

Replies and comments of Czech NGOs and DPOs¹ to the list of issues on the initial report of the Czech Republic

Introduction

This document has been prepared by the same coalition of NGOs which submitted an alternative report in November 2011.² The purpose of this submission is to make specific responses to the list of issues adopted by the UN Committee on the Rights of Persons with Disabilities (hereinafter 'CRPD Committee')³ and responds to the submission made by the Czech government.⁴ It also aims to provide updated information to the CRPD Committee of the situation of people with disabilities in Czech Republic since the end of 2011.

A. Purpose and general obligations (arts. 1-4)

Question 1: When does the State party plan to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities?

1. DPOs and NGOs have no information from the Czech government about arguments which could justify postponement of the ratification of the Optional Protocol. The government has not shared any information about plans to ratify of the Optional Protocol with DPOs and NGOs.
2. In relation to the answer of the Ministry of Labour and Social Affairs (hereinafter 'MoLSA') regarding the National Plan for the Creation of Equal Opportunities for Persons with Disabilities 2010 - 2014⁵, we submit that the plan was not the result of ratification of the CRPD. Instead, these plans have been created at regular four-year intervals since 1994. The last plan was only designed with reference to the CRPD articles.

Recommendations:

- The government should ratify the Optional Protocol to the UN CRPD by the end of 2015, according to the new Plan for the Creation of Equal Opportunities for Persons with Disabilities 2015-2020.

Purpose (art. 1)

Question 2: Please clarify the criteria used in determining whether an individual qualifies for disability of the first, second or third degree.

3. The first and second 'degrees of disability' were established following a reform of disability pensions effective from 1st January 2010. 158,668 persons received an allowance based on the 'first degree' until 30th September 2014. The average pension was 6,250 CZK for men and 5,615 for women. Pensions awarded at the second level were, on average, 700 CZK higher for men and 724 CZK for women, and this was provided to 65,749 persons in the same

¹ A full list of contributors is provided in the Annex.

² *Alternative Report for the UN Committee on the Rights of Persons with Disabilities: Czech Republic*, November 2011, available online at http://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/CZE/INT_CRPD_NGO_CZE_15594_E.pdf.

³ CRPD Committee, List of issues in relation to the initial report of the Czech Republic, 28 October 2014, CRPD/C/CZE/Q/1.

⁴ Government of the Czech Republic, Replies of the Czech Republic to the list of issues, 30 January 2015, CRPD.C.CZE.Q.1.Add.1.

⁵ *Ibid.*, para. 1.

period. The separation between the first and second degrees of disability resulted in two thirds of persons with partial disabilities seeing a decrease in their income.

4. The 'third degree' of disability has two forms. The basic level allows for limited gainful employment, and the second one allows unlimited gainful activity under extraordinary conditions. The second form mainly concerns blind people, wheelchair users, people with severe mental health problems, etc. These people can perform gainful employment without any limitations.
5. The Czech Republic has an increasing rate of unemployment and a relatively low number of employment vacancies.⁶ A large number of disability pension beneficiaries of the first and second degrees are at risk of being denied access to retirement pensions as the period during which they receive a disability pension is not included in the insurance period.
6. From a long-term perspective, a new method of calculating the relevant period from the beginning of disability until the entitlement of retirement pensions will significantly influence the amount of disability pensions: while until the end of 2009, this period was calculated in the 100 % extent, after this date, it is calculated only in a limited ratio.

Recommendations:

- Consider repealing the first disability level or revert to the original distinction between full and partial disability pensions.
- Revise the newly established method of calculating the relevant period from the beginning of disability until the entitlement of retirement pensions, as this has resulted in the amount of the pensions received by persons with disabilities at the third level being below the minimum subsistence level.
- Remove the limitation of gainful employment in the basic form of the third disability level pension.

General Obligations (art.4)

Question 4: How does the State party fully implement its obligations under article 4, paragraph 3, of the Convention and ensure the effective participation of persons with disabilities and their representative organizations in the development and implementation of disability relevant legislation and policies?

7. There is no systematic involvement and participation of persons with disabilities and their representative organisations. While consultations happen and DPOs/NGOs are invited to submit their opinions, this is done in a chaotic, unstructured and uncoordinated way without clear objectives and methods for cooperation. Legislation is often prepared without prior consultation and the timeframe for commenting on draft laws is usually very short, thus limiting the participation of certain groups. In addition, consultations are rarely accessible to the needs of different groups of disabled people.
8. As an example, we can illustrate our statement by our communication with the Ministry of Justice, which has been for a few years approached repeatedly by a platform of NGOs working on legal capacity. While the official correspondence always positively welcomes any initiative and cooperation, nothing has moved for the past years. The most recent meetings with representatives of the Ministry of Justice can be characterised by a clear status-quo and the lack of political will to change anything, whatever type of activity or compromise is proposed by DPOs and NGOs. Initiatives led by DPOs are usually unsuccessful as they are as are "disturbing" or "unnecessary".

⁶ Based on official statistics of the Czech Ministry of Labour and Social Affairs. See, Trading Economics, *Czech Republic Unemployment Rate* (2015), available online at <http://www.tradingeconomics.com/czech-republic/unemployment-rate>.

Recommendations:

- Develop guidelines for consultation and involvement of persons with disabilities and representative organisations of persons with disabilities, including children with disabilities in all decision making processes. These consultation guidelines should pay particular attention on how to consult and involve persons with intellectual and psychosocial disabilities.

B. Specific rights

Equality and non-discrimination (art. 5)

Question 5: Please explain why the definition of reasonable accommodation is limited to employment and what sanctions are in place in the event of breaches?

9. The Anti-discrimination Act no. 198/2009 Coll. does not recognise the denial of reasonable accommodation as a self-standing form of discrimination. The failure to ensure reasonable accommodations in several aspects of life is explicitly recognised under Article 3 para. 2 of the Act as indirect discrimination. Secondly, the law has a narrow definition of reasonable accommodation which does not meet the standards required by the CRPD. Article 3 para. 2 of Anti-discrimination Act provides an exhaustive list of issues relating to employment of persons with disabilities and access to public services. The law should be amended to introduce denial of reasonable accommodations as a self-standing form of discrimination against persons with disabilities. The definition of reasonable accommodation should be redrafted in line with Article 5 CRPD.

Recommendations:

- Amend the Anti-discrimination Act no. 198/2009 Coll. and introduce denial of reasonable accommodations as a self-standing form of discrimination.
- Redraft the definition of the reasonable accommodation to be fully in line with Article 5 CRPD.

Children with disabilities (art. 7)

Question 9: Please provide data on the number of families with children with disabilities and the number of boys and girls with disabilities who are using different services that enable them to effectively enjoy the rights provided for under the Convention and under the Convention on the Rights of the Child. Please also provide information on the measures taken by the State party to prevent the institutionalization of children with disabilities.

