REPORT ON VISIT TO THE FACILITY

Lázně Letiny, s. r. o., Zručská cesta 8/1949, Bolevec, 301 00 PLZEŇ

Name of the facility:	Lázně Letiny, s. r. o.[1]
Contact details:	telephone: 371 596 065
Founder:	Lázně Letiny, s. r. o.
Head:	
Type of facility:	social services facility – special regime home healthcare facility – other in-patient facilities
Capacity:	Special regime home – 260 beds Aftercare – 30 beds
Date of visit:	6-8 August 2013
Type of visit:	unannounced
Issue date of the report:	8 November 2013
The visit was carried out by:	Mgr. Pavel Doubek, Mgr. et Mgr. Adéla Hradilová, Mgr. Zuzana Kameníková, Mgr. Marie Lukasová, Mgr. et Mgr. Ladislav Tomeček, Pavla Hýblová

[1] The facility was renamed to “Sociální a zdravotní centrum Letiny, s. r. o.”. The place of provision of the social services listed in the registry of social services is: Letiny 70, 336 01 Letiny. The registered office of the provider corresponds to the one listed in the title of this document.

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INTRODUCTION

Legal basis for carrying out the visit and its aim

Based on the provisions in Section 1 (3) and (4) of Act No. 349/1999 Coll., on the Public Defender of Rights, as amended, (hereinafter also the “Act on the Public Defender of Rights”), the Public Defender of Rights carries out systematic visits to places (facilities) where persons restricted in their freedom are or may be present. The cause of the restriction may either be the decision of a public authority or it may result from dependence on the care provided. Social services facilities represent the kind of facilities where restrictions of personal freedom may result from dependence on the care provided in the sense of Section 1 (4)(c) of the Act on the Public Defender of Rights.

The aim of the systematic visits is to strengthen the protection of persons against all forms of *ill-treatment*. Generally speaking, ill-treatment is defined as treatment which does not respect human dignity. In the extreme it can take the form of torture, cruel, inhuman or humiliating treatment or punishment; in its lesser forms it manifests itself as disrespect to human beings and their rights, a lack of respect for their social autonomy, privacy or their right to involvement in control over their own lives, and abuse of the dependence on care or a further intensification of such dependence. Formally speaking, ill-treatment may represent an infringement on the rights guaranteed by the Charter of Fundamental Rights and Freedoms,[2] international conventions, laws and subordinate legislation, as well as the failure to implement the more or less binding instructions, guidelines, and standards of care, principles of good practice or procedures.

Ill-treatment in social services facilities or healthcare facilities may generally take the form of a lack of respect for the right to a private and family life, the intensification of dependence on the care provided, a lack of respect for social autonomy and the right of persons to involvement in control over their own lives. More specifically, besides providing what may become long-term care, facilities providing stay-in social services may in fact restrict personal freedom or infringe on human dignity of clients depending on the degree of their self-reliance.

The Public Defender of Rights has been carrying out systematic visits since 2006. General observations reflecting the situation in the individual types of facilities are published online[3] in order to serve as reference material on the recommendations of the Defender both to the public and to facilities yet to be visited.

Legal rules regulating the provision of the “special regime home” form of social service and operation of a healthcare facility

The existence and the basic provisions regulating special regime homes are stipulated predominantly in Act No. 108/2006 Coll., on social services, as amended (hereinafter also the “Social Services Act”). The operation of healthcare facilities is regulated mainly by Act No. 372/2011 Coll., on healthcare services and the conditions for their provision (the Act on Healthcare Services), as amended (hereinafter also the “Healthcare Services Act”).

The Charter of Fundamental Rights and Freedoms is the basis for my evaluation of the treatment of clients and patients and the observance of their rights. Among international

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[2] Resolution of the Presidium of the Czech National Council No. 2/1993 Coll., on promulgation of the Charter of Fundamental Rights and Freedoms.

[3] The Public Defender of Rights. Summary of reports on visits to facilities: http://www.ochrance.cz/ochrana-osob-omezenych-na-svobode/z-cinnosti-ombudsmana/zpravy-z-navstev-zarizeni/.

instruments which have priority in application over domestic law, the Convention for the Protection of Human Rights and Fundamental Freedoms[4] (hereinafter also the "European Convention"), the UN Convention on the Rights of Persons with Disabilities[5] and the International Covenant on Civil and Political Rights are of primary importance.[6] Furthermore, I take into consideration the standards and recommendations formulated by international and non-governmental organisations, the case-law of the European Court of Human Rights and also the conclusions of the United Nations Human Rights Committee.

Information on the facility

Lázně Letiny, s.r.o. is a social services facility registered under Section 50 of the Social Services Act as a "special regime home" (hereinafter also the "facility"). According to the data in the registry, the capacity of the special regime home is X beds. However, the facility's web pages state that the capacity of the special regime home is only X beds.

Besides the special regime home service, there is also a ward providing nursing care, registered as a healthcare facility (code 190 – other in-patient facilities). The provider's web pages state that the capacity is 30 beds.

The facility stated to the authorised employees of the Office of the Public Defender of Rights that the capacity of the whole facility was X beds, whereas the existing occupancy was X beds. The up-to-date extract from the Cygnus information system shows that X patients are filed as placed in medical beds, and therefore X clients are kept as clients of the special regime home.

The facility has exceeded its registered capacity, which constitutes an administrative offence pursuant to Section 107 (2)(a) of the Social Services Act.

The facility comprises a complex of three buildings named Labe, Vltava and Morava. In the Morava building, some rooms have bathrooms with toilets and showers; in the Vltava and Labe buildings there are only toilets and showers accessible from the corridors. Vltava and Labe buildings share a common canteen for approx. 160 persons, which is not compartmentalised in any way – it is a single-room hall fitted with 4-seat tables. There is only a single toilet near the canteen. The canteen is connected to a "small common room", which serves also as a dining room and is a through-fare. There is an enclosed garden with a couple of benches behind the Vltava building. It is also possible to go outside from the canteen to an area sheltered by trees, where immobile clients were seated in chairs at tables during the visit. There is a large common canteen and enclosed garden in the Morava building, too. Neither building contains a small common room or a small dining room. The rooms include between one to four beds each.

Medical beds are only present in the Morava building. According to the extract from the Cygnus information system obtained on site, there were only X clients recorded as placed in medical beds at the time of the visit. In total, there were X clients accommodated in the Morava building, X clients in the Labe building and X clients in the Vltava building.

[4] Memorandum No. 209/1992 Coll., on the Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by its protocols No. 3, 5 and 8.
[5] Memorandum No. 10/2010 Coll. of Int. Tr., on adoption of the Convention on the Rights of Persons with Disabilities.
[6] Decree of the Ministry of Foreign Affairs No. 120/1979 Coll., on the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.

Information on clients

Out of the total number of X clients, X were in a diminished legal capacity and X clients had a public guardian. The total of X clients were receiving allowance for care in the 1st degree of dependence, X in the 2nd degree, X in the 3rd degree and X in the 4th degree of dependence.

According to the data from the register of providers of social services, the target groups for the special regime home consists in chronically ill persons, persons with mental or physical disabilities and the elderly. Age categories are listed as: adults (27-64 years), younger seniors (65-80 years) and older seniors (over 80 years of age).

Each of these target groups of clients requires a different approach, different equipment and arrangement of technical and material means, i.e. a different form of care. This must be the starting point in evaluating whether clients who are members of one of the individual target groups are subjected to ill-treatment, or, conversely, to a treatment which could be held as an example of good practice.

A major problem in the visited facility from which other problems were arising was the lack of separation between these target groups and the failure to adjust care and the material-technical equipment to their specific needs.

All clients are subjected to the same, non-individualised regime (see below). All the clients are staying together; the principle for their assignment to rooms is not their shared belonging to a given target group, but whether they *"get along well together"*. (However, during the visit an improvised moving of the clients occurred due to the admittance of another client for whom there was no room prepared in advance.) The clients are not divided between smaller departments; the only distinction is the building in which the client is staying. In the Morava building, not even the medical beds are separated from the special regime part of the building – the social services clients are accommodated together with the patients of the healthcare facility.

