



**Written submission of the
Validity Foundation – Mental Disability Advocacy Centre
to the United Nations Human Rights Committee
with respect to the adoption of the List of issues prior to reporting for**

Czechia

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Introduction

1. The Validity Foundation – Mental Disability Advocacy Centre (Validity) is an international non-governmental human rights organisation which uses the law to secure equality, inclusion and justice for persons with mental disabilities worldwide. Validity's vision is a world of equality where emotional, mental and learning differences are valued equally; where the inherent autonomy and dignity of each person are fully respected; and where human rights are realised for all persons without discrimination of any form. Validity has participatory status at the Council of Europe, and observer status at ECOSOC.
2. This submission provides information on Czechia's implementation of articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) with regard to access to free and effective legal aid for persons with psycho-social disabilities, especially in cases of deprivation of liberty, ill-treatment in detention and articles 16, 17 and 26 of the ICCPR with regard to continuous restriction of legal capacity and lack of supported decision-making measures for persons with disabilities. It does so with reference to Articles 12, 13 and 14 of the Convention on the Rights of Persons with Disabilities (CRPD).
3. This submission is supplemented with suggested questions for the Committee's list of issues prior to reporting for Czechia.

Access to justice for people in involuntary psychiatric hospitalisation

4. Involuntary psychiatric hospitalisation constitutes deprivation of liberty and therefore engages article 9 of the ICCPR, including the right to challenge the lawfulness of detention before a court and to obtain release if detention is unlawful (art. 9(4)). These safeguards must be practical and effective and must include procedural accommodations for persons with psychosocial disabilities.¹
5. The UN Human Rights Committee (Committee) has reiterated that implementation of article 9 also means revising "outdated laws and practices in the field of mental health in order to avoid arbitrary detention" and that any case of involuntary hospitalisation "must be accompanied by adequate procedural and substantive safeguards established by law," including ensuring that any proceeding is based on "respect for the views of the individual and ensure that any representative genuinely represents and defends the wishes and interests of the individual."²
6. The Committee has also clarified that the fair trial guarantees in article 14 apply beyond criminal proceedings, including to proceedings determining rights and obligations in civil contexts. These guarantees include equality of arms, effective participation, and access to legal assistance where this is necessary to ensure fairness in practice. The Committee has further recognised that legal aid may be required outside criminal proceedings where the interests of justice so demand and where, without such assistance, access to the tribunal would not be practical and effective.³

¹ See Article 13 of the CRPD.

² Human Rights Committee, '[General Comment No. 35, Article 9: Liberty and security of person](#)', CCPR/C/GC/35 (2014), para 19.

³ Human Rights Committee, '[General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial](#)', CCPR/C/GC/32 (2007), section II.

7. The UN Basic Principles and Guidelines on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court set out concrete requirements applicable to all forms of deprivation of liberty, including psychiatric detention. In particular, they require: the right to be promptly informed of rights and of the avenue to challenge detention, in a language and format the person understands (Principle 7), the right to effective and independent legal assistance and legal aid (Principle 9), physical appearance before the court, especially for the first hearing and where requested (Principle 11) and proceedings that are fair and effective in practice, including equality of arms and access to materials relevant to the detention (Principle 12).⁴
8. The International Principles and Guidelines on Access to Justice for Persons with Disabilities further emphasise that persons with disabilities must receive timely and accessible legal notices and information (Principle 4), are entitled to all substantive and procedural safeguards on an equal basis with others, with necessary accommodations (Principle 5) and should have access to free or affordable legal assistance as required to ensure equal access to justice (Principle 6).⁵
9. In their concluding observations on Czechia, the Committee on the Rights of Persons with Disabilities and the Committee against Torture have expressed concern about deprivation of liberty and coercive practices in psychiatric settings. The CRPD Committee called on Czechia to harmonise their national legislation with the provisions of article 14 of the CRPD.⁶ The Committee against Torture urged Czechia to increase the use of less restrictive alternatives to the forcible confinement of persons with psychosocial disabilities and to strengthen guarantees for effective legal safeguards for all persons with psychosocial disabilities concerning involuntary psychiatric and medical treatment in psychiatric institutions, including with regard to chemical and physical restraints.⁷
10. Czech legislation continues to allow persons with psychosocial disabilities to be placed in an institutional facility without their consent or against their will where the person is assessed as ‘posing an immediate danger to themselves or others.’⁸ In practice, involuntary hospitalisation is almost always associated with non-consensual psychiatric interventions,⁹ and may be accompanied by the use of restraints.
11. Although such detention is subject to judicial review, the safeguards intended to prevent arbitrariness and ensure access to justice for persons with disabilities, are widely reported to be ineffective in practice. Persons subjected to involuntary hospitalisation often do not receive accessible information about their rights and about the detention proceedings, or receive it late or in a form they cannot understand.¹⁰ This is incompatible with the

⁴ UN Working Group on Arbitrary Detention, ‘[United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court](#)’, A/HRC/30/37, 6 July 2015.

