

## Introduction

### Solvita Olsena

editor of the collection

The World Health Organization (WHO) and the Office of the United Nations High Commissioner for Human Rights envisage a world in which everyone can enjoy good health and access high-quality, rights-based, person-centred mental healthcare services. In such a world, people with mental health conditions and psychosocial disabilities would be able to fully engage in their own recovery process and participate in all aspects of life, both personal and societal (WHO & United Nations, 2023).

For the whole world, including our own Latvia, to become a place where people can live healthily and receive adequate mental healthcare services, every UN and WHO Member State must establish and maintain a mental healthcare system based on human rights, both in form and substance. As it is enshrined in the preamble to the Constitution – *Satversme* – Latvia is a democratic and socially responsible state based on the rule of law and respect for human dignity and freedom. Article 89 of the Constitution stipulates that the state shall recognise and protect fundamental human rights in accordance with the Constitution, laws, and international treaties to which Latvia is a party (*Satversmes sapulce*, 1922). This constitutional obligation to recognise and protect human rights requires that people with mental, psychosocial and developmental disorders are treated with dignity and respect in all areas of life, including within the healthcare system, and that their rights and interests are protected and upheld.

In accordance with the international treaties binding upon it, the Latvian state is obliged to provide human rights-based mental healthcare. Latvia is a State Party to the UN Convention on the Rights of Persons with Disabilities (2006). All countries in the European region, as well as the European Union, are States Parties to this Convention. Upon ratifying the Convention in 2010, Latvia undertook to respect the human rights of persons with disabilities in accordance with the Convention's content and procedures, as well as to eliminate legal provisions and practices contrary to the Convention's provisions or restricting the exercise of the rights it sets out. Over the past ten years, Latvia has drawn

up plans for implementing the Convention and carried out a number of legal reforms, including reforming the Civil Law in the area of legal capacity and introducing a social service in the form of a support person for decision-making.

Unfortunately, the necessary reforms to healthcare law have yet to be implemented. Healthcare is still dominated by a biomedical approach and a legal framework that discriminates against people with mental health conditions. The organisation of mental healthcare is characterised by paternalistic practices. Latvian legislation permits the coercion and restraint of individuals on the grounds of mental disorder, and psychiatric hospitals make use of this, with or without court authorisation. Substitute decision-making in healthcare, based on the idea that decisions should be made by doctors or other individuals without respecting the dignity and autonomy of those who are partially or fully incapable of acting, is widespread. Rather than being organised outside institutions and as close as possible to the place of residence of persons with mental health conditions, mental healthcare remains structured within separate large medical institutions (in a segregated manner). Consequently, Latvia faces a high risk of systemic and individual violations of the human rights of people with mental health conditions.

In Latvia, as in other European countries, there are many provisions, including in the field of healthcare, that fail to respect the rights to dignity and equality of people with mental disorders. For example, appropriate support is not guaranteed during medical or legal proceedings, and human rights violations are permitted, such as allowing the use of compulsory treatment. By ratifying the Convention on the Rights of Persons with Disabilities, Latvia has undertaken to ensure that everyone with a disability can fully enjoy all human rights and fundamental freedoms, free from any kind of discrimination based on disability (Article 4). This obligation is not merely theoretical: it requires the enactment of legislation to implement the Convention's principles and the adoption of measures to ensure their implementation. This indicates that Latvia must eliminate existing discriminatory and stigmatising attitudes towards people with mental and intellectual disabilities. Stipulations that violate human rights must be repealed and replaced with provisions that enable people with various disabilities to exercise their rights on an equal basis with others by providing the necessary reasonable accommodation and support. Legal provisions must guarantee every person's autonomy and the right to make free and informed decisions in various life situations, including regarding treatment. They must also secure the right to participate meaningfully in the legislative and organisational processes of healthcare. It is therefore essential to ensure that these rights are properly implemented in practice, including through the supervision of healthcare institutions, to guarantee that everyone can enjoy their human rights and be protected from unlawful conduct.

