



# Facility for Detention of Foreigners Bělá-Jezová

## Evaluation of Systematic Visit

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Address of the facility:	Jezová 1501, 294 21 Bělá pod Bezdězem
Founder:	Refugee Facilities Administration of the Ministry of the Interior
Director:	Ing. Viliam Andrassy
Type of facility:	Facility for Detention of Foreigners
Capacity:	270 beds standard, increased to 700 at the time of the visit
Date of the first visit:	31 August 2015
Issue date of the report:	9 September 2015
Date of inspection visit:	3 October 2015
Date of evaluation:	13 October 2015
Inspection visit carried out by:	Mgr. Anna Šabatová, Ph.D., Mgr. Marie Lukasová, Mgr. Beáta Szakácsová, Mgr. Pavel Doubek, JUDr. Ondřej Vala
Interpreters:	Ing. Noorullah Hashemi, Naji Khalil

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# Introduction

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## Systematic visits and their purpose

Pursuant to Section 1 (3) and (4) of Act No. 349/1999 Coll., on the Public Defender of Rights, as amended, the Public Defender of Rights carries out systematic visits to places (facilities) where persons restricted in their freedom are or may be present. The aim of the systematic visits is to strengthen the protection of persons restricted in their freedom against all forms of ill-treatment.

As a rule, the visits are unannounced and are usually carried out by the authorised employees of the Office of the Public Defender of Rights.<sup>1</sup> Inquiry consists of inspection of the facility, interviews with the staff and the detained foreign nationals, study of the internal regulations of the facility and the documentation, including medical records.<sup>2</sup>

I make a report on each visit which serves the various persons active in the facility as well as the founder and the competent authorities.

## Visits to the Facility for Detention of Foreigners in Bělá-Jezová

### Visit on 31 August 2015 (the “first visit”)

On 31 August 2015, I carried out an unannounced systematic visit to the Facility for Detention of Foreigners in Bělá-Jezová (hereinafter the “Facility” or “Facility for Detention of Foreigners”). This was my third visit there since October 2014 and I decided to carry it out in response to publicly available information on the living conditions in this type of facility after the increase in the number of detained foreigners in the first six months of 2015.

I carried out the visit in person, accompanied by four lawyers employed by the Office of the Public Defender of Rights (hereinafter the “Office”) and two interpreters – one of the Persian (Farsi) language and the other of the Arabic and Kurdish languages.

After the visit, I issued a report on the visit in compliance with the law. Considering the fact I had evaluated the situation in the Facility as very serious and the fact I had found ill-treatment of the

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<sup>1</sup> Pursuant to Section 25 (6) of the Public Defenders of Rights Act.

<sup>2</sup> Pursuant to Section 21a in conjunction with Section 15 of the Public Defenders of Rights Act and Section 65 (2)(m) of Act No. 372/2011 Coll., on healthcare services and the conditions of their provision (the Health Care Services Act), as amended.

detained persons, especially children, I confined myself in the report to simply listing the shortcomings I had found, adding only a brief commentary. In the sense of Section 21a (4) of the Public Defender of Rights Act, I invited the Refugee Facilities Administration of the Ministry of the Interior (hereinafter the “Refugee Facilities Administration”), the Health Care Facility of the Ministry of the Interior (hereinafter the “Health Care Facility”) and the Police of the Czech Republic – Directorate of the Foreigners Police (hereinafter the “Police”) to immediately adopt measures to remedy the shortcomings found and inform me of the measures taken within 14 days. Regarding the conditions found and the material deprivation of the detainees, I appealed to the Refugee Facilities Administration to stop rejecting help being offered by charities and other organisations.

Pursuant to the Public Defender of Rights Act, I also informed the Minister of the Interior, Minister of Labour and Social Affairs, Minister of Education, Youth and Sports, Minister of Justice and Minister for Human Rights of the results of my visit.

### Visit on 3 October 2015 (the “inspection visit”)

When I did not receive any response in the set period, except from the Health Care Facility, I decided not to wait for a response from the Refugee Facilities Administration and the Police any longer and, instead, find out how the situation in the Facility had changed in the past month. Therefore, I carried out an inspection visit. This time, I was also joined by the Minister of Justice, JUDr. Robert Pelikán, Ph.D., and the Minister for Human Rights, Mgr. Jiří Dienstbier.

