



On 16 January 2014 the CPME Executive Committee adopted the 'CPME response to Council of Europe consultation regarding the Draft Additional Protocol to the Convention on Human Rights and Biomedicine' (CPME 2014/007 FINAL)

CPME response to consultation regarding Draft Additional Protocol to the Convention on Human Rights and Biomedicine
Council of Europe
Committee on Bioethics (DH-BIO)

The Standing Committee of European Doctors welcomes the opportunity to submit recommendations on the Protocol to the Convention on Human Rights and Biomedicine. We express our willingness and motivation to cooperate on future occasions. In order to enhance the consultation process, CPME would like to kindly ask for a longer time delay to submit its response.

QUESTIONS

Exercise of rights

1. Which measures/safeguards should be taken to assist a person with a mental disorder subject to a treatment and/or placement measure in the exercise of his/her rights in particular, right to appeal, right to have the decision of treatment or placement reviewed and right to be heard?

If a person with a mental disorder is to be treated/placed in a hospital and is unable to give his/her consent, an immediate court decision is necessary. If, in emergency situations, treatment/placement is introduced, he/she must be given a right to immediate appeal to the court.

2. Who should be able to assist the person concerned? What should be his/her role?

It should be a person nominated by the patient, his/her legal caregiver or a lawyer nominated specially by the court.

Monitoring

3. What measures should be taken to ensure an appropriate monitoring of involuntary placement/treatment?

It must be performed under constant court supervision.



4. Should a distinction be made between treatment and placement in this context?

No distinction is needed.

Emergency situations

5. Are there emergency situations justifying involuntary measures without respecting all the conditions and criteria to be fulfilled in non-emergency situations?

Yes, the emergency situation justifying such measures would be one of direct danger to the patient himself or to other people caused by the patient's behaviour.

6. Are there special safeguards to be provided? Persons not able to consent and not opposing

Generally the court supervision is such a safeguard.

7. Some persons with a mental disorder not having the capacity to consent are considered in need of placement or treatment and are not objecting to the measures considered. This situation is, for example, likely to occur with respect to persons with advanced dementia. Should the protective regime to be considered for such persons be the same as in the case where the person concerned opposes the proposed measure?

No, but the consent of a close person, factual guardian, legal representative, legal caregiver or a court is also needed.

Minors

8. Are particular safeguards necessary for the protection of minors with serious mental disorders in the context of involuntary measures?

Even if the consent of a caregiver is basic, consent of a patient should be sought.

9. If you wish to highlight additional issues in the context of this discussion on the protection of the human rights and dignity of persons with mental disorders with regard to involuntary treatment and involuntary placement, please indicate them below with a brief explanation of the main concerns.