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# Present and Future Challenges in Lithuanian Mental Health Policy: Shifting from Deinstitutionalization Towards Community Integration

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# POLICY PAPER

## I. Introduction.

People with mental disabilities<sup>1</sup> are one of the most disadvantaged groups of people in Europe. Historically, society has tended to isolate and segregate them and, despite some improvements, discrimination against individuals with mental disabilities continues to be a serious and pervasive social problem. In Central and Eastern European countries people with mental disabilities are generally considered dependents, not full members of society. The care for this group is most often provided in isolated and inhumane closed institutions. This system of service provision is still seen by most political decision-makers as the most efficient. The continuing existence of illegal discrimination and prejudice denies people with mental disabilities the opportunity to integrate fully into the community and to enjoy the same rights and possibilities as all other individuals. Lithuania is not an exception in this field.

A system of in-patient social care institutions still prevails in Lithuania. Great numbers of people with mental disabilities live in these large residential institutions (social care institutions, psychiatric hospitals) that do not comply with the principles of modern social care standards which aim to ensure that people can wherever possible receive care and support in the community.

This paper aims to address the relevant issues for necessity to put an end to the social exclusion and violation of the human rights of people with mental disabilities and, in particular, highlight the need to end the practice of placing people with mental disabilities in closed residential institutions, i.e. to affect deinstitutionalization policy in Lithuanian.

## II. Legal framework

### 1. International standards to community integration

The Universal Declaration of Human Rights (UDHR) provides that “all people are free and equal in rights and dignity”. Yet the rights of people with disabilities have long been overlooked by the international community, since the language of neither of core UN human rights treaties<sup>2</sup> specifies that discrimination on the basis of disability is unlawful. There is still no specialized UN convention to protect the rights of people with disabilities, although recently this is being considered by the UN<sup>3</sup>

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<sup>1</sup> The umbrella term “mental disability” includes major mental illness and psychiatric disorders; more minor mental ill health and disorders, often called psychosocial problems; and intellectual disabilities. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt\* Doc E/CN.4/2005/51, para 19.

<sup>2</sup> There are six core legally binding UN treaties: the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) and the Convention on the Rights of the Child (1989).

<sup>3</sup> Starting from July 29, 2002 the UN Ad Hoc Committee is working on the draft of the Comprehensive and Integral International Convention to Promote and Protect the Rights and dignity of Persons with Disabilities. Information accessible on the Disabled peoples' international website at <http://www.dpi.org/en/resources/topics/topics-convention.htm>

Concerns about human rights abuses within institutions were a major factor contributing to the shift in policy from institutional care to the provision of community-based services in many western European countries. Recently, there is a growing international recognition that, in addition to protecting rights within institutions, international human rights law provides a right to be free from institutionalization and to community integration. At present, there is no specific protection for the "right to community integration" as such in international human rights conventions<sup>4</sup>. The right to community integration for people with disabilities has been recognized in UN General Assembly resolutions on the rights of people with disabilities: the 1971 Declaration on the Rights of Mentally Retarded Persons, the 1991 Principles for the Protection of Persons with Mental Illness (The MI Principles), and the 1993 Standard Rules on Equalization of Opportunities for Persons with Disabilities<sup>5</sup> (the Standard Rules).

MI Principles, Declaration on the Rights of Mentally Retarded Persons and the Standard Rules are not legally binding, but they 'imply a strong moral and political commitment on behalf of States to take action for the equalization of opportunities for people with disabilities'<sup>6</sup> and can provide a useful guide on the implementation and interpretation of the legally binding treaties. "Properly understood, the generalized international human rights treaties and specialized international instruments relating to mental disabilities are mutually reinforcing<sup>7</sup>.

The right to community integration represents not only the right "to live and work, as far as possible, in the community" but also "the right to be treated and cared for, as far as possible, in the community in which he or she lives."<sup>8</sup> This preference for community living is reinforced by the duty to treat in the least restrictive environment and to preserve and enhance autonomy. The right to community integration is derivative from the right to health and other human rights. „Community integration supports the dignity, autonomy, equality and participation in society, helps prevent institutionalization, which can render persons with mental disabilities vulnerable to human rights abuses and damage their health on account of the mental burdens of segregation and isolation. Community integration is also an important strategy in breaking down stigma and discrimination against persons with mental disabilities“<sup>9</sup>. Upon the World Health Organization’s recommendations, “community care has a better effect than institutional treatment on the outcome and quality of life of individuals with chronic mental disorders. Shifting patients from mental hospitals to care in the community is also cost-effective and respects human rights”<sup>10</sup>.

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<sup>4</sup> Although article 23 of the Convention on the Rights of the Child recognizes the right to education, services, and support in the community.

