communities and the civil society organizations.

There are no specific training opportunities that can be used specifically by older persons with disabilities in Hungary, however, in some fields, it is possible for the experts involved in caring for the elderly, the relatives of the patients or those who are interested in this topic to obtain the relevant knowledge.

For example, the INDA Program (Basic Interprofessional Dementia Program, <https://inda.info.hu>), a forum initiated and run by the Catholic Service of Charity and the Social Cluster Association, is a successful program, which on the one hand provides a training opportunity for the supporting experts who primarily care for persons with dementia, on the other hand, ensures a supporting background for the relatives and family members of the elderly (clubs, awareness raising presentations, etc.).

At the Budapest Milton Friedman University (https://uni-milton.hu), a so-called Senior Academy was set up in order to ensure the obtaining of relevant knowledge on many subjects for persons over 50. Furthermore, there is an MA training course on geronto-andragogy, which trains experts on the education of the older generation. There is also a so-called geronto-education research center in place at the university, which publishes a journal entitled Gerontoedukáció (Geronto Education).