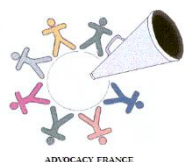


**CONTRIBUTION**  
**in connection with the 1st Review of France**  
**by the UN CRPD Committee**  
**concerning the country's Initial Report and responses to the Committee's List of Issues**  
**25th session August 16 – September 14, 2021**

**Submitted by:**



**- Advocacy-France:**

Advocacy-France, founded in 1997, is a French national non-profit organization of mental health and social services (ex)users, approved by the State to represent users of the health care system. Our management bodies are composed of a majority of (ex)service users. Family members and friends, professionals and non-user volunteers are also members, but represent a minority. Our objectives are: to promote and drive the concept and practices of “advocacy” in France by adapting them to the specific French culture and situation, to take action to provide access to redress and remedy so that our voice and our justified demands are heard, our responsibility recognized, and the dignity and the rights of mental health service users respected in the medical, legal and social realms.

Advocacy-France bolsters this movement throughout France via our network of 10 Espaces Conviviaux Citoyens (ECC) approved and financed as Groupes d'entraide mutuels (GEM) – with 4 ECC in the Normandy Region, 2 in the Paris/Ile-de France Region, 1 in Hauts-de-France (North), 2 in the PACA Region (South), and 1 in the Brittany Region, as well as through the non-profit organization Réseau Pair-Advocacy for training.

Advocacy-France has been a member of Santé Mentale Europe – Mental Health Europe from the outset (several terms of office as a Board Member, former Chair from our organization, elected member of the Membership and Accreditation Committee and a member of the “Beyond the Biomedical Paradigm” Task Force), as well as a member of ENUSP – the European Network of (Ex-)Users and Survivors of Psychiatry (current Deputy Board Member and called on to represent ENUSP in relations with EDF (European Forum of Persons with Disabilities). Advocacy-France is also a member of Association des groupes d'intervention en défense des droits en santé mentale du Québec (AGGID-SMQ) and MeTIS Europe – a European Federation publishing information and services for young people with psychological and/or social difficulties.

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## **Introduction**

We are honored to submit the following information to the CRPD Committee in connection with the first Review of France by the UN CRPD Committee concerning the country's Initial Report and replies to the Committee's List of Issues for the Committee's Session from August 16 – September 14, 2021.

The answers provided by the State to the List of Issues are evasive and hedge the issues in our opinion, demonstrating the lack of willingness to see and take into account the situation and rights of persons with disabilities and to respect the country's commitments under the Convention as advocated by the CRPD Committee as a treaty body.

We are all the more dismayed that France - the "country of human rights" - is acting in this security-oriented and paternalistic manner in its approach to people with disabilities. We strongly hope that this review by the CRPD Committee of the situation in France with regard to the CRPD will be able to change our country's mentality, practices and legislation and that France can once again earn its reputation as a champion of human rights by respecting the provisions of the Convention.

We remain fully available for any additional information or questions.

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Paris, 6 August 2021

## **Articles 1-4: Purpose, General Principles and Obligations**

### **- Transposition of the CRPD into French law**

France has not transposed and given full force and effect to all of the provisions contained in the CRPD in our national legislation, which prevents the fulfillment of the rights of persons with disabilities pursuant to the Convention and their access to justice. It should be possible to avail of the provisions of the CRPD directly before the French courts.

### **- Declarations issued by France upon ratification of the CRPD**

The declaration issued by France regarding the term “consent” in Article 15, which the country interprets according to regional instruments, such as the Oviedo Convention of the Council of Europe or its own national legislation constitutes a discrimination and a major obstacle to implementation of the Convention and access of persons with psychosocial disabilities to their rights. The situation has worsened today with a return to a State of affairs which in the past has refused to ensure the guarantee of rights and freedoms.

### **- Definition and assessment of disability**

The Committee is invited to refer to the findings and remarks of our previous submission explaining the great difficulties experienced due to a national definition that is clearly part of a biomedical model and a diagnosis of disability, based on impairments and incapacity with a medicalization approach of the procedures at all stages of the establishment of the rights of persons with disabilities in France without taking into account - other than as a simple context - the interaction of persons with their environment which produces situations of disablement.<sup>1</sup>

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<sup>1</sup> See Report and Recommendations of the Conseiller honoraire at the Cour de Cassation (Mr. Blatman) to the Défenseur des Droits in 2016, who underlines this difference between the French definition and the definition in the Convention and the procrastination of the French State; see also Country Visit Report by the Special Rapporteur on the Rights of Persons with Disabilities on France, 8 January 2019, p. 6

## - Representation of persons with psychosocial disabilities

In our previous contribution, we mentioned in some detail the problems of representation and consultation of persons with psychosocial disabilities in the development and implementation of disability and health policy, and in particular the situation of co-optation, influence and financial means of large federations, associations and groups of service providers for people with disabilities and the lack of consideration of organizations composed of a majority of people concerned themselves with all of their diversity.

