



confederación
SALUD MENTAL
españa

**Report on the condition of
HUMAN RIGHTS of people
with MENTAL ILL HEALTH
IN SPAIN**

2016

Edition: Confederación SALUD MENTAL ESPAÑA

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Edition: March 2017



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STATEMENT

It is very likely that each and **every day** of the year the **rights** of someone with a mental disorder are **violated**. Fortunately, in contrast with that, everyday small, and sometimes big, **achievements** are made, and **new ideas** are produced in order to achieve equal **opportunity, respect towards the different** and **acceptance** that **diversity** is part of this society.

The **defence of the Rights**, the **promotion of their implementation** and the work to put **mental health** at its rightful place on the **public agenda**, are our **identifying characteristics** and our **working model**. As an associative movement that brings together people with mental health problems, relatives and people around them, we have in our hands the right to **claim what is fair**: civil, political, economical, social, cultural rights and more. And the right to have a **decent life**, among others.

In a State such as Spain, that guarantees fundamental rights, signs international conventions, and is modern and inclusive, there are still events that should be left behind. And **all of us**, associative movement, professionals with diverse backgrounds, public authorities, and social, political and economical organisations, have to work to **achieve** that no mentally disabled person has his chances of **participating in public life** limited, finds obstacles to **access justice**, has problems to **get appropriate health care** suiting his or her needs, and that all of them have **enough support to make their own decisions**.

We are **specially worried** about the condition of **women, children** and **teenagers** with a mental disorder, how **hospitalisations** are done, how is **mentally disabled people's integrity** protected, and also that the **lack of infrastructures** to provide an adequate assistance to mental health could be leading towards **inhuman or degrading treatments**.

Paulo Freire said that "*There is no true word that is not an unbreakable bond between action and reflection and, therefore, that is not praxis. Thus, to speak a true word is to transform the world*". In this report, in addition to **reporting and showing** what directly attacks the rights of the people that we represent, **we create a network** and **we share best practices and conducts** that contribute to ensure the respect of mentally disabled people's rights. We are confident that the **transforming power of the words** with which we describe reality also works to facilitate **reflection** and **action** aimed towards a **true implementation and respect of the rights of people with mental health problems**.

Nel A. González Zapico. President

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INTRODUCTION

The entry into force in 2008 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) has led to a qualitative change in the struggle for the rights of persons with mental disorders or psychosocial disabilities, since it has provided an essential tool on which to base its legitimate claims. However, the way to go is still very long in very basic aspects that affect the implementation of their fundamental rights, aspects that have to do with the still very poor awareness of legal operators and health and social service personnel dealing with these people, as well as society in general. The persistence of myths, prejudices and stereotypes contribute to the consolidation of the stigma and lead to the normalisation of serious discriminatory behaviours.

In order to make the various infringements visible, as well as all the achievements and advances in mental health, the Confederación SALUD MENTAL ESPAÑA publishes the "Report on the condition of human rights of people with mental ill health in Spain 2016".

This document denounces the main infringements detected during that year, illustrated with concrete examples and focused on the following human rights: *Right to equality and non-discrimination, to safety and security in risk situations and humanitarian emergencies, to the protection of personal integrity, to freedom and security, to health and to work and employment.* In addition, the special vulnerability of *women and children* is stressed, by reporting the detected infringements regarding gender violence and bullying, among others.

Finally, along with the issues not addressed in the 2015 report, we insist again on those that, despite the numerous complaints about them and their seriousness, still don't get the attention they deserve.

WHAT HAVE WE DETECTED?

1. ON THE RESPONSIBILITY OF PUBLIC AUTHORITIES

Article 4 CRPD

1. States Parties agree to ensure and promote the full exercise of all human rights and fundamental freedoms for persons with disabilities without any discrimination based on disability (...)

Claim:

Thirty years after the Psychiatric Reform, SALUD MENTAL ESPAÑA keeps demanding a greater public commitment

On **April 25, 1986** the **General Health Law** was approved, and it **made the psychiatric reform process** that had been started a few years earlier, a **reality**. From that moment, men and women locked up in 'asylums' became **citizens entitled to receive appropriate care** and the road to restore their dignity began.

Nevertheless, **30 years later there is still a shortage in resources and devices** intended for **care and prevention** of mental health problems, as well as a huge **territorial inequality** when it comes to development and implementation.

This reform managed to **dismantle an old system in the psychiatric hospital**, as well as **equate** people with mental ill health to other people with any type of health problem and limit hospitalisations to occur strictly when necessary.

However, it also **required reinsertion, comprehensive care and intervention with the person affected at the community level and this goal has not been achieved**, that's why it is **necessary to increase** the resources assigned to **care and prevention**, increase the number of **professionals** working on mental health or to train them better, **raise awareness among Primary Care professionals and train them** and ensure that there is an **appropriate health and social coordination**, as well as to facilitate and promote the **involvement of people with mental health problems and their families in its own recovery process**, among other urgent needs.

For this reason, from *SALUD MENTAL ESPAÑA*, a series of claims have been made, mainly addressed to the Public Administration, hoping to achieve an agreement that contributes to improve the care for people with mental health problems and their families.

This should be done with the ***Mental Health Strategy of the National Health System*** as the driving force when making a decision and always in **absolute compliance with the *International Convention on the Rights of Persons with Disabilities***, placing the person affected by a mental health problem at the centre of any intervention.¹

However, it is a concern that at the last meeting of the *Interterritorial Council of the National Health System*, on April 13, 2016 (public health coordination meeting between the Ministry and the autonomous communities) an update of the aforementioned Strategy was not approved due to the opposition of some ministers. Therefore, the only guide for addressing these pathologies is the 2013 document, which is already expired from 2015².

¹ Document incorporated as an annex to this report.

² ELPAIS.ES (24 April): Public health needs 1,800 mental health professionals
http://politica.elpais.com/politica/2016/04/22/actualidad/1461352648_611208.html

2. ON THE RIGHT OF WOMEN TO EQUALITY AND NON-DISCRIMINATION

Article 6 CRPD

1. States Parties recognise that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Excluding gender from mental health is an unjustifiable reality, as stated in the international context, especially by the *European Parliament's Committee on Women's Rights and Gender Equality*³. That is why gender equality **has to be added into every organisation as a fundamental right**, a common value of the European Union (EU) and a necessary condition for achieving its objectives⁴.

Thus, since the formulation of the **concept of gender transversality** or mainstreaming in the *IV International Women's Conference* (Beijing, 1995), **it has been built as the most appropriate tool** to advance towards the inclusion of the principle of equality between women and men in public policies and, therefore, in the effective implementation of human rights.

2.1. Report on the legal advice activity of Confederación SALUD MENTAL ESPAÑA from a gender perspective

The *UN Convention on the Rights of Persons with Disabilities* has emphasised, dedicating its article 6 specifically to women and girls, their greater exposure to the infringement of their rights and subjection to different forms of discrimination. For this reason, in the context of legal advice from the *Confederación SALUD MENTAL ESPAÑA* the **influence of gender has been analysed over the last few years in order to bring to light this reality**, generally invisible.

3 EUROPEAN COMMISSION, Green Paper "Improving the mental health of the population. Towards a strategy on mental health for the European Union", 14 October, 2005, available at:

http://ec.europa.eu/health/ph_determinants/life_style/mental/green_paper/mental_gp_es.pdf

You can also get related information on:

<http://eur-lex.europa.eu/legal-content/ES/TXT/?uri=URISERV:c11570c>

4 Specifically, the European Council defined *mainstreaming* as «*Organization (the reorganization), improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies, at all levels and at all stages, by those usually involved in political action*». For this, see: EUROPEAN COMMUNITIES, Manual for gender perspective in employment, social inclusion and social protection policies, Directorate-General for Employment, Social Affairs and Inclusion Unit G1, Ed. Office for official publications of the European communities, Luxembourg, 2008, pp. 3-11.

This study, based on the data collected during 2016, analyses four basic indicators:

1. *Percentage of requests attended*
2. *Profile of people asking for advise*
3. *How they accessed the service*
4. *Type of requests*

Having the following data in mind, as it has been verified in previous years, we can say that the amount of **requests for care made by women is significantly higher than those made by men.**

However, again, the data show that, most of these requests **respond to the exercise of the caregiver role** that women still hold; having a **significantly lower level of empowerment than men.**

As for the **type of requests**, the most significant differences are observed in the number of **civil, criminal, labour and human rights** requests, being mainly raised by women.

2.1.1. PERCENTAGE OF REQUESTS ATTENDED



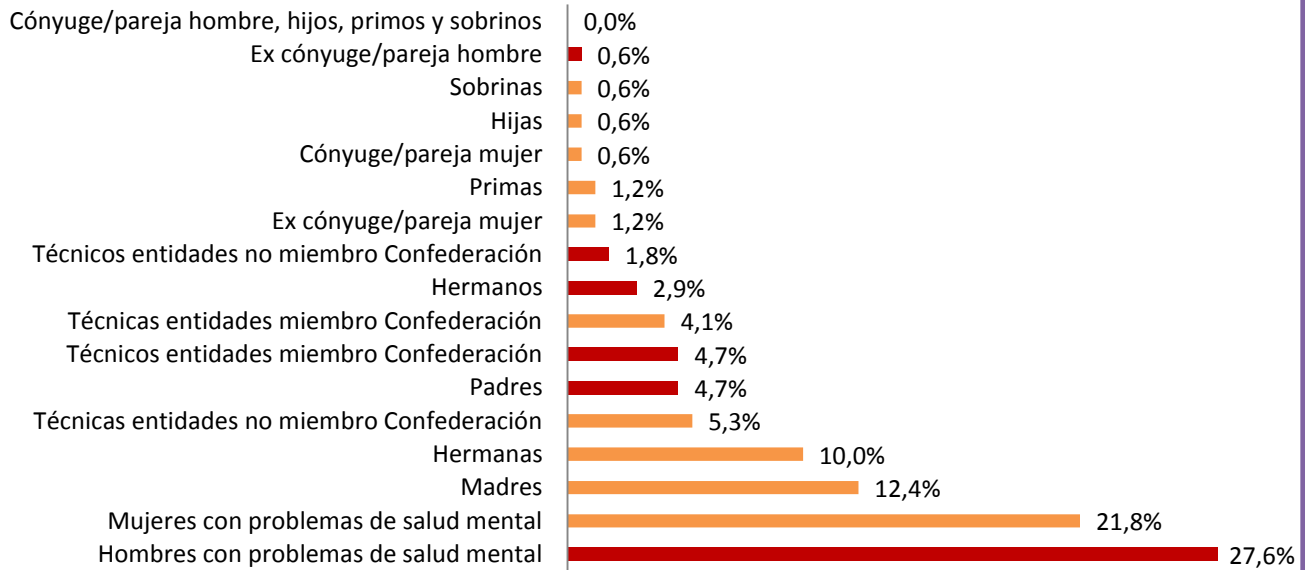
11

2.1.2. PROFILE OF PEOPLE ASKING FOR ADVICE

When considering the profile of the people who use the Legal Advisory Service, the following items have been taken into account:

- It is a person with mental health problems;
- It is a person who is affectionately linked by family or other ties (father or mother, daughters, sons, sisters, brothers, spouse or partner, etc.);
- It is a professional of entities belonging or not to the *Confederación SALUD MENTAL ESPAÑA*.

The following data show that, as a percentage, there are more empowered men than women, the latter staying mostly as caregivers. This trend is a confirmation of what has already been detected in previous reports.



2.1.3. HOW THEY ACCESSED THE SERVICE

The Information Service of *SALUD MENTAL ESPAÑA* is responsible for dealing with and deriving requests for guidance and advice on issues related to the care and promotion of mental health that come every day to this Confederation.

Once an initial assessment has been made, the Information Service can refer to the most appropriate resource in each case. The Legal Advisory Service is one of the available resources and provides electronic (e-mail), telephone and on-site attendance.