10. The response of the government does not mention the number of families with children with disabilities. According to statistics from 2010, 16 000 families were receiving a special social allowance. Since 2012, the payment of this allowance stopped, thereby reducing the standard of living of these families, and less information on the number of families of children with disabilities.
11. New legislation passed in 2012 expands foster care provision and seeks to increase the professionalism of foster parents. The law is strengthens the social-legal protection of children, establishing new services and help for families. The legislation, however, fails to support de-institutionalisation. Current government policy does not lead to the dismantling of institutions for children with disabilities, and there is a lack of political support for de-institutionalisation. A proposal of the Ministry to forbid the placement of children under 3 years old in institutions was not included in the law.

12. The National Plan for Equal Opportunities of Persons with Disabilities does not include any specific measures to support families caring for a child with disability.
13. Another relevant issue is availability and accessibility of individualised community based residential services for children with severe combined disability. In 2014, the Czech Supreme Administrative Court ruled on the right of all children with disabilities to receive social care in the least restrictive environment. Even though there is enforceable right to social services, the Government failed so far to ensure availability and accessibility of these services. Further information regarding institutionalisation of children with disabilities is provided under article 19.

Recommendations:

- Include provisions on children with disabilities in the National Plan for the equalisation of opportunities for people with disabilities 2015-2020 to ensure that a coordinated approach is adopted between the departments of education, health, social affairs and justice and that children with disabilities do not fall between different competences.
- Introduce an immediate ban on the placement of children under 3 years old in institutions. Further, take action to deinstitutionalise all residential services for children with disabilities within a reasonable timeframe, in compliance with the principle of progressive realisation and the maximum use of available resources.

Accessibility (art. 9)

Question 10: Please provide information on the progress made by the Building and Construction Authority in implementing the Building Act, including any data on the number of construction companies which have been ordered to ensure barrier-free accessibility to buildings, and on sanctions imposed on those not complying with the provisions of the Building Act.

14. The Construction Act established “the barrier-free use of a construction” as a matter of public interest, but – in conflict with the Administrative Code - no relevant body has been mandated to defend this interest. Administrative proceedings are conducted without the possibility of the respective to propose modifications and to defend the public interest. The accessibility of buildings is not assessed in the administrative proceedings.
15. Construction Officers have no binding powers to require the barrier-free use of buildings. In the “barrier-free” regulation, there are outdated requirements which fail to address the requirements of the target group. The process of applying for remedies in the field of construction is very lengthy and laborious for persons with disabilities. This target group is not party to the proceeding, so they cannot point out the deficiencies in buildings open to the public (they discover mistakes only when using the building), administrative deadlines for application of reassessment may be time-barred, etc.
16. The statement of the Government that Czech legislation is ‘on a par with higher European standards’⁷ is daring. For example, the minimum size of an accessible toilet is much larger in most other Member States and the Czech standard does not even meet ISO norms. Education in the field of accessibility in the construction industry is insufficient.
17. Cooperation with disability organisations is not viewed positively by public authorities. Ministry of Regional Development has not responded to the recommendation of users and disability organizations. They were repeatedly given indefinite and almost discriminatory replies to the questions on validity of certain provisions.

⁷ Replies of the Czech Republic to the list of issues, para. 48.

Question 11: Please inform the Committee about accessibility of information and communication for persons with all types of impairments that would enable them to move in buildings and public spaces and to use public transport without barriers.

18. The provisions mentioned by the government⁸ apply only to highways and dual motorways. The barrier free requirement does not apply to other roads and particularly to adjustments and construction of footpaths (pavements). In connection with the fact that there is no mandated body to protect public interest in the field of accessibility, this situation leads to allowing potentially dangerous solutions.
19. Government Resolution Nr. 63/2011 Coll., does not include any parameters related to the accessibility of rolling stock. Moreover, the conditions of the Resolution do not apply to vehicles which were registered for the first time before 1st January 2015.
20. Public buildings and public spaces remain inaccessible and inadequate for people with intellectual disabilities, especially hospitals, public administration buildings and cultural places. No specific changes have happened since 2012. However, the new draft National Plan for the Equalisation of Opportunities for Persons with Disabilities 2015-2020 contains some provisions for the development of easy-to-read standards and material as well as orientation signs in some public buildings. Unfortunately, no budget has been linked to these activities.

Question 12: Please inform the Committee about the accessibility of public transport for persons with disabilities, including in rural areas.

21. In the Czech Republic, the accessibility of transport remains a serious problem and persons with disabilities have to cope with huge difficulties, mainly in rail transport. The Czech Republic, besides other things, completely fails to ensure that private entities implement all accessibility requirements.

Recommendations:

- Mandate a responsible body or professional organisation with the power of ensuring the accessibility of buildings.
- Improve the education of all actors involved to improve the accessibility of all public services. Educate staff from public services (public administration workers, justice personnel, medical personnel) and undertake awareness raising programmes on issues of orientation and services relevant to people with disabilities.
- Establish criteria for information provided by public services to the public so that they are accessible to different groups of people with disabilities, including the development of information in audio formats, easy-to-read, etc.
- Establish criteria for signage in public buildings including alternative forms of communication, visual aids such as pictograms, and allocate necessary budgets to achieve this.

Situations of risk and humanitarian emergencies (art. 11)

Question 13: How are public warnings about natural disasters and emergencies (e.g., floods and fires) broadcast on television and are they also made available in sign language?

22. There is no comprehensive system of public warnings accessible to persons with disabilities, and in particular to persons with communication impairments. Similarly, a rescue system for persons with disabilities during natural disasters and emergencies is missing.

⁸ Ibid., paras 49.

Recommendations:

- Create a comprehensive system of providing information to people with communication and other impairments, and a rescue system for people with disabilities during natural disasters and emergencies.

Equal recognition before the law (art. 12)

Question 14: Please update the Committee on how the new Civil Code has been harmonized with the Convention, in particular with regard to replacing the guardianship system with a supported decision-making system.

Question 15: Please inform the Committee about the measures taken to ensure the equal right of all persons with disabilities to own or inherit property, control their own financial affairs and have equal access to bank loans, mortgages and other forms of financial credit, in line with article 12, paragraph 5, of the Convention.

