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

13 January 2021

**Case Document No. 4**

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

**RESPONSE BY VALIDITY FOUNDATION TO THE  
GOVERNMENT'S SUBMISSIONS ON THE MERITS**

**Registered at the Secretariat on 6 January 2021**

## **Written Response to the Government's Observations on the Merits of the Collective Complaint**

### ***Validity Foundation v. the Czech Republic (no. 188/2019)***

6 January 2021

#### **1. Introduction**

1. By its letter of 19 November 2020, the European Committee of Social Rights (*hereinafter* “the European Committee”) provided the Complainant organisation (*hereinafter* also “the Validity Foundation”), which is supported in this collective complaint by the Czech non-governmental organisation Forum for Human Rights (*hereinafter* “FORUM”), with the Written Observations of the Czech Government (*hereinafter* also “Government’s Observations”) on the merits of Complaint no. 188/2019 (*hereinafter* also “the collective complaint”), and invited the Complainant to submit a written response in reply by 12 January 2020. The Validity Foundation and FORUM have reviewed the Government’s Observations and hereby respectfully submits their comments.
2. In the present observations, the Validity Foundation addresses the merits only to the extent that they need to be clarified, refined, or expanded upon in light of the Government’s Observations. They have otherwise been outlined in the collective complaint, and this response should be read in conjunction with the complaint. The Validity Foundation reiterates all arguments raised in its initial complaint. The present submission addresses the specific issues raised by the Government in its Observations in order to ensure that the Committee is provided with a clear and accurate understanding of the current legal and practical measures related to the use of cage and netted cage-beds in the Czech Republic. Hence, the Validity Foundation asks the European Committee not to interpret their silence on any of the questions as an agreement with the Government’s position.

#### **2. Inconsistencies in the Government’s Observations and Government’s stipulation to the use of netted cage-beds**

3. In its Observations, the Government points on several occasions to inaccuracies in the data referred to by the Complainant in our original submission, which the Government corrects. All of the data concerning the number and use of netted cage-beds in hospitals presented by the Complainant in the collective complaint were collected from hospitals through requests under the Freedom of Information Act no. 106/1999 Coll. The inaccuracy of data provided by hospitals cannot be attributed to the Complainant organisation.
4. Furthermore, the inaccuracies referred to by the Government have no legal relevance for consideration of the collective complaint: the Government does not deny the use of netted cage-beds as such and, on the contrary, it admits that they are legally allowed and applied in practice in the Czech Republic. Indeed, §§ 7 to 33 of the Government’s Observations

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enumerate a list of legislative and administrative measures as well as domestic practices that prove the persistent use of restraints and specifically of netted cage-beds in social and health care facilities, especially psychiatric facilities, in the Czech Republic. In § 102, the Government notes that 'four out of six psychiatric facilities are no longer using any net-beds'. This means that the practice remains in the two other facilities. The Government qualifies as 'significance progress' the use of netted cage-beds in a third of the sample facilities since 2013 (§103). The existence of this practice is also acknowledged by the Government in § 108 of its Observations where it clearly states that 11 facilities still use netted cage-beds, with a rise in number of their uses in two facilities (§ 110). Furthermore, these practices denote what is effectively a lottery for residents between different facilities that cannot be justified: based solely on the institution in which they are placed, residents may or may not be subjected to the humiliating practice of netted cage-beds. These facts clearly contradict the Government's arguments that it is in favour of the abolition of the net beds in practice, or of any significant progress in that sense. The enumeration of these measures demonstrates the lack of genuine willingness on the part of the Government to put an end to these abuses.

5. In addition, in § 81 of its Observations, the Government clearly acknowledged the suppression of the judicial safeguard on the use of restraints, highlighting the cancellation of the obligation to notify the court of the use of restraint if the person gives her consent with the use of the restraint within 24 hours. This indicates an acknowledgement by the Government of a clear lack of accountability when resorting to restriction of a person's liberty in a psychiatric institution.

