



**Declassified<sup>1</sup>**

AS/Soc (2025) PV03add2

16 May 2025

Fsocpv03add2\_2025

## **Committee on Social Affairs, Health and Sustainable Development**

### **Minutes**

#### **of the hearing on the Draft Additional Protocol to the Convention on Human Rights and Biomedicine concerning the protection of human rights and dignity of persons with regard to involuntary placement and involuntary treatment within mental healthcare services, held in Strasbourg on Tuesday 8 April 2025**

**Ms Saskia Kluit**, Chairperson of the Committee, opened the meeting and said that the Committee had been asked to give an opinion (Rapporteur: Ms Carmen Leyte, Spain, EPP/CD) on the “Draft Additional Protocol to the Convention on Human Rights and Biomedicine concerning the protection of human rights and dignity of persons with regard to involuntary placement and involuntary treatment within mental healthcare services” (hereafter: “draft Additional Protocol”), as requested by the Committee of Ministers. Stressing the sensitivity of the issue, she welcomed the organisation of a hearing in order to arrive at a more informed position. She welcomed and introduced the two speakers.

#### **Ms Damaris Carnal, Vice-Chair of the Council of Europe Steering Committee for Human Rights in the fields of Biomedicine and Health (CDBIO)**

**Ms Carnal** expressed gratitude for the interest in the CDBIO work and provided an overview of its efforts to promote autonomy and protect human rights in mental healthcare, including the draft Additional Protocol. She stressed that this draft Additional Protocol, a legal instrument, is one component of a comprehensive approach, alongside three key complementary documents: a draft Recommendation on the respect of autonomy in mental healthcare, a compendium of good practices to promote voluntary measures, and a report on the case law of the European Court of Human Rights on involuntary measures. These documents should be seen as a “package”. The draft Additional Protocol and the draft Recommendation complement and reinforce each other.

The history and the rationale behind the draft Protocol stemmed from the recognition of the vulnerability of individuals with mental health issues, with a focus on the protection of their rights. Two main observations - 1) existing gaps in the legal frameworks of some member States regarding involuntary placement and treatment and 2) a significant number of cases brought before the European Court of Human Rights - led to the decision to create a legally binding instrument. The draft Protocol aimed to ensure that involuntary measures were always a last resort and used only when strictly necessary to prevent serious harm to the patient or others, and should always be carried out in an appropriate environment and for a therapeutic purpose, with effective safeguards in place such as procedures for appeals, representation and oversight. From the start, the CDBIO sought to involve stakeholders, including NGOs, patient representatives, and healthcare professionals, through hearings and public consultations. UN and Council of Europe bodies, such as in particular the Steering Committee for Human Rights (CDDH) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), were consulted at various stages and expressed their support for the ongoing work.

The draft Additional Protocol, considered in isolation, faced criticism in 2022 for its focus on coercion-related aspects and for not paying sufficient attention to the promotion of autonomy, prompting the Committee of Ministers to adopt a more comprehensive approach that emphasised the promotion of autonomy of persons with mental health issues. The accompanying Recommendation provides guidance on reducing coercion and ensuring the respect for autonomy, through education, training, and public awareness. However, as the reality demonstrated with involuntary

<sup>1</sup> The minutes were approved and declassified by the Committee on Social Affairs, Health and Sustainable Development at its meeting on 16 May 2025.

measures still used in member States, there was a real need for a legally binding instrument to protect the human rights and dignity of persons placed in institutions.

In conclusion, **Ms Carnal** stressed that the draft Additional Protocol was a pragmatic response to a factual reality, establishing clear legally binding standards to prevent abuses and violations of human rights of a very vulnerable category of persons, pending the achievement of the goal of autonomy in mental healthcare.

#### **Ms Laverne Jacobs, member of the Committee on the Rights of Persons with Disabilities (online)**

**Ms Jacobs** emphasised that the Committee on the Rights of Persons with Disabilities had repeatedly urged Council of Europe member States, which were also parties to the Convention on the Rights of Persons with Disabilities (CRPD) to withdraw the draft Additional Protocol to the Oviedo Convention. Reference was made to the open letters of 2018, 2021, and January 2025, as well as the concluding observations adopted by the Committee in its dialogues with Council of Europe member States. The key message was the need to avoid fragmentation of international law. The draft Additional Protocol blatantly contradicted the legal obligations of member States under the CRPD, potentially setting a dangerous precedent by introducing weaker standards that circumvented key international treaties and undermined the rights of persons with disabilities.