In 2016, the way to access to the Legal Advice Service, separated by gender, was as follows:

	ELECTRONIC ATTENDANCE (e-mail)	ON-SITE ATTENDANCE	TELEPHONE ATTENDANCE
WOMEN	29.5%	15%	13%
MEN	19.5%	10%	13%

49% of the total access to the Legal Advisory Service was by e-mail, while 25% of the requests were attended on-site and the remaining 26% by telephone

In this period, there are no significant differences in how the service is accessed compared to the previous year.

2.1.4. TYPE OF REQUESTS

TYPE OF REQUEST	VALUE	TYPE OF REQUEST	VALUE
Civil: <i>Non-voluntary commitments, incapacitation, inheritance, family, contracts, etc.</i> 	37.7%	Administrative matters 	25.8%
70.5% 29.5%		57.1% 42.9%	
Fundamental rights / human rights 	18.2%	Criminal matters 	10.6%
93% 7%		75% 25%	
Labour matters 	4.7%	Commercial matters 	1.2%
88% 12%		100%	
Fiscal matters 	1.2%	International matters 	0.6%
100%		66.7% 58.3%	

2.2. Infringement:

Unprotected against gender violence

An investigation conducted by the Basque federation *Fedeafes* in the last two years reveals that the risk of suffering violence from the partner or ex-partner is multiplied by two or three times when suffering mental health problems.

Furthermore, **around 80% of women with mental disorders** (psychosocial disability) who have been in a **relationship have suffered psychological, physical or sexual violence** at some point in her adult life. Likewise, the investigation shows that **42% of these women who are experiencing gender violence do not identify it as such.**

In this work, supported by *Emakunde* and the *Department of Employment and Social Policies of the Basque Government*, the participants have been women with mental health problems, professionals on assisting to gender and mental health violence, as well as people in charge of the areas of violence from the three councils, several municipalities, from *Osakidetza*, from *Emakunde* and the from *Basque government*.

The analysis made confirms **the incidence of social and structural factors in the increase in vulnerability to violence of women with mental disorders**. Thus, highlighting that the **stigma** of mental disorder **causes loneliness, isolation and less credibility**.

On the other hand, this research emphasises that **violence can affect**, along with other factors, **in the triggering of a mental disorder** and that multiple types of violence are often occurring simultaneously.

With respect to **personal factors** that place women with mental disorders in a **situation of special vulnerability**, stand out the lack of resources to defend themselves, lack of autonomy and dependence on other people. The lower self-esteem or greater difficulties to establish a relationship, which may lead to the establishment of inappropriate relationships, also contribute to complicate their situation.

On the contrary, the investigation has confirmed that the **factors that reduce the risk of violence** for women with mental health problems are having a **social support network, a job and not living in poverty**.

2.3. Best practices:

Awareness Campaign / Training for women and professionals

The Basque federation *Fedeafes* develops an awareness campaign on the situation of women with mental disorders being victims of gender violence.

Continuing with its work from previous years in this matter, *Fedeafes* has launched in 2016 an awareness campaign through social networks with the aim to **raise awareness** into the society on the **situation of vulnerability that this group faces, to inform** any affected women and **to contribute to their empowerment**. With this, as the president M^a Ángeles Arbaizagoitia says, they aim to show the "*double discrimination that women with psychic diseases suffer, both because of the stigma associated with this type of pathologies as well as their gender*".

The Facebook page '*Women and Mental Health - Emakumea eta Buru Osasuna*' is the main platform on which this initiative is based, aiming to reach young people and make the search for support easier for women affected by mental health problems.

The study on equality developed by *Fedeafes*, with the support of the *Department of Employment and Social Policies of the Basque Government*, also analyses the **role of women caring for people with mental health problems**, and stresses that the **services aimed at families have a highly feminised user profile**, although "*there has been a greater male involvement to these tasks in recent years*". It also reveals that the majority of caregiver women have lived or live **situations of huge suffering because of being blamed** for the mental disorder of his daughter or son.

On the other hand, they emphasise that the continued care of a person with mental disorder causes health problems for caregivers, and that the resources destined to give breaks or **support for care "are not enough"**.

Having these data in mind, *Fedeafes* is decided to organise a series of initiatives aimed at women with or without diagnosis. Thus, within this line of work it collaborates with the *Zaballa Penitentiary Center* with the objective of **empowering women in imprisonment**, that are part of a group that is particularly vulnerable to inequality and to suffer violence. In that sense, on March 2, 2016 they participated in a workshop, supported by the *Department of Employment and Social Policies of the Basque Government* and by *Emakunde*, that included the exhibition of works done in an art therapy workshop for emotional management held in December 2015, the projection of a documentary and the holding of a debate.

At the same time, *Fedeafes* is **training both women and professionals to deal with this situation** and to know **how to detect gender-based violence situations** that happen.

Thus, training has been given to both professionals and women on how to detect violence, and this year several workshops have been held in Euskadi on romantic love, with the aim of generating a reflection

that helps the participants identify the links that exist between the myths of this way of understanding love and violence against women. In the same way, *Fedeafes* has launched a few months ago a Facebook page to empower women and raise awareness on this issue, and will soon publish a website on this subject.

2.4. Recommendations:

Fedeafes emphasizes the importance of **organizing workshops, courses and groups for women with mental health problems** in order to boost their **empowerment**, their **social participation** and **job placement** specially in traditionally male sectors, where there are more employment opportunities. Training will also include families, to avoid overprotection.

Likewise, from the Basque federation they demand that the bodies for equality between women and men take into account in all their policies the **specific needs** of this collective, **adapting their resources and services to them**.

However, according to this entity, this would require **to raise awareness between the bodies working for equality between women and men** about the need to **increase** the existing public **services** used to take **care of people with mental health problems**, in order to increase the **social co-responsibility** in this area.

They also suggest to promote the **participation** of the **men** in the **programs** related with **care**, as well as to create groups of men that work, from a perspective of new masculinities, to accept the proper values of the ethics of care.

Fedeafes calls for public services to take into account the **specificities** of women with mental health problems **when attending to gender violence**, including the creation of a specialised psychological care service for women with mental disorders who have experienced or are experiencing violent situations and a greater coordination between the mental health network, public services and associations of relatives and people with mental health problems.

In addition, they suggest to **work from a gender perspective** and advises to undertake a **collective intervention** to prevent violence and empower women, in addition to working with men in the prevention of violence, from the perspective of new masculinities.

Finally, it would be necessary to develop **specific protocols in public health resources** to address the reality of women with mental disorders who are victims of gender violence.

3. ON THE RIGHTS OF CHILDREN

Article 7 CRPD

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realise that right.

The **"World Report on Violence against Children"** published by the *United Nations* in 2011⁵ emphasises that there are various forms of violence against this group that *"are only now becoming visible, as well as the evidence of the damage they do"*. This study reveals that in addition to some extreme forms of violence that have caused a clamour in the international community (sexual exploitation and trafficking, Female Genital Mutilation (FGM), child labour and armed conflict); **many children are daily exposed to physical, sexual and psychological violence** in their homes and schools, in protection systems and justice, in workplaces and in their communities. As this report points out, this violence, which is never justifiable and always preventable, has **devastating consequences for their health and well-being**, now and in the future, and **bullying is one of those forms of violence**.

In addition, in **Catalonia**, it has been found that **mental health problems grow exponentially among this sector of the population**. According to the *Health Department*, the number of **children attending children's mental health centres (CSMIJ)** in Catalonia **increased by 27.6%** from 2009 to 2014⁶. Experts attribute this increase to several factors:

- Advances in early diagnosis
- Crisis as a trigger

⁵ UNICEF, "World report on violence against children", available at:

[https://www.unicef.org/lac/Informe_Mundial_Sobre_Violencia_1\(1\).pdf](https://www.unicef.org/lac/Informe_Mundial_Sobre_Violencia_1(1).pdf)

⁶ Elpais.es (5 January): The number of children taken care of because of mental disorders grow a 27% from 2009:

http://ccaa.elpais.com/ccaa/2016/01/04/catalunya/1451938159_928603.html Additionally, El País.es (19 July):

Internments of children because of mental health problems grow a 27%

http://ccaa.elpais.com/ccaa/2016/07/18/catalunya/1468861306_779404.html

Additionally, Europa Press (9 June): Alert made on the lack of coordination and inversion in children's mental health: <http://www.europapress.es/catalunya/noticia-alertan-falta-inversion-atender-problemas-salud-mental-menores-20160609130003.html>

This **early diagnosis** has been made possible thanks to specific programs such as the plan to detect serious mental disorders in the Children's Mental Health Centres (CSMIJ) or the detection of incipient psychoses; as well as the **support programs in primary attention** [psychiatrists that move from time to time to health centres] or **work in the schools** to find alarming signs, among others. The problem is, according to the consulted sources, that **there is still a shortage of resources to reverse this upward trend and to carry out a true preventive work**⁷.

In fact, the "**Report on child and adolescent mental health care in Catalonia 2016**" published by the *Federació Salut Salut Mental Catalunya* (SMC) and the *Fundació Pere Tarrés*⁸ alerts on the **lack of coordination** and investment in the **care services for children and teenagers** with mental health problems in Catalonia. This report highlights that the intervention is "*very fragmented*" with partial views and plans of work, there are few spaces for interprofessional coordination, there is insufficient knowledge of the set of resources, their operation and distribution, and a training and skills deficit, which involves long and not always adequate responses⁹.

This lack of resources is common in the national territory. In autonomous communities such as **Extremadura parents have to decide between waiting more than six months to have a diagnosis or to resort to private psychiatry**. In fact, one can wait around six months for a check-up, and even one year. In addition, many cases are referred to units of adult psychiatry, which is highly counterproductive¹⁰.

3.1. Infringement:

School bullying, violence that is nourished by silence

One of these forms of violence is **bullying**. This phenomenon, according to the *Spanish Association for the Prevention of School Harassment* (AEPAE), consists on a continuous and deliberate verbal or customary abuse that a child receives from another child, who behaves cruelly to him or her with the purpose of suppressing, frightening, intimidating, threatening or obtaining something through blackmail and which undermines the dignity of the child and their fundamental rights¹¹.

⁷ *Ibid.*

⁸ COSCOLLA AISA, R., MARTÍNEZ DOMINGO, S., & POLL BORRÀS, M., Attention to children and adolescent mental health in Catalonia, Review Commission: Mònica Carrilero Ciprés, Wilan Kao Ventura, FUNDACIÓ PERE TARRÉS, FEDERACIÓ SALUT MENTAL CATALUNYA, 31 May, 2016.

⁹ *Ibid.*

¹⁰ El Periódico Extremadura (27 March): (children) Waiting lists between 6 months and one year http://www.elperiodicoextremadura.com/noticias/extremadura/esperas-6-meses-ano_928093.html

¹¹ A.E.P.A.E, Asociación Española para la Prevención del Acoso Escolar, "Acoso Escolar. Preguntas" (School Bullying. Questions): <http://www.acoso-escolar.es/acoso-escolar/>

According to various studies and a survey conducted in the United Kingdom **its effects on the mental health of the victims are devastating**, something that the experts confirm when noticing the increased risk of having in the long term pathologies as schizophrenia or psychosis as a result of harassment by classmates¹². Specifically, Dr. Celso Arango, head of child and adolescent psychiatry at the *Gregorio Marañón Hospital* of Madrid and scientific director of the *Centre for Biomedical Research in Mental Health Network* (CIBERSAM), has stated that *"suffering bullying at school doubles the chances of developing schizophrenia or psychotic disorders in the future. The chances of suffering depression or committing suicide are increased by a greater percentage"*. Thus, this expert warns that the **risk of depression is multiplied by three and the risk of committing suicide by four**, adding one more nuance by emphasising that **children who are prone to mental illnesses, or who already have one, are also prone to being victims of bullying by their schoolmates**. This leads to a kind of vicious circle, to which is added another fact that is also confirmed by many studies: school bullying is more difficult to assimilate than violence or abuse from adults. This makes its consequences more pernicious because *"the victim feels even more guilty because he thinks: I should have been able to defend myself; when I am with an adult that has much more physical strength I can not deny anything and that is why I ended up being sexually or physically abused... The abuse of an adult evidently generates a series of harmful consequences but the perception that one has of it is not as negative as the one of the school bullying which is the violence by an equal"*¹³.