23. The new Civil Code has incorporated some elements of supported decision-making, however it still allows for partial guardianship. Although according to the law the restriction of an individual's capacity to act is a matter of last resort, this measure still prevails in court practice and there has actually been an increase in the numbers of people under guardianship over the last year.⁹ Moreover, the courts still restrict the legal capacity of persons with disabilities in a wide range of areas, including the right to marry, parental rights, right to vote, entering into labour contracts, requests for social benefits, and informed consent in health care issues, testamentary wills, and sometimes de facto depriving them of their legal capacity.¹⁰
24. Elements of supported decision-making in the new law are not tailored to correspond to the scale and intensity of an individual's support needs and they are not systemic and complex. The closest provision seeking to implement art. 12 is *support in decision-making* (sec. 45). Other legal instruments available are *representation by a household member* under section 49 and *guardian without restriction of legal capacity*, both of which represent substitute decision-making measures based on the concept of "best interests", and *advanced directives* which can be used only by persons with undoubted full legal capacity for listed actions. There are no legal measures aimed to protect the right to property, such as access to bank services or the right to make a last will.
25. Unfortunately, although the new law presents the need for major changes in judicial practice, since 2014 when the new Code came into force there has been no progress in follow-up legislation, no awareness raising or trainings for professionals (such as judges, state prosecutor, attorneys, public guardians or families), nor have there been general public awareness-raising activities to educate the public on the shift from a system of substituted decision-making to one based on supported decision-making.
26. The Guardianship Act foreseen by the Civil Code has not yet come into force. The first draft of the law published by the Ministry of Justice contained only regulations concerning administrative rules for public guardians. There were no measures civil society has been advocating for, such as clear rules for guardians, control and evaluation mechanism, methodological support or training. The latest developments indicate that the Ministry of Justice might limit the regulation to amendment of the Communities Act.
27. The Government has also fallen short in including NGOs and DPOs in the process of implementation of article 12. Civil society offered several times a wide range of ways for cooperation with the Ministry of Justice pointing to the General Comment of the CRPD

⁹ According to statistics obtained by League of Human Rights, there were 36,436 people under guardianship in April 2014 and 35,501 people in January 2015.

¹⁰ Information collated by the League of Human Rights from interviews with around 400 social care workers and public guardians from all regions in the Czech Republic, conducted in 2014.

Committee on article 12. We were told that the General Comment is an “extremist” interpretation of art. 12 and that the opinion of CRPD Committee is not binding on the Czech Republic, and that training of judges on the paradigm shift required by article 12 would interfere with the principle of independence of the judicial system.

28. Lastly, the terminology of the new civil code does not reflect the paradigm shift. The law uses the term “svéprávnost” (*personae sui iuris*) which is stigmatising and indicates that the person under guardianship has no rights.

Recommendations:

- The Government should develop a concrete, time-bound plan on how to fully implement article 12, including the abolition of substitute decision making measures and their replacement with supported decision-making models.
- Meanwhile, the Government should introduce clear rules regulating all ‘protective measures’ for people with disability such as guardianship, representation by a family member, support in decision-making and advanced directives in accordance with current social and legal trends and the real needs of people with disabilities. The law should also include safeguards against abuse and sanctions for perpetrators.
- The government should immediately abolish legal provisions that restrict fundamental human rights of people with disabilities including the right to vote, right to marry, right to care for children, right to decide on one’s healthcare and the right to make wills and testamentary provisions.
- The terminology in the civil code should be immediately changed in order to avoid further stigmatisation of people with disabilities under guardianship.

Access to justice (art. 13)

Question 16: Please provide information on the progress made in implementing the amended Rules of Administrative Procedure to ensure that persons with disabilities have full and equal access to justice. In particular, please provide information on the measures taken to enable persons with intellectual and/or psychosocial disabilities to access justice.

29. Although the law does set forth some general rules on respecting the rights of persons with disabilities¹¹, there have been no real steps taken in order to ensure full and equal access to justice for persons with disabilities. Legal documents, including laws, court decisions and guidelines are only available in written form. No law guarantees reasonable accommodation for people with disabilities during court proceedings, such as the right to attend the hearing with a support person, the provision of a translator, or recognition of alternative methods of communication (except in cases of deaf or blind-deaf people). No provisions are in place to mandate the modification of courtrooms or providing court documentation in an accessible form. No training is provided to judges on communicating with people with intellectual disabilities, mental health issues or people with brain injuries. This often leads to courts disregarding their opinions and statements. Moreover, many courts reside in old buildings which are not accessible to wheelchair users.

30. These barriers are even more apparent in proceedings relating to legal capacity, guardianship or other supportive measures. These proceedings are often very formal, and courts base their decisions on the perceived “best interests” of the person or on medical opinions, rather than on the will and preferences of the person concerned. A particularly problematic practice is forced medical assessment in hospital for up to four weeks that can be ordered by the court

¹¹ For example: article 90 and 96 of the Czech Constitution; article 36 of the Charter of Basic Rights and Freedoms; Code of Civil Procedure; Special Proceedings Act, and others.

during legal capacity proceedings.¹² Other cases of interference with equal access to justice are the power of the court to forbid a person from submitting proposals to restore his or her legal capacity,¹³ and to order the person whose capacity was restricted to pay for court costs.¹⁴

Recommendations:

- The government should introduce a detailed plan on how to ensure full and equal access of people with disabilities to justice, including reasonable accommodations in court proceedings, and accessibility of court buildings and courtrooms.
- Legal documentation, laws and decisions should be issued in accessible formats to ensure that people with disabilities know their rights.
- The government should immediately remove all legal provisions that interfere with the right to equal access to justice which discriminate against people with disabilities in court proceedings.
- The government should roll out training to judges, lawyers and other legal professionals to promote equal access to justice for all persons with disabilities.

Article 14 - Liberty and security of the person

Question 17: Please provide information on the progress made by the expert working group of the Ministry of Justice towards the full harmonization of legislation on deprivation of liberty in the State party with the provisions of article 14 of the Convention.

31. As the coalition of NGOs and DPOs pointed out in the 2011 Alternative Report, law in the Czech Republic still allows for deprivation of liberty and subsequent medical intervention based purely on the existence of disability. This is possible in cases of (a) involuntary hospitalisation in health care or psychiatric facilities and (b) involuntary admission to social care services.
32. Regarding involuntary hospitalisation, as the Government pointed out in their reply to the list of issues, the Minister of Justice has established a working group that also included members of civil society.¹⁵ The work of the group has resulted in a series of recommendations for the government to strengthen the procedural safeguards for the patients involuntarily hospitalised in psychiatric hospital. This recommendation was implemented by the provisions of the new Health Care Act, Code of Civil Procedure and the Act on Special Court Proceedings. Although these changes have introduced some new safeguards for patients, such as specification of criteria for deprivation of liberty and new procedural rights, the new legislation still does not comply with article 14 of the CRPD. The existence of disability is still a major (often the only) factor in deliberations regarding deprivation of liberty. Moreover, the changes have failed to bring a real and effective change in the practice of psychiatric hospitals and courts. The number of involuntary hospitalisations keeps increasing every year, but the courts hardly ever declare such hospitalisation unlawful.¹⁶ This means that decision-making on deprivation of liberty in practice lays with health care professionals rather than the courts. The government has not provided any comprehensive training on detention proceedings to judges regarding article 14 CRPD in order to include human rights and social model of disability in their decision-making. Furthermore, the Ministry of Health introduced in the end of 2014 an amendment of article 38(1)(b) of the Health Act which would remove the “immediate threat” from criteria on determinations regarding deprivation of liberty. The amendment, which is currently being discussed by the government, would leave wide discretion to medical staff in

¹² See article 38 (4) Law no. 292/2013 Coll., on special court proceedings

¹³ Ibidem, Article 35 (3)

¹⁴ Ibidem, Article 43 (2)

¹⁵ Replies of the Czech Republic to the list of issues, para. 78.

