



**SUGGESTIONS FOR DISABILITY-RELEVANT RECOMMENDATIONS TO BE INCLUDED IN THE CONCLUDING OBSERVATIONS OF THE COMMITTEE AGAINST TORTURE 48<sup>th</sup> SESSION (7 May - 1 June 2012)**



## **INTRODUCTION**

The **European Network of (Ex-) Users and Survivors of Psychiatry (ENUSP)** is the grassroots, independent representative organisation of mental health service users and survivors of psychiatry at a European level. ENUSP's members are regional, national and local organisations and individuals across 39 European countries. Since its foundation in 1991, ENUSP has campaigned for the full human rights and dignity of mental health service users and survivors of psychiatry and the abolition of all laws and practices that discriminate against us. ENUSP is currently a consultant to the European Commission, the European Union Fundamental Rights Agency, and the World Health Organization-Europe. ENUSP is a member of European Disability Forum (EDF) and European Patients' Forum (EPF) and part of the World Network of Users and Survivors of Psychiatry (WNUSP). Through WNUSP, our members were active in the drafting and negotiation of the UN Convention on the Rights of Persons with Disabilities.

**European Disability Forum (EDF)** is an umbrella organization representing the interests of over 80 million Europeans with disabilities. EDF brings together federations of national councils of persons with disabilities in 29 European countries, and European disability-specific NGOs, including ENUSP. The work of EDF is based on the principles protected in the UN Convention on the Rights of Persons with Disabilities and aims to ensure all disabled Europeans the right to full inclusion, equality and accessibility.

This submission is also endorsed by the Center for the Human Rights of Users and Survivors of Psychiatry (CHRUSP) and the Pan-African Network of People with Psychosocial Disabilities (PANUSP).

With this joint submission, ENUSP and EDF seek to draw the Committee's urgent attention to ongoing acts of cruel, inhuman and degrading treatment and torture being perpetuated against people diagnosed as mentally ill in the Czech Republic. These acts include the entrapment of these people in net cage beds in places where they are deprived of their liberty, such as psychiatric institutions, hospitals and clinics. There are many disturbing reports that these persons are also (sometimes simultaneously) subjected to other violent and discriminatory acts in medical "protection" and "care" settings. In particular, people in psychiatric settings continue to experience bed strapping, manacles, forced and excessive drugging, extremely unhygienic conditions and severe physical neglect. Furthermore, they are targeted for solitary confinement and indefinite detention and institutionalisation against their will.

All such practices are an affront to human rights and dignity. They are deeply traumatizing and damaging and sometimes fatal for the individuals concerned. They are also in flagrant contravention of international human rights standards, as articulated by the UN Special Rapporteur for Torture and the UN Committee on the Convention on the Rights of Persons with Disabilities.<sup>1</sup> These standards are fully binding on the Czech Republic, which has ratified numerous international instruments, including the Optional Protocol of the Convention against Torture and the UN Convention on the Rights of Persons with Disabilities.

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<sup>1</sup> *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Concluding Observations of the Committee on the Rights of Persons with Disabilities on Tunisia; 5th session 11-15 April*

## FACTS

In late January 2012, the European Network of (Ex-) Users and Survivors of Psychiatry (ENUSP) learned of the suicide of a woman in a cage bed at Dobřany psychiatric clinic near Plzeň in the Czech Republic.

According to reports in the Czech press, the 51-year-old woman hanged herself in the net cage on the morning of January 20, 2012. She had been locked inside just hours earlier after being reported “listless”. A security camera above the cage transmitted continuous images to the nurses’ station, but no staff member intervened as the woman took her own life.<sup>2</sup>

We are aware that at least five other people have met unexpected, unnatural and violent deaths while being restrained in cages in Czech psychiatric wards in recent years.<sup>3</sup> In 2006, 30-year-old Vera Musilova was found dead in a cage in Prague’s largest hospital Bohnice after she choked on her own faeces. She had been caged continuously for two months, and was naked, dehydrated, and dirty, with her head shaven.

