



Center for the Human Rights of  
Users and Survivors of Psychiatry

## **Comments to the Committee against Torture on standards applicable to psychiatric institutions and mental health services**

### 1. Absolute ban on forced psychiatric interventions

The Special Rapporteur on Torture recently called for an absolute ban on forced psychiatric interventions, saying that states should:

Impose an absolute ban on all forced and non-consensual medical interventions against persons with disabilities, including the non-consensual administration of psychosurgery, electroshock and mind-altering drugs such as neuroleptics, the use of restraint and solitary confinement, for both long- and short- term application. The obligation to end forced psychiatric interventions based solely on grounds of disability is of immediate application and scarce financial resources cannot justify postponement of its implementation.<sup>1</sup>

He also called on states to repeal legal provisions that allow confinement or compulsory treatment in mental health settings, in particular to:

Safeguard free and informed consent on an equal basis for all individuals without any exception, through legal framework and judicial and administrative mechanisms, including through policies and practices to protect against abuses. Any legal provisions to the contrary, such as provisions allowing confinement or compulsory treatment in mental health settings, including through guardianship and other substituted decision-making, must be revised. Adopt policies and protocols that uphold autonomy, self-determination and human dignity. Ensure that information on health is fully available, acceptable, accessible and of good quality; and that it is imparted and comprehended by means of supportive and protective measures such as a wide range of community-based services and supports (A/64/272, para. 93). Instances of treatment without informed consent should be investigated; redress to victims of such treatment should be provided.<sup>2</sup>

and to:

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<sup>1</sup> Report of Special Rapporteur on Torture Juan Méndez, A/HRC/22/53, paragraph 89(b).

<sup>2</sup> A/HRC/22/53, paragraph 85(e).

Revise the legal provisions that allow detention on mental health grounds or in mental health facilities, and any coercive interventions or treatments in the mental health setting without the free and informed consent by the person concerned. Legislation authorizing the institutionalization of persons with disabilities on the grounds of their disability without their free and informed consent must be abolished.<sup>3</sup>

In light of this important breakthrough in the commitment of the United Nations to protect and defend the human rights of people with psychosocial disabilities to be free from torture and ill-treatment, it is an opportune time to consider the standards being applied by treaty bodies such as the Committee against Torture.

The World Network of Users and Survivors of Psychiatry welcomes the attention being paid by the Committee to human rights violations committed in the mental health context in its consideration of the reports of States Parties and in its Concluding Observations. However, we are concerned about a number of Concluding Observations that diverge from the standards incorporated in the Convention on the Rights of Persons with Disabilities, which we consider to be the most highly protective of the human rights of people with psychosocial disabilities. We would like to urge the Committee to consistently apply the most protective standards and have prepared this submission for your consideration, including preliminary recommendations for alternative language that could be adopted in Concluding Observations. We plan to follow up with more detailed recommendations for the Committee's session in November 2013.

We appreciate the valuable recommendations the Committee has made with regard to ending the use of electroshock (ECT) and other treatments that may contravene the Convention, on developing alternatives to psychiatric institutionalization, and on ensuring that mental health services are based on the free and informed consent of the person concerned. However, we are concerned that the Committee couples these valuable recommendations with others that assume the continuation of involuntary confinement and involuntary treatment in psychiatric institutions, as a general practice or as a permissible "last resort" measure in exceptional cases, in contradiction to the standards contained in the Convention on the Rights of Persons with Disabilities and in contradiction to the standards articulated by the Special Rapporteur on Torture.

The Committee has for the most part adopted an approach calling for legal standards and procedural safeguards, rather than outright abolition of institutional confinement and compulsory treatment, prohibition of these practices by law, and repeal of the laws that currently allow them to be practiced with impunity. In one recent instance, the Committee referred to the Principles for the Protection of Persons with Mental Illness and

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<sup>3</sup> A/HRC/22/53, paragraph 89(d). The Special Rapporteur elaborated on this in his statement made to the Human Rights Council on 4 March 2013: "Deprivation of liberty on grounds of mental illness is unjustified. . . . I believe that the severity of the mental illness cannot justify detention nor can it be justified by a motivation to protect the safety of the person or others."

for the Improvement of Mental Health Care (46/119 of 1991) as a guide for the revision of legislation in the area of mental health;<sup>4</sup> however, the MI Principles express a standard contrary to that contained in the CRPD and can no longer be considered viable as an articulation of the human rights of persons with psychosocial disabilities.<sup>5</sup> In another instance, the Committee called for immediate release of all those “forcibly placed in psychiatric institutions for reasons other than medical,” and for “measures to ensure that no one is involuntarily placed in psychiatric institutions for reasons other than medical, *inter alia*, by ... ensuring that hospitalization for medical reasons is decided only upon the advice of independent psychiatric experts and that such decisions can be appealed.”<sup>6</sup> Rather than carve out an exception allowing involuntary hospitalization for medical reasons, the Committee should apply the same standards to persons with and without disabilities, and call for release of all those placed against their will in psychiatric institutions, and for measures to ensure no one is placed in such institutions involuntarily for any reason.

## 2. Considerations

We would like to raise a few points for particular consideration in applying the Convention against Torture to the context of psychiatric institutions and mental health services.

### a. Procedural safeguards allow violations to continue with impunity

WNUSP has called for abolition of forced interventions and institutionalization, and contends that procedural safeguards regulating these practices are counterproductive. While it is necessary to provide effective mechanisms by which people held against their will in institutions can obtain their release, these procedural mechanisms must be informed of their obligation to immediately release all those who request to leave, and to immediately take action to stop coercive interventions such as restraint, solitary confinement, and nonconsensual administration of mind-altering drugs, electroshock or psychosurgery.<sup>7</sup> If procedural safeguards are put in place instead of a serious initiative to abolish forced interventions and institutionalization, they simply judicialize these harmful and discriminatory practices committed against persons with disabilities, and allow them to continue to be practiced with impunity, involving courts or other tribunals as well as medical personnel in committing acts that amount to torture and ill-treatment. Procedural

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<sup>4</sup> See Annex I.

<sup>5</sup> Report of Special Rapporteur on Torture Manfred Nowak, A/63/175, paragraph 44; A/HRC/22/53, paragraph 58.

<sup>6</sup> CAT Concluding Observation on Turkmenistan, see Annex I.

