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Peter, a person under assistance in Taiwan & Germany

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Peter's case outline & possible issues

Peter's case

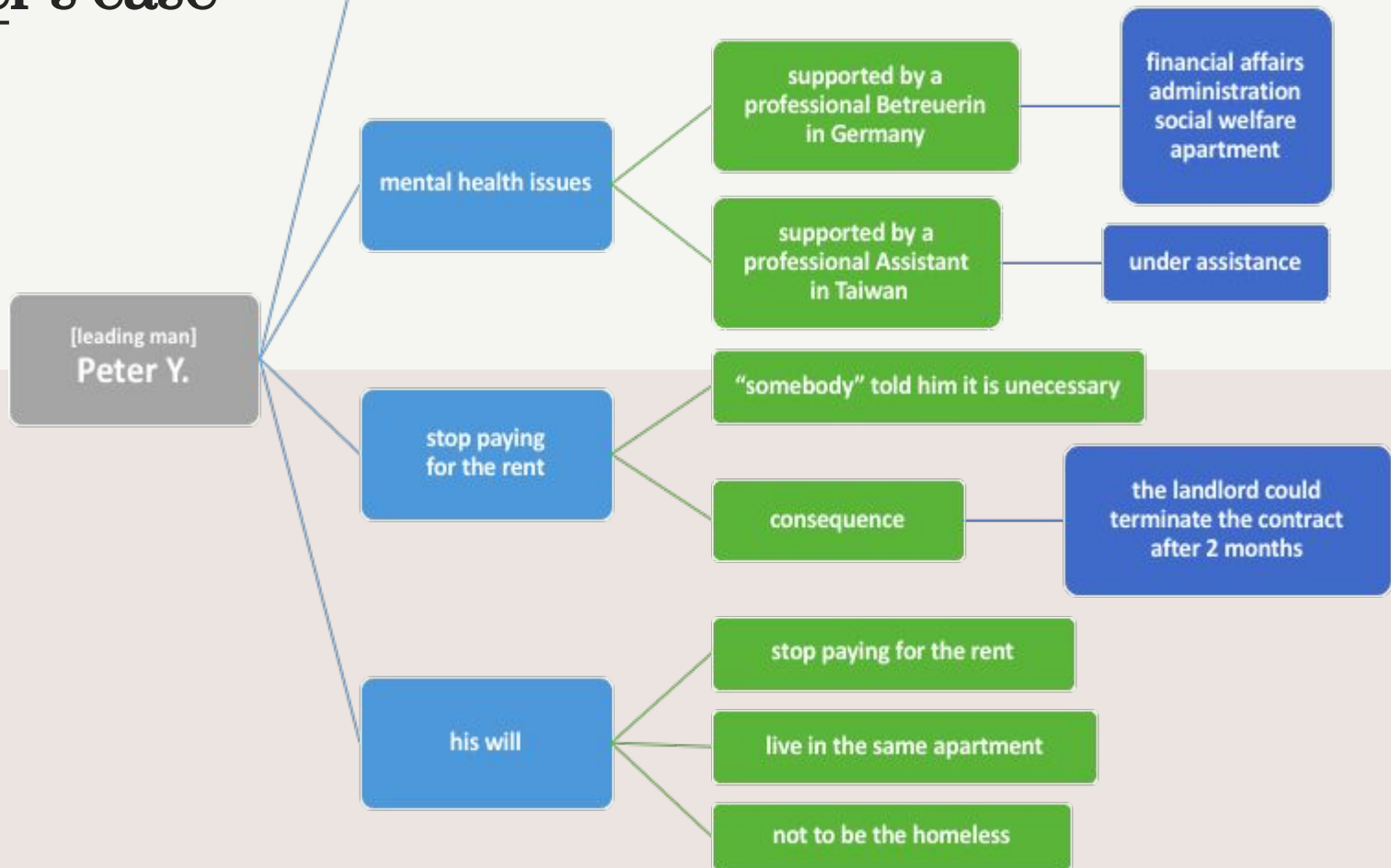
Residence and risk of homelessness

Peter Y. has mental health issues and lives in an apartment in Cologne or in Taipei. He is supported by a professional Betreuerin who has a scope of function covering: financial affairs, affairs concerning administration and social welfare and affairs around the apartment, or is under assistance. One day Peter Y. expresses his decision to stop paying the rent for the apartment. The consequence following this decision would be that he delays payment of the rent and the landlord has the right to terminate the contract after two months.