<sup>5</sup> Eric Rosenthal and Arlene Kanter. People with Disabilities in Institutions and the Emerging Right to community Integration: Protections Under International and U.S. Law.

<sup>6</sup> Standard Rules, paragraph 14.

<sup>7</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt\* Doc E/CN.4/2005/51, para 30.

<sup>8</sup> 1991 Principles for the Protection of Persons with Mental Illness (The MI Principles).

<sup>9</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt\* Doc E/CN.4/2005/51, para 85.

<sup>10</sup> The world health report 2001 - Mental Health: New Understanding, New Hope, WHO accessed on the WHO website at <http://www.who.int/whr/2001/chapter5/en/index1.html>

Although there is a number of important documents on human rights in Europe<sup>11</sup>, the first step towards advancing disability rights and recognizing disability as human rights issue on the European level was made on 1997, adopting the *Treaty of Amsterdam* (in the European Union framework)<sup>12</sup>. The Treaty of Amsterdam added a new Article 13 to the Treaty, reinforcing the principle of non-discrimination, which is closely linked to equal opportunities. The Treaty of Amsterdam for the first time mentions specifically disability as being the ground for non-discrimination, and makes the protected rights accessible to the individuals. Signing the Treaty European institutions and the EU Member states agree and oblige themselves to provide appropriate measure and to ensure that disability laws and policies do indeed contribute to the equal rights and equal opportunities of people with disabilities.

The practice of American legal system gives an example of the court decision<sup>13</sup>, which held that the unjustified segregation of individuals with 'mental disabilities' constituted discrimination under the Americans with Disabilities Act. Undue institutionalization is discriminatory not only because it treats people with and without disabilities differently in terms of their access to mental health treatment, but also because it perpetuates the negative stereotypes of people with mental disabilities as "incapable or unworthy of participating in community life," depriving them of "everyday life activities" such as "family relations, social contacts, work options, economic independence, educational advancement and cultural enrichment"<sup>14</sup>. First such kind of precedent provides the direction for further efforts to establish the right to community integration and inclusion for all people with disabilities in the United States, and as an example for other countries and the United Nations as well.

## 2. Implementation of the international norms in the Lithuania

Lithuania has ratified most major international human rights instruments, including those with provisions relating specifically to the rights of people with disabilities<sup>15</sup>. International treaties take precedence over national legislation.<sup>16</sup>

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<sup>11</sup> The key documents are: the European Convention on Human Rights, 1950 (the ECHR); the European Social Charter, 1961 (revised 1996); the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 1987 and other.

<sup>12</sup> Richard Whittle. The Framework Directive for equal treatment in employment and occupation: an analysis from a disability rights perspective. 27 *European Law Review*. June 2002.

<sup>13</sup> The United States Supreme Court in *Olmstead v LC* (1999)

<sup>14</sup> *Olmstead v LC*, 527 US 581 (1999)

<sup>15</sup> Lithuania acceded to the International Covenant on Economic, Social and Cultural Rights (CESCR) and the International Covenant on Civil and Political Rights (CCPR) in 1992. Lithuania ratified the Convention on the Rights of the Child in 1992. Lithuania ratified the ECHR in 1995, but has not signed or ratified Protocol No.12 to the ECHR. Lithuania ratified the Revised European Social Charter of 1996 in 2001, and is bound by Article 15 on the right of persons with disabilities to independence, social integration and participation in the life of the community.

<sup>16</sup> The Constitution (Article 138) and the Law on International Treaties 1999 define the main principles concerning the effect of international conventions, treaties and agreements. International treaties ratified by the *Seimas* become constituent parts of the legal system of Lithuania. If the standards defined by international treaties ratified by Lithuania differ from the ones set in its legislation, the standards of those international treaties must take precedence over Lithuanian legislation. Legislation and other legal acts of Lithuania must be coordinated with the norms set in these treaties. K. Jovaišo, *Commentary of the Lithuanian Constitution (Part 1)*, Law Institute, Vilnius, 2000 (hereafter, Jovaiša, *Commentary*).

The United Nations Standard Rules on Equalization of Opportunities for People with Disabilities<sup>17</sup> served as a source of reference for the preparation and adoption, in 2002, of the National Program for Social Integration<sup>18</sup>.

In line with the Council “Employment Directive” 2000/78/EC of 27 and “Race Directive” 2000/43/EC, the Lithuanian legislative framework for anti-discrimination has recently been significantly strengthened with the adoption of the new Law on Equal Opportunities 2003<sup>19</sup>. This law states that it strives to “ensure the realization of equal rights established by the Constitution of the Republic of Lithuania, as well as prohibit any direct or indirect discrimination on the grounds of age, sexual orientation, disability, racial or ethnic origin, religion or convictions”. It explicitly regulates the implementation of equal opportunities in such areas as: 1) state and municipal institutions’ and offices’ activity in adopting legislature, preparing various programs and means for guaranteeing equal opportunities; 2) education; 3) employment; 4) access to goods and services.