¹⁶ According to statistics collected by the League of Human Rights from the Ministry of Justice, in 2012 only 14 cases of involuntary detention were declared to be unlawful detention out of 38,541 involuntary hospitalisations. In 2013, only 19 cases out of 43,786 hospitalisations were found to be unlawful.

deciding on deprivation of liberty, removing the current obligation that ‘immediate threat must be substantiated with evidence, and would pose a high risk of arbitrary decision-making.

33. Regarding involuntary admission to social care services, the Law on Special Court Proceedings established a new procedure regarding involuntary admissions to residential social care services. The regulation aimed to deal with situations where people under guardianship could be deprived of liberty by the decision of their guardians or municipality without any procedural rights or judicial review. Unfortunately the procedural regulation was not followed by providing substantive criteria for deprivation of liberty in social care proceedings. Although the government has established a working group that should come up with the criteria, no specific outcomes have yet been achieved. Due to the lack of regulation, the courts review only a minimum number of cases, leaving many people with disabilities living in institutions against their will and without any legal safeguards.

Recommendations:

- Repeal legislation, such as the Health Services Act and Social Services Act which allow for involuntary hospitalisation and forced institutionalisation in social care homes for persons with disabilities.
- Prohibit disability-based detention of children and adults with disabilities.
- Develop support services in the community based on the human rights model of disabilities, and accelerate deinstitutionalisation strategies in consultation with persons with disabilities, DPOs and representatives of civil society.
- Take immediate steps to develop and roll out compulsory and regular training for police, judges, institutional and prison staff etc. to increase their knowledge of the rights of persons with disabilities in the places of detentions, including the obligation to provide reasonable accommodation, communication skills for working with persons with intellectual disabilities, persons who are deaf, deafblind or hard of hearing.
- Establish an independent monitoring mechanism to monitor all places where people with disabilities are detained or deprived of their liberty.

Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment

Question 18: What specific measures are being taken to ensure the protection of persons with disabilities in psychiatric institutions from torture or cruel, inhuman or degrading treatment? In particular, please provide information on the measures taken to abolish the use of cage beds, seclusion rooms and physical and chemical restraints.

34. Despite international pressure from many UN bodies¹⁷ and the European Committee for the Prevention of Torture (‘CPT’),¹⁸ the use of restraints on people with disabilities in health care and social care settings is still prevalent. According to the Mental Disability Advocacy Centre’s report “Cage beds and coercion in Czech psychiatric institutions,” many people with disabilities are subjected to torture or ill treatment including placement in netted cage beds, belts,

¹⁷ See, for example, Concluding observations of UN Committee against Torture regarding the report of the Czech Republic, 13 July 2012, CAT/C/CZE/CO/4-5, para. 21; and Concluding observations of UN Human Rights Committee regarding the report of the Czech Republic, 21 August 2013, para. 14.

¹⁸ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report to the Czech Government on the visit to the Czech Republic by the CPT from 7 to 16 September 2010, 18 February 2014, CPT/Inf(2014) 3, paras 110 – 117.

medication or seclusion, and are often subjected to multiple concurrent restrictive practices.¹⁹ Legislation regarding the use of restraints is vague, leaving many people subjected to restraint and violence for prolonged periods of time. According to the aforementioned report, the practice in individual hospitals varies, in terms of the types of restraints, conditions for their use or documentation. Some psychiatric institutions even use unlawful restraints, such as sideboards on the bed or fixation strips. Moreover, hospitals that stop using cage beds reported increased use of other types of restraints. The information about the use of restraints in health care is not collected by a central authority. Therefore there are no comprehensive data on the use of restrictive or coercive practices throughout the country.

35. Despite the high levels of abuse and violence in closed institutions, the government has failed to establish any regular effective monitoring of institutions, except for the Ombudsperson's office under the competence of national preventive mechanism under OPCAT. In between the visits of the Ombudsperson, the people detained are under the total control of personnel, with almost no access to the outside world. The complaint mechanisms are ineffective or completely inaccessible to patients. In many hospitals, patients are not allowed to use mobile phones or have no place to charge them. Letters can be sent only by patients who can afford to buy envelopes and stamps and they must be sent by hospital personnel or by the patient's visitors.
36. Where allegations of ill-treatment in health care are brought forward, legal and practical barriers prevent victims from seeking justice. The definition of the crime of torture and other cruel, inhuman and degrading treatment in the Criminal Code does not take into account the specific situation of people with disabilities in institutions. The law does not prescribe criminal liability of legal persons (e.g. institutions)²⁰; nor does the law shift the burden of proof in compensation proceedings for torture or ill-treatment. This situation leads to ineffective investigation and punishment of the perpetrators, such as in cases of two women who died in a cage bed in 2006²¹ and 2012.²² Both of these cases were dismissed with no consequences for the health care institutions.
37. The government has stated, in its response to the list of issues, that it has no intention of abolishing particularly abusive practices amounting to torture or ill-treatment, including the use of cage beds, seclusion rooms, and physical and chemical restraints.²³ Civil society is concerned that the government refuses to engage with NGOs and DPOs on these issues.

Recommendations:

- Immediately abolish the use of net/cage beds, seclusion rooms, physical and chemical restraints and other non-consensual practices in psychiatric hospitals and social care institutions.
- Establish adequate measures to prevent these abusive practices, including monitoring, data collection and amendment of legislation. The definition of torture and ill-treatment in Criminal Code should be amended to include instances of torture and ill-treatment in health care and social care institutions, the legislation should set forth criminal responsibility of institutions for torture and ill-treatment with appropriate criminal sanctions and redress for victims.

¹⁹ Mental Disability Advocacy Center, *Cage beds and coercion in Czech psychiatric institutions*, (2014: MDAC, Budapest), available online at: <http://www.mdac.org/en/content/cage-beds-and-coercion-czech-psychiatric-institutions>.

