# The protection of Human Rights and Dignity of persons with mental disorder with reference to Committee Draft General Comment on article 12 CRPD.

## 1.- Decision-making capability (DMC).-

As stated on my previous note, "A Caregiver view about Committee Draft General Comment on Article 12 CRPD", we cannot share the Committee's radical interpretation about its claim to abolish Substitute-Decision-Making (SDM) Legal Systems to ensure the equality before the law of people with disabilities.

It was showed that the equality principle does not always imply equal legal regulation for everyone regardless any different circumstances with legal weight. What the equality principle requires is that same fact situations have same legal consequences.

The European Court on Human Rights has established that "discrimination means treating differently, without an objective and reasonable justification, persons in analogous, or relevant similar, situations".(1)

Discrimination before the law and arbitrary are forbidden. Nevertheless, special circumstances deserve different legal focusing.

"A measure of depriving someone from their capacity to exercise some of their rights ***never could be interpreted as discrimination***, because the situation which deserves protection has special characteristics. We are talking to protect a singular person whose lack of willing and understanding hinders her to govern by herself." (2)

When I was writing those legal principles I thought I would be the only one who disagrees with the majority stream represented in the WARP Task Force Ethics & Human Rights, but I have to thank the President of the Task Force, Michaela Amering, for sending me a couple of very interesting articles from Dr. George Szmukler (3) (4).

George Szmukler is proposing a "Fusion Law" in UK consistent with CRPD principles where an involuntary treatment would be justified, not on the status of a person with mental disorder but on the lack of making-decision capability of the person at the moment to make a decision which implies that otherwise their wellbeing will be seriously threatened. According to his proposal Fusion Law should apply to everyone who were in that situation, whether they are persons with disability, or not.

(1) Kiyutin v Russia/ European Court of Human Rights (ECHR), March 2011. Application nº 2700/10. *D.H. and Others v. the Czech Republic* [GC], no. 57325/00, § 175, ECHR 2007, and *Burden v. the United Kingdom* [GC], no. 13378/05, § 60, ECHR 2008-

(2) Spanish Supreme Court/ Sentence (29th April 2009)

(3) "Radical Interpretation" and the Assessment of Decision-Making Capacity, Journal of Applied Philosophy.

(4) Mental health law and the UN Convention on the rights of persons with disabilities, International Journal of Law and Psychiatry.

Although Szmukler´s contribution is only focused to involuntary treatment, he pointed out several important subjects:

1) Regarding article 14 of CRPD, which provides that *"States Parties shall ensure that persons with disabilities, on equal basis than others are not deprived of their liberty unlawfully or arbitrarily, ..., and that **the existence of a disability shall in no case justify a deprivation of liberty**",* Szmukler quoted the following paragraph of the UN High Commissioner Office Report, when concluding that States Parties :

"must……. repeal…provisions authorizing institutionalization of persons with disabilities for their care and treatment without their free and informed consent, as well as provisions authorizing the preventive detention of persons with disabilities on grounds such as the likelihood of them posing a danger to themselves or others, in all cases in which such grounds of care, treatment and public security are linked in legislation to an apparent or diagnosed mental illness. **This should not be interpreted to say that persons with disabilities cannot be lawfully subject to detention for care and treatment** or to preventive detention, but that the legal grounds upon which restriction of liberty is determined must be **de-linked from the disability** and **neutrally defined** so as to apply to all persons on an equal basis".

Szmukler said that the last sentence indicates that the High Commissioner's opinion about article 14 CRPD does not completely exclude involuntary treatment. The criteria to allow involuntary treatment should not be the existence of a disability (mental disorder), but another one non-discriminatory and "disability-neutral".

