

# 酒藥癮治療於 新制精神衛生法之挑戰 —以德國憲法裁判 及審理程序為借鏡

The Challenge in the Treatment of Alcohol and Drug Addiction  
Regarding the Amended Mental Health Act— Inspiration from  
German Constitutional Court Trials and Judiciary Proceeding

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## 摘 要

精神衛生法於2022年底修法，對於成癮疾病之法律文義解釋放寬為「物質使用障礙症」，此外最大的變革為精神病患之強制住院改為法官審理。本文主要透過介紹兩則德國聯邦憲法法院裁判，對於物質使用障礙症患者受強制住院及肢體約束之憲法解釋，並介紹德國法規以供新法借鏡。新法對於強制治療由法官審理

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關鍵詞：物質使用障礙症 (substance use disorder)、肢體約束 (physical restrain)、程序法 (Procedural Law)、精神疾病 (psychiatric disorder)、精神衛生法 (Mental Health Act)、憲法法院 (constitutional court)

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的部分，審理之程序規範並不足，政府後續應制定或修正相關法規以落實人權保障。

The Mental Health Act was amended in the end of year 2022. The legal interpretation of addiction diseases was broadened to “substance use disorders” this time. Besides, the most significant change announced that mandatory hospitalization of patients with psychiatric disorders will be decided by judge's trial. This article mainly introduced two German Constitutional Trials, focusing on the constitutional interpretation of mandatory hospitalization and physical restraint for patients with substance use disorders. The article introduced German regulations as a reference for the amended law. The new law does not provide sufficient guarantee in the procedural regulations for the trial of mandatory treatment by judges. The government should make or strengthen relevant laws to implement protection of human rights.

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## 壹、酒藥癮疾病與精神衛生法

我國於2022年底新修法之精神衛生法，本次修法內容達九成<sup>1</sup>，最大變革為改變以往病患強制住院的制度，改由法官審理。

酒藥癮疾病之部分，對於成癮疾病診斷的變革，在新法第3條第2項第3款，精神疾病包含「物質使用障礙症」。其修法理由為「另考量酒癮、藥癮尚難完全包含成癮性事項，如管制藥品或新興毒品等，爰將「酒癮、藥癮」修正為「物質使用

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1 李郁強，精神衛生法強制住院程序之法制研析，<https://www.ly.gov.tw/Pages/Detail.aspx?nodeid=6590&pid=216334>（瀏覽日期：2024年3月28日）。