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## (Final version)

# Deinstitutionalisation of persons with disabilities

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## A. Draft Resolution

1. All human beings are born free and equal in dignity and rights. A precondition for anyone to enjoy their rights and fundamental freedoms is that they live in and are included in the community. For a long time however, persons with disabilities were viewed only as passive objects of care. A growing understanding of disability and movements pushing for equal rights have enabled a shift to a human rights-based approach in which society must accommodate human diversity and enable persons with disabilities to be an active part of it.

2. The rights of persons with disabilities to equality and inclusion are now recognised at the international level, in particular thanks to the United Nations Convention on the Rights of Persons with Disabilities (CRPD), adopted in 2006, and ratified by all Council of Europe member States but one. This Convention represented an important milestone in the shift to a human rights-based approach to disability. Under the CRPD, State parties are obliged to take effective and appropriate measures with a view to achieving full inclusion and participation of persons with disabilities in the community.

3. The United Nations Committee on the Rights of Persons with Disabilities is currently working on "Guidelines on living independently and being included in the community: deinstitutionalization of persons with disabilities, including in emergency situations" with the support of the Global Coalition on Deinstitutionalization composed of representative organisations of persons with disabilities and civil society organisations advocating for the rights of persons with disabilities. The purpose of the guidelines is to supplement the Committee's General Comment No. 5 by providing concrete guidance to State parties and other actors on how to carry out deinstitutionalisation processes, including in emergency situations, in line with the CRPD. These guidelines, once adopted, should be implemented by Council of Europe member States as a matter of urgency.

4. Placement in institutions affects the lives of more than a million Europeans and is a pervasive violation of the right as laid down in Article 19 of the CRPD, which calls for firm commitment to deinstitutionalisation. Many are isolated in their own communities due to inaccessibility of facilities such as schools, health care and transportation, as well as lack of community-based support schemes. Community-based support services and supportive living arrangements provide a better quality of life for persons with disabilities, as well as being more human rights compliant and cost-effective.

5. However, persons with disabilities are often also presumed to be unable to live independently. This is rooted in widespread misconceptions, including that persons with disabilities lack the ability to make sound decisions for themselves and that they need "specialised care" provided for in institutions. In many cases, cultural and religious beliefs may also feed such stigma, as well as the historical influence of the eugenic movement. For too long, these arguments have been used to wrongfully

deprive persons with disabilities of their liberty and segregate them from the rest of the community, by placing them in institutions. Measures must be taken to combat this culture of institutionalisation resulting in social isolation and segregation of persons with disabilities, including at home or in the family, preventing them from interacting in society and being included in the community.

6. A systemic approach to the process of deinstitutionalisation is needed in order to achieve good results, namely a genuine and successful transition to independent living in accordance with Article 19 of the CRPD. Concrete action must be taken towards ending the institutionalisation practice and ensuring that these persons and their families are met with appropriate support in the process of reintegrating into society.

7. The Parliamentary Assembly recommends that Council of Europe member States, in line with their obligations under international law, and inspired by the work of the United Nations Committee on the Rights of Persons with Disabilities:

7.1. develop, in co-operation with organisations of persons with disabilities, adequately funded, human-rights compliant strategies for deinstitutionalisation with clear time frames and benchmarks with a view to a genuine transition to independent living for persons with disabilities in accordance with Article 19 of the CRPD, in which:

7.1.1. the rights of the user groups are respected, the risk of harm is minimised, and positive outcomes for the persons concerned are ensured;

7.1.2. the transformation of residential institutional services is only one element of a wider change in areas such as health care, rehabilitation, support services, education and employment, and in which the societal perception of disability and the social determinants of health, as well as gender and other stereotypes are adequately addressed;

7.1.3. institutions run by non-State actors are fully included;

7.1.4. independent mechanisms are empowered to properly monitor the process of deinstitutionalisation and contribute to its success;

7.2. make the child-centred, human-rights compliant deinstitutionalisation of children with disabilities a top priority.