²⁰ See article 149 of the Criminal Code

²¹ <http://zpravy.aktualne.cz/domaci/zemrela-v-klecovem-luzku-ustav-rika-ne-omluve-za-smrt/r~i:article:664778/>

²² http://www.lidovky.cz/pacientka-psychiatrie-se-obesila-v-sitovem-luzku-f7f-/zpravy-domov.aspx?c=A120125_074526_in_domov_rka

²³ MDAC, *Cage beds and coercion in Czech psychiatric institutions* (2014: MDAC, Budapest).

- Provide training and raise awareness amongst medical professionals and the public about the fact that use of restraint and non-consensual practices constitute a violation of human rights.
- Provide guidelines, training and raise awareness amongst police and other investigation bodies and officials on effective investigation of torture and ill-treatment and reasonable accommodation and communication with victims with disabilities.

Special recommendation to the CRPD Committee:

- Due to the widespread use of restrictive and coercive practices amounting to torture or ill-treatment in the Czech Republic, and the lack of progress to date, we humbly invite the Committee to consider following-up on its concluding observations on article 15.

Living independently and being included in the community (art. 19)

Question 22: Please explain why subsidies invested in institutions for persons with disabilities (CZK 1,289,884,000) are comparably much higher than subsidies invested in personal assistance (CZK 108,729,000) (CRPD/C/CZE/1, para. 185).

Question 23: Please provide information on concrete and targeted steps taken by the State party to ensure that the de-institutionalization process is sustainable and ensures the inclusion of persons with disabilities in their communities within a reasonable timeframe.

38. Social care for people with disabilities is still provided predominantly in large residential institutions. Although the numbers of clients of residential institutions was decreasing during the 1990s, they have been increasing since 2000. Currently there are almost 70,000 people permanently residing in institutions for the elderly or persons with disabilities.²⁴ People with disabilities may be eligible to receive direct financial support from the state that can be used for a service of the receiver's choice, however this choice is illusory given that there is often no or minimal access to community-based services.²⁵
39. In their reply to the List of Issues, the government has stated that subsidies for residential service are higher than subsidies for field services because the provision of these services are more expensive.²⁶ In our opinion, this is not a sufficient argument for failure to implement article 19 of the Convention. Sustaining and funding large residential institutions directly restricts the right of persons with disabilities to choose where and with whom they live. People often end up in institutions because no other options are available, as the government fails to fund community-based services. There, they receive services that they don't necessary want or need and that are much more expensive. A place in a residential facility for a person with a disability costs around 400,000 CZK per year.²⁷ If a person lives in the community they can receive 144m000 CZK of state benefits at most.²⁸ When families decide not to use residential service and bear the entire burden of care, they sooner or later lose their jobs and can fall into poverty. The lack of affordable and accessible housing is another crucial obstacle to persons with disabilities living in the community.
40. Although we welcome the plans of the government to continue the deinstitutionalisation process, the deprioritisation of residential services described are unlikely to make significant differences

²⁴ Statistics published by the Ministry of Labour and Social Affairs in 2010, available at http://www.mpsv.cz/files/clanky/9198/Analyza_fin_SS.pdf.

²⁵ See also MDAC, *My Home, My Choice in the Czech Republic: The right to community living for people with mental disabilities in 2014*, (2014: MDAC, Budapest), available online at http://www.mdac.org/sites/mdac.info/files/my_home_my_choice_-_czech_republic_2014.pdf.

²⁶ Reply to the List of Issues, para 115.

²⁷ Statistics provided by MoLSA.

²⁸ See article 11 of the Social Services Act no. 108/2006

in practice. A MoLSA statistic shows that the portion of residential services within the whole range of support available to persons with disabilities grew consistently between 2007 and 2013. Even though we have seen individual efforts to transform social services, the whole process is currently at the mercy of regional authorities, meaning there is no coherent and effective national deinstitutionalisation plan. Where there are individual DI initiatives, they are not based on person-centred planning and individualised methods and opportunities for people to move or stay in their home. In most cases it means just changing the environment at the residential service ("humanization" as the government mentions), at best moving to group homes based on the "needs" of service providers, rather than on the will and preferences of the person concerned. Moreover the law does not set forth criteria for community-based services or supported and protected housing and the group homes which people with disabilities are transferred to, and these services fail to advance their autonomy and independence. There are no plans aimed at specific groups of persons with disabilities, such as young people, people with multiple disabilities (e.g. intellectual disability and mental health issues) or older people. The declared measures are limited to proclamations. The everyday reality is still the same. Individual successes are not result of the state directed implementation of the CRPD but are rather championed by civil society with little or no state support.

Recommendations:

- Adopt concrete and targeted steps to ensure that there is a national deinstitutionalisation process that is sustainable and will ensure the inclusion of all persons with disabilities in their communities within a reasonable timeframe.
- Steadily increase financial support to the development of community-based services and living options, and match this with a steady reduction in financial support to residential social care services.
- Ensure that there are available and accessible community based residential services for children and adults with severe disabilities, especially with autism and intellectual disability. In particular, take steps to sponsor pilot projects which secure independent living in the community for persons with disabilities, and use this learning to implement national reforms.
- Transform residential institutions for elderly people and psychiatric institutions and develop available and accessible alternatives to elderly people and people with mental disabilities currently in psychiatric and social care facilities.

Freedom of expression and opinion, and access to information (art. 21)

Question 25: Please provide information on concrete and targeted steps taken by the State party to ensure the enforcement of Act No. 155/1998 Coll., as amended by Act No. 384/2008 Coll.

41. Act no. 155/1998 Sb. as amended by Act 384/2008 Coll. specifies that "deaf and deafblind people when visiting a doctor, when dealing with official matters and in other situations have the right to interpretation services". The right to interpretation services is available when dealing with personal issues in health, in education and parents of deaf children are entitled to free tuition in Czech Sign Language. Interpretation in health care is provided for by the Social Services Act 180/2006 Coll. For the other areas - interpretation in education, in common areas of life (outside of social crisis situations) and for parents of deaf children, no additional regulation has been included. Although the Act says that implementing regulations must be adopted, this has not been done.
42. On 10th February 2015, we estimate that 36 interpretation services operate with 50 Czech sign language interpreters for the whole country while 9-10,000 people need interpreting services in the Czech Republic. Although Act 155/1998 Coll. guarantees the right to interpretation in

different situations, because of the lack of legal and budgetary provisions, persons communicating in sign language do not access to interpretation services. For this reason, the requirements for interpretation in social and health areas are not fulfilled in reality, meaning that many people with hearing impairments have no access to information and cannot take care of their personal affairs with an adequate communication system. A higher number of interpreters and readers is not possible due to insufficient funds.

43. Regarding § 145 of the answers to List of Issues on supportive measure in education, the government fails to note that such measures are not enshrined in legislation, that training and qualifications of these persons in school facilities are insufficient, are interpreters are not used due to the lack of a legal basis.

