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**Checklist**  
**for visits to social care institutions**  
**where persons may be deprived of their liberty**  
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This list is not exhaustive, but rather a tool to be used during CPT visits, and will be reviewed on a regular basis.

**A. General information**

- Which body is responsible for the institution (national, regional or local authority; church, charity association, private structure)?
- Official capacity? Based on how many square-metres per person? Number of residents at the time of the visit (male, female, age groups)?
- Categories of residents?
- Does the law provide for an involuntary placement procedure? Who decides on the placement of persons who do not consent (court, social welfare authority, mayor)?
- Number of residents who are formally deprived of their liberty?
- How many residents are deprived of their legal capacity/under guardianship?
- Is there a unit where residents are subjected to special protective measures (“closed regime”)?
- What action is taken when residents leave the institution without permission? Is the police called to search for them and bring them back to the institution?
- Staffing: breakdown of posts by category with an indication of full- and part-time employment and vacancies (including general practitioners/psychiatrists/psychologists/nurses/nursing assistants/caretakers)? Working hours of staff? Number of staff present on different shifts, including at night and during weekends? Training and supervision of staff?
- External support: Co-operation with external consultants/hospitals? Private security companies? Interventions by police after security incidents?
- Major incidents in recent years?
- Deaths in recent years (number and causes)?

**B. Ill-treatment**

- Ill-treatment by staff (physical and/or verbal)?
- Inter-resident violence? Do members of staff react and intervene promptly in case of incidents? Are measures taken to protect particularly vulnerable residents?

**C. Living conditions**

- Allocation of different groups of residents: Placement policies? Are persons with mental disorders and those with a learning disability accommodated separately? Are minors and adult residents accommodated separately?
- Possibilities for spouses to be accommodated together?
- Material conditions in bed rooms/dormitories and communal rooms, sanitary facilities, etc.? Living space per person? Does every resident have his/her own bed? Access to natural light and artificial lighting? Ventilation? Heating?
- Physical structure of buildings adapted to the special needs of the residents?

- Hygiene: Availability of diapers/disposable pads for incontinent residents and sufficiently frequent diaper change? Special mattresses? Toilet and washing/shower facilities accessible and adapted for residents with physical impairments?
- Leisure activities? Outdoor exercise every day? For how long? Assistance provided for residents suffering from physical/walking impairments to access outdoor areas?
- Residents' privacy: Individual wardrobes? Lockable space for personal belongings? Can residents keep personal belongings in their room? Any restrictions applied? Do residents have access to their rooms during the day?
- Clothes and footwear adequate (also for cold season)? : Possibility to wear own clothes?
- Food:<sup>1</sup> Quality and quantity, provision for special diets (e.g. for diabetes)? Feeding assistance provided when necessary?

## D. Health care

- Equivalence of somatic and psychiatric care compared to the care available in the outside community?
- Dental care? Is conservative treatment available free of charge for indigent residents?
- Sufficient supply of medicines?
- Provision of psychological care (e.g. to address anxiety, grief, depression)?
- Management of acute psychiatric and somatic conditions? Transfer to a hospital when necessary?
- Are all newly-admitted residents subjected to a medical examination upon admission (including check of weight)?
- Periodic medical examination of residents?
- Therapeutic, occupational and rehabilitative activities? Physiotherapy?
- Care plan drawn up for each resident? Are residents personally involved in this process? Regular review?
- Does a personal medical file exist for every resident?
- Who has access to medical files (medical confidentiality)?
- Use of contraceptives? Policy regarding abortions?
- How many bedridden residents?
- Arrangements for persons who are not able or refuse to take food themselves? Artificial feeding?
- Suicide prevention measures in place?
- Any biomedical research? If yes, examine procedures and safeguards (including consent)
- Clear protocol for dealing with unexpected deaths? Autopsy carried out unless clear diagnosis of fatal disease? Records kept of the clinical causes of residents' deaths?

## E. Means of restraint

- What types of restraint are used? Seclusion? Physical restraint? Mechanical restraint (straps, straitjacket, bed sides, net bed, etc)? Chemical restraint? Other types?
- Legal basis for use of restraints?
- Is there a clearly-defined restraint policy regarding the procedures and modalities?
- Who decides on the use of restraint? Possible to give authorisation in advance ("*pro re nata*")?
- Are there rules regarding the maximum duration of restraint? Longest duration in practice?
- Staff properly trained (including in non-physical de-escalation techniques)?
- Are all instances of restraint, including chemical restraint, recorded in a specific register?

### Mechanical restraint:

- Always ordered by a doctor or immediately brought to the attention of a doctor in order to seek his/her approval?
- Application exclusively by health-care staff or other staff? Are other residents on occasion involved in restraining an agitated resident?
- Always continuously and directly monitored (human contact)? Supervision through CCTV?
- Application always out of sight of other residents?