ENUSP Deputy Board member Michal Caletka, a survivor of psychiatric caging has described the inside experience of this torture, which he endured in a clinic in Brno, Czech Republic:

*“This second time, I was brought there, more or less, involuntarily by some of my family members. The clinic’s staff made me sign the voluntary admission, because it was beneficial to them for sure (no headaches with any legal processing) as well as to me as they described the situation to me.*

*They blocked the doors and there I was just calmly sitting, waiting... Before I had realized what happened, I was taken down by a bunch of staff, the security officers included, harshly injected with some kind of tranquilizer and wound up in a cage (cage bed – a regular sized bed with netting or metal bars all around and above it locked with a padlock) entirely confused, hopeless, helpless. I thought back then that they were trying to get rid of me... plus the injected stuff kicked in and with all these thoughts and emotions I was getting unconscious or worse... I was locked there for around 10 days.*

*The only thing I remember was that they frequently opened the cage and injected me again and again and because I was blanked out, I just woke up to take a leak through the bars...The whole time, at least when I needed something, there was nobody around and even the door of the room was constantly closed, except other patients staring at you through the door’s window – very humiliating. I lost back then around 7 kilos and was so thirsty, I even attempted to wet my cracked lips with my own urine. Despite all this, I managed to open the cage bed and run away a couple of times, but no farther than to the nearest locked door, where I collapsed... I felt, it was truly a poker game with death, I have to admit, I felt it kind of close...”<sup>4</sup>*

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<sup>2</sup> <http://praguemonitor.com/2012/01/26/pr%C3%A1vo-mental-hospital-patient-strangles-herself-caged-bed>

Aside from press releases from ENUSP and several NGOs and human rights organisations, this is the sole English language report that appeared regarding the case. ENUSP provides links to Czech language materials about the case at the end of this submission.

<sup>3</sup> [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(06\)68824-7/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(06)68824-7/fulltext)

<sup>4</sup> Personal testimony provided to ENUSP regarding detention, forced treatment and caging in a Brno psychiatric clinic circa 2000. Please see also: [http://news.bbc.co.uk/2/hi/programmes/crossing\\_continents/3873123.stm](http://news.bbc.co.uk/2/hi/programmes/crossing_continents/3873123.stm). We ask the Committee also to take note of the manner in which consent was procured for this “voluntary” admission. ENUSP understands the process described here highlights a common practice in the Czech Republic (source: Russo J. (2008) Consultation with service users: Focus groups report of the ITHACA project (Institutional Treatment, Human Rights and Care Assessment, [www.ithaca-study.eu](http://www.ithaca-study.eu)); unpublished)

Over the last decade, the Czech Republic has attracted outrage from the international human rights community for the country's continued use of caging on people with disabilities, in particular children. In response, the Czech government undertook to ban metal cage beds at the time of its EU accession in 2004. The country later enacted legislation prohibiting the use of cage and net beds in social services facilities. There is evidence, however, to suggest that this ban has not been respected; this includes photos and video recordings by undercover BBC reporters showing the ongoing use of cage beds in a Czech children's home one year after the ban took effect.<sup>5</sup> In addition, the Czech Republic continues to condone the use of net cages in psychiatric facilities, an exemption that is highly discriminatory and an effective licence to carry out torture.

## CONCERNS

ENUSP and EDF deplore the artificial distinction between 'metal cage' and 'net cage' beds that has been introduced by the Czech government. We wish to inform the Committee that net beds are small cages (metal constructions with fish-netting hung around them) for the entrapment of human beings. These cages are unsanitary, unsafe and extremely degrading; the people locked inside them do not have basic toilet access. We insist that both varieties of cages are equally serious violations of human dignity and the right to be free from torture and inhuman and degrading treatment.