⁵ Special Rapporteur on the rights of persons with disabilities, ‘[International Principles and Guidelines on Access to Justice for Persons with Disabilities](#)’, Geneva, August 2020.

⁶ Committee on the Rights of Persons with Disabilities, ‘[Concluding observations on the initial report of the Czech Republic](#)’, CRPD/C/CZE/CO/1, 15 May 2015, para 27.

⁷ Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ‘[Concluding observations on the sixth periodic report of Czechia](#)’, CAT/C/CZE/CO/6, 6 June 2018, paras 32-33.

⁸ See Article 8(1). 6 of Act No. 2/1993 Coll., the Charter of Fundamental Rights and Freedoms, § 91a of Act No. 106/2008 Coll., on Social Services and § 38 para. 1 lit. b) and c) of Act No. 372/2011 Coll., on Health Services

⁹ Ibid., pp. 38-39.

¹⁰ Problems with the application of individual legal guarantees are described in detail, for example, in: Zuzana Durajová Z. & Kaštyl M, ‘[Analysis of the availability and effectiveness of existing tools for the protection of patients' rights in involuntary hospitalization and treatment](#)’ (only in Czech), 2020.

requirement that detainees be informed promptly and accessibly of the avenue to challenge detention.

12. Serious deficiencies also concern effective representation in detention proceedings. Attorneys appointed to represent ‘patients’ in these proceedings are reported to be frequently inactive. In some cases, they even support continued detention contrary to their clients’ expressed position.¹¹ Moreover, representation ends once the court issues a decision or the proceedings are discontinued because the person ‘consents’ to hospitalisation. This consent is sometimes given in circumstances that raise concerns about undue influence.
13. At the same time, it is exceptionally difficult for persons with psychosocial disabilities to secure independent legal representation once involuntarily hospitalised in psychiatric hospitals due to practical constraints (including limited communication tools) and the absence of a functioning, accessible system of free legal aid. While the law allows the ‘patient’ to appoint a ‘confidant’ (a trusted person) to support them in the proceedings, this option is rarely used in practice, largely because ‘patients’ are not effectively informed about it.¹²
14. The law requires courts to personally observe the ‘patient’ before issuing a decision. In practice, however, personal observation is reported to occur inconsistently or only sporadically.¹³ Combined with the shortcomings in information and representation, this contributes to a system in which only a very small proportion of cases result in a finding that the deprivation of liberty is unlawful, and only a small proportion of cases proceed to appeal.¹⁴ These indicators are consistent with structural barriers to effective challenge.
15. These deficits disproportionately affect persons with psychosocial disabilities who, during crisis and hospitalisation, face predictable obstacles to understanding legal information, contacting a lawyer, instructing counsel, and participating effectively in proceedings. This, in turn, triggers the State’s duty to ensure procedural accommodations¹⁵ and support¹⁶ so that access to justice and judicial review are equal and effective in practice.
16. Although these concerns have been repeatedly raised by the Czech Ombudsman¹⁷ and civil society over a period of years, Czechia has not yet introduced reforms that would ensure a consistent, accessible, and effective system of safeguards for persons subjected to involuntary psychiatric hospitalisation, including effective legal assistance and meaningful judicial scrutiny. Furthermore, Czechia has not initiated law and policy reforms to abolish involuntary hospitalisation and involuntary treatment ensuring that its legislation and practices are in line with the CRPD.

¹¹ See, for example, Durajová, Z., ‘On Some Obligations of a Lawyer as a Procedural Guardian of a Person with Mental Illness’, *Advocacy Bulletin*, No. 8-9, 2021., Available only in Czech at: https://www.cak.cz/assets/komora/bulletin-advokacie/ba_8-9_2021_web.pdf, pp. 117-118.

¹² Durajová, Z., ‘The Institute of the Patient Confidant as a Way to Improve the Access of People in Involuntary Hospitalization to Justice’. *Právní rozhledy*, 2022, No. 3, pp. 95-98.

¹³ According to the experience of a domestic lawyer, for example, the District Court for Prague 8 in 2021 had only 7 minutes set aside for one court hearing on involuntary hospitalisation in a psychiatric hospital. For more information, see [the report from the discussion at the Czech Bar Association](#) of 19 October 2021.

¹⁴ Durajová Z., Kaštyl, M., ‘[Analysis of the availability and effectiveness of existing tools for the protection of patients’ rights in involuntary hospitalization and treatment](#)’, 2020, p. 30.

¹⁵ Article 13 of the CRPD.

¹⁶ Article 12 of the CRPD.

¹⁷ The Public Defender of Rights (Ombudsman) identified shortcomings in safeguards in detention proceedings as early as 2007, in its published [Summary Report on Visits to Psychiatric Hospitals](#).