Moreover, in general, in Spain **suicide has become the leading cause of death among young people**, according to experts like Miquel Roca, professor and co-author of the study *"Economic crisis and mental health in Spain"*. According to Roca, the cause and effect connection between the economic crisis and the increase in mental health problems is a reality. He explains that **depression has increased by 19% and anxiety disorders by 8%**, being the unemployment and the fact of not being able to face the mortgage the factors that are more related to these situations, according to the *Impact study*, that was done in Primary Care consultations during the crisis. The gender perspective is especially relevant in this area since, according to this same expert, *"there are more diagnoses of depression in women than men, but there are more suicides in men. Approximately between 8% and 15% of the population will suffer from depression throughout their lives, according to the World Health Organisation. In Spain, 5% of the inhabitants have this risk"*¹⁴.

On the other hand, according to the latest report of the *Medical Evaluations and Quality Agency (AQuAS) from the Department of Health* on the mental health outcomes in Catalonia, **there has been an increase in the number of children hospitalised because of mental health problems of a 27% just in 2015**. During that year, the 34 hospitals in the territory with a child psychiatry service registered 1,844 hospitalisations of children under 18, 27% more than in 2014. According to this report, almost 17% of

12 CADENA SER (20 July), Bullying increases the risk of suffering mental disorders as an adult: http://cadenaser.com/ser/2016/07/20/sociedad/1469013479_730248.html

13 *Ibid*.

14 EL MUNDO.es (29 July), "Suicide is the leading cause of death among young Spaniards": <http://www.elmundo.es/papel/lideres/2016/07/27/5797861746163f583d8b4583.html>

the hospitalisations are from people with severe mental disorders, such as depression or schizophrenia, among others. 14% are hospitalisations for behavioural disorders and 12% for eating disorders.

On general, **visits to children's mental health centres (CSMIJ) have also registered an upward trend in recent years.** In 2015, these centres attended 70,521 people, 18.38% more than in 2014. The main ailments that are treated in the CSMIJ are attention-deficit / hyperactivity disorders (ADHD), which affect 22.6% of those served, and to which are also included eating, behavioural and autism spectrum disorders (ASD) as the most common diagnoses¹⁵.

In addition to the victimisation generated by this type of violence, it is essential to also take into account the processes that cause the victim to adopt this role and address any disorders that have not been adequately addressed.

3.2. Best practices:

SALUD MENTAL ESPAÑA launches, for the second consecutive year, the program '#Discover. Do not block your mental health' in schools and high schools

'#Discover. Do not block your mental health' is an **educational state initiative** designed to raise awareness and inform on mental health to both the younger and the closest environment. The main objective of this initiative is to **raise awareness** and to **prevent addictions and mental health problems in the educational context.**

To this end, professionals and people with mental health problems from 47 entities of the network from *SALUD MENTAL ESPAÑA* have given informative sessions in schools and high-schools aimed at students, parents and teachers on how drug abuse affects the development of mental disorders.

The initiative, developed by the *Confederación SALUD MENTAL ESPAÑA*, is co-financed by the *National Plan on Drugs (Ministry of Health, Social Services and Equality)* and, due to the great demand that it had last year by the entities, in this second edition an effort has been made to reach all the autonomous communities and the autonomous city of Ceuta.

Through different teaching materials provided by the Confederación, rigorous information on mental health has been provided, as well as guidelines for early recognition of the appearance of mental disorders in the younger and the necessary keys to make the mental health problems more understandable, contributing to the necessary awareness raising work. All this has been done using a current, fresh and very oriented to teenagers design in order to reach the maximum number of young people possible.

¹⁵ ELPAIS.ES (19 July), "Internments of children because of mental health problems grow 27%": http://ccaa.elpais.com/ccaa/2016/07/18/catalunya/1468861306_779404.html

In this second edition, new topics have been incorporated in the talks, mainly in those addressed to parents and teachers, such as, on the one hand, the debate on attention deficit hyperactivity disorder and, on the other, bullying and its effect on adolescent mental health¹⁶.

Study on children's and teenager's mental health care in Catalonia

In May 2016 the study "*Attention to the mental health of children and teenagers in Catalonia*", launched by the *Pere Tarrés Foundation* and the *Federació Salut Mental Catalunya*, was published. According to this report, the **problems** of mental health in childhood and adolescence **is shown in different areas of the person's environment** (family, health, school or social). Therefore, the variety of services and resources that care for children and teenagers or the diversity of contexts in which they participate can promote a positive mental health promoters and detect problems that can be diagnosed and treated¹⁷.

In this way the report places the focus of attention on the **set of agents, services, policies and actions that are done in the community to promote, prevent or care for children and adolescent mental health**, although some of them are not specifically or solely designated for mental health.

3.3. Recommendations:

- Policies to prevent school bullying and promote coexistence in schools, with special incidence on their consequences on the mental health of children and teenagers.
- According to the *Pere Tarrés Foundation* and the *Federación Salut Mental Catalunya* it is necessary to invest in mental health in the child and adolescent stage as a way of investing in the general well-being of the people and of the whole of society. Thus, it is recommended to:
 - Develop specific training plans for professionals working in the field of free time for children and teenagers, in order to recognise and understand signs of mental health problems, guide children towards seeking help and ensure that these spaces are inclusive;
 - Guarantee the existence of social support services for housing, training and pre-employment and work placement for adolescents;

¹⁶ SALUD MENTAL ESPAÑA, "SALUD MENTAL ESPAÑA launches, for the second consecutive year, the #Discover program in schools and high schools", February 3, 2016: <https://consaludmental.org/sala-prensa/salud-mental-espana-descubre-26013/>

¹⁷ COSCOLLA AISA, R., MARTÍNEZ DOMINGO, S., & POLL BORRÀS, M., "Attention to children and adolescent mental health...", op. cit.

- Generate leisure services; as well as meeting and community participation spaces that promote solidarity bonds and guarantee contexts of identification of specific demands and needs of adolescents;
- Review the current model of care for children and adolescents with mental health problems linked to the social protection system, in order to guarantee a more adequate attention to their needs;
- Develop follow-up programs and individualised follow-up for families with children and teenagers with mental health problems, who have high social risk factors associated, enhancing the figure of professionals in social work and social education;
- Promote policies to address social risk factors that have a clear impact on the mental health of families, such as lack of reconciliation with family life, unemployment situations or the quality or instability of housing, among others.

4. ON RAISING AWARENESS

Article 8 CRPD, in accordance with Articles 3, 5, 6, 12 and 13 1

1. States Parties agree to adopt immediate, effective and relevant measures to: a) Raise public awareness, including at family level, to make the public be more respectful towards people with disabilities and to promote respect for the rights and dignity of persons with disabilities; b) Fight against stereotypes, prejudices and harmful practices towards people with disabilities, including those based on gender or age, in all areas of life; c) Promote awareness of the capacities and contributions of persons with disabilities.
2. Measures taken towards this purpose include: a) Implementing and maintaining effective public awareness campaigns aimed at: i) Encouraging receptive attitudes towards the rights of persons with disabilities; ii) Promoting positive perceptions and greater social awareness of persons with disabilities and their contributions to the workplace and the labour market; b) Promoting in all levels of the education system, even among all young children, an attitude of respect for the rights of persons with disabilities; c) Encouraging all media to show an image of persons with disabilities consistent with the purpose of this Convention; d) Promoting awareness-raising training programs that take into account persons with disabilities and their rights.

Awareness involves a recognition of the other person in their value and diversity, their ability to contribute to society, with a look free from stereotypes and prejudices.

Without this awareness it doesn't matter how many rules are approved or how many measures are adopted, because all of them will be "tinged with a mentality" that will make the effective exercise of recognised rights impossible or very difficult.

4.1. Best practice:

Confederación SALUD MENTAL ESPAÑA holds a workshop with people with some type of mental health problem

The ultimate goal of the workshop has been to contribute to "*knock down all barriers that exist*" around people with mental health problems, due to taboos, false labels, prejudices and fears caused by widespread ignorance on this subject¹⁸.

The workshop has tried to show that **a mental health problem is not a matter of "weakness of character," nor is it the fault of the person who has it, nor does it make that person more aggressive, nor does it prevent them from enjoying a full life like any other person.**

¹⁸ E.F.E. SALUD (19 December), "Get the taboos against mental health out of your head!": <http://www.efesalud.com/noticias/tabues-frente-salud-mental/>

Thus, a whole series of **myths** have been stressed, for example the association of mental disorders with: creativity, taking treatment and medication during their whole life, drug or alcohol addiction, permanent confinement, the loss of their intellectual capacities, the inability to work or the rearrangement of the family.

To overcome these and many other myths, Confederación SALUD MENTAL ESPAÑA offers a series of **behaviour tips**:

1. Treating the person with respect, equality and trust;
2. Avoid paternalism and pity;
3. Active listening;
4. Respect intimacy;
5. Before you take an initiative, ask how you can help;
6. Maintain a supportive attitude, respecting their ability to decide;
7. Avoid authoritarian behaviour;
8. Do not minimise their feelings and avoid phrases such as "cheer up";
9. If they have audio-visual or auditory hallucinations, do not discuss what they see, feel or hear; but explain that you do not perceive anything and change the subject to divert the focus of attention;
10. Avoid blaming for lack of motivation, energy or interest. It may be caused by the disorder or by a side effect of the medication.



1.2 Recommendation:

- Promote the development of specific regulations regarding the infringement of the honour, dignity and image of people with mental health problems, either individually or collectively. Thus, in addition to being protected by the Penal Code (hate crimes), it could also be an administrative offence that would avoid many impunity situations.

5. ON THE RIGHT TO SAFETY AND SECURITY IN RISK SITUATIONS, HUMANITARIAN EMERGENCIES AND NATURAL DISASTERS

Article 11 CRPD

1. States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in risk situations, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

5.1. Best practices:

Training activity with the *Military Emergency Unit (UME)*

SALUD MENTAL ESPAÑA trains the UME in mental health together with other entities from the disability sector in an activity organised by the *CERMI* in the military base of Morón de la Frontera (Seville).

From February 22 to 26 the *Spanish Committee of Representatives of Persons with Disabilities (CERMI)* together with the newly created *Armed Forces' Office of the Disability*, has held a training and disability awareness workshop for the Military Emergency Unit (UME) at Morón de la Frontera Air Base in Seville.

The general objective of the course was to know the specific characteristics of the different disabilities related to emergency situations, identifying their needs and applying specific connection and communication guidelines to each group, representatives of *Confederación Autismo España, Plena Inclusión, FIAPAS, PREDIF, ILUNION, CNSE* and *Confederación SALUD MENTAL ESPAÑA* participated in the workshop.

SALUD MENTAL ESPAÑA was responsible for giving **training** oriented to **raise awareness on the importance of mental health**, the **particularities** of the **mental disorders** and **how to act in emergencies** with people of this group. In addition, **a representative of the group of people with mental health problems also attended to complement the technical training** with a positive and face-to-face view on mental health and recovery processes, including a dynamic in which UME members were able to see and feel the difficulties a person with a mental health problem experiences in their everyday life¹⁹.

19 SALUD MENTAL ESPAÑA , "SALUD MENTAL ESPAÑA trains the Military Emergency Unit on mental health", 1 March, 2016: <https://consaludmental.org/general/salud-mental-espana-formacion-salud-mental-unidad-militar-emergencias-26491/>

"Emergency and disability" app

The *Education, Disability, Emergency and Security Association (GEDES)*, with the participation of *Andalusian Public Foundation for the Social Integration of People with Mental Illness (FAISEM)*, has prepared the *Emergency and Disability App*.