Regarding France's answers to question 2 c) of the Committee's List of Issues concerning participation through the National Consultative Council of Disabled People (CNCPH) and the French Council of Disabled People for European issues, we note that within the CNCPH "the place given to disabled people", which is supposed to be "in the majority" according to the State's answer, is not actually the case (cf. Report submitted to the Committee by the FEDEEH). The very status (as regards its relationship with the CRPD Committee) and independence of the CNCPH created by the State through legislation and whose leaders are appointed by the State, are not clear. Advocacy-France nevertheless attempts to be involved in this Council.

As for the CFHE, the "national disability council", half of whose eight founding members are very large service providers and who sit on the Board of Directors ex officio, the voice of genuine disabled person's organizations is much less audible. Advocacy-France is nevertheless involved in this Council and attempts to have the concerns of our members taken into account despite a lack of resources (travel expenses, administrative and technical support) compared to other much more powerful member organizations. It is also unacceptable that the CFHE itself lacks the financial resources necessary for true action and does not benefit from sufficient support from the State as required by the Convention and the General Observations of the Committee.

In addition, the recent transformation in early 2020 of the informal "Comité d'Entente des Associations Représentatives de Personnes Handicapées et de Parents d'Enfants Handicapés" into an official non-profit organization "Collectif Handicaps" composed of an even greater number of service providers and organizations managing institutions and shelters (or accommodation said to be at the charge of the State, while there is an increasing number of people without housing<sup>2</sup>) – blurs even more the direct representation of people with disabilities. The CFHE has become a member of this Collectif, but the Collectif Handicaps is not a member of the CFHE, which jointly signed its submission with this new entity. This piling up of representation, as well as the piling up of reports, plans and policies, clearly leads to the dilution of representation and makes it very difficult to hear the voice of people with disabilities themselves.

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<sup>2</sup> See: [https://www.lemonde.fr/societe/article/2020/11/15/la-fondation-abbe-pierre-estime-que-la-france-compte-pres-de-300-000-sdf\\_6059802\\_3224.html](https://www.lemonde.fr/societe/article/2020/11/15/la-fondation-abbe-pierre-estime-que-la-france-compte-pres-de-300-000-sdf_6059802_3224.html), [https://www.liberation.fr/societe/logement/occupation-de-sans-abri-place-des-vosges-des-hebergements-mais-pas-pour-tous-20210730\\_GGTHGP2X3BF55JMZXKHLPCESM/](https://www.liberation.fr/societe/logement/occupation-de-sans-abri-place-des-vosges-des-hebergements-mais-pas-pour-tous-20210730_GGTHGP2X3BF55JMZXKHLPCESM/)

Advocacy-France is also a member of major national social and medico-social federations and organizations<sup>3</sup> and thus seeks to establish contact and to ensure that people with disabilities and people living in so-called "emergency" accommodation (which may in fact end up being a long-term situation) contribute to their future and to the proper operations of such accommodation. But the developing power and influence of these organizations, often also under the influence of the State's interests, worries us. They indeed speak on behalf of disabled people, through for example the Inter-ministerial Committee on Disability, and the other bodies mentioned above.

The "resources" necessary to ensure this representation (transport, accompanying persons, meals, etc.) are clearly very unequal, in particular for the representation in the commissions of the medico-social establishments which generate expenses that should be advanced by the administration.

These interests of the State are expressed, for example, by the government's show of strength to reduce the amount of funding per night of accommodation.<sup>4</sup> Similarly, the placement of ex-officio representatives of the State seeks to further vassalize these federations, such as the appointment of a new head of the Health Commission or by a change in the statutes to add a State-appointed administrator (a recent decision of the FAS General Assembly), while the Boards of Directors of the largest organizations of service providers belonging to them are already totally dependent on State decisions and funding.