### **3. The Government has applied the wrong legal standard**

6. The Government acknowledges the findings of international human rights bodies that the use of netted cage-beds amounts to ill-treatment, is absolutely prohibited and that they must be abolished. These are the conclusions by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (*hereinafter* "the CPT"; §§ 54-56) and the UN Committee against Torture and UN Human Rights Committee (both § 62). Nevertheless, the Government then chooses not to address these findings and to apply a completely different and erroneous legal analysis without any reasoning explaining why they have done so. Rather than presenting arguments challenging the Complainant's arguments and the findings of these international bodies, the Government seeks to ground its arguments on the principle of the progressive realisation of the right to health under Article 11 of the European Social Charter (*hereinafter* "the Charter") and the right of elderly people to social protection under Article 4 § 3 of the Additional Protocol of 1988 to the Charter (*hereinafter* "the Additional Protocol").
7. Relying on this inapplicable legal framework enables the Government to attempt to define legal requirements that, if respected, may make the use of netted cage-beds lawful (§ 63 of the Government Observations on the Merits). The Government thereby seeks to completely obviate the Complainant's assertion that there is a clear requirement under the Charter to prohibit the use of netted cage-beds with immediate effect as part of the core content and core obligations deriving from the right to health and the right of elderly persons to social protection (see §§ 73 – 90 of the collective complaint). This requirement is not subject to progressive realisation and the Government's arguments, applying the incorrect legal standards, should be dismissed by the Committee.

8. The Government also argues that the standards of legality, necessity, proportionality and accountability apply to the use of netted cage-beds (§ 63). As with the principle of progressive realisation, the Complainant asserts that this is not the correct legal standard to be applied in this case where the act in question is demonstrably an act of ill-treatment, subject to an absolute prohibition under international law. The Government's references to safeguards, complaints mechanisms and oversight, and its reliance on domestic legislation putting in place limits on the use of restraints do not provide any defence to the Complainant's arguments of torture and ill-treatment.
9. The Complainant asserts that the correct legal framework is to assess: (i) the relation between the absolute prohibition of torture and ill-treatment, and the rights to health and of elderly persons to social protection as per Article 11 of the Charter and Article 4§3 of the Additional Protocol of 1988; and (ii) the use of netted cage-beds as a violation of the absolute prohibition of torture and other forms of cruel, inhuman or degrading treatment and punishment which forms part of the core content of those rights. .

### **3.1 The use of netted cage-beds as a violation of the right to health and of the right of elderly persons to social protection as per Article 11 of the Charter and Article 4§3 of the Additional Protocol of 1988**

10. The collective complaint gives a complex overview of existing human rights standards concerning the use of netted cage-beds (§§ 54-71). Considering the extent of different authorities, both of the UN and Council of Europe origin, it is fair to conclude that these instances have set a common legal standard on the use of netted cage-beds and that does not vary: the use of netted cage-beds contravenes the absolute prohibition of ill-treatment. Bearing in mind this common authoritative opinion of UN and Council of Europe bodies, the Complainant organisation argues that abolition of their use forms **part of the core content of both the right to health and the right of elderly people to social protection** and must be subject to **immediate prohibition**.
11. The Government does not comment on these standards. They summarise the existing human rights standards without **any analysis or comment**. They **ignore the mutual relationships between the standards** and more importantly **the evolution of legal standards over time**. This is most noticeable in its reference to the General Comment of the UN Committee on Economic, Social and Cultural Rights (*hereinafter* "the CESCR Committee") on the right to health which mention an exception to the prohibition of coercive treatment in the treatment of mental illness (§ 60). The Government cites the CESCR Committee correctly but unfortunately misinterprets it, using this statement as an argument in favour of the legitimacy of the use of netted cage-beds. This is a problematic approach for two reasons.
12. First, an acceptance of coercive treatment in exceptional cases does not necessarily include the use of a netted cage-bed as a justified form of coercion. Second, the Government does not take into account that the CESCR Committee's General Comment was adopted **20 years ago**, thus prior to the adoption of the UN Convention on the Rights of Persons with Disabilities (*hereinafter* "the CRPD"). Both of these arguments apply similarly to the Convention on Human Rights and Biomedicine and Rec(2004)10 of the Committee of Ministers to which the Government also refers and both of which were adopted prior to the adoption of the CRPD. Since its General Comment no. 14, the CESCR Committee has

stated that cage-beds should be prohibited both in mental health and social care institutions as part of the effective implementation of the right to health.<sup>1</sup> The formulation of this standard by the CESCR Committee is fully consistent with the standards applied by other UN treaty bodies which have condemned this practice as a form of ill-treatment. Even though the Government explicitly refers to these conclusions (§ 62), it does not take them into account when interpreting the content of the right to health. The Government thus implicitly denies **the progress in the understanding and interpretation of human rights**, closely connected with **the doctrine of that human rights treaties are “living instruments”**. Quite remarkably and importantly, at the European Court of Human Rights, this doctrine was formulated first in the context of the absolute prohibition on ill-treatment.<sup>2</sup> This doctrine has also been adopted by the European Committee.<sup>3</sup>

