**Promising legislation and supported-decision making models**

MHE has identified some promising legislation as well as specific forms of supported-decision making which are suited to persons with psychosocial disabilities which comply with most of the above mentioned criteria. MHE would like to stress that the best services for persons with disabilities are those that are designed, developed and delivered with participation of all stakeholders including persons with lived experience of mental health problems and would advise any stakeholder who is considering developing supported decision-making services or policies to use this working practice.[[1]](#footnote-1)

*Proposed Bulgarian Bill - “Natural Persons and Support Measures Bill”*

In 2015, a new Bill was proposed by the Bulgarian Ministry of Justice to replace the existing guardianship law in order to align Bulgarian legislation with the UN CRPD. The Bill, if adopted, would establish various measures of support and protection which will enable adult persons with psychosocial or intellectual disabilities to exercise their basic human rights in accordance with their will and preferences.[[2]](#footnote-2) According to the Bill, any person is entitled to receive appropriate support from a supported decision-making body which must be registered and officially appointed by the Mayor of the Municipality in line with the ‘wishes and preferences’ of the person requiring support. A contract is then drafted between the support person and the person who needs support and they can also create a form of ‘advanced planning’ called a ‘preliminary declaration’.

If a ‘risk situation’ arises which is defined as “serious and immediate risk to the life, health and property of the person”, the procedure differs and the support is established through the creation of a trusted ‘Council’ by the support person comprising of the person in need of support, relatives, close acquaintances and support bodies. The Council will be in charge of ensuring the best interpretation of the person’s ‘wishes and preferences’ in the decisions taken. Protection is safeguarded through the active role of the court as an independent body monitoring the relationship of trust and guaranteeing the rights of the person. In risk situations if the trusted network makes a decision it must be submitted to the court. The strength of this Bill is that it recognises legal capacity as an inherent right while providing for supported decision-making with robust safeguards. MHE believes that this Bill is one of the most compliant reforms in terms of legal capacity that has been proposed in recent years however it also provides for co-decision making under vague circumstances and MHE would recommend clarification that this cannot be adopted against the ‘will and preferences’ of the person who needs support. Nonetheless we believe this Bill has potential to make a great difference to the lives of persons with psychosocial disabilities and we hope that it will be adopted by the Bulgarian Parliament in due course.[[3]](#footnote-3)

*Andalusian practice of Advanced Care Planning in Mental Health*

In Andalusia, the Human Rights and Mental Health Group has developed a guide on Advanced Care Planning in Mental Health (ACP-MH), *[[4]](#footnote-4)* designed using co-production between mental health care users and professionals in line with the UN CRPD. The guide is addressed to people interested in the process and to mental health service professionals. According to the Law 41/2002 on Patient Autonomy,[[5]](#footnote-5) professionals are legally bound to respect the directives for end-of-life care and, according to some jurists, mental health care.[[6]](#footnote-6) This model of Advanced Care Planning enables people to record their will and preferences in advance,[[7]](#footnote-7) this is then included in the medical record of the person and made accessible to all healthcare professionals in order to influence the health care provided in case they may face temporary inability to make decisions (ie crisis situations). The process and its application are at an early stage and the first objective is to train and sensitise professionals and users of the service with regards to the patient’s autonomy, their right to make their own decisions and the notion of will and preferences in line with article 12 of the UN CRPD. The ultimate objective is to ensure full respect of legal capacity and the right of choice in relation to healthcare through the application of the advanced directives by the professionals as well as to establish safeguards to protect the person and prevent abuses such as undue influence.

*Personal Ombudsman*

The Personal Ombudsman (PO) System was developed in Sweden and grew out of the psychiatric reform which took place in 1995. Under the scheme, a PO is defined as a highly skilled person who works on the commission of a person needing mental support services for a long period and is bound by a contract. The PO helps his/her client with a wide range of issues, ranging from family-matters to housing, accessing services or employment. The support is flexible and adapted to the person’s will and preferences. This model has been designed for people with psychosocial disabilities who are potentially quite isolated and as a result would be ideal for those persons mentioned in the General Comment who do not have naturally occurring support networks in their communities including those who have been institutionalised for many years, have lost contact with their family or friends or have been excluded from the community for long periods of their life.[[8]](#footnote-8) The support can be stopped at any time at the request of the person needing support. This model enables persons with psychosocial disabilities to retain their legal capacity, make decisions and enjoy their life thanks to the support they receive and the trusted relationship they create with their PO.

*The Circle of Friends*

The Circle of Friends is a practice which gathers a group of trusted people, usually family and friends, chosen by the person requiring support who meet regularly in order to support a person to accomplish their personal goals in life.[[9]](#footnote-9) These goals are chosen by the person themselves and can include goals like finding a job or a place to live. This type of support network was first developed in Canada in order to empower persons with disabilities to evolve as well as to reinforce their independence. It ensures that the person will be able to make decisions for themselves and will be able to seek counsel if they wish to. Although not specifically designed for persons with psychosocial disabilities this model, in MHE’s view, is a form of informal supported decision-making which is adaptable and suitable for persons with psychosocial disabilities who have naturally occurring support systems.