The same situation is evident within the National Union of Associations of Approved Users of the Health System ("UNAASS" or "France assos santé") whose very Statutes were created by law and decree of the State. Whereas this Federation is allocated a very generous budget by the State (5,172,840 € in 2017, latest figure available to us), Advocacy-France as the only member of the "disabilities college" composed of persons with psychosocial disabilities and directly concerned has had great difficulties to finance the annual membership fee applicable to associations with a budget of €100,000, which is far from our case. The State subsidies dedicated to the organizations of disabled people are allocated in priority to "France Asso Santé", and to the non-taxed "indemnities" of its administrators, all chosen by its "president", who is appointed by the Minister of Health in a completely feudal logic that does not allow for the consultation and involvement required through a system of "improvement strategies" that have no effect.

The situation becomes even more tense when service provider and family organizations turn a deaf ear, or indirectly take a position, hostile to the obligation to call on a judge before prolonging the deprivation of liberty, hostile to the decision of the Constitutional Council of June 4, 2021 to ensure judicial control of the practices of restraint and isolation, already in fact forbidden in application of the CRPD.

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<sup>3</sup>Advocacy-France is a member of UNIOPSS - Union nationale interfédérale des œuvres et organismes privés non lucratifs sanitaires et sociaux and its Groupe Santé Mentale, URIOPSS Normandie (Union Régionale Interfédérale des œuvres et des organismes privés sanitaires et sociaux) and its sa Commission régionale handicap, FAS - Fédération des acteurs de la solidarité at national level and in Normandie, and CAU - Collectif des Associations Unies pour le logement.

<sup>4</sup>See: [http://www.senat.fr/rap/r20-632/r20-632\\_mono.html](http://www.senat.fr/rap/r20-632/r20-632_mono.html)

The persons accommodated in shelters who are "consulted" are almost only those of the CNLE (Conseil National des politiques de Lutte contre la pauvreté et l'Exclusion sociale), with 8 "residents" selected, along with 57 professionals, representatives of the State and the administration, service providers from the CRPA (Conseil Régional des Personnes Accueillies), therefore people "recruited" by the employees of social and medico-social service provider organizations, which depend more and more on the State.<sup>5</sup>

#### **- Training:**

We do not see any real efforts by the "Conférence nationale du handicap" (CNH) or others to develop training based on the CRPD or involving people with disabilities themselves as requested by the Committee and we recommend that this requirement be stressed again. The State's emphasis in its response to the Committee on "knowledge of impairments and pathologies" for policy makers, officials and professionals working with people with disabilities again demonstrates its biomedical approach to disability.

### **Article 5: Equality and non-discrimination (considerations also relevant to Articles 11 and 14)**

#### **- The specific case of persons with disabilities in emergency facilities and shelters**

It is useful to talk from the standpoint of where our members are to appreciate the number and difficulties of people with disabilities who are condemned to stay in emergency accommodation by an administrative decision without any real means of appeal. The multiple roles played by these service providers end up placing these persons in a situation that deprives them of their fundamental rights with no recourse.

It should be recalled that these institutions also receive many people with a criminal conviction (up to 5 years), without having specially trained staff, and that, in case of difficulties between these particular residents and a disabled person, their removal or any emergency measure can only be decided by the probation officer who is always overloaded.

In general, the views and participation of the residents, whether disabled or not, are almost never used to defuse violent situations. The person in the most fragile position will be taken to a psychiatric ward and come back with a heavy program of prolonged-release injections, a program sometimes softened in the form of tablets taken in the infirmary. This coercive practice may be seen as blackmail for shelter and food.

Concretely, this can be seen locally as a deep sign of the increasing number of people put in a situation of inferior rights and which is significantly being reinforced and more and more enduring. We observe that in practice, this has led to an organization of our country where the right to render justice is delegated to the social and medico-social institutions which together, with psychiatry, claim to be designing a plan to prevent delinquency. In the meantime, when a person in a shelter is strangled to death, no attempt is made to avoid the repetition of what happened. The justice system seems to only investigate in a drawer at the morgue.<sup>6</sup>

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<sup>5</sup>See: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000033309650>

<sup>6</sup>Decision rendered May 12, 2021 over 3 years later: available clerk of Cour d'Assise, Palais de justice de Paris

The real battle between the not completely vassalized organizations and the government is to create accommodation under the sole control of the Ministry of the Interior for "non-deportable undocumented migrants", a category that exists only because of the refusal to respect international commitments and the refusal of rules that the State seeks to make people forget.<sup>7</sup>

This is a demonstration of how the powers that be, in charge of applying the CRPD in France, are increasingly neglecting their duty to ensure the guarantee of rights, and supporting the service provider organizations for persons with disabilities, who are in favor of mainstreaming psychiatric "care" without consent, who publish for example that: *"frequent ruptures of the relations between the close family and the person living with a psychiatric disorder, illustrated by the considerable proportion of homeless people affected by psychiatric disorders: 40 to 50% according to sources"*<sup>8</sup>, as well as supporting the police prefects who place offenders who have been released from prison in homes for people with disabilities, which is not a guarantee of security and the exercise of the rights of persons with disabilities as required by the CRPD. The "Résidences accueil" set up in particular by the UNAFAM family association can thus mix a public of disabled people and offenders.