I again carried out the visit in person, accompanied by four lawyers employed by the Office and two interpreters – one of the Persian (Farsi) language and the other of the Arabic and Kurdish languages.

In both visits, we spoke with individual persons as well as with whole groups of foreign nationals. We spoke with dozens of foreigners and with the employees of the Refugee Facilities Administration, the Health Care Facility and the private security contractor. The inspection visit took place on Saturday when the Facility was operated only by a skeleton staff. Due to the circumstances, not all interviews could be held in privacy and the communication was limited by the foreign nationals’ ability to speak one of the principal world languages or communicate through one of the interpreters. I accommodated this in the scope of the inquiry, as shown by the topics of the report.

### Co-operation of the affected entities during the visit

Although both the visits were unannounced, the staff encountered on site co-operated as requested.

The first visit was impeded by delays in entry to the Facility area when the chief of the police unit at the Facility, 1<sup>st</sup> Lt. Mgr. Pavel Šarapatka initially refused to allow me to bring a camera and a mobile phone into the Facility for the purposes of photographic documentation of the conditions (the living

conditions and documents, not the security of the area or the detained foreign nationals, police officers or Facility employees).

These obstructions on the part of the chief of the police unit at the Facility, 1<sup>st</sup> Lt. Mgr. Pavel Šarapatka re-occurred during the inspection visit.

## Information on the Facility and on the detained persons

The conditions of detention at the Facility For Detention of Foreigners are regulated by Act No. 326/1999 Coll., on the residence of foreign nationals in the Czech Republic and on amendment to certain laws, as amended (hereinafter the "Residence of Foreign Nationals Act").

Within the Facility for Detention of Foreigners, foreign nationals are deprived of personal freedom, in particular to ensure detention for the purposes of their transfer to a foreign country or administrative expulsion.<sup>3</sup> Pursuant to Section 140 of the Residence of Foreign Nationals Act, foreign nationals in respect of whom a detained foreign national has the duty of maintenance or guardianship can also be housed in the Facility if they cannot be taken care of by other means.

Detention in the Facility does not correspond to the service of imprisonment as punishment for a crime. The detention is rather ordered by an administrative authority and is aimed at implementing the government policy in the area of immigration (e.g. relocation of asylum-seekers to a European Union Member State competent to decide on asylum, transfer of foreign nationals to another country on the basis of a readmission agreement, or expulsion from the Czech Republic).

Over the past 6 months, the Facility's capacity has been gradually increased from 270 to 700 beds. At the time of the first visit on 31 August 2015, the Facility housed 659 persons, including 147 children. At the time of the inspection visit, the number was 397 persons, including 100 children.

The detained foreign nationals, including children over 18 months of age, are charged CZK 130 per person per day for accommodation and CZK 112 per person per day for meals.<sup>4</sup> After 30 days of stay in the Facility, a detained foreign national is thus required to pay CZK 7,260. A family of four placed in the Facility for 30 days has to pay the total of CZK 29,040.

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<sup>3</sup> Sections 124 and 129 of the Residence of Foreign Nationals Act.

<sup>4</sup> See Section 1 of Decree No. 447/2005 Coll., stipulating the costs of housing, foods and transport in the territory of the Czech Republic of detained foreign nationals for the purposes of administrative expulsion.

## Anxiety, frustration and tension

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The findings of the visit to the Facility are closely linked to the regime and the conditions of accommodation in the given part of the Facility (accommodation in a gym, container units, or buildings). Nevertheless, the findings can be summarised in terms of anxiety and frustration, which lead to tension. People are forced to stay in these conditions not for a short period of time only, but sometimes for 180 and, in extraordinary cases, even 545 days.<sup>5</sup>

The detainees mentioned the **feeling of utter humiliation caused by the conditions in which they were forced to stay and by the way they were treated**. They often ask whether they are considered animals, as they are kept behind a fence by people with whom they cannot speak, for a period of time that is continuously being extended, without them understanding why. Often, they point out that they have not committed any crime. People placed in container units situated in the forest were kept in a space which was, in fact, a cage (see details below).

**The frustration on the part of parents and their children is palpable**, especially if they do not have sufficient clothing and shoes, not even for their children. Minors with their families are housed *en masse* together with men (in the gym) or in conditions which are worse than imprisonment (container units in the forest). The parents note that they have never been subjected to such treatment in any of the countries they went through.