### **III. Current situation of people with mental disabilities in Lithuania**

#### **1. Statistics**

Within the present system of disability classification, the large group of “people with mental disabilities” is separated in Lithuania, which includes both people with intellectual disabilities and people with mental health problems and behavioral problems. In the daily practice there is an identification problem of these two groups of people<sup>20</sup>, and it may constitute an important barrier in tackling the problem of establishing and meeting needs for social services, since it is not a homogenous group and support provided for them should not be unified.

In 2001, according to the population census<sup>21</sup> there were 22,121 people with mental disabilities in Lithuania<sup>22,23</sup>. A total of approximately 19,584 adults with disabilities indicated mental disabilities as the main cause of their disabilities (or 7.4 per cent of all adults with disabilities)<sup>24</sup>. The

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<sup>17</sup> United Nations Standard Rules on the Equalisation of Opportunities for Persons with Disabilities, A/RES/48/96, 20 December 1993.

<sup>18</sup> National Programme for Social Integration and Action Plan for the National Programme for Social Integration.

<sup>19</sup> Law on Equal Opportunities No. IX-1826//State News, 2003, No. 114-5115.

<sup>20</sup> The research „Preparation of strategy on providing of social support for persons with intellectual disabilities and persons suffering from mental illness, and recommendations on optimal ratio of institutional care and community based services“ 2003 showed that not all municipality departments of social support and health had segregated data on those two groups of vulnerable people.

<sup>21</sup> The most comprehensive official data on people with disabilities comes from the 2001 population census, which for the first time specifically included questions on disability. Data was collected on people with disabilities according to their disability group (I, II or III); cause of disability (for example, a congenital condition or accident); and type of disability.

<sup>22</sup> Department of Statistics, Information circular No. 2, 20 November 2003 (hereafter, Department of Statistics, Information circular No. 2)

<sup>23</sup> According to the 2001 census, Lithuania’s population in 2000 was 3,620,756 people.

<sup>24</sup> The total number of persons with disabilities was 263 thousand, and constituted 7,5 percent of the total population of Lithuania. 2001 Census; and Department of Statistics, Information circular No. 2.

majority of these (67.5 per cent) were diagnosed as being in disability group II<sup>25</sup>. A total of 2,537 children (18.6 per cent of all children with disabilities) indicated mental disabilities.

Statistics from the State Mental Health Centre<sup>26</sup> indicate a higher number of people with mental disabilities in Lithuania, which has gradually increased over the last decade, from 18,937 in 1990 to 28,697 in 2003, and 31,201 in 2004.<sup>27</sup> The center's statistics provide data specifically on people with intellectual disabilities and people with mental health problems<sup>28</sup>.

Health specialists alert of growing number of people with mental health problems in Lithuania. The morbidity with psychiatric disorders increased from 2287,5 in 1999 to 2688,2 in 2004 per 10 000 residents. There might be an outbreak of mental illness in the future, since there is a growing number of children having various psychological problems. Actually one third of Lithuanian children experience violence – physical, psychological, sexual<sup>29</sup>. Surveys<sup>30</sup> report about great numbers of Lithuanian pupils, who had thoughts about committing a suicide (33%) and those who attempted one (5%). Not long time ago health specialist noticed that in Lithuania the number of young people who are recognized as not suitable for the military service is rapidly increasing. Conscripts lose the ability to serve in the army if they have insufficient intellectual development<sup>31</sup> or have psychiatric disorder. Last year from total 2,5 thousand tested conscripts even 42 percent were considered as not suitable for the service. 26 percent from which, residing in the capital or Vilnius County had psychiatric disorders<sup>32</sup>.

## **2. Persons with mental disabilities within the institutions**

A system of in-patient social care institutions still prevails in Lithuania. Great numbers of people with mental disabilities live in these large residential institutions (social care institutions, psychiatric hospitals) that do not correspond to the principles of de-institutionalization and modern social care standards.

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<sup>25</sup> Untill 1 July 2005 the Law on Social Integration of People with Disabilities 1991 established the functioning system of determining disability. The disability assessment procedures for adults (age 18 and over) established an individual's disability according to one of three disability groups, I, II or III (where group III is the least severe degree of disability). Indicated group of disability provided the right to receive state social insurance and other pensions, benefits, privileges. After this date the new Law on Social integration of people with disabilities 2004 comes into force. It changes the very concept of disability and establishes new procedure for its assessment.