Yet the type of emergency accommodation we are talking about should be a showcase for the humanization of emergency accommodation and shelter, for the respect of human rights and for France's recovery plan.

#### - Discriminatory recording of data

Advocacy-France already expressed to the Committee our major concern about the protection of personal data on persons with psychosocial disabilities who are subject to involuntary psychiatric treatment, especially since Decree 2019-412 dated 6 May 2019 ("HOPSYWEB » data base designed to track persons in involuntary psychiatric care on the county (départemental) level<sup>9</sup>), authorizing data flows between HOPSYWEB data and the data base of persons reported for the purpose of preventing terrorist radicalization (Fichier de traitement des signalements pour la prévention de la radicalisation à caractère terroriste - FSPRT).<sup>10</sup>

This system has been further reinforced by Article 7 of the recent Law dated July 30, 2021 on the prevention of terrorist acts and on intelligence<sup>11</sup>, in terms of the regulatory provisions concerning the cross-referencing of the HOPSYWEB file of persons admitted to psychiatric hospitalization without consent with security files and access to this health data.

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<sup>7</sup>See: [http://www.senat.fr/rap/r18-614/r18-614\\_mono.html#toc37](http://www.senat.fr/rap/r18-614/r18-614_mono.html#toc37), [https://www.liberation.fr/france/2019/09/09/hebergement-d-urgence-le-pilotage-du-gouvernement-est-assez-brutal\\_1750206/](https://www.liberation.fr/france/2019/09/09/hebergement-d-urgence-le-pilotage-du-gouvernement-est-assez-brutal_1750206/)

<sup>8</sup>See: «Habiller des comités d'éthique pour décider d'administrer des soins psychiatriques sans consentement », Michel Doucin, in Droit, Santé et Société 2018/3-4 (N° 3-4), <https://www.cairn.info/revue-droit-sante-et-societe-2018-3-page-48.htm>

<sup>9</sup> Decree No. 2018-383 dated May 23, 2018

<sup>10</sup>23/08/17 - 17h03 - HOSPIMEDIA, Les psychiatres hospitaliers redoutent le retour d'amalgames entre maladie mentale et dangerosité, <https://www.hospimedia.fr/actualite/articles/20170823-societe-les-psychiatres-hospitaliers-redoutent-le-retour-d>

<sup>11</sup>See: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043876100/>

After the appeals of the National Council of the Order of Physicians and unions of physicians and psychiatrists against this Decree and the lifting of professional secrecy that it implies<sup>12</sup>, already violated by the exchange of e-mails between the police and psychiatric hospitals and also constituting a violation of Article 23 of the CRPD, it is now the turn of the French Federation of Psychiatry to continue to contest this discriminatory recording of data in its pamphlet dated January 10, 2021.<sup>13</sup>

Equating persons under psychiatric care with terrorists is unacceptable and can only reinforce the stigma against persons with psychosocial disabilities.

We recommend that the Committee demand that France put an end to this security drift and fight against discrimination to invest in changing society's representation of people with disabilities based on human rights principles, particularly as regards persons with psychosocial disabilities and the connection made with them and terrorism.

Finally, Advocacy-France remains concerned about the discriminatory practices and the violation of the privacy of people with psychosocial disabilities or in precarious situations living in social housing. The intervention and the filing of data by social landlords through multiple non-medical professionals integrated in a detection system, particularly public housing management companies and building superintendents is also in violation of Law L1110-4 of the French Public Health Code on medical secrecy.

We recommend fundamental changes to French law, along with other measures to ensure equality and to combat disability-based discrimination so as to fulfill France's obligations set forth in the CRPD.

