



Austria: Recourse to the assets of people in inpatient long-term care to be abolished as from 1 January 2018

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The assets of people in inpatient long-term care (LTC) will in future no longer have to be utilised before the provider of Social Assistance steps in to bear costs not covered by other individual financial resources. It is possible that this will cause a structural modification of the Austrian long-term care regime, as demand for inpatient LTC is likely to rise substantially.

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Description

On 29 June 2016 the Austrian Parliament passed a Constitutional Provision (*Verfassungsbestimmung*), prohibiting recourse to the assets of people in inpatient long-term care (so-called *Pflegeregress*) as from 1 January 2013.

In Austria, up to now, it has been in principle the individual in need of LTC who is responsible for financing his/her stay in a residential or nursing home. Personal income used for this purpose typically consists of a retirement pension plus “LTC cash benefit” (*Pflegegeld*).

Furthermore, personal assets (such as savings or real estate) have to be used for financing inpatient LTC before the respective provider of Social Assistance (*Sozialhilfe*) steps in to bear uncovered costs. This LTC recourse-to-assets is then subject to specific regulations in each of the nine federal provinces (*Bundesländer*), which are responsible both for LTC services and for Social Assistance.

The recently voted Constitutional Provision (amending section §330a of the General Law on Social Insurance/ASVG) prohibits recourse to the assets of persons living in inpatient LTC facilities, as well as recourse to the assets of their relatives, heirs or gift-recipients, to cover costs for LTC

otherwise to be borne by Social Assistance. This new provision will enter into force in all federal provinces by 1 January 2018 at the latest.

At the same time it was legislated (as new §330b ASVG) that the Federal Republic will transfer in total €100 million per year to the federal provinces in order to compensate for the losses of revenue which the federal provinces face due to the ending of *Pflegeregress*.

Outlook & commentary

The first main element of the Austrian LTC regime is the LTC cash benefit. It is granted without means testing (against income or assets) at one of seven possible levels that correspond to different levels of individual care requirements or the health status of the person in need of care.

The second main element consists of the institutional inpatient, ambulatory, semi-outpatient and outpatient (i.e. at-home) care services. Establishing and upgrading these services is the responsibility of the nine federal provinces. Access to formal LTC benefits in kind and to LTC services is, in principle, not free of charge: these are only covered by the federal provinces via Social Assistance if the LTC services cannot be financed via a person's own financial resources, plus – in some

federal provinces – the financial resources of spouses and/or parents of the person in need of LTC. “Financial resources” until now include not only individual income, but also assets, in the form of savings or real estate for example, where the latter has to be utilised before the Social Assistance provider steps in. If real estate cannot be utilised immediately, as, for instance, when the spouse of the person in need of LTC lives in the dwelling, it may become subject to a lien within the land register in favour of the Social Assistance provider and then utilised at a later time. Furthermore in several federal provinces, previously donated gifts to relatives etc. may be claimed back by the Social Assistance provider.

The abolition of all forms of recourse to the assets of people in inpatient long-term care (and of their relatives) derives from an ad-hoc decision by the Parliament. One main argument of the Social Democratic party, pushing for this decision, was that the recourse to assets is unfair because it may imply a quasi-inheritance tax of 100%, especially for middle income households, whereas no official inheritance tax exists in Austria. With one minor exception (the “Neos” party, which holds 9 out of 183 seats in the National Assembly) all political parties

agreed to abolish the *Pflegeregress* after just a few days of debate. This quick decision-making process took place against a backdrop of early elections due to be held in Austria on 15 October 2017 amongst strategies to distribute “electoral bonbons” and/or to prevent this topic becoming an election issue.

Still, the impact of this decision may turn out to be substantial, in effect having a structural impact on the Austrian LTC-regime. About 75,000 people (or ca. 16% of all people currently receiving the LTC cash benefit) recently lived in nursing homes and related institutions of inpatient care, of which – reportedly (exact data are missing) – in about 40,000 cases recourse has been had to assets (*Pflegeregress*).

In this context it may be argued that the demand for formal inpatient care will rise substantially as soon as the recourse to assets is abolished, as this instrument deterred people from opting for formal inpatient care in order to (at least partly) retain assets for the purposes of later bequest. According to statistics on the LTC cash benefit, more than 150,000 persons in Austria have care needs of more than 160 hours a month (Statistics Austria), signalling potential additional demand for formal inpatient care. Furthermore, previous experience

concerning the abolition of even more far-reaching instruments involving recourse to the income of family members, decided on in some federal provinces over the last ten years, shows that the abrogation of such rules raises the demand for formal inpatient care substantially.

It appears that these potential dynamics, which may however be interpreted in different ways (e.g. as professionalisation and decoupling of family LTC duties, or as presenting financing problems for public-sector budgets), were not widely discussed in the very short reform debate. The same holds for other, even broader, problems and challenges of the Austrian LTC-regime.

Further reading

Parliamentary Correspondence, NO. 838, 29.06.2017:

https://www.parlament.gv.at/PAKT/PR/JAHR_2017/PK0838/

Statistics Austria: LTC cash benefits;

http://www.statistik.at/wcm/idc/idcplg?IdcService=GET_NATIVE_FILE&RevisionSelectionMethod=LatestReleased&dDocName=020067

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