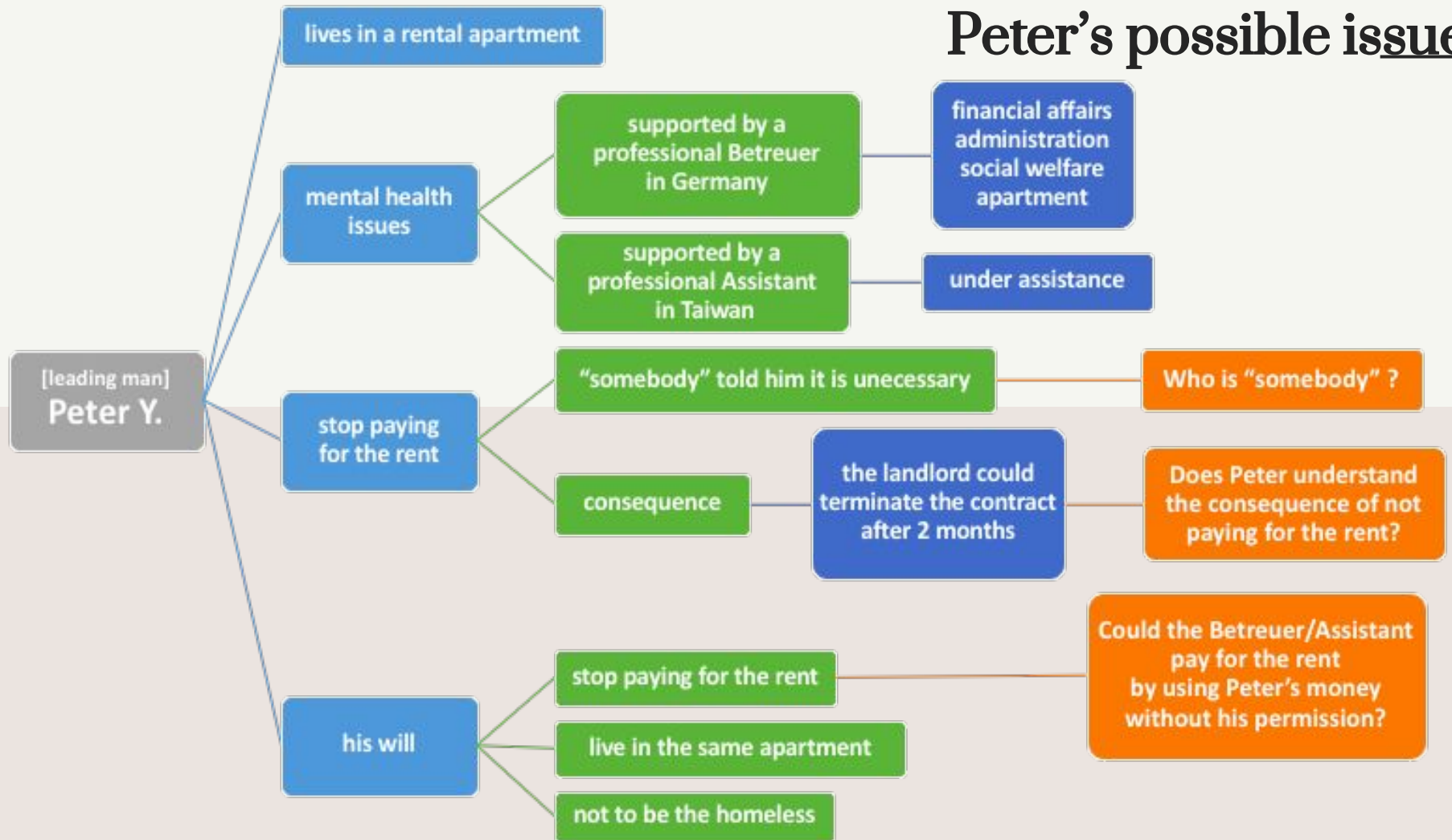
The Betreuerin/the assistant tries to explain the situation and the risk of losing the apartment. Peter Y. then answers that he won't lose the apartment because "somebody" told him paying the rent is not necessary. The Betreuer/the assistant decides to wait but after three weeks Peter Y. did not change his decision. He is still convinced that he does not have to pay the rent and may use the money for what he wants.

