



Case No.: 9/2022/SZD/MKM

Ref. No.: KVOP- 37114/2022

Brno, 28 June 2022

**Third-party comments, pursuant to Article 36(2) of the Convention and Rule 44 of the Rules of Court, in the case of *Hamplová v. Czech Republic*, Application No. 26074/18**

Dear Mr/Ms President,

Thank you for granting me leave to submit written comments to the above case. In this submission, I am therefore providing the Court, as a third party, with my general observations on the interventions of police officers in psychiatric hospitals in the Czech Republic, on the safe immobilisation and on the use of taser, which – judging by the questions put by the Court to the parties to the proceedings – constitute the issues at stake in the Court’s deciding the case.

**The Public Defender of Rights as a third party**

1. Let me begin by reiterating that I am submitting my comments in my capacity as the Public Defender of Rights (Ombudsman), i.e. representing an independent institution operating in the Czech Republic for a long time in the area of protection of, among other things, those rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms (“Convention”). The Czech Republic has not yet established a national human rights institution (NHRI) with accredited status in accordance with the Paris Principles. However, the Ombudsman, through the development of his activities to date, is to a certain extent fulfilling this role – as is the case in some other member States of the Council of Europe.

2. The Ombudsman is independent and impartial and is accountable to the Chamber of Deputies of the Parliament of the Czech Republic. Everyone has the right to address the Ombudsman with a complaint on a matter falling within his competence. The Ombudsman protects persons against unlawful or otherwise improper actions or inactions of authorities and other institutions, including the Police of the Czech Republic (unless it acts in criminal proceedings). The Ombudsman conducts inquiries of complaints from citizens or on his own initiative. Further, the Ombudsman performs the tasks of the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, among other things, monitors the implementation of the rights of persons with disabilities in accordance with the UN Convention on the Rights of Persons with Disabilities.

3. The case of *Hamplová v. Czech Republic* concerns issues that we have been following for a long time and on which we are in dialogue with the relevant authorities. Therefore, we have, dare I say it, gained insight into which misconduct is of an individual nature and which is of a systemic nature. I emphasise this at the outset, since the then Ombudsman also dealt directly with the conduct of the police in the case of the applicant's brother's death (and the Court has the report of her inquiry<sup>1</sup>). It is surely appropriate to reassure the Court and the parties that my observations are not intended to revive that inquiry, although I refer also to it. However, given that our systemic recommendations for the protection of persons with psychosocial disabilities against whom force is used have been received with reticence by the authorities and that our work over many years has so far had little impact, owing to the less than satisfactory development of the aforementioned dialogue with the authorities, my comments will nevertheless sound rather critical of the State.

### Police intervention in psychiatric institutions

4. Articles 2 and 3 of the Convention imply that the State is obliged to take measures to protect patients in psychiatric hospitals from the danger they may pose to themselves or others as a result of their condition. In extreme cases, such measures may take the form of the use of force. In doing so, the intervening persons must avoid ill-treatment and comply with the principle of the least restriction and minimisation of the force used.

5. The case of the applicant's brother's death has drawn our attention to this issue during visits to psychiatric institutions, so we are more focused on the frequency and nature of police interventions. We are looking at the staffing of hospitals and the ability of medical staff to manage primarily on their own the aggressive behaviour of patients (if it is a manifestation of illness or disability and not a criminal behaviour). The patient has a right to health care, not to be "pacified" by the police.<sup>2</sup> The assessment of the patient's symptoms and communication with him/her should be carried out by a healthcare professional. We also monitor the coordination of healthcare professionals and police officers once the police have been called to the hospital, as this is, in my opinion, a prerequisite for the appropriateness of the use of force and its safety. For example, police officers may not be aware of the patient's individual health specifics,

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<sup>1</sup> Report of inquiry, final statement and responses of the police authorities, the Ministry of Interior and the Ministry of Health are available, in Czech language, in the Database of the Defender's Opinions at <https://eso.ochrance.cz/>, with Case No. 2618/2016/VOP.