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<sup>1</sup> For methods to identify undernutrition, calculating quantity and quality of food and the CPT's role in assessing if undernutrition and the risk of it are appropriately monitored and addressed, see "Preliminary remarks on the development of some tools for assessing the nutritional status of some groups of persons deprived of their liberty" by Veronica Pimenoff (document CPT (2005) 6).

## F. Safeguards in the context of involuntary placement<sup>2</sup>

### 1. Initial placement procedure

- Who decides on the involuntary placement? According to what procedure?
- Does an involuntary placement order issued by a non-judicial body have to be approved by a court?
- Is the person concerned heard by the decision-making body? Where does the hearing take place? At the institution?
- Is the placement decision based on objective medical expertise, including of a psychiatric nature?
- Is a second (independent) doctor always/in some cases involved?
- Is the placement order limited in time or for an indefinite period?
- Written notification? Information on reasons for placement?
- Appeal procedures? To an independent body? Are residents informed about the possibility and modalities of lodging an appeal? Are they heard in the context of the appeal procedure?
- If admitted on a voluntary basis, is the consent properly recorded (special form requiring resident's signature)?
- Transformation of voluntary into involuntary stay: Is an involuntary civil placement procedure initiated in the event that a resident who has been admitted on a voluntary basis withdraws his/her previous consent to the placement and is prevented from leaving the institution or that the person concerned is no longer capable of giving his/her valid consent? Do the same safeguards apply to such "retained" residents and those who have been admitted on an involuntary basis?

### 2. Review procedures

- Regular reviews of the involuntary placement decision? Automatic (*ex officio*) and/or at the request of the resident or his/her representative?
- In which intervals is the placement decision reviewed? Involvement of a court or another independent body?
- Is the resident heard in person? At the institution?

## G. Safeguards in the context of involuntary treatment

- Consent to treatment distinguished from consent to admission?
- Consent free and informed?
- Involvement of a second (independent) doctor/decision-making body or court in all/some involuntary treatment decisions?
- Exceptions to the possibility to refuse treatment only based on law and relating to clearly-defined exceptional circumstances?
- Possibilities of withdrawal of previous consent to treatment and appeal against involuntary treatment decision?
- Consent properly recorded? Are there situation in which the written consent of the resident is required?
- Regular reviews of involuntary treatment orders? Automatic and/or upon the request of the resident or his/her representative? Independence of review? Frequency of review?

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<sup>2</sup>

Safeguards in the context of involuntary placement should apply to all residents of social care institutions who are deprived of their liberty. This also includes residents who are formally regarded as "voluntary", but who are in practice not free to leave the institution and who are thus *de facto* deprived of their liberty.

## **H. Safeguards regarding persons who are deprived of their legal capacity**

### **1. Procedure for the deprivation of legal capacity and appointment of a guardian**

- Does the court which decides on the (partial) deprivation of legal capacity also decide on the nomination of a guardian or is the guardian appointed by another body (e.g. social welfare authority)?
- Is the resident heard in person in the process of deprivation of his/her legal capacity and the appointment of a guardian?
- Are the persons concerned given a copy of the decisions and informed (verbally and in writing) of the possibility and modalities for appealing against the decisions to deprive them of their legal capacity and to appoint a guardian?
- Are the decisions on deprivation of legal capacity subject to a regular court review? How frequently? Can the person concerned initiate proceedings to restore the legal capacity? Does the person have effective access to legal assistance in the context of these procedures?
- Who are the guardians (relatives, private associations, public officials, staff of the social care institution)?

### **2. Safeguards in the context of admission**

- Who decides on the placement?
- Does the guardian have to sign a private-law contract with the institution?
- Which safeguards apply for the admission of legally incapacitated persons in a social care institution?
- Is the admission of a person on the basis of consent given by his/her guardian considered to be voluntary or involuntary?
- Is an additional approval by an outside body required in such cases?

### **3. Safeguards in the context of treatment and the use of means of restraint**

- Which safeguards apply for the treatment of legally incapacitated persons? To what extent is the guardian involved in treatment measures? Are there situations where additional safeguards are required, e.g. approval by a court or another outside body?
- Which safeguards apply for the use of means of restraint vis-à-vis legally incapacitated persons? To what extent is the guardian involved in decisions on the use of restraint measures? Are there situations where additional safeguards are required (e.g. approval by a court or another outside body)?

## **I. Other issues**

- Residents' contact with the outside world (correspondence, telephone, visits)
- Regular inspections/monitoring by an independent outside body?
- Complaints procedures? Is there a system of legal counselling in place (such as "residents' advocates")?
- Information of residents: Are residents informed of the institution's routine and their rights including of complaints procedures e.g. in the context of involuntary placement or treatment and of discharge procedures? Is this information part of the admission contracts signed by the resident (or his/her legal representative)?