<sup>7</sup> This fulfills the obligation in CAT Article 13, “Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.”

safeguards are most often ineffective even in reducing the incidence of forced interventions and institutionalization, since medical personnel and institutions adapt to procedural requirements without substantively changing their practices in any meaningful way.<sup>8</sup>

b. Both involuntary confinement and involuntary treatment must be abolished

i. Involuntary treatment and involuntary confinement are inseparable

It has become habitual in many domestic mental health laws to separate involuntary confinement from involuntary treatment; however in actual practice and in the lived experience of persons with psychosocial disabilities they are inseparable. The threat of involuntary confinement, or its prolongation, is commonly used to coerce nominally “voluntary” compliance with forced medication. This practice has even been judicialized with the rise of legislative regimes for compulsory treatment in the community, known by such terms as “community treatment orders” and “outpatient commitment,” and by the euphemistic “assisted outpatient treatment.”<sup>9</sup> In outpatient commitment regimes, a person can be ordered by a court to comply with prescribed psychiatric medication, submit to unwanted home visits, and attend mental health programs as their daily activity rather than pursue work, school, or other interests in the community. These regimes are all backed up with the threat of detention if a mental health professional deems the individual to be noncompliant with prescribed treatment.

This point is timely particularly considering that the Human Rights Committee is developing a General Comment on liberty and security of the person, and are particularly interested in developing the concept of security of the person, which is related to the freedom from torture and ill-treatment, and its underlying value of protecting the physical and mental integrity of the person.<sup>10</sup> ICCPR Article 9 links these two concepts, as does CRPD Article 14, which is based on the ICCPR provision and its antecedent in the Universal Declaration of Human Rights. The Committee on the Rights of Persons with Disabilities addresses liberty and security of the person holistically under Article 14, urging states to repeal legal provisions authorizing involuntary confinement of persons with psychosocial disabilities and also to ensure that mental health services are based on the free and informed consent of the person concerned.<sup>11</sup> The Committee has similarly called for an end to both involuntary confinement and involuntary treatment under CRPD

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<sup>8</sup> Perlin, *Mental Disability Law: Civil and Criminal*, Vol. 1, citing Bagby and Atkinson, *The Effect of Legislative Reform on Civil Commitment Rates: A Critical Analysis*, 6 *Behav. Sci. & L.* 45 [1988].

<sup>9</sup> New York Mental Hygiene Law § 9.60.

<sup>10</sup> Human Rights Committee General Comment No. 20, paragraph 2.

<sup>11</sup> CRPD Concluding Observations on Spain (2011), CRPD/C/ESP/CO/1, paragraph 36; CRPD Concluding Observations on Hungary (2012), CRPD/C/HUN/CO/1, paragraphs 27-28; CRPD Concluding Observations on China (2012), CRPD/C/CHN/CO/1, paragraphs 25-26.

Article 25 on the right to health,<sup>12</sup> and has urged states to do away with involuntary commitment to institutions under CRPD Article 15 on the freedom from torture and ill-treatment<sup>13</sup>.

ii. Involuntary confinement in mental health facilities violates the right to free and informed consent

Given the nature and declared purpose of confinement in mental health facilities or on mental health grounds, it is evident that confinement has the purpose of treating the person even against her or his will, thus violating the right to exercise free and informed consent in health care, which includes the right to refuse treatment. Confinement in institutions in the absence of treatment has been condemned as mere “warehousing” of human beings. Yet forced and coercive treatment, particularly intrusive treatments like psychiatric drugs and electroshock, are equally as damaging as being confined, if not more so. Alternatives that respect the individual’s autonomy and focus on meeting her or his expressed needs do exist, but they are most often marginalized and poorly funded.

iii. Involuntary confinement on mental health grounds discriminates based on disability and is therefore arbitrary detention

Detention based on mental health grounds constitutes adverse treatment that deprives persons with psychosocial disabilities of the right to enjoy liberty of the person on an equal basis with others. The Human Rights Committee has said that detention that discriminates on grounds protected under ICCPR Article 26 may constitute arbitrary detention. There is no legitimate justification for differentially subjecting persons with psychosocial disabilities to segregation from their communities and deprivation of personal liberty. Even if there were evidence that a sector of the population is disproportionately represented among people who commit acts of violence, it would not be grounds for a separate regime of preventive detention, as this would amount to guilt by association. In actual fact, there is no such evidence with respect to people with psychosocial disabilities. The justifications for psychiatric detention that have been put forward in domestic laws and in the MI Principles amount to stereotyped assertions about the perceived danger posed to the community by persons with disabilities, and about the value of confinement as a means of protecting the individual from harm to her or himself. The stereotypes linking our community to violence have been refuted by every study that has been undertaken to look into the question;<sup>14</sup> one even suggests that a diagnosis of “schizophrenia” correlates with a *reduced* risk of violence for individuals who have issues with substance abuse.

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<sup>12</sup> CRPD/C/CHN/CO/1, paragraphs 37-38.

<sup>13</sup> CRPD/C/CHN/CO/1, paragraphs 27-28.

<sup>14</sup> [http://depts.washington.edu/mhreport/facts\\_violence.php](http://depts.washington.edu/mhreport/facts_violence.php). People with psychosocial disabilities are in fact more likely than the general population to be victimized by violence, <http://www.bbc.co.uk/news/health-17182626>.

As for the value of confinement to prevent danger to oneself, it should be noted that psychiatric institutions are dangerous, harmful and degrading places, including the treatment inflicted (such as forced drugging, restraints, solitary confinement and electroshock),<sup>15</sup> and that coercion and force are inimical to the creation of a place of sanctuary and human connection that would meet people's expressed needs in times of crisis. Psychiatric survivor testimonies have highlighted that self-harm is a common response to forced institutionalization and treatment; many survivors state that they self-harmed for the first time after they were forcibly hospitalized and became regular targets for solitary confinement, restraints and humiliation, with no hope of gaining release<sup>16</sup>.

iv. Involuntary confinement on mental health grounds is a form of ill-treatment or torture

Involuntary confinement in psychiatric institutions is traumatising and harmful in itself, and has been recognized as a form of torture and ill-treatment.<sup>17</sup> The Committee has emphasized as a general principle the obligation on states to take effective measures to prevent any acts of torture or ill-treatment. This obligation should be fully applied to the abolition of psychiatric institutionalization and forced interventions, without any exceptions.

3. New standards of the CRPD, superseding the MI Principles

Prior to the CRPD, treaty bodies relied on the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care ("MI Principles") as a guide to interpreting binding human rights obligations. This non-binding declaration permitted involuntary hospitalization and institutionalization based on a determination that the person could be diagnosed with a mental illness according to international medical standards, and that there is an imminent risk of harm to the person or to others, or that there is a likelihood that the person's condition will deteriorate in the absence of such intervention, and the individual's judgment is considered to be impaired. Furthermore, while recognizing in principle a right to exercise free and informed consent, the declaration contained numerous exceptions to this principle, in fact authorizing

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<sup>15</sup> A/63/175, paragraph 64; Statement of the Special Rapporteur on Torture to the Human Rights Council 4 March 2013, <http://www.madinamerica.com/wp-content/uploads/2013/03/torture.pdf>.

