

# My Home, My Choice in the Czech Republic

The right to community living for  
people with mental disabilities in 2014



# My Home, My Choice in the Czech Republic

The right to community living for  
people with mental disabilities in 2014



Copyright statement: © Mental Disability Advocacy Center (MDAC), 2014. All rights reserved.

ISBN: 978-615-80107-1-9

Supported [in part] by a grant from the Open Society Foundations.

September 2014

# Contents

Introduction.....	4
A. Acknowledgments.....	5
<b>Recommendations to the Czech government</b> .....	6
A. Community living and choice.....	6
B. Access to individualised support services.....	6
C. Access to mainstream services.....	6
D. Transition from institutions to the community.....	7
E. Access to justice, monitoring and public awareness.....	7
<b>Scorecard</b> .....	8
<b>Cluster 1: Community living and choice</b> .....	12
Indicator 1(A): How many people with mental disabilities live in institutions?.....	12
Indicator 1(B): What housing options are available for people with mental disabilities?.....	13
Indicator 1(C): Are there limits or a moratorium on new admissions to institutions?.....	14
Indicator 1(D): Does the law respect the choices of people with disabilities about where and with whom they live and which services they receive?.....	14
Indicator 1(E): Can people with mental disabilities enter into contracts and agreements for disability-related supports, credit agreements to purchase housing, rental or other housing agreements?.....	14
Indicator 1(F): Do people with disabilities have access to support to enable them to make decisions about where and with whom they live or what support services to access?.....	15
Indicator 1(G): Can people with mental disabilities access effective mechanisms if they want to complain about their right to live in the community?.....	15
<b>Cluster 2: Access to individualised support services</b> .....	16
Indicator 2(A): Are personal budgets available which enable people with mental disabilities to choose the appropriate support they need to live in the community?.....	16
Indicator 2(B): Is personal assistance available that can support people with mental disabilities to remain and live in the community?.....	16
Indicator 2(C): Is assistance available to people with mental disabilities to access funding or other support services?.....	17
Indicator 2(D): Is support available to families of people with mental disabilities? Examples include benefits, remuneration of family members for providing personal assistance, and day care.....	17
Indicator 2(E): Are day services provided that can support people with mental disabilities to stay in the community?.....	17
Indicator 2(F): Does the government manage its budget in a way which advances the right of people with disabilities to live in the community?.....	18
<b>Cluster 3: Access to mainstream services</b> .....	19
Indicator 3(A): Do people with mental disabilities get access to mainstream education? Is it inclusive and responsive to their individual needs?.....	19
Indicator 3(B): Do people with mental disabilities get access to mainstream employment? Is the employment system sufficiently inclusive?.....	20
<b>Cluster 4: Transition from institutions to the community</b> .....	21
Indicator 4(A): Is there a satisfactory national community living strategy?.....	21
Indicator 4(B): Are there pilot projects on community living? Are they effective and inclusive enough?.....	22
<b>Glossary</b> .....	24

## Introduction

The Czech Republic has undergone significant changes in recent decades, and particularly since the dissolution of Czechoslovakia. Despite rapid development in the economy, membership of the European Union and alignment with European legal norms, large numbers of people with mental disabilities<sup>1</sup> continue to be segregated in institutions. There are positive signs of change, including the enactment of a new Civil Code this year which substantially reformed guardianship in the country. Yet, progress remains slow and the government has done little to address the right to community living for people with mental health issues in particular.

In 2009, the Czech government ratified the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), signalling a new era for almost half a million Czech citizens with disabilities. By doing so, the Czech government voluntarily accepted a legal obligation to ensure that all people with disabilities are supported to live independently in the community. Yet, the progress of closing institutions has been slow, despite clear evidence of the abusive nature of some institutions.<sup>2</sup> The Czech Public Defender of Rights pointed out that people with intellectual disabilities who should have been moved out of social care institutions have instead been placed in psychiatric institutions, subjected to regimes of 'protective treatment',<sup>3</sup> and making a mockery of official 'deinstitutionalisation' plans.

The government has undoubtedly taken some promising steps to advance the rights of people with mental disabilities. The National Plan for the Equalisation of Opportunities for Persons with Disabilities 2010–2014 calls for the implementation of Article 12 of the CRPD on the right to legal capacity for people with disabilities.<sup>4</sup> The new Civil Code enhanced the right of people with disabilities to choose where they live in the community. However, the government could and should have gone further. Instead of abolishing guardianship, for example, the government chose to maintain a system of partial guardianship which can deny people with mental disabilities their parental rights,<sup>5</sup> marital rights<sup>6</sup> and the right to vote and stand for elections,<sup>7</sup> among others.

Before ratification of the CRPD, the Czech government committed itself to deinstitutionalisation and the transformation of residential social care services with the adoption of a transformation strategy. Despite the progressive ideals of the plan,<sup>8</sup> very few people with mental disabilities have been enabled to live independently in the community. Only the residents of 40 institutions were identified as being beneficiaries of the project, and people in psychiatric institutions were not included.

In respect of the development of community-based services, many promising practices exist across the country, however these tend to be localised and not available in many parts of the country, particularly outside of urban conurbations. Resources, however, are not the key barrier to extending these services. Rather, the Czech government continues to spend significantly more money on maintaining institutions rather than taking steps to divert this to community-based provision. This is a conscious choice made by policy makers, but which contradicts the letter and spirit of Article 19 of the CRPD. One clear step the government could take would be to earmark all future EU funds only to develop community-based services.

---

<sup>1</sup> We use the term 'people with mental disabilities' to refer to people with intellectual disabilities and people with mental health issues. For a more detailed description, please see *Glossary*.

<sup>2</sup> Manfred Nowak, Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/63/175, 28 July 2008, para. 38.

<sup>3</sup> Public Defender of Rights, *Annex to the Report of the Public Defender of Rights for the Fourth Quarter of 2009, Placement and Stays of Mentally Disabled Persons in Mental Homes*, (Public Defender of Rights, 20 November 2010), 4, available at [http://www.ochrance.cz/fileadmin/user\\_upload/zpravy\\_pro\\_poslaneckou\\_snemovnu/Reports/2009\\_Q4\\_Annex.pdf](http://www.ochrance.cz/fileadmin/user_upload/zpravy_pro_poslaneckou_snemovnu/Reports/2009_Q4_Annex.pdf) (last accessed: 23 September 2014).

<sup>4</sup> Jan Šiška, "Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Czech Republic", Fundamental Rights Agency (FRA), (Prague: 31 August 2012), 57, available at [http://www.humanconsultancy.com/\\_layouts/15/WopiFrame.aspx?sourcedoc={F1A2D3C5-A196-41DB-AF24-709F0DD72510}&file=CZ\\_FRA\\_MH%20-%20final.doc&action=default](http://www.humanconsultancy.com/_layouts/15/WopiFrame.aspx?sourcedoc={F1A2D3C5-A196-41DB-AF24-709F0DD72510}&file=CZ_FRA_MH%20-%20final.doc&action=default) (last accessed: 23 September 2014).

<sup>5</sup> Article 868(2) of the Civil Code no. 89/2012 Coll.

<sup>6</sup> Article 673 of the Civil Code no. 89/2012 Coll.

<sup>7</sup> See the amendment to the election code provided by Law no. 58/2014.

<sup>8</sup> The aim of the project is to foster the human rights of users of social care services and to provide living conditions and a daily routine for people with disabilities that is identical to that of other people.

Practical change is not only hindered due to financing decisions, but reflects a lack of political will to engage with a comprehensive process of transformation. While there are some notable public voices supporting the right to community living,<sup>9</sup> stereotypes and misconceptions about people with mental disabilities abound in the popular consciousness,<sup>10</sup> presenting a serious barrier to social inclusion. It is essential to develop open and welcoming environments if people with mental disabilities are to truly benefit from their right to live in the community.