2) This Professor suggested two requirements under the law to permit involuntary treatment:
   -) **A lack of Decision-Making Capability (DMC)**.
   -) The concurrence of the "best interest" of the person, in the sense of what he called **"subjective best interest"**, that is to say, giving paramount importance to the values and preferences of the person (person's past and present expressed whishes, believes and values - in particular a relevant written statement made when the person had capacity -, factors that the person would have been likely to consider if they had been able to, consulting with relevant people in the person's life – including those nominated by the person previously for the occasion-).
3) The person appointed to make the decision on behalf of the person with a lack of DMC under the above requirements, should be called "substitute decision-maker" (SDM), or, a "facilitator" (F).

## 2.- Involuntary treatment.-

George Szmukler's proposal has nothing to be criticized from a legal or ethical basis.

However, on one hand, the matter is that involuntary treatment is not the only issue to be worried about regarding persons' with mental disorder protection with reference to article 12 CRPD, as we will see in another point.

On the other hand, we miss his criteria about how to do in emergency situations when appropriate consent cannot be obtained.

Should a doctor gather person's past and present expressed whishes, look for relevant people on person's life, etc,…, when someone, for instance, is trying to suicide?

The Committee does not accept any exception to its radical interpretation on its Draft General Comment on article 12 CRPD (point 38):

*"As has been established in numerous concluding observations,* ***forced treatment*** *by psychiatric and other health and medical professionals* ***is a violation*** *of the right to* ***equal recognition*** *before the law and an infringement upon the rights to personal* ***integrity*** *(Article 17),* ***freedom from torture*** *(Article 15), and* ***freedom from violence, exploitation and abuse*** *(Article 16)."*

*"Forced treatment has been a particular problem for persons with psycho-social, intellectual, and other cognitive disabilities.* ***Policies and legislative provisions that allow or perpetrate forced treatment must be abolished****."*

Of course, CRPD is not the only International Treaty in force.

The Convention for the protection of human rights and dignity of the human being with regard to the application of Biology and Medicine (Oviedo 1997) is giving the answer:

"When because of an emergency situation the appropriate consent cannot be obtained any medically necessary intervention **may be carried out immediately** for the benefit of health of the individual concerned" (Article 8).

I would like to highlight that in this case the legal justification of the involuntary medical intervention is a benefit for individual's health. But, what happens when the individual conduct is threatening the integrity or the life of others?

For those who are able to read Spanish, I include the following link:
http://politica.elpais.com/politica/2013/10/18/actualidad/1382120158_849637.html

This is a news published by the journal "El Pais" on 18th October 2013.

It tells the story of a lack of action from Public Authorities when a family had been asking for help with reference to the aggressive behavior of their son, a person with a severe mental health disorder, who decided giving up his treatment, and two month later his father was killed by him. The article also refers to the conversation that the person with MHP had two months after his father death with his sister in the Penitentiary Psychiatric Hospital where he has to be for 15 years. He wondered why nobody had done anything to prevent his acts.

This is what I would call an example of the radical CRPD interpretation "collateral effects". I have to add that these episodes unfortunately are much more frequent than believed. Most of the over 800 inmates in Spanish Penitentiary Psychiatric Hospitals are there because of kill crimes.

Oviedo Convention on Human Rights and Biomedicine answers the second question too:

"***No restrictions*** *shall be placed on the exercise of the rights and protective provisions contained in this Convention* ***other than*** *such as are prescribed by law and are necessary in a democratic society in the interest of public safety, for the prevention of crime, for the protection of public health or* ***for the protection of the rights and freedoms of others****" (Article 26).*

CRPD is not the only legal norm on the States Parties Legal Systems, and its interpretation has to be done in a comprehensive way as a whole.

As declared by Spanish Constitutional Court in a consolidated jurisprudence," ***there are no absolute fundamental rights***; law can establish ***limits*** to fundamental rights to protect ***other constitutional rights***, or, some ***other rights under the Constitution protection***".

I have no doubts at all that integrity and life of others are fundamental rights that are guaranteed by the Constitution and that deserve legal protection.