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<sup>12</sup>See: <https://sphweb.fr/blog/2019/05/20/decret-jo-7-ami-2019-fichages-hopsyweb-et-fsrpt-non-au-fichage-des-personnes-en-soins-sans-consentement/>

<sup>13</sup>See: <https://fedepsychiatrie.fr/wp-content/uploads/2021/01/Pamphlet-Fedepsychiatrie-Fichage.pdf>



## **Article 12: Equal recognition before the law**

Advocacy-France continues to be extremely concerned by the number of people deprived of legal capacity because of a disability and the lack of "less restrictive" alternatives and means available as provided for by law. Recent measures taken by France to allow persons "under protection" to exercise certain fundamental rights should not obscure the fact that substitute decision-making systems are widespread and persons with psychosocial disabilities are de facto deprived of their legal capacity when hospitalized and/or treated without consent authorized by law because they are deemed incapable of giving consent.

Other forms of substitute decision-making systems exist, such as judicial support measures ("Mesure d'accompagnement judiciaire - MAJ"<sup>14</sup>) and a family authority system ("habilitation familiale"<sup>15</sup>), implemented under the authority of the judge, but there is subsequently no judicial review of these systems which is unacceptable.

We recommend that France truly put in place the necessary action for assisted decision-making regimes through the promotion and recognition of "persons of trust", "advisors and support persons" and "Advance Directives in Psychiatry", among other support measures that must be made easily accessible for people in difficulty. In the past, for example, the family services agency (Caisses d'allocations familiales - CAF) provided economic and social advisors in socio-cultural centers (and not in social assistance or medico-social structures) with personalized assistance offered to families (help in managing the food budget and social allowances). This mainstream service open to all, was also a much less stigmatizing approach, which our members with disabilities were able to benefit from.

Finally, paying lip service to "experts by experience" will never lead to true recognition as long as the problems of representation and autonomy of persons with disabilities are not resolved.

We also recommend that France put in place a system to collect statistics and data about people placed under these substitute decision-making regimes as requested by the Committee and in particular by type of disability.

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<sup>14</sup> Law dated March 5, 2007

<sup>15</sup> Ordonnance No. 2015-1288 dated October 15, 2015

## Article 14: Liberty and security of the person

We take this opportunity to thank the CRPD Committee for having taken into account the recommendations submitted in our previous contribution and for having asked France to *“...eliminate the deprivation of liberty on the grounds of actual or perceived psychosocial disability or supposed dangerousness, including by abolishing Law 2013-869 of 27 September 2013, and ensure that all decisions relating to psychiatric treatment of persons with disabilities are taken with the free and informed consent of the person concerned”*, including *“medical treatment without the consent of persons with disabilities in institutions and in outpatient treatment programmes, including the use of excessive and forced medication, in order to prevent such treatment and to provide human rights-based rehabilitation”*, as well as for having insisted that France eliminate the use of seclusion arrangements in places of detention and psychiatric hospitals (as we referred to under Article 15).

Again we see with regret that the replies given by France seriously miss the mark, as can be seen by:

- The recent and second decision on lack of constitutionality handed down by the French Constitutional Council on June 4, 2021 upon a request for a priority preliminary ruling on constitutionality filed by an organization for the defense of rights in psychiatry (Cercle de Réflexion et de Proposition d'Actions sur la psychiatrie - CRPA) stating that judicial control of measures of restraint and seclusion was necessary as they constitute deprivation of liberty<sup>16</sup>. This decision will lead to a new legislative reform on the seclusion and restraint of psychiatric patients, but only with regard to the systematic judicial control required to maintain such measures according to terms and conditions that remain to be determined, and not to provide for the elimination of these practices as requested by the Committee.

- France's refusal to understand that measures of deprivation of legal capacity, liberty, isolation and restraint are based on discriminatory practices based on the notion of real or perceived deficiencies and the negation of the will and preferences of persons who are deemed incapable of consenting or making decisions because of their "condition" as judged by psychiatrists (Art. L.3211-2 of the Public Health Code). This also constitutes a refusal to recognize disability in favor of a biomedical approach. As a consequence, the respect of the dignity of the person, information provided, the taking into account of the person's will and preferences and reintegration in the community are almost impossible, as we can see working in the field.<sup>17</sup>

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<sup>16</sup>See: <https://www.conseil-constitutionnel.fr/actualites/communiquedecision-n-2021-912913914-qpc-du-4-juin-2021-communique-de-presse>, [https://www.liberation.fr/societe/sante/en-psychiatrie-on-attache-et-on-isole-faute-de-personnel-20210302\\_R53JLGWY6ZA5JNFBT3ITID4RKA/](https://www.liberation.fr/societe/sante/en-psychiatrie-on-attache-et-on-isole-faute-de-personnel-20210302_R53JLGWY6ZA5JNFBT3ITID4RKA/)