The intention of this briefing is to provide civil society with evidence of the gap between what the government should be doing, and the lived reality of people with mental disabilities in the Czech Republic. There are a number of promising signs, particularly in relation to the development of individualised services, and some very innovative promising practices. Now is the time for high level, practical commitment to securing inclusion for all people with mental disabilities. It is hoped that the present analysis serves as a useful basis for monitoring progress, and holding the Czech government to account for its obligations towards people with mental disabilities in the country.

## Acknowledgments

MDAC is grateful to a number of people who provided information, assistance and guidance in the preparation of this briefing, and in particular:

**Zuzana Durajová**, Human Rights Leader, Liga - the League of Human Rights; MDAC Legal Monitor

**Milena Johnová**, Director, QUIP

**Maroš Matiaško**, Czech Lawyer and MDAC Legal Monitor

**Filip Rameš**, Human Rights and Discrimination Program Manager, Open Society Foundations, Prague

**Daniel Rychlík**, Head of the Department of Social Affairs, Moravskoslezsky Region

**Stanislava Správková**, Head of the Department of Social Affairs, Karlovy Vary Region

**Václav Štrunc**, Project Coordinator, Instand

**Barbara Méhes**, MDAC Legal Officer, lead on the research and drafting of the briefing. The content was guided and edited by **Steven Allen**, MDAC Advocacy and Communications Director, and **Oliver Lewis**, MDAC Executive Director.

---

<sup>9</sup> It should be noted that several local and regional politicians have publicly supported independent living in the community for people with disabilities, including current minister of social affairs, Michaela Marksová.

<sup>10</sup> For example, the construction of a group home in Nový Bor for 21 women with mental disabilities met with public opposition. The petition of local residents is available in Czech at [http://ceskolipsky.denik.cz/zpravy\\_region/postizene-zeny-maji-bydlet-jinde-vzkazuji-v-petici-novoborsti-20120809.html](http://ceskolipsky.denik.cz/zpravy_region/postizene-zeny-maji-bydlet-jinde-vzkazuji-v-petici-novoborsti-20120809.html) (last accessed: 23 September 2014).

## Recommendations to the Czech government

### A. Community living and choice

1. Adopt an immediate moratorium on new admissions to social care institutions in order to stop filling up vacancies. Instead, local governments should be required to find alternatives for each person on the waiting list.
2. Take further action to amend the Civil Code to abolished substituted decision-making and partial guardianship, and ensure that all persons with mental disabilities can access support to make decisions in law and practice.
3. Set a clear national timetable with a maximum time period of five years for the development of comprehensive and accessible community-based services to ensure that people with mental disabilities can live independently in the community. These services should be based on promising practices from pilot projects already in existence. Reforms should also include a focus on providing assistance to families and carers beyond the disability component of social benefits.
4. The national deinstitutionalisation strategy must be extended to cover all long-stay institutions in the country, including social care institutions, those housing children with mental disabilities, and psychiatric institutions.
5. Coordinate national and regional action on deinstitutionalisation and the abolition of guardianship through the designated Article 33(1) government focal point, and publish annual reports on progress made.
6. Abandon plans which use Czech and EU financing to renovate existing institutions, or to build new ones. Instead, use available funding to develop individualised community-based support services to the maximum extent possible.

### B. Access to individualised support services

1. Ensure that people with mental disabilities have equal access to a range of individualised services, including in-home support and assistance, and community mental health teams, which are in reach of all people with mental disabilities in the Czech Republic. This should inform national budgetary priorities, moving resources from institutions to the development of individualised support services.
2. Disability-based social benefits should be provided at a level which allows people with mental disabilities to choose from a range of personal and professional services. People with mental disabilities must have direct control of such benefits, and be able to access supports to decide how to use them.

### C. Access to mainstream services

1. Conduct accessibility assessments of mainstream public services (including schools, healthcare and employment support) with a specific view to identifying barriers for people with mental disabilities. The assessments should inform budgeted plans for reform which should be published.
2. End government support for sheltered work programmes for people with disabilities. Instead, develop, pilot and implement a national 'access to work' scheme specifically for people with mental disabilities, in collaboration with civil society and industry leaders. The focus should be on providing access to the mainstream employment market. Explore regulation and funding for the provision of reasonable accommodations in the workplace.
3. Legislate to create an effective right for parents and children with mental disabilities to be guaranteed reasonable accommodations to access mainstream education. 'Individual integration' should be abolished, and reforms to the education system should be made to make it inclusive of all children, including those with mental disabilities. Special schools should be closed, with specialised educational staff being transferred to support children in mainstream settings.

## D. Transition from institutions to the community

1. Develop a new, comprehensive national deinstitutionalisation strategy. The strategy should address the rights of all people with mental disabilities to live independently in the community, including residents of social care institutions and people living in psychiatric hospitals. The new strategy should have a maximum five year timespan, and incorporate quantitative and qualitative indicators broken down into annual action plans.
2. The new strategy should contain a detailed analysis of the way in which government funding is currently spent on disability-based services (including institutions), and reallocate future funds away from financing institutions and towards funding community-based services. Annual reports should be made public on the way in which public finances are being spent.
3. Develop individualised transition plans for all people with mental disabilities currently living in institutions, building on the numerous promising practices already in existence in the Czech Republic. The plans must be clearly and explicitly based on the will and preferences of the person concerned. These plans should provide genuine options for living in the community, including in private or family accommodation, identify individualised supports required (and how they will be provided), and should have clear timeframes.

## E. Access to justice, monitoring and public awareness

1. Establish a legal right for people with disabilities to live independently in the community.
2. Ensure that effective and independent complaints mechanisms are made directly available to people with mental disabilities where their right to independent living in the community has been breached. This includes complaints about the failure to provide individualised services or community-living options, the way in which supporters or guardians exercise their powers, and failure to make mainstream services accessible.
3. Ensure that legal remedies are available directly to people with mental disabilities where independent complaints mechanisms have failed. The initiation of legal proceedings must never be determined by guardians or other substitute decision-makers.
4. Collect comprehensive disaggregated data - including statistical and research data - to ensure evidence-based policy and action by government authorities in advancing independent living in the community. The data collected should comply with the requirements of Article 31 of the CRPD and should be published on an annual basis, and identify:
  - a. Numbers of people with mental disabilities, including people with intellectual disabilities, people with mental health issues (psycho-social disabilities), age and gender breakdowns, etc.;
  - b. The numbers and types of accommodation they live in (institutional and community-based);
  - c. Full list of institutions, their size and capacity, breakdown of funding (including funding sources), admissions, and lengths of admissions and discharges;
  - d. The types of individualised services available, their geographical scope, funding, and how many people access them; and
  - e. Analysis of the numbers of people with mental disabilities who access mainstream services (including education, healthcare and employment assistance), and analysis of the funding of reasonable accommodations.
5. Implement a strategy to raise public awareness about the human rights of people with mental disabilities in conformity with Article 8, CRPD. The strategy must be clear on the concrete steps the government is going to take to reduce stigma and combat discrimination.
6. The criminal law should be amended to classify the targeting of a victim on the basis of their disability as a hate crime, and holding perpetrators accountable. Crime statistics should be reported annually on the prevalence of hate crime against people with disabilities, the investigation of allegations and their disposal.

## Scorecard

Article 19 of the UN Convention on the Rights of Persons with Disabilities (CRPD) guarantees the right of all persons with disabilities to live independently in the community. In turning this right into reality, Article 19 requires government to take action in four key areas:

1. To recognise and give real effect to the choices of people with disabilities about where and with whom they choose to live;
2. To ensure access to individualised support services for people with disabilities;
3. To ensure that mainstream services are accessible to people with disabilities;
4. To take concrete actions to close institutions which segregate people with disabilities.