<sup>2</sup> We follow the CPT's opinion that „in exceptional situations (i.e. when weapons or hostage taking are involved), the assistance of the police may be unavoidable. However, in the Committee's view, hospital staff should generally be sufficient in number and able to handle violent situations without recourse to the police, including at night“ [see the report from the CPT's visit of Germany in 2015, CPT/Inf (2017) 13, available at: <https://rm.coe.int/168071803e>].

but these may increase the risk of an atypical response to the use of force or the risk of positional asphyxia.<sup>3</sup>

6. Through a series of the NPM visits,<sup>4</sup> we have verified that **police officers are present and active in psychiatric care facilities not exceptionally** – they accompany some patients during admission, guard persons of interest, perform tasks of official conduct, and sometimes are also called by healthcare professionals to help manage patient aggression. This applies to facilities such as psychiatric hospitals and psychiatric wards in general hospitals, adult and also children's facilities. The request for police assistance in managing a dangerous patient does not represent everyday practice in hospitals, and we have found the excessive frequency of such interventions (and thus the inadequacy of staffing to provide care) to be rare. However, from time to time police assistance is requested in almost every facility visited. The police officers called in sometimes do not actually intervene, but their mere presence contributes to calming the situation. At other times, they assist the medical staff in applying restraints and, exceptionally, carry out the intervention themselves (as in the case of the applicant's brother).

7. In 2017, the Defender recommended that the Police Presidium provide **a training programme for police officers** so that – whether in hospitals or elsewhere – they can perform their role attentively and competently when intervening with persons with psychosocial disabilities.<sup>5</sup> The Defender recommended directly that the programme cover the topics of intervention on request by psychiatric ward staff, assisting in the treatment of a person suffering from a mental disorder, de-escalation and alternatives to forceful management of challenging behaviour by a person suffering from a mental disorder, and to include this programme in the training of police officers. The Police President informed us that he “finds no reason” to create such a special training

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<sup>3</sup> See the recent Court's case *Kutsarovi vs. Bulgaria*, No. 47711/19, judgement from 7. 6. 2022, in particular § 20, where there are comments on effect of narcotics on the internal organs of a person, the pathological changes of which intensify the effect of positional pressure. Similarly, the experts who performed the autopsy on the applicant's brother named the effect of psychiatric medication on the heart, due to the so-called side effect of an otherwise beneficial drug (see page 9 of the report of inquiry).

<sup>4</sup> See page 48 of the summary report on visits of psychiatric hospitals, 2019, available in English at: [https://www.ochrance.cz/uploads-import/ESO/FORENSIC\\_TREATMENT\\_final.pdf](https://www.ochrance.cz/uploads-import/ESO/FORENSIC_TREATMENT_final.pdf). We repeat this finding also during following visits.

<sup>5</sup> In the spirit of Article 32(4) of the Recommendation No. Rec(2004)10 of the Committee of Ministers concerning the protection of the human rights and dignity of persons with mental disorder: „Members of the police should receive appropriate training in the assessment and management of situations involving persons with mental disorder, which draws attention to the vulnerability of such persons in situations involving the police.“

And also for fulfilling the state's obligation to ensure the administrative framework for policing operations, containing also safeguards against arbitrariness and abuse of force and ensuring only adequate approach of police officers to the persons with mental disorders. See the Court's judgment from 5. 9. 2017 in case *Tekin a Arslan vs. Belgium*, No. č. 37795/13, § 84, and judgment from 16. 11. 2017 in case *Boukrourou vs. France*, No. 30059/15, § 87.

program,<sup>6</sup> and the Ministry of the Interior also refused to implement our recommendation.<sup>7</sup> This means that in interventions in healthcare facilities, police officers are bound by the general statutory principle of proportionality and have no more specific guideline. **Thus, in 2018, the Defender had to conclude that officers of the Police of the Czech Republic are only generally trained in communication, as part of their initial training, with the method of communication requiring a different approach depending on the behaviour of the person. Training of police officers in the specifics arising from a person's mental disorder (effectiveness, gentleness and safety of apprehension, conflict management methods, coordination with medical personnel) does not take place, even in ongoing service training.**

8. The Defender also informed the Ministry of Health that the police are not seldom called by the staff of psychiatric facilities and that there is a need to strengthen the protection of the rights of persons with psychosocial disabilities through methodological guidance. The Defender also recalled the criticism from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2015. The Committee explicitly recommended that the Czech authorities ensure that the care of health professionals is not substituted by police interventions; however, the Government did not take any measures at that time.<sup>8</sup> In 2019,<sup>9</sup> the Defender recommended that **a protocol be developed for these situations, with the aim of ensuring coordination between health professionals and the police** and that the least restriction is used and the force minimised as much as possible. At the same time, the Defender suggested to hospitals that, pending the implementation of the national training programme for police officers, they establish closer cooperation with the police forces according to local conditions and adopt very specific procedures to comply with the abovementioned principles. The Ministry of Health accepted the recommendation but has not yet developed the promised protocol for hospitals. The role of the Ministry is to develop methodological guidelines for health service providers, also on the use of restraints. But neither the 2009 guideline nor the current 2018 one<sup>10</sup> addresses the topic of cooperation between health professionals and the police. **Visits of the NPM in recent times continue to prove that coordination between health professionals and**