**Ms Jacobs** recalled that the CRPD is a binding instrument that ensures that persons with disabilities enjoy human rights and fundamental freedoms on an equal basis with others. Fundamental to this was the rejection of impairment as the basis for any limitations on rights. However, the draft Additional Protocol was seen as conflicting with several provisions of the CRPD, such as articles on equality and non-discrimination, liberty, prohibition of torture, physical and mental integrity, the right to live independently and be included in the community, and the right to health. The draft Additional Protocol was specifically criticised for violating the rights of persons with disabilities by allowing involuntary placement and treatment, which contradicts the principles of autonomy, liberty, and dignity under the CRPD.

**Ms Jacobs** pointed out that provisions of the CRPD, such as article 12 (on legal capacity) and article 14 (on liberty), explicitly protect persons with disabilities from being deprived of their rights on the basis of their impairment. Involuntary treatment practices often subject individuals with psychosocial or intellectual disabilities to discriminatory treatment, violating their rights to legal capacity, liberty, and dignity. She further highlighted that such practices could lead to cruel and inhuman treatment, in violation of the CRPD's prohibition of torture, and that there is evidence that such practices cause trauma and long-lasting consequences. She noted that the Parliamentary Assembly, the former Commissioner for Human Rights and European civil society had expressed their opposition to this instrument. In conclusion, she urged the Assembly to avoid undermining international law and called for the implementation of regional measures that respect the rights of persons with disabilities in accordance with the provisions of the CRPD, and to express its opposition to the draft Additional Protocol.

#### **Discussion**

**Mr Farrugia** asked who is responsible in the case of a severe disability that prevented the person from making a decision.

As a doctor, **Ms Leyte** emphasised that she agreed with both speakers and that it was necessary to protect the rights of all patients. She considered that the protocol respected this requirement. When confronted with a person in crisis of schizophrenia, unable to face reality, she saw no alternative to hospitalisation, as a last resort and only for the time necessary.

**Ms Carnal** replied that the draft Additional Protocol was designed to deal with pragmatic issues because it was happening in people's real lives. The text of the draft Protocol stated that involuntary placement was the last resort and carried out within a legal framework.

**Ms Kluit** emphasised the usefulness of the above-mentioned set of documents for the doctors. She then closed the hearing.

## List of presence / *Liste de présence*

(The names of members who took part in the meeting are in bold / *Les noms des membres ayant pris part à la réunion sont en caractères gras*)

Chairperson / *Président·e*:

<b>Ms / Mme Saskia Kluit</b>	
------------------------------	--

Vice-Chairpersons / *Vice-Président·e·s* :

Ms / Mme Danuta Jazłowiecka	
<b>Mr / M. Armen Gevorgyan</b>	
<b>Lord Don Touhig</b>	

<b>Members / Membres</b>	<b>Country / Pays</b>	<b>Alternates / Remplaçant·e·s</b>
Ms Jorida Tabaku	Albania / <i>Albanie</i>	Zz...
Mr Cerni Escalé	Andorra / <i>Andorre</i>	Mme Bernadeta Coma
<b>Mr Armen Gevorgyan</b>	Armenia / <i>Arménie</i>	Ms Hripsime Grigoryan
Mr Stefan Schennach	Austria / <i>Autriche</i>	Ms Doris Bures
<b>Mr Andreas Minnich</b>	Austria / <i>Autriche</i>	Ms Agnes Sirkka Prammer
<b>Ms Anne Lambelin</b>	Belgium / <i>Belgique</i>	Mr Andries Gryffroy
M. Benoît Lutgen	Belgium / <i>Belgique</i>	Mme Véronique Durenne
Ms Darijana Filipović	Bosnia and Herzegovina / <i>Bosnie-Herzégovine</i>	Mr Šemsudin Dedić
Ms Atidzhe Alieva-Veli	Bulgaria / <i>Bulgarie</i>	Zz...
Ms Petya Tsankova	Bulgaria / <i>Bulgarie</i>	Zz...
<b>Ms Zdravka Bušić</b>	Croatia / <i>Croatie</i>	Ms Rada Borić
Ms Christiana Erotokritou	Cyprus / <i>Chypre</i>	Mr Constantinos Efstathiou
Ms Ivana Mádllová	Czechia / <i>Tchéquie</i>	Mr Aleš Juchelka
Ms Michaela Šebelová	Czechia / <i>Tchéquie</i>	Mr Ondřej Šimetka
Ms Camilla Fabricius	Denmark / <i>Danemark</i>	Ms Karin Liltorp
Ms Hanah Lahe	Estonia / <i>Estonie</i>	Zz...
Ms Minna Reijonen	Finland / <i>Finlande</i>	Ms Miapetra Kumpula-Natri
<b>Mme Sophia Chikirou</b>	France	<b>Ms Sabrina Sebaihi</b>
M. Alexandre Dufosset	France	Mme Liliana Tanguy
<b>M. Alain Milon</b>	France	M. Alain Cadec
Mme Maud Petit	France	M. Jean Laussucq
Zz...	Georgia / <i>Géorgie</i>	Zz...
Ms Heike Engelhardt	Germany / <i>Allemagne</i>	Ms Franziska Kersten
<b>Mr Andrej Hunko</b>	Germany / <i>Allemagne</i>	Ms Catarina Dos Santos-Wintz
<b>Mr Christian Petry</b>	Germany / <i>Allemagne</i>	Ms Martina Stamm-Fibich
Mr Harald Weyel	Germany / <i>Allemagne</i>	Ms Katrin Staffler
Ms Maria Syrengela	Greece / <i>Grèce</i>	<b>Ms Maria-Nefeli Vasileiou Chatziioannidou</b>

