THE IMPORTANCE OF HOUSING SERVICES IN THE DEINSTITUTIONALIZATION PROCESS OF FACILITIES FOR PERSONS WITH DISABILITIES

SOCIAL
JUSTICE
CENTER

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Introduction

People with disabilities have historically been a constant object of stigma, discrimination and exclusion at both *de facto* and *de jure* levels.[1] They are sometimes victims of discriminatory treatment established by the law, and they face social or physical barriers that are invisible for a large part of the society.

Over the years, discrimination, exclusion, restriction, or total deprivation of members of this group have regarded persons with disabilities as second-class citizens and have essentially neglected the need for them to exercise economic or social rights.[2] The effects of such policies have been particularly evident in areas such as housing, social protection, etc.

People with psychosocial and intellectual disabilities are an even more invisible and excluded group in the already vulnerable community. The inability of states and societies to respond to their individual needs and to create decent conditions for them, like other human beings, to live independently and participate in society has led to institutionalization, on the one hand, and homelessness and living in inadequate housing, on the other.[3]

Global challenges are not irrelevant to Georgia either. Unfortunately, despite the international standards, the country has so far failed to transform its existing housing, social protection and disability policies and incorporate human rights-based approaches. The failure of the unified policy resulted in the living of hundreds of people in different specialized facilities, psychiatric institutions, boarding houses or specialized shelters in different regions of Georgia. Unfortunately, despite the declared policy, the state still does not have a general or specific vision and plan for their return to society.

The purpose of this paper is to review the right to adequate housing of persons with psychosocial and intellectual disabilities in the light of both international and national standards, evaluate the practice of institutionalization and the essence of deinstitutionalization in the context of international human rights law, indicate a relationship between two concepts – adequate housing and deinstitutionalization and develop relevant recommendations for state agencies. In order to examine this issue, the study of international standards and good practices of the states was carried out, the analysis of national legislation, policy documents and practices, the information requested from state agencies and secondary sources were carried out.

Given the research theme, this paper consists of four main parts. The first chapter analyzes the issue of prohibition of institutionalization in international human rights law, as well as the essence and principles of deinstitutionalization and the general content of the responsibilities and obligations of the state. The second chapter reviews the content of the right to adequate housing in the light of the needs of persons with psychosocial and intellectual disabilities and the relationship between housing and the deinstitutionalization process. The third part responds to the current situation in Georgia in terms of guaranteeing adequate housing and carrying out deinstitutionalization – its progress and challenges, while the fourth chapter is

[1] Committee on Economic, Social and Cultural Rights, General Comment No. 5: Persons with Disabilities, 1994, par. 15.
[2] Ibid.
[3] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, E/CN.4/2005/51, 2005, par. 14.

devoted to summarizing and developing the thematic recommendations for representatives of government agencies.

1. Deinstitutionalization – the Essence, Principles and Obligations of the State

Institutionalization of persons with psychosocial and intellectual disabilities is a common practice both in Georgia and globally, which systemically and systematically violates the rights and freedoms of the representatives of this group. The determinants of institutionalization and isolation from society are complex, although they are primarily related to the weakness and/or lack of national social support mechanisms.

Numerous international instruments and mechanisms indicate the need for the prohibition of institutionalization and the obligation of the state to carry out the deinstitutionalization process in the shortest possible time. For example, as far back as the 1990s, the UN Committee on Economic, Social and Cultural Rights stated that institutionalization could not be seen as an adequate system of social protection/security and support for persons with disabilities.[4] However, the first instrument to be highlighted in this area is the UN Convention on the Rights of Persons with Disabilities (hereinafter referred to as the "Convention"), which directly refers to the right of persons with disabilities to choose their own place of residence and be fully integrated into society. In parallel with international standards, living in institutions has been outlawed by many countries and significant changes in existing social and health care systems have commenced.

For the purposes of the study, this chapter will analyze issues such as the essence of institutionalization and deinstitutionalization, as well as the prerequisites for effective management of the deinstitutionalization process.

1.1. The Essence of Institutionalization

Given the complexity of the issue, before reviewing the principles and processes of deinstitutionalization, it is important to define the concept of institutionalization of persons with disabilities. The paradigm towards this group has been a reflection of the medical model, otherwise known as the rehabilitation paradigm, and which existed even in the XVII - XVIII centuries.[5] This model sees disability only in terms of medical diagnoses and focuses on the rehabilitation and normalization of the person, which would be the basis for his/her further social integration. Given the content of the above paradigm, persons with disabilities were given two choices - rehabilitation or institutionalization, which in principle was more of a theoretical division, as rehabilitation activities for persons with disabilities were also carried out in institutions.[6]

At different times and in different countries, institutionalization was considered to be the placement/detainment of people only in large institutions and the relevant policy was only applied to them. However, the UN Committee on the Rights of Persons with Disabilities (hereinafter referred to as the "Committee") pointed out that the number of people housed in the facility is not a decisive criterion in

[4] Committee on Economic, Social and Cultural Rights, General Comment No. 5: Persons with Disabilities, 1994, par. 29.
[5] Banketas I., Stein M.A., Anastasiou D., The UN Convention on the Rights of Persons with Disabilities – A Commentary, 2018, p. 232.
[6] Ibid, pp. 232 – 233.

establishing the fact of institutionalization. The Committee emphasized that the institutions can be the facilities with more than 100 people,[7] as well as relatively small houses or individual dwellings for 5-8 individuals, as the primary issue in identifying the fact of institutionalization practice is the neglect of individual choice and autonomy, a loss of one that, in turn, is the result of setting certain rules.[8]

It is important to note that in relation to the concept of institutionalization, the Committee is not limited to these general definitions, but also makes an open-ended list of specific characteristics to describe such a situation. Among them are the following circumstances: isolation and segregation of persons with disabilities from society, paternalistic attitude and supervision in the provision of services, the existence of a uniform routine and identical activities by a group of people in the same place, as well as lack of control of the service beneficiaries: 1) when making daily decisions; 2) when choosing assistants; 3) when choosing a home.[9] However, it is possible for institutions to allow beneficiaries to retain some degree of decision-making and control over their lives, although this regime can only concern certain areas of the beneficiaries' lives and ultimately does not change the segregational nature of institutions.[10]

Additionally, the system of institutionalization is almost always linked to the arbitrary detainment and involuntary hospitalization of people in psychiatric institutions, which is usually formally enshrined in national law, policy and practice.[11] Such coercive practices are mainly related to the concept of an alleged "threat" from a person with a disability, although in reality, it is due to the lack of support services for members of this group.[12]

In addition to the fact that institutionalization is considered a gross violation of human rights and deprives people of the opportunity to enjoy virtually all rights and freedoms, it is also considered discrimination by international standards as people are admitted to such institutions based on their status (status of psychosocial and/or intellectual disability);[13] The inaction of the state towards the creation of community services and support programs for people with disabilities, ultimately leads to the compulsion of these people to refuse to participate in public life in order to receive minimal social protection or medical care in an institutionalized environment.[14]

[7] Any support services should fully prevent the potential violation of rights, violence or exploitation of their beneficiaries. Due to the characteristics of institutionalization, the situation in large institutions can not prevent these threats even at the minimum level. In addition, poor living conditions and overcrowding in large institutions can equate to inhuman and degrading treatment; see, Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 83; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, E/CN.4/2005/51, 2005, par. 7-9; Committee Against Torture, Annual/Seasonal Report, A/62/44, 2007, par. 18.

[8] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 16.

[9] Ibid.

[10] Ibid.

[11] Human Rights Committee, General comment No. 35, Article 9 (Liberty and security of person), CCPR/C/GC/35, 2014.

[12] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 82.

[13] Committee on Economic, Social and Cultural Rights, General Comment No. 20: Non-discrimination in Economic, Social and Cultural Rights (Art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/20, 2009, par. 27.

[14] Committee on the Rights of Persons with Disabilities, General comment No. 6 (2018) on Equality and Non-discrimination, CRPD/C/GC/6, 2018, par. 58.

1.2. The Essence of Deinstitutionalization

By its very nature, institutionalization policies have not only eliminated the chance to provide an individualized approach to persons with disabilities and services based on their needs but have also been widely linked to coercive measures (e.g., physical restraint, forced sterilization and/or medicalization, medical experiments). This led to the deprivation of enjoyment of all their rights and freedoms.

Due to the most acute challenges faced by persons with disabilities on a daily basis, the movements of community members demanding deinstitutionalization were particularly strong in the 1960s and 1970s. They questioned not only the practice of institutionalization but also the adequacy of the application of the medical paradigm to persons with disabilities.[15] During the same period, countries began to make significant changes. The United Kingdom, for example, created a national health care system as early as 1948, which in turn paved the way for the closure of psychiatric facilities. Italy, on the other hand, made drastic changes to legislation passed in 1968 and 1978 (the so-called Marriotti Law and the Bazalia Law), making hospitalization a human rights violation and banning the admission of beneficiaries to psychiatric facilities.[16] Despite the reforms, the practice of institutionalization is still present in many countries, which can be replaced not only by advocacy exclusively at the national level but also through the use of international mechanisms.[17]

It is clear that deinstitutionalization goes beyond the process of mechanical closure of institutions and requires significant structural reforms.[18] Given the challenges facing institutionalized people, such reforms should include the creation of community support services, inclusive and accessible employment, health care and education.[19] At the same time, it is important to ensure inclusion of the support mechanisms in public, mainstream services. It will reduce the need of people with disabilities to receive specialized services.[20]

Given the complexity of the issue, this subsection reviews the key postulates of planning and implementing of the deinstitutionalization process, that are essential to its effective management.

