

ADEL- Advocacies for frail and incompetent elderly in Europe: Comparative analysis of national systems and innovative approaches

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Goals of the research project

The main interest of the research project is to compare how different European countries secure legal protection and participation of frail and incompetent old people. This encompasses matters like proxy, guardianship, solicitors, advocacy for patients, rights of people in nursing homes, etc. The research, however, will go beyond mere legal comparison and will focus on how the law is implemented and on the questions whether and to what extent it fits the needs of an ageing society. Legal systems, organisational performance, and reform concepts in five countries will be revised in comparative analysis. Main problems as well as examples of good solutions and promising innovative approaches will be worked out in the project.

Background

Demographic development in Europe is leading to a considerable growth of the old population. In ageing societies, questions of participation of elderly people in social life and the possibilities of a self-determined life in old age are of high importance. It is a matter of fact that old, incompetent and frail people remain involved in many legally based matters and participates in public and social life. They are subject to contracts, rights and claims. Against the background of the demographic development, the requirements concerning advocacies for frail and incompetent elderly, who are in need of provisions to secure their legal protection and participation, also increase. In Austria and Germany, for instance, the number of old people with a solicitor or guardian has been rising rapidly over the last decades. In addition to the demographic development, the family - traditionally the main institution with respect to the proxy of the elderly - more often adopts a background position in this context (changing structure of the private households, etc.). Thus, the state increasingly is confronted with the task of protecting personal rights of older and incompetent people. Societies have developed diverse institutions of advocacy for these people. With the rising needs and requirements, institutions - which have been delegated to take over responsibilities and tasks in this field - as well as the authorities themselves are under pressure to fulfil the growing demand. At the same time, they are forced to rationalise and to improve the use of alternative resources while simultaneously assuring the quality of the guardianship and advocacy. This scenario is largely the same all over Europe.



Project conception

The project aims at analysing to what degree the participating countries are prepared and are preparing to master the rising requirements regarding advocacies for frail and incompetent elderly. On the basis of comparisons, prognoses and joint analyses, conclusions will be drawn with respect to recommendations of solutions.

Therefore in this context, following aspects are of particular interest:

1 Legal systems of advocacy in 5 countries

- 1.1 Historical development
- 1.2 Organisational structure, current performance

2 Statistical evidence

- 2.1 Number of people with a solicitor or guardian
- 2.2 Development of the costs for guardianship
- 2.3 Main factors for the development

3 Statistical frame

- 3.1 Demographic development
- 3.2 Context variables (e.g. number and size of households, forms of properties)

4. Alternatives for (state-regulated) guardianship

(e.g. power of attorney, advance directive) and up to now discussed (and probably preciously unreleased) approaches of reforms

5. Future scenarios

6. Recommendations

Participating countries

The selection of the participating countries is led on the one hand by country-specific features concerning the demographic conditions and on the other hand keeping in mind Esping-Andersen's classification of welfare regimes. From the German-speaking countries Austria and Germany are chosen (corporatist type). Although the cultural, social and economic circumstances of both countries are comparable and, therefore, both countries are confronted with similar problems, they apply different strategies to solve similar problems. Denmark might participate as a representative of the Scandinavian countries (social democratic type) and Spain as representative of southern European countries (family-oriented type). Furthermore, it has one of the lowest birth rates in Europe. Essential for a cross-national comparison is the analysis of one of the new member states from central and east Europe (transitional type), out of which the Czech Republic is very interesting because of its highest life expectancy among the accession countries.

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