I addressed the subject of treatment of persons with mental disability was of great concern during the systematic visits of homes for persons with disabilities. My conclusions and recommendations are formulated in the "Report on Visits to Homes for the Disabled".[7] With respect to the patients with a mental disease I am likewise referring to the "Report from Visits of Psychiatric Institutions".[8] **In the present report I will focus in detail especially on the treatment of persons suffering from dementia, since the current series of systematic visits is focused primarily on the protection of their rights.**

Information on staff

The leading healthcare worker in the facility is the head nurse, who performs this function for all three buildings. There are also two ward nurses, one for the Labe and Vltava buildings and the second for the Morava building. According to the data provided by the management of the facility, another X orderlies, X social services workers, X registered nurses and X non-

[7] The Public Defender of Rights: Report on visits to homes for the disabled (October 2009), 2009, online: http://www.ochrance.cz/ochrana-osob-omezenych-na-svobode/zarizeni/zarizeni-socialnich-sluzeb/zprava-z-navstev-mentalne-postizeni-cerven-2009/.

[8] The Public Defender of Rights: Report from visits of psychiatric institutions, 2008, online: http://www.ochrance.cz/ochrana-osob-omezenych-na-svobode/zarizeni/zdravotnicka-zarizeni/psychiatricke-lecebny/.

registered nurses (not all of them have full time employment contracts), X ergotherapists and X social workers work in the facility.[9] Employees in direct care (paramedical staff and social services workers) work either in the Labe and Vltava buildings or in the Morava building. They are involved in care of all the clients placed in these buildings, i.e. approximately 190 persons in case of the Labe and Vltava buildings.

Course of the visit:

The systematic visit in Lázně Letiny, s.r.o. was carried out without a prior announcement and with the knowledge of the head of the facility. It was carried out over the course of three days. The systematic visit consisted of an inspection of the facility, interviews with the management, staff and some of the clients, observing the staff during work, and examination of the documentation. Investigation at night was a part of the visit. Pavla Hýblová, an authorised external contractor of the Office, who also works as a consultant for the Czech Alzheimer Society, participated in the visit.

[9] I only mentioned the number of employees directly involved in care of the clients.

PART 1 – ENVIRONMENT AND EQUIPMENT

Findings of the visit

The environment is not in any manner adjusted to the needs of the individual target groups. Inadequacies related especially to the needs of persons with dementia are as follows:

Orientation in reality

The needs of persons with dementia are not taken into consideration. The orientation of the clients in time and space is not supported in any way. There are long corridors in the facility with no clearly visible markings on the doors. There are only uniform name tags in the clients' rooms with the name and number of the room, which are completely illegible for clients in an advanced stage of dementia. No pictographs are placed on toilet and bathroom doors. There are no direction signs to the canteen or bathroom. This means that the clients often get needlessly lost, which can lead to anxiety, restlessness or aggression.

The principle of "normality"

The facility lacks a day room for smaller groups of people, social corners and small dining rooms. The clients in Vltava and Labe buildings dine in a large common canteen designed for approximately 160 persons. The clients in the Morava building also have available to them only a single large canteen located on the ground floor. According to the external consultant, the facility lacks a suitable space for mobilisation and therapy, which **prevents the provision of the basic activities falling under the "special regime home" type of social service (Section 50 (2)(f) and (g) of the Social Services Act).**

Social services are thus not provided in the extent stipulated in the decision on registration, which constitutes an administrative offence under Section 107 (2)(a) of the cited Act for which a fine up to CZK 20,000 may be imposed.

The windows in the clients' rooms cannot be opened without the help of the staff, either due to missing handles or due to the windows being chained and locked with a padlock. This constitutes a disproportionate sweeping measure interfering with the autonomy of will of all the clients. The clients' rooms lack drapes or Venetian blinds, which means that bedridden clients cannot hide from direct sunlight. The doors in two rooms in the Vltava building were secured with a rotating latch system which could only be opened from the corridor and not from inside the room.

Bathrooms in the Labe and Vltava buildings are always kept locked. The reason for this measure as stated by XY is that the clients could scald themselves with hot water. There is also a lack of toilets in these two buildings. For example, in the Labe building there are only two ladies' and two men's toilet cabins per floor. There are X clients in total (X men and X women) and most of them are capable of moving independently. There is only one, unisex, toilet near the large canteen, serving the clients housed in both Labe and Vltava buildings**.** The toilets lack toilet paper, soap and towels. Some rooms are not provided with wash-basins in the Labe building. Together with the lack of toilets in this building and the permanently locked bathrooms, **serious doubts arise concerning the fulfilment of personal hygiene requirements, also specified in Section 50 (2)(c) as a basic activity in the "special regime home" type of social service.**

This, too, may constitute an administrative offence pursuant to Section 107 (2)(a) of

the Social Services Act.

Individualisation of the rooms

The facility gives the impression of a hospital, although it should feel like home to the clients. It is cold and impersonal. Barring exceptions, the clients' rooms are not individualised or given a domestic feel. They are fitted only with basic furniture (bed, wardrobe, bedside table, sometimes a table and chairs, although the number of chairs is often insufficient for all the room's inhabitants), which is often worn-down. The walls are empty. The rooms lack decorations. Few rooms contain pictures or photos of the clients, TV sets or radios. There are false-fur toys in some of the rooms. There are no visual stimuli in the bedridden clients' field of view. Most rooms lack any kind of clients' personal belongings or clothes. Wardrobes and bedside tables in the Vltava building were empty in a majority of cases.

Environmental aesthetics

There was an extraordinary strong smell in the facility. During lunchtime on the second day of the visit, there was a smell of urine in the canteen in between the Labe and Vltava buildings, even though the door leading outside was open. There was a constant noise in the corridors and the canteens; the staff and the clients were shouting over each other and the TV.

Barrier-free access

The facility is not barrier-free. Only the Morava building has an elevator, but it is locked and the clients cannot independently use it.

The surfaces outside the facility are not adjusted for movement on a wheelchair. In the Vltava building, immobile clients are moved using wheelchairs with no leg support. As a result, if clients are moved over rough surfaces between the Vltava building and the garden in front of the common canteen, their legs are being dragged over the ground. The Office's employees observed the evening transfer to the rooms. The clients were moved over a sloped pavement outside. The clients' feet were dragging over the ground, some of them lost their shoes which the members of the staff simply threw into their laps; at the end of the move they often braked with their socks only. The transfer was hurried and the caregivers tilted the clients in the wheelchairs so far back that the wheelchairs were moving only on their rear wheels. Some clients were leaning and cramping the armrests with their hands. For many clients this could have been a very painful experience, not to mention the risk of injury.

PART 2 – THE AUTONOMY OF WILL

Findings of the visit

Clients' dignity

In the best case, the staff treats the clients as children. More often, they treat them as objects. The members of the staff use first names to address the clients as well as the familiar form of Czech second-person pronouns. The authorised employees of the Office witnessed instances of grossly inappropriate behaviour to the clients. As an example, I present the following recorded comments of the workers in direct care: *"Helenka ate nicely on her own today"*, *"it lies down during the day and runs around in the evening"*, *"we'll haul it here and start feeding it right away"*, *"Janina must be tied to the chair; when we left her loose she wandered around and poked her fingers in other people's plates"*, *"What's the name of that last woman? – This one?* (the caregiver waves her hand 30 cm in front of the client's face) *That's Kumbarová"*, *"Come now, it's time for beddy-bye"*, *"Get out, you've no business here"*. (Names such as "Helenka" and "Janina" are familiar forms of Czech names Helena and Jana; such familiar forms are often used when addressing children. –trans.) I call attention to the use of the *"it"* pronoun when referring to the clients of the facility.

The members of the staff label the clients disparagingly. For example, the staff labelled one of the female clients as a hypochondriac and an "actress", without being able to explain why. There was no data to indicate an explanation in the client's documentation. Labelling can impact the care provided.

Members of the staff treat the clients in an extraordinarily disrespectful manner, which is clearly contradictory to the fundamental principles of providing social services (see Section 2 (2) of the Social Services Act).[10]

The approach of the staff to the clients is ridden with such serious excesses that any potential effort by individual workers to improve the situation is entirely hopeless.