A human rights-based approach to mental health is a shared goal, and in recent years, both international organisations and non-governmental organisations representing human rights and people with mental health conditions have made significant contributions towards achieving it. Since 2013, for example, the WHO and its Member States have been implementing the Global Mental Health Action Plan 2013–2030. This plan aims to improve mental healthcare governance, ensure community-based care, implement mental health promotion and prevention strategies, and strengthen information systems, evidence, and research (WHO, 2021). The publication “Mental Health, Human Rights and Legislation: Guidelines and Practice” (WHO & United Nations, 2023), summarises findings grounded in legal doctrine and practice regarding the framework of key human rights principles in mental health protection. It highlights examples of good practice and provides Member States with recommendations on the necessary legislative and healthcare system reforms to enable rights-based mental healthcare. Latvia has not yet paid much attention to a human rights-based approach to mental healthcare, but the Cabinet of Ministers’ Plan for Improving the Organisation of Mental Healthcare for 2023–2025 includes a reference to this conceptual framework (Cabinet of Ministers, 2022).

The UN Committee on the Rights of Persons with Disabilities has made a significant contribution to improving the protection of the rights of persons with disabilities. It regularly assesses the laws and practices of states that are parties to the Convention on the Rights of Persons with Disabilities and makes recommendations on how to incorporate the principles set out in the convention into legal systems and practices. The initial assessment of the situation in Latvia was carried out in 2017 (UN CRPD, 2017). Latvia submitted a report to the Committee in 2020, and it is expected that the Committee will provide a further assessment of the situation in Latvia in autumn 2026. The Latvian government’s consultations with the Committee are scheduled for 2030 (UN CRPD, 2026). In 2025, the Committee published an assessment of the European Union as a State Party to the Convention, detailing the achievements and shortcomings within the European Union as a whole and its Member States (UN CRPD, 2025). Taking into account the Committee’s 2017 recommendations for Latvia, as well as those contained in the report on the European Union and addressed to other European countries, Latvia could implement the necessary healthcare legislation and practice reforms by 2028.

The Council of Europe is also committed to advancing the rights of people with mental health conditions. In 2019, the Parliamentary Assembly of the Council of Europe adopted a resolution entitled “Ending coercion in mental health: The need for a human rights-based approach” (Council of Europe, Parliamentary Assembly, 2019). In 2021, the Council of Europe Commissioner for Human Rights (2018–2024) Dunja Mijatović called on Member States to undertake immediate

reforms to mental healthcare systems, based on human rights principles that protect human dignity and autonomy and safeguard against the risk of inhuman and degrading treatment. She emphasised that these reforms must ensure that people with mental health conditions are treated with respect and given the opportunity to decide on their treatment, with support provided where necessary. The Commissioner for Human Rights also called for the widespread practice of involuntary deprivation of liberty and compulsory treatment in the treatment of mental illness to be significantly curtailed (Commissioner for Human Rights, 2021; Olsena, 2022).

In 2023, the Council of Europe's Steering Committee for Human Rights in the fields of Biomedicine and Health (CDBIO), the University of Latvia, the authors of the articles included in this publication and the Office of the Ombudsman of the Republic of Latvia organised a conference and symposium on protecting personal autonomy in mental healthcare. These events presented solutions and experiences from European Member States that ensure the autonomy and human rights of people with mental health disorders (Ilves, 2023). Recordings of the event are available to all: <https://www.youtube.com/watch?v=NXfcY1h3PG0> and <https://www.youtube.com/live/YNQIzf9sB9E>.

In 2024, the Council of Europe's Steering Committee for Human Rights in the Fields of Biomedicine and Health published a draft recommendation on respecting autonomy in mental health care and submitted it to the Committee of Ministers of the Council of Europe for approval.