13. The failure to take into account the evolution over time of the cited human rights standards relates to another pitfall in the Government’s argument: the total dismissal of disability rights law as represented particularly by the CRPD. The Government fails to address in any way the CRPD standards even though these were explicitly invoked in the collective complaint and the Czech Republic ratified the CRPD in 2009 (It has been ratified by all but one Council of Europe Member States). Under the CRPD, the use of physical, chemical, or mechanical restraints is undoubtedly considered to be a violation of Article 15 guaranteeing persons with disabilities the right to freedom from ill-treatment.<sup>4</sup> The CRPD, adopted by the UN in 2006, six years *after* the adoption of the CESCR Committee’s General Comment no. 14, has had an important impact on the understanding of the right to health of persons with disabilities, which has influenced other international standards and which the Government cannot ignore.
14. **The developments in the field of the right to health** influenced by the CRPD and its standards clearly appear in the reports of the former UN Special Rapporteur on the right to health, Dainius Pūras. In his report on the right to mental health of 2017, the Special Rapporteur recalled that *“the right to health is now understood within the framework of the Convention on the Rights of Persons with Disabilities, immediate action is required to radically reduce medical coercion and facilitate the move towards an end to all forced psychiatric treatment and confinement”*.<sup>5</sup> In his report on the right to health and deprivation of liberty of 2018, the Special Rapporteur classifies restraints on persons deprived of liberty explicitly as a form of violence.<sup>6</sup>
15. The complete failure of the Government to address or in any way engage with the standards of the CRPD is even less understandable considering that the collective complaint explicitly referred to the significance of the CRPD for the understanding and interpretation of the Charter, as established in the European Committee’s case-law (*FIDH v. Belgium*, complaint no. 75/2011, the decision on the merits of 18 March 2012, § 112).

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<sup>1</sup> See the Concluding Observations on the third periodic report of Slovakia adopted in 2019, E/C.12/SVK/CO/3, 2019, §§ 39-40.

<sup>2</sup> ECtHR, *Tyrer v. the United Kingdom*, judgment of 25 April 1978, para. 31.

<sup>3</sup> The European Committee referred to the doctrine of living instrument, *inter alia*, specifically in the context of the right to health in its decision *Maragopoulos Foundation for Human Rights (MFHR) v. Greece*, collective complaint no. 30/2005, decision on merits of 6 December 2005, para. 194.

<sup>4</sup> See the Guidelines of the UN Committee on the Rights of Persons with Disabilities on Article 14, A/72/55, paras. 12 and 38.

<sup>5</sup> A/HRC/35/21, 2017, para. 65.

<sup>6</sup> A/HRC/38/36, 2018, para. 32.