**Parents feel humiliated in front of their children**. Not only are they being moved in handcuffs, but they are also kept behind 4-metre fences topped with barbed wire, without being able to explain to their children the reason why. Since August, an interpreter of the Arabic language has been present in the Facility on business days. However, the second largest language group (Persian) has not been provided with the services of an interpreter.

**Nobody takes note of the basic needs of some of the foreign nationals and their children**.

People housed in the gym and in the container units placed in the forest do not receive the attention of a social worker, unlike those in other parts of the Facility. Private security guards, who are the only persons with whom these people come into contact with, are not competent to address their needs and problems. The response to the detainees' requests (e.g. to be allowed to use a payphone, to be taken to a physician, or to be provided with personal hygiene products) is, as reported by the detainees themselves, "tomorrow".

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<sup>5</sup> Section 125 of the Residence of Foreign Nationals Act.

**The detained foreign nationals are not sufficiently informed of their situation.** They do not understand why they were placed in a facility where living conditions resemble a prison. They do not understand why their mobile phones, watches, shoelaces, belts, money etc. were confiscated. The lack of information caused by the impenetrable language barrier often gives rise to absurd misunderstandings. I encountered rumours that visiting a physician or meeting with a lawyer entails extension of detention, or that lodging an appeal means expulsion to the country of origin. The detainees do not know what their foods and medicines contain.

**The staff do not understand how the detained foreign nationals could be so ungrateful.** To paraphrase: "They have a playground in the facility, they get assistance from charities, they have a choice of 3 meals and get oranges, they don't appreciate medical help and they cook rice in the electric kettle." The reality is that the playground is only available to children for a limited time and it is situated behind many fences and corridors, the distribution of material assistance is not coordinated, detainees housed in the gym cannot choose meals and there are no stoves available. It is certainly difficult to work with people who are constantly asking for something, who are nervous, whose language is incomprehensible to the employees and whose principal wish – to be released – cannot be granted. Communication reduced to orders and the general tension contributes to a "we against them" climate in the Facility. The circumstances in the Facility lead to de-humanising of the detained foreign nationals and anonymity of the uniformed staff, where their interactions are limited to transfers and identifications (the so-called "roll calls"). I consider this to be very dangerous with regard to the risk of ill-treatment.

**The anxiety of the detained foreigners is intensified by the fact that they are unable to contact their relatives.** Many have no way to report back home that they are alive, or to try and find a relative with whom they have lost contact. For example, mothers have lost contact with their children, who are in Germany with other members of their families; they have used up their telephone card for two phone calls and there is nothing else they can do. When they are released, they do not know where to look for their children. The payphone is only freely accessible in some parts of the Facility and not all detained foreigners are brought to the payphone, although they have the card. Access to the Internet is still not available. Mobile phones are taken away from the detainees.

The **language barrier in communication between the foreign nationals and the physicians** in the Facility represents a major problem which results in a number of misunderstandings and leads to mutual distrust. Cultural differences are not being bridged by means of increased communication. It is difficult for the physicians to determine the diagnosis and the planned procedures are "explained" using hand gestures or using rudimentary English at best. The foreign nationals do not trust the pills they are being administered and are under stress due to the fear that they are not receiving proper care. This is even though the medical staff are doing their best to provide them with adequate care.

On the other hand, some foreign nationals said that the medical staff had been insinuating that they were not taking good care of their children and refused to help when they were in pain.

The lack of information is also partly caused by the **lack of legal advice**, which is available to individuals at the Facility virtually at random, subject to whether they learn about it and its character. The foreigners accommodated in the gym and the container units were completely unaware that there was any free legal advice available. This is true despite the fact that legal advice is of vital importance to foreign nationals placed in the so-called “admission parts” of the Facility (the gym), especially because of very short deadlines, e.g. to apply for international protection (asylum). Foreign nationals housed in the buildings were informed of the free legal counselling provided at the Facility (on average 3 times every two weeks) by means of a notice board (but not in Arabic or Persian languages). Although the management of the Facility claims that there is little to no interest in free legal advice among the detainees, a majority of the detainees still asked the employees of the Office to explain their situation and the meaning of the Czech text of the decision on detention to them.

A **demonstration of force** is clearly intended through the presence of uniformed private security guards, police officers, riot police unit and police dogs.

