**Alternative Report**

**for the UN Committee on the Rights of Persons with Disabilities**

**Czech Republic**

**2019**

**Introduction**

This Alternative Report for the UN CRPD Committee is submitted jointly by organizations representing the interests of persons with disabilities in the Czech Republic: **Czech National Disability Council**, **Association of the Deaf and Hard of Hearing in the Czech** **Republic** and **Inclusion Czech Republic**. The report informs about provisions adopted to meet the obligations of the Convention on the Rights of Persons with Disabilities.

Being convinced that the Czech Republic does not sufficiently meet the recommendations of the UN CRPD Committee, the above mentioned organizations decided to prepare a joint alternative report which responds above all to the Concluding Observations on the Initial Report of the Czech Republic, issued by the Committee in 2015. In the interest of clarity, we state the text of the Concluding Observations before commenting the respective articles of the CRPD (*in italics*).

**The submitting organizations**

**Czech National Disability Council** (*Národní rada osob se zdravotním postižením ČR*) is an umbrella organisation with a countrywide province which unifies around 100 member organizations with a total membership base of more than 200,000 persons with disabilities. Its fundamental aim is to advocate, promote and meet the rights, interests and needs of persons with disabilities, regardless of the type or extent of their impairment. Its work is orientated towards collaboration with state administration and local government at all levels and with organizations and institutions working in this field. We are also part of the European and worldwide movements of people with disabilities (member of EDF, RI, DPI etc.). Besides policy and monitoring work we also specialize in commenting on individual laws and drawing up our own legislative proposals. We are expert guarantor for various projects whose aim is to improve the situation of persons with disabilities, e.g. in the domain of employment, education, expert social consultancy etc. We also work to raise public awareness of disability issues. (Website: <http://nrzp.cz/english-info.html>)

**Association of the Deaf and Hard of Hearing in the Czech Republic** (*Svaz neslyšících a nedoslýchavých osob v ČR*) is the largest non-profit organization working for people with hearing impairments in the Czech Republic. Mission of SNN in the Czech Republic is to protect and defend the needs, rights and interests of persons with hearing impairments. SNN has 63 branch associations and 43 counselling centres. SNN provides social services for deaf and hard of hearing Czech citizens: interpreting services, social counselling, social rehabilitation, social activity services, lending of assistive devices, hearing aids etc. (Website: <http://www.snncr.cz/?l=9>)

**Inclusion Czech Republic** (*Společnost pro podporu lidí s mentálním postižením v ČR*) is a nationwide non-profit organization defending the rights and interests of people with intellectual disabilities and their families. Our member organizations are located in all regions and principal towns of Czech Republic (8,000 members in the 60 local branches located across the country). We provide counselling and future planning for families and people with intellectual disabilities, educational activities for adults with intellectual disabilities, as well as for people who live or work with them. We lobby for the improvement of the quality of social services and we support the deinstitutionalization process. We support self-advocacy groups and we transpose important information into easy-to-read language. Finally, we also lobby for the meaningful implementation of the UN Convention on the Rights of Persons with Disabilities: we advocate especially in the field of legal capacity and supported decision-making and we raise awareness and train several groups of people in charge of designing accessible services about their meaning for people with intellectual disabilities. (Website: <http://www.spmpcr.cz>)

**Art. 9 – Accessibility**

*The Committee notes with concern that the provisions of the Building Act on ensuring accessibility are still not being fully implemented. Furthermore, the Committee notes that deaf persons, blind persons and persons with intellectual disabilities still face challenges in accessing premises open to the public, owing to the lack of sign language interpretation, signage in Braille and augmentative and alternative communication and other accessible means, modes and formats of communication, such as pictograms.*

***The Committee urges the State party to strengthen its monitoring of the implementation of accessibility standards by:***

***(a) Clearly defining which bodies have the mandate to monitor the implementation;***

***(b) Providing capacity-building and continuous training for the civil servants and experts in charge of monitoring;***

***(c) Involving organizations of persons with disabilities in the monitoring;***

***(d) Sanctioning those who fail to apply accessibility standards.***

***The Committee calls upon the State party to ensure that premises open to the public are accessible for persons with disabilities, especially deaf persons, blind persons and persons with intellectual disabilities, by providing sign language interpretation, signage in Braille and augmentative and alternative communication, and all other accessible means, modes and formats of communication, such as pictograms.***

