



To: Committee on Bioethics (DH-BIO) of the Council of Europe

CC:

Secretary-General of the Council of Europe

Commissioner for Human Rights

President of the Parliamentary Assembly

Chair of the Steering Committee on Human Rights (CDDH)

Brussels, 30 November 2020

Subject: Grave concerns about the draft additional protocol to the Oviedo Convention and potential human rights violations by the Council of Europe

On behalf of the European Disability Forum, umbrella organisation of persons with disabilities defending the interests of over 100 million persons with disabilities in the European Union, together with our members, in particular the European Network of (Ex)-Users and Survivors of Psychiatry, Mental Health Europe, Autism-Europe, Inclusion Europe and the European Association of Service Providers for Persons with Disabilities, **we reiterate our strong opposition to the draft additional protocol to the Oviedo Convention and express deep concerns over the human rights violations potentially about to be undertaken by the Council of Europe.**

Our organisations have been engaged in the discussion on the draft additional protocol to the Oviedo Convention since 2014. From the beginning, we have expressed opposition to the development of measures that violates the rights of persons with disabilities and contradict international human rights laws. Since then, many actors from the United Nations system, civil society and within the Council of Europe have also condemned the work undertaken by the Committee on Bioethics on involuntary treatment and placement in psychiatry.

While the international community is moving towards putting an end to coercion – for instance with the adoption of strong recommendations in the UN Human Rights Council Resolution on Human Rights and Mental Health adopted in March 2020 – the Committee on Bioethics, and as a consequence the Council of Europe as a whole, is going backwards by attempting to legalise what is recognised as human rights violations (by, the UN Committee on the Rights of Persons with Disabilities, the UN Working Group on Arbitrary Detention, the Committee on Economic, Social and



Cultural Rights and the UN Committee on the Elimination of All Forms of Discrimination against Women, among many others).

In fact, even the World Health Organisation (WHO), the specialised UN agency for public health, has recognised the UN Convention on the Rights of Persons with Disabilities (CRPD) as the leading human rights standard in relation to the rights of users of mental health services and withdrawn guidance documents published prior to the CRPD to ensure compliance with the latest human rights norms and standards. Its work is further underpinned by the upcoming good practice guidance on community based mental health services promoting human rights and recovery to be published soon.

By going forward with the adoption of the draft additional protocol, the Committee on Bioethics and the Council of Europe will lose historic credibility on the international level as a leading promotor of human rights in Europe.

In this last opportunity for comments on the draft protocol, we remind the Committee on Bioethics, and all its members, that **the adoption of the protocol will create a legal conflict between the obligations of States at the regional level (Council of Europe) and the international level (CRPD)**. Two different standards will apply in European States which for the vast majority have ratified the CRPD, setting a **very dangerous precedent for human rights in Europe and beyond**.

We call on you to withdraw the draft additional protocol to the Oviedo Convention.

Sincerely,

Yannis Vardakastanis, President of the European Disability Forum

Olga Kalina, Chair of the European Network of (Ex)-Users and Survivors of Psychiatry

Jyrki Pinomaa, President of Inclusion Europe



Harald T Neerland, President of Autism-Europe

Jan Berndsen, President of Mental Health Europe

Luk Zelderloo, Secretary General of the European Association of Service Providers for Persons with Disabilities