On the contrary, there was **negligible prevention of negative effects** through increased communication with the detainees and attempts to resolve their everyday difficulties associated with the loss of personal freedom and other issues.

## Families with children

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I have long been focusing on the conditions of families with children staying at the Facility. In the Report on Visit to the Facility,<sup>6</sup> which took place between 13 and 14 October 2014 when only 89 persons (including 5 children) were placed in the Facility, I already concluded that the accommodation conditions of children were at variance with Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>7</sup> The United Nations Committee on the Rights of the Child has also expressed concern over the situation of families with minor children at this Facility.<sup>8</sup>

A total of 147 children, including 5 detained unaccompanied minors, were present at the Facility at the time of the August visit. Children were living together with their families in Building A and the container units.

At the time of the inspection visit in October 2015, 100 children, including 6 detained unaccompanied minors, were present at the Facility. Families with children were housed both in Building A and the container units near the administrative building, in the gym and in the container units situated in the forest.

According to information provided by the Facility's management and the Ministry of the Interior, the Facility for Detention of Foreigners in Bělá-Jezová will serve solely families with children in the future. However, with regard to the current situation at the Facility, I believe the violation of Article 3 of the above-mentioned Convention to be that more serious.

### August 2015 findings

**Conditions found:** The parents noted especially the fact that they were afraid to bathe their children in the common bathrooms and use the common toilets due to concerns about filth and diarrhoea;

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<sup>6</sup> THE PUBLIC DEFENDER OF RIGHTS. Report on Visit to the Facility for Detention of Foreigners in Bělá-Jezová of 18 February 2015 [pdf document]. Brno: Office of the Public Defender of Rights, 2015 [retrieved on: 7 September 2015]. Available at: [http://www.ochrance.cz/fileadmin/user\\_upload/ochrana\\_osob/ZARIZENI/Zarizeni\\_pro\\_cizince/ZZ-Zarizeni\\_Bela-Jezova\\_2014.pdf](http://www.ochrance.cz/fileadmin/user_upload/ochrana_osob/ZARIZENI/Zarizeni_pro_cizince/ZZ-Zarizeni_Bela-Jezova_2014.pdf)

<sup>7</sup> Memorandum of the Federal Ministry of Foreign Affairs No. 209/1992 Coll., on the Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by subsequent protocols.

<sup>8</sup> United Nations. Final recommendations of the Committee on the Rights of the Child to the third and fourth periodic report of the Czech Republic on how that country is implementing the provisions of the Convention on the Rights of the Child, 17 June 2011, paragraph 63 [doc document]. Geneva: Committee on the Rights of the Child [retrieved on: 8 October 2015]. Available at: <http://www.vlada.cz/assets/ppov/rlp/dokumenty/zpravy-plneni-mezin-uluv/material.doc>

they called attention to the lack of baby formula, which was substituted by semi-skimmed milk; when children receive “snacks”, e.g. milk products, there was no place to store them; the children lacked clothing and shoes; there was not enough napkins; there was not enough cups for drinking; even very small children received the same meals as adults (see Figures 1 and 2), merely supplemented with the “snacks” (e.g. 0.5 litre of semi-skimmed milk); the children were afraid of the police and private security guards; we saw children playing at being policemen and security guards or at escaping from prison, when they tried to dig under the 4-metre fences topped with barbed wire.



Figure 1



Figure 2

Although a playground with a climbing frame exists within the area of the Facility, the children could not access it since the playground served as outing area for the men housed in tents at the time of the first visit (see Figure 3). There is also a playroom at the Facility, near the gym (see Figure 4), but it is not accessible to all of the children due to capacity reasons. Children’s activities at the Facility were organised by a single trained animator (entertainer).



Figure 3



Figure 4

Children housed in Building A were provided with a common room (also a playground), which was open for use for 2 hours a day. When the reserved time ran out, activities for children were stopped. Children housed in the container units near the administrative building (approx. 50 children) were

provided with neither entertainment opportunities nor any suitable outside area for play (see Figures 5 and 6).



Figure 5



Figure 6

### October 2015 findings

The Facility has taken heed of my previous recommendations and is attempting to mitigate the negative impacts of the living conditions at the Facility on children (access to the playroom is now available, etc.). I commend especially the employees' efforts in working with the children.