<sup>16</sup> Louise Roxanne Pembroke (Ed), *Self-Harm: Perspectives from Personal Experience*, London: Survivors Speak Out, 1994. <http://www.kreativeinterventions.com/SelfHarmPerspectivesfromPersonalExperience.pdf>.  
. With respect to suicide, please see David Webb, *Thinking About Suicide*, <http://www.thinkingaboutsuicide.org>.

<sup>17</sup> A/63/175, paragraphs 38, 41, 64-65; A/HRC/22/53, paragraph 89(d), Statement of Special Rapporteur on Torture Juan Mendez to the Human Rights Council, 4 March 2013, available at: <http://www.madinamerica.com/wp-content/uploads/2013/03/torture.pdf>.

compulsory interventions with medications and even electroshock against the person's will. The declaration furthermore provided for procedural safeguards, centering on opportunities for review of involuntary institutionalization and treatment.

The CRPD rejected every aspect of the standards in the MI Principles.

a. Rejection of institutional confinement

In Article 14.1(b), the CRPD prohibits deprivation of liberty based on the existence of a disability. This is understood to prohibit deprivation of liberty in any case where disability is one among other factors that motivate the deprivation of liberty, and particularly where legislation authorizes deprivation of liberty linked to “apparent or diagnosed mental illness,” including when factors such as the likelihood of harm to the person or others, or the need for care and treatment, are also taken into account.<sup>18</sup> The CRPD Committee has consistently urged states to repeal laws that allow institutionalization of persons with psychosocial disabilities without the free and informed consent of the person concerned, as well as to phase out and eliminate all institutional care (whether voluntary or involuntary) for persons with disabilities.<sup>19</sup>

Negotiating parties to the CRPD rejected proposals to add the word “solely” to the wording of Article 14.1(b), a proposal put forward by some states that would have created a potential loophole allowing deprivation of liberty based on mental health grounds plus another factor such as the likelihood of harm to oneself or others. When summing up discussion on this article, the Chair of the negotiating body explained it as follows:

The Chair noted proposals to amend 14(1)(b), however he asserted that the changes were either not substantive or represented issues that had already been thoroughly debated. He believed that the text as written is reasonably balanced and should be retained. This is essentially a non-discrimination provision. The debate has focused on the treatment of PWD on the same basis as others. PWD who represent a legitimate threat to someone else should be treated as any other person would be. The Chair believed that the text achieves this balance and encouraged informal discussion if delegates still had concerns.<sup>20</sup>

The balance struck in the wording of the provision ensured that states were not precluded from applying to persons with disabilities the general laws that govern society (such as

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<sup>18</sup> Thematic study of the High Commissioner for Human Rights on implementation on key legal measures for the ratification and implementation of the Convention on the Rights of Persons with Disabilities, A/HRC/10/48, paragraphs 48-49; A/63/174, paragraph 64.

<sup>19</sup> CRPD/C/ESP/CO/1, paragraph 36; CRPD/C/HUN/CO/1, paragraph 28; CRPD/C/CHN/CO/1, paragraphs 26, 28, 32 and 38.

<sup>20</sup> Daily summary of discussion at the seventh session, 19 January 2006 (Vol. 8 #4) at <http://www.un.org/esa/socdev/enable/rights/ahc7sum19jan.htm>.

criminal law) and that might entail subjecting a person to lawful detention; while at the same time doing away with forms and grounds of detention that specifically target persons with disabilities, such as involuntary psychiatric institutionalization.

The remainder of CRPD Article 14 provides in general terms that persons with disabilities have equal guarantees as others when deprived of their liberty through any process, and have a right to be treated in compliance with the objectives and principles of the CRPD, including by provision of reasonable accommodation. This underscores the nature of Article 14 as a whole, as a non-discrimination provision. Detention that is directly related to the existence of a disability is prohibited, and if persons with disabilities are detained on grounds and by procedures that apply to the population as a whole, they are guaranteed equal substantive and procedural rights, and furthermore are entitled to enjoy the standards established by the CRPD as they might apply to the context of prison.

The CRPD makes no exceptions allowing detention as a last resort or in exceptional circumstances, and, because it contemplates doing away with psychiatric detention, contains no procedural safeguards to regulate it.

#### b. Rejection of forced psychiatric interventions

The CRPD establishes that all persons with disabilities must be recognized as having the legal capacity to make decisions in all aspects of life, including with respect to mental health treatment. Free and informed consent in health care is directly addressed in CRPD Article 25(d), which requires that health care provided to persons with disabilities must be based on their free and informed consent, equally with other persons. It is well established that health care includes both physical and mental health, and there can be no distinction between them with respect to the right to free and informed consent, which protects both individual autonomy and physical and mental integrity.

The CRPD goes further by providing for a new template to understand decision-making by persons with disabilities in situations where it may be difficult for the person to interact with others in the ordinary way needed to establish consent or refusal. Instead of declaring the person to be legally incapable and appointing a substitute decision-maker, CRPD Article 12 requires 1) that the person be recognized as retaining her or his decision-making capacity, 2) that the person be provided with accommodations and support that may be needed to exercise decision-making effectively, and 3) that in all matters of legal capacity, including in provision of support and accommodations, the person's autonomy, will and preferences must be respected. Article 12 builds on the lived experiences of persons with disabilities, including persons with psychosocial disabilities and persons with intellectual disabilities, who have succeeded in establishing some types of supported decision-making and personal advocacy in several countries,



notwithstanding that no country has yet taken the final step of moving entirely to a support-based system that respects individual autonomy.<sup>21</sup>

The Committee on the Rights of Persons with Disabilities explains the obligations of states with respect to legal capacity as follows:

The Committee urges the state party to adopt measures to repeal the laws, policies and practices which permit guardianship and trusteeship for adults and take legislative action to replace regimes of substituted decision-making by supported decision making, which respects the person's autonomy, will and preferences, in the exercise of one's legal capacity in accordance with Article 12 of the CRPD. In addition, the Committee recommends the state party in consultation with DPOs to, prepare a blueprint for a system of supported decision-making, and legislate and implement it which includes:

- a. Recognition of all persons' legal capacity and right to exercise it;
- b. Accommodations and access to support where necessary to exercise legal capacity;
- c. Regulations to ensure that support respects the person's autonomy, will and preferences and establishment of feedback mechanisms to ensure that support is meeting the person's needs;
- d. Arrangements for the promotion and establishment of supported decision-making.<sup>22</sup>

The Committee further explains obligations with respect to free and informed consent in health care:

The Committee advises the state party to adopt measures to ensure that all health care and services provided to persons with disabilities, including all mental health care and services, is based on the free and informed consent of the individual concerned, and that laws permitting involuntary treatment and confinement, including upon the authorisation of third party decision-makers such as family members or guardians, are repealed. It recommends the state party to develop a wide range of community-based services and supports that respond to needs expressed by persons with disabilities, and respect the person's autonomy, choices, dignity and privacy, including peer support and other alternatives to the medical model of mental health.<sup>23</sup>

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<sup>21</sup> For measures found helpful by persons with psychosocial disabilities, see Peter Lehmann and Peter Stastny, eds., *Alternatives Beyond Psychiatry* (2007).

