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Steering Committee for the Rights of the Child

Opinion by the Steering Committee for the Rights of the Child (CDENF) on PACE Recommendation 2227(2022) on "Deinstitutionalisation of persons with disabilities"

Adopted by the CDENF during its 5th plenary meeting (4-6 July 2022)

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Opinion by the Steering Committee for the Rights of the Child (CDENF)

on Recommendation 2227 (2022) of the Parliamentary Assembly of the Council of Europe (PACE) on "Deinstitutionalisation of persons with disabilities"

1. Following the adoption on 25 April 2022 of Recommendation 2227(2022) on "Deinstitutionalisation of persons with disabilities" by the Parliamentary Assembly of the Council of Europe ("PACE"), the Committee of Ministers adopted the decision, at its 1434th meeting on 11 May 2022, "*to communicate it to the Steering Committee for the Rights of the Child (CDENF) […] for information and possible comments by 17 June 2022"* (NB: This deadline was exceptionally extended to allow for adoption by the CDENF at its 5th Plenary meeting (4-6 July 2022)).

2. The CDENF examined the Recommendation at its 5th plenary meeting (4-6 July 2022) and adopted the following comments concerning those aspects of PACE Recommendation 2227(2022) which fall under the scope of its mandate.

3. The CDENF welcomes the Parliamentary Assembly's Recommendation no. 2.2 to the Committee of Ministers "to prioritise support to member States to immediately start transitioning (…) to child-centred, human rights compliant deinstitutionalising of children with disabilities". As already clearly stated in Recommendation CM/Rec(2010)2 on deinstitutionalisation and community living of children with disabilities, all children with disabilities should live with their own family unless in exceptional circumstances, and still existing institutional placements should be replaced with a comprehensive network of community provision.

4. The new Council of Europe Strategy for the Rights of the Child (2022-2027), adopted by the Committee of Ministers on 23 February 2022, includes the strategic objectives to attain 'Equal opportunities and social inclusion for all children', noting that the "institutionalisation of children remains too high in Council of Europe member States", and that "children with disabilities(…) are confronted, in many countries, with limited resources allocated for their social inclusion, and facing discrimination". Accordingly, its implementing objective 2.1.6 is focused on "Protecting children without parental care and/or living in alternative care, by continuing promoting de-institutionalisation…", while objective 2.1.9 is committed to "Fostering the protection and participation of children with disabilities, including towards their full inclusion in the school setting and the digital environment".

5. Additionally, an anti-discrimination approach has been included throughout the Strategy to ensure that children in situations of vulnerability, including children with disabilities and children in alternative care, are protected against all forms of discrimination in all situations.

6. Lastly, under its Terms of Reference for 2022-2025, the CDENF has been given the task of preparing an implementation review report on Recommendation Rec(2005)5 on the rights of children living in residential institutions by the end of 2025.

7. In the light of these references contained in the Strategy, the CDENF considers that the issues of children with disabilities and/or living in alternative care are sufficiently covered by its mandate and upcoming activities.

Annex

Parliamentary Assembly Recommendation 2227 (2022)[1]
Provisional version

1. The Parliamentary Assembly refers to its Resolution 2431 (2022) "Deinstitutionalisation of persons with disabilities", its Resolution 2291 (2019) and Recommendation 2158 (2019) "Ending coercion in mental health: the need for a human rights-based approach", and its Recommendation 2091 (2016) "The case against a Council of Europe legal instrument on involuntary measures in psychiatry".
2. The Assembly reiterates the urgent need for the Council of Europe, as the leading regional human rights organisation, to fully integrate the paradigm shift initiated by the United Nations Convention on the Rights of Persons with Disabilities (CRPD) into its work. It thus recommends that the Committee of Ministers:

2.1 support member States in their development, in co-operation with organisations of persons with disabilities, of adequately funded, human-rights compliant strategies for deinstitutionalisation with clear time frames and benchmarks with a view to a genuine transition to independent living for persons with disabilities in accordance with Article 19 of the CRPD;

2.2 prioritise support to member States to immediately start transitioning to the abolition of coercive practices in mental health settings, and to child-centred, human-rights compliant deinstitutionalisation of children with disabilities;

2.3 in line with the unanimously adopted Recommendation 2158 (2019), refrain from endorsing or adopting draft legal texts which would make successful and meaningful deinstitutionalisation, as well as the abolition of coercive practices in mental health settings more difficult, and which go against the spirit and the letter of the CRPD – such as the draft Additional Protocol to the Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164, Oviedo Convention) concerning the protection of human rights and dignity of persons with regard to involuntary placement and involuntary treatment within mental health care services.