**Comment:**

* Article 9 of the CRPD obliges State Parties to take appropriate measures to ensure to persons with disabilities access to the physical environment, to transportation, to information and communications and to other facilities and services open or provided to the public – to enable persons with disabilities to live independently and participate fully in all aspects of life.
* The Building Act No. 183/2006 Coll., and Decree No. 398/2009 Coll. on general technical requirements ensuring the accessibility of buildings provide that in cases where construction documents do not meet legal requirements in terms of accessibility of buildings (it also applies to changes of the buildings or of their use or to building maintenance), such public building cannot be granted construction permission and cannot be passed for use.
* Despite this, many public buildings have been constructed in a way that does not meet the legal requirements to ensure accessibility after this legislation came into force. The law has been substantially violated and new public buildings are still being built without meeting accessibility requirements.
* Article 9 of the CRPD further obliges State Parties to ensure access to transportation.[[1]](#footnote-1) In the Czech Republic, accessibility of transportation remains seriously problematic and persons with disabilities face extreme difficulties in terms of transportation, especially accessibility of bus and coach transport, but also in rail transport.
* In connection with the ongoing liberalization of the market in the transport field, the situation of persons with disabilities is getting worse. New carriers do not ensure services for persons with disabilities even in the previous extent: they do not sufficiently address the ways of ensuring physical accessibility and accessibility of the transport; they do not address the access to information and communication, in particular for persons with visual and hearing impairments.
* The National Plan for the Promotion of Equal Opportunities for Persons with Disabilities 2015–2020 includes measure No. 3.13[[2]](#footnote-2): “Equip public buildings and other publicly accessible facilities with visual signalization for the deaf according to the principle ‘what can be heard must also be visible’ (information panels displaying current messages that are broadcasted, fire alarms with light signalization, lifts with visible communication etc.); such information must also be provided in an easy-to-understand form (e.g. in the form of pictograms)[[3]](#footnote-3).” Unfortunately, these measures are implemented without persons with intellectual disabilities or with reduced orientation ability, and are still being implemented in a patchy and uncoordinated way. There is no implementation monitoring system (only the reporting process of the National Plan). There are no accessibility standards that would include an orientation system for people with intellectual disabilities. Sometimes there are examples of good practice, but there is no system change in that area.

**Questions**:

* **How will the Czech Republic prevent violations of legislation outlining accessibility standards for public buildings? Which instrument is the Czech Republic going to use to prevent current situation?**
* **How does the government plan to ensure the accessibility of public transportation and infrastructure to all persons with disabilities?**
* **Does the government plan to create accessibility standards, including communication and orientation standards?**
* **Does the government plan to develop a monitoring system for accessibility in cooperation with organizations of people with disabilities?**

Art. 11 – Situations of risk and humanitarian emergencies

*The Committee is concerned that national emergency protocols do not contain provisions for persons with disabilities, in particular deaf people.*

***The Committee urges the State party to ensure that disaster risk reduction and emergency response mechanisms are inclusive and accessible to all persons with disabilities.***

Comment:

* Over the last period no improvement in making the situations of risk more inclusive and accessible to all persons with disabilities was achieved. No system changes were done in this field (specifically in the case of persons with hearing impairments, mainly of users of the sign language). There are only some partial provisions, e.g. the Fire Rescue Service has created an aid for primal communication with people with hearing impairments in case of an accident, which is however not shared with other segments of the rescue system and its use is only voluntary and thus random.

**Question:**

* **How is the Czech Republic going to find system solutions to ensure help in situations of risk for people with disabilities, including persons with hearing impairments?**

**Art. 12 – Equal recognition before the law**

*The Committee notes with concern that the new Civil Code still provides for the possibility of limiting a person’s legal capacity and placing a person with a disability under partial guardianship.*

***The Committee calls upon the State party to amend its Civil Code and fully harmonize its provisions with article 12 of the Convention, as indicated in the Committee’s general comment No. 1 (2014) on equal recognition before the law. The State party should recognize the full legal capacity of all persons with all types of disability and improve access to supported decision-making, thus implementing the relevant provision of the Civil Code.***

Comment:

* The new Civil Code brought several fundamental changes. The law does not include plenary guardianship anymore and has introduced supported decision-making in the form of decision-making assistance agreement, representation by a member of the household, and has upheld the model of guardianship without restriction of legal capacity as one alternative to guardianship. However, the Civil Code continues to make it possible to partially restrict legal capacity as a matter of last resort; but in fact, statistics show that restriction of legal capacity is still by far the most commonly used tool.
* The Ministry of Justice has upgraded the collection of statistical data[[4]](#footnote-4), which is why we now have access to previously unknown data that are very useful for describing the situation precisely.
* The number of people with limited guardianship living with permanent residence in the Czech Republic is quite stable, with around 36,000 people[[5]](#footnote-5).
* Between 2014 and 2016, the sum of all cases of partial guardianship was a total of 29,012 decisions. In the same period 2014 to 2016, only 2,154 cases of restoration of legal capacity[[6]](#footnote-6) can be found. Thus, if we compare the total number of guardianship decisions – 29,012 cases – and the number of cases of restoration, partial guardianship was applied more than thirteen times more.
* As stated by the Ministry of Justice, "it can be summarized from these data that a large number of courts in the Czech Republic almost do not use the possibility to decide on the restoration of legal capacity.[[7]](#footnote-7)"
* Concerning the alternative tools to guardianship:
* Guardianship without limitation has been applied already in 5,572 cases. It should be emphasized that this is a relatively large number of decisions (around 36,000 people have a guardian in the Czech Republic). This is clearly the most frequently used alternative to partial guardianship.
* 1,338 decisions were made to approve representation by a member of the household.
* 155 decisions approved a decision-making assistance agreement.[[8]](#footnote-8)
* From the perspective of national statistics, it is still interesting to look at regional differences: there is no unified practice in courts, and although partial guardianship is still by far the most commonly used tool, it is clear that some courts deal with these alternatives and others not at all. Details of these differences can be easily seen on the maps of the Ministry of Justice[[9]](#footnote-9).
* In court proceedings, the court needs to determine whether a "mental disorder" is present. This is the reason for using any of these measures. The presence of mental disorder is confirmed by an expert assessment. However, these expert opinions are very problematic for several reasons[[10]](#footnote-10):
* The conclusions by the experts are often influenced by the fact that the experts are unable to establish contact with the persons who are being assessed in the time determined for the assessment, so that they can show their true abilities.
* People under assessment do not respond for other reasons than that they cannot answer (shyness, fear, distrust, unfamiliar environment, verbal communication problems). Or the expert does not know how to communicate according to their individual needs so that they can properly understand the issues at stake.
* As a result, evaluations sometimes erroneously assess the general lack of competence in the areas of everyday life (people often live and work independently with support that is not taken into account).
* They include sensitive data that is unrelated to the legal proceeding.
* Occasionally obsolete medical terminology ("debility, imbecility, idiocy") is still used.
* Therefore the expert opinion, based on a one-off health check and documents from the file, is proven to be an unreliable source[[11]](#footnote-11) for the purpose of determining the decision-making abilities of the person. In addition, expert examination is extremely stressful and unpleasant for all. The information provided in the report and communicated during the hearing affects all people, and often their loved ones, causes hardships, sometimes even considerable ones.

**Questions:**

* **What are the government plans to ensure quality education of judges in this matter?**
* **Does the government make any plan to raise the quality of court practices to make raise the quality of the decisions and make them consistent over the country?**
* **What are the government plans to inform families of interested people who do not yet have sufficient and comprehensible information, except from certain specialized NGOs?**
* **Does the government plan to reinforce the structures in this matter by providing professional counselling, consultation, mediation in conflict resolution for public and private guardians, supporter and household representative?**
* **How does the government plan to spread good practice with all interested professions (judges, doctors, providers)?**

**Art. 21 – Freedom of expression and opinion, and access to information**

*The Committee notes with concern the lack of investment of resources in sign language interpretation and the lack of trained sign language interpreters, which restricts the effective enjoyment of the right of deaf persons and their families to use Czech sign language.*

***The Committee calls upon the State party to allocate sufficient financial resources for the training and hiring of sign language interpreters in order to enable deaf persons to effectively enjoy the right to use Czech sign language.***

*The Committee notes that the State party still has not amended Act No. 231/2001 Coll., which should make audiovisual content of broadcasts accessible to persons with hearing or visual impairment.*

***The Committee calls upon the State party to amend Act No. 231/2001 Coll. and to ensure that the audiovisual content of broadcasts is accessible to persons with hearing or visual impairment.***

**Comment:**

* In spite of a certain improvement in education of sign language interpreters, there is a distinct lack of interpreters in the Czech Republic. In the past years, one vocational school for interpreters was established and their remuneration was improved. This might however be due to general wage increase in the Czech Republic in the last three years. The profession of interpreter has not been ranked in the National Register of Qualifications, which might be one of the reasons for the lack of interest in this expertise. It is planned to incorporate the profession of sign language interpreters into a legal regulation providing for social services, but its adoption is realistic in two years only though.
* The access to information in health services is very problematic. The medical staff does not require the presence of a sign language interpreter if the patient has a hearing impairment – which does not meet the requirement to inform patients about the ways of medical treatment. The consents to hospitalization, to medical interventions and other operations are signed without certification that the patient understood everything. There is no room for patients’ further questions and information.
* Online interpreting services in health-care facilities are poorly accessible. The electronic communication media in hospitals are difficult to access, the staff is insufficiently informed.
* If a patient with hearing impairment brings his own device (tablet, phablet, mobile phone etc.), its use is subject not only to appointment with the doctor at a concrete time, but also to appointment with the interpreter (at the same time). The combination of the time availability of the online interpreting service and of the doctor is a huge barrier.
* The problem of communication with citizens with sensory or cognitive impairments is related to the whole public administration. In many cases, citizens are asked to pay the costs for interpretation when dealing with the public administration. The amendment of the Act No. 231/2001 Coll., which would make television and radio broadcast more accessible for persons with sensory impairments, has not yet been done.