Through this application, addressed to the general population and to the Emergency and Security Services in particular, they offer **guidelines** on how to take care of people with disabilities in **emergency situations** based on their specific characteristics and their special needs.

Specifically, *FAISEM* has developed the sections on people with severe mental disorder contained in this App, which is available for Android, iOS and Blackberry systems and can be downloaded for free at their respective stores (Play Store, Apple Store and Amazon Store respectively) being fully stored in the mobile devices, without the need of connecting to the Internet to be used.

The App has different levels of information and response that is addressed to the following population groups:

1. To the general population as first responders, so that they are able to identify the characteristics of the person they are going to attend and, thus, be able to respond to their needs with the appropriate supports, until the specialised personnel takes over in the final resolution of the emergency.
2. To emergency and safety services: so that they can access decision algorithms that allow them to offer a response according to the needs of people with any type of disability from their mobile devices.

On the section for Emergency and Safety Personnel there is a description of the characteristics of people with severe mental disorders among different types of disability. In addition, guidelines are set for what to do in a situation of acute crisis, noting that the exacerbation of symptoms should be considered as a health emergency needing immediate attention, in order to avoid, as far as possible, entering into the judicial system.

They also point out the central aspects of the stigma and social discrimination and in the 'scenarios' section, the risk of suicide is included, emphasising the need to know the wrong ideas about suicide, what to do and what to avoid²⁰.

²⁰ FAISEM, 'The computer application "Emergency and disability", developed by the Association GEDES is already available', 11/07/2016:

<http://www.faisem.es/index.php/es/actualidad/noticias/item/1058-ya-esta-disponible-la-aplicacion-informatica-emergencia-y-discapacidad-elaborada-por-la-asociacion-gedes/1058-ya-esta-disponible-la-aplicacion-informatica-emergencia-y-discapacidad-elaborada-por-la-asociacion-gedes>

Law Enforcement Forces training

FAISEM, SAS, Afenes, Al-farala and the Court of First Instance, nº 11 of Malaga develop a first course "Acting before people with mental illness" for the National Police from Malaga.

FAISEM, SAS, Afenes, Al-farala and the Court of First Instance, nº 11 of Málaga, have developed a course on "Acting before people with mental illness", aimed at the national police of the Provincial Headquarters of Malaga.

The course covered the following thematic blocks:

- Why are people with mental ill health discriminated against?
- Who are the people who have serious mental health problems?
- Major mental disorders requiring action in the field of emergencies and safety
- The Andalusian model of attention to mental health
- Andalusian Public Foundation for the Social Integration of People with Mental Illness (FAISEM)
- Associations of family members and users (Afenes and Al-farala)
- How to communicate with a person who has serious mental health problems
- Differences between psychopathic personalities and people with schizophrenia
- Acute crisis and risk of suicide
- Andalusian regulations on emergencies and transfers
- Police work and legal aspects in detention, custody and transfer

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It is intended that, starting on October, new editions can be developed²¹.

5.2. Recommendation:

- It is convenient to extend the training activity to all those involved in this type of emergency situations.

²¹ FAISEM, ' Faisem, SAS, Afenes, Al farala drive a first course "Intervention before people with mental illness" for the national police in Malaga', 30/05/2016:

<http://www.faisem.es/index.php/es/actualidad/noticias/item/1026-faisem-sas-afenes-al-farala-impulsan-un-primer-curso-actuacion-ante-personas-con-enfermedad-mental-para-la-policia-nacional-de-malaga/1026-faisem-sas-afenes-al-farala-impulsan-un-primer-curso-actuacion-ante-personas-con-enfermedad-mental-para-la-policia-nacional-de-malaga>

6. ON THE RIGHT TO EQUAL RECOGNITION BEFORE THE LAW

Article 12 CRPD

7. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
8. States Parties shall recognise that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
9. States Parties shall take appropriate measures to provide access to persons with disabilities to the support they may require in exercising their legal capacity.
10. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuses in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person; are free of conflict of interest and undue influence; are proportional and tailored to the person's circumstances; apply on the shortest possible time; and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
11. Notwithstanding the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

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Equal recognition as a person before the law requires the adoption of sufficient and adequate measures for this right to be effective. In 2015, a **Support Guide for planning in advance decisions concerning mental health** was submitted in the context of the Autonomous Community of Andalusia, offering practical information to the users and professionals of mental health services so that they can plan in advance decisions concerning mental health. This guide has been spread on 2016. By doing this, the aim is to **facilitate the expression of preferences and decisions** for when a person may have their capacity affected to do so and that could result in a violation of rights. In addition, it provides information on symptoms, preferences and health care needs that can be useful at any point in the care process, including hospitalisation, outpatient care or stays in mental health devices. It is expected to be a tool for **self-knowledge**, promotion of **empowerment** of people in their recovery process and **decrease self stigma**²².

²²SUESS, Q., TAMAYO VELÁZQUEZ, M.I., BONO DEL TRIGO, A., Early planning of the decisions in mental health, Support guide for professionals and users of the mental health services, Ministry of Health, Junta de Andalucía, Andalusian School of Public Health, 2015: <https://consaludmental.org/centro-documentacion/planificacion-anticipada-decisiones-salud-mental-25906/>

However, these and other examples showing that there are alternative options that respect the dignity of the individual have not stimulated discussion to address a substantive review of the capacity-building processes.

6.1. Infringement:

No steps have been taken to create mechanisms to assist in the decision-making process of the exercise of legal capacity

On this subject, the *Committee on the Rights of Persons with Disabilities* made a number of comments on the report submitted by Spain pursuant to Article 35 of the Convention²³:

"33. *The Committee notes that Act 26/2011 allows a period of one year following its entry into force for the submission of a bill to govern the scope and interpretation of Article 12 of the Convention. The Committee is further concerned that no measures have been taken to replace substitute decision-making by supported decision-making in the exercise of legal capacity.*

34. *The Committee recommends that the State Party review the laws allowing for guardianship and trusteeship, and take action to develop laws and policies to replace regimes of substitute decision-making by supported decision-making that respects the person's autonomy, will and preferences. It further recommends that training be provided on this matter for all relevant public officials and other stakeholders."*

Nonetheless, **no substantive legislative changes have been made to reverse this situation**, only a modification has been made in the name of these proceedings in judicial practice, and **there are no support mechanisms for decision making**.

In many cases, people with mental health problems (psychosocial disabilities) may have their ability to act restricted, limiting or preventing decision-making in many areas of their lives. This restriction includes decisions about medical treatment, free and informed consent, or even forced sterilisation.

In addition, there are guardians who substitute decision-making, even if the sentence does not allow it. This is due to the lack of effective legal remedies to overturn guardianship decisions and measures that facilitate alternative decision-making mechanisms that respect the autonomy, will, and preferences of the individual.

23 Concluding observations of the Committee on the Rights of Persons with Disabilities towards Spain (CRPD/C/ESP/CO/1).

7. ON THE RIGHT TO ACCESS JUSTICE

Article 13 CRPD, in accordance with Articles 3, 5, 6 and 12

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate adjustments, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

For those with mental health problems, the **access to justice on equal terms** with the rest of the people, **is still not guaranteed**, having to deal with many barriers. For example, in theory **each person has the right to appeal when involuntarily institutionalised**, but, **most of the time, neither information is provided nor requests for legal aid**, if any are requested, are responded to. The contact of the court with the person is translated many times more into a formalism than an effective guarantee. Even in some cases, the contact is via Skype.

This legal regime **allows institutionalisation in residential centres or psychiatric hospitals** of people with mental health problems, **favours abuse and only contains post-facto safeguards**. Thus, in many cases, the claim of their rights is identified with "rebellion" and **leads to increased coercive or pharmacological measures**.

In addition, according to several studies, **4% of the prison population has some form of severe mental disorder** and, as of March 31, 2016, according to official statistics, there were 492 people considered to be unchargeable. Of these, 365 are in Penitentiary Psychiatric Hospitals and 127 in ordinary Penitentiary Centres, the majority for committing minor crimes²⁴.

In order to detect this type of situations, to reach the maximum rehabilitation possible within the centre and, when the time comes, to appropriately refer to the specialised care resources of the community, the **Comprehensive Care Program for the Mentally Ill (PAIEM)** was implemented by the Penitentiary Institution. However, social reintegration is not easy for this group, not because it is impossible in itself, but because of the barriers they face due to the double stigma attached to them, the penitentiary system and mental health problems²⁵.

7.1. Best practices:

²⁴ DÍAZ QUINTERO, M.L., "The mentally ill and prison: an incompatible tandem", Spanish lawyers, prison Blog, 13 May, 2016: <http://www.abogacia.es/2016/05/13/enfermos-mentales-y-prision-un-tandem-incompatible/>

²⁵ *Ibid.*

Opening in Madrid of the *Mentally Disabled People's Defender's Office* dependent on UMASAM

In April 2016, the *Mentally Disabled People's Defender's Office* dependent on UMASAM (Coalitions of Madrid Associations supporting Mental Health Madrid).

Its activity began in June 2016 with the purpose to defend the rights and interests of people with mental ill health and their families free of charge, especially when they are violated because of their disability.

The scope of action of the Office is the Community of Madrid for the purpose described, regardless of any other public, private or commercial interests²⁶.

Training at the *Bar Association of Malaga* on the care of people with mental problems imprisoned in ordinary penitentiaries and on preventing them from going into jail²⁷

The *Bar Association of Malaga* has offered training for the section of professional lawyers experts in penitentiary law on the care of people with mental health problems imprisoned into ordinary prisons and on the prevention of imprisonment by suggesting alternative measures to those of depriving them of their freedom.

FEAFES-Andalusia participated in the workshop of November 18, 2016, and observed the profound lack of knowledge that the majority of professionals showed about the subject of the course: possibilities to suggest alternatives to imprisonment, existence of entities of the associative movement that can support people with severe mental disorders to whom they have to provide services (either privately or when court-appointed), etc.

On the other hand, these professionals revealed the high level of difficulty they encounter in accessing judges, prosecutors and forensic experts to convey the situation of the "client" with severe mental disorder, which shows the stigma that still exists in that sector and the need to receive information and training to avoid situations of legal insecurity, guarantee access to effective judicial protection and ensure the protection of their health.

²⁶ UMASAM, Mentally Disabled People's Defender's Office: <http://umasam.org/defensor-del-usuari/>

²⁷ Information provided by Feafes Andalusia SALUD MENTAL: <http://feafesandalucia.org/>

7.2. Recommendations:

In addition to those made in the "[Report on the condition of HUMAN RIGHTS of PERSONS WITH MENTAL DISORDERS in SPAIN. 2015](#)"²⁸ published by the Confederación SALUD MENTAL ESPAÑA, the following recommendations are reiterated and added as they are considered a priority:

1. To make an adequate diagnosis of the situation and, subsequently, develop an attention protocol to give persons with disabilities an effective access to justice;
2. To establish a body of facilitating agents that, favouring the autonomy of the person and supporting his legal capacity, constitute an adequate reference during the judicial acts, different from the professional that offers the technical legal assistance;
3. To design and promote adequate training for those working on law enforcement, including police and prison personnel, under the terms of Article 13.3 of the International Convention on the Rights of Persons with Disabilities. This includes the promotion of information, training and awareness-raising initiatives aimed at operators and legal operators to ensure adequate and dignified treatment, as well as the adaptation of documents and information given to people with mental health problems;
4. To establish in all Bar Associations a court-appointed specialist for persons with disabilities, with mandatory and exhaustive training on mental health;
5. To promote an approach at the level of the Bar Associations' sections of disability to promote training, information and awareness-raising initiatives on the collective of people with mental ill health (psychosocial disability) or at the state level, through the General Council of the Spanish Advocacy;
6. To create a network of the social assistance mental health services of the Autonomous Communities, the Courts and the Penitentiary Administration that favour the social integration of people with mental health problems that are in the penitentiary system. This will require the participation of the entities that defend the rights of this group and the design of an individualised treatment and referral program.
7. To implement a monitoring and assessment system, identifying relevant objectively verifiable indicators and defining the corresponding monitoring instruments.

