

Future directions of mental health law in Europe

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chambers

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What's the point of mental health law?

~~Guide for providing mental health services~~

~~Budget for community support services~~

~~Promoting living independently~~

Authorisation for otherwise unlawful actions*

Art. 5(1) ECHR

s.68 Medical Treatment Law

* Locking people up, and injecting them with powerful chemicals against their will



2

The rule of [mental health] law

Info

Art. 5(2) ECHR

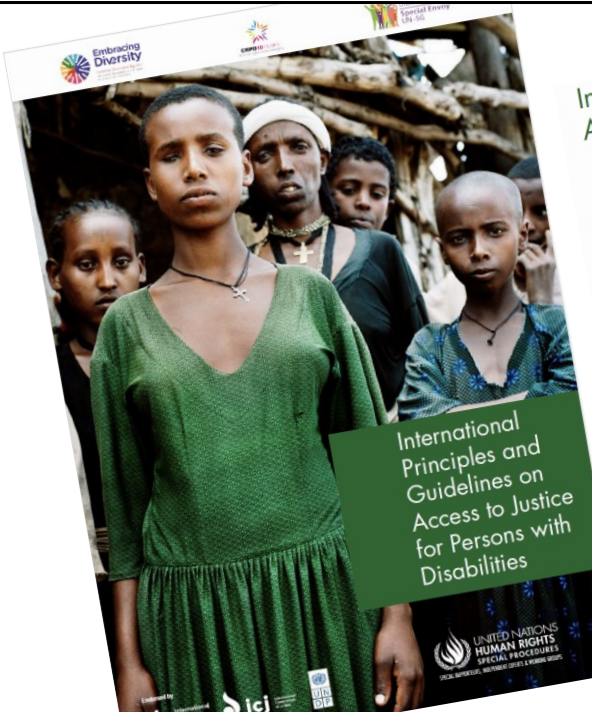
Court

Art. 5(4) ECHR

Lawyer

Megyeri v Germany (1992) 15 EHRR 584, “The importance of what is at stake for him – personal liberty – taken together with the very nature of his affliction – diminished mental capacity – compel this conclusion.”

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Embracing Diversity
Special Events

International Principles and Guidelines on Access to Justice for Persons with Disabilities

Principle 1
All persons with disabilities have legal capacity and, therefore, no one shall be denied access to justice on the basis of disability.

Principle 2
Facilities and services must be universally accessible to ensure equal access to justice without discrimination of persons with disabilities.

Principle 3
Persons with disabilities, including children with disabilities, have the right to appropriate procedural accommodations.

Principle 4
Persons with disabilities have the right to access legal notices and information in a timely and accessible manner on an equal basis with others.

Principle 5
Persons with disabilities are entitled to all substantive and procedural safeguards recognized in international law on an equal basis with others, and States must provide the necessary measures to guarantee due access to justice.

Principle 6
Persons with disabilities have the right to free or affordable legal assistance.

Principle 7
Persons with disabilities have the right to participate in the administration of justice on an equal basis with others.

Principle 8
Persons with disabilities have the rights to report complaints and initiate legal proceedings concerning human rights violations and crimes, have their complaints investigated and be afforded effective remedies.

Principle 9
Effective and robust monitoring mechanisms play a critical role in supporting access to justice for persons with disabilities.

Principle 10
All those working in the justice system must be provided with awareness-raising and training programmes addressing the rights of persons with disabilities, in particular in the context of access to justice.

UNITED NATIONS HUMAN RIGHTS SPECIAL PROCEDURES
OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

icj

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Daugavpils & Aknīste

2003 v 2022

Sparse, crowded rooms
Lack of activities
Biomedical approach
Institutional cycle
'Voluntary' patients

Info / court / lawyer

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Mental health law in Europe today

MH system "dominated by a reductionist biomedical model that uses medicalization to justify coercion as a systemic practice and qualifies the diverse human responses to harmful underlying and social determinants (such as inequalities, discrimination and violence) as "disorders" that need treatment" (Puras 2020)

- CRPD "undermined and neglected"
- Buildings renovated (EU €)
- Limited development of community services
- Pockets of good practice, little scaling-up
- Psychiatrists dominate debates
- User groups are small and politically invisible
- Judges rubber-stamp psychiatric decisions
- No / inadequate legal representation



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Mental health law in Europe tomorrow

- MH service users co-producing change
- MH professionals
- Judges - training and professional standards
- Lawyers
 - Bar Association trains and accredits
 - Lawyers provide proper representation
 - Lawyers identify test cases
- Legal Aid for MH cases
- Law schools –teaching and law clinics
- Academics – teach and research
- NHRI / NPM - monitor change