<sup>22</sup> CRPD/C/CHN/CO/1, paragraph 22. See also CRPD/C/HUN/CO/1, paragraphs 25-26.

<sup>23</sup> CRPD/C/CHN/CO/1, paragraph 38.

The Committee on the Rights of Persons with Disabilities has also found violations of CRPD Article 15 (freedom from torture and ill-treatment) and 17 (respect for physical and mental integrity) with respect to psychiatric institutionalization and forced interventions.<sup>24</sup>

In no case does the CRPD make exceptions that would allow substituted decision-making or involuntary treatment; proposals to include such measures in the text were rejected.<sup>25</sup>

c. Institutional care must be phased out and eliminated entirely

CRPD Article 19 recognizes the equal right of persons with disabilities to live and be included in their communities, and requires states to take effective measures for the full realization of this right, including by providing access to needed community support services.

Both the CRPD Committee and the High Commissioner for Human Rights have stressed that state parties need to phase out and eliminate institutional care and replace it with a range of community services that support the right to live independently and be included in the community.<sup>26</sup> Funding must be shifted to accomplish this purpose.<sup>27</sup> Access to affordable housing and meaningful work must be ensured to people with disabilities in accordance with their right to independent living in the community, their right to an adequate standard of living, and other provisions of the CRPD. Such provision is also an aspect of the right to redress of victims of torture under Article 14 of CAT.

d. Suggested language

As a preliminary suggestion, the Committee might adopt language such as the following to address human rights violations in psychiatric institutions:

1. The Committee recommends that the State Party:
  - (a) Release all individuals forcibly placed in psychiatric institutions, and release all individuals from coercive regimes of mental health treatment (including court-ordered and other compulsory outpatient treatment);

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<sup>24</sup> CRPD Concluding Observations on Tunisia, CRPD/C/TUN/CO/1, paragraphs 28-49; CRPD/C/ESP/CO/1, paragraph 38; CRPD/C/PER/CO/1, paragraphs 30-31; CRPD/C/CHN/CO/1, paragraphs 27-28 and 37-38.

<sup>25</sup> Daily summary of discussion at the seventh session, 19 January 2006 (Vol. 8 #4) at <http://www.un.org/esa/socdev/enable/rights/ahc7sum19jan.htm>.

<sup>26</sup> A/HRC/10/48, paragraphs 50-51; CRPD/C/CHN/CO/1, paragraphs 32 and 93.

<sup>27</sup> CRPD/C/ESP/CO/1, paragraph 40; CRPD/C/HUN/CO/1, paragraphs 34-35; CRPD/C/CHN/CO/1, paragraphs 31-32.

- (b) Take effective measures to ensure that no one is involuntarily placed in psychiatric institutions or subjected to mental health treatment without the free and informed consent of the person concerned;
  - (c) Ensure that all individuals currently confined in psychiatric institutions are regularly and effectively informed of their rights, including the right to leave and the right to refuse any or all treatment, and that no individual is penalized for exercising the right to leave an institution or the right to refuse treatment; in particular, individuals choosing to leave an institution or to refuse any particular treatment or service must still be provided with those services they desire to have;
  - (d) Ensure that individuals have access to an effective mechanism to obtain release from any confinement or forced interventions in mental health service settings;
  - (e) Repeal all legal provisions that allow involuntary detention or coercive interventions with respect to any individual based on an actual or perceived psychosocial disability, including legal provisions that authorize confinement in psychiatric institutions or involuntary psychiatric treatment based on any factors including a motivation to protect the safety of the person or others or to provide treatment deemed necessary by medical professionals, and including any provisions by which substitute decision-makers are authorized to consent to such confinement or involuntary treatment; and
  - (f) Ensure that individuals have access to supports, accommodations and services that may be necessary to leave institutions and live in the community, or to avoid institutionalization, including assistance in securing affordable housing, an adequate standard of living and meaningful work, and that services are accessible in the community to meet the needs of persons with psychosocial disabilities that meet the expressed needs of individuals and that respect the individual's autonomy, choices, dignity and privacy, with an emphasis on alternatives to the medical model of mental health, including peer support.
2. With respect to individuals with psychosocial disabilities who are confined in prisons because they are accused or convicted of a crime, the Committee recommends that the State Party:
- a. Ensure effective access to justice with equal procedural and substantive guarantees of due process, and equal access to programs, services and facilities provided to prisoners;
  - b. Ensure that no one is involuntarily transferred from prison to a psychiatric institution, involuntarily placed in a mental health unit within the prison, or subjected to forced medication or other nonconsensual psychiatric interventions within the prison;

- c. Ensure that prisoners with psychosocial disabilities have access to a wide range of supports and services that meet individuals' expressed needs and respect the individual's autonomy, choices, dignity and privacy, with an emphasis on alternatives to the medical model of mental health including peer support;
- d. Ensure that measures taken to prevent suicide and self-harm within prisons be undertaken within the framework of support and modeled on good practices developed by individuals with lived experience of suicide attempts and self-harm.

Annex: Selected excerpts from Concluding Observations of the Committee against Torture referring to psychiatric institutions or people with psychosocial disabilities

**49<sup>th</sup> session, November 2012**

**NORWAY**

Use of coercive measures in psychiatric health care

14. The Committee, while noting the important steps being taken by the State party to reduce and ensure the correct use of coercive measures in mental health institutions, remains concerned with the widespread use of restraints and other coercive methods in psychiatric institutions, as well as by the lack of statistical data available, including on the administration of electroconvulsive treatment (ECT). The Committee is concerned that the provisions of the Mental Health Care Act, allowing for compulsory admission and treatment on the basis of either the “treatment criterion” or the “danger criterion”, leave the possibility for wide discretionary decisions to such an extent that it might lead to arbitrary and unwarranted practice (arts. 2 and 16).

The State party should ensure that every **competent** patient, whether voluntary or involuntary, is fully informed about the treatment that it is intended to prescribe and given the opportunity to refuse treatment or any other medical intervention. **Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.** The State party should provide clear and detailed regulations on the use of restraints and other coercive methods in psychiatric institutions aiming to reduce the use of restraints substantially. The State party should also establish a system for the collection and publication of uniform statistical information on the use of restraints and other coercive methods, including the incidence of ECT.