The Betreuerin/the assistant asks herself what she is obliged to do. **The Dilemma:** If she does not arrange the payment, the landlord will terminate the contract. Peter Y. likes his apartment very much and it would be very difficult to find a new apartment for him. Peter Y. does not want to live on the street or in an accommodation for homeless people.

Peter's case



Peter's possible issues

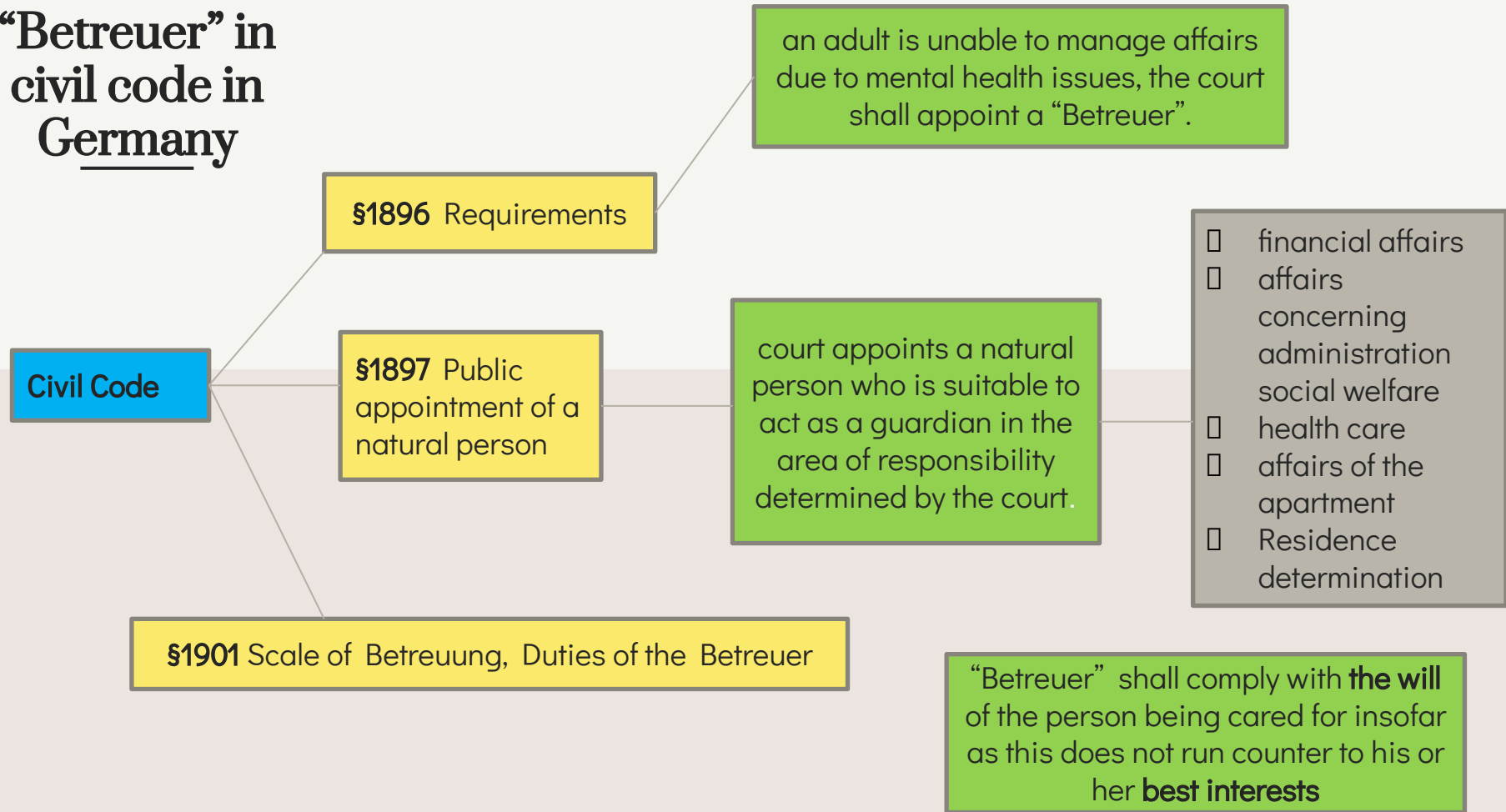


Law of Assistance

■ in civil code

in Taiwan & Germany

Law of “Betreuer” in civil code in Germany



Law of the assistance in civil code in Taiwan

民法civil code
輔助宣告Assistance

Legislative reasons

For the best interest of a person under assistance.

Article 15-1 I

Who needs the assistant?

A person who has "insufficient capacity" to make decisions

Article 15-2 I

What kinds of affairs should be given approval by the assistant?

The assistant has the power to give approval to significant financial affairs such as loan, guaranty, gift, rent, sale of real estates, and take any procedural action.