Recommendations:

- Determine a responsible Ministry for the implementation of Act no. 155/1998 Coll., as amended, on communication systems for the Deaf and Deafblind;
- Ensure that the responsible authority prepared the three missing regulations (a) interpretation in education, b) courses on communication systems for parents of deaf and deafblind children, and c) interpretation in everyday" life., as required by § 10 of Act no. 155/1998 Coll., as amended;
- Develop regulations in collaboration with the Ministries of Education, Health and Social Affairs, to ensure continuity in everyday situations of people with hearing impairments.
- Include interpretation in education in the new amendments of the Education Act and ensure funding for it. Rules regarding interpretation in education and communication systems of the Deaf and Deafblind are still needed.

Respect for home and the family (art. 23)

44. Provisions of the new Civil Code explicitly allow for restriction of legal capacity in family matters, especially the right to marriage, parental responsibility, and adoption. This is in clear violation of art. 23 CRPD in conjunction with art. 12 CRPD.
45. Furthermore, the status of carers is currently outside of the interests of the state. Caregivers are the most vulnerable group in terms of mental health issues, addictions, social isolation and poverty. If the state seriously wants to move away from the institutionalisation of people with disabilities, it must take further measures to ensure the security, rights and remuneration of caregivers, e.g. by providing social and health insurance and pensions as for any other employment. Furthermore, a lack of support services such as training for caregivers or respite care, which would give them the opportunity to take some time to care for themselves, work, socialise and relax, is still missing.

Recommendations:

- Amend the Civil Code to abolish the restriction of legal capacity in respect of marriage, parental responsibility and adoption.
- Focus on support for carers and support the creation and the existence of field services (respite care, personal assistance) in regions with low representation of these services.

Education (art. 24)

Question 26: Please provide detailed information on the measures taken to increase the inclusion of students with disabilities into mainstream education at all levels, including data on financial resources invested in the removal of architectural and information barriers and the engagement of pedagogical assistants for students with disabilities in the provision of reasonable accommodation.

46. There are persisting concerns about appropriate implementation of Article 24 CRPD in the Czech Republic. There were 73,269 children with disabilities attending basic schools in

2013.²⁹ Despite the possibility of 'individual integration', 41% of children with disabilities were educated in segregated special schools or classes. The number of individually integrated children differs greatly according to the type of disability. For example, only 4.4 % of children with an intellectual disability are individually integrated into mainstream basic schools. It must also be noted that 'individual integration' can also entail placement of a child in segregated educational provision.

47. The legal order of the Czech Republic does not recognise the term 'inclusive education' and principles of inclusive education are not enshrined in Czech law. Legislation does not provide explicitly for reasonable accommodation and the least restrictive environment in education. The School Act only recognises the right to equal access of all persons to education and consideration of individual needs of every person.³⁰ Even though there is currently an amendment to School Act being discussed by Parliament which provides for new system of support of children with special educational needs (SEN),³¹ major legal reform is still missing, and the reforms are not formulated to promote inclusive education.
48. The amendment of Article 16 of the School Act introduces a new classification of children with SEN based on identifying supportive measures that these children need in education and includes a list of supportive measures such as teacher assistance, special didactic and compensatory aids, individual educational planning and architectural adjustments. It states that supportive measures are provided free of charge. Whilst the introduction of supportive measures should be understood as a positive development, the amendment also explicitly allows for segregation of children with disabilities and for the establishment of segregated educational settings in contravention to Article 24. It must be underlined that current amendments to School Act fail to end the system of special, segregated education. The principle of inclusion is not stated in the amended law and implementation, and is insufficient to meet the standards required by Article 24 CRPD.
49. No policy has been adopted aiming to implement Article 24 CRPD and achieve the transformation from segregated educational settings to inclusive education for children with disabilities. This is considered as major impediment to transparent and effective implementation of Article 24 CRPD.
50. In terms of finances, the Ministry of Education announced that the financial reform of education of pupils with SEN will be part of a complex school financing reform, and reforms to the regional school system. The new legislation should provide financial support to ensure the inclusion of all children with disabilities in mainstream common learning environments. To achieve these changes requires the allocation of sufficient public funds. The Czech Republic spends less than the average amount per student among OECD countries. Despite this fact there is no policy to bring education expenditure in line with other OECD countries. The new system of supportive measures is unlikely to have practical benefits for children with disabilities without allocated funds.

Recommendations:

- **The government should amend the law in order to be in line with article 24. The principle of inclusion should be explicitly recognised as the guiding principle of the education system. Legislative reforms should guarantee reasonable accommodations for all children with disabilities in order to access mainstream learning environments, and education should always be provided in the restrictive environment. The law should be changed with a reasonable timeframe. The Government should adopt a concrete, targeted and binding policy on de-segregation of education in the Czech Republic in line with article 24.**

²⁹ Based on statistical data from the Ministry of Education of the Czech Republic.

³⁰ See § 2 para. 1 of Act No. 561/2004 Coll., Education Act.

³¹ Amended School Act, article 16, is due to come into force by the school year 2016/17.

- All legislative and policy changes should be accompanied by allocation of necessary resources. It is therefore recommended that the Government allocate adequate resources in order to fully implement measures to end segregated educational provision and ensure that all mainstream accessible education is accessible to children with disabilities.

Health (art. 25)

Question 27: What concrete measures have been taken, including funds allocated and number of interpreters and readers engaged, to make information on health care accessible to persons with sensory and/or intellectual disabilities?

51. See our answer to question 25 above regarding the number interpreters.
52. The Act on Health Services 372/2011 Coll. states that users of languages other than Czech are entitled to receive information about their health condition (informed consent before information operations, etc.) in their own language and that it must ensure that medical services. In practice, it does not apply for users of sign language. Medical services refer to the fact that users of sign language have to find themselves through the social services an interpreter, which is a problem as mentioned above.
53. Regarding persons with intellectual disabilities, no existing information is available. Only NGOs and DPOs support the accessibility of health care information or health care services.

Question 28: Have capacity-building initiatives for health-care professionals, which focus on the Convention and on the human rights of persons with disabilities, been undertaken by the State party?

54. We have no information about training of medical personnel. DPOs developed and proposed different programmes on communication with persons with disabilities in health care, however these were not taken up by government.

Recommendations:

- Include mandatory training of medical personnel on access to health care for persons with disabilities and communication with patients with disabilities.
- Create standards for accessibility of health facilities and mainstream health care services, including architectural, information, human resources aspect of accessibility
- Support the creation of informational and educational materials for persons with intellectual disabilities on health.
- Improve the support system of interpreting services for deaf and deaf-blind people.

Rehabilitation (art. 26)

55. In the Czech Republic, there is no law recognising complex rehabilitation and there is a lack of coordination of particular rehabilitation services and programmes. In 2013, the expert group working at the Ministry of Social Affairs drafted a law on rehabilitation however the draft has not been introduced by the Ministry and currently there are no actions taken in this regard.