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<sup>6</sup> See the letter of the Police President from 13. 11. 2017, available in Czech at: [https://www.ochrance.cz/uploads-import/ESO/Vyjadreni\\_Policejniho\\_prezidia\\_15.11.2017.pdf](https://www.ochrance.cz/uploads-import/ESO/Vyjadreni_Policejniho_prezidia_15.11.2017.pdf).

<sup>7</sup> See the letter of the Minister of Interior from 11. 7. 2018, available in Czech at: [https://www.ochrance.cz/uploads-import/ESO/2618-16\\_reakce%20MV%20na%20sankci.pdf](https://www.ochrance.cz/uploads-import/ESO/2618-16_reakce%20MV%20na%20sankci.pdf).

<sup>8</sup> See § 168 of the report of the CPT's visit in 2014, CPT/Inf (2015) 18, available in English at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168069568c>, and the Government's response.

<sup>9</sup> See page 116 of the summary report from the visits of psychiatric hospitals from 2019 (cit. above).

<sup>10</sup> Methodological Guideline for the Providers of In-patient Care on Restraining the Free Movement of Patients and the Use of Means of Restraint on Patients. *Issue 4/2018 of the Official Journal of MH* [online]. Prague: MH, 2018 [retrieved on 23 June 2022]. Available at: <https://www.mzcr.cz/vestnik/vestnik-c-4-2018/>.

police officers happens situationally, during interventions, without any even basic rules for their cooperation.<sup>11</sup>

### Safe immobilisation

9. The applicant's brother died after being restrained on the ground in a face-down prone position for approximately 10 minutes when two police officers exerted physical force on his body.<sup>12</sup> **This is a typical risky position, as it is unfavourable for breathing and can lead to suffocation (positional asphyxia) when held in it, all the more so if pressure is also applied to the back of the person.**<sup>13</sup> Fixation in prone position with pressure on the back causes the person to try to extricate himself. This leads to increased pressure on the person's back and further impairs the ability to breathe. The natural response to lack of oxygen is to fight even harder. Positional asphyxia has other risk factors (obesity; alcohol and drugs; heart defects, etc.).

10. According to the CPT, the use of force or means of restraint capable of causing positional asphyxia should therefore be avoided whenever possible, and that any such use in exceptional circumstances must be the subject of guidelines designed to reduce to a minimum the risks to the health of the person concerned.<sup>14</sup> **Precautions to minimise the risk are to avoid applying pressure on the ribcage and to reposition the fixated person as soon as possible and to monitor consciousness and vital signs at all times.**<sup>15</sup> Intervening police officers or medical staff should be trained in this issue.<sup>16</sup>

11. As neither the General Inspection of Security Forces nor the internal inspection bodies of the police paid attention to this aspect while investigating the death of the applicant's brother, the Ombudsman sought to raise awareness of it.

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<sup>11</sup> See, among others, the visit of psychiatric clinic of the Faculty Hospital in Olomouc from 2019 (the report available in Czech language at: <http://kvopap:81/KVOPESoSearch/Nalezene/Edit/60381>).

<sup>12</sup> I am aware that the Constitutional Court, in its decision (of 21 November 2017, Case No. IV.ÚS 4150/16), speaks of less than five minutes. However, the Defender's investigation entailed a detailed reconstruction of the events of that night on the basis of the footage from several CCTV from the psychiatric ward, which was provided by the General Inspection of Security Forces, and from it comes the longer duration of the police officers' intervention (12 minutes) and the supposed fixation on the ground; see page 7 of the report of inquiry.

<sup>13</sup> See HIRT, Miroslav, a kolektiv. *Soudní lékařství, I. díl*. 1. vydání. Praha: Grada Publishing, 2015. ISBN 978-80-247-5680-6, s. 152.

<sup>14</sup> CPT. Deportation of foreign nationals by air. CPT/Inf(2003)35-part [online]. Strasbourg: Council of Europe, 2003 [retrieved on 23 June 2022]. Available at: [16806cd172 \(coe.int\)](https://www.coe.int/t/treaties/16806cd172), § 34.