The following table sets out four clusters of indicators which reflect these obligations.<sup>11</sup> Each indicator breaks down different elements of the right to community living, followed by a ‘measure’ in the form of a question. A conclusion for each indicator is provided, based on all the information made available. Indicators shaded red show that insufficient steps have been taken; those shaded orange show that there have been some promising steps but that more effort is required; green rows show that substantial and comprehensive action has been taken. More detailed explanations are provided for each indicator in the sections which follow.

---

<sup>11</sup> The indicators have been drawn from: Commissioner for Human Rights of the Council of Europe, “The right of people with disabilities to live independently and be included in the community”, 12 March 2012, CommDH/IssuePaper(2012)3, available at <https://wcd.coe.int/com.intranet.InstraServlet?command=com.intranet.CmdBlobGet&IntranetImage=2397433&SecMode=1&DocId=2076280&Usage=2> (last accessed: 23 September 2014).

### Cluster One: Community living and choice

The indicators in this cluster reflect the requirements of Article 19(a) of the CRPD which states:

Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement.

No.	Indicator	Measure	Conclusion
1(A)	People with mental disabilities are not required to live in institutions.	<i>How many people with mental disabilities live in institutions?</i>	Approximately 100,000 people with disabilities live in institutions. Disaggregated statistics are not made available by the Czech government.
1(B)	People with mental disabilities must get access to the same housing options that are available to the general population.	<i>What housing options are available to people with mental disabilities?</i>	For many people with mental disabilities, institutionalisation continues to remain the main form of housing made available. Some of these institutions are unregistered and unregulated.
1(C)	There should be a moratorium on new admissions to social care institutions.	<i>Are there limits or a moratorium on new admissions to institutions?</i>	No, there is no limit on new admissions to the Czech Republic's numerous residential institutions.
1(D)	The choices of people mental disabilities about where and with whom they live are recognised and validated by the law.	<i>Does the law respect the choices of people with disabilities about where and with whom they live and which services they receive?</i>	Recent reforms to the Civil Code have increased the recognition of the choices of people with mental disabilities, however their decisions can still be invalidated and there is a bias towards substituted decision-making.
1(E)	The law recognises the right of people with mental disabilities to enter contracts for accommodation and the use of social services.	<i>Can people with mental disabilities enter into contracts and agreements for disability-related supports, credit agreements to purchase housing, rental or other housing agreements?</i>	Some people with mental disabilities can enter into contracts, but these can be invalidated by third parties.
1(F)	People with mental disabilities can access support to choose where and with whom they live.	<i>Do people with disabilities have access to support to enable them to make decisions about where and with whom to live or what support services to access?</i>	The new Civil Code guarantees access to support for people with mental disabilities to make choices in their lives, but in practice this is not available to the majority.
1(G)	People with mental disabilities can challenge decisions made by others about where and with whom they live.	<i>Can people with mental disabilities access effective mechanisms if they want to complain about their right to live in the community?</i>	No effective legal mechanisms are available to people with mental disabilities to challenge a denial of their right to live in the community.

### Cluster Two: Access to individualised support services

The indicators in this cluster reflect the requirements of Article 19(b) of the CRPD which states:

Persons with disabilities have access to a range of in-home, residential and other support services, including personal assistance where necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community.

No.	Indicator	Measure	Conclusion
2(A)	People with mental disabilities have a personal budget enabling them to choose the support they need.	<i>Are personal budgets available which enable people with mental disabilities to choose the appropriate support they need to live in the community?</i>	Social benefits provide a contribution to care for people with disabilities with the intention of enabling them to choose the support they need, but in reality these benefits are frequently used to remunerate family members providing care.
2(B)	Personal assistance is provided to people with mental disabilities to support them to live in the community.	<i>Is personal assistance available to support people with mental disabilities to remain and live in the community?</i>	Personal assistance, day care services and support for independent living exist, however these are not available to all, particularly in rural areas.
2(C)	People with mental disabilities receive support to access funding or specialised support services.	<i>Is assistance available to people with mental disabilities to access funding or other support services?</i>	Personal assistance can provide support to people with mental disabilities to access funding or other specialised support, but this is not available to all.
2(D)	Financial and practical support is available to families and carers of people with mental disabilities.	<i>Is support available to families/carers of people with mental disabilities? Examples include benefits, remuneration of family members for providing personal assistance, and day care.</i>	Respite care and some financial support is available to families.
2(E)	Day services are provided for people with mental disabilities in a way which supports their inclusion in the community.	<i>Are day services provided that can support people with mental disabilities to stay in the community?</i>	Day care centres exist but they are underdeveloped in rural parts of the country.
2(F)	Government funding is used to develop community-based services rather than funding residential institutions.	<i>Does the government manage its budget in a way which advances the right of people with disabilities to live in the community?</i>	The Czech government continues to spend more on financing institutions than developing community-based services, including EU funds.

### Cluster Three: Access to mainstream services

The indicators in this cluster reflect the requirements of Article 19(c) of the CRPD which states:

Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

No.	Indicator	Measure	Conclusion
3(A)	People with mental disabilities are guaranteed access to education in mainstream and inclusive settings.	<i>Do people with mental disabilities get access to mainstream education? Is it inclusive and responsive to their individual needs?</i>	No. The majority of people with mental disabilities are educated in segregated schools and the government fails to make supports available for children with disabilities to be educated in mainstream schools.
3(B)	People with mental disabilities are supported to access the open labour market.	<i>Do people with mental disabilities get access to mainstream employment? Is the employment system sufficiently inclusive?</i>	No. The majority of people with mental disabilities are excluded from the labour market. Government schemes favour sheltered employment rather than access to the open labour market.

### Cluster Four: Transition from institutions to the community

The indicators in this cluster reflect the obligation of governments to take concrete steps to move away from congregate, institutional models of accommodating people with mental disabilities, towards supporting them to live independently in the community within a reasonable timeframe.

No.	Indicator	Measure	Conclusion
4(A)	The government has adopted a national community living strategy that effectively advances the right to live in the community for all people with mental disabilities.	<i>Is there a satisfactory national community living strategy?</i>	No. The current national strategy has a very limited scope and fails to advance the right to community living for the majority of people with mental disabilities.
4(B)	The government has undertaken pilot projects to develop models for moving people out of institutions and into the community.	<i>Are there pilot projects on community living? Are they effective and inclusive enough?</i>	Yes, there are a number of promising pilot projects which the Czech government should scale up.

## Cluster 1: Community living and choice

Most people take for granted their right to choose where and with whom they live. This right, however, is frequently denied to people with disabilities, and particularly those who have been placed under guardianship. Providing choice for people with disabilities in the living arrangements and the types of services provided is essential in empowering them to remain the masters of their lives. Living in the community means that people with disabilities can exercise autonomy in their lives just like other people. It means that they can have friends, go to the shops, and get a job – again, just like other people.

Indicators 1(A) and 1(B) identify where people with mental disabilities are required to live and the options currently made available to them in the Czech Republic. Indicator 1(C) looks at legal barriers to living in the community. Indicators 1(D), 1(E) and 1(F) look at whether the Hungarian legal and policy framework enables and supports people to choose where to live and what services they use. Indicator 1(G) looks at how people can complain about being in institutions or inadequate community services.

### **Indicator 1(A): How many people with mental disabilities live in institutions?**

#### Conclusion:

Over 110,000 people with disabilities live in institutions. There are no comprehensive disaggregated statistics on how many of these are people with mental disabilities.