Recommendations:

- Adopt a law on complex rehabilitation.

Work and employment (art. 27)

Question 29: Please provide updated information on the result of the overall review of the system of employment support for persons with disabilities (CRPD/C/CZE/1, paras. 27 (a) and 369). Please provide information on the measures taken to increase the employment of persons with disabilities.

56. The state authorities do not comply with the compulsory quota system of employment of people with disabilities.
57. In January 2015, the Ministry of Labour and Social Affairs presented the so-called "Activation Provisions to deal with the Unfavourable Situation in the Labour Market", which does not contain a single provision to improve the employment of persons with disabilities. In the whole document (of 16 pages), the term "persons with disabilities" is not found.
58. There is discrimination in the minimum wage provided to recipients of disability pensions. Government Decree no. 567/2006 Coll., on minimal wages provides in paragraph 4 that the minimum wage for recipients of disability pensions is lower by 500 CZK compared to the minimum wage of other employees. The decree justifies this provision by pointing at the limited employment of those people. Due to the same reason, even the lowest levels of guaranteed wage are lowered. Employment Act no. 435/2004 Coll. states under paragraph 25(2)(d) that a person may not become a job seeker during the period when he/she has a disability of the third degree, with the exception of people who are able to perform gainful activity under special conditions. In the Czech Republic, there are more than 200,000 persons who receive the third degree of disability status and thus cannot be registered as job seekers at the Labour Office and are excluded from the labour market. Both situations should be considered as discriminatory against persons with disabilities and in violation of Article 27 of the CRPD.
59. The National Plan for the Equalisation of Opportunities for Persons with Disabilities does not contain any system changes to support the employment of persons with disabilities.
60. Labour Offices do not sufficiently use vocational rehabilitation and consultancy for persons with disabilities. No efficient and unified instruments of vocational rehabilitation have been created, which would be adapted to the needs of persons with different impairments. Labour Offices should cooperate more with NGOs which provide vocational rehabilitation and realise various retraining and other programmes, and it should mutually harmonise the services according to the needs of different target groups. Labour Offices should fulfil and strengthen their role as active consultancy centres and motivate companies to create job positions suitable for persons with disabilities. Labour Offices should hire experts as occupational therapists and social workers. The state should simplify the conditions of employment of persons with disabilities, remove needless administration, controls and other obligations which discourage companies and make them prefer other ways of complying with the quota system on the employment of persons with disabilities. Labour Offices should send work assistants to companies, who could actively help workers with disabilities. Examples of good practice from abroad should be used.

Question 30: Please provide information on the number of persons with disabilities employed in the open labour market and the incentives and funds used to subsidize employers who employ them

61. In the Czech Republic, there is state support for sheltered workplaces, according to Employment Act no. 435/2004 Coll., which is higher in the case of employers who employ more than 50% of persons with disabilities. Apart for this state support, there are no other resources, funds or financial mechanism that would support the employment of persons with disabilities. Support for the employment of persons with disabilities is therefore uneven: it is higher in the case of sheltered work, and lower in the open labour market.
62. In addition, there are no comprehensive data on the numbers of persons with disabilities working in the open labour market.

Recommendations:

- **Develop instruments of direct financial support for the employment of people with disabilities outside sheltered workplaces. (E.g. increase the sum deducted from income tax.)**

- Ensure that state authorities comply with the compulsory quota system of employment of persons with disabilities.
- Repeal the discriminatory provision enabling the minimum wage of persons with disabilities to be lower than the usual minimum wage.
- Repeal the discriminatory provision stipulating that a person with a disability of the third level cannot be registered as a job seeker at the Labour Office.
- Develop instruments that motivate employers to prefer the employment of persons with disabilities to other ways of complying with the quota system. (E.g. increase the payment to the state budget when not complying with the quota system.)

Adequate standard of living and social protection (art. 28)

Question 31: Please provide information on the disproportionate effects of austerity measures, especially with regard to social protection payments, on persons with disabilities.

Question 32: What is the State party doing to address the issue that “the network of social services is not distributed evenly over the territory of the Czech Republic” (CRPD/C/CZE/1, para. 181)?

Question 33: Please provide up-to-date data on the poverty levels of persons with disabilities compared to persons without disabilities.

63. **Main legislation changes and their impacts on persons with disabilities since 2012:** The additional social allowance was completely abolished, even in cases of families with a member with a disability. In the case of families with an income that equals to or is lower than the subsistence level, this can lead to poverty. If parents caring for children with disabilities apply for the minimum life allowance, they have to evidence regularly every month that they have no housing arrears and that they meet other conditions required for this aid. Parental allowance is paid at the longest up to the child’s attaining 4 years of age, and a new limit of 220,000 CZK has been set, valid for one child. This limit means a significant decrease of the income of families with a child with a disability.
64. The possibility of concurrence of parental allowance and attendance allowance for children between 4 and 7 years was abolished. This change means another financial loss of 4,600 CZK monthly in the case of families with a child depending on care in the first level, and of 3,800 CZK in the second to fourth levels. The majority of these families are at risk of or living in poverty.
65. The invalidation of regulation No. 182/1991 Coll. abolished the following:
- a) allowance for accessible housing and garage of 400 + 200 CZK monthly (§ 45 of the regulation);
 - b) allowance for partially or fully blind citizens possessing a guide dog of 800 CZK monthly (§ 46);
 - c) interest-free loan to buy a motor vehicle up to 40,000 CZK for 5 years; and
 - d) allowance for general repair of a motor vehicle.
66. The possibility to obtain assistive devices was significantly limited. The types of assistive devices for which an allowance could be provided have been strongly limited, the criteria for providing the devices were changed (above all in case of people with serious physical disabilities), the possibility to reimburse costs of devices that are only partially covered by health insurance was cancelled.
67. At present, a new change of conditions to acquire assistive devices for children with disabilities appears to be very negative. It has been newly set (and judicial practice confirms this) that submission of an application and its processing related to the use of a device is dependent on prior consent of the court.

68. The allowance for operation of a motor vehicle and for individual transport was replaced by a new mobility allowance with a unified amount of 400 CZK monthly.
69. The essential problem in relation to the social services is the way of financing of social services, and also the fact that regional councils are the biggest establishers of residential social facilities. This leads to a bias towards regimes provided by these facilities. There are no sufficient financial resources for other social services, run by other providers, such as NGOs.

Recommendations:

- Reintroduce the additional social allowance, which would enable an increase of living standard of families with children with disabilities above the subsistence level.
- Broaden the range of assistive devices for which an allowance is possible, and the possibilities of housing adaptation, to reduce dependency on special flats. This would contribute to broader inclusion of persons with disabilities in the community.
- Legislate the possibility to apply for assistive devices for underage children without prior consent of the court.
- Improve the system of social services funding. Prevent the bias towards funding services established by regional councils.