Article 15-2 II

What's the effect of financial act without permission?

pending ineffective

Article 1113-1→1111

Who could be the assistant?

An assistant shall be appointed to a person who has become subject to the order of commencement of assistance.


Elected by the court

[From his/her family members]

1. spouse
2. any relative within the fourth degree of kinship
3. relative resides together in recent year

[From the social resources]

4. competent authority
5. organization of social welfare
6. other proper person



The **difference** between
Assistant in Taiwan &
Betreuer in Germany

Difference 1 : Having a Psychiatric assessment?

Taiwan

Germany

People with disabilities

V

V

Disease Diagnosis
/ Disability Certification

at least / expected

at least /expected

Psychiatric assessment

mandatory

common

Difference 2 : Who would be the Assistant / Betreuer ?

Who is usually the Assistant in Taiwan?

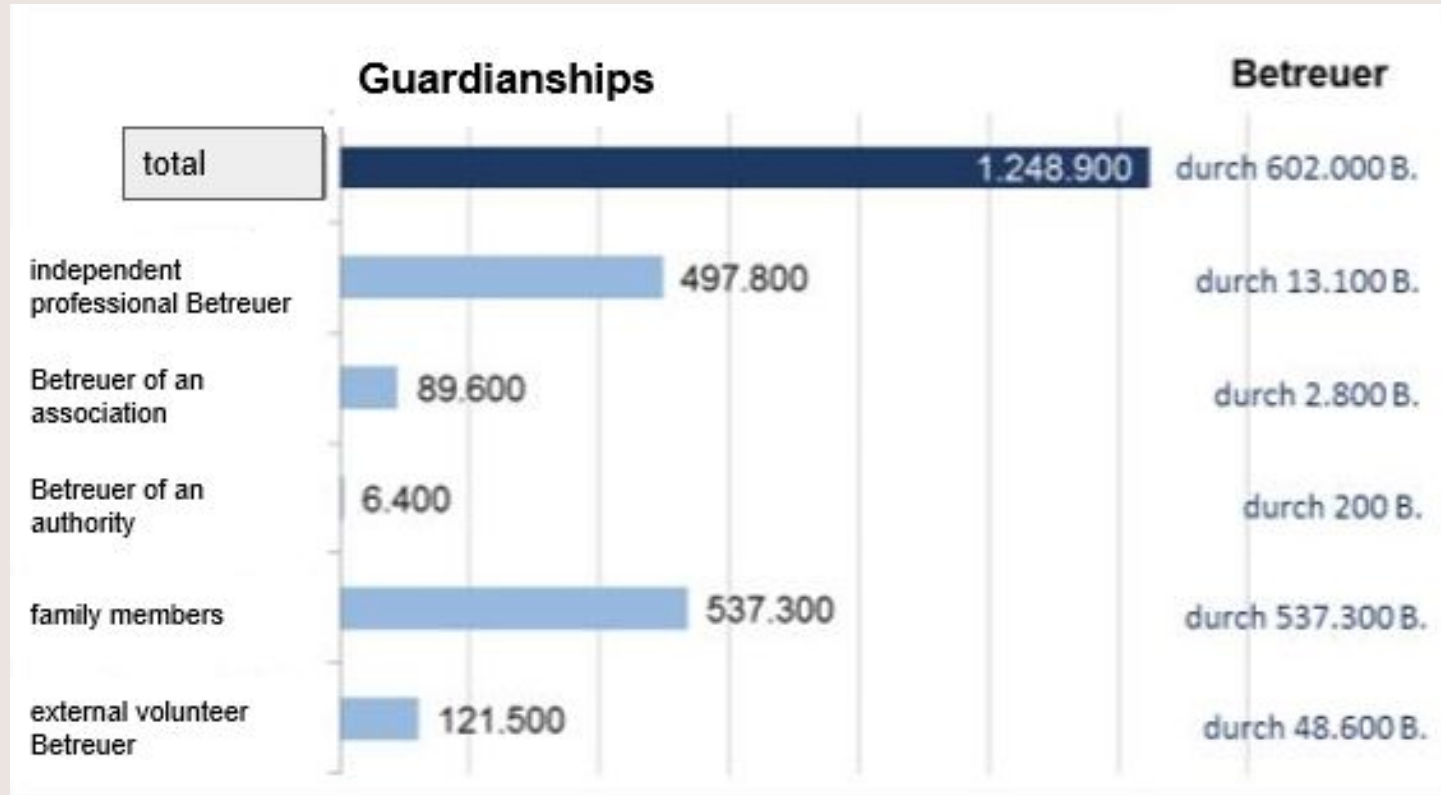
Taiwan: Assistants are mostly family members.