**Questions:**

* **How is the Czech Republic going to ensure a problem-free communication with patients with sensory impairments and reduced cognitive skills?**
* **When will the Czech Republic adopt such provisions that would ensure equal access of citizens with disabilities in communication in public administration?**
* **When will the Czech Republic amend legal provisions to make television and radio broadcast more accessible for persons with sensory impairments?**
* **Is the Czech government willing to codify the expertise of sign language interpreters in the National Register of Qualifications?**

**Art. 23 – Respect for home and the family**

*The Committee is concerned that the provisions of the new Civil Code and Act No. 359/1999 Coll., on Social and Legal Protection of Children, as amended, explicitly provide for restriction of legal capacity in family matters, especially the right to marriage, parental responsibility and adoption.*

***The Committee recommends that the provisions of the Civil Code and the Act on Social and Legal Protection of Children be repealed to ensure that persons with disabilities can exercise their right to marry, their parental rights and their right to adopt on an equal basis with others, and that support services are provided in the community to parents with disabilities.***

**Comment:**

* According to the Act No. 301/2000 Coll., on Register Offices, Name and Surname (§ 39), entering into marriage of persons with hearing impairments is only possible when a sign language interpreter is present, who is arranged at the cost of the newly-weds.
* The Register Offices further require presence of a court interpreter (although the law allows an interpreter who “only” transmits the vow to the notary). However, social services (registered under the Act No. 108/2006 Coll., on Social Services) cannot employ court interpreters. It is the court that employs them – but the court does not reimburse interpretation at the Register Offices.
* This is a clear discrimination: this legal provision sets conditions which disadvantage persons with disabilities to fulfil their rights. The State should always bear the cost of interpreting services in case that it is his own legal requirement towards citizens.
* The new Civil Code still allows people to be restricted in their legal capacity in the area of ​​marriage and parental responsibility. The biggest interference with the right of family life is the issue of taking a child out of parental care on the basis of intellectual disability of the parent(s), which is unfortunately still a widespread practice. Decisions even take place before the child is born, without the effort to provide adequate support for a mother / parent with intellectual disability to take care of his/her son or daughter with support. A few recent cases have been investigated by the Public Defender of Rights[[12]](#footnote-12), showing the importance of the phenomenon.

**Questions:**

* **In what way is the Czech Republic going to remove the discrimination of deaf and hard of hearing persons who enter into marriage?**
* **What support and outreach services for parents with intellectual disabilities to take care of their children are available by social services?**
* **Does the government plan training, awareness raising, exchange of good practice and recommendations for social and legal child protection authorities to take a child out of parental care only when necessary and not on the grounds of intellectual disability?**

**Art. 25 – Health**

*The Committee notes with concern the difficulties that deaf persons and parents of boys and girls with intellectual and psychosocial disabilities still face in accessing healthcare services owing to a lack of accessible information, in spite of the efforts made by the State party.*

***The Committee calls upon the State party to intensify its efforts to make information on health care accessible for persons with disabilities and parents of boys and girls with disabilities, including by making information on relevant services available and accessible to persons with disabilities and their families and by providing sufficient sign language interpreters to deaf persons when they seek health care.***