The Council of Europe Committee of Ministers Recommendation concerning the protection of human rights and dignity of persons with mental disorder, established as criteria for an involuntary placement in psychiatric facilities or for involuntary treatment that, among others conditions, the person's behavior **represents a significant risk of serious harm to his/her heath** or **to other persons** (5).

Even the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment recognizes both justifications for involuntary placement on psychiatric facilities:

"Deprivation of liberty on grounds of mental illness is **unjustified if its basis is discrimination or prejudice** against persons with disabilities. Under the European Convention on Human Rights, mental disorder must be of a certain severity in order to justify detention. The Special Rapporteur believes that the severity of the mental illness is not by itself sufficient to justify detention; **the State must also show that detention is necessary to protect the safety of the person or of others**. Except in emergency cases, **the individual concerned should not be deprived of his liberty unless he has been reliably shown to be of "unsound mind"**(6)

(5) Articles 17 and 18 Recommendation Nº REC (2004) 10 of Council of Europe Committee of Ministers concerning the protection of human rights and dignity of persons with mental disorder.

(6) Point 69/ **A/HRC/22/53** Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez (1st February 2013).

**3.- The protection of human rights and dignity of persons with mental disorder.-**

The involuntary placement and the involuntary treatment of persons with mental health problems (MHP) are intrinsically linked to the fundamental human rights of equality and dignity.

However, the CRPD does not make any expressed mention about involuntary treatment or placement.

With regard to non-consensual placement the Office High Commissioner on Human Rights admitted that article 14 CRPD "should not be interpreted to say that persons with disabilities cannot be lawfully subject to detention for care and treatment or to preventive detention, but that **the legal grounds upon which restriction of liberty is determined must be de-linked from the disability and neutrally defined** so as to apply to all persons on an equal basis."

We miss any interpretation from the CRPD Committee on article 14 which would admit an involuntary placement de-linked from the status of a person with MHP as disable but that recognized such a measure in benefit of their health or to protect others in certain emergency situations under the safeguards established in a law.

Regarding the Human Rights Europe scope, the main documents on Human Rights we can mention are the European Convention in Human Rights and Fundamental Freedoms (1950 ECHR), the Convention for the protection of human rights and dignity of the human being with regard to the application of Biology and Medicine (Oviedo 1997), and the case-law doctrine developed by the European Court on Human Rights which also has been including in their sentences its interpretation of CRPD since the European Union ratified it (Dec. 2010).

It has to be added the Recommendation Nº REC (2004)10 of Council of Europe Committee of Ministers concerning the protection of human rights and dignity of persons with mental disorder, where all the Council of Europe standards have been encompassed.

The **Council of Europe Steering Committee on Bioethic**s made the following statement on CRPD compatibility with involuntary placement or treatment (meeting Nov. 2011):

"As a result of the discussion, the Committee concluded that the existence of a disability may not justify in itself a deprivation of liberty or an involuntary treatment. **Involuntary treatment or placement may only be justified**, in connection with a mental disorder of a serious nature, if from the absence of treatment or placement **serious harm is likely to result to the person's health or to a third party".**

The standards of the Recommendation REC (2004)10 are:

a) **Involuntary Placement**: The law may provide an involuntary placement for the shortest period necessary, on the ground of an emergency situation where the

individual behavior is strongly suggestive of a mental disorder, and, only if all the following conditions are met:

- The person has a mental disorder.
- A significant risk of harm to them or other persons.
- Therapeutic purpose.
- It has to be the least restrictive mean of providing appropriate care available.
- The person's opinion has to be taken into consideration.

b) **Involuntary Treatment:** Under the law a judge may decide an involuntary treatment, only if all the following conditions are met:

- The person has a mental disorder.
- A significant risk of harm to them or other persons.
- It has to be the least intrusive mean of providing appropriate care available.
- The person's opinion has to be taken into consideration.

The involuntary treatment also requires some principles:

- It should address specific clinical signs and symptoms.
- It has to be proportionate to person's health state.
- It has to form part of a Treatment Plan (where it would be prepared/review/and revised in consultation with the person if possible).
- Be documented (which will allow to be monitored and checked that it has been the least intrusive among other things).
- It should aim to enable the use of treatment acceptable to the person.

