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Ending coercion in mental health: the need for a human rights-based approach

Reply to Recommendation¹: Recommendation 2158 (2019)
Committee of Ministers

1. The Committee of Ministers has carefully examined Parliamentary Assembly [Recommendation 2158 \(2019\)](#) “Ending coercion in mental health: the need for a human rights-based approach”, which it has forwarded to the Commissioner for Human Rights, to the Steering Committee for Human Rights (CDDH), and to the Committee on Bioethics (DH-BIO).

2. The Committee of Ministers agrees with the Assembly that the utmost should be done to promote alternatives to involuntary measures, as it already pointed out in its reply to Parliamentary Assembly [Recommendation 2091 \(2016\)](#) on “The case against a Council of Europe legal instrument on involuntary measures in psychiatry”.² It also agrees that there is a need to reduce the use of coercive measures in mental health care. It notes that this is the aim of the work of the DH-BIO and informs the Assembly that it has instructed this committee to conduct a study on “Good practices in mental healthcare – how to promote voluntary measures”.³ This study will involve the main stakeholders.

3. As to the draft Additional Protocol to the Oviedo Convention concerning the protection of human rights and dignity of persons with mental disorder with regard to involuntary placement and involuntary treatment, the Committee of Ministers is aware of the issues surrounding the preparation of this text and takes notes of the Assembly’s position. It has also noted the reservations and concerns of the Commissioner for Human Rights, particularly her fear that this protocol will create more legal uncertainty for member States and as a result be ultimately counterproductive for the protection of the rights of persons with psychosocial disabilities. The Committee of Ministers would stress that this draft instrument aims to guarantee that measures implemented, without the consent or the approval of the persons concerned, are subject to compliance with strict criteria and are applied only as a last resort. It recalls that it has instructed the DH-BIO to complete the draft protocol during the 2020-2021 biennium. It has also encouraged the DH-BIO to directly involve disability rights organisations in the work.

4. The Committee of Ministers notes with satisfaction that the comments and contributions received from the Assembly, the Commissioner for Human Rights and the UN partners and NGOs concerned have helped to raise awareness among the relevant actors of the need to strengthen measures promoting autonomy in mental health care. The discussions surrounding the draft protocol have also demonstrated the need to support and advise States on ways of avoiding recourse to involuntary measures. The Committee of Ministers encourages the DH-BIO to ensure that the draft protocol contains provisions that strengthen the commitment of States to guaranteeing that a wide selection of appropriate, less restrictive and intrusive primary measures is available in mental health care and to carry out the above-mentioned study on good practices in mental health care as quickly as possible.

1. Adopted at the 1367th meeting of the Ministers’ Deputies (12 February 2020).
2. [CM/AS\(2016\)Rec2091-final](#) of 9 November 2016.
3. Terms of reference of the DH-BIO, 2020-2021, specific task iv.