*Therapeutic community support networks*

The following therapeutic community support networks have been chosen as particular ways of enabling persons to maintain their legal capacity as well as their rights to liberty, physical and mental integrity, to live and be included in the community and to freely consent to treatment.

**The Open Dialogue model**, developed in Finland, is based on therapy meetings with a network which brings together the person with a psychosocial disability, their family, other natural supports, and any professionals involved.[[10]](#footnote-10) It promotes transparency in therapy planning and decision-making processes by enabling collaborative planning where each person is given a voice in the network meetings. It ensures the respect of the will and preferences and safeguards against undue influences. Such support enables the person to retain their legal capacity and to make the final decision on their treatment etc. after exchanges and reflection within the group. The model has been successful in maintaining the autonomy of persons in crisis situations as it gathers the group within 24 hours of the beginning of the crisis and has led to a huge reduction in forced placement and treatment where it is implemented in Finland. However, it should be noted that the support network meetings are also effective in preventing the worsening of mental health problems, particularly if they are commenced at the earliest stage in the progression of the problem. The support meeting can help the person in other aspects of life as well. It is also interesting that the use of Open Dialogue has some of the most impressive outcomes for persons experiencing psychosis.[[11]](#footnote-11)

**The Soteria Model** was originally created in the 1970s to provide an environment and community of support for persons with a diagnosis of schizophrenia or persons experiencing psychosis.[[12]](#footnote-12) The model is based on a ‘recovery’[[13]](#footnote-13) as well as consensual approach and does not use coercive measures such as forced placement and treatment. Services are run by mostly non-medical personnel and use hardly any psychiatric drugs. The Soteria model also uses peer-supportto help people to develop the skills they need to make decisions for themselves and live independently including budgeting, shopping, cooking and the importance of sharing space**.** Soteria services are an example of how a mental health services can maintain the autonomy of persons with even the most severe psychosocial disabilities.

1. The definition of co-production used by MHE can be found in our glossary, available at: <http://www.mhe-sme.org/policy/glossary/>. [↑](#footnote-ref-1)
2. More information on the Bulgarian Centre for not-for-profit law, available at: <http://www.bcnl.org/en/news/1353-bulgaria-is-about-to-make-step-forward-in-the-efforts-to-recognize-the-human-rights-of-people-with-disabilities.html>. [↑](#footnote-ref-2)
3. MHE received the translation of the draft legislation through the International Disability Alliance. [↑](#footnote-ref-3)
4. More information on the 1decada4 website, available at: <http://www.1decada4.es/course/view.php?id=42> [↑](#footnote-ref-4)
5. *Ley 41/2002 Básica Reguladora de la Autonomía del Paciente* [↑](#footnote-ref-5)
6. The interpretation of the law and the scope of application is still discussed amongst professionals. Some jurists say it applies to all directives, including in relation to mental health care. [↑](#footnote-ref-6)
7. The advanced directive can include symptoms that the person usually notices that they experience when entering in a crisis situation, what makes the person feel good and bad when experiencing distress, who their contact person is, who he/she would allow to visit, therapies that they find helpful, information about their general health, diet etc, and they can also a specify a person who should take decisions for them, in line with their will and preferences, if their legal capacity is questioned. [↑](#footnote-ref-7)
8. MHE video on Personal Ombudsman, available at: <http://www.right-to-decide.eu/2014/08/swedish-personal-ombudsman-service-po-for-people-with-mental-health-problems/>. [↑](#footnote-ref-8)
9. MDAC’s report: Supported Decision-making, An Alternative to Guardianship, 2006, available at: <http://mdac.info/sites/mdac.info/files/English_Supported_Decision-making_An_Alternative_to_Guardianship.pdf>. [↑](#footnote-ref-9)
10. The Open Dialogue model is one of the most successful in the world, where over 80% of patients have returned to work. On-going research shows that 75% of persons who use this method have no remaining signs of residual psychosis. Please see MHE’s Myth Buster on forced treatment for further information, available at: <http://www.mhe-sme.org/fileadmin/Position_papers/MHE_Myth_Buster_on_forced_treatment_2014_01.pdf>. [↑](#footnote-ref-10)
11. Seikkula et al., Five-year experience of first-episode non affective psychosis in open-dialogue approach: Treatment principles, follow-up outcomes, and two case studies. Psychotherapy Research, March 2006; 16(2):214–228, available at: <http://www.iarecovery.org/documents/open-dialogue-finland-outcomes.pdf>. You can also watch a short video introduction to Open Dialogue, at the following link: <http://www.youtube.com/watch?v=aBjIvnRFja4>. [↑](#footnote-ref-11)
12. Calton et al, Systematic Review of the Soteria Paradigm, 2007, available at: <http://schizophreniabulletin.oxfordjournals.org/content/34/1/181.full>. [↑](#footnote-ref-12)
13. MHE defines recovery as the following in its glossary: Recovery is self-defined, but broadly means living a meaningful and satisfying life, with hope for the future. Recovery is not the eradication of the experiences or symptoms accompanying mental distress, as it would be used in the context of physical health.  It can mean living with and managing these experiences, whilst having control over and input into your own life. Please see MHE’s video on recovery available at: <https://www.youtube.com/watch?feature=player_embedded&v=0Y9dSgA-tiU>. [↑](#footnote-ref-13)