1.2.1. Planning of the Deinstitutionalization process

The process of deinstitutionalization implies the country's transition from the practice of institutionalization to a comprehensive, integrated and interdisciplinary system.[21] It is quite a complex process and, most importantly, requires a lot of time and financial resources. Therefore, it is difficult for states to bring an end to the process, to a logical conclusion, and to return people with psychosocial and intellectual disabilities

[15] Banketas I., Stein M.A., Anastasiou D., The UN Convention on the Rights of Persons with Disabilities – A Commentary, 2018, p. 233.
[16] Ibid., pp. 552-553.
[17] For Example, in 2012 the ECHR stated that the institutionalization presents the restriction of liberty and found numerous instances of violation of rights of institutionalized people; see, for example, Stanev v Bulgaria App no 36760/06 (17 January 2012); Kedzior v Poland App no 45026/ 07 (16 October 2012); D.D. v Lithuania App no 13469/ 06 (14 February 2012).
[18] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 16, 33.
[19] Ibid., par. 33.
[20] Ibid.
[21] Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of Latvia, E/C.12/LVA/CO/2, 2021, par. 45.

to society, which has been the subject of recommendations from a number of mechanisms functioning within the UN.[22]

Although there are different practices of institutionalization and deinstitutionalization in each country, international human rights standards unequivocally refer to the commitment of states to base the process of dismantling institutions on improving the realization of all rights of service residents, including the right to live independently and participate in society, and allocate adequate resources in this process.[23] Furthermore, in the absence of funding, it is essential to use an international cooperation mechanism to invest foreign funding in community support services for persons with disabilities.[24]

One of the main preconditions for the effective implementation of the deinstitutionalization process is the development of consistent policies, one of the important mechanisms of which is the deinstitutionalization strategy.[25] Moreover, in the Committee's view, the creation of a strategy is an instant obligation of the state.[26]

Clearly, the state has a wide margin of discretion in policy-making and planning, although international standards point to key principles that need to be taken into account when developing a deinstitutionalization strategy. Among them, it is noteworthy:

- Clear recognition of the institutionalization as a circumstance that precludes persons with disabilities from exercising their rights and freedoms;[27]
- Clear rejection of medical and so-called charity models, introduction and implementation of a social and human rights-based paradigm. The activities planned and implemented in the deinstitutionalization process should be a fully person-centered and focus on empowering persons with disabilities (including by developing individualized plans or providing information on their rights to persons with disabilities);[28]
- Coverage of all forms of institutions (regardless of the size of the institution and the content of the service, as well as the service provider[29]) and institutionalized persons with all needs by the deinstitutionalization policy and strategy. A document that applies only to certain institutions does not comply with the provisions of Article 19 of the Convention;[30]

[22] For example, see, Committee on Economic, Social and Cultural Rights, concluding observations on the second periodic report of the Czech Republic, E/C.12/CZE/CO/2, 2014; Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Argentina, E/C.12/ARG/CO/4, 2018, par. 53.
[23] Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of the Czech Republic, E/C.12/CZE/CO/2, 2014.
[24] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 96.
[25] FRA, From institutions to community living, Part I: commitments and structures, 2017, p. 11.
[26] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 42.
[27] Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.
[28] Ibid.
[29] The practice of institutionalization can be pursued not only by the state authorities but also by private actors, such as religious institutions or charity organizations.
[30] Banketas I., Stein M.A., Anastasiou D., The UN Convention on the Rights of Persons with Disabilities – A Commentary, 2018, p. 540.

- Identification and addressing the challenges that persons with disabilities face in access to support services, exercising legal capacity or any right, which in turn is the most important guarantee of their independent living and involvement in society;[31]
- Identification and elimination of the structural factors for the institutionalization of persons with disabilities (including extreme poverty, homelessness, insufficient support for families of persons with disabilities, medical paradigm, discrimination against people with disabilities, stigma and stereotypes);[32]
- Establishment of a vision for the measures to be implemented, timelines for their implementation, including the development of community services throughout the country. Furthermore, a clear indication of the resources provided for the implementation of the strategy, as well as the monitoring indicators of the strategy;[33]
- Given the difficult experience of institutionalizing people, which negatively affects the skills of independent living and the degree of their integration into society, ensuring the coverage of individualized transition plans with their own budgets and timelines by the deinstitutionalization strategy;[34]
- Consideration of ongoing decentralization processes in the country - transferring of responsibilities for the provision of services to municipalities, especially in the process of deinstitutionalization, should be accompanied by their provision with appropriate financial or human resources and knowledge;[35]
- Ensuring the active involvement of persons with disabilities, including institutionalized persons, in the development, implementation and monitoring of deinstitutionalization policies, strategies and plans.[36]

It should be noted that only by considering the above principles and standards is it possible to develop a policy of deinstitutionalization based on the human-rights paradigm and to ensure an effective and dignified process of return of institutionalized persons to society.

1.2.2. Implementation of the Deinstitutionalization Process

In parallel with the development of relevant policy, the most important issue is carrying out the deinstitutionalization process. Despite the formal regulations and records, without the systematic

[31] Report of the Special Rapporteur on the rights of persons with disabilities, Visit to Canada, A/HRC/43/41/Add.2, 2019, par. 98.
[32] Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.
[33] Report of the Special Rapporteur on the rights of persons with disabilities on her visit to Paraguay, A/HRC/34/58/Add.1, 2016, par. 84; Human Rights Committee, Concluding Observations on the Fourth Periodic Report of Guatemala, CCPR/C/GTM/4, 2018, par. 27; Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 97.
[34] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 58.
[35] Disregarding this need has become subject to criticism towards some countries. For example, see, Önnevall M., Housing and homelessness in Sweden, "Homeless in Europe", Winter 2008, p. 16.
[36] Committee on the Rights of Persons with Disabilities, General comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, CRPD/C/GC/7, 2018, par. 20, 83; Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 97.

development of high-quality and accessible community services, the issue of independent living and integration of persons with psychosocial and intellectual disabilities will remain an unresolved problem. Moreover, insufficient efforts of the state in this direction can lead to significant social exclusion and homelessness of persons with disabilities.[37]

Given the national and international contexts, countries have at different times undergone a deinstitutionalization process and replaced long-term services with community-based ones. Despite the formal existence of the obligation of deinstitutionalization by domestic law, the completion of this process is time-consuming. For example, although the relevant law was passed in Italy in 1978, the country managed to close all public psychiatric institutions by 2000 only, while in 2013 it closed the forensic psychiatric clinics.[38]

As mentioned above, the deinstitutionalization process is complex and requires radical and far-reaching changes in the legislative and policy framework by the state, as well as in practice. The situation is further complicated by the fact that there is no one, universal recipe for the deinstitutionalization process, and it must be adapted to the context of the country and the existing challenges. Therefore, one of the essential issues at the beginning of the process is the implementation of pilot projects in this direction, which provides a unique experience that will be taken into account during the deinstitutionalization process.[39]

Implementing the deinstitutionalization process covers the legislative reform. In particular, all regulations that prevent persons with disabilities from choosing where, with whom and how to live should be abolished. Towards all persons with disabilities, the right to live independently in the community must be guaranteed, both substantially and procedurally.[40] To this end, legal provisions should be adopted that explicitly prohibit institutionalization at the level of legislation, policy and practice, and set out the human rights standard for independent living and integration in society in accordance with international principles.[41] It is also essential to prohibit regulations that provide for any kind of restriction and deprivation of legal capacity and/or allow the provision of psychiatric care without the consent of the person, as well as his/her involuntary stay in the institution.[42]

Along with legislative reform, it is clearly important for the state to impose a moratorium on the admission of new beneficiaries to institutions.[43] At the same time, public and private finances should not be spent on maintaining any type of institution, renovating it (unless it is dictated by the safety of the beneficiaries) or building a new one.[44] Some countries have reflected this obligation in legislation (e.g., Sweden and

[37] Mental Health Europe, Access to services by people with severe Mental Health Problems Who are homeless, https://bit.ly/34DEHzk.
[38] Ibid.
[39] Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of the Czech Republic, E/C.12/CZE/CO/2, 2014.
[40] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 97.
[41] Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.
[42] Ibid.
[43] Report of the Special Rapporteur on the rights of persons with disabilities on her visit to Paraguay, A/HRC/34/58/Add.1, 2016, par. 84; Report of the Special Rapporteur on the rights of persons with disabilities, Visit to France, A/HRC/40/54/Add.1, 2019, par. 84; Report of the special rapporteur on the rights of persons with disabilities, Mission to Kazakhstan, A/HRC/37/56/Add.2, 2018, par. 114.
[44] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 49, 51.

Slovakia), while some countries have indicated it in deinstitutionalization strategies or similar policy documents (Finland, Ireland, Austria).[45]

The process of deinstitutionalization also includes the maintenance of the system of governance by the state agencies. In particular, it is essential to have a coordinated, inter-agency approach that ensures consistent implementation of reforms, proper budgeting and change of attitudes at all levels and sectors of government.[46] To achieve the above goal, it is important to implement complex measures: clearly identify the agency responsible for the process, establish a coordination mechanism and clearly redistribute responsibilities between agencies, prevent the institutions and service providers from assuming the main responsibility for deinstitutionalization and, in case of involvement in the process, ensure their proper retraining, as well as ensuring the cooperation of the state agencies with non-governmental actors, especially with persons with disabilities and their representative organizations.[47]

One of the most important processes which are covered by the concept of deinstitutionalization is service development. International standards unequivocally indicate the need to create community-based, individualized support services. At the same time, special attention should be paid to mainstream services, which will be acceptable, geographically and financially accessible, high-quality, sustainable and inclusive for people with disabilities.[48] It is essential that the needs of groups of persons with disabilities who are often victims of segregation and institutionalization, including the elderly and/or women with disabilities, ethnic minorities and people in need of intensive support, be taken into account when developing services and support mechanisms.[49]

The most important issue in the process of service development is the creation of appropriate mechanisms for transition in the community and support services (including psychological support services, the continuous rights awareness mechanisms). In the process of developing a support framework, it is essential to ensure the continuity of relevant services after a person leaves the institution, as well as the adequate support of their family members.[50]

In many cases, the deinstitutionalization process takes many years and much longer to complete than originally expected. Given the complexity of the process, this may be logical, but for its timely implementation, international standards highlight the following issues: 1. Setting short, medium and long-term goals in the process; 2. Clearly set the closing dates of all institutions; 3. Mobilization of appropriate resources (human, financial, technical), in which international cooperation and access to financial resources play a major role.[51] One of the most important issues in this regard is the systematic collection of data and information, which would assess the process of deinstitutionalization and transition, as well as the development of housing, social protection, independent living and other support services.[52] In addition, it