#### Explanation:

According to a 2013 analysis by the Centre for Transformation there were 20,275 people with disabilities living in institutional social care settings, however this excluded services for elderly people.<sup>12</sup> A more recent analysis by the Czech Statistical Office found that there were 654 people with disabilities residing in 'week care centres', 12,949 residents of 'homes for people with disabilities', 5,362 people with disabilities living in 'homes for people with disabilities' and 1,310 people with disabilities in 'sheltered housing' (see *Glossary* for definitions). The study also noted that 35,500 elderly people were living in residential homes for seniors.<sup>13</sup>

There are no disaggregated data available on the types of disabilities of residents of social care institutions since 2006. The figures given above, therefore, include people with mental, physical, sensory or multiple disabilities, both adults and children. People with mental health issues are also frequently institutionalised for long periods of time in psychiatric hospitals and psychiatric units of general hospitals. The total number of people hospitalised in psychiatric units of general hospitals and in psychiatric hospitals were 59,916 in 2011.<sup>14</sup> According to the most recent data available from 2009,<sup>15</sup> the average length of hospitalisation in psychiatric settings was 63.5 days. In respect

---

<sup>12</sup> Centre for Transformation, *2013 Analysis of institutional social care in the Czech Republic*, (Prague, 2013), 7-10, available at <http://bit.ly/1yoOy4K> (last accessed: 23 September 2014).

<sup>13</sup> Czech Statistical Office, "Survey of disabled people in 2013", available at [http://www.czso.cz/csu/2014edicniplan.nsf/publ/260006-14-n\\_2014](http://www.czso.cz/csu/2014edicniplan.nsf/publ/260006-14-n_2014) (last accessed: 23 September 2014).

<sup>14</sup> Úzis ČR (Institute of Health Information and Statistics in the Czech Republic), *Ústav zdravotnických informací a statistiky České Republiky. Psychiatrická péče v psychiatrických lůžkových zařízeních v roce 2006 - 2011* (Psychiatric care in psychiatric in-patient establishments in 2006 - 2011), Prague, available at [www.uzis.cz](http://www.uzis.cz) (last accessed: 23 September 2014).

<sup>15</sup> Ibid.

of people with intellectual disabilities who can also be detained in psychiatric hospitals, the length of detention jumped to an average of 105 days.<sup>16</sup>

## **Indicator 1(B): What housing options are available for people with mental disabilities?**

### Conclusion:

Institutions continue to be the dominant housing option available to people with mental disabilities, due a lack of community services (see also *Indicators 2(A)-(E)* below). The lack of options means that some people with mental disabilities are placed in unregistered and unregulated institutions, placing them at an increased risk of harm.

### Explanation:

According to data from the Czech Statistical Office, approximately one fifth of Czech persons with mental disabilities are institutionalised in social care institutions.<sup>17</sup> These institutions include ‘homes for persons with disabilities’, which range from small congregate homes to large scale institutions, ‘homes with special regime’ (see *Glossary*) and homes for elderly people. The Social Services Act also recognises ‘week centres’ and ‘sheltered housing’ as other forms of residential services. Smaller housing facilities are often built in the grounds of larger residential institutions.<sup>18</sup>

Children with mental disabilities can also be institutionalised in homes for persons with disabilities, centres for immediate help or in children’s homes under the authority of the Ministry of Education.<sup>19</sup> In addition, children can be also institutionalised in ‘centres for immediate help’ (see *Glossary*).

Some adults with mental disabilities also live in unofficial private facilities without registration by the authorities. These facilities are operated by private entities and function like hostels and dormitories. Recently, the Public Defender of Rights visited seven unregistered institutions and found that unqualified personnel were providing substandard treatment and care in restrictive and unregulated environments. Ill-treatment was found to be rife and the Public Defender of Rights called on public guardians to stop placing persons with disabilities in such institutions.<sup>20</sup>

A lack of community mental health services mean that people with mental health issues are highly likely to be institutionalised to receive treatment. There are three psychiatric hospitals for children.<sup>21</sup> In 2009, the Public Defender of Rights pointed out that many patients in psychiatric institutions had no other realistic options than to remain in psychiatric facilities due to a lack of sufficient ‘follow-up social services’.<sup>22</sup> Except for ‘homes with special regimes’, people with a history of mental health issues can also been denied access to social care institutions.<sup>23</sup>

---

<sup>16</sup> Jan Šiška, “Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Czech Republic”, 35.

<sup>17</sup> Czech Statistical Office, “Survey of disabled people in 2013”, 18.

<sup>18</sup> Šiška, Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Czech Republic, 17.

<sup>19</sup> *Ibid.*, 34

<sup>20</sup> The Public Defender’s press release and statements are available in Czech at:

<http://www.ochrance.cz/tiskove-zpravy/tiskove-zpravy-2014/ochrankyne-varuje-pred-nelegalnimi-socialnimi-sluzbami/> (last accessed: 23 September 2014).

<sup>21</sup> Mental Disability Advocacy Center, *Cage beds and coercion in Czech psychiatric institutions* (Budapest: MDAC, June 2014), 21, available at [http://www.mdac.org/sites/mdac.info/files/cagebed\\_web\\_en\\_20140624.pdf](http://www.mdac.org/sites/mdac.info/files/cagebed_web_en_20140624.pdf) (last accessed: 23 September 2014)

<sup>22</sup> Public Defender of Rights, *Annex to the Report of the Public Defender of Rights for the Fourth Quarter of 2009, Placement and Stays of Mentally Disabled Persons in Mental Homes*, 6.

<sup>23</sup> *Ibid.*

## **Indicator 1(C): Are there limits or a moratorium on new admissions to institutions?**

### Conclusion:

No.

### Explanation:

There are no limits on admissions set by the law, however there are moratoriums in some residential institutions in regions which are undertaking deinstitutionalisation processes.<sup>24</sup>

## **Indicator 1(D): Does the law respect the choices of people with disabilities about where and with whom they live and which services they receive?**

### Conclusion:

Whilst the new Civil Code gives greater recognition to the decisions made by people with mental disabilities, the Czech Republic still maintains a system of guardianship and a bias towards substituted decision-making which can be used to invalidate the choices of some people with mental disabilities.

### Explanation:

Under the 2006 Social Services Act,<sup>25</sup> social services are provided to people with disabilities on a contractual basis. This means that a civil contract between a client and a registered social service provider is concluded before the person is admitted to an institution. In principle, this means that people with disabilities are empowered to make decisions about the services they use.

For those who are not under guardianship, the right to choose fully applies. People with mental disabilities can make legal decision by themselves or grant general or specific powers of attorney to a third party. However, in a situation when a person with mental disability has no guardian and an assessment has been made that they should be placed in residential social services, and where it is determined that they lack the cognitive capacity to decide, the Social Services Act permits local authorities to enter into a contract on their behalf.<sup>26</sup> Social care providers can also initiate placements under guardianship, a situation likely to result in a conflict of interest.

Where a person is placed under guardianship, the right to make decisions about social services is vested in the guardian. However, the new Civil Code<sup>27</sup> gives recognition and validity to the choices of people under guardianship as long as the choice does not entail any risk of harm.<sup>28</sup> Anecdotal information suggests that, in practice, social care providers continue to discuss contractual and care issues primarily with the guardian.

## **Indicator 1(E): Can people with mental disabilities enter into contracts and agreements for disability-related supports, credit agreements to purchase housing, rental or other housing agreements?**

### Conclusion:

Yes, although some agreements can be invalidated by third parties.

---

<sup>24</sup> The list of institutions can be found here: [bit.ly/XUkc9b](http://bit.ly/XUkc9b) (last accessed: 23 September 2014).

<sup>25</sup> Law no. 108/2006 Coll., on Social Services

<sup>26</sup> Article 91(6) of the Social Services Act.

<sup>27</sup> Civil Code no 89/2012 Coll. The Civil Code entered into force on the 1st January 2014.

<sup>28</sup> Article 65(1) of the Civil Code.

Explanation:

Under Article 65(1) of the new Civil Code, decisions made by people with disabilities can be legally invalidated where it is assessed that their decision could lead to harm. This is based on a paternalistic notion of 'needs' rather than a rights-based approach, and conflicts with Article 12 of the CRPD on the right to legal capacity.