<sup>26</sup> The State Mental Health Centre was established in 1999 by the Ministry of Health Care. The Centre organises the implementation of mental health care policy and strategy.

<sup>27</sup> Information from the website of the State Mental Health Centre, available at <http://www.vpsc.lt>. The State Mental Health Centre was established in 1999 by the Ministry of Health Care. The Centre organises the implementation of mental health care policy and strategy.

<sup>28</sup> In 2001, of the 27,640 people with mental disabilities, 8,202, or 30 per cent, were people with intellectual disabilities; in 2003 - 8,436 people and in 2004 – 9089 persons, again approximately 30 per cent of the total, were people with intellectual disabilities.

<sup>29</sup> Results from international research "Teenagers attitude to sexuality and sexual violence", information accessed at <http://www.mip.lt/index.php/news/archive;97>

<sup>30</sup> Data from the survey carried out by the State Mental Health Centre. Article "The nation "gets crazy", Magazine "Veidas" of May 5, 2005.

<sup>31</sup> The youngster who makes less than 80 point in the IQ test is considered as inappropriate for the service.

<sup>32</sup> Rapidly increasing number of conscripts having psychiatric disorders. ELTA announcement of February 2 2005.

1.75 percent of the Lithuanian national budget is used for institutional care of vulnerable individuals<sup>33</sup>. Such huge financial input and problem of redistribution of working places<sup>34</sup> makes a strong argument for specific interested groups to support the institutional care services as the only option for caring for people with mental disabilities.

Big residential institutions (psychiatric hospitals, social care homes) are usually functioning as a “separate republics”, maintaining the close intercourse within the system. Such reticence of the institutions prerequisite the public opinion, which supports the existing system and stigmatizing attitude towards the mentally disabled people. Opinion polls have shown that every other Lithuanian would prefer to isolate individuals suffering mental disabilities in institutions caring for mental patients on a regular basis. Sadly, only 30,8 % of respondents answered that above mentioned disabled persons should live in community, at home, together with people without disabilities, guaranteeing for them appropriate social services, thus integrating them into the society, eliminating stigmatizing factors. It has been widely believed that mentally disabled people are dangerous for others and that restrictions on their rights can be justified<sup>35</sup>. Notwithstanding this an antiquated attitude, since it is clearly demonstrated, that “healthy” people and not those suffering with mental health problems commit the absolute majority of crimes<sup>36</sup>.

## **2.1. Residential institutions**

### 2.1.1. Social care homes

In Lithuania, according to the 2001 Census, a total of 6,095 people with mental disabilities, or approximately 27.5 per cent of the 22,121 people who declared themselves as having mental disabilities, were living in social care institutions<sup>37</sup>. This group included 5,217 adults living in social care institutions and 878 children living in social care institutions for children and young people with disabilities. By the January 1, 2005 in state social care homes were residing 5349 persons (2882 male and 2467 female) and 659 children (373 boys and 286 girls)<sup>38</sup>.

Most of those institutions are located in remote parts of a country far from population centers. Residents of social care homes may remain in these custodial facilities for life, living cut off from family, friends, and community. The figures of statistical data obviously show the one-way movement of social care

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<sup>33</sup> Tobis D., 2000. *Moving from Residential Institutions to Community-based Services in Central and Eastern Europe and the Former Soviet Union*. World Bank, Washington, DC

<sup>34</sup> Currently social care homes are the biggest employers in their regions. Monitoring Human Rights in Closed Mental Health Care and Social care Institutions. Report, Vilnius, 2005, page 13.

<sup>35</sup> Human right in Lithuania. Overview 2004. Human rights Monitoring Institute, Vilnius, 2005. Page 44.

<sup>36</sup> Experts affirm, that every day rights of people with mental disabilities are infringed in Lithuania. Elta announcement, 25 May 2005.

<sup>37</sup> For 2004 under the subordination of district administrations there are 22 special boarding homes for adult people with intellectual disabilities in Lithuania and 3 special boarding homes for children and young people with intellectual disabilities under the age of 21. Data from the Social Institutions Supervision and Audit Department.

<sup>38</sup> This number is increasing, since on 1 July 2004, there were 5344 persons (2865 male and 2479 female) living in social care institutions for adults with mental disabilities. Data received from Department of Audit and supervision of social establishments, accessed at website <http://www.sipad.lt/main/index.php?act=menu&id=57>.

homes' residents<sup>39</sup>, whereas the majority of people entering the social care homes comes from home, and the ones who are considered as leaving - die.