During business days, the children attend lessons at a school situated directly in the Facility (see Figure 7 – classroom). The lessons are provided by two teachers from the Bělá pod Bezdězem Elementary School. Four groups of ten to twelve children are taught by two teachers. Each group is always taught two lessons (45 minutes long) by one teacher. Currently, approx. 60 of the children attend the school regularly.



Figure 7

However, the overall situation is still not satisfactory. The children at the Facility are accommodated in what amounts to a prison-like regime (roll calls, presence of security personnel in uniforms) and a lot of children, including the very young, still lack shoes other than flip-flops or crocs shoes. This is so even though the weather is already cold in October. A washing machine is not available for children's clothes. No activities for children are scheduled on weekends.

It is alarming that minors with their families were also housed in the gym and in the container units in the forest (more on this below).

## Container units in the forest

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Out of sight of the main complex of buildings, additional housing is provided in housing containers in a forest accessible via a police-guarded pavement. These consist of 22 container units (housing, sanitary conveniences, storage area) attached to Building F, i.e. the building with high-security detention regime. The container units are arranged in a rectangular, completely closed-off area. The area closed off by the containers is caged off and covered with welded iron mesh (see Figures 8 and 9).

The Facility management failed to explicitly inform me of the accommodation spaces outside the main area of the Facility. The container units in the forest were “discovered” only at the very end of the inspection visit, while we were verifying some other Facility statements (such as the non-occupancy of the high-security area).

When the Defender’s employees arrived on these premises, some of the detained foreign nationals raised banners such as: “We are refugees, not prisoners!” and “Help us, please!” (see Figures 10 and 11).



Figure 8



Figure 9



Figure 10



Figure 11

There was a lot of tension in this part of the Facility. The foreigners' frustration from the living conditions, the lack of understanding of the purpose of detention, uncertainty concerning the duration of detention, rumours and treatment of them were reflected in their resignation or, on the contrary, active appeals for justice. Tensions were further heightened by the iron mesh covering their entire outing area as well as the generally constrained area with no view of anything but the walls of the container units, the forest and uniformed personnel. These people saw themselves as "caged animals".

At the time of the inspection visit, the container units in the forest served as accommodation for 56 men, including minors. They had already been placed there for 3 days. Some of them had been moved there from the gym, others from Building B, which was under reconstruction.

Each container unit with an area of 15 m<sup>2</sup> housed three to five persons (corresponding to 3–5 m<sup>2</sup> per person). The area of the outing space in the courtyard covered by welded iron bars was 110 m<sup>2</sup>. If all the men wanted to spend time outside, in the courtyard, the space available to each one would be less than 2 m<sup>2</sup>.

The container units did not have tables and the presence of chairs was rather random (see Figure 12). The canteen was not suitable to handle this number of people (see Figure 13). Pillows started to be handed to the detainees by the employees of the Refugee Facilities Administration only after the Defender's employees arrived on the spot (see Figure 14).



Figure 12



Figure 13



Figure 14

Interviews with the detainees revealed the following:

- over the course of their placement in the container units in the forest, the men were not allowed to leave the area (except for individual supervised movement elsewhere for some concrete purpose);
- the men complained about the way evening inspections – roll calls were carried out. The inspections are scheduled for around 9:00 p.m. Members of the riot police (some wearing helmets and face masks) enter and inspect the individual container units. Dogs are usually present during inspections;
- the men complained about the attitude of some of the police officers who were disrespectful towards them, handled them roughly, or spit in front of them; private security guards allegedly called them terrorists;

- some also complained about handcuffing, even of minors (15 years old boy), during movement from the housing units in the forest to the main Facility area (e.g. for the purpose of a medical check-up);
- many spoke about being intimidated through a display of a device similar to a taser on the part of one private security guard;
- it is almost impossible to access the telephone; only 4 – 5 persons are actually brought to the phone each day. This was confirmed by the private security guards themselves;
- no social workers visit the container units in the forest;
- no TV or any other activities are available to the detainees;
- the detainees claimed that heating could only be turned on from 8:30 p.m. to 12:00 midnight;
- according to the detainees, hot water capacity is insufficient (only cold water was available at the time of the October visit);
- detainees moved to this area from the gym had not been allowed to do shopping (e.g. in case of a man held at the Facility for 9 days, with previous placement in the gym), shave and trim fingernails;
- some detainees are unaware that there is free legal advice available at the Facility. Some believe that contacting a lawyer would result in extension of their detention;
- similar rumours also concerned the right to request medical attention, which (as some detainees believed) would allegedly bring about 45-day extension of detention.

