



To:

Secretary General
Council of Europe
Avenue de l'Europe
F-67075 Strasbourg Cedex, France

CC:

Committee on Bioethics of the Council of Europe
Human Rights Commissioner of the Council of Europe

Brussels, 14 May 2018

Ref. EDF-018-19-YV

RE: Open letter to the Council of Europe's Secretary General regarding the draft additional protocol to the Oviedo Convention

Dear Members of the Committee on Bioethics of the Council of Europe,

Foreseeing the session of the 13th plenary meeting of the Committee on Bioethics that will focus on the re-examination of the draft additional protocol concerning the "protection of human rights and dignity of persons with mental disorder with regard to involuntary placement and involuntary treatment" with a view to a decision to send it for opinion to other Council of Europe bodies/committees we, **the European Disability Forum, European Network of (ex-) Users and Survivors of Psychiatry, Autism Europe, Inclusion Europe, Mental Health Europe and the International Disability Alliance continue to convey our deepest concerns and opposition to its adoption.**

Despite opposition from the UN CRPD Committee, the Special Rapporteur on the rights of persons with disabilities, the Special Rapporteur on the right to everyone to the enjoyment of the highest attainable standard of physical and mental health, the Working Group on arbitrary detention, and organizations of persons with disabilities, including in particular those organizations representing persons with psychosocial and intellectual disabilities themselves which would suffer the most impact, the draft additional protocol continues to **neglect both the letter and the spirit of the UN Convention on the Rights of Persons with Disabilities**, to date ratified by 46 of the 47 Member States of the Council of Europe. Any authorization of involuntary treatment and institutionalisation of persons with disabilities constitutes a violation of the CRPD, in particular of articles 14 (liberty and security of the person), 15 (freedom from torture or cruel, inhumane or degrading treatment or punishment), 17 (protecting the integrity of the person) and 25 (right to health) of the Convention. Moreover, by going ahead with the draft, the Council of Europe disregards the concerns raised by its own Parliamentary Assembly, which stated that: "Ignoring the interpretation of the CRPD by its monitoring body established under international law would not only undermine the Council of Europe's credibility as a regional human rights organisation, but would also risk creating an explicit conflict between international norms at the global and European levels."

The Council of Europe Disability Strategy 2017-2023 recognises freedom from exploitation, violence and abuse as a priority area and calls for a mainstreaming of rights of people with disabilities in activities and work of the Council bodies, including the Oviedo Convention.

Therefore, the current draft additional protocol does not reflect the Strategy by disregarding people with disabilities' rights.

Finally, in terms of the consequences, the adoption of the draft additional protocol instead of helping would create two conflicting tracks of human rights legislation causing much confusion and jeopardizing reforms already started in many countries.

In these circumstances, we are obliged to reiterate our position stated in the joint letter to the Committee on Bioethics of 14 November 2015, written together with European Network of (ex-)Users and Survivors of Psychiatry, Mental Health Europe, Autism Europe, the Europe Office of the UNHCHR, Mental Disability Advocacy Centre, the Centre for Disability Law & Policy National University of Ireland Galway and **urge you to withdraw the draft proposal.**

We also take this opportunity to mention that our organizations **will not attend the upcoming meeting on Thursday 24 May 2018.** Despite our previous active engagement in these meetings, **our inputs have been systematically ignored and the process has not been fully transparent, as we, civil society, never endorsed any aspects of this draft additional protocol.** It is very concerning that organizations of persons with disabilities are not consulted in a meaningful way in this process, in line with article 4.3 of the UN CRPD regarding "decision-making processes concerning issues relating to persons with disabilities."

Finally, we note and deeply regret the **generalized decrease of the Council of Europe's commitment to respect, protect and advance the rights of persons with disabilities,** as reflected in the Committee of Ministers' recent decision to suspend all work and activities of the Ad Hoc Committee of experts on the Rights of Persons with Disabilities.

Yours sincerely,

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