A small percentage of institutionalized populations are made up of individuals who present a danger to themselves or others or who are in need of treatment that must be provided in an institution. For example, 1407 (26,3 %) adults and 244 (37 %) children (data for 1st of January 2005) are intensively nursed in social care homes<sup>40</sup>. Many people in social establishments have mild or moderate disabilities<sup>41</sup> (sometimes no disabilities at all), and are placed in institutions because they are marginalized in society and have no community support network: medication, social services meeting their individual needs. Specialists indicate, that 18% of the residents of social care homes<sup>42</sup> could live in the community if appropriate services were available<sup>43</sup>. This means that people get to the social care home without considering their social abilities and deficiencies. At the same time, the loss of social skills within the social institutions is inevitable, and reintegration of such residents back into society requires additional efforts for recovery of their social abilities.

Since there is a lack of community support and alternative services network in the municipalities, there is a phenomenon of waiting lists for getting to the social establishments<sup>44</sup>. Such phenomenon both promote the placement of persons into the social care homes, overstate the number of persons waiting for the place and defend an argument that the only way to guarantee medical and social support for those people is to place them into institutions.

### 2.1.2. Psychiatric hospitals

“The same as social care institutions, psychiatric hospitals are the part of complex health care system, which is based on the same principles of paternalism, social exclusion and stigma. The fact that the mental health patients are treated not within the general, but in the specialized psychiatric hospitals, is an

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39 For the first half of year 2004 there were 227 new residents that arrived at social care homes for adults with mental disabilities: 8,8 % - from other social establishments; 70,1 % - from home, 16,7 % - from hospitals and 4,4% - from lodging-house. For the same period 228 residents left social care homes: 3,9 % - to other social establishments, 7,9 % - to relatives or living at home; 88,2 % - died.

40. For 1st of July 2004, 1616 (30,2 %) adults and 241 (36,9 %) children had the need for constant nursing. Department of Audit and supervision of social establishments, accessed at website <http://www.sipad.lt/main/index.php?act=menu&id=57>

41 The majority (more than 80 %) of residents have disability group II, which in most cases does not require constant care and nursing. Only approximately 18 percent of social care homes residents are in disability group I (which represent the most severe level of disability). Data from the Department of Audit and supervision of social establishments, accessed at website <http://www.sipad.lt/main/index.php?act=menu&id=57>

42 Mental Health in Lithuania. Report of Assessment mission, 16-17 October 2000

43 Authorities of social care homes report, that approximately 20% of residents could live in the community, receiving additional services (this number range in different establishments from 10 to 30 %). Monitoring Human Rights in Closed Mental Health Care and Social care Institutions. Report, Vilnius, 2005.

44 According to the data from the Department of Audit and supervision of social establishments, in the waiting list to get to the state social care homes for adults with mental disabilities – there were 369 persons (201 male and 168 female). 91 of which have Disability group I, 263 – Disability group II, 15 – having no disability group (data for 1st of January 2004)

obvious example of stigma. The system of isolated psychiatric care and treatment institutions prerequisite for the human rights violations and deepen the social exclusion and stigmatization of the patients”.<sup>45</sup>

According to data of the Lithuanian Health Information Centre, there are 11 psychiatric hospitals in Lithuania, the number of psychiatrists per 10 000 people is 1,6 (in 1999, it was 1,3).<sup>46</sup> The admission rate is 10,5 per 1000 population, and the average length of stay is 32,4 days, bed turnover is 9,1. In year 2002 there were 3816 beds in psychiatry, i.e. 11,0 per 10 000 population.

## **2.2. Human rights and safeguards of people living within the institutions**

In their own essence big institutions can not lead to respect and security of the most fundamental human rights, such as: the right to private life, information, least restrictive environment, right of movement and other<sup>47</sup>. On the contrary all the reports<sup>48</sup> on the monitoring of human rights of persons within the institutions highlight the failure to comply with the following standards: protection from arbitrary detention; adequate living conditions; adequate provision of care and treatment; individualized care plans; protections from harm and others.

In Lithuania it is common practice to circumvent the legal procedures for civil commitment in cases where people with mental disabilities are placed under the "guardianship"<sup>49</sup>. A ward who is under guardianship loses all civil and political rights usually enjoyed by adults. The guardian represents the ward under law and is entitled to “enter into all the necessary transactions in the interests and on the behalf of the ward<sup>50</sup>, including the cases of "voluntarily" committed to an institution (both psychiatric hospital and social care home)<sup>51</sup>. The statistical data show, that in total in the social care homes there were 697 (13 %)<sup>52</sup> residents who have been declared as legally incompetent and placed under guardianship (for the 1 January 2005).

The whole procedure of declaring person incompetent raises some doubts on its transparency and the “best interest” approach towards persons with mental disabilities<sup>53</sup>. Extremely faulty is the procedure for request of removal of a guardian, since the ward is not entitled to initiate the change

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<sup>45</sup> Monitoring Human Rights in Closed Mental Health Care and Social care Institutions. Report, Vilnius, 2005, page 7.