**Indicator 1(F): Do people with disabilities have access to support to enable them to make decisions about where and with whom they live or what support services to access?**

Conclusion:

Czech legislation guarantees access to support for decision-making to people with disabilities, but in practice this support is not always available.

Explanation:

The new Civil Code introduced supported decision-making as a legal measure to enable people with disabilities to exercise their decision-making rights without compromising their autonomy.<sup>29</sup> The support provided is based on an agreement between the supporter and the supported person and is then authorised by a court. The supporter has the right to invalidate a legal act which was concluded without his or her presence and which resulted in harm.

Article 2 of the Social Services Act introduces the principle that social services should seek to achieve the integration of people with disabilities in the community. Article 38 of the Act goes on to state that people with disabilities have the right to receive support in the least restrictive environment. While this suggests that service providers should act in a way which strengthens the right to community living, practitioners in the Czech Republic have noted that service providers tend to be focused on risk avoidance and protecting the user from perceived harm.

**Indicator 1(G): Can people with mental disabilities access effective mechanisms if they want to complain about their right to live in the community?**

Conclusion:

No.

Explanation:

Despite recent law reform, there is still no clear legal mechanism for people with disabilities to challenge a denial of their right to live in the community, or agreement on whether the right to community living is enforceable in the courts. Although admissions to institutions are supposed to be based on the free and informed will of the person concerned according to the law, in reality institutionalisation can occur against the will of the person in cases where a guardian or court concludes a contract for services on their behalf.<sup>30</sup> One of the quality standards (see *Glossary*) of social services requires providers to establish a complaint mechanism, and these mechanisms are subject to review by the government Labour Office.<sup>31</sup>

---

<sup>29</sup> Article 45 of the Civil Code.

<sup>30</sup> The court can act under Article 91(6) of the Social Services Act.

<sup>31</sup> Articles 97-99 of the Social Services Act.

## Cluster 2: Access to individualised support services

The purpose of providing individualised support services to people with mental disabilities is to bridge the gap between mainstream services (health, education, employment, finance, etc.) and the individual needs of people with mental disabilities. These services are essential to prevent the isolation of people with disabilities in community settings. Indicators 2(A)-(E) map the range of support services available to people with mental disabilities in the Czech Republic. Indicator 2(F) assesses the Czech government's finance and budgetary priorities.

### **Indicator 2(A): Are personal budgets available which enable people with mental disabilities to choose the appropriate support they need to live in the community?**

#### Conclusion:

Yes, 'contribution to care' is provided to people with disabilities as a social care benefit with the aim of enabling them to choose and pay for appropriate support they need. In reality this amount usually remunerates the care provided by a family member.

#### Explanation:

'Contribution to care' is a financial contribution to people with disabilities over 18 years of age to cover the costs of using social services.<sup>32</sup> The exact amount of the contribution to care depends on the degree of the person's needs and level of support required as assessed by a doctor and a social worker. The aim of these benefits are to enable people with disabilities to directly buy services according to their needs, either from their own family or from a social care provider. In practice, these financial benefits form part of the family budget. Families can benefit from contribution to care if the person with a disability stays in the family environment and receives support from family members.

### **Indicator 2(B): Is personal assistance available that can support people with mental disabilities to remain and live in the community?**

#### Conclusion:

Yes, personal assistance, day care services and support for independent living are provided for people with mental disabilities with the aim of supporting independent living in the community.

#### Explanation:

Personal assistance is a community-based service provided to people assessed as having reduced self-sufficiency due to their age, a chronic illness or disability. The service is provided without time limits in the community, and is provided for a fee. In 2012 there were 220 providers offering personal assistance.<sup>33</sup> To access support, the Social Services Act provides that people with disabilities can enter contracts for the provision of personal assistance, community care services or other forms of support.<sup>34</sup> There are a lack of personal assistance services in the Czech Republic, particularly in rural areas.<sup>35</sup>

---

<sup>32</sup> Contribution to care is regulated under Article 7 of the Social Services Act.

<sup>33</sup> Centre for Transformation, *2013 Analysis of institutional social care in the Czech Republic*.

<sup>34</sup> Articles 90-91 of the Social Services Act.

<sup>35</sup> The Government admitted that social services are more available in urban agglomerations in its report submitted to the CRPD Committee. Initial reports of State parties due in 2011, Czech Republic, CRPD/C/CZE/1, 1 November 2011, 37, available at

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fCZE%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fCZE%2f1&Lang=en) (last accessed: 23 September 2014).

Day care services are provided on an outpatient basis to people with reduced self-sufficiency and to families with children.<sup>36</sup> The service is provided for a limited period of time, in contrast to personal assistance. Day care primarily provides assistance in personal issues (personal hygiene and catering). In 2012 there were 770 providers of day care services.<sup>37</sup> 'Support for independent living' (see *Glossary*) provides community-based services for people with reduced self-sufficiency, including people with mental health issues.<sup>38</sup> This mainly involves assistance in maintaining the household and social relations. In 2012 there were 41 providers of support for independent living.<sup>39</sup>

### **Indicator 2(C): Is assistance available to people with mental disabilities to access funding or other support services?**

#### Conclusion:

Yes, but this kind of assistance is available in the generalised form of personal assistance.

#### Explanation:

Contracted personal assistance can be used to support a person to access funding or support services, yet these individualised services are underdeveloped or unavailable throughout the country.

### **Indicator 2(D): Is support available to families of people with mental disabilities? Examples include benefits, remuneration of family members for providing personal assistance, and day care.**

#### Conclusion:

Respite services and contribution to care (see *Indicator 2(A)*) can support family members of people with disabilities.

#### Explanation:

Respite services include outreach, outpatient or residential services to people with reduced self-sufficiency who are assessed as otherwise being able to live in their natural social environment.<sup>40</sup> The aim of these services is to provide rest for those who provide care, mostly to family members. Respite services are provided for a fee. 'Contribution to care' is intended to help people with disabilities pay for services they need in order to live in the community. Using it as remuneration for care provided by family members mean that it often becomes part of a family budget, and can result in isolation for people with mental disabilities.

### **Indicator 2(E): Are day services provided that can support people with mental disabilities to stay in the community?**

#### Conclusion:

Yes.

#### Explanation:

Day centres provide a range of social services during the daytime, particularly assistance with

---

<sup>36</sup> Article 40 of the Social Services Act.

<sup>37</sup> Centre for Transformation, *2013 Analysis of institutional social care in the Czech Republic*.

<sup>38</sup> Article 43 of the Social Services Act.

<sup>39</sup> Centre for Transformation, *2013 Analysis of institutional social care in the Czech Republic*.

<sup>40</sup> Article 44 of the Social Services Act.

personal hygiene and food. They also provide educational and social activities.<sup>41</sup> However, the current system of services is insufficient and some of them are inaccessible to people with mental disabilities.

**Indicator 2(F): Does the government manage its budget in a way which advances the right of people with disabilities to live in the community?**

Conclusion:

No.

Explanation:

In 2011 the amount of funding provided by the Czech government for social services for people with disabilities was almost 2.2 billion CZK (approximately 78 million EUR).<sup>42</sup> Of this, 59% was applied to the maintenance of institutions, amounting to almost 1.3 billion CZK (approximately 46 million EUR).<sup>43</sup> In comparison, less than 140 million CZK (approximately 49 million EUR) was allocated for a project of the Ministry of Labour and Social Affairs to transform social care services.<sup>44</sup> In the framework of this process, the government spent a further 56 million EUR on a pilot project on the transformation of 27 selected residential social care institutions, with 85% of the funding coming from the European Regional Development Fund (ERDF).<sup>45</sup> Overall, the Czech government spends significantly more money on institutionalisation than on the development of community-based services.

---

<sup>41</sup> Article 45 of the Social Services Act.

<sup>42</sup> The exact amount of state subsidy was 2,167,950,000 CZK (77,893,222 EUR). Supra 39.

