

Not-for-profit Guardianship Organizations
Resource for the Fourth World Congress on Adult Guardianship

	<p>Country/State/Region (Land/Bundesland oder Region): Austria Population (Bevölkerung) : 8, 5 Million Number of people under Adult Guardianship (Anzahl von Erwachsenen unter Betreuung/Sachwalterschaft): approximately 59,000</p>
<p>Relevant legislation (Gesetzesgrundlage) Article 268 to 284a Austrian Civil Law (<u>Allgemeines Bürgerliches Gesetzbuch</u>)</p>	
<p>Key terminology (Fachbegriffe) Guardian (German: Sachwalter); Ward</p>	
<p>What types of guardianship exist (personal welfare/financial affairs)? Welche Aufgabenbereiche umfasst die Betreuung/Sachwalterschaft (z. B. Personensorge, Gesundheitsangelegenheiten, Finanzangelegenheiten)?</p> <p>Guardians can be appointed for one field like financial management, or for several fields (limited guardianship) or all fields (full guardianship). The ward is incapable in the fields in which he has an appointed guardian.</p>	
<p>Who has the power to appoint an adult guardian? (Welches Gericht setzt den Betreuer/Sachwalter ein?)</p> <p>Guardians can only be appointed by the District (Guardianship) Court.</p>	
<p>What criteria do the court need to consider when deciding the need for a guardian? (Nach welchen Kriterien richtet das Gericht eine Betreuung/Sachwalterschaft für die betroffene Person ein?)</p> <p>The court can only appoint guardians for people over 18 years.</p> <p>The court needs to be convinced that the person has:</p> <ul style="list-style-type: none"> - a mental illness or cognitive impairment (expert opinion required) - matters in which the person is unable to manage or is acting to their own detriment - a lack of alternative to guardianship (for example, a durable power of attorney for legal representation and/or health care purposes) <p>If there are certain matters that need urgent attention the court can appoint a temporary guardian before the completion of court proceedings.</p>	
<p>Can a person under guardianship seek review of a guardian's appointment and/or a guardian's decisions? (Kann eine Person unter Betreuung/Sachwalterschaft die Einrichtung einer Betreuung/Sachwalterschaft bzw. Entscheidungen des Betreuers/Sachwalters widerrufen?)</p> <p>The person under guardianship has the right to appeal against the decisions made by the District (Guardianship) Court and are entitled to damages from the guardian.</p>	

The person appeals to a higher court when seeking review of an appointment or a guardian's decision.

Does an existing enduring Power of Attorney (personal welfare/financial) remove the need for guardianship when capacity is lost?

Hat eine bestehende Vorsorgevollmacht Vorrang vor einer Betreuung/Sachwalterschaft?

Yes

Who can be appointed as guardian? (eg family members, private guardian, private body, public body)

Wer kann als Betreuer/Sachwalter eingesetzt werden (z.B. Familienangehörige, ehrenamtliche Betreuer, professionelle Betreuer)?

Persons close to the person concerned (next of kin, friends, acquaintances) are most likely to be appointed.

Non-profit advocacy organizations will be appointed if no person close to the ward is available or if special requirements are linked with the guardianship.

Lawyers or notaries will be appointed if the matters to be attended to are mostly legal in nature or if no person close to the ward or an advocacy organization is available.

Other appropriate persons (for example, social workers) may be appointed if those mentioned above are not available. These persons are not allowed to assume more than five guardianships.

What are the responsibilities of not-for-profit guardianship organizations (eg support of family and volunteer guardians, recruitment and education of volunteer guardians)?

Welche Aufgaben hat ein Betreuungsverein/Sachwalterverein (z.B. Unterstützung von Familienangehörigen und Ehrenamtlichen, Rekrutierung und Fortbildung von ehrenamtlichen Betreuern/Sachwaltern)?

The task of the non-profit advocacy organization is to provide the courts with suitable full-time and volunteer guardians.

The NÖLV offers initial training and continuing education for employed and volunteer guardians. Professional supervision is only granted for employed guardians.

The four Austrian NP Advocacy Organizations are also responsible of

- Clearing (Information, counselling and clarification) prior to guardianship – clearing guardianships
In this case the NP Advocacy Organizations offer support to family guardians
- Representation in case of restricted freedom in hospitals and institutions for the elderly and disabled – residential advocacy

Three Austrian NP Advocacy Organizations are responsible of

- Representation in case of restricted freedom in psychiatric institutions – patient

Please describe your organization:

- name/founding date/ historical background (private, religious or state organization?)
- number and qualification of your staff
- where is your office located?
- who is funding your organization (state, private fees?)
- How many family guardians and/or volunteers do you support?

Bitte beschreiben sie ihren Betreuungsverein/Sachwalterverein:

- Name/Gründungsdatum/historischer Hintergrund (private, kirchliche oder staatliche Organization?)
- Anzahl und Qualifikation der Mitarbeiter
- Wo befindet sich das Büro?
- Wer finanziert ihren Betreuungsverein/Sachwalterverein (Staat, private Gebühren?)
- Wieviele Familienangehörige und/oder ehrenamtliche Betreuer/Sachwalter unterstützen sie?

The „NÖ Landesverein für Sachwalterschaft“ (NÖLV) was founded by the Land of Lower Austria and social welfare organizations working in the region in 1984.

The headquarter is located in St. Pölten (the capital of Lower Austria)

The Federal Ministry of Justice supports the non-profit and non-partisan organization so that it can assume the tasks stipulated in guardianship law on behalf of mentally ill and disabled persons. Furthermore the NP organizations receive compensation and expense refunds from the wealthy clients.

NÖLV facts and figures as per 30 June 2016

- 1,2 million inhabitants in catchment area
- approx. 2000 Clients, 840 of these are represented by volunteer guardians
- 51 employed guardians
- 198 volunteer guardians
- 9 residential advocacies