²⁸ SALUD MENTAL ESPAÑA, Report on the condition of the human rights of persons with mental disorders in Spain, 2015, published in 2016, available at: <https://consaludmental.org/centro-documentacion/informe-derechos-humanos-salud-mental-2015-26793/>

8. ON THE RIGHT TO LIBERTY AND SECURITY

Article 14 CRPD, in accordance with Articles 3, 5, 10, 12, 13, 14, 15, 16, 17, 25 and 26.1

1. States Parties shall ensure that persons with disabilities, on an equal basis with others: a) Enjoy the right to liberty and security; b) Are not deprived of their liberty unlawfully or arbitrarily and that any deprivation of liberty is in accordance with the law and that the existence of a disability does not in any way justify deprivation of liberty.
2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable adjustments.

Again, as in the previous year, we must **reiterate** that people with disabilities due to a mental disorder are in a **situation of greater vulnerability** when **talking about deprivation of liberty**.

In this sense, the *Spanish Committee of Representatives of Persons with Disabilities* (CERMI) has demanded the Parliament to make an **urgent review of the *Civil Prosecution Law*** in order to **adapt it to the regulatory framework of the United Nations Convention** with regard to the **judicial procedures for mandatory commitment "because of a psychic disorder"**, because **they are not compatible with the fundamental human right to liberty**.

This entity emphasises that the possibility of confining a person without consent because of a "psychic disorder" provided by the Law on Civil Procedure *"is against the International Convention on the Rights of Persons with Disabilities"* signed and ratified by Spain, *"so it should be banished from our civil process"*.

Under the international disability treaty, *the disability factor (intellectual, mental or psychosocial) can not be relevant when depriving a person of his liberty, since it implies a less favourable treatment derived from disability"*²⁹.

8.1. Infringements:

Irregularities in hospital admissions of patients due to mental health problems

In 2016, the Report of the *Office for the Defence of the Rights of Health Users* (ODDUS) from 2015, issued by the legal services of the Ministry of Health of the Government of the Canary Islands. It reflects the **breaches in sanitary devices in the Canary Islands**. In particular, the problems in psychiatry on **hospital emergencies**, with the absence of personal support in pre-admission, prejudices, etc.

²⁹ Servimedia (27 August), "Cermi requests to put an end to the forced internment of persons with mental disorder": <http://www.servimedia.es/Noticias/Detalle.aspx?n=605661>

For example, despite the fact that no psychiatric patient should remain in the emergency room for more than 24 hours, there are people who stay between three and four days in such rooms, having their most basic rights to privacy and personal dignity violated. Additionally, they are not considered as patients needing hospitalisation and it has not yet been clarified which role they play in that situation, in addition to repeatedly having their right to free choice of psychiatrist infringed, which entails a clear discrimination.

The *ODDUS* has the task to ensure the rights and freedoms of citizens in health matters, through the management of claims, requests, initiatives and suggestions and to make proposals for improvements in the health system in order to improve the health care given and the satisfaction of the majority of users of the Canary Health System.

However, among the data presented, attention is drawn to the absence of mental health claims, which can not be considered an indicator of proper functioning, but rather of the poor empowerment of the people who use these services and the lack of support to submit them. In fact, in 2015, a total of 58,716 procedures were followed in the Office for the Defence of the Rights of Health Users.

The claims amounted to 31,754, a 9.93% increase compared to the total in 2014. Of these, 4,478 or 14.10% correspond to Primary Care, where the most frequent reasons are *Dissatisfaction with the provision of assistance* (19%), *Delay in assistance* (17%) and *Inadequate personal treatment* (11%).

Disregard of people who are hospitalised due to mental health problems

The *Association of relatives of people with mental ill health from Melilla* (Feafes-Melilla) has denounced the situation of people admitted for mental health problems in the psychiatric facility of the Regional Hospital.

They point out that people are "imprisoned" in rooms with bars and that the lack of resources makes it impossible for the Mental Health Service to meet the growing demand and to properly intervene if there are violence attacks, which substantially increases insecurity. From the association they confirm that this is another proof of the many deficiencies that the mental health care in Melilla has, in addition to the delays in receiving the official subsidies and that they will have to move from their current headquarters³⁰.

9. ON THE RIGHT TO PROTECTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENTS OR PUNISHMENTS

30 MELILLA HOY, 'Feafes denounces the insecurity of the psychiatry staff where patients are "imprisoned" ', 7 November, 2016:

<http://www.melillahoy.es/noticia/79386/sociedad/feafes-denuncia-la-inseguridad-del-personal-de-psiquiatria-donde-los-pacientes-estan-encarcelados.html>

Article 15 CRPD

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.
2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

On July 28, 2008, the **Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment** prepared a follow-up report pursuant to the resolution 62/148 of the *United Nations General Assembly*, emphasising that, following the entry into force of the *Convention on the Rights of Persons with Disabilities and its Enforcing Protocol*, it would be appropriate to examine the framework against torture in relation to persons with disabilities, which is linked to art.15 of the *Convention* text. He confirms that "**Many States permit, with or without a legal basis, the imprisonment of persons with mental disabilities in institutions without their free and informed consent, based on a diagnosis of mental disability, often linked to other criteria such as being a danger to himself and to others' or 'need for treatment'**"³¹.

In 2013, the same mechanism established by the *UN Human Rights Council*, issued a **new report**³² in which they specially mentioned people with psychosocial disabilities, defined as: "*Those that have physical, mental, intellectual or sensorial deficits in the long term that, when interacting with diverse barriers, can prevent their full and effective participation in society, in equal conditions with the others. These are individuals who have been either neglected or detained in psychiatric and social care institutions, psychiatric wards, prayer camps, secular and religious-based therapeutic boarding schools, boot camps, private residential treatment centres or traditional healing centres.*" In this report, the Special Rapporteur, **reminds** that "**the *Convention on the rights of persons with disabilities* also provides an authoritative guidance on the rights of persons with disabilities and prohibits involuntary treatment and confinement on the grounds of disability, thus replacing earlier rules such as the *Principles for the Protection of the Mentally Ill and for the Improvement of Mental Health Care of 1991* (early 1991)" and offers "*the most comprehensive set of rules on such rights, including in the context of health care, where disabled persons' choices are often invalidated by a perceived 'higher interest' and serious infringements and discrimination against these people can be covered up by claiming to the 'good intentions' of health professionals.*" He also states that "**serious abuses** against people with psychosocial or intellectual disabilities, such as **abandonment, mental and physical mistreatment and gender violence** are being committed in the health care environment."**

³¹ United Nations General Assembly, Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatments or punishments, A/63/175, 28 July, 2008.

³² United Nations General Assembly, Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatments or punishments, A/HRC/22/53, 1 February, 2013.

Therefore, it is necessary to **put the means to detect this type of situations**³³.

9.1. Infringement:

Unworthy treatment for the lack of infrastructures for mental health in the Canary Islands

The following infringements have been detected in the mental health services of the Canary Islands (*Miguel Ángel Thous, 2016*):³⁴

1. People with mental ill health stay for days and even weeks in the emergency room;
2. As they lack disease awareness, they are subjected to containment measures;
3. Only the University Hospital of the Canary Islands and the University Hospital of Gran Canaria Dr. Negrín have a psychiatry area in the Emergency Department;
4. Mistreatments increase greatly on patients from Hierro, La Gomera and Lanzarote;
5. In the hospitals of La Palma and Fuerteventura, as well as in the University Hospital Ntra. Sra. de Candelaria of Santa Cruz de Tenerife, lack psychiatry areas in the emergency room;
6. The referral Hospitals of Hierro and Gomera, lack psychiatry area in the emergency room.

9.2. Recommendation:

- Promote changes and adaptations of the protocols for urgent care of people with mental health problems.

33 SALUD MENTAL ESPAÑA, Report on the condition of the human rights of persons with mental disorders in Spain, 2015, published in 2016, available at: <https://consaludmental.org/centro-documentacion/informe-derechos-humanos-salud-mental-2015-26793/>

34 THOUS, M.A., "Unworthy treatment due to the lack of infrastructure for mental health in the Canary Islands", 2016.

10. ON THE RIGHT TO PROTECTION OF PERSONAL INTEGRITY

Article 17, in accordance with its articles 3, 5, 6, 10, 12, 14, 15, 16, 17, 23 and 25

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

10.1. Infringements:

Forced sterilisations

In the "[Report on the condition of HUMAN RIGHTS of MENTALLY DISABLED PEOPLE in SPAIN. 2015](#)" it was already highlighted how **in our legal order provisions that allow the use of a harmful procedure for personal integrity** such as forced sterilisation, in spite of the legislation that, in the context of international human rights law, outlaws it, are still in force.

In particular, Article 156 of the *Penal Code* establishes: "*Valid, free, conscientious and expressly issued consent exempts from criminal responsibility in cases of organ transplantation carried out according to the provisions of the law, sterilisations and transsexual surgery performed by a physician, unless consent has been obtained viciously, or through price or reward, or the grantor is a minor or absolutely lacking the ability to provide it, in which case the consent provided by them or their legal representatives will not be valid. Sterilisation agreed by the judicial body in the case of persons who permanently can not provide the consent referred to in the previous paragraph, shall not be punishable, provided that they are exceptional cases in which there is a serious conflict of protected goods, in order to safeguard the greater interest of the affected, all in accordance with the established in the civil legislation.*"

Therefore, the *Committee on the Rights of Persons with Disabilities of the United Nations*, in the **Observations made on the report submitted by Spain** and in relation to art.17 of the *International Convention on the Rights of Persons with Disabilities* (protection of personal integrity) has expressed "**their concern** for the fact that persons with disabilities whose legal status is not recognised **can be subjected to sterilisation without their consent, granted freely and knowingly.**" So, **they urge the Spanish State** to "**suppress the administration of medical treatment, in particular sterilisation, without the patient's full and informed consent,** and to ensure that national legislation respects in particular the rights accorded to women in articles 23 and 25 of the Convention³⁵".

35 UN, "Concluding observations of the Committee on the Rights of Persons with Disabilities", made as a result of the initial report of Spain (CRPD/C/ESP/1) 19 October, 2011.

The **United Nations Human Rights Committee** has also declared in its **Concluding Observations on the sixth periodic report of Spain**³⁶, adopted on July 20, **2015**, on the occasion of the sixth periodic report submitted by Spain:¹⁰ *The Committee is concerned about the practice of forced sterilisation of persons with disabilities whose legal capacity is not recognised (arts. 2, 7 and 26). The State party should ensure that all procedures are followed to obtain the full and informed consent of persons with disabilities in the practice of sterilisation in health centres. In this regard, the State party should introduce special training for health personnel aimed at raising awareness about the harmful effects of forced sterilisation.* So, **women** whose disability has its origin in a mental disorder **have the right to receive the necessary support for the exercise of their legal capacity** (Article 12 CRPD) and **his disability can never justify deprivation of liberty** (Article 14), **the infliction of torture and other cruel, inhuman or degrading treatment or punishment** (Article 15), **being subjected to any form of exploitation, violence and abuse** (Article 16), **the detrimental of physical and mental integrity** (Article 17), **the lack of respect for anything related to marriage, home and family, including paternity and personal relationships** (Article 23), or, finally, the **neglect or inadequate health care** (Article 25).

Considering the forementioned, the *Fundación Cermi Mujeres* (FCM) has regretted that there are still throughout the world, including Spain and Europe, forced, not consensual and uninformed sterilisations, to women with disabilities, *"and that they entail a modification of their capacity or their judicial incapacitation, their civil death"*³⁷.

