Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 15483
17 March 2022

Detention of the "socially maladjusted"

Motion for a resolution
tabled by the Committee on Social Affairs, Health and Sustainable Development

---

This motion has not been discussed in the Assembly and commits only those who have signed it

---

The right to liberty is one of the most fundamental human rights and as such guaranteed in numerous international human rights treaties, including the European Convention on Human Rights.

The Convention is, however, the only international human rights treaty to include a limitation to the right to liberty specifically on the basis of impairment, with its formulation in Article 5 (1) (e), which excludes certain groups ("socially maladjusted" individuals in the wording of the European Court of Human Rights) from the full enjoyment of the right to liberty.

The wording of the Convention, reportedly stemming from the eugenics movement, suggests that the right to liberty is not shared equally by persons who are of "unsound mind, alcoholics or drug addicts or vagrants". Detaining such persons effectively puts these vulnerable groups at higher risk of systemic rights violations, on the spurious grounds that they may pose a danger to public safety or that their own interests may necessitate their detention. Following the worldwide paradigm shift exemplified by the UN Convention on the Rights of Persons with Disabilities, the Parliamentary Assembly has already unanimously called for an end to coercion in mental health. Its committee on Social Affairs, Health and Sustainable Development is currently working on a report on the deinstitutionalisation of persons with disabilities. The United Kingdom, for its part, has just repealed the Vagrancy Act 1824 and related legal provisions.

The Assembly should thus look into how developing and promoting alternatives to detention of the "socially maladjusted" could help Council of Europe member states move with the times and away from the discriminatory concept of excluding certain groups from human rights protection.