<sup>43</sup> 1,289,884,000 CZK (46,344,805 EUR) was spent on homes for people with disabilities, 67,778,000 CZK (2,435,225 EUR) on special regime homes, 130,627,000 CZK (4,693,354) on sheltered housing and only 1,679,000 CZK (60,325 EUR) on supported housing. 108,729,000 CZK (3,906,571 EUR) was allocated for personal assistance. Ibid, 38.

<sup>44</sup> Ibid, 39.

<sup>45</sup> Ibid, 41.

## Cluster 3: Access to mainstream services

To be fully included, people with mental disabilities must have access to services which are available to the general public. Indicators 3(A) and 3(B) examine the extent to which people with mental disabilities can access mainstream services and the extent to which these services are responsive to their needs.

### **Indicator 3(A): Do people with mental disabilities get access to mainstream education? Is it inclusive and responsive to their individual needs?**

#### Conclusion:

No. The majority of people with mental disabilities continued to be educated in segregated schools, and the Czech government fails to provide reasonable accommodations to children with mental disabilities to access mainstream education.

#### Explanation:

Under the Czech Education Act every person has the right to access education on an equal basis with others and the needs of each child have to be taken into account.<sup>46</sup> However, Czech law does not require public education to be inclusive, instead being based on a model called ‘individual integration’. This does not necessarily mean integrating children with disabilities into mainstream educational provision, but can refer to ‘integrating’ them into special classes or schools for children with a variety of disabilities.<sup>47</sup>

NGOs submitted a report to the CRPD Committee providing information on the compliance of the Czech Republic with the CRPD. They found that children with disabilities continue to be educated in segregated settings, outside mainstream education.<sup>48</sup> The same concerns were expressed more recently by the UN Committee on Economic, Social and Cultural Rights, which adopted Concluding Observation on the Czech Republic in June 2014.<sup>49</sup> The Committee was concerned that children with disabilities still receive education in separate institutions, despite the implementation of the 2010–2014 Action Plan for Creating Equal Opportunities for Persons with Disabilities.<sup>50</sup>

Reasonable accommodations (see *Glossary*) are not provided to children with mental disabilities to access mainstream educational settings.<sup>51</sup> Half of the total number of children with special education needs have been ‘individually integrated’ into mainstream education.<sup>52</sup> Despite this, inclusion is not embedded in the Czech education system, or in the teaching and learning methods used by teachers.<sup>53</sup> Schools can choose to integrate children with disabilities, but at most this relies on their discretion and they can refuse integration if adequate support cannot be provided or where they argue that the capacity of the school is full.<sup>54</sup>

---

<sup>46</sup> Article 2(1) of Act No. 561/2004 Coll., Education Act.

<sup>47</sup> Article 3(4) of Regulation No. 73/2005; Article 3 para. 2(b) of Regulation No. 73/2005.

<sup>48</sup> “Alternative report for the UN Committee on the Rights of Persons with Disabilities”, November 2011, 31, available at [http://www.fimitic.org/sites/default/files/SHADOW\\_REPORT\\_EN.PDF](http://www.fimitic.org/sites/default/files/SHADOW_REPORT_EN.PDF) (last accessed: 23 September 2014).

<sup>49</sup> Committee on Economic, Social and Cultural Rights, Concluding Observations, Czech Republic, E/C.12/CZE/CO/2, 23 June 2014.

<sup>50</sup> *Ibid.*, para 19.

<sup>51</sup> “Alternative report for the UN Committee on the Rights of Persons with Disabilities”, Czech Republic, November 2011, 32.

<sup>52</sup> *Ibid.*, 31.

<sup>53</sup> *Ibid.*, 32.

<sup>54</sup> *Ibid.*

Czech law does not guarantee a right of appeal for parents or children with disabilities who have been denied access to mainstream education or supports.<sup>55</sup> Mainstream schools do not have sufficient funding to provide supports to children with disabilities with the aim of achieving inclusion.<sup>56</sup> In many cases, families have to bear the burden of providing personal assistance according to the needs of the child.<sup>57</sup>

### **Indicator 3(B): Do people with mental disabilities get access to mainstream employment? Is the employment system sufficiently inclusive?**

#### Conclusion:

No. The Czech government maintains a systems of sheltered employment rather than supporting people with disabilities to join the open labour market.

#### Explanation:

The Employment Act 2004<sup>58</sup> made some positive changes to employment services for people with disabilities – for example introducing vocational rehabilitation<sup>59</sup> – however full inclusion of people with disabilities in the regular work force has not been achieved.<sup>60</sup> Sheltered work-places or workshops specifically for people with disabilities are officially encouraged.

Reductions to the minimum wage<sup>61</sup> and the lack of jobs for people with disabilities are more pronounced in the case of people with higher support needs.<sup>62</sup> The Employment Act states that a person with a serious disability – with a ‘third degree of invalidity’ – cannot be registered as a job seeker by the Labour Office unless he or she can perform ‘gainful activity’.<sup>63</sup> This leads to the exclusion of more than 200,000 people with disabilities from the labour market.

The Employment Act provides for ‘vocational rehabilitation’ which aims to support people with disabilities to find and retain employment.<sup>64</sup> This provides access to advice, support and training.<sup>65</sup> Vocational rehabilitation also secures funding for rehabilitation services based on a contractual relationship between the labour office and a rehabilitation service provider.<sup>66</sup> National NGOs have claimed that although the number of people with disabilities benefitting from the vocational rehabilitation scheme has grown since 2009, it is still insufficient in scope.<sup>67</sup>

---

<sup>55</sup> For the legal analysis provided by the Ombudsperson on this issue see [http://www.ochrance.cz/fileadmin/user\\_upload/projekt\\_ESF/Diskriminace\\_ve\\_vzdelani/Asistent\\_pedagoga\\_jako\\_tzv.\\_pr\\_imerene\\_usporadani\\_.pdf](http://www.ochrance.cz/fileadmin/user_upload/projekt_ESF/Diskriminace_ve_vzdelani/Asistent_pedagoga_jako_tzv._pr_imerene_usporadani_.pdf) (last accessed: 23 September 2014).

<sup>56</sup> Šiška, *Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Czech Republic*, 13.

<sup>57</sup> Ibid.

<sup>58</sup> Act No. 435/2004 Coll., the Employment Act, Part 3.

<sup>59</sup> Šiška, *Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Czech Republic*, 13.

<sup>60</sup> “Alternative report for the UN Committee on the Rights of Persons with Disabilities”, 37-38.

<sup>61</sup> Ibid, 38.

<sup>62</sup> Ibid, 37-38.

<sup>63</sup> 25(2)(d) of the Employment Act, available at [https://portal.mpsv.cz/sz/obecne/prav\\_predpisy/akt\\_zneni/zoz\\_od\\_1-4-2012\\_en.pdf](https://portal.mpsv.cz/sz/obecne/prav_predpisy/akt_zneni/zoz_od_1-4-2012_en.pdf) (last accessed: 23 September 2014).

<sup>64</sup> Article 69 of the Employment Act.

<sup>65</sup> Article 69(3) of the Employment Act.

<sup>66</sup> The service is based on an individual vocational rehabilitation plan.

<sup>67</sup> 120 people with disabilities accessed employment rehabilitation in 2010. The project costed 3,594,000 CZK (146,100 EUR). “Alternative report for the UN Committee on the Rights of Persons with Disabilities”, Czech Republic, 40.

## Cluster 4: Transition from institutions to the community

It is crucial that governments have clear plans to implement the right to independent living in the community for people with mental disabilities. These plans need to shift investment away from financing institutions into developing and sustaining community-based support and living arrangements. This process is known as 'deinstitutionalisation', and requires governments to develop clear and comprehensive plans which make the best use of resources available. Indicator 4(A) examines the Czech Republic's policy framework in respect of deinstitutionalisation. Indicator 4(B) looks at the development of models for including people with mental disabilities in the community.