**Amendment 1**
**Tabled by the Committee on Equality and Non-Discrimination**

*In the draft resolution, before paragraph 7.2, insert the following paragraph:*

*"run public awareness-raising campaigns, in conformity with Article 8 of the CRPD, in order to overcome stereotypes and prejudices surrounding disability and promote the full inclusion in society of persons with disabilities;".*

8. The Assembly calls on parliaments to take the necessary steps to progressively repeal legislation authorising institutionalisation of persons with disabilities, as well as mental health legislation allowing for treatment without

consent and detention based on impairment, with a view to ending coercion in mental health.

9. The Assembly welcomes the active role the Council of Europe Development Bank (CEB) has played in funding and underwriting the restructuring of institutional service provision and the building up of more inclusive, community-based services. It calls on the CEB, the World Bank and other social development funds such as the European Structural and Investment Funds to support member States to allocate adequate resources for support services that enable persons with disabilities to live in their communities, such as the strengthening, creating, and maintaining of community-based services. It is important that funds are directed towards sustaining systemic reforms that enable member States to fulfil their obligations under international law. In no way should funds be given to projects that involve maintaining, refurbishing or building new institutions, unless this is part of a clearly delineated transitional phase during which community-based services exist alongside institutions before these can be closed.

10. The Assembly welcomes the QualityRights initiative of the World Health Organization, which provides essential guidance on the implementation of mental health services and on community-based responses from a human rights perspective and offers a path towards ending institutionalisation and involuntary hospitalisation and treatment of persons with disabilities.

11. Finally, in line with its unanimously adopted Resolution 2291 (2019) and Recommendation 2158 (2019) “Ending coercion in mental health: the need for a human rights-based approach”, the Assembly calls on all stakeholders, including Council of Europe member States governments and parliaments, not to support or endorse draft legal texts which would make successful and meaningful deinstitutionalisation more difficult, and which go against the spirit and the letter of the CRPD – such as the draft Additional Protocol to the Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164, Oviedo Convention) concerning the protection of human rights and dignity of persons with regard to involuntary placement and involuntary treatment within mental health care services. Instead, it calls on them to embrace and apply the paradigm shift of the CRPD and fully guarantee the fundamental human rights of all persons with disabilities.

## B. Draft Recommendation

1. The Parliamentary Assembly refers to its Resolution (2022) … "Deinstitutionalisation of persons with disabilities", its Resolution 2291 (2019) and Recommendation 2158 (2019) "Ending coercion in mental health: the need for a human rights-based approach", and its Recommendation 2091 (2016) "The case against a Council of Europe legal instrument on involuntary measures in psychiatry".

2. The Assembly reiterates the urgent need for the Council of Europe, as the leading regional human rights organisation, to fully integrate the paradigm shift initiated by the United Nations Convention on the Rights of Persons with Disabilities (CRPD) into its work. It thus recommends that the Committee of Ministers:

2.1. support member States in their development, in co-operation with organisations of persons with disabilities, of adequately funded, human-rights compliant strategies for deinstitutionalisation with clear time frames and benchmarks with a view to a genuine transition to independent living for persons with disabilities in accordance with Article 19 of the CRPD;

2.2. prioritise support to member States to immediately start transitioning to the abolition of coercive practices in mental health settings, and to child-centred, human-rights compliant deinstitutionalisation of children with disabilities;

2.3. in line with the unanimously adopted Recommendation 2158 (2019), refrain from endorsing or adopting draft legal texts which would make successful and meaningful deinstitutionalisation, as well as the abolition of coercive practices in mental health settings more difficult, and which go against the spirit and the letter of the CRPD – such as the draft Additional Protocol to the Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164, Oviedo Convention) concerning the protection of human rights and dignity of persons with regard to involuntary placement and involuntary treatment within mental health care services.