

## Elements for intervention at the webinar organised by Conference of INGOs

23 June 2020

### **The role of the Council of Europe in Health and social protection before and after COVID-19? Will there be a difference?"**

Will there be a difference? There should be a difference.

The reference instruments exist (Convention on Human Rights, Oviedo Convention, European Social Charter as a governance tool) . The crisis has potentially increased the importance of their implementation. It has also reinforced the fundamental and indissociable link between human rights, solidarity and responsibility – so essential in addressing such a crisis. In this connection, certain elements of the preamble of the Convention on Human Rights and Biomedicine are particularly important, namely the achievement of a greater unity between Member states for the maintenance and further realisation of human rights, the need for international cooperation, and the rights and responsibilities of all members of the society. Cooperation /sharing of experience are key words here and not only between member states but also with the civil society.

---

Current COVID-19 crisis is affecting all countries in Europe and worldwide. Such pandemic has a severe impact on individuals and societies, on the exercise of human rights, including in their social dimension. The sanitary crisis also revealed weaknesses and highlighted disparities which were increased by this crisis. The Chair of the European Social Rights Committee, in a declaration on 3 June during a high level exchange organised by the Greek Chairmanship of the Committee of Ministers, underlined the need to draw lesson from this crisis in terms of improving and investing in public health and making it truly universal, but also ensuring safe and healthy working conditions, care arrangements for the elderly, services for and the protection of children, modernisation of education to ensure its sustainability and universality, employment security and reducing social and economical inequalities ”

In a statement, on human rights and considerations relevant to the COVID-19 pandemic, adopted on 14 April 2020, the Committee on Bioethics looked in particular at the situation in health care.

Health care systems have and, in some countries, continue to be under extreme constraints facing acute and complex situations daily. The increasing number of severe cases raises major ethical challenges that professionals and competent authorities have to address in controlling the pandemic and in the health care of patients. Difficult decisions had/have to be taken at collective and individual levels in a context of uncertainties and scarce resources, which may have important impact on individuals.

- The difficulties encountered in such situation are increased by lack of appropriate anticipation and assessment capacity with a view to efficient management complying with ethical principles and conducts.
- The collection and processing of health-related data is an essential component of the fight against the COVID-19 pandemic but it also raises concern about the right to privacy and confidentiality of data.
- Infringement of fundamental rights and increase of vulnerability leading to possible discrimination in accessing healthcare have been reported (see e.g. relevant reports of the Human Rights Commissioner).

- Lack of transparency and information on issues that concerns all members of the societies may have also contributed to lack of trust in the healthcare systems and authorities that is essential for the respect of the measures and management of the crisis.

Even in such difficult context, it is essential that decisions and practices meet the fundamental requirement of respect for human dignity and that human rights are upheld.

The Council of Europe provides for a privileged platform(s) at European level for the protection of human rights. It has developed reference legal instruments at international level which provide a strong basis for addressing the challenges raised by such sanitary crisis.

In the biomedical field, the Oviedo Convention of the Council of Europe is the only legally binding international instrument establishing legal framework applicable both to medical practice and to biomedical research. In its statement the DH-BIO underlined in particular a certain number of principles:

- Equity of access to health care: even in a context of scarce resources. To be guided by medical criteria; to ensure namely that vulnerabilities do not lead to discrimination in access to health care – protection of most vulnerable persons (persons with disability, older persons, refugees, migrants,...
- Right to privacy and confidentiality of health related data
- Consent, including in emergency situations
- Protection of persons participating in research who are in emergency clinical situation

Some implementation tools have been developed by the Committee on Bioethics (DH-BIO), which provide practical guidance to facilitate the applications of relevant human rights principles laid down in the Oviedo Convention.

Under the HELP programme, relevant courses have been developed, in particular the course on key human rights principles in biomedicine, which are providing a strong and structured support for raising awareness of professionals in the fields concerned, in particular health professionals.

Following this crisis, activities should be reinforced to:

- support the national authorities of the Member States in their effort to bring the law and legal implementation practices in the biomedical field in line with the European human rights' and ethical standards;
- raise awareness on and build capacity in applying the European human rights' and ethical standards in the field of biomedicine that have to be upheld when addressing challenges raised by the healthcare crisis such as the one caused by the COVID-19 pandemic;

But two particular actions seem to be of particular relevance in the healthcare and research field

- **the exchange of experience and practices** developed to address problems encountered. A first step was taken by the DH-BIO, as well as several other sectors in the Council of Europe, with the setting up of a dedicated page to share relevant documents resulting from discussion at national and international level. Such sharing of experience and practices could contribute to the development of **practical guidance** for the implementation of human rights, including patients' rights and equitable access to health care, in complex and acute situations encountered in healthcare crisis.
- the **promotion of appropriate societal dialogue** to build trust in the management of sanitary crisis. As underlined by the Chair of the European Social Rights Committee in his statement "If...there is no opportunity to rebuild trust, the damage will persist and ripples will destabilise communities and countries, and possibly threaten social and

democratic sustainability. In order to mitigate these risks, ...there will be a need for some form of social dialogue to enable “reconciliation” after Covid-19.”

The Committee on Bioethics already emphasised the importance of such dialogue in its guide to public debate recently published, for governance of developments in the biomedical field in its recently adopted Strategic Action Plan on Human Rights and Technologies in Biomedicine (2020-2025). This Action Plan is already planning specific actions to address some of the challenges raised by this crisis in particular in relation to equity of access to health care.

For these. actions, cooperation among member states will be essential as will be the **cooperation with the civil society.**