### **Indicator 4(A): Is there a satisfactory national community living strategy?**

#### Conclusion:

No. There is a national strategy, but it only relates to the transformation of 32 institutions for people with intellectual disabilities.

#### Explanation:

On 21 February 2007 the Czech government adopted a strategy entitled 'The Concept of support of transformation in residential social care services to different kinds of services provided in the natural community and supporting the social inclusion of the user to society'.<sup>68</sup> The Ministry of Labour and Social Care Services launched a 56 million EUR pilot project on deinstitutionalisation on the basis of this strategy, funded primarily by the European Union.<sup>69</sup> The establishment of sheltered housing, workforce training, and assessment of service users' needs are aspects of the project.<sup>70</sup>

The aim of the project was to reduce the capacity of large institutions. However, as was noted in the recent Concluding Observations of the Committee on Economic, Social and Cultural Rights, progress is slow,<sup>71</sup> and the scope of the project is narrow. It only concerns a small number of homes for people with disabilities, and only relates to people with intellectual disabilities.

Kvalita v praxi dnes (Quality in Practice – 'QUIP'), a national NGO, conducted an assessment of the transformation processes commissioned by the Ministry of Labour and Social Affairs.<sup>72</sup> The study focused on 95 residents who wished to leave social care institutions. The study showed that less than a third of these people, 31, were able to successfully leave institutions, and only a few went on to live in their own flats.<sup>73</sup> The transformation process was hindered by the negative attitudes of guardians and by the lack of availability of community-based services in the preferred locality of residents. The report also noted that social care services failed to complement care provided by carers or families.

---

<sup>68</sup> Resolution of the Government of the Czech Republic of 21 February 2007 No. 127.

<sup>69</sup> Šiška, *Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Czech Republic*, 8.

<sup>70</sup> Ibid.

<sup>71</sup> Committee on Economic, Social and Cultural Rights, Concluding Observations, Czech Republic, E/C.12/CZE/CO/2, 23 June 2014, para 18.

<sup>72</sup> Milena Johnová and Jan Strnad, *Evaluation of the quality of social services and the protection of users' rights*, Centre for Transformation of Social Services (Prague, 2012), available at <http://www.kvalitavpraxi.cz/res/data/025/002886.pdf> (last accessed: 23 September 2014).

<sup>73</sup> Ibid.

There has been no progress in relation to psychiatric institutions.<sup>74</sup> The Committee on Economic, Social and Cultural Rights recently noted that the government had adopted a 'Strategy for Reform of Psychiatric Care (2014-2020)', but urged the Czech Republic to secure the right of people with mental health issues to independent living and inclusion in the community and to invest adequate resources to achieve this aim.<sup>75</sup> Regional governments are now obliged to develop strategic plans for the development of social services.<sup>76</sup> These plans usually include deinstitutionalisation and the development of community-based services as one of their aims,<sup>77</sup> but there is little evidence available as to the implementation of these plans.

#### **Indicator 4(B): Are there pilot projects on community living? Are they effective and inclusive enough?**

##### Conclusion:

Yes, there are a number of pilot projects working to realise the vision of independent living in the community for people with mental disabilities. The learning from them should be scaled up.

##### Explanation:

There are a number of regional initiatives aiming to deinstitutionalise social care institutions. In Liberec, the regional authority is closing down two large residential institutions funded by the Ministry of Labour and Social Affairs.<sup>78</sup> The process involves 150 women with intellectual disabilities who were gradually moved out to sheltered homes. However, the financial sustainability of the alternative housing arrangements is uncertain,<sup>79</sup> and the project is not based on giving the women real alternatives about where and with whom they wish to live.

In the Karlovy Vary Region, two 24-month projects have taken place recently, between 2009 and 2013 run by the Karlovarsky district.<sup>80</sup> In the course of the projects almost 50 people left 6 institutions in total. The aim of the projects was, besides deinstitutionalisation, the provision of social services in the community. The majority of residents moved out to flats provided by the municipalities. The expressed will of the residents was taken into account during the process. Sheltered housing, support for independent living, personal assistance, and day care services are offered to people involved in the project. Instand, a national NGO with the aim of promoting the quality provision of user-focused social and other public services, also participated in the project as an intermediary organisation, providing personal assistants to people during the transition.<sup>81</sup> 85% of the budget was funded by the European Social Fund (ESF), with the remaining 15% coming from the state budget.

---

<sup>74</sup> "Alternative report for the UN Committee on the Rights of Persons with Disabilities", Czech Republic, 27.

<sup>75</sup> Committee on Economic, Social and Cultural Rights, Concluding Observations, Czech Republic, E/C.12/CZE/CO/2, 23 June 2014, para 18.

<sup>76</sup> Šiška, *Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Czech Republic*, 20.

<sup>77</sup> Ibid, 20. MoLSA, (2010) *Vybrané statistické údaje o financování sociálních služeb a příspěvku na péči*, 12.

<sup>78</sup> Ibid, 12. See note at <http://odbor-socialni.kraj-lbc.cz/Transformace-socialnich-sluzeb-Libereckeho-kraje/id:80666> (last accessed: 23 September 2014).

<sup>79</sup> Ibid.

<sup>80</sup> See more on the first project at [http://ec.europa.eu/social/esf\\_projects/project.cfm?id=93290&lang=cs#](http://ec.europa.eu/social/esf_projects/project.cfm?id=93290&lang=cs#) and at <http://www.kvalitavpraxi.cz/res/data/016/002006.pdf>. On the second project see <http://www.risy.cz/cs/vyhledavace/projekty-eu/detail?id=94522> (last accessed: 23 September 2014).

<sup>81</sup> To read the analyses of Instand on the projects see [http://www.instand.cz/dokumenty/kvalitativni-analyza\\_201109291420130.pdf](http://www.instand.cz/dokumenty/kvalitativni-analyza_201109291420130.pdf) and [http://www.instand.cz/dokumenty/analyticka\\_zprava\\_pokracujicich\\_transformacnich\\_kroku\\_v\\_oblasti\\_socialnich\\_sluzeb\\_v\\_kk\\_cviss\\_201308211108108.pdf](http://www.instand.cz/dokumenty/analyticka_zprava_pokracujicich_transformacnich_kroku_v_oblasti_socialnich_sluzeb_v_kk_cviss_201308211108108.pdf) (last accessed: 23 September 2014).

In the Moravian-Silesian Region, the transformation process of residential social services aims to deinstitutionalise every institution in the region.<sup>82</sup> The aim of the project is to move people with disabilities to flats and family homes situated in the local community and to simultaneously develop services located in the community. The region took over the maintenance of eleven social care institutions with the capacity of 1,232 places in 2003. Since then, 27 projects have been completed moving out 499 people from institutions to the community. Currently, there are 15 projects running involving a further 291 people. The total budget of the past and present projects to date has been 815 million CZK (approximately 30 million EUR).<sup>83</sup>

Another example is represented by Náměšť nad Oslavou, Domov bez zámku ('Home with no lock'). Home with no lock offers a range of services to people with disabilities primarily in community settings. It offers residential services in Homes (22 places), in protective housing (48 places), a 'daily stationary' service (30 places), and a respite service (2 places). The project covers eleven locations with services being provided in common family houses and in one flat in Náměšť nad Oslavou and the surrounding cities.<sup>84</sup> They also offer basic, non-residential health services, and offer support to people with disabilities to access the job market.

---

<sup>82</sup> See more on the project at [http://verejna-sprava.kr-moravskoslezsky.cz/transformace\\_ustavni\\_pece.html](http://verejna-sprava.kr-moravskoslezsky.cz/transformace_ustavni_pece.html) (last accessed: 23 September 2014).

<sup>83</sup> E-mail correspondence with Daniel Rychlick, Director of the Social Department in Moravskoslezsky District, 27 August 2014.