<sup>17</sup> See recent English version of article on research in France contributing to the 2019 Report of the Special Rapporteur on the Rights of Persons with Disabilities on disability-specific deprivation of liberty: <https://www.irdes.fr/recherche/2021/qes-254-les-privations-de-liberte-en-raison-d-un-handicap.html>

- Appeals and challenge procedures are insufficiently accessible. The "Commissions départementales des soins psychiatriques" (CDSP) and the Controller General of Places of Deprivation of Liberty (CGLPL) cited by France do not have the means to carry out their missions of monitoring and evaluation. Even more serious, since Law 2019-222 (Articles 102 and 109) for programming 2018-2022 and the reform for justice, the magistrates sitting in the CDSP are no longer replaced at the end of their mandate. Several associations have protested as the disappearance of magistrates is in total contradiction with the orientations given through the "mental health and psychiatry road map" dated June 28, 2018 being promoted. This is a serious setback to the protection of individual freedoms and fundamental rights in psychiatric institutions.<sup>18</sup>
  
- The judicialization of involuntary hospitalization and treatment with the intervention of a judge of freedoms and detention for review within 12 days of the person's detention and treatment does not constitute a real remedy. With the effect of powerful drug treatments, people have the greatest difficulties to defend themselves, and the judges simply align themselves with the opinion of the psychiatrist, taking only into account the validity of the procedure. Moreover, the piling up of contradictory laws leaves the courts with unresolved dilemmas as mentioned further below (specific case of disabled people in emergency accommodation, page 12).
  
- The hypocrisy attached to the Constitutional Council's decision that forced outpatient treatment ("programmes de soins") cannot be subject to coercion – or implemented through physical force - which would mean that they would therefore be "freely consented to" by the person. However, in case of refusal, the person will see the whole procedure of forced full-time hospitalization restarted against them. The same is true for the care that requires the "consent" of prison detainees, as set out in Article L.3214-3 of the Public Health Code.<sup>19</sup>
  
- The fact that people can be judged not criminally responsible<sup>20</sup> if "the person was affected, at the time of the acts committed, by a psychic or neuropsychic disorder having abolished his/her discernment or the control of his/her acts" and be subject to a compulsory forensic in-patient treatment obligation (Unité pour malades difficiles) for an indefinite period.
  
- Despite the objectives on paper to reduce the use of restraint, seclusion and involuntary hospitalization and treatment in the "Mental health and psychiatry roadmap" of June 2018, the "Action plan to reduce seclusion, restraint and care without consent" (Instruction of March 2017), we do not see any improvement in the reduction of these practices and in particular with regard to the use of the emergency procedure of "imminent peril" as grounds for hospitalization without consent and the use of seclusion and restraint. The Covid 19 crisis has only made this situation worse.
  
- And finally, France's denial of these human rights principles is clearly apparent in its desire to have a "*better understanding of when to resort to non-consensual treatment, seclusion and restraints*", with the stress on registers to record these human rights violations challenged even by certain hospital services against these practices.

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<sup>18</sup>See: <https://www.santementale.fr/2019/09/suppression-du-magistrat-au-sein-des-cdsp/>

<sup>19</sup>See also Articles 45 - 56 of the Loi pénitentiaire dated November 24, 2009.

<sup>20</sup> Article 122-1 of the Criminal Code.

Consequently, we ask the Committee to demand that France put an end to these discriminatory practices in violation of our rights.

**- Specific case of persons with disabilities in emergency shelters and accommodation**

When difficulties arise between a disabled person and persons on probation residing in emergency shelters, the rule remains that any decision concerning the latter is taken only by their probation officer, who is often overloaded and unavailable. In these cases, urgent decisions are delayed and often replaced by the "removal" (or putting on the street) of the disabled person, except for those who accept psychiatric treatment.

The same dilemma arises when the State uses the argument of engaging in a policy of "risk reduction": risks must not be increased by sanctioning an infringement caused by the addiction of its perpetrator.

Because of a lack of rules, we have seen that the police have refused to intervene in at least one case of serious and repeated criminal violence in a residential facility involving a disabled person and an offender who was released from prison and placed in emergency accommodation, because any decision must be made by the probation officer and not the institution or the police.

We recommend that measures be taken to ensure that the right to security of persons with disabilities, especially those who are most in need of emergency housing, is guaranteed on an equal basis with others and without depriving them of their liberty.

