

European Network of (ex-)Users and Survivors
of Psychiatry (ENUSP)

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“ENUSP shadow report on the European Union”

Olga Kalina

Introduction: ENUSP members

- ▶ 36 member organization
- ▶ in 28 European countries

Northern Region: Denmark, Finland, Iceland, Norway, Sweden

North East Region: Latvia, Lithuania, Russia, Ukraine

North West Region: Germany, Ireland, the Netherlands, United Kingdom

Central Region: Czech Republic, Moldova, Poland, Romania, Slovakia

South West Region: Belgium, France, Italy, Portugal, Spain

South East Region: Bosnia&Herzegovina, Georgia, Greece, Serbia, Slovenia

ENUSP Empowerment Seminar in 2015, Brussels





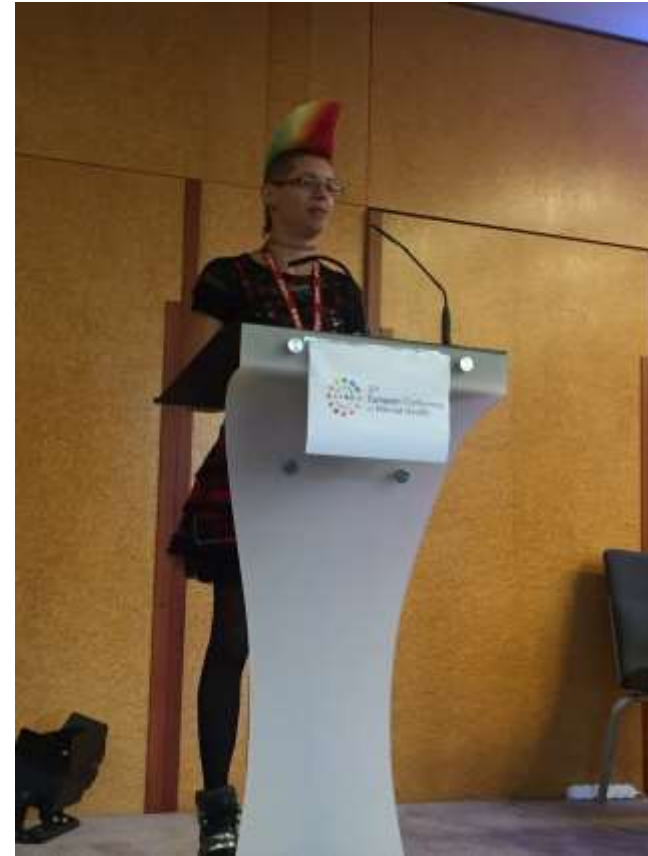
ENUSP Empowerment Seminar in 2016, Berlin



ENUSP and UN CRPD

- ▶ ENUSP experts directly participated in the process of creation of the UN CRPD
- ▶ a valuable tool for promotion and protection of rights of persons who experience mental health problems and/or mental health services
- ▶ not everyone agrees with the terminology, but protection of our rights is there
- ▶ ENUSP Shadow report 2015, Submission on CRPD implementation in the European Union, CRPD-Committee, 14th session, led by Jolijn Santegoeds, who passed away in April.

The review of the European Union by the UN CRPD Committee is postponed to March 2025.



Consultation with members

The European Network of (Ex-)Users and Survivors of Psychiatry has held thematic consultations via dissemination of questionnaires and online discussions with its members in EU states: it covered all articles, but the focus was on

- ▶ deinstitutionalization,
- ▶ legal capacity and
- ▶ the use of coercion.

Information:

- ▶ Improvements
- ▶ barriers based on the opinion and lived experience of ENUSP's members with regard to their rights in the mental health care system throughout the EU and to discuss


Article 5: Equality and non-discrimination

Do persons with mental health problems (actual or perceived) or with a history of mental health crisis/diagnosis have equal opportunities and human rights just like all the other people in your country?

- ▶ France: No. Because of the substituted decision making.
- ▶ Slovenia: No, they experience stigma and discrimination from society and malpractices in psychiatry, including restraints. They also face physical violence.
- ▶ Finland: There is Non-discrimination Act of 2015, which aims at prevention of discrimination. Speaks about reasonable accommodation as an obligation. But there is stigma, in society and in some professionals.
- ▶ Germany: No, definitely, people with psychosocial disabilities are not treated as equal human beings. Stigma, inappropriate jokes, disclosure of confidential information, loss of job, exclusion from society, compulsory measures...

Article 5: Equality and non-discrimination

Have there been cases of discrimination of persons with mental health problems/diagnoses in employment, education, and in the provision of goods and services?