[45] FRA, From institutions to community living, Part I: commitments and structures, 2017, p. 13.
[46] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 58.
[47] Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.
[48] Ibid.
[49] Ibid.
[50] Ibid.
[51] Ibid.
[52] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 95.

is essential to monitor deinstitutionalization by independent actors, including the ombudsman, in order to increase both the efficiency of the process and the degree of its transparency. Persons with disabilities and their representative organizations should be involved in the data collection and analysis, as well as in the monitoring process.[53]

1.2.3. Challenges Arising during the COVID-19 Pandemics

In the context of Pandemics, the institutionalized persons with disabilities face even more severe challenges than the rest of society. On the one hand, the situation in the institutions precludes the existence of individual space for its beneficiaries, which creates favorable conditions for the spread of the virus, while considering the damaged health due to long-term medical practices of institutionalized people, makes them particularly vulnerable to COVID-19.[54] On the other hand, even more, limited contact with the outside world and the weakness of external oversight mechanisms in quarantine conditions create immediate threats of serious violations of the rights of institutionalized persons.[55]

To address the additional challenges posed by the Pandemics, the Committee first emphasized the special state commitment to preventing ill-treatment and violence against institutionalized persons.[56] In the current context, the existence of formal protocols for the prevention of violence and human rights violations has not been seen as a sufficient and adequate mechanism to effectively protect these people. The Committee noted that at this time, States should make every effort to ensure the sustainable implementation of the deinstitutionalization process, including through the implementation of existing strategies and action plans. The Committee also noted the commitment of States to prevent the homelessness of persons leaving institutions and to provide adequate support to persons with disabilities and their families.[57]

In view of the above, it is clear that international standards unequivocally point states to understand the dangers in institutions, especially in times of emergency and crisis, and to ensure inclusion in the community of persons with disabilities as an unconditional priority in such situations.[58] In this context the experts have begun to discuss about the concept of emergency deinstitutionalization, which involves the return of institutionalized people to the community as soon as possible and the efforts of the state to develop community-based services to prevent homelessness of persons with disability, as well as to develop formal services, in order to prevent disproportional reliability on the informal support provided mainly by family members.[59] Moreover, the UN High Commissioner for Human Rights called on states to protect the lives and health of institutionalized people by releasing them from institutions in the shortest possible time.[60]

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[53] Ibid., par. 97.
[54] Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.
[55] European Expert Group on the Transition from Institutional to Community-based Care (EEG), Joint Statement: "COVID-19 crisis: People living in institutions must not be written off", https://bit.ly/3sEKvkq.
[56] Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.
[57] Ibid.
[58] Ibid.
[59] European Disability Forum, Mind the gap 1/4. Facing a human rights emergency. COVID19 vaccination in institutions is not enough, 2020, https://bit.ly/3BuWNzP.
[60] OHCHR, COVID-19 and the Rights of Persons with Disabilities: Guidance, 2020, https://bit.ly/3sKjRqt.

The Commissioner also stressed the importance of the closure of institutions by countries in due time and the provision of community services (provided by formal, family or informal network) for beneficiaries.[61]

It is noteworthy that in parallel to the recommendations given at the international level, during the Pandemics, certain countries, such as Switzerland and Spain, made efforts to bring institutionalized people back into the community.[62] International standards, on the other hand, formed the basis for a complaint against Finland to the European Committee of Social Rights (Validity v. Finland).[63] In this complaint, the applicant alleges that the measures taken by the government during the Pandemics, which further restricted institutionalized people from contact with the outside world, were not an adequate measure to protect their lives and health.

1.2.4. Dealing with the Consequences of Institutionalization

While deinstitutionalization is an unconditional obligation of States, this does not mean neglecting the needs of the people in the service and excluding them from the field of vision. On the contrary, the state should pay special attention to the provision of services in institutions and should take appropriate measures to improve the living conditions of service recipients.[64]

Furthermore, since the protection of the rights and dignity of inpatients is not limited to improving their living conditions in institutions, international standards also stipulate the state's obligation to ensure the protection of human rights, to stop involuntary measures against them, to restore the dignity of those subject to the practice of institutionalization.[65] Particular attention should be paid to the prevention of violence, torture and/or ill-treatment of persons in institutions, for which staff, in particular, should be specially trained.[66] International standards are even more comprehensive and large-scale and provide for the people affected by the institutionalization practices the right to the individual and collective compensation, as well as the mechanism for investigation of human rights violations during institutionalization and the prosecution of perpetrators.[67]

Given the context, international standards attach particular importance to the use of an independent and effective monitoring mechanism (in which persons with disabilities will be actively involved[68]), as well as the leverage of judicial oversight.[69] In order to effectively monitor the situation, the standards emphasize

[61] იქვე., United Nations, Policy Brief: A Disability-inclusive Response to COVID-19, 2020.
[62] OHCHR, COVID-19 and the Rights of Persons with Disabilities: Guidance, 2020, https://bit.ly/3sKjRqt.
[63] The European Committee of Social Rights declared the complaint admissible on 8 September 2021, although it has not yet decided on the merits. See, https://bit.ly/3I2Ghtm.
[64] Committee on Economic, Social and Cultural Rights, Concluding Observations on the third and fourth report of Uruguay, E/C.12/URY/CO/3-4, 2010, par. 26.
[65] Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.
[66] Committee against Torture, Annual/Sessional Report, A/58/44(SUPP), 2003, par. 50.
[67] Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.
[68] Committee on the Rights of Persons with Disabilities, General comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, CRPD/C/GC/7, 2018, par. 82.
[69] Committee on Economic, Social and Cultural Rights, Concluding Observations on the second report of the Republic of Moldova, E/C.12/MDA/CO/2, 2011; Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of Sweden, E/C.12/SWE/CO/6, 2016, par. 44; Committee Against Torture, Conclusions and Recommendations of the Committee on the Fourth Report of Estonia, CAT/C/EST/CO/4, 2007.

the importance of collecting and processing consistent quantitative and qualitative data on individuals living in institutions by the state.[70]

2. Interrelation between Housing Policy and Deinstitutionalization

Housing policy is one of the most important elements for the effective management of the deinstitutionalization process. An analysis of the experience of different countries and international standards shows that guaranteeing adequate housing, on the one hand, facilitates the process of deinstitutionalization and, on the other hand, prevents the institutionalization and social exclusion of people.

The right to adequate housing is enshrined in a number of relevant international standards. The constituent elements of this right are broad, complex, and require the state to take important and transformational steps. The high rate of institutionalization and homelessness of persons with disabilities, especially those with psychosocial and intellectual disabilities, has created additional, specific obligations for the state to guarantee adequate housing under international human rights law. It is crucial that these standards are properly implemented at the national level and that human rights-based approaches are introduced and established, both in legislation and in practice.

The main purpose of this chapter is to review, in the light of international standards, the right to adequate housing for persons with psychosocial and intellectual disabilities, as well as to analyze an important component of this right - access to relevant services and the basic principles on which housing services should be based.

2.1. The Right to Adequate Housing - an Analysis of International Standards

At the level of international standards, the standards of adequate housing are found in a number of important instruments. These include the 1948 Universal Declaration of Human Rights, the 1966 Covenant on Economic, Social and Cultural Rights, and the Convention.

Prior to the adoption of the Convention, international instruments sought to establish general, universal standards and did not specifically address the needs of persons with disabilities. The most relevant in this regard is the UN Committee on Economic, Social and Cultural Rights, which has emphasized the importance of the right to adequate housing and has qualified it as a precondition for the enjoyment of all rights and freedoms.[71] The Committee described the right to live in a safe, peaceful and dignified environment without discrimination of persons and their families, and called on states to take steps to include this right in the domestic legal system through various mechanisms, including by the adoption of a framework law and a national housing strategy.[72]

[70] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 38.
[71] Committee on Economic, Social and Cultural Rights, General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), 1991, par. 1.
[72] Ibid., par. 6-7, 12; Committee on Economic, Social and Cultural Rights, General Comment No. 9: The Domestic Application of the Covenant, 1998, პარ. 2; Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Bosnia and Herzegovina, E/C.12/BIH/CO/3, 2021, par. 41.

The Committee also set out the constituent elements of the right to adequate housing and stressed the importance of their implementation by the State.[73] In particular, in order to protect this right, the simultaneous existence of the following elements is necessary: 1. Legal guarantee of tenure; 2. Access to services and infrastructure; 3. Financial availability of housing; 4. Accessibility to housing; 5. Habitability of living environment; 6. Location of housing; 7. Cultural adequacy of housing.[74]

On the other hand, the Convention was the first instrument that saw the obligation of states to directly ensure the realization of the right to adequate housing for persons with disabilities and also imposed specific obligations on governments. Like previous international instruments, it has put the right to adequate housing under the umbrella of the right to adequate living and, with various important commitments, called on the Contracting States to ensure access to public housing programs for persons with disabilities.