<b>Mr Georgios Stamatis</b>	Greece / Grèce	Mr Alexis Tsipras
Ms Mónika Bartos	Hungary / Hongrie	Mme Katalin Csöbör
Ms Mónika Dunai	Hungary / Hongrie	Ms Zita Gurmai
Mr Ragnar Þór Ingólfsson	Iceland / Islande	Ms Kolbrún Áslaugar Baldursdóttir
Mr Joseph O'Reilly	Ireland / Irlande	Mr Rónán Mullen
Ms Elena Bonetti	Italy / Italie	Mr Roberto Rosso
<b>Ms Aurora Floridia</b>	Italy / Italie	Mr Giuseppe De Cristofaro
Mr Alessandro Giglio Vigna	Italy / Italie	Mr Graziano Pizzimenti
Mr Stefano Maullu	Italy / Italie	Mr Francesco Zaffini
M. Andris Bērziņš	Latvia / Lettonie	Mr Edmunds Cepurītis
Mr Peter Frick	Liechtenstein	Ms Franziska Hoop
Ms Orinta Leiputė	Lithuania / Lituanie	Mr Zigmantas Balcytis
Mme Stéphanie Weydert	Luxembourg	M. Paul Galles
<b>Mr Michael Farrugia</b>	Malta / Malte	Mr Joseph Beppe Fenech Adami
Mr Ion Groza	Republic of Moldova / République de Moldova	Ms Diana Caraman
Mme Christine Pasquier-Ciulla	Monaco	<b>Mme Béatrice Fresko-Rolfo</b>
Mr Miloš Konatar	Montenegro / Monténégro	Mr Boris Mugoša
<b>Ms Saskia Kluit</b>	Netherlands / Pays-Bas	<b>Ms Elly Van Wijk</b>
Ms Carla Moonen	Netherlands / Pays-Bas	Mr Theo Bovens
Mr Bekim Kjoku	North Macedonia / Macédoine	Mr Sadula Duraki
Ms Lisa Marie Ness Klungland	Norway / Norvège	Ms Linda Hofstad Helleland
Ms Danuta Jazłowiecka	Poland / Pologne	Mr Mirosław Adam Orliński
<b>Mr Jan Filip Libicki</b>	Poland / Pologne	Ms Magdalena Biejat
Mr Ryszard Petru	Poland / Pologne	Zz...
<b>Ms Jamila Madeira</b>	Portugal	Mr Nuno Fazenda
Mr Carlos Silva Santiago	Portugal	Mr Telmo Faria
<b>Georgeta-Carmen Holban</b>	Romania / Roumanie	Ms Mirela Elena Adomnicai
<b>Ms Dumitrina Mitrea</b>	Romania / Roumanie	Mr Iulian Bulai
Mr Robert-Ionatan Sighiartau	Romania / Roumanie	<b>Ms Maria-Gabriela Horga</b>
<b>Mr Gerardo Giovagnoli</b>	San Marino / Saint-Marin	<b>Ms Alice Mina</b>
<b>Mr Vladimir Đorđević</b>	Serbia / Serbie	Mr Predrag Marsenić
Ms Tatjana Pašić	Serbia / Serbie	<b>Ms Jelena Milošević</b>
Mme Anna Záborská	Slovak Republic / République Slovaque	Mr Pavol Goga
Mr Dean Premik	Slovenia / Slovénie	Ms Iva Dimic
<b>Ms María Fernández</b>	Spain / Espagne	Mr Alfonso Rodríguez
Mr José Latorre	Spain / Espagne	Ms Marta González Vázquez
<b>Ms Carmen Leyte</b>	Spain / Espagne	<b>Ms Luz Martinez Seijo</b>
<b>Ms Sofia Amløh</b>	Sweden / Suède	Ms Annika Strandhäll
Ms Victoria Tiblom	Sweden / Suède	Ms Boriana Åberg
Mme Céline Amaudruz	Switzerland / Suisse	<b>Mme Valérie Piller Carrard</b>
<b>Ms Sibel Arslan</b>	Switzerland / Suisse	M. Pierre-Alain Fridez
<b>Ms Gökçe Gökçen</b>	Türkiye	Mr Namık Tan
<b>Mr Berdan Öztürk</b>	Türkiye	Ms Sevilay Celenk Özen
<b>Mr Sevan Sivacioğlu</b>	Türkiye	Ms Sena Nur Çelik Kanat
<b>Mr Cemalettin Kani Torun</b>	Türkiye	Mr Mustafa Kaya