| 輔助人與本人之關係 Relationship between assistant & the person↵ | 人數 Number of people↵ | 比例 percentage↵ |
|---|----------------------|----------------|
| 配偶 spouse↵ | 27 | 8.1% |
| 父母 parent↵ | 96 | 28.7% |
| 子女 child↵ | 97 | 29.0% |
| 兄弟姊妹 sibling↵ | 85 | 25.4% |
| 其他四親等親屬 any relative within the fourth degree of kinship↵ | 12 | 3.6% |
| 近一年有同居事實之其他親屬 relative resides together in recent year↵ | 0 | 0.0% |
| 主管機關 competent authority↵ | 12 | 3.6% |
| 社福機構 organization of social welfare↵ | 0 | 0.0% |
| 其他適當之人選 other proper person↵ | 3 | 0.9% |
| 不明 unknown↵ | 2 | 0.6% |
| 小計 total↵ | 334 | |



Difference 2 : Who would be the Assistant / Betreuer ?

Who is usually the Betreuer* in Germany?



Difference 3 : Rights of the Assistant/Betreuer

| | Taiwan | Germany |
|-------|---|---|
| power | power of approval | the delegated power |
| scope | significant financial affairs and any procedural action | financial affairs administration social welfare health care affairs of the apartment residence determination |



Peter-centered approach

Framework of our solutions

1. Affirm possible issues for Peter

- Who is “somebody” ?
- Does Peter understand the consequence of not paying the rent?
- Could the Betreuer/Assistant pay the rent by using Peter’s money without his permission?

2. Work with Peter

- Establish good rapport with him.
- Collect information about Peter & what resources we have.
- Confirm Peter’s ‘will & needs’

3. After conversation→ Decision making : ? /pay the rent.

- Taiwan: Peter can decide by himself without the assistant’s approval.
- Germany: respect Peter’s ‘true will’, decision made by Peter insofar as this does not run counter to his best interests.



Possible issue 1

Who is “somebody” ?

Who is “SOMEBODY”?

- Why should we know who “SOMEBODY” is?
 - ❖ If ‘somebody’ is **not a real person**, but Peter's hallucination...
 - Does Peter need some medical assistance?
 - ❖ If ‘somebody’ is **a real person**...
 - Will the person affect Peter's life?

Possible issue 2

Does Peter understand the consequence of not paying the rent?

What could a Psychologist do for Peter?