Simple description of the situation cannot fully convey the conditions in which these men were held, nor their psychological condition. One may only note the degree of dehumanisation and the conditions in which minors are being held, as well as the degrading treatment which the Facility's management tolerates.

# Tents

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## August 2015 findings

Tents (one smaller and two larger military tents for approx. 90 persons; see Figures 15 and 16) were set up as accommodation of male detainees during admission. Sanitary facilities were provided in container units near the tents (Figures 17 and 18).



Figure 15



Figure 16



Figure 17



Figure 18

**Conditions found:** People housed in this area received only bread and cheese three times a day; received no personal hygiene package on admission; were not allowed to do shopping; could not access a telephone and were thus unable to contact relatives, despite being issued with a telephone card by the Refugee Facilities Administration; some did not have shoes and lacked sufficient clothing;

could not store food in a refrigerator; were not aware of the social worker's services; were not informed of the availability of legal counselling.

### October 2015 findings

In contrast to the last visit, **none of the detainees were housed in tents.**

# Gym

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## August 2015 findings

Accommodation in the gym was set up as housing of detainees during admission (see Figures 19 and 20) – approx. 100 persons.



Figure 19



Figure 20

**Conditions found:** People housed in this area (usually for 2 –11 days) received only bread and cheese three times a day; received no personal hygiene package on admission; had no direct access to the toilet and running water (in order to get to the toilet they had to knock on the door and wait for a private security guard to arrive); could not access a telephone and were thus unable to contact relatives, despite being issued with a telephone card by the Refugee Facilities Administration; could not store food in a refrigerator. No regular cleaning of the gym was carried out (as witnessed by a detainee placed in the gym for 11 days). A number of people attested to the fact that they had no outings and were thus, in fact, not allowed out of the gym at all.

## October 2015 findings

Major shortcomings are still present. The only change for the better consists in the fact that at the time of the inspection visit, the foreign nationals received hot meals once or twice a day. However, access to water and toilets was still not provided (each time they had to ask private security guards).

In addition, I note the following with respect to the October visit:

- the gym housed 37 persons (30 had beds, 7 mattresses on the floor, see Figure 21), including 2 female detainees with their spouses and one minor child;

- the women were sharing the toilet (filthy and foul-smelling) with the men (see Figure 22 – one of the two toilets);
- over the course of the October visit, persons housed in the gym were allowed outings in the outing area (they claimed they had to wait for several days);
- the outing area to which persons housed in the tents were led contained a housing unit where a female detainee (without her husband) was housed with her minor children; this is inappropriate and at variance with the principle of separate accommodation of men and women as required by the Residence of Foreign Nationals Act.



Figure 21



Figure 22

# Container units near the administrative building

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## August 2015 findings

The 33 container units (see Figures 23 and 24) also served as housing, aside from individual male detainees, for families with children who could not be housed in the dormitories due to capacity reasons. A total of 120 persons were housed in container units, including approx. 50 children. Aside from the housing containers (see Figure 24), container units with sanitation facilities (see Figures 25 and 26) and units for serving meals were available; these contained the only two electric kettles available to people housed in the container units (see Figure 27).

A payphone is freely accessible in this part of the Facility and this area is also occasionally visited by a social worker who attends to the needs of the detainees. The detainees may do their shopping once a week. Cleaning is carried out by the detainees themselves, serving of meals is co-ordinated by an employee of the Refugee Facilities Administration.



Figure 23



Figure 24



Figure 25



Figure 26



Figure 27

**Conditions found:** Parents complained about a lack of clothing for themselves and especially for their children (children often wore crocs shoes); children were not provided with any activities, there were no games, climbing frames or TV available; the mattresses were not made of washable material, no pillows were provided and some people did not receive bed sheets; the container units lacked tables and families with children did not have enough chairs (lunch in the canteen is served in plastic takeaway boxes and eaten in the container units); moving between the units was uncoordinated to the degree that new persons were sometimes moved into units infested with lice; there was no possibility of storing food in a refrigerator; a police guard unit composed of 10 to 15 police officers in masks and helmets was present during the serving of meals (see illustrative photo in Figure 28). According to the staff, this is because of a past incident during the serving of meals. However, there were no such incidents during the visit and, moreover, there were 50 children present.