<sup>84</sup> Description of transformation, including photos is available at <http://www.domovbezzamku.cz/transformace-domov-bez-zamku/> (last accessed: 23 September 2014).

## Glossary

### **‘Centres for immediate help’**

These are defined as institutions which provide protection and assistance to children without carers, those without age-appropriate care and children whose life or development is endangered, under the Civil Code and the Law on Social and Legal Protection of Children.<sup>85</sup> Article 42 of the Law on Social and Legal Protection of Children provides that a child can be placed in a centre for immediate help if she or he is physically or mentally mistreated or abused or if the child is in an environment or situation where his or her basic rights are seriously compromised. In 2011 there were 77 centres for immediate help, including centres run by an NGO called the Foundation for Endangered Children.

### **CRPD**

The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) is an international human rights treaty which is binding law on the governments of countries which have ratified it. The CRPD obliges these countries to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities”.<sup>86</sup> It was adopted in 2006 and entered into force in 2008. To date, it has been ratified by 150 countries. The Czech Republic ratified the CRPD on 28 September 2009.

### **CRPD Committee**

The Committee on the Rights of Persons with Disabilities (CRPD Committee) is an 18-person expert body responsible for monitoring the compliance of countries with the provisions set out in the CRPD. The Committee is responsible for offering interpretations about the CRPD, and giving guidance to governments about how to implement it.

### **Concluding observations**

Each country which has ratified the CRPD is required to submit reports to the CRPD Committee two years after ratifying the Convention, and thereafter every four years (Article 35, CRPD). The report must set out how the country is implementing Convention rights. After examining a country’s report, the CRPD Committee makes recommendations to that country, and the document in which it does so are called “concluding observations”.

### **Guardianship (plenary and partial)**

Since reforms of the guardianship system in the Czech Republic in 2014, judges can no longer remove all decision-making authority from people with disabilities (also known as ‘plenary guardianship’). However, partial guardianship still exists. This is where a judge can remove decision-making rights in certain areas of life and can vest these in a guardian. Guardianship systems remove the power and validity of decisions made by people. Decisions made by people under guardianship can be invalidated by their guardian.

### **Homes for people with disabilities**

Three forms of social care are outlined in Article 33 of the Czech Social Services Act: i) residential, ii) ambulatory, and iii) field services. ‘Homes for people with disabilities’ are one of the recognised residential services (Article 48). These facilities range in size from small congregate homes to large scale institutions and provide accommodation, food, support with daily care, personal hygiene, educational and social activities and support in dealing with personal issues. Children with disabilities can also be accommodated in these institutions, where this is ordered by a court.

---

<sup>85</sup> Law no. 259/1999 Coll., on Social and Legal Protection of Children.

<sup>86</sup> Article 1, CRPD.

### **Homes with special regime**

Homes with special regime are residential institutions defined under Article 50 of the Social Services Act for people with specific disabilities such as elderly persons with Alzheimer's disease or people with severe and multiple disabilities. There are, on average, approximately 50 beds in such institutions.<sup>87</sup>

### **Legal capacity**

Legal capacity refers to the capacity to bear rights and the capacity to act and have decisions recognised by the law.<sup>88</sup> A person under guardianship does not have their legal capacity. The recognition of the validity of a person's decisions can cover all areas of life, including financial and property affairs, residence rights, employment, marriage, parenthood, sexual and reproductive rights, inheritance, voting and holding public office.

### **'People with mental disabilities'**

By 'people with mental disabilities' MDAC means people with intellectual, developmental, cognitive, and/or psychosocial disabilities.

### **'People with psycho-social (mental health) disabilities' and 'people with mental health issues'**

People with psycho-social disabilities are those who experience mental health issues or mental illness, and/or who identify as mental health consumers, users of mental health services, survivors of psychiatry, or mad. These are not mutually exclusive groups. People with psycho-social disabilities may also identify, or be identified as, having intellectual, developmental or cognitive disabilities.

### **'People with intellectual disabilities'**

People with intellectual disabilities generally have greater difficulty than most people with intellectual and adaptive functioning due to a long-term condition that is present at birth or before the age of eighteen. Developmental disability includes intellectual disability, and also people identified as having developmental challenges including cerebral palsy, autism spectrum disorder and fetal alcohol spectrum disorder. Cognitive disability refers to difficulties with learning and processing information and can be associated with acquired brain injury, stroke and dementias including Alzheimer's disease. These are not mutually exclusive groups. Many people with intellectual, developmental or cognitive disabilities may also identify, or be identified as, having psycho-social disabilities.

### **Personal assistance**

Personal assistance is an individualised support service in the Czech Republic, with the aim of assisting people to live and be included in the community and to prevent isolation. Personal assistance can be provided for several activities, such as personal care and daily living, housekeeping, financial activities, education and employment.

### **Personal budget**

A personal budget is an amount of money provided to a person with a disability by the state with the purpose that they can purchase the types of individualised support services they require. The aim of personal budgets are to enable people with mental disabilities to have greater control over the support they get and the way it is provided.

---

<sup>87</sup> International Longevity Centre Global Alliance, ILC, "The Czech Republic", 3, available at [http://www.ilc-alliance.org/images/uploads/publication-pdfs/ILC-Czech\\_Republic.pdf](http://www.ilc-alliance.org/images/uploads/publication-pdfs/ILC-Czech_Republic.pdf) (last accessed: 23 September 2014).

<sup>88</sup> Mental Disability Advocacy Center, *Legal Capacity in Europe*, 9.

### **Reasonable accommodation**

Reasonable accommodation means the necessary and appropriate adjustments and modifications which should be provided to people with disabilities to ensure they can exercise their rights. For example, this could mean providing support assistants to children with intellectual disabilities so that they can access mainstream, inclusive educational environments. In respect of employment, it could mean providing easy-to-read information to employees. It is a right guaranteed by the CRPD.<sup>89</sup>

### **Sheltered housing**

Sheltered housing is defined under Article 51 of the Czech Social Services Act as residential social care services for persons with decreased self-sufficiency due to a disability or chronic illness, including mental illness, and who require the help of another. Sheltered housing functions as either congregate or individual housing. In 2012 there were 147 providers of sheltered housing.<sup>90</sup>

### **Social care institutions**

Social care institutions refer to a variety of congregate and individual housing. They include homes for people with disabilities – ranging from small congregate homes to large scale institutions – week care centres, homes with special regime and homes for elderly people.

### **Social services quality standards**

The Social Services Act requires Czech service providers to comply with a variety of quality standards. These regulate personnel, procedural and operational aspects in social service provision. Quality standard no. 8, for example, requires services to support users to access resources in the community and to develop their existing social networks including family and friends.<sup>91</sup>

### **Support for independent living**

Support for independent living is an in-home service in the Czech Republic, provided to people with reduced self-sufficiency because of a disability or chronic illness, including mental illness, whose situation requires the assistance of another person. It is provided under Article 43 of the Social Services Act 2006. In 2012, there were 41 providers with 319 users.<sup>92</sup>

### **Week care centres**

Week care centres are defined under Article 47 of the Social Services Act as residential social services providing accommodation to people with reduced self-sufficiency due to age or disability and to people with chronic mental illness, whose situation requires regular assistance from another person. Week care centres can be differentiated from 'homes for people with disabilities' in that they only provide accommodation during weekdays (Monday to Friday). The services provided at week care centres are the same as for 'homes for people with disabilities'. In 2012 there were 67 providers of week care centres.<sup>93</sup>

---

<sup>89</sup> Article 2, CRPD.

<sup>90</sup> Centre for Transformation, *2013 Analysis of institutional social care in the Czech Republic*, 7-10.

<sup>91</sup> Jan Šiška, *Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Czech Republic*, 16.

<sup>92</sup> Centre for Transformation, *2013 Analysis of institutional social care in the Czech Republic*.

<sup>93</sup> Ibid.