Moreover, the Recommendation REC (2004)10 establishes appropriates safeguards, as the decision (has to be made by a court or other competent body), procedures, prior procedures to the decision, reviewing procedures, emergency procedures, right to information, reviews and appeals concerning the lawfulness of the involuntary placement/treatment.

From a legal point of view, the only matter that maybe could be questioned is if the first condition to be met about "the person has a mental disorder" is not a disability status. It might be answered asking the question if a mental disorder is a disability by itself. Another answer should be that any person who never have had before a mental disorder - for instance, a psychotic episode - can suffer it suddenly, which would mean that the requirement applies to everybody and not only to disable people with mental problems. Maybe the text could be changed to clarify with other words that it is not the case. An expression like "to experience a psychotic episode" or something else better written by Psychiatrics.

The CRPD Committee recommended to Spain a review of "its laws that allow for the deprivation of liberty on the basis of disability, including a psychosocial or intellectual disabilities; repeal provisions that authorize involuntary internment linked to an apparent or diagnosed disability; and adopt measures to ensure that health-care

services, including all mental-health-care services, are based on the informed consent of the person concerned".

We cannot really understand their reasons.

The Spanish Constitution enshrines the right to freedom for everybody, and forbids any unlawful deprivation of freedom. (Article 17.1)
Preventive detention will not last more than 72 hours (article 17.2). A "habeas corpus" procedure is established to warrant this right (article 17.4)

Legal safeguards apply to involuntary placement of any person with a mental disorder when the person is not able to make the decision by her/himself. There will be necessary the previous judge authorization, unless urgent reasons justify the measure. In that last case, the Manager of the Heath Establishment must report the judge immediately, and, any way before than 24 hours. Within a deadline of 72 hours the judge must ratify, or, deny the measure with the safeguards of having heard by him/herself the person concerned, the Public Prosecutor, any other person whose attendance could be considered convenient, and someone else who were asked by the person concerned. In addition the judge will ask another medical opinion from a different practitioner.
The Doctor in charge can agree the termination of the involuntary placement when he considers that the conditions of the placement were not met any more.
The Judge has to require the doctors in charge periodical reports about the need to continue with the measure, and, in any case every six months. In addiction the Judge can ask for any other information at ant time (Article 763 LEC).

In our opinion Spanish Legal System is consistent with the Europe Standards, and, we have seen above that the Council of Europe Steering Committee on Bioethics on its November 2011 meeting declared the European standards about involuntary placement or treatment compatible with CRPD.

**4.- Protection of vulnerable persons with mental disorders.-**

I would not like to close this comment on the Recommendation REC (2004)10 without highlighting the excellent quality of its Explanatory Memorandum- 264 points -which shows a deep knowledge about the casuistic and reality of persons with mental health problems, their environment, their usual family supports, their vulnerability, and, a very well-done article text from a legal point of view with very well thought safeguards to guarantee every right and to ensure a high level of protection.

Our congratulation for the Working Party who worked under the authority of the Steering Committee on Bioethics to draw up very good guidelines to be included in the Council of Europe Committee of Ministers Recommendation.

Even though the Recommendation provides a very wide outlook of the difficulties in the existence of persons with MHP, paying attention not only to involuntary treatment or

placement, but many other issues as civil and political rights, dependants on a person with MHP (in particular children), personal data protection, procreation, termination of pregnancy, involvement of the criminal justice system; there is only one paragraph in article 7 which calls the States Parties to include in the law measures to protect their economic interests. Nevertheless, the Explanatory Memorandum introduces the core subject of the potential vulnerability of most of the persons with serious mental disorders and points out the need to be aware of their protection.

The Explanatory Memory makes us to bear in mind that persons with MHP are very vulnerable and the need to prevent unscrupulous people to abuse or to exploit them.