Forced containments

In Andalusia, the **Human Rights and Mental Health Group** has been developing over the last two years a work on the use of physical containment of the people with serious mental disorders. This Group, linked to the *Comprehensive Mental Health Plan of Andalusia*, has highlighted in the report on *Reduction of Mechanical Containment in Mental Health Hospitalization Units in Andalusia*, the **ethical conflicts involving the use of mechanical containment**; the **trauma it is for** people with mental ill health that go through that experience; the **impact that it has in the expectations of their health recovery and the contradiction that it means in relation to the promotion of autonomy**.³⁸

In addition to revealing the **lack of tests to assess the effectiveness of this measure**; in terms of its use, this report reveals that, in general, *there is some consensus that it should be used only for reasons related to the safety of the hospitalised persons or the professionals who attend them, although several studies suggest that it is often used with noisy persons, who do not respect the rules or who show a disruptive behaviour, but not necessarily people who are behaving violently*. Thus, it is warned that **this**

³⁶ UN, "Concluding observations of the Human Rights Committee", made as a result of the sixth periodic report submitted by Spain (CCPR/C/ESP/6) 20 July, 2015.

³⁷ ECODIARIO.es (22 July, 2016), Cermi women Foundation regrets that women with disabilities still suffer forced sterilisations: <http://ecodiario.economista.es/sociedad/noticias/7721771/07/16/La-fundacion-cermi-mujeres-lamenta-que-la-poblacion-femenina-con-discapacidad-siga-sufriendo-esterilizaciones-forzosas.html>

³⁸ COMPREHENSIVE MENTAL HEALTH PLAN OF ANDALUSIA, "Reduction of Mechanical Containment in Mental Health Hospitalisation Units in Andalusia", January 2017.

type of actions would respond to automatism that, because of a lack of awareness about other alternatives, are perceived as *"a legitimate professional response towards a difficult behaviour"* and as *"useful means to reduce the number of injuries in patients and professionals"*. However, it has been shown that this is not the reality; since, according to this study, *"in those places where containment reduction strategies have been put in place, not only have the number of injuries not increased but even reduced."* Therefore, the *Human Rights and Mental Health Group* has expressed the need for further training in preventing the use of mechanical containments.

In the *III Comprehensive Mental Health Plan of Andalusia (2016-2020)*, it has been suggested to design a plan of action aimed at reducing the use of mechanical containments in this autonomous community, for which the advice of this Group is available.

10.2. Best practices:

I Generosity Photography Contest 'No more sterilisations'

In order to denounce the reality of practices such as those described above, the *CERMI Women Foundation (FCM)* has launched the *I Generosity Photography Contest 'No more sterilisations'*, whose ultimate objective is to extend the campaign internationally, taking to Brussels the photographs that are selected and awarded.

The *General Council of the Judiciary (CGPJ)* do not specify the type of application and the sex, although they do clarify that this practice is demanded mainly in women³⁹.

Signing of the Cartagena Manifesto in order to have mental health services that respect human rights and are free from coercion

The *Spanish Neuropsychiatry Association (NEA)*, together with the *Confederación SALUD MENTAL ESPAÑA*, the *Federación 'En Primera Persona'* and the *Federació Veus* have signed a document that marks the beginning of a process aimed at ending coercive measures in the field of mental health care.

As the president of *SALUD MENTAL ESPAÑA*, Nel A. González Zapico, declare the adhesion to this manifesto *"is of vital importance, since it contains a philosophy that must first of all be applied. Coercive measures do not, in any case, respect the Human Rights and of course they are not therapeutic. We are at a point where we must emphasise the search for alternative measures for an adequate care, that does not violate the dignity and freedom of the person."*⁴⁰

39 EL MUNDO (5 August), 'I want to sterilise my "disabled" daughter':

<http://www.elmundo.es/cronica/2016/08/05/579dc534468aeba8578b4578.html>

40 SALUD MENTAL ESPAÑA, SALUD MENTAL ESPAÑA adheres to the 'Cartagena Manifesto' against coercive measures, 7 June , 2016: <https://consaludmental.org/sala-prensa/salud-mental-espanal-manifiesto-cartagena-28240/>

10.3. Achievement:

Excluding people with mental problems from the group of agitated or violent persons with whom the use of stun guns is justified

On July 6, 2016, the *Parliamentary Interior Committee* from Catalonia approved that the *Mossos d'Esquadra* could use stun guns against people in several cases: under the influence of alcohol and drugs and against people with mental health problems.

In response, the *Federació Salut Mental Catalunya*, the *Federació VEUS* and *Obertament* issued a joint statement regretting the approval of the police use of stun guns against people with mental health problems, criticising the *Parliamentary Interior Committee* of reinforcing "*the false myth that associates mental disorder and violence, one of those that mostly prevent the inclusion of these people in society.*"

In their statement, the entities drew attention to the daily effort of this collective in their fight against stigma and discrimination, but that, however, "*the country's highest representatives of the citizens have ruined their efforts by adding them among the population groups with whom it will be legal to use this gun.*"

Fortunately, thanks to the pressure of the associative movement, the *Parliament* rectified this decision, eliminating people with mental health problems from the cases of altered or violent people with whom the use of stun guns is justified.

This is the rectified section of the Bulletin of the Parliament of Catalonia at the request of mental health entities:

Page 65, section b

b) Those situations in which there is a threat or aggression towards third persons or to the agents with edged weapons or other blunt objects by altered or violent persons - under the effects of alcohol or narcotic substances or in a state of maximum agitation - with an extreme aggression that endangers the physical integrity of the victim or the police officer, but always conditioning the use to negotiation and mediation, so that they are used only in the case that mediation and dialogue have failed⁴¹.

41 More information at: <https://consaludmental.org/general/salut-mental-catalunya-consigue-retirar-uso-pistolas-electricas-28822/>
<http://www.parlament.cat/document/bopc/174071.pdf>
<http://www.salutmental.org/2016/07/29/el-parlament-retira-lus-de-pistoles-electriques-amb-persones-amb-problemes-de-salut-mental-a-peticio-de-smc/>
<http://www.salutmental.org/2016/07/07/pistoleselectriquesisalutmental/>

10.4. Recommendations:

- To promote awareness in order to put an end to forced sterilization, reinforcing awareness of respect for human rights.
- To eliminate any legal basis that allows this type of practices in our legal system.
- In the case of coercive measures, assuming those gathered in the *Cartagena Manifesto*, the following are reproduced:
 1. Do not consider coercive techniques and services as treatments. These are critical incidents that call for analysis and improvement.
 2. To require transparency and establish registration systems for the use of restraints, that permit us to analyse what is done, when it is done, what professionals were involved, what was done to avoid them, what could have avoided them, and especially how to avoid their use in the future.
 3. To redesign the hospitalisation spaces and the organisation of professionals and activities, orienting them towards the reception, avoiding the excess of norms and rules, detecting hostile aspects that can make people feel threatened and distrustful.
 4. To establish units with few beds, living-rooms, with a therapeutic and reassuring atmosphere, that promote relationships that generate confidence, in which people feel welcome, with the existence of comfort and sensory rooms. To provide them with an adequate number of professionals with proper qualification and working conditions.
 5. To ensure that the removal of these practices in some places, does not mean that they occur in other places.
 6. To promote a work culture oriented to non-coercion, that includes reflection and ongoing debate and responsibility awareness among professionals about the ethical behaviour with each person.
 7. To train professionals in person-centered therapeutic relationship practices.
 8. To support, recognise and disseminate the efforts of professionals and teams who are capable of proposing creative alternatives, generating a professional culture free from coercion.
 9. To create real channels of participation for users so that they can ensure the annulment of coercive practices in care, in all its phases: planning, implementation, analysis and evaluation
 10. To look for alliances with citizen movements that advocate the eradication of coercion in other areas, the discourses that underpin them and the power inequalities that facilitate them.
 11. To urge the commitment of social and health administrations in the prioritisation of the necessary investments in resources that favor the inclusion, belonging and permanence of people in their environments, thus avoiding exclusion.

11. ON THE RIGHT TO LIVE INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY

Article 19 CRPD

The States Parties in this Convention recognise the equal right of all persons with disabilities to live in the community, with equal options to those of the other, and will take effective and pertinent measures to facilitate the full enjoyment of this right to the persons with disabilities and their full inclusion and participation in the community, ensuring in particular that: a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom to live, on an equal basis with others, and that they are not forced to live according to a specific system of life; b) Persons with disabilities have access to a variety of home care, residential care and other community support services, including any personal assistance necessary to facilitate their existence and inclusion in the community and to prevent their isolation or separation of the latter; -16- c) Community facilities and services for the general population are made available on an equal basis to persons with disabilities and take into account their needs.

11.1. Infringement:

Confinement of people with mental health problems from Castilla-La Mancha in geriatric centres from Castilla-La Mancha

The Luz de La Mancha association, a member of the Confederación SALUD MENTAL ESPAÑA, claims that the Community Board is promoting the entry into geriatric residences of mental health patients whose health condition is more severe⁴². For this entity, these centres are "not prepared" to meet the needs of this group, so they "doubt the legality" of this measure and encourage families to whom this solution is being given as the only alternative to report the facts, with their advice and support, to the Prosecutor's Office.

⁴² MANCHA INFORMACION.COM (21 June), "Luz de La Mancha doubts the legality of the internments of people with mental disorders in geriatric homes": <http://manchainformacion.com/noticias/45989-Luz-de-La-Mancha-duda-de-la-legalidad-de-los-ingresos-del-colectivo-de-enfermos-mentales-en-residencias-geritricas>

12. ON THE RESPECT OF HOME AND FAMILY

Article 23 CRPD

1. States Parties shall take effective and relevant measures to put an end to discrimination against persons with disabilities in all matters related to marriage, family, parenthood and personal relationships and to ensure that persons with disabilities have equal conditions than the others, in order to ensure that: a) The right of all persons with disabilities of marriageable age to marry and set up a family on the basis of the free and full consent of the future spouses is recognised; b) The right of persons with disabilities to freely and responsibly decide the number of children they wish to have and the time that must elapse between births is respected, and to have access to information, reproductive education and family planning appropriate to their age, and that the necessary means to enable them to exercise those rights are provided; c) Persons with disabilities, including boys and girls, maintain their fertility, on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, custody, protection, children adoption or similar institutions, when these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. In order to make these rights effective, and to prevent concealment, abandonment, negligence and segregation of children with disabilities, States Parties shall make sure that early and comprehensive information, services and support to children with disabilities and their families are provided.

4. States Parties shall ensure that children shall not be separated from their parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from his or her parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, when the immediate family is unable to take care of a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

12.1 Progress:

The Sixth Section of the Malaga Court revokes a child's declaration of helplessness for being based solely on his mother's mental health problem

The Sixth Section of the Court confirmed the sentence issued by the Court of First Instance number 5 from Malaga, revoking the declaration of abandonment made by the Child Protection Service for considering that it was sustained "*essentially and basically*" in the mental health problem of the mother and, therefore, it constituted a violation of article 23.4 of the Convention on the Rights of Persons with Disabilities. Thus, it urges the Child Protection Services to "*provide the mother with the necessary follow-up and support for the proper performance of her mother functions*" and orders the immediate reintegration of the child with his mother⁴³.

⁴³ LA VANGUARDIA. COM, Revoked the helplessness of a minor for being based on the mental disease of the mother, 17/03/2016: <http://www.lavanguardia.com/local/sevilla/20160317/40505534695/revocan-el-desamparo-de-un-menor-por-basarse-en-enfermedad-mental-de-la-madre.html>

13. ON THE RIGHT TO HEALTH

Article 25 CRPD

States Parties recognise that persons with disabilities have the right to enjoy the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- a. Provide persons with disabilities with free or affordable health care programs of the same variety and quality as other persons, including in the area of sexual and reproductive health, and public health programs addressed to the population; b) Provide the health services needed by persons with disabilities specifically as a result of their disability, including early detection and intervention, when appropriate, and services to prevent and minimise the emergence of new disabilities, including the children and the elderly;
- b. Provide these health services as close as possible to people's own communities, including in rural areas;
- c. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- d. Prohibit discrimination against persons with disabilities in the provision of life and health insurance when such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
- e. Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

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According to the Constitution of the *World Health Organization* (WHO), "*the enjoyment of the highest level of health that can be achieved is one of the fundamental rights of every human being.*" However, health policies and programs that should promote this right may, unfortunately, have the opposite effect, depending on how they are formulated and implemented⁴⁴.

