



**MHE Position Paper on the occasion of the Fundamental Rights Conference,
Stockholm, 10-11 December 2009
The principle of equal treatment between persons irrespective of their mental health
status: human rights for all!**

Introduction

The current Human rights aspect of mental health is serious, multifaceted and pervasive. One in four people will experience mental health problems during their lifetime, these problems can occur in childhood, adolescence, adulthood and in later years.

A [Eurobarometer](#) study¹ in the EU-15 Member States in 2003 found that **people with mental health problems were most likely to be perceived as not having "the same chance of getting a job, training or promotion"** as others. Moreover, people with mental health problems are exposed to significant discrimination when trying to access education, housing, employment, childcare and healthcare and this can be compounded by gender, disability, age and socio economic status. People living in psychiatric facilities are at a higher risk of human rights violations but because they are hidden out of sight they are frequently forgotten.

The right to enjoy **legal capacity** is often violated as guardianship systems can deprive them of their prerogative to make their own decisions in relation to lifestyle, the **right to vote** and to participate in society. People with mental health problems are also at a greater risk **of being discriminated against on multiple grounds**: their mental illness, gender, socio/economic status, disability or age.

In the current economic climate **poverty** is increasing and consequently more people are being exposed to human rights violations.

Mental Health Europe (MHE) would like to highlight the fact that **Human Rights are universal** with no exceptions or exclusion and should be enforced to protect the most vulnerable people in society.... the mentally ill, people living with disabilities, the undocumented migrants, those living in poverty, Lesbian, Gay, Bisexual and transgendered and all other minority groups.

Policy context

International human rights standards like Article 1 of the Universal Declaration of Human Rights, adopted by the United Nations in 1948, provide that all people **are free and equal in rights and dignity**. Thus people with mental disorders are also entitled to the enjoyment and protection of their fundamental human rights. Article 12 of the **International Covenant on Economic, Social and Cultural Rights**² (ICESCR) establishes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The issue of **legal capacity of people with**

¹ http://ec.europa.eu/health/ph_determinants/life_style/mental_eurobaro.pdf

² <http://www2.ohchr.org/english/law/cescr.htm>

disabilities is addressed by the **UN Convention on the Rights of Persons with Disabilities**³, the first human rights treaty to be ratified by the EU.

The right to health and other social rights are also contained in European human rights instruments such as the **European Social Charter**⁴. The right not to be discriminated against is protected by the **European Convention on Human Rights of the Council of Europe**⁵.

At EU level, besides the protection offered by the UN Convention on the Rights of Persons with Disabilities, human rights of people with mental health problems are theoretically protected by the **EU Charter of Fundamental Rights**⁶, part of the **Lisbon Treaty** which entered into force on 1st December 2009. **The European Pact for Mental Health and Well Being**⁷ recognizes the right to good mental health as human right. These different legal instruments include important rights linked to the situation of people in mental distress. Moreover, the European Commission directive proposal rooted in the EU Treaty in the field of fighting discrimination is an important step towards equal treatment for everybody.

The importance of the promotion of rights of people with mental health problems has been underlined by the **Fundamental Rights Agency** (FRA). The FRA included in its Work Programme for 2009 a project⁸ focusing on the issue of Fundamental Rights of Persons with Intellectual Disabilities and Persons with Mental Health Problems.

But **more policies are needed** to address the issue of protection for every citizen against discrimination in every area of life.

Key recommendations from Mental Health Europe

Mental Health Europe is concerned regarding the degree of human rights violations perpetrated against people with mental health problems. Human rights are universal and apply to everybody in the society. **Non discrimination legislation is at the core of the human rights protection.** Therefore MHE calls upon policy makers at all levels to:

- **To implement effectively the rights at EU and national level contained in the EU Charter of Fundamental Rights** including the right to work (Article 15), right to health care (Article 35), the right to access justice institutions (Article 47) and the right to live a dignified life (Chapter 1)
- **At national level: For EU Member States, to use a broad scope** of grounds in defining **anti discrimination legislations** including health status and give National Equality Bodies a larger mandate than the one foreseen in the different EU directives; directives are a minimum protection but member states are free to go beyond the protection set in EU directives. **MHE strongly calls Member States to do so.**
- **To implement the European Pact on Mental Health and Well Being** in order to promote the right to good mental health for everybody.
- **To adopt the EU directive on implementing the principle of equal treatment** between persons irrespective of religion or belief, disability, age or sexual orientation beyond employment.
- **At national level, to implement the UN Convention on the rights of Persons with**

³ ENABLE Website: <http://www.un.org/disabilities/index.asp>

⁴ http://www.coe.int/t/dghl/monitoring/socialcharter/default_en.asp

⁵ Article 14 <http://www.echr.coe.int/nr/rdonlyres/d5cc24a7-dc13-4318-b457-5c9014916d7a/0/englishanqlais.pdf>

⁶ http://www.europarl.europa.eu/charter/pdf/text_en.pdf

⁷ http://ec.europa.eu/health/ph_determinants/life_style/mental/docs/pact_en.pdf

⁸ http://www.europarl.europa.eu/news/expert/infopress_page/019-65084-327-11-48-902-20091124IPR65083-23-11-2009-2009-false/default_en.htm

Disabilities. Enjoyment of **legal capacity** for people with mental health problems should be protected by national and EU policies. Additionally the right to be treated decently and the right not to be in compulsory care should be enforced. Finally, involving and empowering people with mental health problems, this is particularly important as they have the expertise and knowledge to assist policy makers in identifying key challenges and good practices.

*Mental Health Europe
Brussels, 10 December 2009*

About Mental Health Europe

Mental Health Europe (MHE) is an organisation committed to the promotion of positive mental health, the prevention of mental distress, the improvement of care, advocacy for social inclusion and the protection of human rights for people with mental health problems, their families and carers. MHE vision is of a Europe where mental health and well-being is given high priority in the political spectrum and on the European health and social agenda, where people with mental health problems live as full citizens with access to appropriate services and support when needed, and where meaningful participation is guaranteed at all levels of decision-making and administration. MHE's values are based on dignity and respect, equal opportunities, freedom of choice, anti-discrimination, social inclusion, democracy and participation.

www.mhe-sme.org