Let's have a look at the list:

- Persons with **cognitive vulnerability**. Reports of sexual exploitation highlight the need to be aware of the vulnerability of these persons that could be minors, persons with dementia or mental handicap, particularly in institutional settings.
- Persons with **situational vulnerability.** Persons who normally have capability to make a decision but are deprived of the ability by the relevant situation (lack of fluency in the language used to provide information, an emergency,…).
- Persons subject to **institutional vulnerability**. It applies to those who have early stages of dementia, mental handicap, long-term psychotic disorders, in sum, people described as being dependant, especially those living in nurse houses. We are talking about persons that even having cognitive capacity to consent are subject to the authority of people who have their own interests, possibly in conflict with theirs. Sometimes these persons are unable to resist infringements on their human rights.
- **Deferential vulnerability**. Persons being cared for by family members at home who establishes hierarchies where the person with MHP can be subject to the dominant family member. It happens sometimes with patients who feel deferential to the wishes of their mental health care professional. It also occurs when a person belongs to close-knit groups where there are common religious beliefs and aims, and, outside social links are not well seen.
- **Medical vulnerability.** Persons with schizophrenia or persons with early dementia that have insight into their situation and try to recover their "normal self" may be very vulnerable to someone promising a "miracle cure".
- **Economic vulnerability.** It refers to those economical disadvantaged who may be inducted to take part in research project to obtain a financial gain or not to lose access to some benefits.
- **Social vulnerability.** It affects to some people with severe mental disorders who live usually in isolation which could be a source of social exclusion. Some examples are persons with MHP who belong to ethnic minority groups or foreigners who even do not speak the language.

- **Protection of economic interests.** Persons with mental disorders may be vulnerable even if they have capacity to consent. The second paragraph of article 7 highlights the need that the law ensures measures to protect the economic interests of persons with mental disorders.
  If their capability to consent is affected their economic interests protection has to be paramount. The Explanatory Memorandum said that the need to protect their economic interests is not only relevant to those with dementia who may need their finances administrated over a long period. An acute episode such as the manic phase of bipolar affective disorder may result in the person spending money that they do not have, or making unwise decisions in relation to his/her employment and hence endangering their future economic situation.
  At this regard the Explanatory memorandum refers to the provisions of Council of Europe Recommendation (99)4 *on principles concerning the legal protection of incapable adults.*
  Measures like **guardianship or other appropriate mean**s are suggested to protect the economic situation of people with mental disorders.

It is worth to make a brief comment on the **Principles encompassed on the Council of Europe Recommendation (99)4** above mentioned.
I would like to draw your attention to the fact that, the terminology of this Recommendation might be updated to make it consistent with the CRPD, but there are some very important Principles about the economic interests' protection of persons whose making-decision capability had been modified which are completely in harmony with CRPD:

- **Part I.- The Scope** of its application said:
  "*The following principles apply to the protection of adults who, by reason of an impairment on insufficiency of their personal faculties, **are incapable of making**, in an autonomous way, **decisions** concerning any or all of their personal or economics affairs, or, understanding, expressing or acting upon such decisions and who consequently cannot protect their interests*."

It is not saying the lack of capability is due to a disability, and it refers to any adult in such condition.

- **Part II. Governing Principles**: It deserve mentioning a few Principles:
- **Principle 1.- Respect for human rights** and fundamental freedoms.
- **Principle 2.-Flexibility in legal response**: That means to enable a suitable legal response to different degrees of lack of making-decision capability and situations.
  It is worth highlighting the following point*: "The range of measures of protection should include **those which do not restrict the legal capacity** of the person concerned"*

We would want to point out that this legal instrument is clearly stating that everybody has the same legal capacity, and the measures to protect the economic interest of adults who cannot make a decision by themselves do not affect that legal capacity.