<sup>46</sup> Lithuanian Health Information Centre website accessed at <http://www.lsic.lt/html/en/lhic.htm>

<sup>47</sup> Monitoring Human Rights in Closed Mental Health Care and Social care Institutions. Report, Vilnius, 2005, page 7.

<sup>48</sup> For example Monitoring Human Rights in Closed Mental Health Care and Social care Institutions. Report, Vilnius, 2005.

<sup>49</sup> A person who “as a result of mental illness or imbecility is not able to understand the meaning of his actions or control them” may be by the court decision declared as legally incapable and placed under guardianship. Civil Code 2000, art. 2.10(1), art. 3.277(1).

<sup>50</sup> Civil Code 2000, art. 3.240(1) and (2).

<sup>51</sup> A ward who is under guardianship loses all civil and political rights usually enjoyed by adults. The guardian represents the ward under law and is entitled to “enter into all the necessary transactions in the interests and on the behalf of” the ward.

<sup>52</sup> This number is increasing, since according to the data for the 1 July 2004, 663 (12.4%) residents of the social care homes were under the guardianship.

<sup>53</sup> Many people are declared as incompetent without legal representation or due process protections. For example, wards do not have the right to appeal the court’s final decision that determines their incompetence and places them under guardianship. Code of Civil Procedure 2002, art. 469.

of his or her guardian and can not complaint about his improper supervision<sup>54</sup>. There are no mechanisms for obligating guardians to proper exercise their obligations (to the best interest of the ward) and monitoring<sup>55</sup> the implementation of their duties.

In relation to admission to psychiatric hospitals the predominant practice is to make the decision on involuntary hospitalization (or its extension)<sup>56</sup> without patient's participation in the court process<sup>57</sup>. This obviously violates first of all the patient's right to access to justice, and also the right to get appropriate treatment<sup>58</sup>.

### **3. Trends in deinstitutionalization processes and providing housing for people with both intellectual and mental disabilities in the community (supportive housing) in Lithuania.**

The international practices and trends on deinstitutionalization<sup>59</sup> provide the arguments that "provision of community care produces better outcomes, such as quality of life, that it better respects human rights and that it is more cost-effective than institutional treatment"<sup>60</sup>. But due to the lack of national evidences and upon the influence of specific interest groups, Lithuania still follows the historic principle and allows further to dominate stigmatizing services and exclusively bio medical attitude.

Nevertheless the positive changes within the region and membership in international organizations will induce to resign the monopoly of the closed institutions and to take action to organize and deinstitutionalize mental health care system, providing community care services as alternatives to institutional care. In Lithuania, as well as in other countries of the region, there is a continuing need to address human rights violations, stigma, discrimination and the consequent social exclusion that set mental health apart from most other health concerns. Ultimately there is a necessity to promote positive mental health and mental well-being.

Lithuanian Health Program describes such mental health priorities as stabilization of morbidity with mental diseases, reduction number of suicides up to average of European countries.

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<sup>54</sup> This is undertaken by the authorities at a care institution or by the prosecutor. Civil Code 2000, art. 3.246(3).

<sup>55</sup> Guardianship institutions (municipal or regional institutions concerned with the supervision and control of the actions of guardian) are responsible for the continuous supervision of designated guardians in matters relating to the proper performance of their duties. Civil Code 2000, art. 3.241(1).

<sup>56</sup> A person who has a severe mental illness and refuses hospitalization may be admitted involuntarily to the custody of the hospital only if there is real danger that by his actions he is likely to commit serious harm to his health or life; or to the health or lives of others. Involuntary hospitalization is legal: up to 2 days without the court's permission; up to 1 month from the beginning of hospitalization, with the court permission. Extension of involuntary hospitalization and treatment should be reviewed by the court every 6 month. The Law on Mental Health care 1995//State News, No. 53-1290, art. 27, 28.

<sup>57</sup> According the conclusion of psychiatrist, that "the patient is not able to show in front of the court due to his health condition" the court may decide on the involuntary hospitalizations (or its extension) without the patients participation.

<sup>58</sup> The court's decision on the involuntary hospitalization, based exclusively on the single-sided information from the mental health specialist, not taking into account patient's wishes and choice, means both the person's compulsory stay in the hospital as well as his treatment there.

<sup>59</sup> Over the last 30 years major moves towards deinstitutionalization, that is, towards reducing the use of such institutions, have taken place in many European countries. Individuals have been transferred to other settings such as general hospitals or various forms of community-based supported living establishments, or have been returned to their family homes.

