

Compulsory hospitalisation of persons with mental disorders from the aspect of the protection of human rights

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The author calls attention to the adequate regulation of treatment of persons with mental disorders. The problem of the situation of persons with mental disorders concerns the whole range of basic values of any democratic society, such as protection of human rights and liberties and adoption of criteria for their restriction, protection of persons with mental disorders and protection of society. International law regulates the legal status of persons with mental disorders through international treaties and so called soft law, which consists of international instruments that are not legally binding. The author also highlights the inadequate regulation of compulsory detention and compulsory commitment («compulsory hospitalization») of so called «civil» and «penal» patients, from the perspective of the new Slovene penal legislation and mental health legislation. By an act that will regulate the protection of persons with mental disorders (this will be either a properly amended Mental Health Act or a new law, which seems to be a better solution), it will be necessary to regulate adequate compulsory detention and compulsory commitment of «civil» or «non-penal» patients in need of judicial protection of their rights. On the other hand, it would be best to define measures of compulsory psychiatric treatment of insane offenders and offenders committing acts in a state of diminished responsibility as safety measures, which would be imposed by a criminal court in criminal proceedings. Safety measures, namely, do not serve only the needs of individual prevention, but also the protection of society (by fulfilling very strict legal conditions for their imposition). At the same time, it will be also necessary to return to the original form of the principle of culpability *nulla poena sine culpa*.

Key words: compulsory hospitalisation, measures of compulsory psychiatric treatment, mental disorders, international instruments

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