The seemingly laconic standard set by the Convention has been clarified by the Committee and other mechanisms operating within the UN. Clearly, an in-depth review of the content of the obligations towards persons with disabilities in each element of the right to adequate housing goes beyond this paper, although it should be noted that additional government responsibilities in this area are focused on issues of access to housing for persons with disabilities with various needs, legal guarantees concerning the protection of persons with disabilities from evictions, access to services and infrastructure, in particular the need to increase relevant support services and the importance of implementing human rights-based approaches.[75]

In parallel with these standards, the following state obligations can be identified in relation to persons with psychosocial and intellectual disabilities who are most likely to become victims of institutionalization[76] due to a lack of adequate housing:

- **Inclusion of Institutionalized People in the Definition of Homelessness** - According to the European Methodology on Homelessness and Housing Exclusion (ETHOS), institutionalized people who stay in the clinics longer than necessary due to lack of housing fall into the category of homeless, in particular houseless persons.[77] This typology should be considered in the development process of the national definition of homelessness;[78]
- **Prioritization in housing policy** - Given the importance of guaranteeing adequate housing for persons with disabilities, international human rights law unequivocally indicates the obligation of states to integrate the perspectives of this group into housing plans and policies at all levels of government;[79]

[73] On the content of each element, see Social Justice Center, the Right to Adequate Housing – the Analysis of Basic Challenges, 2018.
[74] Committee on Economic, Social and Cultural Rights, General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), 1991, par. 8.
[75] UN Convention on the Rights of Persons with Disabilities, 2006, Art. 28; Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of Canada, 2017, par. 38.
[76] Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of Canada, E/C.12/CAN/CO/6, 2016, par. 45.
[77] FEANTSA, European Typology of Homelessness and Housing Exclusion (ETHOS), https://bit.ly/3GwhfRC.
[78] Representatives of this group are covered by the definitions of different countries. For example, in the case of Norway, the definition of homelessness includes people who have 2 months left before leaving the institution, while in Denmark this period is three months. Time figures are not provided by Finland, which by definition includes all people in need of housing who live in an institution; See, Benjaminsen L., Dyb E., The Effectiveness of Homeless Policies – Variations among the Scandinavian Countries, "European Journal of Homelessness", 2008, Vol. 2, pp. 48-49.
[79] Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of Canada, E/C.12/CAN/CO/6, 2016, par. 46; Committee on Economic, Social and Cultural Rights, General Comment No. 4: The Right to

- **Ensuring availability and accessibility to housing** - the state should increase the number of financially affordable, subsidized and social housing for people with psychosocial and intellectual disabilities.[80] Furthermore, it is essential that the provision of housing does not lead to a reduction in human autonomy and independence. For example, both buildings and public spaces, as well as transport should address the needs of all persons with disabilities;[81]
- **Ensuring access to services** - States should ensure the availability and accessibility of community-based support services and increase their coverage.[82] Particular emphasis should be placed on providing services, technologies and other types of support for persons with disabilities living in poverty.[83] It is important that the above programs cover the additional costs associated with disability and that states allocate funds for this end as soon as possible.[84]

2.2. Basic Content and Characteristics of Housing Services

In addition to the general standards enshrined by international instruments, it is important to analyze the core of housing services and related principles, especially in the context of human rights-based approaches. In addition, this sub-chapter reviews the main models of housing services that may be relevant to the implementation of the deinstitutionalization process and the prevention of institutionalization.

2.2.1. The Importance of Human Rights-Based Approaches

The combination of civil and political rights on the one hand and social, economic and cultural rights on the other has given rise to a new potential for understanding the right to adequate housing for persons with disabilities. Although housing services vary from country to country, human rights-based approaches and the principles underlying this paradigm are unconditional.[85] In particular, the following principles should be taken into account in the process of creating and developing the service:[86]

- **Dignity, autonomy and freedom of choice** - Guaranteeing freedom of choice in relation to housing is not only one of the central principles of the Convention but also an important mechanism for preventing institutionalization;
- **Substantial equality and non-discrimination** - This principle, beyond the formal establishment of equality, implies the guarantee of access to housing services for persons with disabilities, regardless of their needs. For this, the states should made significant efforts with regard to the so-

Adequate Housing (Art. 11 (1) of the Covenant), 1991, par. 8; Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of Australia, E/C.12/AUS/CO/5, 2017, par. 46; Committee on the Rights of Persons with Disabilities, General comment No. 2, Article 9: Accessibility, CRPD/C/GC/2, 2014, par. 42.

[80] Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of Canada, E/C.12/CAN/CO/6, 2016, par. 46; Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 59, 92.

[81] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 59.

[82] Ibid., par. 92; Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of Canada, E/C.12/CAN/CO/6, 2016, par. 46.

[83] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 92.

[84] Ibid., par. 59, 92.

[85] Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, A/72/128, 2017, par. 33.

[86] Ibid., par. 34-48.

called people with multiple vulnerabilities (e.g., women with disabilities, the elderly and members of ethnic minorities).[87] The principle of equality also requires public and private actors to take positive action to meet the needs of people with disabilities and to make reasonable adjustments.[88] In parallel with the above mechanisms, the principle of equality involves the training of housing service providers concerning communication with persons with psychosocial and intellectual disabilities and aiming at eliminating stigma towards them;[89]

- **Accessibility** - The state obligation under Article 9 of the Convention to ensure accessibility, as well as to identify and eliminate barriers in this area, is an important mechanism in the light of housing provision as well. This principle implies that housing services, regardless of their public or private nature, should take into account all aspects of accessibility for persons with disabilities (physical environment, information, transport, technology, services);
- **Participation** - The involvement and participation of persons with disabilities in state decision-making are one of the central principles of the Convention, which is important, among other areas, in the creation, implementation and modification of housing services. Ensuring engagement not only aims to formally create an inclusive process but also involves seeing the agency of people with disabilities.

2.2.2. Basic Models of Housing

In the process of deinstitutionalization, the question arises regarding the type of housing/services that should be created for people living in institutions. In this regard, the Convention does not offer specific models, it only emphasizes the obligations of states to ensure that persons with disabilities have access to state housing programs.[90]

When talking about housing service models, first of all, it is important to take into account their size and architecture. In this regard, the case of Kazakhstan is interesting, where the National Strategy and Action Plan for Persons with Disabilities provided for the construction of medium-sized institutions (for 25-30 people).[91] Responding to the issue, the UN Special Rapporteur on the Rights of Persons with Disabilities stated that it did not comply with the provisions of Article 19 of the Convention and called on the State to use the available resources in the development of such services that would ensure the independent living of persons with disabilities.[92]

Furthermore, given the international context of institutionalization, the assessment of housing services does not depend solely on the number of people living in it. For instance, the Committee cited the example of

[87] See, for example, Committee on the Elimination of Discrimination against Women, General recommendation No. 27 on older women and protection of their human rights, CEDAW/C/GC/27, 2010, par. 48; Committee on the Rights of Persons with Disabilities, General comment No. 3 (2016) on women and girls with disabilities, CRPD/C/GC/3, 2016, par. 59; Report of the Independent Expert on the enjoyment of all human rights by older persons on her mission to Montenegro, A/HRC/39/50/Add.2, 2018, par. 109.

[88] The obligation of reasonable accommodation is not limited to the physical adaptation of buildings and also implies changes in existing legislation and policies in the field of housing.

[89] Committee on the Rights of Persons with Disabilities, General comment No. 2, Article 9: Accessibility, CRPD/C/GC/2, 2014, par. 7.

[90] UN Convention on the Rights of Persons with Disabilities, 2006, Art. 28; Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.

[91] Report of the special rapporteur on the rights of persons with disabilities, Mission to Kazakhstan, A/HRC/37/56/Add.2, 2018, par. 70.

[92] Ibid., par. 70, 114.

housing that externally represents an example of individual life (e.g., individual homes) but operates under the guise of a "community living", and in reality represents institutions and so-called "satellites".[93]

Active work on the development and implementation of specific housing services began in the mid-20th century, in the UK and US, in parallel with the deinstitutionalisation of large psychiatric facilities, when governments had to decide where to place deinstitutionalized persons.[94] Eventually, instead of the institutions various residential programs were developed, which sometimes are referred to as the continuous care model or the stair model.[95] The basic idea behind the development and operation of such programs was that the beneficiary leaving the institution first needed to go through a series of steps and receive health or other relevant services that would help him/her achieve his/her main goal - to live independently and enjoy long-term housing.[96] Despite the importance of developing such services in the deinstitutionalisation process, the evaluation highlighted their ineffectiveness - in many cases beneficiaries could not reach the "last step" and/or were evicted for non-compliance with the rules of the service.[97] Therefore, the need to find and/or create more efficient housing services and models for people with disabilities became important issue on the states' agenda.

Currently, one of the most important services for people with psychosocial and intellectual disabilities is *social housing*.[98] The UN Special Rapporteur on the Rights of Persons with Disabilities emphasizes the need to reduce the waiting times for receiving this and other support services, as, over time, persons with disabilities face an additional barrier to leaving institutions and returning to the community.[99] Social housing services for people with psychosocial needs are used in various countries, including the Netherlands, where access to services is decided at the municipal level.[100]

On the other hand, one of the most important components of social housing is the so-called *transitional housing*. For example, in Poland, homeless people who are on the list of recipients of municipal housing services, but are still waiting due to lack of services, are transferred to a special shelter for the waiting period. The service aims to develop independent living skills of its beneficiaries and promote integration into society.[101] Bulgaria, a country still in the process of deinstitutionalization, has been required by law to provide a similar transitional service for the persons newly departed from the institutions.[102]

[93] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 49, 51.
[94] Crane M., Warnes A. M., Coward S., Preparing Homeless People for Independent Living and its Influence on Resettlement Outcomes, "European Journal of Homelessness", 2012, Vol. 6, No.2, p. 20.
[95] Löfstrand C.H., Juhila k., The Discourse of Consumer Choice in the Pathways Housing First Model, "European Journal of Homelessness", 2012, Vol. 6, No.2, p. 48.
[96] Ibid.
[97] Ibid.
[98] For example, in Czechia, see, Šiška J., Beadle-Brown J., Report on The Transition from Institutional Care to Community-Based Services in 27 EU Member States, 2020, p. 38
[99] Report of the special rapporteur on the rights of persons with disabilities, Mission to Kazakhstan, A/HRC/37/56/Add.2, 2018, par. 114.
[100] European Observatory on Homelessness, Local Connection Rules and Access to Homelessness Services in Europe, "EOH Comparative Studies on Homelessness", 2015, Vol. 5, p. 50.
[101] Šiška J., Beadle-Brown J., Report on The Transition from Institutional Care to Community-Based Services in 27 EU Member States, 2020, p. 100.
[102] European Observatory on Homelessness, Local Connection Rules and Access to Homelessness Services in Europe, "EOH Comparative Studies on Homelessness", 2015, Vol. 5, pp. 39 – 40.