16. It is necessary to emphasise that the Government's position in this case conflicts with its own position at the national level. This is apparent from the amendment to the Health Care Act (§§ 117 – 119). In the explanatory report, the Government explicitly acknowledges that the use of netted cage-beds is a **form of ill-treatment**. Specifically, the Ministry of Health states as follows: *“Netted cage-beds are from the legal perspective understood as a tool that contravenes the absolute prohibition of ill-treatment. The UN Committee against Torture which criticised netted cage-beds with respect to Slovakia, Austria, and even the Czech Republic, repeatedly calls for the elimination of this practice. (...) For the above-mentioned reasons it is necessary to state that the use of netted cage-beds is in direct conflict with the Convention on human rights and particularly the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Czech Republic ratified on 8 September 1986 and published by the decree of the Ministry of Foreign Affairs of the Czechoslovak Socialist Republic no. 143/1988 Coll.).”*<sup>7</sup>
17. Furthermore, in its overview of the developments in national legislation, the Government admits that the use of cage-beds and netted cage-beds was forbidden in the system of social services by the national legislation with the adoption of the Social Services Act,<sup>8</sup> that came into force on 1 January 2007 (§ 75). The Social Services Act did not abolish all forms of restraints but defined legal conditions for their use and eliminated the use of metal and netted cage-beds. The explanatory report mentions, *inter alia*, that the legislation aims to ensure control of the justification of the use of restraint measures and respect for human rights.<sup>9</sup> The Complainant argues that it is reasonable to interpret these legislative developments as evidence of the Government's awareness that the use of metal and netted cage-beds is unlawful. This is supported by the fact that since 2002 the Government has been consistently notified by relevant international authorities that the use of netted cage-beds contravenes the prohibition of ill-treatment, as well as the right to health (by the CPT in 2002, 2010, 2014 (§§ 69 – 70, collective complaint) and 2019,<sup>10</sup> by the UN Committee against Torture in 2012 (§ 63, collective complaint) and 2018,<sup>11</sup> by the UN Human Rights Committee in 2013 (§ 61, collective complaint), and UN Committee on the Rights of Persons with Disabilities in 2015 (§ 66, collective complaint)).
18. Furthermore, it is noteworthy that the target group of social and health care institutions significantly overlap. This is the case especially for older persons who are frequently victims of the use of netted cage-beds, as described in the collective complaint.<sup>12</sup> In other

<sup>7</sup> The explanatory not is available in Czech together with the amendment at: [https://apps.odok.cz/veklep-detail?p\\_p\\_id=material\\_WAR\\_odokkpl&p\\_p\\_lifecycle=0&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_col\\_id=column-1&p\\_p\\_col\\_count=3&material\\_WAR\\_odokkpl\\_pid=KORNBSGJHXZU&tab=detail](https://apps.odok.cz/veklep-detail?p_p_id=material_WAR_odokkpl&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=3&material_WAR_odokkpl_pid=KORNBSGJHXZU&tab=detail) [accessed 10/12/2020].

<sup>8</sup> Act no. 108/2006 Coll.

<sup>9</sup> The explanatory report is available in Czech at: <https://www.psp.cz/sqw/text/tiskt.sqw?o=4&ct=1102&ct1=0> [accessed 10/12/2020].

<sup>10</sup> Report to the Czech Government on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 11 October 2018, CPT/Inf (2019) 23, § 106.

<sup>11</sup> CAT Committee, Concluding observations on the sixth periodic report of Czechia, CAT/C/CZE/CO/6, 6 June 2018, § 33(c).

<sup>12</sup> This information is contained in the National Strategy for the Development of Social Services 2016-2025 which states as follows: „In the current system setting of long-term care in the Czech Republic patients and clients with similar health condition may be placed either in health care facilities or in social care facilities while both are funded differently.“ (p. 24). The National Strategy is available in Czech at: <https://www.mpsv.cz/documents/20142/577769/NSRSS.pdf/af89ab84-31ac-e08a-7233-c6662272bca0> [accessed 10/12/2020].



words, the ban on netted cage-beds in 2006 should not have been limited to social care institutions. Already in 2006 it was obviously a practice of ill-treatment, and it concerned to a large extent the very same group of people.

### **3.2 The absolute prohibition of ill-treatment as a core obligation deriving from the right to health and right of elderly persons to social protection**