**CANADA**

Detention conditions

19. While noting a Transformation Agenda launched by the Correctional Service of Canada (CSC) with a view to improving its operations, the Committee remains concerned at: (arts. 2, 11 and 16)

a) The inadequate infrastructure of detention facilities to deal with the rising and complex needs of **prisoners, in particular those with mental illness;**

b) Incidents of inter-prisoner violence and in-custody deaths resulted from high-risk lifestyles such as drug and alcohol abuse which, as acknowledged by the delegation, still circulate in places of detention; and

c) **The use of solitary confinement, in the forms of disciplinary and administrative segregation, often extensively prolonged, even for persons with mental illness.**

The State party should take all necessary measures to ensure that detention conditions in all places of deprivation of liberty are in conformity with the UN

Standard Minimum Rules for the Treatment of Prisoners, adopted by the Economic and Social Council in its resolutions 663 C (XXIV) and 2076 (LXII). It should, inter alia:

- a) Strengthen its efforts to adopt effective measures to improve material conditions in prisons, reduce the current overcrowding, properly meet the basic needs of all persons deprived of their liberty and eliminate drug;
- b) **Increase the capacity of intermediate and acute mental health treatment centres for prisoners;**
- c) **Limit the use of solitary confinement as a measure of last resort for as short a time as possible under strict supervision and with a possibility of judicial review;** and
- d) **Abolish the use of solitary confinement for persons with serious or acute mental illness.**

## CUBA

### **Instituciones psiquiátricas**

19. El Comité toma nota de la información facilitada por el Estado parte sobre el contenido de la sentencia, de fecha 31 de enero de 2011, dictada por la Sala Segunda de lo Penal del Tribunal Provincial Popular de La Habana en la causa seguida contra el director, los vicedirectores y otros trabajadores del Hospital Psiquiátrico de La Habana por la muerte por hipotermia de 26 pacientes en enero de 2010. El Comité lamenta no haber recibido la información solicitada sobre las medidas de reparación e indemnización ordenadas por los tribunales y efectivamente proporcionadas a los familiares de las víctimas y a otros pacientes afectados. Si bien toma nota de la existencia de un plan del Ministerio de Salud Público dirigido a consolidar la eficiencia de esta institución, el Comité señala no haber recibido información sobre su contenido. Por último, el Comité lamenta no haber recibido datos estadísticos sobre el número de **personas con discapacidad psicosocial** que siguen un tratamiento médico forzoso en la actualidad (arts. 2, 11, 14 y 16).

El Comité solicita al Estado parte el envío de información relativa a las medidas de reparación e indemnización ordenadas por los tribunales y efectivamente proporcionadas a **las víctimas y/o sus familiares en relación con las muertes ocurridas en el Hospital Psiquiátrico de La Habana en 2010.**

El Estado parte debe tomar las medidas necesarias para que se subsanen las deficiencias que puedan existir en la red de **hospitales psiquiátricos** y garantizar así que este tipo de hechos no se vuelvan a repetir. El Comité recomienda que se analice de manera urgente el funcionamiento real de las

**instituciones psiquiátricas** a través de auditorías externas e internas de las instituciones actuantes, impulsando la toma de medidas legislativas y administrativas que aseguren un efectivo respeto de las garantías necesarias para la prevención de la tortura y los malos tratos.

29. El Comité invita al Estado parte a que considere la posibilidad de ratificar los tratados fundamentales de derechos humanos de las Naciones Unidas en los que aún no es parte, en particular, el Pacto Internacional de Derechos Civiles y Políticos, el Pacto Internacional de Derechos Económicos, Sociales y Culturales, el Protocolo Facultativo de la Convención sobre la eliminación de todas las formas de discriminación contra la mujer, la Convención internacional sobre la protección de los derechos de todos los trabajadores migratorios y de sus familiares y **el Protocolo facultativo de la Convención sobre los derechos de las personas con discapacidad**.

32. **El Comité pide al Estado parte que, a más tardar el 1º de junio de 2013, le facilite información** sobre el seguimiento que haya dado a las recomendaciones de: 1) asegurar o fortalecer las salvaguardias legales fundamentales para los detenidos; 2) llevar a cabo investigaciones prontas, imparciales y eficaces; y, 3) enjuiciar a los sospechosos y castigar a los culpables de tortura y malos tratos, que figuran en los párrafos 10 (c), 16 (b), 19 y 21 del presente documento. Además el Comité solicita información sobre el seguimiento en materia de recursos y reparación proporcionados a las víctimas y mencionados en esos párrafos.

## RUSSIA

### Psychiatric facilities

22. The Committee is concerned about reports of frequent placement of persons in psychiatric institutions on an involuntary basis, and the lack of information about the possibility of appeal. The Committee is also concerned about the absence of investigations into the reported ill-treatment, as well as deaths of persons held in such facilities (arts. 11 and 16).

The Committee recommends that the State party:

(a) **Ensure effective supervision and monitoring by judicial organs of any placement in institutions of persons with mental disabilities;**

(b) **Ensure effective safeguards for persons in such institutions, including the right for effective appeal, and through the independent monitoring of conditions, and establishment of a complaints mechanism and counsel.** It should also ensure training to medical and non-medical staff on how to administer non-violent and non-coercive care;

(c) Effectively investigate all complaints of violation of the Convention, including death, prosecute the perpetrators, and provide redress to victims.

## MEXICO

### **Instituciones psiquiátricas**

22. El Comité expresa su preocupación por las denuncias sobre el trato vejatorio dispensado a personas ingresadas en instituciones psiquiátricas, y lamenta no contar con los resultados de las investigaciones abiertas al respecto. Preocupan también los informes que describen las condiciones de mantenimiento e higiene en estos centros como deficientes. Finalmente, el Comité no ha recibido información sobre la existencia de protocolos para el uso de mecanismos de inmovilización en instituciones psiquiátricas (arts. 2, 11 y 16).

El Estado parte debería:

- a) Garantizar que se investigan de manera pronta e imparcial todas las denuncias de malos tratos a personas con discapacidad ingresadas en instituciones psiquiátricas, así como el enjuiciamiento de los presuntos autores;!
- b) Reforzar los recursos para la mejora de las instalaciones de manera que se atiendan las necesidades básicas en materia de atención médica e higiene de los internos;
- c) Velar por que los órganos independientes de supervisión realicen visitas periódicas a estos centros;
- d) **Extremar el control sobre el uso de mecanismos de inmovilización con base en protocolos de actuación previamente definidos;**
- e) Promover el establecimiento de formas alternativas de tratamiento, sobre todo en el seno de la comunidad.

### **48th session, May 2012**

## CZECH REPUBLIC

Roma children

14. The Committee is concerned about the placement of Roma children in educational facilities for **children with slight mental disabilities** or with a reduced syllabus formerly used for **special schools**, which compromises their subsequent educational development. (arts. 2, 10, 12, 13 and 16)

In light of its general comment No. 2 on the implementation of article 2 (CAT(C/GC/2), the Committee recalls that the special protection of certain minorities or marginalized individuals or groups especially at risk is part of the State party's obligations under the Convention. In this respect, the State party should ensure that Roma children are admitted to mainstream education, **unless a proper assessment concludes that the child has a mental disability and that the child's legal guardian has requested placement in a special school.**

Standardized testing should be adapted to the social, cultural and linguistic



specificities of minorities and educators and school personnel should receive training in principles of non-discrimination.