We are further concerned that Czech psychiatric clinics continue to make open use of other violent, forced and non-consensual treatments on people in their care. This is despite the existence of alternative, internationally proven approaches that are respectful of human rights and dignity.<sup>6</sup> After the death at Dobřany hospital this year, prominent psychiatrists, including the head of Protective Treatment at Prague's largest psychiatric hospital Jiří Švarc, spoke of cages in the press as "one of the mildest forms of restraint"<sup>7</sup> The general consensus among these professionals is that physical and chemical restraints are essential and irreplaceable. These reports suggest that staff will resort to even more severe and reckless restraint techniques if caging is banned.<sup>8</sup>

ENUSP and EDF believe there is now an urgent need to remind the Czech government of its binding human rights obligations with respect to persons with psychosocial disabilities. Commenting last year on the continued use of "caged beds and other restraints" to keep persons with disabilities "under control" in a number of Council of Europe Member States, the then Human Rights Commissioner Thomas Hammarberg said:

*"Too little has been done to prevent this and other kinds of abuse and inadequate care in institutions, hidden from public scrutiny. There is an atmosphere of impunity surrounding these violations."<sup>9</sup>*

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<sup>5</sup> <http://news.bbc.co.uk/2/hi/europe/7181854.stm>

<sup>6</sup> Many of these alternative support practices have been developed by or in close collaboration with users and survivors of psychiatry, who draw on their lived experiences of human rights violations. See, for example, Jolijn Santegoeds, Stichting Mind Rights, *Breaking the Cells Down: A First step towards de-institutionalization of Mental Health Care – Report for Global Forum on Community Mental Health* (2007); Marc Rufer, *Psychiatry: Its Diagnostic Methods, Its Therapies, Its Power*, in Peter Lehmann (Ed) *Alternatives Beyond Psychiatry* (2007); contributions of survivors to *In Their Own Words, Maine Trauma Advisory Groups Report* (1997).

<sup>7</sup> [http://www.rozhlas.cz/zpravy/spolecnost/\\_zprava/psychiatr-sitova-luzka-jsou-mirnym-omezovacim-prostredkem--1009237](http://www.rozhlas.cz/zpravy/spolecnost/_zprava/psychiatr-sitova-luzka-jsou-mirnym-omezovacim-prostredkem--1009237)

<sup>8</sup> Anecdotal evidence from Hungary bears out this fear. Hungarian staff habituated to caging psychiatric patients proceeded to use "permitted" violence, such as chemical and physical restraints, with even greater recklessness following the enactment of a ban on cage beds there.

<sup>9</sup> [http://commissioner.cws.coe.int/tiki-view\\_blog\\_post.php?postId=93](http://commissioner.cws.coe.int/tiki-view_blog_post.php?postId=93)

## INTERNATIONAL STANDARDS<sup>10</sup>

Caging, and other forced and coerced psychiatric interventions have been recognized as a form of torture and ill-treatment, not only when administered for purposes of political repression, but also when used with the best of intentions to treat a diagnosed mental condition.

In 2008 the UN Special Rapporteur on Torture, adopting a concept pioneered by the World Network of Users and Survivors of Psychiatry<sup>11</sup>, articulated a standard for distinguishing between legitimate medical treatments that cause pain and suffering, and those that may constitute torture or ill-treatment:

Whereas a fully justified medical treatment may lead to severe pain or suffering, medical treatments of an intrusive and irreversible nature, when they lack a therapeutic purpose, or aim at correcting or alleviating a disability, may constitute torture and ill-treatment if enforced or administered without the free and informed consent of the person concerned.<sup>12</sup>

The report contains numerous references to forced psychiatric interventions including electroshock, mind-altering drugs such as neuroleptics, and psychosurgery, as well as indefinite detention and institutionalization, restraint and seclusion as practices that may constitute torture or ill-treatment.<sup>13</sup> It also recognizes that older human rights standards contained in non-binding declarations, such as the Principles for the Protection of Persons with Mental Illness (known as the MI Principles), had accepted the legitimacy of involuntary treatment and involuntary confinement, and that such standards run counter to the provisions of the Convention on the Rights of Persons with Disabilities, which now takes precedence as international law throughout the UN system.<sup>14</sup>

The Czech Republic ratified the UN Convention on the Rights of Persons with Disabilities in 2009 and OPCAT in 2010.

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<sup>10</sup> This section of our submission is slightly adapted from a paper authored by Tina Minkowitz, Esq. of the World Network of Users and Survivors of Psychiatry. It is entitled "Submission for Joint CEDAW-CRC General Recommendation/ General Comment on Harmful Practices: Recognizing Forced and Coerced Psychiatric Interventions Against Women, Men and Children as a Harmful Cultural Practice" and can be found at [www.chrusp.org](http://www.chrusp.org).

