

ENNHRI calls on Council of Europe Member States to oppose the adoption of the Additional Protocol to the Oviedo Convention

The Council of Europe is expected to vote soon on the Additional Protocol to the Oviedo Convention on Bioethics, amid the opposition of leading civil society organisations and the UN Committee on the Rights of Persons with Disabilities. ENNHRI reiterates its concerns that the Additional Protocol would create a conflict between international standards and may lead to further violation of the human rights of persons with disabilities in Europe.

In 2014, the Council of Europe and its [Committee of Bioethics](#) (DH-BIO) initiated the work on a draft legislation to regulate involuntary treatment and placement of “persons with mental disorders”: the draft Additional Protocol to the Oviedo Convention. Public consultations have taken place since then, and leading bodies and organisations working in the field of disability rights have [strongly opposed](#) the adoption of the Additional Protocol, such as the [UN CRPD Committee](#), several [UN human rights experts](#), the [Council of Europe’s Commissioner for Human Rights](#), the [Parliamentary Assembly of the Council of Europe](#), and the [European Disability Forum](#).

ENNHRI has voiced the concerns of National Human Rights Institutions (NHRIs) regarding previous iterations of the draft Additional Protocol in [2018](#) and in [2014](#). Despite the textual changes in the draft, ENNHRI remains concerned about the impact the draft Additional Protocol would have on the rights of persons with disabilities, if adopted. Particularly, we reiterate the concern from our previous [Statement](#) that, if adopted, the Additional Protocol will create a conflict between international standards at the global and European levels.

The Council of Europe’s Steering Committee for Human Rights (CDDH), in the context of its [report](#) on “The longer-term future of the system of the European Convention on Human Rights”, considered that “the credibility of the Convention mechanism could be undermined if the Convention were to be interpreted in a manner inconsistent with States’ commitments under other treaties, whether regional or global”. ENNHRI believes that the same reasoning should apply in the context of the Additional Protocol to the Oviedo Convention.

The UN CRPD Committee has [found](#) that the draft Additional Protocol still falls short of fully observing the spirit and provisions of the UN Convention on the Rights of Persons with Disabilities. Thus, its adoption would result in fragmented, conflicting frameworks in the field of international human rights law for persons with disabilities.

The absence of harmonised standards could create a lack of clarity and hinder the efforts of Member States when implementing the necessary changes at the national level. This is particularly the case for those States that already engage in a constructive dialogue with the UN CRPD Committee. Finally, for human rights defenders, such as NHRIs, civil society and disabled persons organisations (DPOs), the existence of conflicting international norms at the global and European levels could hinder their work for the promotion and protection of the human rights of persons with disabilities in Europe.

ENNHRI also echoes the [reasoned concerns](#) of several stakeholders that the Additional Protocol, despite its proposed intention, would risk solidifying institutionalisation of persons with disabilities, could inadvertently result in an increase in the resort to coercion, and may not contribute to preventing human rights violations of persons with disabilities. Experts have also demonstrated [concerns](#) about the potential negative impact of the Additional Protocol on older persons with disabilities.

Moreover, the European Court of Human Rights (ECtHR) [received](#) in December 2019 a request for an advisory opinion from DH-BIO in order to obtain clarity on certain aspects of the legal interpretation of Article 7 of the Oviedo Convention. So far, the ECtHR has not provided its advisory opinion. ENNHRI believes it would be premature to approve the draft Additional Protocol before receiving the ECtHR's view.

In light of all the concerns above, ENNHRI respectfully calls upon the Member States of the Council of Europe to oppose the adoption of the Additional Protocol and to instruct the Council of Europe to use its expertise and resources to fulfil important gaps in this field, in harmony with the broader corpus of international human rights law and in close consultation and cooperation with disabled persons organisations (DPOs), the UN CRPD Committee and NHRIs.

About ENNHRI and its CRPD Working Group

ENNHRI, the European Network of National Human Rights Institutions (NHRIs), brings together 47 members across Europe to enhance the promotion and protection of human rights in the region. Our work on the rights of persons with disabilities is facilitated through our CRPD Working Group, which brings together over 30 European NHRIs to exchange knowledge, good practices and challenges.