Given the dire consequences of institutionalization, a *protected environment/dwelling* may be acceptable to individuals with disabilities. An interesting model is a Danish experience, in particular, the program – "skaeve huse for skaeve existenser", which offers residents a permanent rental contract.[103] This model gives a sense of security to residents, but it is clear that they should always be able to choose other models of housing/services.[104] On the other hand, there are strategies aimed at preventing the eviction of a person and providing for early risk interventions, such as in the case of rent arrears.[105]

In the process of preventing institutionalization and carrying out deinstitutionalization, another model of housing - *supported housing* - is noteworthy. It involves the combined provision of housing and other necessary services to the beneficiaries, both in their own home, temporary accommodation (e.g., crisis houses, short-term hostels) or long-term housing services (e.g., small family houses, co-living schemes).[106] The practice of providing such services is not uniform in European countries; Given the decentralization processes, the local governments are largely responsible for the delivery of services.[107] In order to receive services, in most of these countries, it is necessary to determine a link with the municipality.[108]

Many types of housing services can be combined under the umbrella of the supported housing concept, however, the World Health Organization, in its latest report,[109] has highlighted some of the best forms that would be important to consider for the development of services in this area. It is noteworthy that one of the best practices in Georgia is the hand-in-hand model, which will be discussed in the next chapter.

The list of the WHO includes India's Home Again model, created in 2015 to meet the needs of people with mental disorders living in homelessness and/or poverty.[110] The primary goal of the service is to include residents in the community, expose their agency and ensure their employment and freedom of choice. The service foresees the living of 4-5 people in each home. The dwellings are located in urban or rural areas and have access to important services.[111] Residents are provided with personal assistance and important programs such as open dialogue and problem-solving therapy. It should be noted that living in a dwelling is entirely up to the will of persons with disabilities and, given this, staff in some homes are not on-site at all.

Another interesting model is the Shared Living Scheme in the UK, which provides for the cohabitation of a person with a psychosocial or intellectual disability for a specified period of time with a special supporter or carrying out regular visits to the beneficiary's home. The provided services (housing, support services)

[103] Busch-Geertsema V., Sahlin I., The Role of Hostels and Temporary Accommodation, "European Journal of Homelessness", 2007, Vol. 1, p. 86.
[104] Ibid.
[105] Mental Health Europe, Access to services by people with severe Mental Health Problems Who are homeless, https://bit.ly/34DEHzk.
[106] FRA, Choice and control: the right to independent living, Experiences of persons with intellectual disabilities and persons with mental health problems in nine EU Member States, 2013, p. 45.
[107] For example, in Austria, the Netherlands, Slovakia and the United Kingdom.
[108] European Observatory on Homelessness, Local Connection Rules and Access to Homelessness Services in Europe, "EOH Comparative Studies on Homelessness", 2015, Vol. 5, p. 37.
[109] World Health Organization, Supported Living Services for Mental Health, Promoting Person-centered and Rights-based Approaches, 2021.
[110] Ibid., p. 18.
[111] Ibid., pp. 19-20.

are based on a human rights-based paradigm and, on the one hand, prevent the institutionalization of the person and, on the other hand, support people who are newly departed from the institution.[112]

In addition to services designed directly for people with disabilities, an important mainstream model is the Housing First program, which is particularly effective for homeless people who are vulnerable in many ways (including those with psychosocial needs). Unlike the so-called model of stairs, the task of the Housing First is, first of all, to provide people with long-term housing.[113] Long-term housing services cover tailor-made support services, including the services of mental health professionals, peer supporters, etc.[114]

Although its content is tailored to the needs of different countries and is therefore heterogeneous, it is based on three basic principles:[115] 1. The program's philosophy and values, including the principles of psychiatric treatment and recovery, and the understanding that the right to housing is a human right. The service is focused on the preferences of the service recipient. For example, the beneficiaries themselves choose their accommodation (it is possible to change the accommodation several times depending on the need), its location or involvement in support services,[116] as well as the intensity of these services and the manner and timing of relations with service representatives.[117] 2. The permanence of housing - Housing service should be long-term and meet the needs of the individual. Consequently, one type of housing cannot be a solution for everyone, and the service provider must ensure the availability of the flats in buildings, as well as the individual, private housing program. At the same time, the US practice is interesting, according to which, to avoid institutionalization, the total number of service recipients in each building should not exceed 15%;[118] 3. Community-Based Mobile Support Services - The main goal of the housing program requires the support services to be focused on recovery, be person-centered support and tailored to the needs of beneficiaries. Therefore, on a case-by-case basis, services may change their form.

Ultimately, despite the diversity of housing services, to effectively manage the deinstitutionalization process and prevent institutionalization, the state should tailor housing services to the context of the country, unequivocally addressing the challenges of persons in need and basing programs on the human rights-based paradigm.

[112] Ibid., pp. 41-52.
[113] Atherton I., & Nicholls C.M., 'Housing First' as a means of addressing multiple needs and homelessness, "European Journal of Homelessness", 2008, Vol. 2, p. 290.
[114] Ibid., p. 293.
[115] Tsemberis, S., Housing First: Basic Tenets of the Definition Across Cultures, "European Journal of Homelessness", 2012, Vol. 6, No.2, pp. 169 – 171.
[116] Involvement in the services depends on the will of the beneficiary and the refusal does not lead to eviction. Termination of service may occur only in extreme circumstances, such as the violence towards the staff by a beneficiary; see, Atherton I., & Nicholls C.M., 'Housing First' as a means of addressing multiple needs and homelessness, "European Journal of Homelessness", 2008, Vol. 2, p. 291.
[117] Atherton I., & Nicholls C.M., 'Housing First' as a means of addressing multiple needs and homelessness, "European Journal of Homelessness", 2008, Vol. 2, p. 291.
[118] Ibid., p. 291.

2.3. Access to Independent Living and Mental Health Services – a Prerequisite for Guaranteeing the Right to Adequate Housing

As mentioned above, access to services and infrastructure is one of the most important elements of the right to adequate housing. This component indicates that the obligation of the state is not limited to providing only the physical environment and the country should offer services to promote integration into society.

Obviously, the essence of services varies in the light of the individual needs of people,[119] however, in connection with the deinstitutionalization process, this document highlights two main directions of services - independent living services and mental health services, which are relevant to both deinstitutionalization of psychiatric institutions and other types of institutions for people with disabilities (e.g., boarding houses) and in the process of preventing the institutionalization.[120]

2.3.1 Independent Living Services

The right to independent living is covered by Article 19 of the Convention, which provides for the equal right of all persons to live independently and to be integrated into the community. This right in itself includes mechanisms for freedom of decision-making and choice and mechanisms for exercising control over one's own life.[121]

The conventional norm governing the right to independent living envisages access to individual services and public programs.[122] It is unequivocally important that these services be provided to persons with disabilities in the community, which in itself is a contributing factor to the deinstitutionalization process and a mechanism for minimizing and eliminating coercion of persons with disabilities in institutions.[123] It is important that these measures compensate for the barriers that members of this group face in a society that lead to a reduction or disappearance of their employment and/or other income opportunities.[124] States must maintain such support at all times, including in times of financial and economic crisis.[125]

The realization of the right to independent living, due to its complex nature, depends on the existence of different types of services. These include cash and non-cash social assistance measures, income support, decision-making support system, interpreter services, quality inclusive education, community health programs and other public services.[126]

In addition to the above mechanisms, according to international standards, during the deinstitutionalization process, special attention should be paid to support services such as personal assistance, personal budgets

[119] Crane M., Warnes A. M., Coward S., Preparing Homeless People for Independent Living and its Influence on Resettlement Outcomes, "European Journal of Homelessness", 2012, Vol. 6, No.2, p. 25.
[120] Fina V.D., Cera R., Palmisano G. (Eds.), The United Nations Convention on the Rights of Persons with Disabilities – A Commentary, 2017, p. 366.
[121] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 2.
[122] Ibid., par. 34; Report of the special rapporteur on the rights of persons with disabilities, Mission to Kazakhstan, A/HRC/37/56/Add.2, 2018, par. 114.
[123] Human Rights Committee, General comment No. 35, Article 9 (Liberty and security of person), CCPR/C/GC/35, 2014.
[124] Committee on Economic, Social and Cultural Rights, General Comment No. 19: The right to Social Security (Art. 9), E/C.12/GC/19, 2007, par. 20, 27.
[125] Committee on the Rights of Persons with Disabilities, General comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 2017, par. 38.
[126] Ibid., par. 15, 97; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, E/CN.4/2005/51, 2005, par. 43.

and peer support (both individually and collectively).[127] Additionally, the committee focuses on personal assistant services, indicating that the choice of assistant should depend on the will of the person with a disability, and that assistance should eliminate the dependence on the person on his/her family.[128]

In addition to these services, it is essential to develop programs aimed at improving housing and income management skills, such as assisting in the development of housing management skills, developing budgeting and financial liability management skills, providing on-the-job training and/or ensuring the access to the employment.[129]

Against the background of the above services, it is important that the system sees the role of family members of persons with disabilities as informal supporters or carers and ensures their sufficient empowerment.[130] Such support may include respite service for family members/relatives who provide ongoing support or care to a person with a disability.[131]

2.3.2. Access to Mental Health Services

A number of international instruments, including the Covenant on Economic, Social and Cultural Rights and the Convention on Human Rights, point to the highest possible standard of mental health. This right imposes an obligation on States to take all appropriate measures to ensure that any person has access to medical services in accordance with the principle of progressive realization.[132] This commitment of governments includes, among others, ensuring equal[133] and timely access to preventive, curative or rehabilitation services in the community.[134]

Creating and developing appropriate mental health services for people with psychosocial needs is vital as it is not only an important component of exercising the right to an adequate quality of health but also an

[127] Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021; see also, FRA, Choice and control: the right to independent living, Experiences of persons with intellectual disabilities and persons with mental health problems in nine EU Member States, 2013, pp. 31-33.
[128] Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.
[129] Crane M., Warnes A. M., Coward S., Preparing Homeless People for Independent Living and its Influence on Resettlement Outcomes, "European Journal of Homelessness", 2012, Vol. 6, No.2, p. 25; Mental Health Europe, Toolkit on article 27 of the UNCRPD, https://bit.ly/33gSYl5.
[130] Committee on Economic, Social and Cultural Rights, General Comment No. 19: The right to Social Security (Art. 9), E/C.12/GC/19, 2007, par. 20, 27; Committee on the Rights of Persons with Disabilities, Living independently and being included in the community: Guidelines on deinstitutionalization of persons with disabilities, including in emergency situations, Annotated Outline, 2021.
[131] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, E/CN.4/2005/51, 2005, par. 43.
[132] International Covenant on Economic, Social and Cultural Rights, 1966, art. 12; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, E/CN.4/2005/51, 2005, par. 33-37.
[133] International standards in this area focus especially on people with disabilities. States' obligations are not limited to the formal imposition of the principle of equality and non-discrimination towards persons with disabilities and include the requirement for the full adherence to this principle by both public and private service providers; see, Committee on Economic, Social and Cultural Rights, General Comment No. 14: The Right to Highest Attainable Standard of Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2000/4, 2000, par. 26; Committee on Economic, Social and Cultural Rights, General Comment No. 20: Non-discrimination in Economic, Social and Cultural Rights (Art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/20, 2009, par. 33.
[134] Committee on Economic, Social and Cultural Rights, General Comment No. 14: The Right to Highest Attainable Standard of Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2000/4, 2000, par. 17.