<sup>11</sup> Summary of World Network of Users and Survivors of Psychiatry's desired changes to Bangkok draft convention (submitted to ESCAP regional meeting 14-17 October 2003); International Disability Caucus Advocacy Note: Forced Interventions Meet International Definition of Torture (submitted to Ad Hoc Committee 6<sup>th</sup> session, August 2006); Tina Minkowitz, The United Nations Convention on the Rights of Persons with Disabilities and the Right to be Free from Nonconsensual Psychiatric Interventions, *Syracuse Journal of International Law and Commerce* 2007 34:405.

<sup>12</sup> U.N. Doc. A/63/175, paragraph 47

<sup>13</sup> *Id.*, paragraphs 38, 40, 41, 55-59, 61-65. See also paragraphs 49-50 for elaboration of discrimination as unlawful intent, and deprivation of legal capacity as imposed powerlessness. See paragraphs 71-76 for recommendations.

<sup>14</sup> *Id.*, paragraph 44

## RECOMMENDATIONS FOR CONCLUDING OBSERVATIONS TO THE CZECH REPUBLIC

ENUSP and EDF respectfully ask the Committee to alert the government of the Czech Republic of the need to immediately:

1. Impose a total ban on any use of net or metal cage beds in psychiatric hospitals and institutions and any other places where people with psychosocial disabilities are deprived of their liberty;
2. Put in place transparent and efficient monitoring mechanisms and introduce severe criminal sanctions for any use of net or metal cage beds;
3. Impose a total ban on all other violent, forced and non-consensual psychiatric procedures, such as any physical restraints (e.g. manacles, bed and wall-strapping), forced and involuntary drugging and electroshock and solitary confinement. None of these practices is an acceptable alternative to caging;
4. Impose a total ban on the involuntary detention of any persons on the grounds of a (perceived) disability, including a psychiatric diagnosis. The Czech government must take steps to ensure that mental health interventions take place only based on the free and informed consent of the person concerned, where this consent is given in a genuine (non-coerced or manipulated) manner, must be re-sought for each separate treatment act, and may be revoked at any time;
5. Implement a comprehensive training programme to familiarise all staff in psychiatric settings with approaches to care that are non-violent, non-coercive and compliant with international human rights standards, and with their legal duty to observe those standards. This must be accompanied by transparent and efficient monitoring of staff practices, with severe criminal sanctions for persons and facilities that engage in torture or human rights abuses;
6. Take quick and demonstrable steps to end the institutionalisation of persons with psychosocial disabilities and close down large residential institutions, where persons are subjected to grave human rights violations, including inhuman and degrading treatment; and
7. Step up efforts to develop community-based support services for people with psychosocial disabilities, ensuring those services are fully respectful of the autonomy, will and informed choices of the person concerned. These supports should be developed in close co-operation with people with psychosocial disabilities and their representative organisations.

### References:

ENUSP press statement on recent death of woman kept in net cage bed at Dobřany psychiatric clinic at:

[http://dl.dropbox.com/u/5351397/ENUSP\\_PRESS\\_RELEASE\\_ENG\\_FEB%202012%20%281%29.pdf](http://dl.dropbox.com/u/5351397/ENUSP_PRESS_RELEASE_ENG_FEB%202012%20%281%29.pdf)

For Czech language reports, including photo evidence, see: [http://www.tyden.cz/rubriky/domaci/pacientka-](http://www.tyden.cz/rubriky/domaci/pacientka-lecebny-se-obesila-na-sitovem-luzku_223512.html)

[lecebny-se-obesila-na-sitovem-luzku\\_223512.html](http://www.tyden.cz/rubriky/domaci/pacientka-lecebny-se-obesila-na-sitovem-luzku_223512.html) and

[http://www.rozhlas.cz/zpravy/spolecnost/\\_zprava/psychiatr-sitova-luzka-jsou-mirnym-omezovacim-prostredkem-1009237](http://www.rozhlas.cz/zpravy/spolecnost/_zprava/psychiatr-sitova-luzka-jsou-mirnym-omezovacim-prostredkem-1009237)

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