



## Panel 10: Local Networks, Counseling and Structures

Robert Müller, Austria; Hiroshi Takahashi, Japan; Moderator: Stephan Sigusch, Germany

### Introduction

Stephan Sigusch, Germany; Translation from German: Ekpenyong Ani

When dealing with the issue of facilitating a self-determined life for persons concerned, those professional activities prior to a legal representation are of crucial importance regarding networking, counseling, and providing support.

**How** are all relevant facts and circumstances verified prior to setting up legal representation so as to avoid the judicial procedure and/or safeguard the right of the person concerned to self-determination during the procedure? Is such a procedure always conducted and how are the involved parties interconnected? Does counseling and a review of alternative measures even take place during the preliminary stages?

### Procedures /involved parties/ structures within the network

Clearing procedure in Austria/ verification of facts and circumstances in Germany/

Who is responsible for this procedure in Japan and how is it implemented?

How are the persons concerned involved and how are alternative measures considered to avoid legal representation by providing other forms of support in the social environment; by powers of attorney or per curiam?

How do these procedures currently take place and how can/could their execution/implementation be improved?

Is there an awareness concerning Article 12 UN CRPD? Is it only a national misunderstanding in Austria that the term “*support*” within the meaning of Art. 12 section 3 UN CRPD was for the time being understood to mean the same as legal representation?

When “*support*” does not mean legal representation but person-centered assistance / supported decision-making, how is the person concerned put in the position to develop their own will, to articulate it and therefore ultimately to make self-determined decisions and to act accordingly?

Does the lack of structures for social support impede access to social benefits in two ways? Concerning benefits but also participation in rights?

## **Austrian point of view:**

Robert Müller, Austria; Translation from German: Ekpenyong Ani

When dealing with the issue of facilitating a self-determined life for persons concerned, those professional activities prior to a legal representation are of crucial importance regarding networking, counseling, and providing support.

“Clearing” provided by associations for adult guardians/Sachwalter exists in Austria since 2007. This involves counseling prior to a judicial procedure and an evaluation during the procedure by order of the courts. The person concerned and his/her living situation is to be observed and assessed as comprehensively as possible, the main goal being the search for alternatives to avoid an adult guardianship/Sachwalterschaft.

Currently a clearing process is conducted in half of the procedures. According to a survey, clearing results in a considerable prevention of adult guardianship/Sachwalterschaft, 40 % of these procedures are dismissed (whereas barely 20 % are dismissed without clearing). The fact that in 2015 for the first time the number of adult guardianships did not increase and the number of new appointments actually dropped considerably, is something the survey clearly attributes to the clearing process.

The pilot scheme “Clearing Plus – support in self-determination” is an attempt to take a step further and to actively make support in the sense of person-centered assistance accessible to persons concerned in selected individual cases.

What has already become clear through this is the lack of outreach adult social work and person-centered assistance, a lack of understanding for the connections between available support and the prevention of (legal) representation as well as the problems due to the division of responsibilities between federal government and federal states.

Even though concrete solution models could only be developed and put to the test on a small scale with network partners, particularly the effect of raising awareness and sensitization concerning issues such as self-determination and assistance was substantial.

## **Japanese point of view:**

Hiroshi Takahashi, Japan

The percentage of people aged 65 or over has exceeded 26% in Japan, making it home to the world’s most aged population. The adult guardianship system started in 2000, and since then the number of applications filed for it increased ten times to reach 34,782 in 2015.

However, the number of users is 191,335 annually, only one-tenth of those who are believed to be in need of the system.

How to make it easier for people to use the system and overcome the lack of human resources remains a pressing issue.

As a means to address this lack of human resources, the government imposed non-binding targets on all municipalities to train citizens who will serve as guardians, and selected model municipalities in

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2011. Another major issue facing Japan is the falling birth rate. In an increasing number of cases, people find it difficult to receive support from their relatives. In order to address this issue, socialization of guardianship has been facilitated to enable persons under guardianship to receive support from the entire community in lieu of support from relatives. In this situation, the importance of building local networks similar to those built in Germany to support the principal through collaboration among administrative, court, and private functions is suggested.

In Japan, there is a framework to protect self-determination of the person concerned prior to setting up legal representation for him or her. As of the end of September 2015, the number of users stood at 48,489. In this presentation, I will report on the status of activities in model municipalities designed by referring to Germany's adult guardian system, while briefly describing an overview and the current status of the Japanese system.

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