19. The recognition of the use of netted cage-beds as a form of ill-treatment has consequences for the Government's position. We may assume that this is exactly why it seeks to avoid or divert the question. The qualification under international law of the use netted cage-beds as a form of ill-treatment, known to the Government in 2002, or in 2006 at the latest, renders arguments of progressive realisation redundant because of the absolute nature of the prohibition of ill-treatment.
20. The Government appropriately cites the conclusions by the CESCR Committee on the two types of obligations deriving from the right to health – obligations of progressive realisation and obligations of immediate effect (§ 61). Unfortunately, they seek to categorise the elimination of the use of netted cage-beds as among the obligations of progressive realisation, practically without any discussion.
21. The Complainant is clear, referring also to arguments introduced in the collective complaint, that the absolute nature of the prohibition of ill-treatment renders it part of the minimum core content and/or core obligations of the right to health. Any other approach would set unacceptable contradictions between the prohibition of ill-treatment and the right to health. Both rights are in close relationship since they are both connected with the integrity of the person. The right to health is undoubtedly broader than the right to freedom from ill-treatment but this does not disturb the relationship. Not all violations of the right to health necessarily result in violations of the prohibition of ill-treatment, but the absolute prohibition of ill-treatment does not enable one to draw the same conclusion *vice versa*. Once an act is recognised to be a form of ill-treatment and therefore subject to an absolute prohibition, it has to be prohibited under all related human rights, including the right to health.
22. The same is true in the context of the right of elderly persons to social protection in terms of Article 4 of the Additional Protocol, especially as regards protection of persons living in institutions in terms of paragraph 3. Just like any social right, this right contains core obligations which are of immediate effect,<sup>13</sup> and it would be hardly defensible to argue that the provision of support may include justification of a practice that constitutes ill-treatment.
23. In light of this, the Government's arguments that developments are taking place in the Czech Republic and its objections that the experiences described in the collective complaint are outdated, seem irrelevant. That does not mean that we do not appreciate the current motivation and efforts of the Czech government to change the situation. Nevertheless, these efforts cannot alternate the fact that at the time the collective complaint was submitted, and to date, the use of netted cage-beds has been enabled by law and is consistently practiced in medical institutions. Furthermore, although the currently debated amendment to the Health Care Act is a welcome step, there is a significant risk that it will

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<sup>13</sup> See the General Comment of the UN CESCR Committee no. 3, 1990, para. 10.

not be adopted. The current Government comes to the end of its term in October 2021, yet the amendment is still in the consultation phase, has not yet been approved by the Government and cannot yet, therefore be submitted to Parliament.<sup>14</sup> Adoption is unfortunately quite unlikely. Moreover, while the amendment would deter future violations of the rights of persons in psychiatric hospitals, it does not remedy or erase those violations the subject matter of this complaint which have already occurred and are ongoing at the present date. Victims of these violations are entitled to full redress and an effective remedy, including compensation, satisfaction, and rehabilitation, none of which will be provided by the amended legislation.

24. Finally, the Government relies on the existence of control and complaint mechanisms for the use of netted cage-beds (§§ 85-92). This argument has no relevance in the context of a practice that infringes the absolute prohibition of torture or ill-treatment. The mere existence of controls and complaint mechanisms does not legitimise such violations. These arguments, therefore, fall outside the subject-matter of the collective complaint. As a form of ill-treatment, the use of netted cage-beds interferes with the very core content and obligations deriving from the right to health and the right of elderly people to social protection. The availability of control and complaint mechanisms cannot remedy or mitigate this.

#### **4. The Government erroneously equates a medical opinion with a legal determination on the law**

25. In their Observations, the Government relies, *inter alia*, on statements by the Psychiatric Society of the Czech Medical Association of J. E. Purkyně (§ 112), and the head of the Psychiatric Clinic of the Brno University Hospital (§113) advocating for the use of netted cage-beds as a form of a legitimate practice in psychiatry, at least in certain cases. The Complainant emphasises that the Government's argument should be in no case read as a testimony of the prevailing opinion among medical experts in the Czech Republic. The Czech Medical Chamber, an independent professional organisation with obligatory membership of all physicians providing diagnostic and/or therapeutic treatment in the Czech Republic, had the opportunity to comment on the current draft amendment to the Health Care Act and, in contrast to the statements relied on by the Government in their Observations, the Chamber did not oppose in any way the proposed prohibition on the use of netted cage-beds.<sup>15</sup>
26. More fundamentally, however, the Government's recourse to medical opinion in their arguments misconstrues the Committee's legal and quasi-judicial role in determining the presence or absence of torture and ill-treatment as a question of medicine rather than law. It clearly conflates the important distinction between the medical (individual) and human

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<sup>14</sup> According to the Government's legislative library, the Amendment is still discussed after the interdepartmental commenting procedure and has not been submitted to the Government for approval. The latter is a necessary precondition for its submission to Parliament. See [https://apps.odok.cz/veklep-detail?p\\_p\\_id=material\\_WAR\\_odokkpl&p\\_p\\_lifecycle=0&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_col\\_id=column-1&p\\_p\\_col\\_count=3&material\\_WAR\\_odokkpl\\_pid=KORNBSGJHXZU&tab=detail](https://apps.odok.cz/veklep-detail?p_p_id=material_WAR_odokkpl&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=3&material_WAR_odokkpl_pid=KORNBSGJHXZU&tab=detail) [accessed 10/12/2020].