important preventative factor in institutionalizing and excluding members of this group. Unfortunately, both locally and globally, mental health services continue to be largely misdirected, with states still focusing on large-scale specialized inpatient services that fail to deliver quality health care and meet the minimum individual needs of their beneficiaries.[135]

International human rights standards unequivocally point to the need to transform mental health services from an institutionalized environment to a recovery-oriented and community-based paradigm.[136] In order to bring community-based services in line with international human rights standards, it is essential that the state take the appropriate steps:

- Community-based services should be provided as an alternative to inpatient mental health services, and their availability and accessibility, including, physical and informational accessibility should be ensured.[137] Existing psychiatric institutions, both public and private, need to be replaced by comprehensive, integrated and interdisciplinary community-based mental health services.[138] The States' commitment includes, inter alia, the expansion of services across the country and the allocation of appropriate human and financial resources[139] for the development and diversification of such services. In the same process, the important issue is the elimination of regional differences in service delivery and the decentralization of services.[140] In addition to geographical access, it is essential to provide financial accessibility to mental health services[141] and to include these services in the public insurance system;[142]
- In the process of developing community services, the state should pay special attention to such services as community outpatient services, inpatient psychiatric inpatient services, psychotherapy, psychosocial rehabilitation and medication programs;[143]

[135] Committee on Economic, Social and Cultural Rights, Concluding Observations on the fourth and fifth report of Cyprus, E/C.12/CYP/CO/5, 2009; Committee on Economic, Social and Cultural Rights, Concluding Observations on the fifth report of Poland, E/C.12/POL/CO/5, 2009, par. 24.

[136] UNICEF, Discussion Paper: A Rights-Based Approach to Disability in the Context of Mental Health, 2021, p. 36; It should be noted that the provision of mental health services in only institutionalized form is not only a violation of the right to mental health, but also a violation of the principle of non-discrimination; Committee on Economic, Social and Cultural Rights, Concluding Observations on the initial report of Latvia, E/C.12/LVA/CO/1, 2008; Committee on the Rights of Persons with Disabilities, General comment No. 6 (2018) on Equality and Non-discrimination, CRPD/C/GC/6, 2018, par. 58.

[137] Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Azerbaijan, E/C.12/AZE/CO/4, 2021, par. 50; Committee on Economic, Social and Cultural Rights, Concluding observations on the seventh periodic report of Finland, E/C.12/FIN/CO/7, 2021; Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Ecuador, E/C.12/ECU/CO/4, 2019, par. 50.

[138] Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Argentina, E/C.12/ARG/CO/4, 2018, par. 54.

[139] Committee on Economic, Social and Cultural Rights, Concluding Observations on the initial report of Latvia, E/C.12/LVA/CO/1, 2008; Committee on Economic, Social and Cultural Rights, Concluding Observations on the fourth report of Australia, E/C.12/AUS/CO/4, 2009; Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of the Republic of Korea, E/C.12/KOR/CO/4, 2017, par. 58.

[140] Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of Sri Lanka, E/C.12/LKA/CO/5, 2017.

[141] Committee on Economic, Social and Cultural Rights, Concluding observations on the seventh periodic report of Finland, E/C.12/FIN/CO/7, 2021.

[142] Committee on Economic, Social and Cultural Rights, Concluding Observations on the second report of Kuwait, E/C.12/KWT/CO/2, 2013.

[143] Committee on Economic, Social and Cultural Rights, Concluding Observations on the second report of the Republic of Moldova, E/C.12/MDA/CO/2, 2011; Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of Poland, E/C.12/POL/CO/6, 2016, par. 52; Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Argentina, E/C.12/ARG/CO/4, 2018, par. 54; Committee on Economic, Social and Cultural Rights,

- The state should ensure the accessibility of timely due, adequate and high-quality mental health services.[144] Achieving the above goal includes increasing funding for services, professional training of staff[145] and providing an adequate number of such professionals, improving the referral system, and providing social protection for families and patients;[146]
- Community services should be developed in accordance with human rights-based approaches; Mental health services and associated support should be provided in such a way that the principle of full respect for the rights and dignity of service recipients is given priority.[147] Human rights-based approaches also involve identifying the challenges faced by different groups, including women,[148] children and the elderly,[149] in developing and accessing services, and creating/developing services based on their needs.
- In parallel with the development of community services in practice, the state should adopt appropriate legislative changes that will address the problem of lack of medical services as a matter of priority.[150]

3. Guaranteeing the Right to Housing and Deinstitutionalization – the Georgian Context

There are significant challenges in Georgia in terms of the implementation of the right to adequate housing, as well as the deinstitutionalization of institutions for persons with disabilities. At the national level, processes in this area have not been developed over the years, and therefore it is impossible to analyze any type of outcome, even intermediate ones.

The inaction of the government towards creating the policy of deinstitutionalization and guaranteeing housing has had a drastic negative impact on the rights of persons with disabilities - more than a thousand

Concluding observations on the fourth periodic report of Ecuador, E/C.12/ECU/CO/4, 2019, par. 50; Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of Sri Lanka, E/C.12/LKA/CO/5, 2017; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, E/CN.4/2005/51, 2005, par. 43; Mental Health Europe, Access to services by people with severe Mental Health Problems Who are homeless, https://bit.ly/34DEHzk.

[144] Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of Sri Lanka, E/C.12/LKA/CO/5, 2017; Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of Uruguay, E/C.12/URY/CO/5, 2017, par. 54; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, E/CN.4/2005/51, 2005, par. 46.

[145] For example, psychiatrists, clinical psychologists, psychiatric nurses and social workers, occupational therapists, speech and behavior therapists, as well as staff of the primary health care system; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, E/CN.4/2005/51, 2005, par. 44.

[146] Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Azerbaijan, E/C.12/AZE/CO/4, 2021, par. 51; Committee on Economic, Social and Cultural Rights, Concluding Observations on the initial report of Indonesia, E/C.12/IDN/CO/1, 2014; Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of Sri Lanka, E/C.12/LKA/CO/5, 2017.

[147] Committee on Economic, Social and Cultural Rights, General Comment No. 5: Persons with Disabilities, 1994, par. 34.

[148] Women with psychosocial needs are particularly vulnerable as there is a limited perception of the diverse risks that women face in terms of mental health. These include gender discrimination, violence, poverty and more. Accordingly, the state should take appropriate measures to ensure that the content of health services meets the needs of women with disabilities as well as their rights and dignity; see, The Committee on The Elimination of Discrimination Against Women, General recommendation No. 24: Article 12 of the Convention (women and health), 1999, par. 25.

[149] A particular problem is the access of older women to health services tailored to their needs; Committee on the Elimination of Discrimination against Women, General recommendation No. 27 on older women and protection of their human rights, CEDAW/C/GC/27, 2010, par. 21, 46.

[150] Committee on Economic, Social and Cultural Rights, Concluding Observations on the fourth and fifth report of Cyprus, E/C.12/CYP/CO/5, 2009; Committee on Economic, Social and Cultural Rights, Concluding Observations on the second report of Kuwait, E/C.12/KWT/CO/2, 2013.

persons with disabilities are resided in large and/or specialized facilities and return to their communities is becoming more and more difficult.

Unfortunately, relevant assessments at the level of international mechanisms on research topics have not yet been made. The state has not submitted a report to the UN Committee on Economic, Social and Cultural Rights since 2001, and the UN Committee on the Rights of Persons with Disabilities has not yet considered the country's report.

The only international mechanism focusing on housing policy and the protection of the rights of persons with disabilities is the Universal Periodic Review (UPR) within the UN Human Rights Council. During the 37th session of the UPR several important recommendations were made to Georgia.[151] In particular, as part of the process, Georgia has committed itself to ensure that all relevant measures are taken to protect and uphold the rights of persons with disabilities, including through the effective implementation of the Convention, as well as to fight against homelessness and guarantee the adequate housing.[152]

This chapter aims to review the current policy in Georgia regarding ensuring adequate housing, as well as the deinstitutionalization of the institutions for persons with disabilities. In particular, the chapter will analyze the relevant legislation, policy documents and services, the refinement and development of which are ultimately necessary for the prevention of the institutionalization of the people and the dissolution of the specialized institutions in the country.

3.1. Systemic Challenges in the Direction of Legislation

Over the years, the development of legislation in the country has remained an extremely problematic issue, which would clearly state the government's obligations regarding the provision of adequate housing, combating homelessness and carrying out the deinstitutionalization of institutions for persons with disabilities. Despite the principles enshrined in the Constitution concerning the guaranteeing of housing and realizing the rights and interests of persons with disabilities,[153] the state has failed to ensure the revision of the national legislation and its harmonization with international human rights standards.

As mentioned above, the regulations related to the realization of the right to adequate housing, as well as the existing legal framework regarding the obligations of prevention of institutionalization and deinstitutionalization are extremely scarce and flawed. Although Parliament passed the Law „on the Rights of Persons with Disabilities“ in 2020, which was supposed to bring the legal framework into line with the Convention, it did not, with a few exceptions,[154] cover government commitments on mental health; including in the field of deinstitutionalization of large and/or specialized institutions, which is a significant shortcoming of the law.[155] In addition, the law did not cover the human rights standard of adequate housing

[151] See, United Nations Human Rights Council, Report of the Working Group on the Universal Periodic Review, Georgia, A/HRC/4/7/15, 2021.
[152] Ibid, Recommendations 148.43, 148.44, 148.49, 148.244, 148.249, 148.250, 148.252, 148.240, 148.243, 148.246, 148.248, 148.158, 148.159, 148.160.
[153] Constitution of Georgia, 1995, Art. 5(4), 11(4).
[154] The law only mentions the principle of providing access to mental health services in general, regardless of the degree of disability, see, the Law of Georgia “on the Rights of Persons with Disabilities”, Art. 26 (2).
[155] See, “Persons with disabilities and organizations are responding to the adoption of the Law on the Rights of Persons with Disabilities”, 2020, https://bit.ly/3v2qmYe.

for persons with disabilities, thus further complicating the process of deinstitutionalization and preventing institutionalization.