Ms Olena Khomenko	Ukraine	<b>Ms Larysa Bilozir</b>
<b>Ms Yuliia Ovchynnykova</b>	Ukraine	<b>Mr Andrii Lopushanskyi</b>
<b>Ms Lesia Zaburanna</b>	Ukraine	<b>Mr Rostyslav Tistyk</b>
Ms Alicia Kearns	United Kingdom / <i>Royaume-Uni</i>	<b>Mr Dan Aldridge</b>
Ms Kate Osamor	United Kingdom / <i>Royaume-Uni</i>	<b>Mr Perran Moon</b>
Ms Elaine Stewart	United Kingdom / <i>Royaume-Uni</i>	Mr Mike Reader
<b>Lord Don Touhig</b>	United Kingdom / <i>Royaume-Uni</i>	Ms Michelle Welsh

**Partners for Democracy / Partenaires pour la Démocratie**

Mr / M. Allal Amraoui, Morocco / Maroc  
 Mr / M. Hassan Arif, Morocco / Maroc

**Embassies / Permanent Representations and Delegations**  
**Ambassades / Représentations permanentes et Délégations**

Mr / M. Ghiwane Boumediene, Monaco  
 Ms / Mme Gül Sarigül, Türkiye

**Secretariat of Delegation or of Political Group / Secrétariat de Délégation ou de Groupe politique**

Mr / M. Sabih Gazi Öztürk, Türkiye

**Experts / Expert-es**

Ms / Mme Damaris Carnal, Vice-Chair of the Council of Europe Steering Committee for Human Rights in the fields of Biomedicine and Health (CDBIO) / *vice-présidente du Comité Directeur pour les droits humains dans les domaines de la biomédecine et de la santé du Conseil de l'Europe (CDBIO)*

**Other persons present / Autres personnes présentes**

Mr / M. Jacopo Dalbon, Italy / *Italie*  
 Ms / Mme Alisa Mazurenko, Ukraine  
 Ms / Mme Apolline Paillat, stagiaire RP France  
 Ms / Mme Giulia Muratori, San Marino / *Saint-Marin*  
 Mr / M. Nassar Al-Qaisi, Jordan / *Jordanie*  
 Mr / M. Andre Morad Hawari, Jordan / *Jordanie*

**Council of Europe staff / Secrétariat du Conseil de l'Europe**

Ms / Mme Laurence Lwoff, DGI  
 Ms / Mme Aurelie Pasquier, DGI  
 Mr / M. Charalambos Papadopoulos, Directorate of Communications / *Direction de la communication*  
 Ms / Mme Martina Tardanico, Trainee / *Stagiaire*  
 Ms / Mme Naomi Liberatori, Trainee / *Stagiaire*

**Secretariat of the Parliamentary Assembly / Secrétariat de l'Assemblée parlementaire**

Committee on Social Affairs, Health and Sustainable Development /  
*Commission des questions sociales, de la santé et du développement durable*

Ms / Mme Louise Barton.....Director of Committees / *Directrice des commissions*  
Ms / Mme Catherine Du-Bernard.....Head of the Secretariat / *Cheffe du Secrétariat*  
Ms / Mme Aiste Ramanauskaite.....Secretary to the Committee / *Secrétaire de la commission*  
Ms / Mme Jannick Devaux.....Secretary to the Committee / *Secrétaire de la commission*  
Ms / Mme Grazia-Alessandra Siino.....Project Manager / *Chargée de projet*  
Ms / Mme Xenia Birioukova.....Assistant/ *Assistante*  
Ms / Mme Özgü Tan.....Assistant/ *Assistante*