<sup>15</sup> The comments by the Czech Medical Chamber are available in Czech at: [https://apps.odok.cz/veklep-detail?p\\_p\\_id=material\\_WAR\\_odokkpl&p\\_p\\_lifecycle=0&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_col\\_id=column-1&p\\_p\\_col\\_count=3&material\\_WAR\\_odokkpl\\_pid=KORNBSGJHXZU&tab=remarks](https://apps.odok.cz/veklep-detail?p_p_id=material_WAR_odokkpl&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=3&material_WAR_odokkpl_pid=KORNBSGJHXZU&tab=remarks) [accessed 10/12/2020].



rights models of disability.<sup>16</sup> The medical (individual) model of disability relies on medical experts, placing the expert opinion at its centre and legitimising thus an asymmetry of power in the relationship between the experts on the one side and persons with disabilities on the other side.<sup>17</sup> In contrast, the human rights model is a legal approach. Contrary to the medical (individual) model, the human rights model does not accept the person's impairment or their disability as a legitimate reason to limit her human rights. Rather, it is a legal obligation on states to search for appropriate forms of support to ensure that the person has the opportunity to enjoy *all* human rights and freedoms on an equal basis with others, including the right to personal liberty and to freedom from torture and ill-treatment. It is based on the principles of non-discrimination, equality, participation, dignity, individual autonomy, independence, freedom to make one's own choices, inclusion in society, respect for difference and acceptance of persons with disabilities, among others.<sup>18</sup> That is why the CRPD forbids the use of restraints in hospitals.<sup>19</sup>

27. The human rights model recognises that expert opinion may play a role in judicial determinations where it is a relevant fact but that the determination of whether or not there has been a violation of the law is ultimately a (quasi-)judicial determination and must be made by the Committee based on legal standards. It is crucial to note that the current complaint is grounded on the right to freedom from torture and ill-treatment: that right is absolute and can never be restricted or denied. If the Committee finds – in line with the findings of the numerous other international bodies referred to extensively in this submission and the collective complaint – that the use of netted cage-beds is a form of ill-treatment, then the opinion of medical experts on the issue is wholly irrelevant.

## 5. Conclusion

28. The Government's Observations fail entirely to address the subject matter of the collective complaint since they do not engage with its core arguments that: the prohibition of ill-treatment forms part of the core content and obligations of the right to health and the right of elderly people to social protection; and the use of netted cage-beds is a form of ill-treatment and absolutely and immediately prohibited as such. The Government has not reasoned its fundamental position in defence of the complaint which is that the prohibition on the use of netted cage-beds is an obligation of progressive realisation. Moreover, the position lacks any basis in international law and, in particular, in the Charter.
29. None of the reforms of the psychiatric system, while undoubtedly appreciable, remove this basic deficiency in the Government's legal argumentation. They cannot, therefore, deny their responsibility for the violation of the right to health or the right of elderly people to social protection.

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<sup>16</sup> See the definitions of both models of disability in the General Comment of the UN Committee on the Rights of Persons with Disabilities no. 6 (2018) on equality and non-discrimination, CRPD/C/GC/6, paras. 8-9.

<sup>17</sup> This asymmetry in power connected with the use of coercion in psychiatry is well described by the former UN Special Rapporteur on the right to health, Dainius Pūras, in his report on the right to mental health of 2017: "At the clinical level, power imbalances reinforce paternalism and even patriarchal approaches, which dominate the relationship between psychiatric professionals and users of mental health services. That asymmetry disempowers users and undermines their right to make decisions about their health, creating an environment where human rights violations can and do occur. (...)” – A/HRC/35/21, 2017, para. 22.

<sup>18</sup> Article 3, CRPD.

<sup>19</sup> See the Guidelines of the UN Committee on the Rights of Persons with Disabilities on Article 14, A/72/55.

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30. The Validity Foundation, together with FORUM, submit that the use of netted cage-beds in the Czech Republic violates Article 11 of the Charter and Article 4 of the Additional Protocol.