Some clients drink from feeding bottles with a nipple, others drink from empty yoghurt plastic cups because they lack a proper cup of their own. According to the staff the clients are satisfied with this situation. All cups in the facility are exclusively made of plastic. Clients unable to reach the beverage dispensers (which are located in the large canteen; only two are available for the Labe and Vltava buildings clients and one of them was empty during the first day of the visit) are poured drinks out of large green plastic garden watering cans. These were seen standing on the ground or on the window-sill. There was still some leftover cocoa milk from breakfast in some of the watering cans at mid-day. The authorised employees of the Office requested an explanation of this practice from the head of the facility and the head nurse. They stated that things could not be done differently.

Almost all items of clothing are treated as "common for all" in the facility. Even if the client enters the facility with their own clothes, they will probably lose it after the first washing

[10] Also obviously at variance with Articles 7 and 10 of the Charter of Fundamental Rights and Freedoms.

because it will have been assigned to another client. Most clients are given different items of clothing each day, including the socks. According to the information provided by the staff, the clients in the Vltava building do not wear underclothes since all of them must wear diapers. Some clients were wearing torn clothes, sometimes very visibly in the crotch area or in the seam on the backside. Some clothing was dirty, often soiled with new as well as old stains. Many clients were wearing unsuitable sizes of shoes, often of completely unsuitable type that did not offer sufficient support to the feet and contributed to the risk of fall and injury (the "Crocs shoes"). The authorised employees of the Office noticed that one client was wearing unmatching socks – one white and the other one pink. I will not speculate as to whether this was due to an error made in a hurry or an ugly joke by the members of the staff. The fact is that the clients do not have access to their clothes, which is handled exclusively by the staff. During the investigation at night at around 9:30 p.m., some clients were seen wandering around in the corridors of the Vltava building. They were wearing only a T-shirt and diapers. The same was observed in the Morava building (clients were walking across the whole ground floor to the bathroom). It was not ascertained whether this was a standard night robe or whether pyjamas were available to the clients. The reports book in the Vltava building contains a baffling record that a "*client was put to bed wearing sweatpants, sweater and slippers still on her feet. Some other clients were likewise put to bed in sweatpants and sweaters.*" During investigation at night, several clients in the Morava building were put to bed in their day clothes.

The clients' individuality is completely blurred and they gradually lose a sense of their own identity, which clearly constitutes a disproportionate, unlawful infringement on their right to private life guaranteed in Article 8 of the European Convention and Article 10 (1) of the Charter of Fundamental Rights and Freedoms. It also constitutes a conduct disrespectful of human dignity, which is guaranteed in Article 10 (1) of the Charter of Fundamental Rights and Freedoms.

Due to the system of washing and re-distribution of clothing, the facility does not sufficiently protect the personal property (clothing) of the clients.

Wishes, complaints, the right to decide about oneself

The staff do not actively try to find out about the clients' wishes or their satisfaction. I am basing this conclusion on the situation as it was established on the site, not on the standards made by the provider. The staff cannot communicate with persons who are not able to speak due to their bad medical condition. The specificities of communication with the individual clients are not reflected in their individual plans. The members of the staff stated that they observed the clients and if one of them expressed a wish or a complaint, they would record it in the daily report. Even if this were really happening, randomly and on the basis of intuitive observation, the continuity of processing of information and care is not ensured. The wishes expressed by a client are by no means reflected in his or her individual plan – or rather the documents designated as such by the facility. The eventual fulfilment of any such-expressed wishes depends solely on the will and personal ethics of the members of the staff.

Therefore, it is impossible to meet the condition set forth in Section 88 (f) of the Social Services Act according to which the provider must make plans for provision of the social services in accordance to the personal aims, needs and skills of persons to whom social services are provided.

Daily regime and outings

It was found during the investigation in the facility that the clients are awoken between 4 and 5 a.m. for changing diapers. The clients are not washed after the change. Between 6:45 and 8 a.m. they are awoken for the second time and moved (or they walk there on their own) to the canteen for breakfast.

Clients on the ground floor of the Vltava building, i.e. those with reduced mobility, stay in the canteen or outside it (if the weather permits) for the whole day. They remain in their seats or plastic chairs in one position for approximately 11 hours a day without interruption. They are moved by the staff back to their rooms after dinner. The employees in direct care have stated that they are prohibited from taking the clients back to their rooms before dinner unless the clients expressly ask so. The fact that most clients in the advanced stages of dementia are unable to verbalise such a wish is not taken into consideration. During their visit the employees of the Office saw several clients falling asleep on the tables in the canteen or in chairs in the garden. None of them was moved to their room. Some employees in direct care expressed surprise that the clients do not get decubitus ulcers from the permanent sitting down and said it was *"terrible"* that they have to spend 11 hours a day sitting in a chair.

Internal rules

The internal rules (rules applicable to the exercise of the rightful interests of persons) of the facility are not made accessible to the clients in a form comprehensible to them. The staff replied to the question of how the clients should learn about the internal rules with a referral to the file containing the standards of social services. Only the notice board on the 3rd floor in the Morava building displayed the rules for filing complaints (on 2 pages in the A4 format, dated June 2010).

Section 88 (d) of the Social Services Act has been violated.

Alcohol and cigarettes

Clients receive a ration of 4 cigarettes per day. If they have something left of their pocket money, they can buy additional cigarettes by ordering them via the staff and receiving them in their "package". The list of smokers is displayed on a notice board in the nurses station. Whether the client is a smoker or not is determined from the discharge report issued by a hospital. Cigarettes are distributed after breakfast, lunch, snacks and dinner at the nurses station. The clients form a queue and are given one cigarette each by a nurse (I will not comment on the issue of why cigarettes are distributed by a qualified medical worker). The whole process is very undignified. The nurse has stated that she cannot distribute cigarettes to non-smokers because they would hoard them for other clients or for members of their families. She could not reply to the question of whether a client who was previously a non-smoker can begin smoking in the facility. The nurse is thus placed in a position of power which is easily exploitable.

The autonomy of will of the clients is not respected.

PART 3 – PRIVACY

Findings of the visit

Privacy during personal hygiene, nursing and in the clients' rooms

The rooms lack any sort of screens of curtains, which makes it impossible to ensure privacy during hygienic tasks in the bed, changing diapers or using the toilet chair. During morning toilet on the second day of the visit, the door to the client's room was left open. The privacy of the clients is not respected during the changing of diapers. According to some of the clients, the changing of diapers may take place anywhere – in the corridor, in the doorways to the rooms and to the nurses station.

In the Labe and Vltava buildings, there are two showers per bathroom which are not separated. There is no screen or a curtain. The doors between the bathroom and the corridor are not always closed during showering. Interviews showed that some of the more independent clients have to wait for their bath in the corridor, men and women together, while some of them are naked.

The common bathroom on the third floor of the Morava building has a single room with showers (not separated into individual enclosures), wash-basin and toilet. The door to the bathroom cannot be secured from inside against entry. If somebody entering from the corridor opens the door, they can directly see the person who is showering. Such a situation occurred during the visit – a client wanted to go to the toilet and dropped in while another client was having a shower.

Clients from Vltava and Labe buildings who are still capable of showering themselves are always monitored by a member of the staff while doing it; sometimes by person of the opposite sex. The staff cited concerns about the clients' safety as the reason for this measure. However, the level of risk is not separately determined for the individual clients and so the necessity of monitoring cannot be established.

Some of the rooms in the Morava building have their own bathrooms/toilets. However, other toilets cannot be locked (including the toilet near the canteen). This is so even though a large part of the clients in the Morava building do not suffer from any mental impairment. Other toilets in the Labe and Vltava buildings likewise cannot be locked or marked as occupied. Some female clients complained that men would enter their toilets and play pranks on them.

The employees of the Office witnessed a situation where an injection was being applied to a client by a nurse – the door was left open while the nurse unbreeched the client and exposed him to the view of other clients in the corridor. To a prior question by the employees of the Office as to whether they should leave the room, she replied *"I don't mind if you stay"*.