### **Psychiatric facilities**

21. Notwithstanding the changes in legislation announced by the delegation of the State party, the Committee is concerned about the reports of frequent **placement of persons with intellectual or psychosocial disabilities in social, medical and psychiatric institutions without their informed and free consent; the continued use of cage-beds and net-beds as well as the use of other restraint measures such as bed strapping, manacles, and solitary confinement, often in unhygienic conditions and with physical neglect.** The Committee is also concerned about the **absence of investigations into the ill-treatment and deaths of institutionalized persons confined to cage and net-beds, including suicides** (arts. 11 and 16).

The Committee recommends that the State party:

(a) **Allocate appropriate funding for the implementation of the national plan on the transformation of psychiatric, health, social and other services for adults and children with intellectual or psychosocial disabilities to ensure a speedy process of deinstitutionalization to more community-based services and/or affordable housing.**

(b) **Establish close supervision and monitoring by judicial organs of any placement in institutions of persons with intellectual or psychosocial disabilities, with appropriate legal safeguards and visit by independent monitoring bodies.** Institutionalization and treatment should be based on free and informed consent and that the persons concerned should be informed in advance about the intended treatment.

(c) **Provide a clear legal basis for the use of all forms of restraint measures in institutional settings.** It urges the prohibition of the use of restraint measures such as cage-beds and net-beds.

(d) **Ensure the effective monitoring and independent assessment of the conditions in institutions,** including hygiene and instances of neglect. It should establish a complaints mechanism, ensure counsel and provide training to medical and non-medical staff on how to administer non-violent and non-coercive care. All cases of ill-treatment and deaths, including those of 30 year-old Vera Musilova in 2006 and the suicide of a 51 year-old woman on 20 January 2012, should be effectively investigated and prosecuted and redress provided to the victims and their families, including compensation and rehabilitation.

26. **The Committee requests the State party to provide, by 1 June 2013, follow-up information** in response to the Committee's recommendations related to (1) ensuring or strengthening legal safeguards for persons detained, (2) conducting prompt, impartial and effective investigations, and (3) prosecuting suspects and sanctioning perpetrators of torture and ill-treatment, as contained in paragraphs 11, 14 and 21 of the present document.

## BULGARIA

Treatment of persons in social institutions, including those with mental disabilities  
19. The Committee is concerned that:

(a) Persons with mental disabilities in state and municipal social institutions, particularly in medical institutional settings, do not enjoy adequate legal safeguards and procedural guarantees regarding the respect of their right to mental and physical integrity; that persons deprived of their legal capacity and whose decisions and preference are not taken into account have no means to challenge the violation of their rights; admission procedures and systems of guardianship often include officials from the institutions in which persons with disabilities are confined, which may result in conflict of interest and de facto detention, while the guardians' consent to medical treatment may amount to forced treatment; the use of restraint and forced administration of intrusive and irreversible treatments such as neuroleptic drugs and that there is no independent inspection mechanism for mental health institutions; the competence of staff, frequency of visits by specialists, and the material conditions of such institutions including their remote locations, far from families and large medical centres;

(b) The current and future situation of institutionalized children with mental disabilities, while noting the envisaged transition from institutional to community-based care similar to a family environment and the closure of all child care institutions within 15 years; that 238 children with mental disabilities died in the period 2000-2010, three-quarters from preventable deaths, without a single indictment being made to date in 166 of criminal investigations and that two children died recently in similar circumstances in Medven; that an inspection covering the year 2010 regarding involuntary confinement and treatment under the Health Act and coercive confinement for treatment under the Penal Code found no violation in the application of the legislation; that the necessary upkeep and renovations of existing facilities while the planned de-institutionalization is being put in place will not be carried out on the assumption that they are being phased out. (arts. 2, 11, 12, 13, 14 and 16).

The Committee recommends that the State party:

(a) Review legislation and policy of depriving persons with mental disabilities of their legal capacity, provide legal and procedural safeguards for their rights and ensure that they have prompt access to effective judicial review of decisions, as well as effective remedy against violations;

(b) Evaluate cases on an individual basis and ensure respect for the right to mental and physical integrity of institutionalized persons and in particular the use of restraint and enforced administration of intrusive and irreversible treatments such as neuroleptic drugs; ensure that their decisions and preferences are taken into account;

- (c) Take effective measures to regulate the system of guardianship in order to avoid conflict of interest and situations that amount to forced treatment and de facto detention;
- (d) Establish close monitoring of placements by judicial organs and by independent inspection mechanisms to ensure the implementation of safeguards and international standards, including the UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health adopted by General Assembly resolution 46/119;
- (e) Provide sufficient numbers of competent professional staff and carry out the necessary material renovations on facilities, which should be located in large cities that have hospitals and medical centres;
- (f) Ensure adequate investigation, prosecution, conviction and sanction of those responsible for the deaths of institutionalized children with mental disabilities;
- (g) Amend and strengthen legislation to enhance accountability and prevent recurrence and impunity and to regulate authorized treatment in institutions, in particular of persons with mental disabilities; attention should be paid to the individual needs of each child and the proper treatment prescribed, in conformity with the provisions of the Convention;
- (h) Ensure frequent and professional oversight and monitoring by independent mechanisms, including the national human rights institution and civil society organizations of all institutions and of the implementation of the deinstitutionalization, including the acceleration of the deinstitutionalizations in as short a period of time as possible, in order to maintain a sustainable system of care.

## GERMANY

16. The Committee welcomes the information provided by the State party that since the 2005 visit to the State party by the European Committee against Torture (CPT), the Federal Police has refrained from utilising means of physical restraints (Fixierung) and that at the Länder level the practice of Fixierung has been applied as a measure of last resort. However, the Committee remains concerned at the assertion by the State party that it will not be possible in the long-term to abandon the practice of Fixierung in all non-medical settings at the Länder level, as recommended by the CPT, and at the lack of information on the uniform application of the CPT principles and minimum standards in relation to Fixierung (arts. 2, 11 and 16).

The Committee urges the State party to strictly regulate the use of physical restraints in prisons, psychiatric hospitals, juvenile prisons and detention centres for foreigners with a view to further minimise its use in all establishments and ultimately abandon its use in all non-medical settings. The State party should further ensure adequate training to law enforcement and other personnel on the use of physical restraints, harmonization of the permissible means of physical restraints in all the Länder as well as the observance in all establishments of the principles and minimum standards in relation to Fixierung elaborated by the CPT.

