We will discuss the follow up of this law on the psychiatric practice. Proposals to improve the law on the treatment of mentally disordered offenders have been made at the request of the ministry of justice. We will focus on the availability of adequate mental health care and the problem of negotiating consent in judicial coerced treatment.

For some categories of patients, such as drug addicted patients or sexual abusers, we witness in Belgium a clear trend for the judicial system to engage patients to commit themselves to psychiatric treatment. Legal intervention in this area is necessary, but should be closely monitored and used with great caution. Social control is not the primary concern of psychiatrists, and any treatment must (also) be beneficial to the individual patient.

S18.02
HUMAN RIGHTS AND COMPULSIVE TREATMENT

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According to the Madrid Declaration, art. 4, the psychiatrist should consult with the family and, when appropriate, seek legal counsel in order to safeguard the human dignity and the legal rights of the patient when he/she is incapacitated and/or unable to exercise proper judgement due to mental disorder. As psychiatrists we have to stride for a therapeutic relationship based upon mutual trust and provide treatment with the patient's consent.

And yet all psychiatrists are faced with situations where compulsive interventions are required to safeguard the patient and/or those surrounding him/her.

Ways to protect the human rights of the patients and avoid any abuse of psychiatry will be discussed.

S18.03
PSYCHIATRY AND HUMAN RIGHTS IN ROMANIA. INVOLUNTARY COMMITMENT. 30 YEARS EXPERIENCE

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The protection of Human Rights and the dignity of persons with mental disorders have a short history in our country like throughout the world. Generally our country's legislation respects the International Documents of WHO, UN, etc., concerning the protection of mentally ill.

This legislation warrants an adequate treatment through provisions regarding the fundamental human rights and especially of persons with mental disorders.

Standards and practice in our country regarding the involuntary committment in a psychiatric department need to be improved (Criminal Code 114 for forensic psychiatry, Decree 313 for dangerous patients before committing any offence).

Juridical and social status and role, generally speaking, do not limit individual fights of persons with mental disorders only if they have no mental capacity, when the tutelage and trusteeship must be set up.

There is no discrimination of persons with mental disorders legally speaking, but they are rejected by the society. After 1990, because of currency problems very few of our patients are employed.

Although the law makes provision for defending the mentally ill against any abuse, humiliation treatment and/or freedom privation, after 1990 it was necessary that to be found commissions to research abuses in involuntary commitment. On the other hand, before 1990 we have to mntion several cases with or without mental disorders that were hospitalised in psychiatric departments to protect them against freedom privation.

The quality of standards must be improved, especially those concerning elementary care needs and quality of life (accommodation, food, sheltered homes, sheltered work plces and community involvement.

S18.04
INVOLUNTARY COMMITMENT IN GERMANY – ETHICS, LAW AND PRACTICE

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Historically, involuntary commitment of incompetent patients in Germany followed for a long time well-established paternalistic rules that took into consideration the "best interest" of the patient, but also the financial well-being of the family and the potential risk for others. Since the early 1980s major law changes took place. Federal laws that had not changed for over 100 years were twice changed since 1990 emphasizing autonomy and protections of patients' rights. State laws were reformed successively from 1980 to 1995.

Two general principles govern involuntary commitment of mentally ill. Individual welfare, benefit and putative will of the patient are the principles of federal commitment laws. They can not be applied for the protection of others. The principle of dangerousness is the basis for commitment according to state laws, which are derived from police laws. All laws involving psychiatry in Germany function according to a two step procedure: first a mental disorder – as defined in the law – has to be diagnosed, secondly the legal consequences of that illness, e.g. incompetence, dangerousness, have to be proven. Although the definitions introduced in the law reforms of the last 20 years are supposed to limit the possibilities for the state or for others to interfere with the individual rights of the patients and to allow as much autonomy as possible, the number of patients committed to psychiatric institutions have not decreased and in some regions even increases have been observed. Several reasons might explain these observations: 1. The number of demented patients increase. These patients were formerly hospitalized without any formal legal procedure and are now committed legally. 2. The extend of social control remains fairly constant regardless of the legal procedures that are involved in that control. 3. Public awareness of the risk of some psychiatric patients sensitizes politicians and judges to public fears and leads to more vigorous attempts to preventively control and protect applying the already existing laws that allow preventive detention.

S18.05
UNVOLUNTARY COMMITMENT IN FRANCE: A MODEL OR AN EXCEPTION?

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Using France as an example, ethical and legal aspects will be analysed. Is the position of forced treatment an exception or a model to be followed? The author will try to demonstrate that psychiatry is not only a speciality but also a discipline, and that it throws light on the consequences of illness on the relationship between the patient and the people who treat him in the field of medecine as a whole.

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