**- Draft additional protocol to the Oviedo Convention on Involuntary Placement and Involuntary Treatment**

Regarding the current draft additional protocol to the Oviedo Convention on Involuntary Placement and Involuntary Treatment that has been underway since 2004 –dating before the UN CRPD - France's refusal to acknowledge its blatant incompatibility with the UN CRPD and to bring its own legislation into compliance with the Convention again demonstrates a lack of willingness to recognize the highest international human rights standards. This is extremely disappointing from a country known in the past for its commitment to human rights that has been sidelined for too long by a security and social control-oriented approach. We are not fooled by the "place" given to measures still called "alternatives" or "exceptional cases" as shown by the figures for forced hospitalization in psychiatry, particularly on the grounds of imminent peril.

We recommend that the Committee insist again on this point and contribute to the awareness and information of our country in this respect.<sup>21</sup>

We also recommend that the Committee call on France to put in place a wide range of services that respond to the demands of people with psychosocial disabilities, that respect their autonomy, choices and dignity, including peer support and other alternatives to the biomedical model of mental health that is extremely prevalent in France.

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<sup>21</sup>See: <https://www.edf-fehp.org/join-the-withdrawoviedo-campaign-to-end-coercion-in-psychiatry/>

These services must be resourced for a sustainable existence and mainstreamed across the country, not implemented as one-off projects. They must be freely consented to and designed, run and evaluated with the close collaboration and involvement of all associations representing people with psychosocial disabilities, including:

- emergency reception and crisis centers,
- Respite homes (not limited to homeless people), such as Soteria,
- training based on recovery and human rights in line with the recent WHO Guidelines for person-centered and human rights-based mental health services,
- the actual implementation of the WHO Quality Rights program which is barely known in our country and poorly funded,
- Recovery colleges such as COFOR (Centre de Formation au Rétablissement),
- Advance directives in psychiatry,
- Access to a psychologist of one's choice and to "talking therapies" reimbursed by the public health care system without having to resort, as is currently planned, to general practitioner and psychiatrist gatekeepers for a limited number of sessions.

### **Articles 15, 16, 17: Freedom from torture and other ill-treatment, exploitation, violence and abuse, and respect for physical and mental integrity**

We have already shared information and our concerns with the Committee regarding these articles - the violent and discriminatory practices, the forced hospitalization in psychiatry involving a "treatment obligation" often administered by force, the practices of isolation and mechanical and chemical restraint, the forced treatments in ambulatory care - and the intense suffering and anguish, damaging the physical and mental integrity of persons with psychosocial disabilities causing deep trauma among the people who are victims and who are more and more numerous.<sup>22</sup> We observe the violations of dignity that continue (forced to wear pajamas, placed in isolation room, therapy/activity in the public psychiatric hospital almost non-existent in favor of drug treatment, any challenge seen as a symptom of an illness...). This type of treatment appears to be more of a punishment than care.

Our association also remains very concerned by the practices of restraint that occur outside of psychiatric facilities (emergency rooms, medico-social structures, EPHAD retirement homes for the dependent elderly<sup>23</sup>) which are still not subject to reporting or any legislative framework, nor inspections by the CGLPL.

### **Article 22 - Respect for privacy**

In addition to our concerns expressed regarding Article 5 above about "discriminatory recording of data" or "psychiatric records", Advocacy-France remains concerned about the discriminatory practices of CapEmploi (specialized employment organization to support and provide long-term follow-up and job retention for persons with disabilities) requiring an "in-depth diagnostic service" by third organizations authorized for this purpose ("pps") to obtain confidential medical information from doctors and to contact the former employers of the disabled job seeker before supporting any professional project.

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<sup>22</sup>See recent testimonies: <https://www.zinzizine.net/tag/temoignages/>

<sup>23</sup> Rapport d'information au Sénat n° 341 (2017-2018), "Ehpad : quels remèdes ?" de M. Bernard Bonné au nom de la commission des affaires sociales du 7 mars 2018, see: <https://www.senat.fr/rap/r17-341/r17-341.html>

This is done in order to issue recommendations as to whether the person is fit to work on the mainstream labor market or should be directed to sheltered work or deemed unable to work at all. If the person refuses to disclose this personal information, CapEmploi's services for the professional integration of disabled persons are no longer available to them. We see in these developments and from experience in the field a circumvention of the legislative protection of personal data and the work of the National Commission for Information Technology and Civil Liberties (CNIL).