**Comment:**

* In 2018 the legislation concerning reimbursement for medical devices from public health insurance for persons with disabilities improved considerably. Medical devices were much better and more precisely classified into reimbursement groups, many new groups of medical devices were established, and the act on public health insurance allows for covering a lot of new, modern devices. This classification will bring about substantial reduction of co-payment of persons with disabilities.
* A persisting problem is the choice and prescription of the appropriate medical device by the doctor. The device should always fully compensate the disability of the person. That is why it should be tailored to the patient – taking into account not only his/her basic disability, but also all other associated health problems. There are no specialized expert departments which could help with the right choice of medical devices for persons with disabilities. The existence of quality experts who are able to choose the right medical device for a concrete user is rather an exception. Persons with disabilities or their related persons most often take the information on medical devices from the Internet or through consultations among themselves. This often leads to a wrong choice. Prescribing doctors are not sufficiently professionally well-versed to make the right choice of medical devices. They often commit errors when prescribing them. The health insurance companies complicate the process of approving the reimbursement for medical devices from public health insurance.
* Social services providers keep facing absolute lack of nursing and ancillary staff, which could – on appropriate level – look after persons with disabilities, demanding mostly much more care to realize their basic necessities of life, to maintain their state of health during hospitalization in health-care facilities.
* The legislation starts enabling the presence of external persons – family carers, personal assistants, chosen by the person with a disability, who ensure care during the hospitalization. Some health-care facilities already enable this help. It is necessary to complete the medical legislation in this aspect and to interconnect it with social legislation stressing the reimbursement of the work of caring persons by means of the care allowance, or other resources.
* In the Czech Republic, unlike many EU countries, the care for persons with psychosocial disabilities has not gone through any essential system change since the early 1990's. Financial means for a reform implementation and coordination of the particular activities within the reform are missing. This means that the focus of the care for persons with psychosocial disabilities is still in big hospitals. The progress of ambulatory and other services in the natural environment of the people with psychosocial disabilities is insufficient. In 2013, a reform of psychiatric care to change the current state was prepared by experts and approved by the Minister of Health. However, the respective stages of the reform have been delayed, so one cannot expect a distinct change in the approach towards persons with psychosocial disabilities before 2020.
* To implement the first stage of the reform a strong support from European Structural and Investment Funds (ESIF) was agreed. The project aims (in three subsequent phases) to establish 30 Centres for Mental Health evenly distributed in the whole Czech Republic by 2021, as a backbone of a future network of ca. 100 Centres for Mental Health. The Centres for Mental Health are a new element in the system of care for persons with psychosocial disabilities. The designation Centres for Mental Health is a little confusing, because they will be rather mobile multidisciplinary teams with at least 50 % of the employees’ working time in the natural environment of persons with psychosocial disabilities.
* A fundamental problem is the non-existence of a law on mental health which would create an umbrella for the medical and social dimension of the care for people with psychosocial disabilities.

**Questions:**

* **When will the Czech government ensure an establishment of a network of expert departments for the right choice of medical devices for persons with disabilities, that would consist of highly erudite experts on medical devices?**
* **In what way will the Czech Republic ensure a facilitation of the process of approval and reimbursement of medical devices from public health insurance?**
* **When will the Czech legislation enshrine the right of persons with disabilities to get care from a family carer in health facilities?**
* **Is the Czech government preparing a law on mental health, as a fundamental norm on care for people with psychosocial disabilities?**
* **In what way will the Czech Republic amend the Social Services Act to support persons with psychosocial disabilities?**

**Art. 26 – Habilitation and rehabilitation**

*UN CRPD:*

*States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:*

*a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;*

*b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.*

**Comment:**

* According to WHO, rehabilitation is a set of measures that assist individuals who experience, or are likely to experience, disability to achieve and maintain optimal functioning in interaction with their environments. In the Czech Republic, there is no system of rehabilitation which would help people who become persons with disabilities to return to full life in natural environment. The system should enable these people to return to the situation where they become autonomous through their work – with the help of medical care, social services, provision of the necessary assistive devices, housing adaptation or retraining.
* According to the UN, the quality of rehabilitation is a criterion of the cultural level of society. It is a society-wide process which concerns nearly all aspects of social life. From the whole extensive and varied complex of rehabilitation only rehabilitation and habilitation in health care (medical rehabilitation) is being implemented here.
* Chapter 11 of the National Plan for the Promotion of Equal Opportunities for Persons with Disabilities 2015–2020 sets the obligation to introduce comprehensive rehabilitation. The government is however not able to fulfil this task; and it is necessary to add that this task is mentioned in all the strategic documents concerning disability issues since the mid-nineties. Currently the Ministry of Labour and Social Affairs is preparing another draft of a comprehensive rehabilitation system. Due to the fact that the draft is being discussed at the Ministry only, one cannot assume its adoption during this electoral term. The fundamental condition for the functionality of the system – the way of funding – is missing. The Czech Republic does not have any public system of accident insurance, the means of which could be used to finance comprehensive rehabilitation.