Nevertheless, **despite the advances** that have been made since the psychiatric reform, people are still, **in a general way, ignoring the diversity of the person as a human being subject to rights and worthy of human treatment.** Mental health problems, by action and effect of stigma, continue to be a widespread justification for depriving people of their rights. Thus, **containment and isolation measures** are still

⁴⁴ WHO, "Health and human rights," descriptive note No. 323, December 2015, available at: <http://www.who.int/mediacentre/factsheets/fs323/es/>

applied **before evaluating the application of less harmful alternatives of people's rights**, such as care in open units based on a model of Community Care in Mental Health.

This situation gets worse in **cases of dual pathology**, a clinical condition in which there is a simultaneous or sequential coexistence of an addictive disorder and another mental disorder, that despite its high incidence, continues to lack enough and adequate resources, as revealed by a national survey conducted in Spain on availability of specific resources for the treatment of people with dual pathology. This study is included in the first **White Book on Assistance Resources and Needs in Dual Pathology**, presented and promoted by the *Spanish Society of Dual Pathology* (SEPD) and the *Foundation of Dual Pathology*, with the collaboration of *Government Delegation for the National Drug Plan*, the *Fund for Property Seized by Illicit Drug Trafficking and Other Related Offenses*, the *Autonomic Drug Plans incarnated by Drug Commissioners* from each autonomous community, and professionals from all over Spain who have contributed their vision from the treatment networks of these patients⁴⁵.

To this it must also be added the poor implementation of the **gender perspective** in this area, as denounced by the Vice-President of the *Spanish Society of Dual Pathology* (SEPD), Carlos Roncero, in the *X Conference of Dual Pathology and Gender*. Thus, he reveals that the **attention to women with dual pathology has been little studied and developed**, so this professional, responsible for the *Addictions and Dual Pathology Section of the Psychiatric Service at the Vall d 'Hebron Hospital from Barcelona*, has defended "*the need to elaborate protocols for all circumstances and to thoroughly analyse this problem*"⁴⁶.

There is scientific evidence on the **effectiveness of the different treatments for depression**⁴⁷, as revealed by the report made by members of the *American College of Physicians* that suggests cognitive behavioural therapy as an alternative treatment to second-generation antidepressants to treat mild or moderate depression. However, due to the **therapeutic needs in the public domain**, as Antonio Cano (*Psychology professor and president of the Spanish Society for the Study of Anxiety and Stress*) explains, in Spain the most widespread option is the supply of antidepressants.

This situation is further aggravated by the **lack of psychologists**, something that has been reported from Primary Care, Psychiatry and Psychology and that does not make any sense even from an economic perspective, since, as Cano points out, it is much more expensive for the State to deal with depression within the current parameters than as revealed in the NICE guidelines (reference in the United Kingdom on what scientific evidence says), that recommends to start by cognitive behavioural

45 CONSALUD.es (20 January), "93% of experts believe that there is a lack of resources to treat dual pathology", available at: <http://consalud.es/profesionales/el-93-de-los-expertos-creen-que-faltan-recursos-para-tratar-la-patologia-dual-23860>

46 Vid. REDACCIÓN MÉDICA (5 December), "The treatment of women with dual pathology "hasn't been much studied": <https://www.redaccionmedica.com/secciones/psiquiatria/el-tratamiento-de-la-mujer-con-patologia-dual-se-ha-estudiado-poco--1905>

⁴⁷ Vid. AMERICAN COLLEGE OF PHYSICIANS (ACP), "Annals of Internal Medicine", 06/2016: <http://annals.org/aim>

techniques for mild and moderate depression and save antidepressants for more severe cases. In that country, they have been acting according to this guidelines since 2007, noting that no matter how much they have to invest in psychologists, it will always be cheaper than dealing with medical leaves due to depression, traffic or work accidents, falls, etc.⁴⁸.

The story of Lola Martínez, a graduate in Economics, illustrates this situation very well. She worked in an automotive company when she got depressed. She could opt to an ERE for over a year and in this time she was diagnosed with bipolar disorder and started taking lithium. At the beginning she was feeling alright, but her health deteriorated again and she started being dismissed, relocated, then taking a medical leave and, in the end, she became disabled⁴⁹.

According to data provided by Félix Andrés González Lorenzo, president of the Canarian section of the *Spanish Association of Neuropsychiatry* (AEN), on the occasion of a debate with journalists organised by the *Spanish Society of Dual Pathology* held in Madrid, Spanish public health requires at least 1,800 professionals to reach the minimum number of needed psychiatrists, clinical psychologists and nurses dedicated to mental health care for adults⁵⁰.

13.1. Infringements:

Abusive and disproportionate appeal for the admission of a woman with mental and intellectual disability at the Nuestra Señora de Candelaria University Hospital

According to information provided by the family of the affected person, this 36-year-old woman with high disability, **has been hospitalized for more than one year** at the *Nuestra Señora de Candelaria University Hospital* (Santa Cruz de Tenerife), specifically **in the Brief Inpatient Unit for psychotic patients with acute mental disorders** (hereinafter UIB), where the average stay is 21 days. The UIB is totally inadequate to attend a person in these concrete circumstances, **that requires the referral to a centre that is appropriate to her situation through the pertinent coordination between administrations.**

The internment was already in especially traumatic circumstances, remaining in the Emergency Service for 4 days subject to what are considered cruel, inhuman and degrading measures of mechanical and pharmacological containment, specifically with physical restraints and sedation just after arriving to the centre. This is a common practice, since the Emergency Department of this Hospital lacks a specific and suitable area for the care of persons with mental disorders⁵¹. Four days later she was taken to the

⁴⁸ ELMUNDO.ES (9 February): The disastrous approach to depression in Spain:

<http://www.elmundo.es/salud/2016/02/09/56b8e9bbca4741ec4a8b4636.html>

⁴⁹ Cadena SER (30 November): "Say that you have a mental illness at work and they repudiate you":

http://cadenaser.com/programa/2016/11/30/hoy_por_hoy/1480491829_337398.html

⁵⁰ ELPais.ES (24 April): Public health needs 1,800 mental health professionals

http://politica.elpais.com/politica/2016/04/22/actualidad/1461352648_611208.html

⁵¹ Vid. Miguel Angel Thous "Unworthy treatment due to the lack of infrastructure for mental health in the Canary Islands" DOC No. 15

Psychiatry floor of this Hospital, the aforementioned UIB, where she remains to this day suffering irreparable damage. Like any human being, in addition to medical assistance for her health problems, she needs to do some kind of physical, manual and mental activity. A UIB is not suitable for medium or long stays, as it lacks human resources and facilities *ad hoc*. Remaining in this Hospital is very harmful and day by day her sufferings increase, worsening her physical and mental health. Nowadays she has gained a lot of weight, she is just dragging her feet, she wears diapers (she did not need them before) and she does not stop crying every time she sees her mother, begging her to take her out.

It is, therefore, an **abusive and harmful internment**, which is unjustifiably extended, **and prevents the full and effective participation and inclusion in society**, and the **equal opportunity in relation to people with such disorders and care needs**. Note that she is being isolated and de facto segregated and separated from society, she has no people with whom to relate who do not have the most severe acute psychiatric disorders and, except for aisles, a living room, consultations, a nuisance where they do occupational therapy in the mornings and the rooms, she has nothing else. Specifically, this floor lacks psychomotricity, literacy or art or crafts workshops; does not have recreation areas or anywhere to practice gardening or acquire skills for daily life, to develop her emotions and feelings and even less relaxation, leisure, sports or free time, being condemned to ostracism, isolation and regression⁵².

This serious situation reveals a serious problem of inattention and lack of coordination in the Canarian socio-sanitary system. In this sense, the *AFAES Mental Health Association* has reported that more than half of people with mental ill health in Gran Canaria do not receive adequate treatment and resources, which is especially serious in a context in which these types of health problems are on the way to becoming, as stated by the President of *Federation of Mental Health of the Canary Islands*, Andrés Mendoza, "*the second most important pathology*"⁵³.

A report by the Ombudsman reveals the serious deficiencies of the mental health system in the Valencian Community

Although it has been 30 years since the psychiatric reform was made, with the advances that this meant, as has been seen, there is still a long way to go.

The same **users of the health system are calling for a model of mental health that encourages personal autonomy, promotes inclusion in society and avoids the stigmatisation** faced by people with mental disorder, as required by the *International Convention on the Rights of Persons with Disabilities*.

The report highlights the "*institutional abandonment*" in residential care of people with mental health problems, the lack of planning and coordination between administrations or the regulatory chaos, among other "*serious deficiencies*"⁵⁴.

⁵² Information provided by AFAES with express consent from the family.

⁵³ Cadena SER (29 November): More than half of the mentally ill of Gran Canaria do not receive treatment http://cadenaser.com/emisora/2016/11/29/ser_las_palmas/1480423070_680448.html

⁵⁴ Cadena SER (17 May) Users claim a model of mental health that encourages personal independence http://cadenaser.com/emisora/2016/05/17/radio_alicante/1463493942_307267.html Additionally, EL

13.2. Best practices:

SALUD MENTAL ESPAÑA supports Mental Health Europe's call for action in regard to ICD-10

The *Confederación SALUD MENTAL ESPAÑA*, as a member of *Mental Health Europe* (MHE), joins the positioning of this European network in relation to the current *International Classification of Diseases (ICD-10)*, considering that the diagnosis manuals as the *ICD*, should be understood as "*tools for the dialogue of equals*" and always ensure "*the participation in it of people with lived experience of mental health problems*".

MHE is an European network of non-governmental organisations dedicated to the promotion of positive mental health, prevention of mental suffering, improvement of care, defence of the social inclusion and the protection of human rights for users and former users of mental health services, their family and those who take care of them.

Members of *MHE*, which include *SALUD MENTAL ESPAÑA*, include associations and individuals working in the field of the mental health in Europe, as well as people with a history of mental health problems and volunteers and professionals from various related disciplines.

According to *MHE*, manuals as the *ICD* must take into consideration the "**provisional nature of the diagnostic categories**" since they are "*socially constructed*" and do not take into consideration "**the wealth of each personal experience and the local context, and can be a tag and objectification of the individual**".

For these reasons, *MHE* makes a **call to the World Health Organization** so that the following is carried out:

- A truly participatory review process that involves users, carers and civil society in a logical and constructive way.
- The development, in cooperation with representative organisations, of a more accessible language for users and carers.
- Guaranty transparency at all levels of the review process, as well as the identity verification and loyalty of health professionals that are part of the Global Network of Clinical Practice, in order to prevent conflicts of interest.

PAIS.ES (8 May), "The Ombudsman requests the unification of mental health care":
http://ccaa.elpais.com/ccaa/2016/05/08/valencia/1462705220_887738.html

- Ensure transparent and honest advice on the use of the *ICD*, understanding the use of the diagnostic as a tool for the dialogue of equals between doctor and patient and emphasizing the need for recognition of the validity of the knowledge, practices and local cultural norms⁵⁵.

Project 'Expert patient'

Through the *Employment Plan of Castilla-La Mancha*, the *Social-Health Foundation of Castilla - La Mancha*, dependent on the *Ministry of Health*, has hired 16 **persons with mental health problems to work in professional teams** in order to **support and help other people who are in the same or similar circumstances**.

The program will cover a total of 14 Psychosocial and Labour Rehabilitation Centers in the Autonomous Community for 6 months, making the most of it and using first-person experience. In addition, the project intends to educate professionals from the network of centres of the region and family members of those affected; as well as starting actions to raise awareness and address the stigma attached to mental disorders⁵⁶.