## MAROC

### Hôpitaux psychiatriques

21. Le Comité prend note des informations écrites complémentaires qui lui ont été transmises par l'Etat partie relatives aux projets de mesures prises pour lutter contre les mauvais traitements dans les hôpitaux psychiatriques et sur la nouvelle loi-cadre de 2011 sur le système de santé. Le Comité reste toutefois préoccupé par le manque d'information sur la surveillance et l'inspection des institutions psychiatriques dans lesquelles des malades peuvent être internés, ainsi que sur les résultats éventuels des telles de surveillance ou d'inspection. (art. 16)

L'Etat Partie devrait s'assurer que le mécanisme national de contrôle et surveillance des lieux de détention devant être prochainement établi, soit également compétent pour inspecter les autres lieux de privation de liberté, tels que les hôpitaux psychiatriques, et de faire en sorte qu'il soit donné suite aux résultats d'un tel processus de contrôle. Le mécanisme en question devrait inclure des visites périodiques et inopinées effectuées afin de prévenir la torture et autres peines ou traitements cruels, inhumains ou dégradants. L'Etat partie devrait également faire en sorte que des médecins légistes formés à la détection des signes de torture soient présents pendant ces visites. L'Etat partie devrait également s'assurer que les patients détenus dans ces institutions contre leur gré, soient en mesure de faire appel de la décision d'internement et d'avoir accès à un médecin de leur choix.

### 46<sup>th</sup> session, May 2011

## GHANA

28. Noting the commitment made by the State party in the context of the universal periodic review (A/HRC/8/36, para. 68 (12) and (13)), the Committee recommends that the State party consider ratifying **International Convention on the Protection of Persons with Disabilities**, as well as the new Convention International Convention for the Protection of All Persons from Enforced Disappearances.

### **Psychiatric facilities**

17. The Committee is concerned at reports about the **inadequate treatment of mental health patients and poor living conditions in psychiatric institutions, in particular at Accra Psychiatric Hospital**. The Committee notes with concern the reports of severe overcrowding, lack of qualified staff and poor material and hygienic conditions in this psychiatric facility. It is also deeply concerned at the situation of persons admitted by reason of a court order who have allegedly been abandoned for years. In this regard, the Committee notes

with interest the information provided by the State party's delegation on existing proposals for expanding mental health facilities in the country and on the draft mental health bill before Parliament, which would include an individual complaint system. The committee is seriously concerned at reports regarding persons remaining in hospitals long after they should have been discharged for lack of appropriate after care or alternative and secure settings. It takes note of the explanation given by the delegation that efforts to reintegrate persons declared fit faced a number of obstacles including such as social stigma, but points out that this can never be held as a reason for not initiating alternative care facilities after hospitalisation. (art. 16)

The State party should:

- (a) Improve the living conditions for patients in psychiatric institutions;
- (b) Ensure that no psychiatric confinement takes place unless strictly required, that all persons without full legal capacity are placed under guardianship that genuinely represents and defends the interests of those persons, and that an effective judicial review of the lawfulness of the admission and detention of all persons in health institutions takes place in each case;
- (c) Ensure that all places where mental health patient are held for involuntary treatment are visited by independent monitoring bodies to guarantee the proper implementation of the safeguards set out to secure their rights;
- (d) Alternative forms of treatment, especially community-based treatment, are developed, in particular with a view of receiving persons discharged from hospitals.

## FINLAND

### **Involuntary psychiatric hospitalization and treatment**

11. The Committee is concerned that the provisions of the Mental Health Act governing **involuntary psychiatric hospitalization and treatment** have not been amended. The Committee is concerned further that an independent psychiatric opinion is not included as part of the procedure for involuntary hospitalization, and that a decision for involuntary hospitalization can be based on a referral from a single doctor, frequently a general practitioner. Furthermore, the Committee notes with concern that a court review of involuntary hospitalizations is often not in place. In addition, the Committee is concerned that **patients' consent is not sought with regard to electroconvulsive therapy (ECT)** and that there is no specific register for recording recourse to ECT. (arts. 2, 12, 13 and 16)

The Committee recommends to the State party amend the Mental Health Act and pass clear and specific legislation rescinding the provisions governing involuntary psychiatric hospitalization and treatment and **enacting clear and specific legislation ensuring basic legal safeguards such as requiring an independent psychiatric opinion as part of the procedure regarding the initiation and review of involuntary hospitalization, as well as ensuring that a meaningful and expedient court review of the measure of involuntary hospitalization is provided, including**

the possibility for complaints. The State party should ensure that mental health care and services provided to all persons deprived of their liberty, including in prisons, psychiatric hospitals and social institutions, are based on the free and informed consent of the person concerned. The State party should ensure that any administering of electroconvulsive therapy (ECT) to patients deprived of their liberty is based on free and informed consent. It also recommends the establishment of an independent body to monitor hospitals and places of detention, including with the authority to receive complaints.

25. While taking note with satisfaction that the State party committed itself to making the UPR recommendations an integral part of its Government's comprehensive human rights policy, the Committee would appreciate receiving information regarding the effective measures to prevent violence against women, to compile information on violence against children, on providing the same coverage in national legislation and anti-discrimination training activities on grounds of sexual orientation and **disability** as for other grounds of discrimination in areas such as the provision of services and health care and on considering using the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity as a guide to assist in the development of its policies.

## IRELAND

### **Treatment of persons with mental disabilities**

28. The Committee expresses concern at the fact that the definition of a voluntary patient is not sufficiently drawn to protect the right to liberty of a person who might be admitted to an approved mental health centre. The Committee further regrets the lack of clarity on the reclassification of mentally disabled persons from voluntary to involuntary. (articles 2 and 16)

The Committee recommends that the State party should review its Mental Health Act of 2001 in order to ensure that it **complies with international standards**. The Committee, therefore, recommends that the State party should report on the specific measures taken to bring its legislation in line with internationally accepted standards in its second periodic report.

31. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party, namely, the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990, the **International Convention on the Rights of Persons with Disabilities, 2006** and the International Convention for the Protection of All Persons from Enforced Disappearance 2006.

## KUWAIT

### **Conditions in psychiatric hospitals**

20. The Committee takes into account the information provided during the dialogue about **persons with mental disabilities**. The Committee regrets, however, that little information was provided on the conditions and legal safeguards for persons placed in involuntary treatment in psychiatric facilities. (art. 16)

The Committee recommends that the State party take all necessary measures to ensure that persons in involuntary treatment have access to complaint mechanisms. The Committee requests the State party to provide information on conditions for persons in psychiatric hospitals.

### **SLOVENIA**

4. The Committee welcomes that since the consideration of the second periodic report, the State party has ratified the following international instruments:

a) The Optional Protocol to the Convention against Torture, on 23 January 2007;

b) **The International Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 24 April 2008;**

### **Conditions of detention**

13. While welcoming the measures taken by the State party to improve considerably the conditions of detention, including the construction of new facilities and the renovation of existing ones, the Committee remains concerned about the problems of overcrowding especially in major prisons such as Dob, Ljubljana, Maribor, Koper and Novy Mesto prison. The Committee is further concerned about insufficient mechanisms to prevent suicide in prisons. (arts. 11 and 16).

