Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 15709
07 February 2023

Deinstitutionalisation of persons with disabilities

Reply to Recommendation[1]: Recommendation 2227 (2022)
Committee of Ministers

1. The Committee of Ministers has carefully examined Parliamentary Assembly Recommendation 2227 (2022) "Deinstitutionalisation of persons with disabilities" and forwarded it to the Steering Committee for Human Rights in the fields of Biomedicine and Health (CDBIO), the Steering Committee for the Rights of the Child (CDENF) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), for information and possible comments.

2. The Committee notes that the Assembly's recommendation focuses on "persons with disabilities" and the UN Convention on the Rights of Persons with Disabilities (CRPD). It fully agrees with the Assembly on the importance of supporting member States in their development of human rights-compliant strategies for deinstitutionalisation of persons with disabilities. However, it points out that this is a much broader group than, and distinct from, persons with mental health problems.

3. The Committee of Ministers has replied to several Assembly recommendations by reaffirming the mandate it gave to the Committee on Bioethics to draft an Additional Protocol to the Convention on Human Rights and Biomedicine concerning the protection of human rights and dignity of persons with regard to involuntary placement and involuntary treatment within mental healthcare services.

4. This draft Additional Protocol has been prepared and submitted to the Committee of Ministers. At its 1434th meeting on 11 May 2022, the Committee instructed the CDBIO to prepare additional complementary measures by 31 December 2024, namely a draft recommendation promoting the use of voluntary measures in mental healthcare services and a report on the case law of the European Court of Human Rights relevant to mental health. The Committee agreed to decide on the transmission of the draft Additional Protocol to the Parliamentary Assembly for its opinion at the time of examination of these additional deliverables. Furthermore, the Committee of Ministers agreed to prepare a declaration affirming the commitment of the Council of Europe to improving the protection and the autonomy of persons in mental healthcare services, to be finalised after the examination of the completed deliverables.

5. The Committee draws attention to other relevant work undertaken by the CDBIO: a compendium on good practices to promote voluntary measures in mental health services, a guide on health literacy and, jointly with the CDENF, a guide on participation of children in decision-making processes in matters relevant to their health. These guides aim at promoting autonomy and ensuring better protection of persons in vulnerable situations, including persons with disabilities.

6. Furthermore as regards children, the Committee recalls its Recommendation CM/Rec(2010)2 on deinstitutionalisation and community living of children with disabilities, which calls for all children with disabilities to live with their own family unless in exceptional circumstances, and for existing institutional placements to be replaced with a comprehensive network of community provision. The Council of Europe Strategy for the Rights of the Child (2022-2027) contains an implementing objective on "Protecting children

1. Adopted at the 1455th meeting of the Ministers' Deputies (1 February 2023).

without parental care and/or living in alternative care, by continuing promoting deinstitutionalisation". The Committee has further entrusted the CDENF with the task of preparing an implementation review report on Recommendation Rec(2005)5 on the rights of children living in residential institutions by the end of 2025.