⁵⁵ SALUD MENTAL ESPAÑA supports Mental Health Europe's call for action in regard to ICD-10, 22 July, 2016: <https://consaludmental.org/general/salud-mental-espana-apoya-llamamiento-mental-health-europe-cie-10-28687/>

⁵⁶ CLM24.es (25 April): CLM mentally ill people will help others through the project 'Expert patient': <http://www.clm24.es/articulo/sociedad/enfermos-mentales-clm-ayudaran-otros-traves-proyecto-paciente-experto/20160425202609114926.html>

14. ON THE RIGHT TO WORK AND EMPLOYMENT

Article 27 CRPD

1. States Parties recognise the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to make a living through a freely chosen or accepted job in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- a. Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including recruitment, hiring and employment conditions, continuity of employment, career advancement and safe and healthy working conditions;
- b. Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable work conditions, including equal opportunities and equal remuneration for equal work, to safe and healthy working conditions, including protection from harassment, and the redress of grievances;
- c. Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
- d. Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuous training;
- e. Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assist them in finding, obtaining, maintaining and returning to employment;
- f. Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
- g. Employ persons with disabilities in the public sector;
- h. Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
- i. Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
- j. Promote the acquisition by persons with disabilities of work experience in the open labour market;
- k. Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

The latest **report** published on December 19, **2016** by the *Instituto Nacional de Estadística* (INE) shows that, **despite having increased the number of active people, the employment rate of people with mental health problems has decreased** compared to the previous year⁵⁷.

Among the main results of the report is reflected, for example, that there were 1,774,800 people with disability aged 16 to 64 in 2015 in Spain, 5.9% of Spanish the population in working age.

Also, the rate of unemployment for this collective was 31%, while in 2014 it was 32.2%. This rate was nearly 10 points higher than that of the population without disabilities, with a rate of unemployment of 21.9%.

According to this study, *"in the active population with a disability we can find a greater percentage of men, more weight in the 45-64 age group and less representation of people with higher education than in the active population without disability."*

By branches of activity, the sector in which most people with disabilities work is the health and social services, where they also have greater representation than those without disabilities.

As for people with mental health problems, the data of the statistical study of the INE reflects that the **participation rate of persons with a mental disorder is 30.4%**, 1% more than the previous year. However, it is the **second disability with lower rate of job**, going down 0.5% from 2014 to 15.9% (behind intellectual disability).

This means that **despite having increased the number of active people, the employment rate of people with mental health problems has declined compared to 2014**⁵⁸.

According to *SALUD MENTAL ESPAÑA*, while a **mental health problem does not have to be an impediment in obtaining employment, low job placement of persons with mental health problems is one of the main barriers to their social integration and their recovery**, resulting largely from the prejudices of many entrepreneurs and public administrations.

Employment is a fundamental way to achieve recovery and autonomy, and it also has an important therapeutic role, replacing the role of "sick" for the role of "worker".

⁵⁷ INE, "The employment of persons with disabilities, 2015", 19 December 2016: <http://www.ine.es/prensa/np1012.pdf>

⁵⁸ SALUD MENTAL ESPAÑA, "SALUD MENTAL ESPAÑA is worried about the unemployment of persons with mental health problems", 23 December, 2016: <https://consaludmental.org/general/salud-mental-espana-preocupacion-desempleo-personas-con-problemas-de-salud-mental-30532/>

That's why the associative movement clustered around the *Confederación SALUD MENTAL ESPAÑA*, has spent years promoting the **improving of the employability of people with mental health problems and betting for:**

- Increase businesses awareness to promote employment
- Job counselling services
- Training for the promotion of employment
- Special employment centres
- Supported employment⁵⁹

14.1 Infringement:

Pending issues in Special Employment Centres

At the beginning of **2016** a **report** was shared, it was made by the *Instituto de Derechos Humanos Bartolomé de las Casas of the University Carlos III of Madrid* commissioned by *Fundación ONCE* in which special centres of employment (CEEs) are analysed following the *UN Convention on the Rights of Persons with Disabilities*.

This document analyses the impact of the Convention on what is defined as the main manifestation of sheltered employment in our country and tool for the integration of persons with disabilities to the workplace, in order to ensure a paid job for persons with disabilities, the provision of personal and social adjustments that they require and be a means of integration for the largest number of people with disabilities to the regime of normal work that is, ordinary employment.

The report warns that the **Convention is committed to an inclusive labour market, which does not force them to renounce to sheltered employment provided that this respects the human rights of persons with disabilities, facilitate their access to the labour market and be combined with other measures that favour their inclusion in the regular market.** In this sense, according to this document, despite the fact that the regulatory framework of the CEEs has been getting closer to the perspective of the Convention, there are still important **regulatory frameworks needing reforms:**

- Inclusion of the major principles of the Convention into the legislation on CEEs (autonomy and independence, universal capacity and support, equality and non-discrimination, accessibility and adjustments, quality in employment and working conditions);
- Establishment of custom development or labour market support plans;
- Promotion of the personal and social adjustment services, that the provisions of the Statute of Workers Antidiscriminatory Law are projected on the CEEs workers;

⁵⁹ *Ibid.*

- Matching conditions and labour rights without prejudice to the implementation of specific adaptations, that there is no discrimination inside the CEEs;
- Promotion of stability and continuity in the workplace;
- Ensuring the development of a professional career;
- No barriers to the mobility of workers;
- Revaluation of the work carried out in the CEEs.

Rafael de Asís, who has coordinated this report, concludes that *"the CEEs (understood as inclusive employment centres) are justified if they are another resource within an open market and that does not discriminate against persons with disabilities, the speciality mark is lowered and their objective is to promote the professional development of persons with disabilities and provide them with the individualised supports they need"*⁶⁰.

14.2. Recommendations:

- To promote a greater adjustment of the regulatory framework of the CEEs to the Convention's perspective.
- To promote measures to foster awareness and a good work environment in companies, in order to promote inclusion.

60 INSTITUTO DE DERECHOS HUMANOS BARTOLOMÉ DE LAS CASAS, Report on the Impact of the Implementation of the UN Convention for the Rights of Persons with Disabilities in the Regulation of the Special Employment Centres, December 2015, published in 2016:
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15. ON THE INVOLVEMENT IN POLITICAL AND PUBLIC LIFE

Article 29 CRPD

States parties shall guarantee the persons with disabilities the political rights and the opportunity to enjoy them on an equal basis with others, and shall commit to: a) Ensure that persons with disabilities can participate fully and effectively in the political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and the ability of persons with disabilities to vote and be elected, inter alia, through: i) The guarantee that procedures, facilities and voting materials are appropriate, accessible and easy to understand and use; ii) The protection of the right of persons with disabilities to vote in secrecy in elections and public referendums without intimidation, and to effectively run as candidates in the elections, be in a political position and do any public role at all levels of Government, facilitating the use of new technologies and supporting technologies where appropriate; iii) The guarantee of the freedom of expression of the will of persons with disabilities as electors and to this end, when necessary and upon request, allow a person of their choice to provide assistance to vote; b) To actively promote an environment in which persons with disabilities can participate fully and effectively in the management of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs and, among other things: i) Their participation in non-governmental organisations and associations related to the public and political life of the country, including the activities and administration of political parties; ii) The establishment of organisations of disabled persons representing these persons in international, national, regional and local levels, and their inclusion in such organisations.

15.1 Infringement:

In the call for subsidies charged to the tax allowance of the Income Tax 2016, discriminatory conditions are incorporated against people with mental health problems

The Article 8, sections 4 and 5, of the *law 45/2015, from October 14, of voluntary work* expressly says that **persons having criminal records not cancelled for a series of crimes cannot be volunteers**. By virtue thereof, in the *call for subsidies charged to the tax allowance of the Income Tax 2016*, **without any exception according to the circumstances of the person or the purposes of the specific program, it is required that volunteers participating in funded programs prove to have no criminal record**. To do so, it has ordered that the beneficiary institutions present the model of supporting responsible statement that volunteers participating in funded programmes have no criminal record, for the purposes of article 8, sections 4 and 5, of the *law 45/2015, from October 14, of voluntary work (model 11)*⁶¹.

⁶¹ MINISTERIO DE SANIDAD, SERVICIOS SOCIALES E IGUALDAD, "Call for subsidies charged to the tax allowance of the Income Tax 2016":

<https://www.mssi.gob.es/ssi/familiasInfancia/ongVoluntariado/subvenciones/IRPF/home.htm#p1>

To understand the dimension of the problem that has been generated, we have to have in mind that many **people with mental health problems have been condemned for committing some of the provided crimes**, in the context of the worsening of his health state; which, in most of the cases, **has contributed in a substantial way the inattention or the insufficient or inadequate care by the social care system**. In fact, the **poor implementation of the health-care reform established by the *General Health Act of 1986* has converted the prisons in places where to contain the effects of that non-existent or poor care**, after going through a criminal process in which the individual's situation may very often be unnoticed. This is the case, inter alia, by the **lack of training of judges, prosecutors and lawyers**, at a general level, **on mental health, which leads to little contemplation of alternative measures to prison**⁶². To this must be added, as indicated in a report of the *Spanish Bar Association Foundation*, the **traditional lack of coordination between the judicial, penal and social care administration**; the **stigma** that people with mental health problems face; the **absence of adequate prevention and care policies** and **insufficient social support network** ⁶³ .

All this leads to a **worsening of the health condition** of the person that **could be avoided with a proper referral to ensure adequate treatment in a community resource and the creation of intermediate resources that allow the controlled transition from a closed to an open environment, in order to promote the rehabilitation and social reintegration** of the person **subject to compliance with article 25.2 of the Constitution**⁶⁴. To this responsibility of the public authorities, is added the obligation imposed upon them by article 49 of the Constitution to make a **policy of anticipation, treatment, rehabilitation and integration of people with disabilities**, to which they have to provide the required specialised care and especially protect them so that they enjoy their rights.

For all this, **it is essential to have the participation of the representative entities of the collective institutions**, particularly, what the subject of this complaint is concerned, in terms of **re-education and reintegration**; which implies increasing the collaboration of the resources dependent on the NGOs to support people with disabilities and eliminate administrative obstacles that hinder the use of such resources, so that they can be used effectively⁶⁵.

The *UN Convention on the rights of persons with disabilities* **outlaws discrimination** (articles 3 and 5); **recognises the rights to habilitation and rehabilitation** (article 27) and **to participation in non-**

⁶² UCELAY, P., Jurist of the Superior Technical Body of Penitentiary Institutions, "Mentally ill persons in prison: RISKS", Juristadepresiones.com, 03/05/2015: <http://juristadepresiones.com/enfermos-mentales-en-prision-riesgos/>

⁶³ FUNDACIÓN ABOGACÍA ESPAÑOLA, "The mentally ill in the prison system, a legal analysis": <http://www.abogacia.es/wp-content/uploads/2012/10/INFORME-Enfermedad-mental-e-instituciones-penitenciarias.pdf>

⁶⁴ ORTIZ GONZÁLEZ, A.L., Certified judge of the prison surveillance Court No. 1 Madrid, "Mental illness and criminal law: a manifestly improvable reality", Spanish lawyers, 7 November 2012: <http://www.abogacia.es/2012/11/07/enfermedad-mental-y-derecho-penal-una-realidad-manifiestamente-mejorable/>

⁶⁵ CERMI, "Persons with disabilities in the prison environment in Spain", no. 31, February 2008: http://ibdigital.uib.es/greenstone/collect/portal_social/archives/cermi001/7.dir/cermi0017.pdf

governmental associations and organisations (article 29) and imposes the **obligation on public authorities to ensure and promote the full exercise of all human rights and fundamental freedoms** of persons with disabilities (article 4), among others.

Therefore, to require the submission of referred model 11 in the presented terms, at the call for subsidies charged to the tax allowance of the Income Tax 2016, **means a discriminatory exclusion**, that does not in any way promote the right to equal opportunities and universal accessibility of persons with disabilities or dependent that article 8 section 3, of the same law urges entities of volunteering to ensure; and this leads the Administration to go against their own actions and constitutes a serious violation of the rights of people with mental health problems.

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