**Questions:**

* **How will the Czech Republic ensure the right to comprehensive rehabilitation to its citizens, as stated in the UN CRPD and other European and Czech documents?**
* **Is the Czech Republic willing to introduce such accident insurance that would enable to fund a comprehensive rehabilitation system?**

**Art. 27 – Work and employment (art. 27)**

*The Committee notes with concern the high unemployment rate of persons with disabilities and the fact that the unemployment rate of women with disabilities is higher than that of men with disabilities. Furthermore, the Committee notes with concern that close to one third of employed persons with disabilities work outside the open labour market.*

***The Committee calls upon the State party to ensure the same wage for all persons with disabilities, regardless of their disability classification. It also urges the State party to develop measures, intensify efforts and allocate sufficient resources to promoting the employment in the open labour market of persons with disabilities, especially women.***

**Comment:**

* It was through the effort of the Czech National Disability Council that the Czech government decided that, starting from 1 January 2017, the minimum wage and guaranteed income would be the same for all, including persons with disabilities regardless of their disability classification.
* Equal rights are not ensured in the case of the register of job seekers. Persons who were granted the “third disability degree“ cannot be registered as job seekers at the Labour Office and are excluded from the labour market. They can be registered as “interested for work” which is a substantially lower status.
* The number of persons with disabilities registered as unemployed at the Labour Office is a little less than 40,000. The total number of registered job seekers in the Czech Republic is about 240,000 persons. The general unemployment rate in the Czech Republic is 3 %. This means that the unemployment rate of persons with disabilities is significantly higher.
* Employment support for persons with disabilities is very unequal. In the case of the so-called protected labour market, state support is much higher compared to the open labour market. About 35,000 persons with disabilities are employed in the protected labour market (sheltered workshops with more than 50 % employees with disabilities). The public budget invests almost 7 billion Czech crowns for this group of employees.

**Questions:**

* **When will the Czech Republic end discrimination of persons with the “third disability degree” when registering as job seekers?**
* **How will the Czech Republic eliminate discrimination in the employment support for persons with disabilities in the open labour market?**

**Art. 28 – Adequate standard of living and social protection**

*The Committee notes with concern that Act No. 329/2011 Coll. on the Provision of Benefits to Persons with Disabilities has led to factual revision of the spectrum of benefits, the purpose thereof and the group of persons to be provided the benefits (see CRPD/C/CZE/Q/1/Add.1, para. 152). That has had an adverse effect on the enjoyment of the rights to an adequate standard of living and to social protection of persons with disabilities, including boys and girls with disabilities.*

***The Committee calls upon the State party to review the legislation on the provision of benefits to persons with disabilities, with genuine participation of persons with disabilities, to reintroduce the additional social allowance in order to bring the standard of living of families with children with disabilities above the subsistence level. The State party should also broaden the range of and facilitate access to assistive devices for children with disabilities, regardless of age.***

*The Committee notes with concern that a number of disability pension beneficiaries 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.*

***The Committee calls upon the State party to revise its legislation on disability pension beneficiaries and the newly established method of calculating the relevant period from the beginning of disability until the entitlement of retirement pensions, as it has resulted in the amount of the pension received by persons with disabilities at the third level being below the minimum subsistence level.***

Comment:

* Currently the determination of a disability degree and of the degree of reliance on care totally depends on expert medical assessment. The system of the medical assessment service in the Czech Republic deteriorates constantly in the long term; and in the last few years it is literally collapsing. Each year there are fewer and fewer doctors authorized to do medical assessments and their average age is far beyond the retirement age. Now it is absolutely clear that it is not possible any more to revitalize the medical assessment service in any way, due to the absolute lack of interest of doctors in this profession. The necessary time for preparing an assessment is prolonging constantly, and long ago they exceed the official deadlines and tolerable duration. The applicant quite often waits for an assessment six months or even longer. The quality of the prepared assessments is deteriorating as well.
* Due to the above mentioned reasons, it is necessary that the Czech Republic introduces a completely different system of disability assessment. It would be appropriate to introduce a multidisciplinary assessment where the state of health of the applicant would be assessed by his or her general practitioner, medical specialist, occupational therapist and social worker. In the case of some of the benefits, it would be fully sufficient and suitable to entrust the occupational therapist to make the assessment – he/she would proceed from the medical reports of the applicant’s attending physicians and social worker. Such system is much more flexible and accurate than the current one. However, such change would require a larger number of trained occupational therapists – currently, they are not even able to meet the requirements for occupational therapy treatment.
* A real revision of the spectrum of benefits restricted by the Act No. 329/2011 Coll. on the Provision of Benefits to Persons with Disabilities has not been realized. Similarly, the range of assistive devices has remained the same, despite the recommendation of the UN CRPD Committee to broaden it – even in the case of children with disabilities where the Concluding observations on the initial report of the Czech Republic put a special emphasis. Merely partial changes have been done in the form of a moderate increase of certain benefits; however their range has not undergone any extension.
* Similarly, no benefit has been introduced to compensate the decrease of income level of a large number of families, instead of the abolished ‘additional social allowance’. The income of many families with children with disabilities is just above the subsistence level. Such situation is hardly sustainable in the long term. We believe that the State should ensure some financial stability of these families through a special benefit. The ‘additional social allowance’ took into account the age and gravity of the child’s state of health in three degrees, and also the most severe disability degree of the parents.
* The Czech Republic did not take notice of the observation of the Committee that many beneficiaries of disability pension of the 1st and 2nd degree will not have the right to retirement pensions as the period during which they receive a disability pension is not included in the insurance period. When these people reach the retirement age, they will either receive a pension amounting to the valorized existing degree of disability pension or, if the pension is taken away, they will not have the right to any pension and they will be entitled only to benefits, such as poverty allowance.
* The recommendation of the Committee to “revise the newly established method of calculating the relevant period from the beginning of disability until the entitlement of retirement pensions, as it has resulted in the amount of the pension received by persons with disabilities at the third level being below the minimum subsistence level” remained without any effective response. This situation holds for beneficiaries of the disability pensions in the 1st and 2nd degree as well.