The clients' privacy at the toilet or during personal hygiene is not protected and the staff do not respect the clients' privacy while performing care. The rights of clients guaranteed by Article 7 (1) and Article 10 (1) of the Charter and Article 8 of the European Convention are being violated.

Clients do not have the possibility of safe keeping of their personal items in their rooms because these lack lockable compartments (also, the clients cannot lock their rooms, see below). Only some wardrobes have locks, but they are only installed on request. The house rules do not expressly mention the possibility of getting a lock for a cabinet or wardrobe; this is only cited in the contract. This information may thus be completely inaccessible to many of

the clients. In the Morava building, one of the rooms was found to have 4 beds but only 3 wardrobes. XY stated that one of the clients did not own anything, therefore he had no need of a wardrobe. I should add that parts of the clients' belongings are tossed on the floor in the staff cloakroom, packed only in plastic bags with no safeguards against theft or loss.

Conditions thus do not permit even elementary security of the storage of the client's personal belongings, which is a prerequisite for the exercise of the right to privacy (Art. 10 (2) of the Charter of Fundamental Rights and Freedoms, or Article 8 of the European Convention).

The clients' privacy in their rooms is not ensured. None of the clients have a key to their own room. During inspection of the Morava building and even later, most rooms' doors were kept open. The clients' personal belongings are thus available for the taking to anybody present in the building. Moreover, it exposes clients to harassment since a part of the other clients are confused and may for example enter other people's rooms.

The house rules of the healthcare facility state that the facility is not responsible for valuables which the patients do not hand over to the facility for safekeeping or for personal belongings which the clients keep with their person. The house rules of Lázně Letiny, s.r.o. likewise state in paragraph 5 that due to the type of the social service provided by the facility, it cannot be held responsible for the personal items of clothing of the clients. Both of these provisions are at variance with the law. According to Section 433 of Act No. 40/1964 Coll., the Civil Code, as amended, the operator of an accommodation service is responsible for the things brought inside by the accommodated persons or on their behalf. Under paragraph (3) of the cited provision, the operator cannot be relieved of this responsibility on the basis of a unilateral statement or by agreement. The provider of social services is thus responsible for the clients' property which is present in the facility, including clothing. If the client loses his or her property, the provider is obliged to compensate him or her for the damage.

The existing legislation (Section 436 of the Act) sets forth that the right to damages must be exercised by the client at the operator no later than 15 days of the day when the client learned about the damage. A basic activity of the "special regime home" type of social service is providing assistance with asserting rights and justified interests of the clients. The provider should thus acquaint the clients with this right. However, this would cause a conflict of interests between the provider on one side and the client on the other.

Under Section 88 (c) of the Social Services Act, the provider must create conditions preventing conflicts of interests between the clients and the provider of the social service. These conditions are clearly not met in this facility and the provider thus violates this provision of the Social Services Act.

Keeping of identity documents

Clients hand over their identity cards to the staff; the ID cards are stored in the nurses stations. They are not locked away or secured against loss or theft. They can be accessed by the medical staff or the social services workers. Under Section 14 of Act No. 328/1999 Coll., on citizen's identity cards, as amended, the citizen is obliged to protect the ID card against damage, destruction, loss or misuse. The facility naturally may offer the patients the possibility of safekeeping of their ID cards. Keeping of ID cards out of reach of the clients who are disoriented is also appropriate. If this is the case, however, the ID cards, insurance cards and other documents must be properly safeguarded.

Summary withdrawal of identity cards has no basis in law and the current method of their keeping is not secure.

CCTV cameras

Security cameras are installed in the facility's corridors. A camera was installed also in the nurses station of the Labe building, unlike in the nurses station in the Vltava building, where, however, it was due to be installed soon. The cameras were not yet operational, according to the head of the facility, Mr Patera. The visual feed from the cameras is to be transmitted to the office of the head of the facility, which is located in the Morava building. The cameras will also make recordings. Cameras in the corridors, especially considering that the corridors are L-shaped and the facility is only minimally staffed, could surely increase clients' safety. However, this can only work if the feed from the camera is transmitted to the nurses stations, where the direct care staff could oversee the clients' movement. If the feed were transmitted to the head office (the head of the facility is not permanently present there), the CCTV would not serve to increase safety. When asked by the employees of the Office what the purpose of the CCTV system was, the head of the facility stated that the purpose was to monitor the employees' work.

I caution that installing cameras in nurses stations is completely unacceptable. Many medical tasks, from changing diapers to catheterisation, takes place in the nurses stations and it is important to respect and protect the clients' privacy. The need to monitor the staff while they are working is not relevant in this case. The head or any other person has not the right to observe the performance of these tasks. It would constitute a **disproportionate and illegal violation of the clients' right to privacy at variance with Article 7 (1) of the Charter and Article 8 of the European Convention.** At the same time, other, less invasive tools for monitoring and prevention are not employed.

Secrecy of letters

Some clients with diminished legal capacity stated that their incoming mail is collected by social workers who send copies of the letters to their legal guardians, which means they must be opening their letters. This suspicion has not been completely substantiated. I must note, however, that nobody in the facility can open, check, and most importantly, read the clients' letters without special authorisation. I call attention to the fact that **secrecy of letters is guaranteed in Article 13 of the Charter and Article 8 of the European Convention. Its violation may constitute a criminal offence pursuant to Section 183 of Act No. 40/2009 Coll., the Criminal Code, as amended.**

PART 4 – FREEDOM OF MOVEMENT

Findings of the visit

Restrictions of personal freedom, immobilisation of clients

The entrance doors in all three buildings are perpetually being locked. The clients only have free access to the enclosed garden. Whether a client can leave for a walk outside the facility is decided by psychiatrist MUDr. Jana Matějková, who visits the facility approximately once every three weeks. A "permit system" is in place, i.e. only the clients who receive a permit from the psychiatrist may go outside the facility. This is an unwritten rule. Clients need to ask for the permit and even if they do, they have to wait for the next of the psychiatrist in the facility. If a new client is admitted to the facility shortly after the psychiatrist's last visit, he or she may not leave the facility until her next visit, approx. three weeks later. The list of clients with permits to leave the facility, including how many times a week and for how long, is displayed in the nurses stations. In total, X clients out of X have permits to leave (X clients from the Morava building, X clients from the Vltava building and X clients from the Labe building). Not even in the case of those who received permits is it clear on what grounds were the leaves given, for example, at for one hour on Monday, Wednesday and Friday as was the case of Mr XY. Even for clients with permits the final decision as to whether they are allowed to leave rests with the nurse. If she disallows the leave, no record of this decision is made. Likewise, no record is made as to whether the client really leaves the facility. This creates perfect conditions for arbitrary behaviour by the staff who are allowed to unlawfully restrict the personal freedom of the clients.

No matter how necessary it may be to restrict the free movement of some clients outside the facility for their own safety, the existing permit system is untraceable, completely disproportionate to the risks involved and it represents an **unauthorised restriction of the clients' personal freedom. This freedom is guaranteed by Article 8 of the Charter of Fundamental Rights and Freedoms, Article 5 of the European Convention and Article 9 of the International Covenant on Civil and Political Rights. Deprivation and restriction of personal freedom also constitute criminal offences under Sections 170 and 171 of Act No. 40/2009 Coll., the Criminal Code, as amended.**

Furthermore, the clients are often strapped to their chairs with belts or pieces of clothing to prevent them from getting up or sliding down. The employees of the Office saw several clients outside in their chairs, their waist tied to the backrest with a shirt or a sweater. An employee present also explained that sometimes, they instead push the clients in their chairs so close to the edge of the table that they cannot slide down. Some of the clients are strapped to the chairs in order to prevent them from standing up *"and running around"*.

This represents an unauthorised restriction of personal freedom at variance with the aforementioned Articles. Clients unable to stand up on their own are often strapped in a manner which falls outside standard nursing care.