Participation in political and public life (art. 29)

Question 34: Please provide information about the measures taken to enable citizens with disabilities whose legal capacity had been restricted in the past to fully exercise their right to vote.

70. As described in the 2011 Alternative report and in above in relation to the right to legal capacity, people under guardianship are still deprived of their right to vote. Although full restriction of legal capacity does not exist anymore in the new Civil Code, during the three year transition period, people who have been under plenary guardianship are now considered automatically under partial guardianship but cannot vote unless a Court determines that the restriction of their legal capacity does not limit their right to vote. Although restriction of legal capacity will not be automatic after the transition period, disenfranchisement still remains the rule because judges continue to systematically deprive people with disabilities under partial guardianship from their right to vote. Our organisations have collected numerous judgements since January 2014 which clearly show that individuals with disabilities continue to be deprived of the right to vote and stand for elections.
71. Despite several meetings of DPOs with the Ministry of Interior on this topic, representatives of the Ministry refuse to take steps towards the amendment electoral laws to ensure that people under partial guardianship always retain their right to vote.
72. No other measures for the accessibility of elections have been taken since 2011.

Recommendations:

- Electoral laws should be amended to repeal any restrictions on the right to vote and stand for elections by people with disabilities, including those under guardianship.
- In amending the legislation, the Czech Republic must not adopt any provisions on individual assessment of a 'capacity to vote'.
- It is also necessary to amend the law to ensure that all materials and information related to elections are made available in alternative formats adequate for people with disabilities including on websites and in easy-to-read formats.

Participation in in cultural life, recreation, leisure and sport (art. 30)

Question 35: Please inform the Committee about any measures taken for the expeditious signing and ratification of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

Question 36: Please provide information on any plans to increase the accessibility of libraries for all persons with disabilities, including those with intellectual and/or psychosocial impairments.

73. There is no unified plan to increase the accessibility of libraries for all persons with disabilities. The Ministry of Culture has a subsidy programme to make cultural institutions accessible. However, these financial means are insufficient. Therefore, the libraries are being made accessible rather arbitrarily, at the initiative of cities and regions, under pressure of persons with disabilities.

Statistics and data collection (Art. 31)

74. There are missing data on a number of relevant issues relating to persons with disabilities. Striking is lack of statistics regarding guardianship reform and alternatives to restriction of legal capacity. Even though Law no. 133/2000 Coll., provides that these data are ought to be collected by general courts, the Ministry of Interior is does not monitor, evaluate or publish this information.

75. There is also a lack of disaggregated data in numerous areas of Convention rights including, inter alia, the use of restrictive practices in institutional settings, access to justice for adults and children with disabilities, and employment.

Recommendations:

- The government should ensure that statistics and data relevant for evaluation of implementation of CRPD are collected and disseminated to public on regular basis in relation to all rights in the Convention. Data should be disaggregated on the basis of age, impairment and gender.
- The government should takes steps to commission in-depth research to provide a comprehensive evidence base in implementing specific convention rights, including in relation to the right to legal capacity and guardianship reforms, access to justice for children and adults with disabilities, and employment in the mainstream labour market.

C. Special obligations

National implementation and monitoring (art. 33)

Question 37: Please provide information on any progress made to designate or establish an independent mechanism to monitor the implementation of the Convention, and on consultation with civil society for proposals.

76. As explained in the reply to the CRPD Committee by the government, an amendment to the Act on the Ombudsman has been prepared to extend its responsibility and thus create an Article 33(2) monitoring mechanism. This happened following significant pressure from DPOs and human rights NGOs.

77. However, the paragraphs related to the CRPD monitoring mechanism have been removed from the amended bill because it was impossible to find a compromise related to the budget and the personnel to be financed for the additional activities which the Ombudsman would be mandated to undertake as art. 33(2) monitoring mechanism. There is no official statement yet about a compromise agreement. In addition, there remains the technical question of including these paragraphs back into the amended Act on the Ombudsman which is already in the

legislative process in the lower Chamber of the Parliament. The Office of the Ombudsman and DPOs will seek support in Parliament, if necessary.

78. If no agreement is reached, it means that the working group to create a monitoring mechanism would have to start meeting again and would probably have to reopen the discussion from the beginning, reducing the likelihood of the successful establishment an independent monitoring mechanism.

Recommendations:

- Ensure the swift adoption of the amendments to the Act on the Ombudsman to guarantee the existence of the monitoring mechanism in the shortest possible time, with allocation of adequate budget and human resources to guarantee the effective fulfilment of this mandate, in line with the Paris Principles.

List of contributors

- **Asociace pomáhající lidem s autismem – APLA-Vysočina**
(Association of help for people with autism – APLA Vysočina)
JUDr. Dagmar Zápotočná
- **ASNEP - Asociace organizací neslyšících, nedoslýchavých a jejich přátel**
(Association of organisations of deaf and deafblind people and their friends)
Tamara Kováčová
- **AUTISTIK**
Ing. Milena Němcová
- **CEREBRUM – Sdružení osob po poranění mozku a jejich rodin**
(CEREBRUM – Association of persons after brain injuries and their families)
Dana Kollárová
- **Česká odborná společnost pro inkluzivní vzdělávání**
(Czech Expert Society for Inclusive Education)
Mgr. Lenka Felcmanová
- **Akademický odborník na zaměstnávání osob se zdravotním postižením**
(Academic expert on the employment of persons with disabilities)
JUDr. Jana Komendová, Ph.D.
- **Kolumbus, Sdružení uživatelů služeb psychiatrické péče hájící práva duševně nemocných**
(Kolumbus, Association of users of psychiatric services advocating for rights of persons with psychosocial disabilities)
Jan Jaroš
- **Liga lidských práv**
(League of Human Rights)
Mgr. Zuzana Durajová
Mgr. Barbora Rittichová
- **Mental Disability Advocacy Center (MDAC)**
Mr. Steven Allen
- **MDAC and Forum for Human Rights (FORUM)**
Mr. Maroš Matiaško
- **Národní rada osob se zdravotním postižením ČR (NRZP ČR)**
(National Disability Council of the Czech Republic)
JUDr. Jan Hutař
Bc. Václav Krása
Ondřej Folk
Šárka Prokopiusová
- **Open Society Fund Praha**
Štěpán Drahokoupil
- **Quip**
JUDr. Dana Kořínková
Mgr. Jan Strnad
Mgr. Milena Johnová
- **Společnost pro podporu lidí s mentálním postižením v České republice**
(Association for support for people with intellectual disabilities in the Czech Republic)
Camille Latimier