<sup>15</sup> See FRONTEX. Guide for Joint Return Operations by Air coordinated by Frontex. Warsaw: FRONTEX, 2016 [retrieved on 23 June 2022]. Available at: [Guide for Joint Return Operations by Air coordinated by Frontex \(europa.eu\)](https://frontex.europa.eu/Guide-for-Joint-Return-Operations-by-Air-coordinated-by-Frontex), Annexe 2.

<sup>16</sup> See the Court's conclusions on the state's failure to protect the life in case *Saoud vs. France*, No. 9375/02, judgment from 9. 10. 2007, § 102 a 103.

12. Regarding the physical (manual) immobilization of an acutely restless patient, research conducted in psychiatric facilities abroad shows that this technique of restraint can lead to cardiac deterioration or even death by cardiac arrest, while the prone position has a higher risk of fatal consequences and should therefore not be used.<sup>17</sup> From the practice of Czech psychiatric institutions I am not aware of any (other) cases of death in this way of restraining a patient. It is true that there is no national systematic research on such incidents in hospitals in the Czech Republic, nor are simple statistical data available. However, cases of deaths related to physical restraint have neither been reported in the media nor have we found them during our visits. In addition, the technique of holding the patient in the prone position on the ground is not widespread in the healthcare in the Czech Republic. The situation is different in the case of the Police of the Czech Republic. The latter uses such an intervention as part of the kneeling technique, i.e. immobilisation of a person in prone position by putting pressure on back or the ribcage with a knee, if it is necessary to overcome the resistance of the restrained person.

13. Police officers are guided to choose such a means of coercion and its technique so as to bring the person against whom the action is directed under control as quickly as possible and with the least possible consequences. If the person is aggressive, refuses to comply with instructions and it is necessary to overcome his or her resistance by force, it is realistic to complete the intervention precisely in the position on the ground, while handcuffing the person with his or her hands behind his or her back. If handcuffing does not calm the situation and the person continues to try to break free and may harm him or herself by his/her own resistance (as is common with intoxicated persons), officers are trained to prevent the person from moving by kneeling. In most cases, this should lead to compliance, as the person realises there is no point in further resistance and starts cooperating with the police. If the aggression is not subdued, the officer must shift the pressure to a more effective location, such as from the hips to the ribcage, and continue to immobilise and calm the aggressive person. In doing so, the officer speaks to the person and explains that the pressure will be released the moment he or she calms down. However, these persons are not always able to perceive such information. The officer must complete the intervention, i.e. prevent uncontrolled movement. The other officer fixes the legs. If another officer is present, it is his/her task to ensure the safety of all involved. The role of an observer, i.e. the officer dedicated to monitoring the condition of the person being fixed, is not defined according to the methodology. However, the fixing officer is obliged to monitor the person's state

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<sup>17</sup> See KERSTING, Xenia, HIRSCH, Sophie and Tilman STEINERT. Physical Harm and Death in the Context of Coercive Measures in Psychiatric Patients: A Systematic Review [online]. *Frontiers in Psychiatry*, June 2019, Volume 10, Article 400 [retriever on 23 June 2022]. Available at: <https://www.frontiersin.org/articles/10.3389/fpsyt.2019.00400/full>.

of health at all times. This is the description of the correct procedure provided by the Police Presidium in 2021.<sup>18</sup>

14. In 2017, after evaluating the case of the applicant's brother's death, the Ombudsman recommended<sup>19</sup> that the Police Presidium include the topic of deaths due to positional asphyxia and deaths in the prone position in its methodological and educational activities. The Police President replied to us at the time<sup>20</sup> that he was not sure how this topic related to the use of the taser, but he told us that information on deaths due to positional asphyxia and in prone position would be provided in initial training. We had a more detailed dialogue about immobilization techniques with the Police Presidium again in 2021. The Police President informed us that in 2021 a methodological guideline was issued explaining the mechanism of positional asphyxia and advising police officers how to properly position a handcuffed person, what warning signs to watch for and how to react to them. We welcome this, but we have not yet received clear information on whether this guideline is already part of the initial and ongoing training of police officers. **In other words, these necessary measures, which are intended to prepare police officers for the complications associated with fixation in a risky position and thus prevent damage to health or death, have only recently been adopted.**

### Use of the taser

15. Electrical discharge weapons make it possible in some cases to avoid the use of firearms; on the other hand, because of their dangerousness and openness to abuse, rules for their use, including the selection and training of police officers, and their supervision are important.<sup>21</sup>

16. According to the Police Act, the taser is a coercive measure,<sup>22</sup> which means that a police officer is entitled to use it to protect the safety of his or her person, another person or property, or to protect public order,<sup>23</sup> subject to the principles of proportionality and subsidiarity. In the case of electrical coercive measures, there is also

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<sup>18</sup> I am paraphrasing the Police President's statement from his letter to the Ombudsman dated 1. 12. 2021 for the file No. 4022/2021/VOP (not published).