Measures restricting the freedom of movement under Section 89 of the Social Services Act

The facility lacks any kind of documentation on the use of measures restricting movement in the sense of Section 89 of the Social Services Act. It should be a cause for alarm that the use of medication with tranquillizing effect (sedatives) is not perceived by the staff as a measure

restricting movement. It thus cannot be ruled out that the medication is used to restrict the movement of the clients without the staff taking care to meet the conditions set forth in Section 89 of the Social Services Act. A number of such cases were uncovered by the employees of the Office from the documentation in the facility.

The administration of sedatives in cases of the client's restlessness may either constitute a measure restricting movement, or it may represent an *ad hoc* administration of medication prescribed in advance for certain foreseeable situations by a physician. The key to distinguish between the two situations is the purpose of the administration of the sedative. If the purpose behind the administration of the medication is to limit the patients' movement (preventing them from getting up from bed, touching persons or things, etc.), it usually constitutes a measure restricting the freedom of movement under the Social Services Act, no matter if the medication was prescribed by a physician in advance for cases of "restlessness" or "aggression". It always is a measure restricting the freedom of movement if the reason behind the administration is to calm down a client who is acting aggressively, since the expected effect of the drug is to restrict the client's movement.

I found the following instances of administration of sedatives with the purpose of restricting the client's movement in the documentation available in the facility:

From the *"Psychiatric Injections"* book – records on *ad hoc* administrations of medication with tranquillising effect due to the client's aggression:

- …
- *….*

The form also includes the nurse's name-stamp and signature for each entry. There is no further information there.

Records on *ad hoc* administration of medication with tranquillising effect in the reports book at the nurses station:

- ….
- ….

There were in total a minimum of 9 cases (in some cases of administration there were two entries made on the same day, without specification of the time) of administration of medication where the purpose was to restrict the patient's movement. However, the records do not make clear whether this occurred in a situation of direct threat to life or health and thus whether all the conditions for the use of measures restricting the freedom of movement under Section 89 (1) were met. Due to the scarce or non-existent description of the situation, it is not even clear whether other measures for dealing with the situation were employed under Section 89 (2). At variance with Section 89 (3), the medication was not administered by a physician and neither was a physician present during the application. In the case of the records in the *"Psychiatric Injections"* book, the entries on administrations contain only the stamp and signature of the nurse. Therefore, it is reasonable to assume that the medication was administered by a nurse; it is unclear whether she was registered or not. Records in the reports book do not show who administered the medication.

An administrative offence under Section 107 (2)(e) of the Social Services Act may thus have been committed. Records on the administration of medication do not

contain the essential elements under Section 89 (6) of the Social Services Act, which constitutes an administrative offence under Section 107 (2)(g) of the Social Services Act.

The medication lists of a number of clients include sedatives to be used in case of restlessness or insomnia, with no closer specification of the displays of restlessness in their particular case. Whether this medication is truly ordered by a physician cannot be found from the documentation available in the facility. It is up to the judgement of the nurses whether to evaluate certain behaviour as restlessness; even in a single client, each individual nurse may see restlessness in different types of behaviour. Here too the purpose of administration of medication may be to restrict the client's movement and the facility cannot refute this suspicion due to completely insufficient documentation.

According to the records in the *"Psychiatric Injections"* book, the *ad hoc* administration of sedatives triggered by the client's restlessness were as follows:

….

How the restlessness manifests itself in these clients is not stated in the records. Aside from several notes (*"effectual"* or *"ineffectual"*), there is no record of what the condition of the client was after the application of the drug. The client's individual documentation does not contain any comment on the administrations.

Also in these cases there is a suspicion of unauthorised use of medication as a measure restricting the freedom of movement since not all of the prescriptions for this medication can be found and even if available they lack specification as to what constitutes restlessness in a particular client.

PART 5 – CARE PROVIDED

Findings of the visit

Documentation

General nurses do not participate in the process of admission of a new client into the special regime home. Nursing anamnesis along with the information enabling to identify problem areas are not taken, which is **at variance with the requirements for documentation of nursing care pursuant to Annex 1 (11A)(a) of Decree No. 98/2012 Coll., on medical records, as amended.** Not even clients with advanced dementia are given an individual nursing plan, as required by the same annex to the Decree in its subparagraph (b).

This results in a lack of targeted preventive measures. Another result is that the nurses are unable to give social services workers clear instructions concerning the medical aspects of care for particular clients. The care thus ceases to be professional, becoming intuitive instead.

Moreover, the nurses' care records available in the facility are not kept properly. XY admitted the failings during the visit. Some pages in the nursing records lack numbering and some are completely absent. There are discrepancies in the documentation. Similar inaccuracies were found in several cases. In some cases the records were false and did not correspond with reality. Critical data on the provided nursing care is missing from the records. For instance, the treatment of Mr XY decubitus sores is recorded only in the reports book, it is not reflected in the patient's care records.

The facility does not properly keep records on the provision of social services. The existing records lack important information on malnutrition, wound treatment, positioning, etc. The individual random data are included in the reports book, but this book includes only chronological information on all the clients.

Individualised plans are likewise not kept properly. The plans are a responsibility of the social services workers. Each of them takes care about approximately 20 clients. However, at the time of the visit some of the clients lacked individualised plans albeit only on paper. Mr XY's plan was allegedly written by his key worker at night on the first day of the visit. It comprised of one sheet of paper dated to the first day of the visit. This is so even though the client has been in the facility since..., i.e. more than three months. On top of this fact, Mr XY's key worker is working in a different building! This is not an isolated instance. The facility has transferred several social service workers from the Vltava and Labe buildings to the Morava building. However, they continue performing their function as key workers for the clients in Vltava and Labe whom they do not see or care for in reality. The individualised plans are not being implemented. The individualised plans for the clients in the Morava building were partly stored in the Vltava building and partly in the staff cloakroom. Individualised planning exists only on paper (to the extent it exists at all in the facility), lacking any kind of connection with the actual practice.

The failure to keep records on the course of provision of social services and the lack of planning in the provision of social services constitutes a breach of the duty of the provider under Section 88 (f) of the Social Services Act, which is an administrative offence under Section 107 (2)(b) for which a fine of up to CZK 10,000 may be imposed.

Malnutrition

The external consultant of the Office surmised that most of the bedridden clients were threatened by malnutrition. However, when asked, the staff replied that nobody was currently in risk of malnutrition.

No nutritional screening is being performed. The clients are weighed once per month, but not all of them. X clients in total are not weighed at all. The measurement of the circumference of the arm as an alternative form of measurement of potential weight loss is not being performed. The box where data on weight are to be written then contains only *"N/A"*. In some clients the records of body height are missing, making it impossible to calculate the Body Mass Index as a quick indicator of malnutrition. The MNA (mini nutritional assessment) test is likewise not performed. No food supplements are being administered. The facility does not employ a nutritional therapist.

The clients' food and liquids intake is not systematically monitored. Ms. XY stated that if a client did not eat or drink, they were transferred to a medical bed in the Morava building. This is so even though some of the clients show signs of a significant weight loss. In cases of weight loss, there is no written evidence that the problem is being adequately addressed. I could continue citing such instances further, but I will summarise that

insufficient attention is being paid to weight loss, the clients' malnutrition risk is not being evaluated and no steps are taken to prevent the onset of malnutrition.

The intake of liquids is not being monitored in the facility, not even in persons in an advanced stage of dementia who are unable to provide themselves with sufficient drinks. If the book of records states "sufficiently hydrated", the real situation is unclear since no objective records are kept on the intake of liquids. In reality, the clients may be dehydrated; cases like these have been known to occur. For example, in August 2013 Mrs XY was transferred from the special regime home to a medical bed due to her deteriorating medical condition. The cause stated in the nursing records was dehydration.