**Questions:**

* **In what way will the Czech government legislatively shorten the period for drawing up the medical assessment?**
* **When will the Czech Republic increase the number of students in the subject of specialized occupational therapist – to help introduce a new disability assessment system?**
* **Is the Czech government considering a change of the disability assessment into a completely new system in which the doctors authorized to do the medical assessment would not figure anymore?**

**Art. 29 – Participation in political and public life**

*The Committee is concerned that, under the new Civil Code and election legislation, persons with disabilities with restricted legal capacity may be denied the right to vote or to stand for election, or vote at referendums. The Committee is also concerned that election materials are reportedly rarely accessible to blind persons or to persons with intellectual disabilities, that polling stations are often not physically accessible, and that ballots may not be accessible to blind persons.*

***The Committee recommends that the State party amend the relevant laws so that all persons with disabilities can enjoy the right to vote and stand for election, regardless of guardianship or other regimes. It also recommends that the State party ensure, through legislative and other measures, the accessibility of ballots and election materials, and of polling stations.***

Comment:

* As active and passive voting rights are concerned, it is still possible to restrict a disabled person from exercising these rights. Thanks to the statistics of the Ministry of Justice, we currently know the number of cases of restrictions of legal capacity on voting rights. Published data showed that in 2017 the courts limited the voting right to 1,920 people[[13]](#footnote-13). Unfortunately, the total number of people with limited capacity to exercise their right to vote is currently unknown.
* In relation to the right to vote, the unifying position of the Supreme Court's Civil and Commercial College (2017) on the possibility of a court to restrict the authority to exercise the right to vote has undoubtedly played a role. The Ministry of the Interior asked the Supreme Court for an opinion on the role of the judge on the limitation of legal capacity in the exercise of the right to vote, because the decisions of the general courts were diverse and the electoral authorities were not clear how to proceed. The opinion was issued in February 2017, and the Supreme Court states that in guardianship proceedings "the court is also entitled to decide whether the person under review can be restricted in the exercise of his/her right to vote"[[14]](#footnote-14).
* The material was criticized by Human Rights organizations[[15]](#footnote-15) for violating Article 29 of the Convention on the Rights of Persons with Disabilities. One Supreme Court judge also issued a different opinion[[16]](#footnote-16) stating why "for the reasons mentioned above, I am convinced that according to the applicable law, the courts are not entitled to make decisions about the limitation of a person's right to exercise the right to vote."
* While this opinion united the practice and clarified how Court decisions should be made, it sets out clearly the conditions for limiting the right to vote. By taking this position, the Supreme Court however, did not take the opportunity to unify the practice in line with the CRPD and confirmed the non-compliance of this practice with article 29 stipulating that the right to vote can be restricted in the case of limited legal capacity.
* In 2018, there was a little step in the accessibility of elections for people with cognitive disabilities. The Ministry of the Interior for the first time in cooperation with Inclusion Czech Republic prepared materials for the elections to the municipal councils[[17]](#footnote-17) and the Senate[[18]](#footnote-18). Unfortunately, the materials were distributed only through non-profit organisations’ channels[[19]](#footnote-19) and not through the Ministry's channels. Meanwhile, this was a one-time cooperation, but such materials could be published for further elections, especially for the upcoming European elections.