## **Article 25 – Health**

In 2019, we already raised the serious difficulties of the French health system, and the revolt of health care personnel (major demonstrations, Gilets Jaunes, occupations, hunger strikes), which have only been exacerbated by the Covid 19 crisis and have not been resolved by the "Segur de la Santé".<sup>24</sup>

The State is currently planning « les Assises de la santé mentale et la psychiatrie » on September 27 and 28 of this year without having even contacted various service user organizations working in the field. Likewise, a "Global Mental Health Summit" in the beginning of October is being organized by the Ministry of Health without involving us. These "high masses" as they are called in France, never resolve the issues and are nothing more than window dressing.

The Committee certainly has information on the deterioration of the conditions of access by persons with disabilities to health care on an equal basis with others due to the Covid 19 pandemic in France. Nevertheless, we wish to point to the case of the psychiatric hospital of Moisselles (suburb of Paris) as an example. Following an inspection by the CGLPL, which led to an emergency recommendation on June 19, 2020<sup>25</sup>, the management of this institution chose to sanction the hospital personnel who had questioned the ethical breaches observed. Two Senators questioned the Minister of Health via a letter dated July 20, 2021<sup>26</sup>, considering the disciplinary sanctions unacceptable and deeply shocking because the warnings they gave were given in the interest of psychiatric patients whose rights were clearly being violated. Similar cases in Normandy and elsewhere have been reported to us linked to the failure to report rights violations during this health crisis, with a lack of sufficient staff for many years and the increased use of isolation rooms, especially on weekends.

Service users have no true representation in the "Users' Commissions" (CDU) of psychiatric and social services institutions and no real power against these practices of retaliation against the staff and against the patients.

The continuous malaise of the French health system demonstrates the continuous incapacity of the authorities to negotiate and to take into account the staff of psychiatric hospitals and even less the people who are locked up there.

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<sup>24</sup>See: <https://www.francebleu.fr/infos/economie-social/hopital-public-des-soignants-en-greve-illimitee-pour-denoncer-l-inegalite-du-segur-de-la-sante-1610373105>, [https://www.lemonde.fr/societe/article/2021/06/15/malgre-le-segur-les-soignants-dans-la-rue-pour-defendre-l-hopital-public\\_6084154\\_3224.html](https://www.lemonde.fr/societe/article/2021/06/15/malgre-le-segur-les-soignants-dans-la-rue-pour-defendre-l-hopital-public_6084154_3224.html)

<sup>25</sup>See: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042015570>

<sup>26</sup>See letter from Senators in the middle of the page: <https://printempsdelapsychiatrie.org/>

## **Art. 28 -Adequate standard of living and social protection**

The answers given by France to the Committee's questions on this subject once again seem to "miss the mark".

For a long time, persons with psychosocial disabilities have been demanding the right to the same personal assistance as available to persons with physical disabilities (housekeeping, support in decision-making, managing accounts and administrative situations, accompaniment for local, regional and long-distance transport).

People with psychosocial disabilities are forced to wait for aid ("APA") designed for the elderly that is only available from the age of 60 and that does not take into account the person's disability in the context of the assistance provided to the person. It is not normal that a person with a disability must wait until that age to access these services.

Our members report that the compensation allowances are less and less secure and the amount increasingly decreasing on account of the relations between the Conseils généraux on the county (départemental) level and the State (CNSA). The portion not covered by the State to equip their home and have reasonable accommodation has become more and more of a burden.

Finally, and as the Committee is certainly aware, the recent rejection on June 17 by the National Assembly of the bill on the "deconjugalization" of the Allocation to disabled adults (AAH) which was supposed to be enacted to provide "various measures of social justice" is unacceptable. Disabled people receiving the allowance who are in a couple with a working partner will see their allowance reduced, and if their partner's income exceeds €2270 per month, their AAH will be withdrawn. In this case, the recipient is in a situation of total economic dependence on their partner. This measure goes against an adequate and autonomous personal standard of living and prevents full access to citizenship.<sup>27</sup>

In conclusion, France is not the "country of human rights" as we imagine it to be. It has no more lessons to give with the lack of respect of our fundamental rights.

We strongly hope that this review by the CRPD Committee of the situation in France with regard to implementation of the Convention will be able to change the mentalities, practices and legislation of our country and that France will once again be able to earn its reputation as a champion of human rights by respecting the provisions of the CRPD.

We would like to take this opportunity to thank the members of the CRPD Committee for taking into consideration this contribution and again, remain available for any further information or questions.

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<sup>27</sup>See: <https://petitions.assemblee-nationale.fr/initiatives/i-358>, <https://www.ladapt.net/actualite-ladapt-soutient-la-deconjugalisation-de-laah>