Food

The nutritional value of food is not taken into consideration. The facility uses a system of seven weekly menus which are continuously repeated. I requested copies of the menus and asked a nutritional therapist to evaluate them. He found major problems with the menus. They contained a great amount of meals to which many individuals are intolerant (legumes, sweet foods, offal, etc.) while the choice of another meal was absent. The share of vegetables and fruit and milk products was completely inadequate. By contrast, they contained too many sweet foods (nine times sweet food for dinner, e.g. sweet pasta with cinnamon), sweets for afternoon snacks were also common as well as sweets for dinner (for example sweet pastry with poppy seed and rice porridge, pastry with cottage cheese and sweet poppy seed pasta, Christmas bread and semolina porridge, etc.). The meat content was insufficient in contrast to the excessive share of smoked meats and sausages. Variety was lacking – for example goulash soup was served for lunch and potato goulash for dinner in the same day. As a whole the menus were evaluated as unsatisfactory, insufficiently varied and unsuitably drawn up. Finally, the price for the daily provision of meals in the amount of CZK 160 is, according to his opinion, completely disproportionate to the real costs of preparation of most of the daily meals.

The employees of the Office witnessed situations in the facility when several clients refused to eat semolina porridge for dinner. Only in case of one client was the intolerance to this kind of dish stated also in her records (she suffered from milk allergy). Given the regular repetition of the menus (semolina porridge was even included twice in seven weeks), I would expect the staff to notice that more of the clients are intolerant of the porridge.

The culture of dining is not taken into consideration. As was already mentioned, drinks are poured from garden watering cans. All clients eat from plastic soup plates exclusively with spoons, even those clients who are still able to use cutlery. Teaspoons are stored in pots stuck to the tray. The filth can be seen in the attached photograph.

Meals are brought without covering, the temperature is ignored. Meals for clients in the Morava building are brought in the cart shown in the next photograph.

Bladder voiding regimen

No attention is paid to the bladder voiding regimen for clients suffering of dementia. The goal of the care is not to keep patients with dementia continent for as long as possible. The social services workers stated that they did not accompany any client to the toilet. The clients must either be able to go to the toilet on their own, or they get diapers. The employees of the Office witnessed situations when a client told the staff she wanted to go to the toilet. A direct care worker replied that she had diapers, therefore she should urinate into the diapers. Members of the staff stated that clients with dementia all had diapers. There are clients with dementia in the facility who are independently mobile, yet they also wear diapers. With a proper regimen, these persons could remain continent for much longer.

The onset of incontinence in these clients may thus even be accelerated, which constitutes damage to health.

Correct bladder voiding regimen is also hindered by the lack of toilets (which lack towels and toilet paper) and the completely inadequate number of staff working in direct care (see the section on “Staff”). This is reflected also into the fact that incontinence aids are not changed as needed. During the visit, one client was sitting in diapers completely soaked with urine.

The urine seeped also into the chair. When the employees of the Office alerted the staff, it took at least another 30 minutes before the client was taken to her room. The smell of urine was overwhelming throughout the facility and especially in the canteen in the Vltava building during lunchtime.

Hygiene

A vast majority of clients do not have their own toothbrushes. XY stated that the clients did not care very much about their personal hygiene. Such a comment from a member of the staff is startling to say the least. The facility personnel should assist the clients in their personal hygiene (see Section 50 (2)(c) of the Social Services Act). Clients in the Vltava building share shampoo and soap, nobody has their own toiletries. Aside from the fact that each client may have different preferences and requirements for toiletries (individualised approach to clients is lacking), this system makes it impossible to correctly calculate the cost for these products (each client's consumption is different). One of the clients stated that he wiped with a T-shirt because he did not have his own towel.

According to the staff, the clients are bathed twice per week. The documentation of one of the immobile clients showed, however, that she had not been bathed for 10 days. If she had been, no record was made of the event.

Significant doubts arose as to whether evening hygiene took place properly and regularly. During the night administration of medication, some of the clients were put to bed in their day clothes.

The social services workers take care of shaving the male clients' faces. Ordinary razors are used in shaving. After shaving, clients often have multiple bleeding cuts on their faces.

After dinner at Vltava, the mouths of the immobile clients were wiped with a rag soaked in a bucket with filthy water previously used to wipe the tables in the canteen.

Socially-therapeutic and mobilisation activities and the individualisation of care

The notice board contained a document titled "therapy programme". The therapy is supposed to include listening to music, serving coffee, party games, colouring books, barbecue, or distribution of groceries. This specification applies to all target groups of clients. In reality, most clients spend their days passively, predominately due to the utter lack of staff in direct care in combination with the absence of professional approach to the individual target groups. As previously stated, a major hindrance to the provision of these activities is the lack of suitable premises and insufficient adjustment of the material and technical conditions to the needs of the individual target groups. The "garden maintenance" programme is attended by 3 to 5 clients in reality. About 15 people had attended the mass celebrated by a priest. Immobile clients did not have any programme at all during the three-day visit, except for sitting in their chairs.

Even if the ergotherapist were to be present in the facility all the time, she could not possibly cover the needs of all X clients.

The staff's ignorance of basic information concerning the medical condition of the clients represents a major hindrance to the individualisation of care. The members of the staff stated that diagnoses were included in the hospital transfer reports; this information is missing in the documentation kept by the facility.

Considering that a worker in direct care has responsibility for over 190 clients during a shift, it is not possible for him or her to take into account the clients' specific needs with respect to their illness. Clients from all target groups have the same regime, they receive the same care.

Workers in direct care receive no instruction relating to approach to clients from individual target groups.

The care for the clients with dementia is not adjusted for the stage of their illness. The workers in direct care were unable to tell which of their clients had dementia and which did not, it is therefore perhaps understandable that they were unable to describe the individual stages of dementia. Dementia is not monitored even by the medical personnel and is not reflected in the documentation. *The Czech Alzheimer Society's "P-PA-IA strategy – care and support of persons suffering from dementia" is not incorporated in any way*.[11]

Neither social-therapeutic nor mobilisation activities are provided in the facility. Under Section 50 (2)(f) and (e) of the Social Services Act, these are basic activities contained within the "special regime home" type of social service. Failure to provide social services in the extent stipulated in the decision on registration constitutes an administrative offence under Section 107 (2)(a) of the cited Act for which a fine up to CZK 20,000 may be imposed. The care of the clients is not individualised, which is at variance with the principles of provision of social services pursuant to Section 2 (2) of the Social Services Act.

Administration of medication

The facility does not provide for safe storage of medication. Clients in the Vltava and Labe buildings have their medication stored in two rooms in the Vltava building. The keys to these two rooms are kept by the head and ward nurses and also the nurse who is responsible for the preparation of the medication in the given building. At the time of the visit, however, the medication for clients in the Labe building was prepared in medicine bottles for one week in the nurses' day-time room in this building, in an unlocked cabinet. All staff in direct care could access them, including the social services workers. In the Morava building's nurses stations, medication boxes with clients' name tags were exposed on shelves and in the refrigerator. Although nurses stations are locked, the social services workers also have the keys. Technical staff also goes to the nurses stations to smoke.

The facility contains also medication unassigned to a particular client, including tranquilliser drugs and sedatives. These are usually new medication packages for stock or medication left by clients who have deceased or left the facility. Medication in the Vltava building is stored in a room designated "Gábina store", in the nurses station and in the head and ward nurses' room. These rooms are locked, therefore the medication is not freely accessible. They keys are kept by the head nurse and the ward nurse and perhaps also the ordinary nurses (this could not be reliably ascertained). However, a shelf in the nurses station in the Vltava building contained a freely accessible package of Haloperidol pills. In the Morava building, unassigned sedatives were stored in nurses stations in unlocked cabinets. The nurses stations on the 2nd floor of the Morava building contained a package of Apaurin with an "XY" name tag, but the client was accommodated in the Labe building. Furthermore, there was Apaurin available in an unlocked cabinet with a display case labelled "for facility use". The display case and the stock of the medication is supposedly checked once per month. No records are made of this and the staff were unable to state precisely the last time this was done. There is no record of the amount of sedatives that should be kept in unassigned

[11] Czech Alzheimer Society: *Strategie České alzheimerovské společnosti P-PA-IA (P-PA-IA Strategy of the Czech Alzheimer Society). Care and support of persons suffering from dementia*, on-line (http://www.alzheimer.cz/res/data/000063.pdf).

packages.

The facility does not take precautions to prevent access to sedatives by members of the staff not authorised to handle them or to prevent covert abuse of the medication. The facility is unable to refute this suspicion.