1. Have an interview with Peter.
2. Structure of the Interview:
 - The Purpose of Interview
 - Preparation before the Interview
 - Communication Considerations
 - During the Interview

The purpose of interview

- Before Peter finally decides whether to pay the rent
 - ❖ We hope that through the support of social workers or psychologists, we can **have in-depth discussions** with Peter to help him make a decision that meets his personal wishes.

Preparation before the interview

- Consider what factors will affect Peter's condition
 - ❖ For the interview
 - **Where** should we choose?
 - And, **what time** would be better for Peter?
 - ❖ In this case, Peter said that “somebody” told him not to pay the rent
 - Delusion and hallucination may affect his **cognitive abilities**

Communication considerations

- Find a family member or friend who knows Peter best, and get to know his emotional reactions or special habits.
- During the interview, we should pay attention to:
 - ❖ Peter's non-verbal behavior, e.g.: shaking his head
 - ❖ Peter's condition, e.g.: depression, tiredness and whether Peter is concentrating on the conversation
 - ❖ Why Peter refuses or does not know how to answer questions
- Don't agree or disagree with Peter's statement, but **keep an open and accepting attitude.**

During the interview

- If there are multiple interviews, we should **first build rapport** with Peter in each interview.
 - ❖ How do we build rapport with Peter during the interview?
 - ❖ What else can we do when we build rapport with Peter?
 - Evaluate his memory and attention

During the interview

- After building rapport with Peter, how can we get down to business?
- Focus on 4 parts:

Who?

What?

When?

Where?

During the interview

- Why don't we confirm his wishes directly?
 - ❖ Ask and understand what Peter "knows", **respect Peter's right** to state his opinions and experiences, and then identify points that need further discussion
- How to help Peter understand that he must continue paying the rent to keep the house?
 - ❖ Peter should have the right to **obtain correct information** (facts)

Finally, we want to...

- When Peter knows the correct information, based on Peter's personal wishes and considerations, assist Peter in deciding whether to continue paying the rent.
 - ❖ How to confirm his willingness?

Other purpose,
but not pay the rent



To pay or
not to pay?

Other reasons for
not to pay the rent

Possible issue 3

- Could the Betreuer/Assistant pay the rent by using Peter's money without his permission?

Making the decision— Pay the rent / ?

- After all the conversations, the Betreuerin/ the Assistant will make the decision as follows:
 - **The Betreuer** thinks that ‘to live in the apartment’ is Peter’s true will and is his best interest.
 - **The Assistant** : Peter can decide by himself without the Assistant’s approval because paying for the rent or not is beyond article 15-2 paragraph 1.

The problem cannot be solved in these frameworks...

- There is no regular report system to supervise the decision made by the Assistant.
- Although we value and want to respect Peter's decision-making ability, we still have to admit that there are limitations within the regulations and practice. (e.g. it's hard to confirm 'true' will; dilemma may still exist after conversation, so the final decision may go against one of Peter's wills.)
- In Taiwan's regulatory system, the Assistant does not have any power to give approval for paying the rent or not→ It is doubtful that Peter can be responsible for his decision, especially regarding the consequence of a loss.

Pros & Cons of the two different systems

- Taiwan:

- **pros:** The scope of decision making of the person under assistance in Taiwan is larger than that in Germany.
- **cons:** According to article 15-2 paragraph 1, the scope of the Assistant's consent power is not specific and full-fledged enough to cover all the daily routines.

- Germany:

- **pros:** True will of the person is important for a decision.
- **cons:** Sometimes decision-making process is very long (e.g. because of court).

Maslow's Hierarchy of Needs



<https://soulevolve.ca/2017/11/09/%E9%A6%AC%E6%96%AF%E6%B4%9B%E7%9A%84%E8%87%AA%E6%88%91%E5%AF%A6%E7%8F%BE/>

According to Maslow's Hierarchy of Needs

- Basically, it is important to balance between basic needs and high-level-needs (Physiological vs. Self-Actualization).
- But in some particular situations (such as paying the rent or not), which relate to safety or physiological needs, basic needs should be given priority to high-level-needs.

Thank you

Do you have any question?

Team 2!!!