<sup>60</sup> David McDaid, Graham Thornicroft. Mental Health II. Balancing Institutional and community-based care. Policy Brief. WHO 2005, page 1.

Exclusively mental health priorities are nominated in the State mental disorders prevention program (1999)<sup>61</sup> and consider prevention of occurrence of mental disorders, early detection, qualitative active and supportive treatment stressing the importance of primary mental health care and social rehabilitation. It also emphasizes: assurance of effective and accessible composite help for persons with mental and behavioral disorders; rehabilitation and integration of mentally disabled people; decentralization of mental health care services in Lithuania; etc.

The National Program on Social Integration for People with Disabilities 2003-2012<sup>62</sup> also provide for seeking of equal opportunities in social integration of people with disabilities and planning activities that would correspond to the international and national policy aims and obligations. The principles for planning the state policy on social integration of people with disabilities are: continuity of means of rehabilitation; equal opportunities, accessibility, compensation for disability, decentralization, prevention of discrimination and participation of people with disabilities.

Yet in 1998 Ministry of Social Security and Labor issued an Order on Development of trends for providing social services at homes and regulations of increase of work efficiency of social care homes, that gave the priority for providing social services at homes within the community, and stated that the person must be referred to the social care home only in cases when social services provided at home are not efficient and do not secure for the person the level of independency. Through 1998-2004 years<sup>63</sup>, more than 100 project on development of social services were financed with 29,75 mln. Lt.<sup>64</sup>. Meanwhile only over one year for financing of traditional social care homes the government allocates several times more resources than through the 6 years for financing development of modern alternative services<sup>65</sup>.

The Strategy for reorganization of state social care institutions 2002 foresees the trends of reorganization of state care institutions for 2003-2008 year. The necessity for such reorganization is conditioned by the fact, that state care institutions house approximately 30% of people (this number include both old age persons and persons with disabilities) who could live independently receiving social services in community<sup>66</sup>. Social services for people with disabilities are in most cases provided in such institutions, since the infrastructure of community based services for persons with disabilities is not developed enough. The majority of state care institutions are overcrowded, with up to 550 residents<sup>67</sup>. Upon implementation of the strategy it is foreseen to every year gradually expanding the network of social services provided in community, to decrease the number of places within institutions, improving the living conditions and quality

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<sup>61</sup> Government Decision on adoption of the State mental disorders prevention program//State News 1999, No. 109-3186.

<sup>62</sup> Government Decision on adoption of National program for 2003-2012 on social integration of persons with disabilities 2002//State News, No. 57-2335.

<sup>63</sup> Upon implementation of The Program for development of social services infrastructure 1998-2004.

<sup>64</sup> For the year 2005 2.3 mln. Lt. from the state budget was allocated for the Program for development of social services infrastructure. Selected 26 project, with only 3 designed for people with disabilities.

<sup>65</sup> Monitoring Human Rights in Closed Mental Health Care and Social care Institutions. Report, Vilnius, 2005.

<sup>66</sup> Item 5.2. Order of the Minister of Social security and Labor on approval of The Strategy for reorganization of state social care institutions 2002//State News 2002, No.: 71-2991,

<sup>67</sup> Items 5.3, 5.4. Order of the Minister of Social security and Labor on approval of the Strategy for reorganization of state social care institutions 2002//State News 2002, No.: 71-2991.

of services provided. To seek, that in 2008 year the number of residents would not exceed 300 in one institution.<sup>68</sup>

The Program of Adaptation of accommodation (environment) to the disabled<sup>69</sup>, coordinated by the Council for the affairs of disabled to the Government of the Republic of Lithuania<sup>70</sup>, aims to help people with disabilities to live independently within their own homes and secure environment. However the priority is put to various categories of disabled people with moving difficulties.

All these programs mentioned yet pay too little attention to the housing (independent living) problems of people with disabilities (especially people with mental disabilities). Besides, yet the trends for deinstitutionalization was proclaimed in 1998<sup>71</sup>, only in 2005 the definition of independent living homes was included into the Catalog of Social services<sup>72</sup>. Independent living home is defined as an outpatient social services institution, wherein old age persons or people with disabilities, who do not require intensive social care services, and who are able to live independently, only with part time support of social worker, are housed<sup>73</sup>.

Meantime there are only very few examples of providing the housing services for people with intellectual disabilities<sup>74</sup> and none for people with mental health problems<sup>75</sup>. With an increasing number of disabled persons, growing children with disabilities the need for community living services is constantly growing. The demand of such community social care (and living) establishments is also conditioned by the activity of integrated system of educational and day occupation services. Every year the growing number of young people with severe or moderate mental disabilities leaves these institutions, and it is necessary to plan the increase of places in living establishment in order to meet their needs for good quality, independent living.