- **Principle 3.- Maximum preservation of capacity** ( I understand that means "act capacity". Legal capacity is equal for everyone). *"…the adult may be permitted, with the representative's consent, to undertake specific acts or acts in specific areas" "Whenever possible the adult should be able to enter into legal effective transactions of an everyday nature".*

It is interesting to underline that if the person has a representative to support them, their participation in acts should be with the agreement of that representative, and not against it.

- **Principle 9.-Respect for the wishes and feelings of the person concerned:** *"..past and present wishes and feelings of the adult should be ascertained so far as possible, should be taken into account and given due respect:"*
- **Principle 10.**- **Consultation.-** The consultation in the establishment of a measure of protection there should be a consultation, so far as reasonable and practicable, with those having a close interest in the welfare of the adult concerned**.**

- **Part III.- Procedural Principles:** It is worth mentioning:

- **Principle 13.- The right to be heard in person**: the person concerned should have the right to be heard in any proceedings which affect their legal capacity.
- **Principle 14.- Duration, review and appeal:**
  - Measures of protection should be of limited duration.
  - Periodical review should be done. Any change of circumstances or any change in the adult's condition should imply reviews.
  - There should be adequate rights of appeal.
- **Principle 16.- Adequate control**: There should be adequate control of the operation of measures of protection and of the acts and decisions of representatives.

- **Part IV: The role of representatives:**

- **Principle 18.- Control of powers arising by operation of law:** Consideration should be given to the limits and control of power given to any representative by operation of the law.
- **Principle 19:- Limitation of powers of representatives:** It is for national law to determine what representative acts require court approval as well as acts of highly personal nature which cannot be done by a representative.
- **Principle 20.- Liability**: Representatives should be liable for any loss or damage caused by them while exercising their functions.

I would want to highlight the need to pay special attention to the role and need of control of the acts and decisions of representatives in the protection of the economic interests of persons with mental disorders with regard to their vulnerability stated above. Sometimes the power as a representative is given by the law to an administrative body. Principle 18 is

underlining the need to establish control and limits that apply to public servants too. Corruption is not unknown among public servants.

**5.- Conclusions.-**

I have to recognize that the European standards on human rights and dignity of persons with mental disorders make me feel much more comfortable than the UN Committee draft of Comment on article 12 CRPD.

Any rights issues are not simple. Laws reflect fact situations in the society, and life in society is complex. If we are talking about Fundamental Rights we had to be much more sensitive, nevertheless, the principles are the same.
There are no absolute rights. Any individual right is limited by other rights and other persons rights.

The Committee CRPD in its proclamations about equality before the law and some other fundamental rights of persons with disabilities forgets that there are other Fundamental Rights of the person to protect, as right to life (article 10 CRPD), right to health (article 25 CRPD), and right of dignity, and ignores the existence of other people with the same Fundamental Rights to life and integrity.

Anyway I admit that this is a question of prioritizing what right is first and hence what right has to cede or to be restricted due to the need to reconcile both rights.

What is it first, the right to life and the right to heath of a person or his right to equality before law? What should it be prioritized, the right to integrity and the right to life of someone or the right to equality before the law of a person with disability?

**The Committee does not accept any exception** to its radical interpretation on its Draft General Comment on article 12 CRPD (point 38), and considers "**forced treatment** is a **violation of the right to equal recognition before the law** and an infringement upon the **rights to personal integrity**, **freedom from torture**, and **freedom from violence, exploitation and abuse"**

Of course, we think that European Standards on Human Rights are much more balanced when the **Council of Europe Steering Committee on Bioethic**s admits with the adequate safeguards that *"Involuntary treatment or placement **may only be justified**, in connection with a mental disorder of a serious nature, if from the absence of treatment or placement **serious harm is likely to result to the person's health or to a third party**"(Meeting Nov. 2011).*

Someone who wants to understand how the interpretation of rights works only has to read the doctrine law-case of the Constitutional Courts, Supreme Courts of every State or

some other international courts as the European Court on Human Rights to know how every fundamental right has to be interpreted regarding other rights and the rights of others.