There are also significant challenges to the regulatory framework for the right to adequate housing. Despite the need, the human rights standards of housing are not foreseen by the legislation at all and the related obligations can be fragmentarily found in various acts. The Law of Georgia "on Social Assistance" defines a notion of a homeless person and states that a homeless person can be a person who does not have a permanent, defined place of residence and who is registered as homeless by the municipality.[156] In the absence of additional legal definitions of the element of "permanent, defined place of residence", the notion of a homeless person at the central level becomes vague and unequivocally includes only people living on the streets. It is therefore unknown to what extent institutionalized individuals - those who may have lived in institutions for years or permanently due to a lack of housing and support services are perceived in this context as homeless persons.[157]

As mentioned above, the notion of a homeless person at the central level indicates the need for municipalities to register homeless people. However, due to the ambiguity of the definition in the Law "on Social Assistance", the municipal authorities have the discretion to define the concept of homelessness and the criteria for registering a homeless person in their territory, which becomes the basis for unequal policy towards people with similar needs but living in different geographical areas.

Currently, only 15 municipalities[158] across Georgia have approved rules for homeless registration and provision of housing. Although the regulations of individual municipalities give certain priority to persons with disabilities in this process,[159] none of them directly concerns the people living in the institution and their needs. As a result, they may be excluded from the registration and housing provision process altogether. On the other hand, it is noteworthy that the municipalities of Gori, Zugdidi, Kharagauli and Mestia give some priority to people with mental disorders when providing housing.[160] The above-mentioned municipalities, together with Rustavi Municipality, also take into account the needs of those who have left the state care service, however, their focus is limited to people aged 18-30 who do not have a shelter.[161]

[156] The Law of Georgia "on Social Assistance", Art. 4.
[157] Concerning the notion of a homeless person, see, Social Justice Center, The Notion of a Homeless Person and the Criteria for Determining the Status of the Homeless, 2020.
[158] Municipalities of Sagarejo, Tbilisi, Rustavi, Kutaisi, Senaki, Samtredia, Tetritskharo, Gori, Zugdidi, Vani, Ambrolauri, Kharagauli, Khoni, Martvili and Mestia. Additionally, such a rule was approved by the Ozurgeti Municipality in 2015, although the regulation expired in 2019 and the new version was not approved.
[159] For example, in the process of housing provision, Sagarejo Municipality gives preference to a family, "one of whose members is a person with special needs" or if one of the family members "has a complicated health condition"; Ambrolauri Municipality also focuses on the state of health. On the other hand, the municipalities of Rustavi, Vani, Kharagauli, Khoni, Kutaisi and Samtredia give priority to those families where sharply, significantly or moderately disabled people live; Only persons with obvious and significant disabilities are prioritized in Tbilisi, Senaki and Martvili municipalities, and only persons with obvious disabilities are prioritized in Tetritskaro municipality.
[160] Gori, Zugdidi and Kharagauli municipalities give 2 points to people with mental disorders, while Mestia municipality does not have such a point system.
[161] Gori, Zugdidi and Kharagauli municipalities give 2 points, and Rustavi municipality - 5 points to a person aged 18-30, who has no property or other shelter. The municipalities of Gori, Zugdidi and Kharagauli give an additional point to a person who also has no income; Mestia Municipality does not have such a scoring system.

3.2. Important Policy Documents

Despite years of recommendations[162] to the Government of Georgia on the issue of persons with disabilities and their rights from the community of persons with disabilities and organizations working on their rights as well as the Public Defender, the country has not been able to develop and adopt policy documents that would prioritize the needs of persons with psychosocial and intellectual disabilities and determine the issue of provision with housing as well as support services.

Despite its obligations under the Law "on the Rights of Persons with Disabilities",[163] the Government of Georgia also failed to develop and approve the Strategy for Persons with Disabilities (2021-2035) and the Action Plan, with a deadline of January 1, 2021, which would cover the detailed list of measures taken by each state agency and indicating the deadlines for its implementation. Non-fulfillment of this obligation is especially problematic in the sense that so far a unified state policy towards persons with disabilities has not been established, and agencies continue to plan and implement their activities beyond uniform standards.[164]

The issues of creating and developing housing services tailored to the needs of different groups should have been included in the National Housing Strategy and Action Plan, which had to be developed in 2019-2020 in accordance with the Open Government Partnership Action Plan (2018-2019). An inter-agency government commission[165] and working group were set up to achieve this goal, but the platform was practically unable to carry out its activities and even 3 years after its creation, no tangible results were achieved, and the deadlines for developing and approving the national housing strategy were postponed indefinitely.

Despite the need, the country has not yet approved a strategy and action plan for the deinstitutionalization of institutions for persons with disabilities, which would set out the state's goals, areas of action, and short- and long-term activities in this area. It should be noted that in 2020, the Caritas Czech Republic, with the financial support of the Czech Development Agency and in cooperation with the Ministry of Internally Displaced Persons from Occupied Territories, Labor, Health and Social Affairs of Georgia began to develop a strategy and action plan on deinstitutionalization of boarding houses, which itself concerns providing people with small family-type homes.[166] Despite the importance of such a policy document, as noted, it covers only part of the institutions and does not cover facilities such as inpatient psychiatric services, mental health shelters and mid-sized housing for persons with disabilities (services for 24 people), which is not in line with the Convention. Recently, the Ministry has expressed readiness to extend the deinstitutionalization strategy to psychiatric institutions too, which should be considered a positive step as it is important that the final version of the document to be comprehensive.

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[162] E.g., See., Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2020, pp. 394, 396; Social Justice Center, Partnership for Human Rights, Georgian Social Workers' Association, Critical evaluation of the working version of the mental health and well-being strategy, 2021; "Persons with disabilities and organizations recall the adoption of the Law "on the Rights of Persons with Disabilities", 2020, https://bit.ly/3CJBThf.

[163] The Law of Georgia "on the Rights of Persons with Disabilities", art. 37 (1).

[164] See, "A significant part of the obligations under the law "on the rights of persons with disabilities" is still unfulfilled", 2021, https://bit.ly/34NEAln.

[165] Resolution N 190 of the Government of Georgia of April 12, 2019 "On the Establishment of the Government Commission for the Development of the Housing Policy Document and its Action Plan and the approval of its statute."

[166] See, "The Road to Home: Caritas Czech Republic Supports Deinstitutionalization Process", 2021, https://bit.ly/3pp0ySP.

On the other hand, mental health strategies (for 2015-2020 and 2022-2030)[167] have been in force in Georgia since 2015, which cover the vision of the state regarding the measures to be taken in the field of mental health. The 2015-2020 Mental Health Development Strategy does not directly address the creation of community housing services. On the other hand, with the document, the state undertook the obligation to develop a deinstitutionalization strategy by 2016, which, as mentioned above, has not been implemented for 6 years.

The 2022-2030 Mental Health Strategy does not single out deinstitutionalization as a separate aim, and this process is mainly underlined only in the light of the development of community mental health services. However, the Strategy's Action Plan envisages several important activities for the deinstitutionalization process. These are 1. Establishment of housing for persons with mental disorders who do not require intensive treatment in psychiatric institutions and cannot live with their families; 2. Revision of the concept of shelter service for persons with mental disabilities and its transformation that will promote the right of beneficiaries to live independently; 3. Advocating for the inclusion of community mental health services in municipal policy; 4. Improving crisis intervention services; 5. Audit and refinement of community outpatient and inpatient services. Unfortunately, the policy document did not take into account the component of developing a deinstitutionalization strategy, which should be considered a significant shortcoming.

3.3. Housing Services for Persons with Disabilities – an Overview

In parallel with the lack and inadequacy of legislation and policy documents, the development of housing services and their adaptation to the needs of persons with psychosocial and intellectual disabilities is also problematic. In parallel with the government's neglect of the above issue, specialized and mainstream housing services have been fragmented, focusing mainly on specific segments and are not functioning with the aim of overcoming homelessness and integrating people into society.

Among the mainstream municipal services are rent allowance, shelter and social housing services. Their examination found that they could not meet the minimum needs of their beneficiaries, including people with disabilities. For example, emergency shelters, which are intended to provide housing for the most vulnerable homeless people, are found on an extremely limited scale and operate in two cities - Tbilisi and Batumi. In addition, in Tbilisi the so-called Lilo Shelter does not accept beneficiaries who do not have the self-care skills.[168] Accordingly, the service does not apply to those who have lost their independent living skills due to institutionalization practices or to those who are forced to continue living in institutions in the absence of community support services.

On the other hand, rental allowance service, which is the most common housing service at the municipal level, is characterized by a number of challenges due to its short-term and unstable nature, as well as the small amount of blanketly allocated funds. Furthermore, rent allowance service is not accompanied by proper support and assistance services for the beneficiaries, which makes it extremely difficult to effectively include people with psychosocial and intellectual disabilities in the program.

[167] Resolution N 762 of the Government of Georgia of December 31, 2014 "on the Approval of the Strategic Document for Mental Health Development and the Action Plan for 2015-2020"; Resolution No. 23 of the Government of Georgia of January 18, 2022, "On Approval of the Mental Health Strategy of Georgia for 2022-2030".

[168] Tbilisi Municipality Government, Ordinance N 41.16.1192, the Action Instruction of "Lilo Homeless Shelter" on Application for Registration in the Homeless Shelter and approval of the homeless person's signature forms.