**Question:**

* **When will the government remove the last legal barrier for people, so that the electoral laws will allow people with limited legal capacity to have the right to vote and allow all citizens to participate in elections?**
* **What are the government plans to ensure the accessibility of the election process, mainly electoral materials (ballot papers and electoral materials)?**

1. Paragraph 11 of the Regulation (EC) No 1371/2007 of the European Parliament and of the Council on rail passengers’ rights and obligations stipulates furthermore: “*Railway undertakings and station managers should take into account the needs of disabled persons and persons with reduced mobility, through compliance with the TSI for persons with reduced mobility, so as to ensure that, in accordance with Community public procurement rules, all buildings and rolling stock are made accessible through the progressive elimination of physical obstacles and functional hindrances when acquiring new material or carrying out construction or major renovation work.*” [↑](#footnote-ref-1)
2. The English version of the National Plan is available at: <https://www.vlada.cz/cz/ppov/vvzpo/dokumenty/narodni-plan-podpory-rovnych-prilezitosti-pro-osoby-se-zdravotnim-postizenim-na-obdobi-2015-2020-130992/> [↑](#footnote-ref-2)
3. Page 30 of the National Plan. [↑](#footnote-ref-3)
4. Statistics are available at: <https://www.justice.cz/web/msp/civilni-legislativa?clanek=opatrovnicka-agenda> [↑](#footnote-ref-4)
5. Page 7 of the document of the Ministry of Justice “Rozhodování o svéprávnosti: Statistická data z období 2014 – 2016 s komentářem”, 2018 (*Decisions on legal capacity: commented statistical data from 2014\_2016)*, published in 2018 available at: <https://www.justice.cz/documents/12681/724488/Zpr%C3%A1va+ke+sv%C3%A9pr%C3%A1vnostem_final_pro+web.pdf/82964de5-60af-4a24-bb78-ba6c0ed48586> [↑](#footnote-ref-5)
6. Page 10 op. cit. [↑](#footnote-ref-6)
7. Page 12 op. cit. [↑](#footnote-ref-7)
8. Pages 14, 18 and 20 op. cit. [↑](#footnote-ref-8)
9. The maps with the information are available at: <https://www.justice.cz/documents/12681/724488/Zpr%C3%A1va+ke+sv%C3%A9pr%C3%A1vnostem_final_pro+web.pdf/82964de5-60af-4a24-bb78-ba6c0ed48586> [↑](#footnote-ref-9)
10. See Milena Johnová, Dana Kořínková & Jan Strnad, *Právní případy zaměřené na vrácení svéprávnosti a využití podpory při rozhodování*, QUIP 2017, (Legal Cases restoring legal capacity and using supported decision-making, QUIP, 2017) available at: <https://www.umluva.cz/res/archive/000151.pdf?seek=1503304657> [↑](#footnote-ref-10)
11. Page 16 op. cit. The Analysis includes 33 Court decisions that are representatives of the cases that other DPOs and NGOs deal with on a daily basis when providing support for people with intellectual disabilities in the field of legal capacity and supported decision-making. [↑](#footnote-ref-11)
12. Here are some of the cases by the Public Defender of Rights available online: <https://eso.ochrance.cz/Nalezene/Edit/368>, <http://eso.ochrance.cz/Nalezene/Edit/6230>, <http://eso.ochrance.cz/Nalezene/Edit/5848>, <https://eso.ochrance.cz/Nalezene/Edit/3882> [↑](#footnote-ref-12)
13. Ministry of Justice of the Czech Republic, 2018, the statistics can be found per year in the following table: <https://cslav.justice.cz/InfoData/prehledy-statistickych-listu.html> [↑](#footnote-ref-13)
14. <http://www.nsoud.cz/Judikatura/judikatura_ns.nsf/WebSearch/1C9E8AD9ABF63AD0C12580C9001FC91E?openDocument&Highlight=0>, [↑](#footnote-ref-14)
15. See <https://plus.rozhlas.cz/soudy-mohou-omezit-volebni-pravo-postizenych-zklamani-rika-reditelka-organizace-6523299> [↑](#footnote-ref-15)
16. See at the end of the Supreme Court position the different opinion of the judge Walter <http://www.nsoud.cz/Judikatura/judikatura_ns.nsf/WebSearch/1C9E8AD9ABF63AD0C12580C9001FC91E?openDocument&Highlight=0>, [↑](#footnote-ref-16)
17. See <http://www.spmpcr.cz/wp-content/uploads/delightful-downloads/2018/09/Informa%C4%8Dn%C3%AD-let%C3%A1k-obce-final-1.pdf> [↑](#footnote-ref-17)
18. See <http://www.spmpcr.cz/wp-content/uploads/delightful-downloads/2018/09/Informa%C4%8Dn%C3%AD-let%C3%A1k-Sen%C3%A1t-final-1.pdf> [↑](#footnote-ref-18)
19. See <http://www.spmpcr.cz/informacni-letaky-k-volbam/> [↑](#footnote-ref-19)