Illustration photo, Figure 13 (these are not the police officers assigned to the Facility;  
source: [http://i.idnes.cz/09/102/c460/JW2e5a85\\_HA0P0173.JPG](http://i.idnes.cz/09/102/c460/JW2e5a85_HA0P0173.JPG))

## October 2015 findings

**Significantly fewer children were housed in these container units** in comparison with the first visit. The police were likewise not present during meals, since the detainees, too, were eating their meals in the central canteen. Aside from the facts associated with the stay in the Facility as described in other chapters of this Report, the detainees complained about:

- a lack of attention to their needs associated not only with their stay at the Facility (medical attention, personal hygiene items, or assistance of the social worker in dealing with their personal affairs); allegedly, the answer they always receive is: “Tomorrow”;
- not being able to watch TV, do sports, visit a library or follow daily press over the course of the whole detention at the Facility (for some as long as 2 months);
- not being aware that an employee fluent in Arabic is present at the Facility.

# Dormitory A

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## August 2015 findings

Building A was reserved for accommodating families with children and vulnerable persons.

**Conditions found:** Some have not yet received their hygienic items package (one woman for 23 days, a Syrian family of four for 6 days), women lacked menstrual pads and other sanitary items; kitchens were used as bedrooms – beds placed in alcoves were sometimes only accessible over the bed-heads (see Figure 28); the number of beds did not correspond to the number of people placed in the room, e.g. three adults and five children shared 5 beds (see Figure 29); a room where a mother and her children were housed lacked the door (see Figure 30); bed linen was not changed; it was impossible to get access to a washing machine; food could not be stored in a refrigerator; no window had curtains or hangings and the detainees often installed improvised replacements (see Figure 31).



Figure 28



Figure 29



Figure 30



Figure 31

## October 2015 findings

Problematic living conditions (insufficient number of beds for all the detainees) and lack of attention to the needs of children (washing, shoes, a lack of a cooking stove or a microwave oven) persist. In addition to the above, I note that the water hydrant box is locked and inaccessible (Figure 32), and I document the environment in the common room, where hot water is available to families with children (Figure 33; note that the kettle is attached to the wall with a cord and cannot be brought under running water for cleaning or refilling).



Figure 32



Figure 33

# Health care

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## August 2015 findings

At the time of the visit, one physician and two nurses were active at the Facility. According to the medical staff, health care services are provided continuously and without interruptions (through the presence of the nurses). One or two physicians have office hours each day.

The information obtained at the health care centre shows that on an average day, 30 persons are examined by a single physician; the numbers of medical interventions without a presence of a physician fluctuate significantly (100 to 600 per day). The average number of administrations of medication to persons is 60 per day.

Approx. 130 people placed in the Facility after 20 August 2015 received no chest X-ray as part of the admission examination because of the lack of escort capacity on the part of the police and the limited operating hours of the X-ray facility at Klaudiánova Hospital in Mladá Boleslav.

At the time of the visit, diarrhoea and vomiting was spreading among the detainees, with 15 people affected (including 8 children). The presence of several strains of the Salmonella species was subsequently confirmed by laboratory tests. A body for protection of the public health ordered the Facility to immediately adopt measures to prevent an epidemic.

The detainees complained that it was difficult to get access to a physician for medical attention (the waiting periods were described as random, where sometimes there was no waiting time at other times there was a 3-day wait); they were not examined properly – they were often administered a pill without them knowing its effects (they suspected that they only received placebo or pain medication); they did not know when a relative had been taken into quarantine and why; their medication had been confiscated (each medicine was administered by the medical staff separately in the form of a pill), including vitamin supplements for pregnant women. One woman stated that she had been held in quarantine for 8 days; the quarantine room contained only a toilet and a wash basin and, during the whole time in quarantine, she had not been given a bath or a shower (the possibility had not been offered to her).<sup>9</sup>

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<sup>9</sup> The health care facility responded to this with a statement that the conditions of the quarantine were not determined by the medical staff but rather the 24/7 service of the Refugee Facilities Administration; therefore it could offer no explanation as to the quarantine conditions.

## October 2015 findings

The Army of the Czech Republic provided a portable X-ray system, which was used to carry out all the scheduled chest X-rays by mid-September. Check-ups are now proceeding as required.