Restriction of legal capacity

17. Article 16 of the ICCPR guarantees recognition as a person before the law. Read together with article 26 (equality and non-discrimination) and article 17 (protection from arbitrary or unlawful interference with privacy and family life), it requires States to ensure that persons with disabilities enjoy legal capacity on an equal basis with others and are not subjected to blanket or disproportionate interferences with their autonomy, decision-making, and private life. The Committee has emphasised that the Covenant's non-discrimination guarantee prohibits actions which have the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.¹⁸
18. These standards should be interpreted consistently with the Convention on the rights of Persons with Disabilities, in particular Article 12 (equal recognition before the law), which affirms that persons with disabilities enjoy legal capacity on an equal basis with others and requires States to replace substitute decision-making with supported decision-making arrangements that respect the person's rights, will and preferences.
19. In its 2019 concluding observations on Czechia, the Committee expressed concern that persons with intellectual or psychosocial disabilities continued to be deprived of the right to vote in legal capacity proceedings and recommended ensuring that legislation does not discriminate against persons with psychosocial or intellectual disabilities.¹⁹
20. The CRPD Committee's concluding observations raised concerns that, notwithstanding the 2014 civil law reform, Czech law continues to permit restriction of legal capacity and forms of (partial) guardianship. The CRPD Committee called on Czechia to fully harmonise domestic law with Article 12 of the CRPD, recognise the full legal capacity of all persons with disabilities, and improve access to supported decision-making.²⁰
21. Czech law provides a range of measures that can, in principle, function as less restrictive alternatives to restrictions of legal capacity, including support agreement, representation by a household member, and guardianship without restriction of legal capacity. However, available data indicate that restrictions of legal capacity remain the default response in practice, while supported/alternative measures are comparatively under-used. According to the Ombudsman's indicators-based analysis (drawing on Ministry of Justice statistics), courts issued 22,358 decisions on restrictions of legal capacity in 2020–2022, while the total number of decisions on 'alternatives' was 6,013 in the same period; within that category, only 143 decisions concerned support agreements, a measure most closely resembling supported decision-making in the sense required by Article 12 of the CRPD.²¹
22. Restriction of legal capacity in Czechia continues to have serious human-rights implications because it may affect decision-making in areas central to personal autonomy and civic participation, including (depending on the scope of restrictions imposed) decisions relating to family life, health care, and eligibility to stand for election.²² In addition, earlier

¹⁸ Human Rights Committee, '[General Comment No. 18: Non-discrimination](#)', 1989, para 7.

¹⁹ Human Rights Committee, '[Concluding observations on the fourth periodic report of Czechia](#)', CCPR/C/CZE/CO/4, 7 November 2019, paras 46-47.

²⁰ Committee on the Rights of Persons with Disabilities, '[Concluding observations on the initial report of the Czech Republic](#)', CRPD/C/CZE/CO/1, 15 May 2015, paras 22-23.

²¹ The Public Defender of Rights of the Czech Republic, '[How Czechia Fulfils its Obligations under the Convention on the Rights of Persons with Disabilities. Human Rights Indicators-Based Analysis Research report](#)', 2025, p. 66.

²² Ibid, pp. 61-65.

Ombudsman research found that as much as 40% of decision on restriction of legal capacity covered almost all areas of life, amounting in practice to a full deprivation of legal capacity.²³

23. Taken together, these patterns are consistent with the CRPD Committee's assessment that legal reforms have not yet produced a practical shift away from substitute decision-making toward supports that respect the person's will and preferences, and that safeguards against undue influence and conflicts of interest remain essential.

Suggested questions for the Human Rights Committee's List of Issues Prior to Reporting for Czechia

24. What steps, if any, are being taken to amend the legislation and practice on involuntary psychiatric hospitalisation and related court proceedings to ensure full compliance with the Covenant, including article 9 (liberty and security) and article 14 (fair trial), and to ensure that persons with psychosocial disabilities can effectively exercise these rights on an equal basis with others, including through procedural accommodation, meaningful participation, and effective access to legal assistance?
25. What steps, if any, are being taken to amend the relevant legislation and practice to abolish involuntary psychiatric hospitalisation and replace it with options respecting the human rights requirements of both the Covenant and the CRPD?
26. What steps, if any, are being taken to amend legislation and practice on restrictions of legal capacity and guardianship, so as to replace substitute decision-making with supported decision-making arrangements that respect the person's rights, will and preferences, and to ensure the availability in practice of adequately resourced support measures and safeguards against conflicts of interest and undue influence?

Final remark

27. We confirm that this submission can be posted on the OHCHR website for public information purposes.

²³ The Public Defender of Rights of the Czech Republic, '[Crossroads of autonomy. Research report](#)', 2020, pp. 38-39.