Since the ratification of the UN Convention on the Rights of Persons with Disabilities in European countries, the UN Committee on the Rights of Persons with Disabilities and organisations representing persons with disabilities, such as the European Disability Forum, Mental Health Europe, and the European Network of (Ex)Users and Survivors of Psychiatry (ENUSP) – an organisation supporting former and current users of psychiatric services, as well as survivors – have criticised the Council of Europe and the European Court of Human Rights for their findings and proposals that permit the coercion of persons with mental disorders (UN CRPD, 2018, 2025; European Disability Forum, 2021; Mental Health Europe, n.d.). For several years now, there has been a 'battle' over the 2020 proposal by the Council of Europe's Committee on Human Rights in the Field of Biomedicine and Health to supplement the 1996 Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine with a new additional protocol regulating compulsory psychiatric treatment. However, the UN Committee on the Rights of Persons with Disabilities, the UN Special Rapporteur on the Rights of Persons with Disabilities and leading European non-governmental organisations, such as Mental Health Europe and the European Disability Forum, are calling for this protocol not to be adopted. They point out that the UN Convention on the Rights of Persons with

Disabilities does not permit the forced detention and treatment of people with mental illness (Mental Health Europe, n.d.; UN CRPD, 2025). The Parliamentary Assembly of the Council of Europe and the Commissioner for Human Rights (until 2024) D. Mijatović also oppose the adoption of this protocol. It is difficult to predict how the Committee of Ministers of the Council of Europe, which is responsible for adopting the optional protocol, will proceed with this draft protocol. This demonstrates that the paradigm shift in attitudes towards persons with disabilities, as required by the UN Convention on the Rights of Persons with Disabilities, is a complex process within European countries and the organisation representing them, the Council of Europe. The current collection of articles offers the analysis of the potential for providing human rights-based mental healthcare in Latvia. Particular attention is paid to the legal and clinical practice reforms necessary to comply with the principles enshrined in the UN Convention on the Rights of Persons with Disabilities. The authors describe, analyse and evaluate the existing legal framework for mental health protection and care, highlighting its shortcomings and potential applications. The articles present data compiled by the authors which characterise and illustrate the current state of respect for human rights in Latvian healthcare institutions and beyond.

In her introductory article to the collection, Professor Sanita Osipova provides a legal-philosophical overview of the significance of human dignity, equality, and an inclusive society as universal human values in a democratic state. Solvita Olsena's articles on mental health protection and mental healthcare law outline Latvia's legal framework for these areas. The authors analyse the obstacles to implementing a human rights-based approach in Latvia and put forward proposals for improving legislation and practice. In their article on coercion in mental healthcare institutions in Latvia, Marina Loseviča un Solvita Olsena reveal the formal and informal nature of this harmful phenomenon and present available data on its manifestations in medical institutions in Latvia. The article highlights the obstacles to eliminating coercion and possible solutions to eradicate it. A person's capacity to make decisions is viewed in an article by Laura Kadile and Solvita Olsena as a legally and clinically significant factor. The article examines the manifestation of capacity and the criteria for its assessment, explaining the necessity of considering limitations on capacity, particularly in relation to the protection of human rights, both generally and within healthcare. The authors identify shortcomings in the current legal framework and offer recommendations for improving legal provisions. In the conclusion, three articles are dedicated to examining the influence of the provisions of the UN Convention on the Rights of Persons with Disabilities on the development of national legislation in Lithuania, Estonia and Ireland. The authors outline how human rights, particularly concerning decision-making in healthcare, are implemented or restricted in these countries for individuals with mental health conditions or

psychosocial disabilities. Ireland's specific law on supported decision-making is considered consistent with the Convention's principles, consequently, the Irish approach could inform Latvia's legal development.

This collection of articles was prepared in 2023–24 as part of the research project “Towards a human rights approach for mental health patients with a limited capacity: A legal, ethical and clinical perspective” (project No. LZP-2020/1-0397). Following recommendations from the scientific editors and the editor of this collection, the authors updated the draft articles with the latest data available as of June 2025. Some of the included data may have changed or become obsolete during the preparation of this collection, and some legal provisions may have been amended since submission of the articles for publication.

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The authors of this collection hope that the findings summarised herein, along with the proposals put forward, will contribute to human rights-based mental healthcare in Latvia. They invite readers to draw on the insights contained in this book when discussing, planning, and implementing reforms in this area.

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