<sup>19</sup> The final opinion in the case File No. 2618/2016/VOP, in Czech available at: [https://www.ochrance.cz/uploads-import/ESO/2618-16-VOP\\_zso.pdf](https://www.ochrance.cz/uploads-import/ESO/2618-16-VOP_zso.pdf).

<sup>20</sup> The letter of the Police President dated 13. 11. 2017, cit. above.

<sup>21</sup> See CPT. *Electrical discharge weapons*. CPT/Inf(2010)28-part [online]. Strasbourg: Council of Europe, 2010 [retrieved on 23 June 2022]. Available at: [16806cce1c \(coe.int\)](https://www.coe.int/t/treaties/ETS/16806cce1c).

<sup>22</sup> Use in contact mode constitutes a measure pursuant to Section 52(b) and in distance mode pursuant to Section 52(d) of Act No. 273/2008 Coll., on the Police of the Czech Republic, as amended.

<sup>23</sup> The rule according to the Section 53(1) of the Police Act.



a special subsidiarity<sup>24</sup> under the Police Act: a police officer is entitled to use them only if the use of another coercive measure would clearly not be sufficient to achieve the purpose pursued by the intervention. This is to take into account the presumption of a higher dangerousness of coercive measures operating on the basis of electricity compared to other measures.<sup>25</sup> In addition, the Police Act<sup>26</sup> generally considers the use of coercive devices, including the taser, to be disproportionate in relation to enumerated vulnerable persons: an apparently pregnant woman, a person of apparently advanced age, a person with an apparent physical impairment or disease, or a person apparently under the age of 15. In the case of such persons, the coercive measures may be used only exceptionally if the attack of such a person poses an immediate threat to the life or health of the police officer or another person or there is a risk of damage to property of a greater degree and the danger cannot be averted in any other way.

17. In response to the case of the applicant's brother's death, the Defender had a debate with the police authorities and the Ministry of the Interior about whether **the rules on the use of the taser** were correct. The Defender was not satisfied with the fact that the taser, as a coercive measure, was permitted by law to be used even for the sole purpose of protecting property and public order (and even reflection on this death case did not change this). However, this was not the case in the applicant's brother and I do not have statistics on when and how the taser is used by the police. I will therefore not discuss this general aspect further. The Police President has assured us that this death case has shown that the taser is perceived by the police as an alternative to the use of a firearm in interventions where other coercive measures do not prevent the active resistance,<sup>27</sup> even more strictly than before.

18. Of greater relevance is the question of whether police officers use the taser knowing **its danger to human health and life**. By examining in detail the dangerousness of taser in 2017, we concluded that there is a risk of unintended effects of harm to health, and sometimes even death, where the risk depends on the context of use and vulnerability on the part of the person. The taser is not inherently dangerous to persons who are healthy and not exposed to other factors and stressors. When health problems (heart defects), the effects of drug use and medication, stress, exhaustion, etc., come into play, the body's response is unpredictable, not yet well mapped, and, most importantly, it is very difficult to determine what actually caused the death, if it occurred. In fact, sudden deaths during arrests occur even in cases where the taser was

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<sup>24</sup> According to the Section 53(4) of the Police Act.

<sup>25</sup> As said by the commentary to the Police Act. See VANGELI, B.: *Zákon o Policii České republiky. Komentář*. 2. vydání. Praha: C. H. Beck, 2014, ISBN 978-80-7400-543-5, page 220.

<sup>26</sup> Section 57(1) of the Police Act.

<sup>27</sup> Manual of the Use of Coercive Measures and Firearm, č. 1/2017.



not involved.<sup>28</sup> The problem is that police officers may not always be aware of all the risk factors mentioned. On the other hand, as far as an intervention in a hospital is concerned, it is to be expected that the patient is probably suffering from some medical condition and is also probably medicated.