- ▶ **France:** Yes, for example, discrimination by police, according to some respondents they were handcuffed for several hours with no motive. By hospitals, many hours of restraint on a stretcher with no motive.
 - ▶ **Germany:** Officially there is no discrimination, however, in employment people still lose jobs due to attitude of society, despite available support.
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Article 12: Equal recognition before the law

Stigma→coercive practices


- Substituted decision making**
- Forced treatment**
- Forced institutionalization**

France:

- ▶ substituted decision making regimes are in place, 730 000 adults are placed under some form of guardianship, according to the 2020 French Senate and Justice publications

Article 12: Equal recognition before the law

Italy:

- ▶ “Introduction into the Civil Code, Law 6/2004 of the figure of the administrative supporter (trustee), which was presented as a milder and more elastic form of legal protection than guardianship and conservatorship.”
 - ▶ It has become, in many cases, a tool through which it is possible to severely restrict the freedom and violate the rights of those directly concerned (so-called "beneficiaries").”
 - ▶ Often it is the trustee who interfaces with health care services and/or provides informed consent to treatment and makes choices in place of the beneficiary.”
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Article 14: Liberty and security of the person

France:

- ▶ 101 532 persons were legally forcibly hospitalized in psychiatry in 2021.
- ▶ 95 473 persons legally *in forced community care* in 2021 (IRDES study).
- ▶ Restraints: unknown number, but solitary confinement is frequently with mechanical and/or chemical restraints. Solitary confinement: in psychiatric facilities: 28 642 persons in 2021 (IRDES Study)
- ▶ “Electroshocks series require a signature, but that does not means informed consent is respected. People are not in a position of choice: they are deprived of liberty, tortured by forced medication, threatened, lied to, and consent cannot be withdrawn once signed.”
- ▶ The concept that “the psychiatrist is responsible for anything their patients do, and their patients are not.”

Personal experiences related to Article 15 and 16

France:

“We consider forced hospitalization as violence and abuse, and a cause of severe traumatization of persons. People may come back with sleep troubles, nightmares, avoidances (what is called PTSD). Some people may never understand what happened to them and even build false interpretations, because the medical violence they endured is out of their understanding.”

Germany:

“During my worst psychotic episodes, I was treated like a villain, like an outsider and with force. Examples [of coercive measures] are chaining, fixing, giving me medication without my understanding of what I was taking.”


Article 13: Access to justice

France:

Access to justice is hampered by guardianship: “for adults under guardianship, authorization from the guardianship judge or the family council is necessary. Authorization is requested in the form of a request and the guardianship judge **has three months to rule**, but no sanction is provided for in the event of non-compliance with this deadline.”

Slovenia:

People with mental health problems have access to justice and legal aid, **but the lawyers do not like to deal with such cases very much and they practise discrimination.**



Article 15 and 16: Romania



The image released on July 27, 2023 by the Center of Legal Resources, Romania.

Care home in the village of Bardesti in the Central Romanian Mures county. The Center of Legal Resources, or CLR conducted an unannounced inspection of the home and found “alarming level of neglect and abuse”, six residents were found in the basement beneath the home with 23 residents, four of the residents, with severe disabilities were “lying on mattresses soiled with feces, urine and blood.” (CLR)

<https://apnews.com/article/romania-care-homes-scandal-abuse-788423586ca8a8c413f1af0d0b0c2819>

Article 6: Women with disabilities

Lithuania:

Women with disabilities can still be sterilized based on the decision of the guardian

Germany:

“In a clinic where I spent my rehabilitation, there was an extra-area for women who have suffered from sexual harassment by men to offer them a safe space. That was a very positive experience to see.”

Romania, Psychiatry Section in Târgu Jiu, January 2019



https://adevarul.ro/locale/targu-jiu/video-scandal-sectia-psihiatrie-targu-jiu-bolnavi-aproape-dezbracati-filmati-timp-saruta-ating-lasciv-printre-grilaj-1_5c5c319adf52022f757ca0ec/index.html?fbclid=IwAR0HHofNJXTao6iHpE8cnlMkTHCsw5C2-Y0NVsxaPU4kvgjEZt9ePhu_Uas

Article 8: Awareness raising

- ▶ **Finland:** “People in the same neighbourhood **TOGETHER** can be against plans the municipality has in order to open a housing-unit in the area for persons with psychosocial disabilities. So, we have as a society many attitudes **AGAINST** these persons.” (Finland)
- ▶ “The UN CRPD itself is not known to everyone. I, myself, have met this problem for instance when discussing with mental health professionals.”
- ▶ **Germany:** “There are some extra-episodes of podcasts or other programs on psychosocial disabilities, but I have never noticed a connection to the active implementation of the Convention. I only know about the Convention because I am a member of ENUSP.”

Problems clearly within the competency of the EU

- ▶ The old disability strategy was never updated despite the recommendation of the Concluding observations
- ▶ The new disability strategy 2021–2030 has no mention of the Concluding observations, and its scope does not correspond to the scope of Concluding observations
- ▶ Communication on a comprehensive approach to mental health of the European Commission. Introduces 20 flagship initiatives and has €1.23 billion in funding. But has no involvement on our side and has no mention of legal capacity and coercion. Deinstitutionalization is only mentioned occasionally.
- ▶ Draft regulation on the protection of vulnerable adults under the Hague Convention. Has real potential of spreading guardianship regimes and institutionalization practices throughout the EU.

Systematic problems



solutions

- ▶ There has been no review of EU legislation in order to harmonize it with UN CRPD standards. Initiatives and changes not compatible with the UN CRPD.
- ▶ Existing good practices do not find enough support for their expansion and improvement
- ▶ Creation of effective monitoring mechanisms of implementation of the Convention, with the meaningful involvement of persons with psychosocial disabilities

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