Social housing is a relatively long-term housing service the primary purpose of which is to empower beneficiaries, overcome their homelessness, and promote the return to the community independently. Despite important goals, services in Georgia are found in only a few municipalities (Tbilisi, Rustavi, Kutaisi, Batumi, Gori, Ozurgeti and Zugdidi) and have the significant shortcomings – inadequate housing conditions, a lack of access to services and a shortage of strengthening mechanisms.[169]

In addition to the mainstream housing services, there are specialized facilities at the central level in the country, which are designed for the housing purposes or are actually used for this purpose by the beneficiaries:

- **Inpatient psychiatric services** – a service is foreseen by the State Mental Health Program, which is part of the State Health Care Program approved annually by the Government of Georgia. Its main purpose is to provide emergency or long-term inpatient services, however, given the extreme scarcity of housing services, it has become the only shelter for hundreds of people. In institutions, people are forced to endure daily degrading living conditions, violence and/or neglect, labor exploitation and isolation from society.[170] 11 service providers are registered as inpatient service providers, although only three of them are multi-profile hospitals with small-scale psychiatric units;[171]
- **Shelter for people with mental disorders** - Despite the social nature of the shelter service, it is considered part of the state mental health program and is designed for the following persons: 1. Persons with dementia due to congenital and acquired mental health problems or persons with intellectual disabilities of 18 years of age and older who have a profound disruption of psycho-social functioning and do not have an appropriate supportive environment; 2. Persons using the component of institutional patronage of persons with mental disorders; 3. Persons with other mental disorders who require institutional patronage and whose inclusion in the sub-program is decided by the regional council. The mental health program provides two service providers: "Acad. B. Naneishvili National Mental Health Center" Ltd. (Khoni Establishment - 100 inhabitants) and Eastern Georgia Mental Health Center Ltd. (Bediani Establishment - 37 residents).[172] The shelter service, by its very nature, disregards the provisions of the Convention and institutionalizes its inhabitants. Inadequate living environment (including lack of physical accessibility), neglect by staff, isolation from the community, and lack of services needed to return to the community are just a small list of the problems that shelter residents face;[173]

[169] See, Social Justice Center, Practice of Providing Housing for Homeless Groups - What are the Special Needs of Women? 2022; Open Society Georgia Foundation (OSGF), Living in a social housing - reasons, needs, environment, 2020.
[170] Report of the National Mechanism for Prevention of the Public Defender of Georgia, 2020; Public Defender of Georgia, Monitoring Report of Specialized Institutions for Children / Persons with Disabilities, 2021.
[171] N 5 Clinical Hospital Ltd. In Tbilisi, Imermedi - Imereti Regional Medical Center (Terjolamedi) Ltd. and Kutaisi Central Hospital Ltd. in Imereti. Batumi Medical Center Ltd. is considered to be a multi-profile hospital in Adjara, however, its psychiatric department is large-sized.
[172] Correspondence of the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia N 01/10863, 9.09.2020.
[173] See, For example, the Public Defender of Georgia, National Prevention Mechanism, The Thematic Monitoring Report of Acad. B. Naneishvili National Center for Mental Health Ltd., 2019; the Public Defender of Georgia, National Prevention Mechanism, Human Rights Situation in Closed Institutions, 2017; Report to the Georgian Government on the Visit to Georgia Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 10 to 21 September 2018, CPT/Inf(2019)16, 2019.

- **Boarding House for Persons with Disabilities** - LEPL – Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking is responsible for providing service of boarding housing. In total, the beneficiaries are accommodated in 3 boarding houses: Dusheti (47 persons with disabilities), Martkopi (65 persons with disabilities) and Dzevri (64 persons with disabilities).[174] Like the services discussed above, in the case of boarding houses, there is no family-like environment for the beneficiaries, which ultimately leaves its residents in isolation for a long period of time, often for the rest of their lives;[175]
- **Community Services for the Elderly and Persons with Disabilities** - The above-mentioned services are enshrined by the State Program of Social Rehabilitation and Child Care and provide housing for 24 persons with disabilities as a maximum number of beneficiaries in one dwelling. There are 10 organizations providing services throughout Georgia: 1 - in Tbilisi, 1 - in Tskaltubo and 8 - in Kakheti, which serves 191 people with disabilities.[176] Due to the number of beneficiaries the service is not able to provide support for independent living and a family environment for people with disabilities;[177]
- **Family Support Services for Independent Living of Persons with Disabilities** - As mentioned in the previous chapter, this service has been identified as one of the best practices in providing housing for people with disabilities by the World Health Organization, which should be the basis for its further development at the national level. The service is provided by the state program of social rehabilitation and child care and is designed for a maximum of 6 persons with disabilities in one dwelling. Despite the importance of this type of housing, in the whole territory of Georgia - the organization – "Hand in Hand" has only 6 houses (2 - in Tbilisi and 4 - in Kakheti), where 30 people with disabilities receive services.[178]

A review of the above services reveals that most of them are less tailored to the needs of persons with disabilities and do not meet the needs of deinstitutionalization and institutionalization prevention in the country. However, there is no range of housing services in the country that are recognized by international experience and that would assist the state in community inclusion of persons with disabilities.

Conclusion and Recommendations

According to the international standards and country practices, housing and related support services play the important role in the process of deinstitutionalizing institutions for persons with disabilities and preventing institutionalization. Clearly, the processes of creating and developing the housing services, as well as deinstitutionalization, should adapt to the unique context of the country and the needs of the target groups; however, the mechanisms used by the state must be unconditionally based on the human rights paradigm and relevant international standards.

Despite its international commitments, over the years the Georgian government has not taken appropriate measures to dismantle institutions for persons with disabilities and to include institutionalized persons in

[174] Correspondence of the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia N 01/13107, 1.09.2021.
[175] See, Public Defender of Georgia, Monitoring Report of Specialized Institutions for Children / Persons with Disabilities, 2021.
[176] Public Defender of Georgia, Analysis of 2018-2020 State Programs for Social Rehabilitation and Child Care, 2021, p. 42.
[177] Ibid., pp. 43-44.
[178] Ibid., pp. 42 – 43.

the community. The situation is further complicated by the lack of a deinstitutionalization strategy, as well as the housing strategies and action plans, which would at least formally outline the steps to be taken by the state in these areas. In recent months, the process of strategy development for the deinstitutionalization of boarding houses for people with disabilities has undoubtedly been important, but its final version should cover every form of the institutions - psychiatric institutions, community homes for 24 people, shelters for people with mental disabilities, where persons with disabilities have to spend years and even their whole lifetime.

Given the context and challenges analyzed in the document, an immediate and effective government response is clearly needed. The Government should, on the one hand, study in detail the current situation in the country in terms of institutionalization of individuals, and, on the other hand, based on this data, develop a comprehensive policy based on human rights standards, the main goal of which will be full inclusion of persons with disabilities in the community.

In view of all the above, the Government of Georgia should consider the following recommendations:

Concerning the Legislative Transformation:

- Make changes to the Law of Georgia "on the Rights of Persons with Disabilities", as a result of which the following issues will be clearly reflected and harmonized with international standards: 1. Human rights standards of adequate housing; 2. Human rights standards of independent living; 3. Obligations of the state regarding deinstitutionalization and prevention of institutionalization;
- Bring the legislation regulating the field of housing (at both central and municipal levels) in line with international standards and, among many other issues, consider the needs of persons with disabilities. It is important that this process also includes a revision of the definition of homelessness, which in turn expands to include internationally standardized (ETHOS) groups, including institutionalized persons;
- Conduct a comprehensive review of legislation in the field of mental health and ensure its compliance with international human rights standards, including the abolition of involuntary measures against persons with disabilities;
- Establish a moratorium on accepting new beneficiaries by large and/or specialized institutions.

Concerning the Policy Development and Refinement:

- Develop a housing strategy and action plan in the shortest possible time, detailing the steps to be taken by the state in this area and including all groups in need of housing, including institutionalized people;
- In the shortest possible time, develop and approve the National Strategy and Action Plan on Persons with Disabilities provided for by the Law of Georgia "on the Rights of Persons with Disabilities", which, among other issues, will prioritize the protection of the rights of persons with psychosocial and intellectual disabilities;
- Study the structural reasons for institutionalization and the needs of institutionalized people, as a result of which policies and services will be created and/or transformed;

- Develop and approve a deinstitutionalization strategy and action plan in the shortest possible time, which will be based entirely on the paradigm of human rights protection and will include detailed activities to be implemented by the state concerning all types of institutions;
- In the process of developing and implementing the deinstitutionalization strategy and action plan, allocate adequate human, technical, financial (if necessary, through international cooperation) and time resources;
- Consider the implementation of pilot projects during the deinstitutionalization process, the results of which will be used for more efficient management of the process;
- Cover the issues, such as maintaining the state institutional system, clearly identifying the responsible agency/agencies, inter-agency cooperation and increasing the priority of the issue in all levels and sectors of government by the process of development and implementation of the deinstitutionalization policy;
- Ensure the active involvement of community members in the process of developing, implementing and monitoring deinstitutionalization policies, including strategies and plans;
- Systematically collect data and information to assess the effectiveness of relevant policies and services.

Concerning the Service Development:

- Develop transitional support services tailored to the needs (including skills development, psychological support, awareness of the rights) of institutionalized people, which will be continuously available to them in and out of the institution;
- In parallel with the decentralization process and the development of services, the municipalities should be duly empowered with knowledge, financial and human resources, so that they can properly create and administer services;
- Prior to deinstitutionalization, take all possible measures to create a dignified, safe and non-coercive living environment for the people housed in the institutions;
- Carry out a detailed analysis of the content of existing housing services at the municipal level, identify and eliminate the key challenges in relation to them, in order to guarantee adequate housing for all beneficiaries. In addition, measures should be taken to maximize the inclusion of persons with psychosocial and intellectual disabilities in the mainstream housing services;
- Develop and diversify housing services at the central and municipal levels (including supported co-living mechanisms, individual living opportunities, small family housing) tailored to the needs of persons with disabilities and based on a human rights paradigm;
- Develop the individualized support services for persons with disabilities (including financial and non-monetary support, individual assistance, peer support, employment, vocational training/education, development of independent skills), which will significantly contribute to their independent living;
- Prioritize the development of community mental health services; Ensure maximum coverage of persons with disabilities by acceptable, geographically and financially accessible, high-quality and sustainable services.