

# Inequality and solidarity - Personal care from a human rights perspective

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# Overview

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# A. Presentation of the association

- Association for the Promotion of Quality in Care for the Elderly
  - Launched in 2004/2005 with the EU project E-Qalin® and subsequently the National Quality Certificate for Nursing Homes and Homes for the Elderly NQZ
- Association foundation 2013
- Members include Lebensweltheim, Pro Senectute, IBG, Ministry of Social Affairs, federal states
- ÖQZ-24 as a business field in the association since 2018
- Mag. Johannes Wallner - Managing Director ÖQZ-24



## B. Initial situation

- Personal care 2022: about 25,000 persons cared for with subsidy from the Ministry of Social Affairs, another approx. 5,000 cared for without subsidy (income limit about € 2,500.-)
- Mobile care and support at home: a good 165,000 people
- Inpatient care: around 80,000 people
- Care allowance recipients: 469,000
- The largest care provider in Austria is the relatives, and here predominantly women.

## C. Inequality and solidarity (1)

What asymmetries can be identified in the context of care for older people in Austria?

Or formulated differently: How is the field of tension tangible by means of the two poles of inequality and solidarity?

These areas of tension include:

## C. Inequality and solidarity (2)

- Being dependent on help or helpers and on income
- Reliance on family or government support (personal, financial, or structural).
- Old versus young
- Rich countries versus financially weaker countries
- Supply of labor and financial resources versus potential labor force
- Rich in experience versus rich in power and energy
- Emotional affect versus coping strategies to varying degrees.
- Resource and scarcity as skewness or unequal distribution

## C. Solidarity as a response? (3)

What answers can there be to these tensions around needing help and needing resources?

In a developed and social order probably only solidarity, institutionalized both within the family and in society.

Solidarity understood as an attitude of solidarity and cohesion (solidus: solid, firm) between like-minded or like-situated individuals or groups, and cohesive in the sense of commitment to common values.

## C. Solidarity as a response? (4)

But solidarity also understood as a basic principle of human coexistence, a sense of groups or individuals belonging together:

- Solidarity of spirit ("unity consciousness")
- Solidarity of action ( mutual helpfulness)
- Solidarity of interests (equal interests in certain situations to achieve common goals).



## C. Solidarity as a response? (5)

Solidarity according to Emile Durkheim:

- Mechanical solidarity: based on given common characteristics of a group (e.g. Wir Österreicher:innen, Wir Frauen, Wir Betreuer:innen,...)
- Organic solidarity: the basis is the dependence on each other
- Or theologically the principle of finiteness and dependence on others and the other (transcendence principle).
- And solidarity as a fundamental principle of Catholic social teaching, together with subsidiarity, orientation to the common good and personhood.
- Solidarity as a fundamental principle of social insurance

## C. Possible solutions? (6)

The Austrian approach to this imbalance of scarcity and resource is primarily a family-based one.

Or to put it in terms of the principle of subsidiarity: first I take care of myself, then my family (or whoever can be and feels like such) takes care of me, and then I access municipal and/or state support systems, in terms of personnel, structure and finances.

If there is the next deficiency here, then I partly also resort to "questionable" i.e. memorable constructs. Because it is basically about negotiating situations of inequality.

# D. The system of personal care in Austria (1)

Phase 1: Status before legalization (2007)

- I want to be cared for and nurtured at home, but cannot find the support I need
- Mobile services insufficient or inappropriate
- I do not go to a nursing home because
  - Fear of the home (foreign determination)
  - Want to remain master/wife in my home (self-determination)
- "Asset protection program for small and medium-sized enterprises".

## D. Personal care in Austria (2)

Phase 1: Status before legalization (2007)

Solution:

- "Bohemian care"
- No social security coverage, but good earnings
- Pure black market

## D. Personal care in Austria (3)

Phase 2: Legalization (2007)

Triggered by (media-hyped) misconduct of two top politicians (BK and BP) ("We don't have a care problem").

Solution:

- Creation of a free trade of personal care (independent and dependent variant).
- State subsidy (€ 550.- p.m.)
- 2015: Separation between personal care and its organization/mediation.
- Rules of professional conduct and exercise
- Amendments to enable lay activities (GuKG and ÄrzteG)

## D. Personal care in Austria (5)

### Phase 3: Quality assurance

- Preliminary work by agencies and chamber of commerce as well as voluntary welfare organizations
- Definition of minimum social and consumer protection standards
- Development of the "Austrian Quality Certificate for Placement Agencies in 24-hour Care".

# Basics

- Government program 2017-2022 as well as 2020-2025 for the reform of 24-hour care and quality assurance in this area, respectively.
- Contract by the BMSGPK to carry out the certifications to the non-profit "Association for the Promotion of Quality in Care for Older People", 2018.
- Implementation of the pilot certifications and evaluation in 2019

# Guidelines BMSGPK

Guidelines for the preparation and implementation of certification according to the Austrian Quality Certificate for Placement Agencies in 24-Hour Care (ÖQZ-24)

<https://oeqz.at/informationen-fuer-agenturen/>



# F. Opportunities and problem areas from a human rights perspective

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Article 1: Liberty, equality, fraternity

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should meet one another in the spirit of brotherhood.