The nurse who is responsible for the preparation of medication for the clients in the Labe building is not registered. The authorised employees of the Office asked XY whether both of the nurses responsible for the preparation and administration of medication were registered. XY answered that she was not sure. After consulting the staff records folder, they found out that one of the nurses was not registered. Nurse XY then stated that there was always a ward nurse accompanying the other one in preparing of the medication. If she had not been sure before whether the other was registered or not, I do not understand why a ward nurse should always be present during the preparation of medication and I consider this statement to be simply an excuse. In the Morava building, medication is sometimes even prepared by a healthcare assistant.

Under Decree No. 55/2011 Coll., on activities of healthcare workers and other professionals, as amended, only general registered nurses and emergency medical rescuers can administer medication without professional supervision and based on a physician's order.

If medication is prepared and administered by a different worker, this constitutes a violation of Section 117 (1)(b) of Act No. 372/2011 Coll., on healthcare services and the conditions of their provision (Healthcare Services Act), as amended, for which a fine may be imposed pursuant to Section 117 (4)(b) of the said Act in the amount of CZK 500,000.

Medication is prepared for clients in the Labe and Vltava buildings according to a list of drugs in the clients' prescription sheets, or according to hand-written notes on an A4-sized sheet. On both, items are being crossed out and overwritten and it is not obvious when the records or changes to them were made. XY stated that changes there are only recorded by the ward nurse. However, if the record was crossed out by any other person, the error would be untraceable. The reports cannot be verified for correctness. The psychiatrist, neurologist and diabetologist do not have medical records available in the facility and they do not confirm the prescription lists. Medication for clients in the Morava building is being prepared either based on the daily report at the medical beds or the medication list. Here, too, it is not clear who made the record and the overwritten text is often illegible.

Some records in the prescription lists are unclear. The particular medication is thus not ordered by a physician but the nurse, which is an excess of her competences under the above-mentioned Decree, on activities of healthcare workers and other professionals. Mrs XY's prescription list says that she should be given XX in case of mild restlessness and YY in case of severe restlessness. What constitutes mild and severe restlessness is not mentioned. Mrs XY was prescribed XX and YY in case of restlessness. It is not clear whether both drugs should be administered or just one of them, or what constitutes restlessness in her particular case. As before, the medication is in reality ordered by a nurse instead of the physician. Mr XY should take XX *"in case of problems"*, but the dosage and specification of *"problems"* is not indicated.

According to the staff, if a client is administered *ad hoc* medication, a record should be made of it in the reports book. This is apparently not a rule.

Clients in the Vltava and Labe buildings have the medication which they are using stored in

their baskets located in 2 rooms in the Vltava building. Some clients who have been prescribed *ad hoc* medication in case of restlessness, insomnia or aggression, do not have this medication in their basket together with the other drugs they are regularly taking. Some medication packages are open and pills are missing from them. At the same time, records on the administration of these drugs are missing as well. For example, in the Tisercin medicine bottle in Mrs XY basket, only 5 out of 50 pills are left. Records on when they were administered are nowhere to be found. XY explained that the Tisercin tablets were probably administered to another client. She could not explain, however, why the medication in Mrs XY's basket had not been replaced and whether she agreed that her medication should be given to another client. Mrs XY was prescribed Haloperidol in case of anxiety or insomnia. A whole blister pack is missing from the package in her basket, and 8 tablets are missing from another one. Mrs XY should take Tiapridal in case of restlessness; however, 34 tablets are missing. Records on the administration of these drugs are also missing. This means that the staff either administers sedatives arbitrarily without making a record of it – raising suspicion that the drugs are used for excessive sedation for the purpose of restricting them in their movement – or the client's medication, for which they paid with money, is used for the whole facility, i.e. including other clients.

The former case creates reasonable grounds for suspicion that medication is used unlawfully in the facility as a measure restricting the freedom of movement, the latter case could be seen as misdemeanour against property under Section 50 of Act No. 200/1990 Coll., on misdemeanours, as amended.

Authorised employees of the Office witnessed administration of medication to the clients in the Vltava and Labe buildings. The nurse had medicine bottles inscribed with the names of the clients in a trolley and she made a round of the approximately 190 clients, most of whom were in the canteen. When asked if she knew all the clients by name, she replied that she did. However, the employees of the Office witnessed on a number of occasions that she asked other workers in direct care for the name of a client. Insufficient familiarity with the clients was also observed in the Morava building. The staff member was not always completely sure about the name when asked. This method of administration of medication is dangerous due to the risk of confusion of medication. Such a mistake can, however, lead to serious health complications in the clients. This concern is substantiated for example by the following record in the reports book relating to Mr XY: *"feels better today, allegedly he was given someone else's medication (no sedatives today)".*

The nurse was wearing rubber gloves the whole time with which she administered pills into the clients' mouths, wiped tables and touched clients, without changing the gloves. The same practice was observed also in the Morava building.

Some clients receive depot injections. Their applications are recorded in a book labelled *"Psychiatric injections"*, where, besides the regular administrations, injections of medication in cases of restlessness or aggression are recorded. Depot injections are administered according to a table calendar located in the nurses station in the Vltava building. When a nurse administers an injection, she writes the date of the next administration to the calendar. These records do not include signatures or verification, they are often crossed out or overwritten. This again creates the risk of incorrect administration of medication to the clients. The employees of the Office have found inaccuracies in the prescriptions. For example, Fluanxol was administered to Mr XY not after three weeks as prescribed, but already after two weeks, based on an incorrect record in the calendar. That this was not a single instance

can be surmised from the following record in the reports book: "*Be careful in transcribing the administration of injections dates in the calendar. We have had an increasing numbers of errors like 3W already in 2W, instead of 2 amp. →1 amp. and so forth. Also, fill the form with xxx psych. injections – records are missing...*".

The system of preparation and administration of medication tends to lead to errors, which can represent a major threat to the clients' health. The possibility cannot be excluded that the staff abuses tranquillising medication to excessively sedate the clients and restrict their movement. The facility is not able to refute this suspicion due to the fact that the administration of medication is documented in a confused and inadequate manner.

Sleep

During investigation at night, the doors to the rooms in the Vltava and Morava buildings were left wide open. The members of the staff on shift were speaking loudly in the corridors, sorting laundry and slamming doors. When a staff member was administering medication at night, they switched on a big ceiling light (the clients are not provided with smaller reading-lamps). This was disturbing the other clients who are not taking medication at night. An instance was observed that a caregiver on a night shift stepped on the bed with a client sleeping in it when he wanted to close the window.

The clients' need for undisturbed good sleep is not given due consideration.

Authorisation of the legal guardian

The notice board in the nurses station contains a document stating: *"Mrs XY can't receive visitors – except for the legal guardian!".* Mrs XY's legal capacity is diminished. Accepting visitors in the facility, however, is not a legal act and Mrs XY has the right to maintain contact with the outside world, which is a part of her right to a private and family life guaranteed for example in Article 8 of the European Convention, including the right to receive visitors. The basic activities provided within the "special regime home" social service under Section 50 (2)(e) and (h) of the Social Services Act include the mediation of contacts with the social environment and assistance with asserting rights, respectively.

If the facility prevents a client from receiving visitors when there is no restraining order imposed by the court, the facility is not providing the basic services stipulated in the Social Services Act and therefore **fails to provide social services in the extent stipulated in the decision on registration, which is and administrative offence under Section 107 (2)(a) of the cited Act for which a fine up to CZK 20,000 may be imposed**.

It was also found that the facility requested consent of the legal guardians for participation of the clients in a trip to the ZOO. A trip to the ZOO is not a legal act. The legal guardian is not authorised to give consent in case the client expresses a wish to go on the trip; the legal guardian is obliged to release money for it unless serious reasons prevent it (e.g. the client's bad financial situation). If the legal guardian does not respect the client's wishes without having serious reasons, the facility is obliged under Section 50 (2)(h) to provide assistance

with asserting justified interests, and thus to refer to the court with a complaint against the guardian's conduct.

PART 6 – SAFETY

Findings of the visit

Equipment

Handrails and safety handles are not installed in the corridors, bathrooms and canteens. The rooms, bathrooms, toilets and other places in the facility do not contain any signalling equipment. The clients cannot call the staff other than by making noise.