19. In the Defender's view, based on interviews with training instructors and official statements by the police officials concerned, **at the time of the applicant's brother's death, little attention was paid to the health risks of taser in police training.** Therefore, the Defender recommended that the training be reinforced.<sup>29</sup>

20. Because the vast majority of interventions are carried out without complications and because unpredictable reactions of the organism can occur when using any coercive measures, the Police of the Czech Republic still consider<sup>30</sup> the taser to be a relatively safe measure, even reducing the number of serious injuries during use of force (it is safer than, for example, a telescopic baton). In 2017, the training programme on the use of the taser was updated and the emphasis on health risks and unpredictable reactions was reinforced. However, the 2017 Manual on Use of Coercive Measures and Firearm is silent on unforeseen reactions to the taser.<sup>31</sup>

21. Next, we examined **safeguards against abuse** of the taser, as a measure to respond to the risk of misuse. The use of a taser causes intense pain, yet as compared with manual restraints, where the officer determines and also feels the intensity of the force used, here he/she only presses the trigger button.

22. This includes the CPT's request to include the criterion of high resistance to stress in the process of choosing officers who may use the taser. This criterion was not applied in the Czech Republic at the time and the Defender did not succeed to enforce it. The Police Presidium proceeded on the basis that resistance to stress is a basic prerequisite for admission to the service and is therefore the quality of every police officer, otherwise they could not be entrusted with a firearm.<sup>32</sup> This is simplistic in my opinion, as it would mean that abusing a taser is just as hard as abusing a firearm (which it is not).

23. I also include among the safeguards the evaluation of the necessity and proportionality of cases of use of taser. I should point out that in the case of the applicant's brother's death, the Ombudsman was the only body who considered the

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<sup>28</sup> See chapter B.3.2 of the report of inquiry and also § 79 of the CPT standard Electrical discharge weapons (cit. above).

<sup>29</sup> The final opinion in the case No. 2618/2016/VOP, cit. above.

<sup>30</sup> See letters of the Police President dated 13. 11. 2017 and 16. 4. 2018, both available at: <https://eso.ochrance.cz/Nalezene/Edit/5476>.

<sup>31</sup> See the annexe to the letter of the Police President dated 16. 4. 2018, available at: [https://www.ochrance.cz/uploads-import/ESO/Vyjadreni\\_Policejniho\\_prezidia\\_17.4.2018.pdf](https://www.ochrance.cz/uploads-import/ESO/Vyjadreni_Policejniho_prezidia_17.4.2018.pdf).

<sup>32</sup> Letter of the Police President dated 13. 11. 2017, cit. above.

number and duration of the taser discharges used by the intervening police officer. One pulse per trigger pull of the TASER X26 used had a maximum discharge duration of 5 seconds. However, the user can control the duration of the discharge by either using the safety and ending the discharge early or by holding the trigger and extending the five-second discharge, with the discharge ending when the user releases the trigger. According to the data in the device's memory, the intervening officer used three cycles, of 8, 11, and 10 seconds – meaning that the officer always extended the discharge. Given that the taser causes intense pain, these details should, in my view, be part of the assessment of the necessity and proportionality of the use of force; they constitute an objective element in the otherwise subjective account of the course of the event by its participants. The police authority explained to us that the superiors of the police officers while evaluating the use of coercive measures in question did not have the data from the device, because the General Inspection of Security Forces had it at that time. However, the GISF also did not carry out an assessment of the necessity of the individual discharges and their duration.<sup>33</sup> In dialogue with the police authorities, we have devoted a great deal of effort to this issue. The Defender recommended ensuring that for the purposes of evaluating the use of the taser, the superior always has information on the number, length and time of each discharge, in other words, that superiors of police officers equipped with a taser always have the necessary cables and software to read the data from the device. In 2018, the Defender could conclude that the necessary equipment to transfer data from the taser memory is available on most of the police units that have a taser in their disposition, but not on all of them. Where the necessary hardware is not available, the superior must request the download of data on an ad hoc basis.

## Conclusion

24. Dear Mr/Ms President, in my comments I avoid assessing whether there has been a violation of the rights guaranteed by the Convention in the present case. I concentrate on describing the systemic measures proposed by the Ombudsman and their implementation. It is true that these efforts have intensified since 2016, so I am indirectly portraying the situation at the systemic level at the time of the unfortunate death of the applicant's brother. I hope that you will find my submissions appropriately complement those of the parties and find them useful.

**Stanislav Křeček**  
Public Defender of Rights

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<sup>33</sup> See the report of inquiry, page 10.

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