



European
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COUNCIL OF EUROPE



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

10 February 2022

Case Document No. 6

Validity Foundation v. Czech Republic
Complaint No. 188/2019

**THE ADDITIONAL INFORMATION BY THE GOVERNMENT
ON THE MERITS**

Registered at the Secretariat on 10 February 2022



VÍT ALEXANDER SCHORM

AGENT OF THE GOVERNMENT OF THE CZECH REPUBLIC
BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS

Prague, 10 February 2022
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Collective complaint no. 188/2019
VALIDITY FOUNDATION v. the Czech Republic

Dear Mr Kristensen,

In accordance with Rule 31 of the Rules of Procedure of the European Committee for Social Rights, the Government of the Czech Republic would like to inform the Committee about new developments of the Czech regulation of net-beds, and therefore submit this exceptional additional reply.

Act no. 371/2021 of 14 September 2021 amended, among others, Act no. 372/2011 on Healthcare Services and the Conditions for their Provision (“Healthcare Service Act”). The amendment repealed Section 39(1)(c) of the Healthcare Services Act, and thereby removed net-beds from the list of permitted means of restraint. It entered into force on 1 January 2022.

The amendment was communicated to all psychiatric facilities by the Ministry of Health while the Psychiatric Society of the J.E. Purkyně Czech Medical Association has been preparing trainings and seminars in this regard.

The Government reiterate that the use of restraints including net-beds for therapeutic purposes and as a medical necessity in psychiatric facilities does not constitute ill-treatment as currently interpreted by international human rights bodies and that the abolishment of net-beds does not seem to be a part of core obligations under the right to health and the right of elderly people to social protection. In this regard the Government refer to §§ 20–44 of their additional observations. They note, however, that there is an emerging trend in international human rights law towards the prohibition of net-beds. The abolishment of their usage reflected this evolution of interpretation of soft law on international and regional levels.

The abolishment of net-beds was a consequence of their gradual phasing-out and as such was a result of a progressive realisation of Article 16 of the 1961 European Social Charter and Article 4 § 3 of the Additional Protocol, as mentioned in §§ 73–100 and §§ 115–119 of the

Government's initial observations. The Government emphasise that during the phasing-out of net-beds, appropriate legal safeguards and a national preventive mechanism were in place (see §§ 78–92 of their initial observations).

In the light of the above, the Government propose holding that Article 11 § 1 of the Charter and Article 4 § 3 of the Protocol have not been violated.

Yours sincerely,

Vít A. Schorm

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