Bed rails

The facility uses bed rails, but they are not included in all beds. There are no records kept of their use or records of who, when and why decided that bed rails should be used in case of a particular client. The members of the staff decide on the use of bed rails. Due to the non-existent documentation, **the possibility cannot be excluded that bed rails are sometimes used as a restraining measure without a legitimate reason, which is the prevention of a fall.**

On the first day of the visit in the Vltava building, there were two beds with raised bed rails. The client thus could not get on the bed during the day. XY explained that the bed rails were likely raised by a cleaner mopping the floor.

Falls

If a client falls, a record is made of it in the nurse's daily records and in the reports book. There is no statistic of falls that would allow to easily find out, for example, the number of falls for a given period concerning a particular client. XY stated that a record would only be made if the fall led to a serious injury. In the records of falls which are made, the causes of the falls are not mentioned which presents a major obstacle to the adoption of preventive measures against further falls. No further use is made of the records of falls, the risks are not evaluated individually for each client. Many clients wear unsuitable shoes which increase the risk of fall (crocs shoes, moreover of incorrect sizes). The facility does not make use of the standard tools for the prevention of falls; it only makes use of bed rails, however, it does so rather randomly and without giving reasons.

No systematic solutions for the prevention of falls are being considered and no safety measures for the prevention of further falls are being adopted.

PART 7 – CONTRACT ON PROVISION OF SOCIAL SERVICES

Findings of the visit
The price for the accommodation is set to CZK 200 per day, which is the maximum payment under Section 16 (2)(a) of Decree No. 505/2006 Coll. The price of accommodation is uniform. This is so even though the rooms in the Labe and Vltava buildings do not include bathrooms and toilets. A vast majority of rooms lack a TV set or a radio, the windows cannot be opened, there are no Venetian blinds nor drapes and none of the clients have their own table-lamps. The price of foods is also set to the permissible maximum of CZK 160 per day. However, as stated above, the quality of the menus is abysmal and the consulted nutritional therapist has confirmed that this price is grossly exaggerated. All the clients mandatorily subscribe to the optional services of a pedicurist and a barber. The prices are specified in the facility house rules. I point out that these services are not completely optional; they partly fall under the basic services (activities). If clients are unable to clip nails on their own, the home must provide for it under the basic activity pursuant to Section 50 (2)(c) of the Social Services Act (assistance with personal hygiene) which encompasses assistance with the basic care of nails and hair under Section 16 (1)(c) of the Decree. Under Section 35 (3) of the Social Services Act, the providers shall always arrange for basic activities. To deduct an amount from the clients' accounts for care of hair and nails is an **administrative offence pursuant to Section 107 (2)(a) of the Social Services Act, because the facility failed to provide services to the extent stipulated in the decision on registration. A fine of up to CZK 20,000 may be imposed for this offence.**

PART 8 – MANAGEMENT OF FINANCIAL MEANS

Findings of the visit
The facility fails to comply with the stipulation on the amount of consideration for the services provided and, at variance with Section 73 (3) of the Social Services Act, does not leave the clients with at least 15 % of their income! The agreement on provision of social services contains in Article X (11) an unlawful provision of the following wording: "*in the event that the client's pension remitted to the Provider's account does not cover the whole payment..., the parties have agreed as follows. The client's pension shall be used to pay for the costs of the provided care, with the exception of the minimum part of the client's pension which must remain with the client pursuant to Section 73 (3). Therefore, each month the client's account must be credited with the above-specified part of the client's pension which must remain with the client. The provider has the right to deduct amounts from the client's account to cover outstanding costs for care and services provided to the client. However, the balance of the client's account after deductions must not drop below the minimum of CZK 10,000.*" The visit has found, however, that if the client's income is insufficient to cover the costs of services and at the same time his or her deposit account balance is higher than CZK 15,000, the facility starts deducting the difference between the generally determined amount of consideration (CZK 10,800 per 30 days) and the amount determined for him or her (set in a way that the 15 % balance formally remains with the person). Therefore, the facility fails to leave the clients with a 15 % balance of income, or it arbitrarily deducts from funds which are not the client's income (savings). **It is likely that the facility is guilty of unjust enrichment. In that case, it would be obliged to immediately return any amounts so deducted back to the clients. Furthermore, the facility has committed an administrative offence pursuant to Section 107 (2)(o) of the Social Services Act for which a fine up to CZK 50,000 may be imposed.**

PART 9 – STAFF

Findings of the visit

Approach of the staff to the clients

As stated above, the staff members in direct care are ignorant of the clients' diagnoses. Even if they at least suspect that the client has dementia, they do not know the stage of the disease, which represents a major obstacle for individualised care. The members of the staff use first names to address the clients as well as the familiar form of Czech second-person pronouns. They speak about the clients as if they were children or address them with the "it" pronoun. Staff members disparagingly label the clients. In some cases the key workers do not work in the same building as their clients. The staff do not respect the dignity and privacy of the clients.

Number of personnel in direct care

At the time of the visit, some of the employees were rather new to the facility. They did not know the names of the clients or their diagnoses. During visit at night one employee in service asked a client with dementia for his name, because he did not know it. Staff members are not versed in the system of prescription lists (the nurse on a night shift did not know that a different variant of the Helpenon drug, Buronil, should be administered). On the day of the night investigation, all the employees in the Morava building were on a night shift for the first time.

New employees lack proper instruction, which represents considerable risks to the clients (failure to notice serious medical symptoms, non-individualised approach).

In the Vltava and Labe buildings, there are only 9 employees in direct care (plus the head and ward nurse) for X clients. This number may vary slightly, allegedly according to the need at the time. The number of staff members in direct care is completely insufficient. Moreover, the facility does not employ professionals specialised in care of the individual target groups of clients.

The current number of staff makes it impossible to provide for the "special regime home" service in the extent of its basic activities. The care of clients is not individualised, the treatment of the clients does not have an active impact, their independence is not being developed and therefore **the fundamental principles of provision of social services under Section 2 (2) of the Social Services Act are not respected**.

CONCLUSION

The systematic visit to the facility uncovered ill-treatment violating Article 7 (2) of the Charter, Article 3 of the European Convention, Article 7 of the International Covenant on Civil and Political Rights and Article 15 (1) of the Convention on the Rights of Persons with Disabilities.

Fundamental human rights and freedoms of the clients are not respected. The staff treat the clients disrespectfully and in an undignified manner. The personal freedom of some of the clients is unlawfully restricted. The clients' privacy at the toilet, in showers, and in rooms during hygienic and care tasks is not ensured. The facility does not create conditions for the protection of the clients' personal property. Considerable doubt has arisen with respect to the observance of the secrecy of the clients' letters.

The facility in reality fails to provide the "special regime home" type of social service despite charging the clients for it. Clients are not provided with the basic activities defined in Section 50 (2) of the Social Services Act.

Furthermore, a number of violations of the Social Services Act and other Acts have been found. Some of the violations cited in this report may represent an administrative offence, misdemeanour or a criminal offence. Therefore, I have forwarded the findings to the competent authorities.

The introduction to this report mentioned that the underlying cause of most of the failures lies in two basic problems. Firstly, the individual target groups of clients are not separated and neither care nor the material conditions are adjusted to their specific needs. Secondly, the facility suffers from an utter lack of staff as well as of professional approach. Despite the relatively high capacity of the facility, professionals specialised in care of the individual target groups of clients are completely absent.

The situation is so serious that I do not think it would serve any purpose to list all my recommendations to all the found shortcomings. The major recommendations, which must be followed in order for the facility to continue operating, are as follows:

1) **the individual target groups of clients must be separated;**

2) **the care must be adjusted to their specific needs (organisationally, materially and professionally)**; and

3) **the number of staff in direct care must be significantly increased and professionals specialised in care of clients from the individual target groups must be available.**

Until these recommendations are fulfilled, the "special regime home" type of social services cannot be provided in the required quality.

JUDr. Pavel V a r v a ř o v s k ý
The Public Defender of Rights