The Committee, following an intellectual lobbyist movement which preceded and followed the CRPD signature by States Parties, intends to implement further legal concepts than CRPD text establishes.

I do not understand what they are getting at. They might be just looking for intellectual proud. They might believe they are improving life and rights of persons with disabilities. I would not deny it with reference to certain disabilities and regarding underdeveloped countries. But I do not think this extreme attitude could help persons with mental disorders. On the contrary, if the Committee proclamations of abolishing current guardianship institutions and forbidding involuntary treatment in any case became law in force the consequences of losing legal protection would be a real disaster.

No use to a person with mental disorder the absolute equality right before the law had been proclaimed if by consequence of the knocking down of guardianship protection institutions they would have lost their housing and their way of living, because without the protection of their economic interests next step for them is the louse of their dignity.

No use to a person with mental disorder that someone proclaims their fundamental rights with pride if by consequence of denying their involuntary treatment in emergency situations someone is killed and they finished confined in a Psychiatric Penitentiary Hospital.

Once said this, we would like to highlight that we are not partial of involuntary treatment or involuntary placement as a rule but as a last resort. It should aim to enable the use of treatment acceptable to the person. We neither are in favor of institutionalization but the opposite. We are strongly committed with a communitary social model where the wide range of persons with MHP is cared under some positive values. Manantial Foundation is always focusing its psychosocial rehabilitation strategy on the person as a whole. The concerned person takes part significantly on his own Individual Rehabilitation Plan. Hope in future is the paradigm for both, the person concerned and our professional team.

Manantial Foundation bid is the autonomy of the person whose care is undertaken. However, there are several degrees from the Day Centers where the target is providing social support to persons with more difficulties in social integration to the Labor Rehabilitation Centers where the aim is to recover labor capacities for the people with a highest degree of autonomy in order to help them to be included in the labor market.

To weight the importance of involuntary placements in an advanced model of health and psychosocial care as ours, I will say that in 2013 Manantial Foundation provided social care to 1.541 persons in its Community Social Care Network (222 in 6 Day Centers, 404 in

5 Psychosocial Rehabilitation Centers, 9 Social Communitarian Support Teams took care of 318, 214 lived and were taken care in 4 Residences and 53 in 12 Supervised Flats). In addiction 77 persons in penitentiary and criminal settings recover freedom thanks to our Communitarian Mediation Program. The Prevention Program for children whose mother or father has a mental disorder, "CASA VERDE", paid attention to 118 persons. Over 200 persons with mental disorders were employed in 8 companies which belong to our CEE "Manantial Integra".

I left for the end our Guardianship Department. From 163 persons that are under the support of this team only there were 7 cases of non-consensual placement, even when this is the group of people with worst profile from the point of view of their autonomy. Which let us conclude that: the better care attention the lesser involuntary placements.

However, to be honest, I cannot say how many persons who are out of the Community Social Care Net were placed involuntarily on Psychiatric Hospital Facilities.

To finish I have to remind the importance of the support to persons in the management of their economic interests. We have seen what is their vulnerability and how easy is to swindle them. Guardianship legal concept has not to be pejorative but understood as legal protection. Substitute decision- making sometimes is a need, always with the safeguard of the control of the acts and decisions of the representative under a Court, whether the appointment is done by a judge, or whether the power were given to a representative body by operation of the law.

I know that all I stated before will be criticized by the lobbyists who want the opposite effect, saying that they understand that I was "paternalistic", being a relative of a person with MHP, but I do not care.

I have to say that in the economic interests' protection area I have always been in favor of law to establish some protection measures in order to prevent cheating to persons with mental disorders without any need to modify their capacity to act (decision-making capability). Something like the "Sauvegard de Justice" French, that allows to revise before a Court their acts and contracts when there should have been a notorious damage in their economic interests.

I do not know what happens but when their parents die their fortune flies.

Francisco Sardina Ventosa.

President of the Board
Manantial Foundation
Madrid, February 23th 2014