The State party should intensify its efforts to bring the conditions of detention in places of deprivation of liberty into line with the Standard Minimum Rules for the Treatment of Prisoners (ECOSOC resolutions 663 C and 2076), as well as with other relevant international standards, in particular by reducing prison overcrowding, expanding non-custodial forms of detention and providing adequate accommodation and psycho-social support care for detainees who require psychiatric supervision and treatment. The Committee also recommends that the State party take all necessary measures to investigate and prevent incidence of suicide in places of detention.

### **Psychiatric facilities**

14. The Committee appreciates the information provided during the dialogue by the representatives of the State party, but regrets the lack of information on cases of involuntary placement in psychiatric institutions when only some and not all criteria established in the Mental Health Act are met as well as the lack of information on the number of complaints and appeals against involuntary placement in psychiatric hospitals. Despite the information provided during the

dialogue, the Committee regrets the lack of information on use of measures such as electro-convulsive therapy and psychotropic drugs as well as on complaints against such special measures. (art. 16).

The Committee recommends that the State party establishes a close supervision and monitoring by the judicial organs of any placements in psychiatric institutions and ensure that all places where mental-health patients are held for involuntary treatment are regularly visited by independent monitoring bodies to guarantee the proper implementation of the existing safeguards. Furthermore, the State party should ensure the full and timely implementation of the recommendations made by the Ombudsman and other monitoring bodies in this regard. The Committee also recommends that the State party undertake a serious review of the application of electroconvulsive treatment (ECT), and any other treatment which could be in violation of the Convention.

## TURKMENISTAN

4. The Committee welcomes the fact that the State party has ratified or acceded to the following international instruments:

- (a) International Convention on the Elimination of All Forms of Racial Discrimination (29 September 1994);
- (b) Convention on the Rights of the Child (20 September 1993) as well as its two Optional Protocols (29 April and 28 March 2005);
- (c) International Covenant on Civil and Political Rights (1 May 1997) and its two Optional Protocols (1 May 1997 and 11 January 2000);
- (d) Convention on the Elimination of All Forms of Discrimination against Women (1 May 1997);
- (e) International Covenant on Economic, Social and Cultural Rights (1 May 1997); and
- (f) **Convention on the Rights of Persons with Disabilities (4 September 2008).**

### **Misuse of psychiatric institutions**

17. The Committee is deeply concerned about numerous and consistent credible reports of misuse of psychiatric hospitals to detain persons for reasons other than medical, in particularly for the non-violent expression of his/her political views. The Committee regrets that the State party has failed to reply to at least two urgent appeals sent, in respectively 2004 and 2008, jointly by the Special Rapporteur on torture, the Special Rapporteur on freedom of expression and the Working Group on arbitrary detention on behalf of Mr. Gurbandurdy Durdykuliev, a political dissenter (E/CN.4/2005/62/Add.1, para.1817), and Mr. Sazak Durdymuradov, a journalist (A/HRC/10/44/Add.4, para.239) (arts. 2, 11 and 16).

The Committee recommends that the State party:

- (a) Release those forcibly placed in psychiatric hospitals **for reasons other than medical** and take appropriate measures to remedy this situation;



- (b) Take measures to ensure that no one is involuntarily placed in psychiatric institutions **for reasons other than medical**, *inter alia*, by allowing access to psychiatric facilities and mental hospitals by independent monitors and monitoring mechanisms, **and ensuring that hospitalization for medical reasons is decided only upon the advice of independent psychiatric experts and that such decisions can be appealed**; and
- (c) Inform the Committee of the outcomes of the investigations of the allegations of forced confinement in psychiatric hospitals, in particular the cases of Mr. Durdykuliev and Mr. Durdymuradov.

## **45<sup>th</sup> Session, November 2010**

### **BOSNIA HERZEGOVINA**

Psychiatric facilities

20. While noting the progress made in psychiatric facilities, including Sokolac Psychiatric Clinic, the Committee remains concerned at issues **of institutional accommodation of mentally disabled persons**, in particular with regard to institutions overcrowding and lack of adequate psycho-social support by competent organs (art. 16).

The Committee recommends that the State party ensure that adequate psycho-social support by multi-disciplinary teams is provided for **patients in psychiatric institutions**, that **all places where mental-health patients are held for involuntary treatment** are regularly visited by independent monitoring bodies to **guarantee the proper implementation of the existing safeguards**, and that alternative forms of treatment are developed. Furthermore, the State party should ensure the fully and timely implementation of the recommendations made by the Ombudsman, as contained in its special report on the situation in the institutions for accommodation of **mentally disabled persons**.

### **MONGOLIA**

Persons with mental disabilities and psychological problems

26. **The Committee regrets the lack of information provided by the State delegation with regard to legal safeguards, including monitoring and oversight, in relation to the hospitalization of persons with mental illnesses and intellectual disabilities.** The Committee is further concerned at reports of the frequent use of hospitalization and that few alternative treatment options are in place, and at the very low number of professionals specialized in working with persons with mental illnesses and disabilities.

The State party should, as a matter of urgency, strengthen the legal provisions in relation to the rights of persons with disabilities, including persons with mental illnesses and intellectual disabilities, **and should establish monitoring and oversight mechanisms for places of hospitalization.** The State party should strengthen alternative methods of treatment and care and should give priority to increasing the number of psychologically/psychiatrically skilled professionals.

## TURKEY

Treatment of persons requiring psychiatric care

23. The Committee notes with concern the lack of information provided in the State party's report on conditions in rehabilitation centres with respect to offender requiring psychiatric care. While noting information by the representative of the State party on five rehabilitation centres for detainees with psychiatric problems currently within penitentiary institutions, the Committee is concerned at the lack of information on the conditions of these facilities, including the full and effective exercise of the fundamental safeguards of such detainees. The Committee is furthermore concerned at the lack of information on general conditions, legal safeguards and protection against ill-treatment of persons in psychiatric facilities and mental hospitals, and notes with concern the high number of electroconvulsive treatment (ECT) administered in mental hospitals and clinics indicated in the State party's report (para. 306). Further, the Committee regrets the lack of information on access to such facilities by independent monitoring mechanisms (art. 16).

The State party should undertake a serious review of the application of electroconvulsive treatment (ECT), and should end any other treatment which could amount to acts prohibited under the Convention, of persons requiring psychiatric care. The State party should ensure by law and in practice fundamental legal safeguards for all persons requiring psychiatric care, whether in psychiatric facilities, mental hospitals or penitentiary institutions.

The State party should furthermore allow access to psychiatric facilities and mental hospitals by independent monitoring mechanisms in order to prevent any form of ill-treatment.