ÖQZ preamble: successful and stable care situation for all parties involved

# F. Opportunities and problem areas from a human rights perspective

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## Article 2: Prohibition of discrimination

- Everyone is entitled to the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, ..., national or social origin, property, ... or other status.

Problem: "Eastern European cheap labor" versus "decadent Western old people".

Task of the agency: mediation in case of conflict

# F. Opportunities and Problem Areas from a <sup>19</sup> Human Rights Perspective

Article 3: Right to life, liberty and security

Everyone has the right to life, liberty and security of person

Topic: Safety of people in need of care. For example, they may feel that their safety and physical and emotional identity are at risk in nursing homes.

Derived: Right to freely choose the place of living and the form of care.

# F. Opportunities and problem areas from a human rights perspective

Article 4: Prohibition of slavery

No one shall be held in slavery or servitude

Topic: Exploitative families: "You are a 24-hour employee and therefore there for me/us around the clock! And when grandma is asleep, you can get right to work in the hotel laundry. We need fresh laundry again tomorrow morning!"

OQC: Agency provides rest and retreat facilities and takes care of the appropriate framework.

# F. Opportunities and Problem Areas from a <sup>21</sup> Human Rights Perspective

Article 5: Prohibition of torture

No one shall ... be subjected to cruel, inhuman or degrading treatment ....

Problem: Humiliation or inhumane treatment can always occur in (sometimes extreme) dependency relationships, especially in a domestic context. On all sides.

OQC: The agency ensures transparent framework conditions, clarifies needs and competencies from the outset. And it has to ensure that there is a stable and successful care situation for all sides.

# F. Opportunities and problem areas from a human rights perspective

Article 6: Recognition of the legal entity

Everyone has the right to be recognized as having legal capacity everywhere

Representation of published opinion: "Caregivers:are exploited, they are actually dependent, not self-employed."

OQC: Transparent information and education, including social security coverage. Legal competence also means taking the other person's decision seriously. And not to assume malice or stupidity. On all sides (left and right)

# F. Opportunities and Problem Areas from a <sup>23</sup> Human Rights Perspective

Article 12: Sphere of freedom

No one shall be subjected to arbitrary interference with his private life, family, home and correspondence, or to impairment of his honor and reputation ...

Österr. Pflegevorsorge (1993) follows this principle of free choice of forms of care.

ÖQZ: Transparent information and education on all sides about the possibilities and limits of personal care.

# F. Opportunities and problem areas from a human rights perspective

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Article 22: Right to social security

Everyone has ... the right to social security and the right to enjoy, through national measures and international cooperation and with due regard for the organization and resources of each State, the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Problem area 1: Discrimination against personal caregivers, e.g. in the case of staggered family allowances.

Problem area 2: Persons with personal care are worse off than, for example, forms of care financed by social assistance.



# F. Opportunities and problem areas from a human rights perspective

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## Article 23: Right to work and equal pay

1. everyone has the right to work, to free choice of occupation, to just and satisfactory working conditions and to protection against unemployment.
2. everyone, without distinction, has the right to equal pay for equal work.
3. everyone who works has the right to fair and satisfactory wages that provide him and his family with a livelihood commensurate with human dignity, supplemented, where appropriate, by other social protection measures.

# F. Opportunities and problem areas from a human rights perspective

Article 23: Right to work and equal pay

Problem area 1: Right to work for caregivers

Problem area 2: Wage differentials due to the basic principle of entrepreneurship, or non-transparency at the agencies

Problem zone 3: few social protection measures for the caregivers. Work in one EU country, life of the family, including the children, in another EU country. "Reconciliation of work and family life?"

OQC: transparent framework conditions, also with regard to working conditions

# F. Opportunities and problem areas from a human rights perspective

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Article 24: Right to rest and leisure

Everyone has the right to rest and leisure and, in particular, to a reasonable limit on working hours and regular paid leave.

Problem: Determination of working hours in personal service.

OQC: Agency provides appropriate rest and retreat facilities.

Free time instead of vacation: Caregivers with GuKG diplomas stay in care because they can spend more time with their families - and earn better when measured against the total number of days worked.

# F. Opportunities and Problem Areas from a <sup>28</sup> Human Rights Perspective

## Article 25: Right to welfare

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability or widowhood, old age ...

# F. Opportunities and problem areas from a human rights perspective

Article 25: Right to welfare

Back to the starting point of the considerations:

to choose from inequality a way of life that best suits the person and his family is a human right.

For the person being cared for and their family and

For the caregiver, and their family.

# F. Opportunities and Problem Areas from a <sup>30</sup> Human Rights Perspective

Article 30: Final provision

Nothing in this Declaration shall be construed as conferring on any State, group or person any right to engage in any activity or to do any act aimed at the elimination of the rights and freedoms set forth in this Declaration.

Problem: Austria does not eliminate, but makes it more difficult for both sides to afford a form of personal care that complies with human rights.