## Conclusion and recommendations

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68 Despite of the decrease of the total number of places in state social care institutions from 5363 on the 1 January 2004 to 5359 on 1 July 2004 and to 5316 on 1 January 2005, the total number of individuals residing in institutions is yet not decreasing but balancing between 5348, 5344 and 5349 accordingly. Data received from Department of Audit and supervision of social establishments, accessed at website <http://www.sipad.lt>

69 Program of Adaptation of accommodation (environment) approved by the Council for the affairs of disabled to the Government of the Republic of Lithuania on February 10, 2005. Protocol No. 1.

70 The Council acts according to the Law of the Social integration of the Disabled of the Republic of Lithuania. It is responsible for managing the national budget resources and financing programs for the integration of the disabled The Program of Adaptation of accommodation (environment) was created, seeking to develop the community based social services, to increase the independence and decrease social isolation of people with disabilities.

71 Ministry of Social Security and Labor, Order on Development of trends for providing social services at homes and regulations of increase of work efficiency of social care homes//State News 1998, No. 94-2621.

72 Order of the Minister of Social security and Labor on approval of Catalog of Social services 2000//State News 2000, No. 65-1968.

73 Item 19-1. Amendments to Social services Catalog 2005// State News, 2005, No. 15-481

74 By the initiative of Lithuanian Welfare Society for Persons with intellectual disabilities "Viltis" - NGO representing people with intellectual disabilities, seven independent living homes in different cities are established with 115 persons with intellectual disabilities getting services there.

75 Only recently by the initiative of Global initiative on psychiatry Vilnius office in cooperation with Lithuanian society of people with mental disabilities "Giedra" and Lithuanian Welfare society for persons with psychiatric disorders there is a project on creating an independent living establishments for people with mental health problems.

In addition to protecting human rights within institutions, international human rights instruments, recognize and provide a right to be free from institutionalization and to have the right to community integration.

#### *Policy*

Following the international practice based on human rights approach, equality and nondiscrimination principles, countries are induced to make a transition and create alternatives to institutional care. It is recommended that the Lithuanian government shows a strong political will to make a shift from the institutional care towards community integration of people with mental disabilities.

#### *Changing the thinking*

Giving the priority to the area of mental health as an integral component of society's overall health in the national health policy should address the stigma, social exclusion and deeply entrenched prejudices towards people with mental disabilities in the Lithuanian society.

#### *Steps within the mental health system*

Setting the framework for the assessment and provision of mental health services, and their integration with general health and community services would guarantee parity with other health care services and ensure that what is provided is appropriate to people's needs. Appropriate mental health services should be accessible, acceptable and of adequate quality.

The principle of the least restrictive alternative should be laid down in the legislative and other necessary measures that would prevent inappropriate institutionalization and provide appropriate facilities, services, programs, personnel and protection, as well as opportunities for people with mental disorders to thrive in the community.

Mental health system should not as exclusive as it is. Legislation should establish and guarantee the continuity of care, moving beyond health and social care, and protecting people with mental disabilities against discrimination and encouraging their social integration within all area of life.

#### *Steps within the social care system*

A network of community based social services should be developed and expanded as much as possible to cover the geographical spread and the range of possible specific needs of people with intellectual disabilities and mental health problems.

Social services should be accessible, acceptable and of adequate quality.

#### *Empowering people*

It is recommended that people with mental disabilities, their family members and NGOs, representing their interests make use of the Law on equal opportunities 2003 as much as

possible in ensuring nondiscrimination principles with respect to their access to services (including housing).

The right to adequate housing has received a wide recognition as a fundamental human right, enabling everybody to have access to adequate, affordable and safe dwellings. Legislation should incorporate provisions for giving people with mental disabilities priority in state housing schemes and for setting up subsidized housing schemes, as well as for establishing a range of specialized housing facilities such as halfway homes and long-stay supported homes. The implementation of such programs should be guaranteed to enable vulnerable people to enjoy the independent living to the fullest possible extent, with an appropriate support services.

#### *Funding schemes*

The protected funding needed and safeguards should be put in place to ensure that funds are fully transferred as the balance of services shifts from institutions towards the community. “Money follows the persons” funding schemes might encourage the changes, providing persons with mental disabilities options to choose services best meeting their needs, and making the competitions between different service providers for the clients with the ensured money to come.

#### *Monitoring structures*

Different legal subjects administering separate parts of the complex institutional care system does not ensure the objective assessment of functioning of various institutions and continuity of care for people with mental disabilities outside the sphere of their competence. Independent monitoring structures are needed to guarantee the constant supervision of the whole system and its effective functioning, based on the respect and securing of the basic human rights standards with respect to people with mental disabilities.