



**Statement of Mental Health Europe on the occasion of the NGO meeting  
with Deputy High Commissioner Kyung-wha Kang of the United Nations  
Brussels, 14 April 2010**

**Who are we?**

Mental Health Europe (MHE) is a non governmental organisation committed to the promotion of positive mental health and well-being, the prevention of mental disorders, the improvement of care, advocacy for social inclusion and the protection of the human rights of (ex) users of mental health services and their families and carers. MHE represents associations, organisations and individuals active in the field of mental health and well-being in Europe, including (ex) users of mental health services, volunteers and professionals of many disciplines.

**Mental Health and the UN Convention on the Rights of Persons with Disabilities**

MHE warmly welcomes the steps undertaken at EU and national level towards the ratification of the UN Convention on the Rights of Persons with Disabilities. The UN Convention is an extremely positive instrument towards the protection of human rights for everybody including people with disabilities.

MHE would like to underline the importance of the definition of "disability" given in the Convention, due particularly to the fact that it makes a clear inclusion of people with mental health problems in the scope of protection set by the Convention. This is a great step forward for the promotion of human rights in the mental health field.

The Convention as a whole provides a consistent system of protection worldwide and especially thanking to its Optional Protocol gives a real voice to people with disabilities who experienced a violation of their basic rights. Moreover, it endorses the principle of meaningful participation through several of its provisions.

Different articles are of great importance to attain this core objective. The Article 12 and 19 of the Convention guaranteeing the legal capacity and the right to community living are crucial for all disabled people including people with mental health problems.

Some articles are of specific interest and condition the implementation of other articles provisions for people with mental health problems. The article 14 "Liberty and security of person" and the article 15 "Freedom from torture or cruel, inhuman or degrading treatment or punishment" address in a strong way the situation of people with mental health problems. Indeed, people with mental health problems are often deprived of their freedom to move and to live in a safe environment due to their frequent institutionalisation for "public safety" reasons. Their human rights are often more at risk of violation for different reasons, including the right to be protected from torture which is easily violable due to the use of coercive seclusion in specific rooms of the facility.

MHE is particularly concerned about the future implementation of these articles by the different countries and fears that the national legislative organ will not entirely comply with the provisions

of the UN Convention. Indeed, the existence of psychiatric diagnosis often provides a justification to deprive the liberty of people with mental health problems and this state of fact might be difficult to change. Moreover, MHE and its Committee on Mental Health and Human Rights have a great concern about the issue of torture of secluded people behind closed doors. These people are often put in seclusion rooms without clothes and left there for an extended amount of time without proper care or monitoring from the staff. To that extent, in March, MHE launched a survey on the legal and actual situation of seclusion and restraints in the EU Member States to gather more concrete information about the bad and the good practices in this field.

These articles (14, 15) provisions are a core safeguard for people with mental health problems. Their implementation needs to be closely monitored in order that State parties don't make "witness" ratification, i.e. ratify without effective implementation. MHE also works for a positive implementation of different articles of the UN Convention on the Rights of Persons with Disabilities which are also advocated for by other NGOs (i.e. Article 12 and 19).

### **MHE recommendations**

MHE believes that a realistic implementation of the Convention provisions at EU level and at national level, mainstreaming the meaningful participation of people with disabilities in all areas of life, is possible and therefore calls:

- **On the NGOs** to maintain the pressure on EU Member States which did not ratify the Convention and to monitor the situation in the countries where the convention has been accessed to in order to give recommendations to the public authorities for a substantive implementation.
- **On the EU institutions** to deposit the ratification instrument for the Convention to become binding for the EU: The Council of the European Union adopted the decision to ratify the Convention on 26 November 2009 but the Convention will become binding for the EU only when the ratification instrument will be formally deposited at the United Nations.
- **On the EU Member States** to swiftly ratify the UN Convention on the Rights of Persons with Disabilities and to open a dialogue with national NGOs active in the field of disability about the practical mechanisms (such as the mechanism set by Article 33 of the UN Convention) but also about the interpretations that should be given to the different provisions of the text. Participation should remain the core objective and mechanism of the UN Convention.
- **On the United Nations** to take an important lead in the monitoring process of the implementation and to accept the possibility for NGOs to make shadow reports of the yearly State reports. This activity could be seen as part of Article 32 of the Convention on international cooperation.

#### **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.

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