According to my findings, a major problem in the provision of health care services is the language barrier and the mutual distrust between the medical staff and the patients.

The detainees complained that even if they got to the physician, they often could not explain the nature of their health problem due to the lack of a common language. In both visits, the availability of interpreting during medical examinations in the Facility was not confirmed by a single detainee. According to the experience of some of the detainees, some of the physicians do not even speak English.

Based on the inquiry I made with respect to several specific complaints against the state of the health care at the Facility, I concluded that the medical condition of a patient who was examined by a physician was always assessed correctly and the physician ordered appropriate steps (medication, expert examination, etc.). However, the diagnosis and further treatment is determined without the patient's input, which carries a significant risk of misdiagnosis and unsuitable treatment. In many of these situations, free and informed consent in the sense of the Health Care Services Act cannot even be given.<sup>10</sup>

This is not to say there is a lack of willingness to provide health care or any kind of intentional provision of lower-quality medical services. The medical records are kept with a degree of diligence corresponding to the circumstances. The nurses respect the physicians' orders. Private security guards wait in the corridor, outside of the physicians' offices. The patients are also being sent outside the Facility to get the necessary medical examinations. The work, effort and determination on the part of the medical personnel to provide the best possible health care is hampered by the lack of information exchange which, as a result, leads to a mutual loss of trust.

Complaints of the detainees against insufficient examination, which can often be heard, are a direct result of insufficient communication between the medical staff and the patients and the patients' lack of understanding of the medical procedures being performed. Consequently, the above leads to mistrust on the part of the detainees towards the health care system and its quality, while the medical staff is disenchanted with the detainees who not only show no signs of gratitude, but even complain against the services they were provided. The urgency of the need for interpreting during medical examination is clearly apparent.

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<sup>10</sup> Section 28 (1) of Act No. 372/2011 Coll., on health care services and the conditions for their provision, as amended.

The Health Care Facility objected to my claim that it was difficult to get to the physician due to the arbitrariness of the waiting period (ranging from immediately to three days). I clarify that by the waiting period, I mean the wait for actually being led by a private security guard from the dormitory to the health centre. Dozens of such escorts occur on daily basis since medication is always administered in a single dose at the health centre. If somebody requests to be led to a physician, the decision whether or not this is actually done depends on the individual private security guard. In contrast to the practice common in prisons, there is no system in place to exclude "bias" on the part of the guard (the private security contractor) and to ensure access to the physician.

# Evaluation

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## August 2015 findings

During my visit in August 2015, I concluded that the Facility **was not prepared to serve 700 persons in terms of its equipment, organisation and personnel** (the normal capacity was 270 beds) I concluded that ill-treatment of the detainees, especially children, had been found.

Aside from the description of the material conditions in detention, I also noted that the detainees were frustrated by the lack of information and that nobody was attending to their problems (lack of diapers, obtaining numbers from the confiscated mobile phones, shopping, etc.). They often come to believe they have been deprived of their humanity and treated as a “herd of animals”, as they said themselves. Communication with the detainees is substituted by a demonstrated threat of repression in the form of a larger police contingent at the Facility, including riot police. I concluded that access to legal advice was insufficient.

As concerns the situation of the 150 children placed in the Facility, I described the helplessness of their parents, who noted a lack of shoes, toys, games and the fact that the conditions resembled prison (high fence topped with barbed wire, uniformed police officers, riot police and private security guards). I repeatedly evaluated the conditions at the Facility as completely unsuitable for children.

I have put my findings concerning the health care shortcomings in a separate chapter.

## October 2015 findings

The situation in the Facility was improved greatly by the fact that there were 250 fewer persons in comparison with the first visit. This is why nobody has to be accommodated in tents. The number of specified number of personnel of the Refugee Facilities Administration was officially increased (for 6 new social worker jobs and 6 entertainer’s jobs; the positions are yet to be filled in full), the equipment of the health centre has been improved and the children now receive 90 minutes’ worth of school instruction per day. An interpreter of Arabic is available at the Facility on business days.

There are, however, still problems with ensuring that the detainees receive sufficient information, and problems concerning insufficient conditions for children who are now kept in *de facto* prison-like conditions; lack of direct access to running water and toilets for persons housed in the gym, and the continuous demonstrations of force instead of trying to ensure basic communication between the detainees and the staff. No interpreter of the Persian language is available, which represents an insurmountable language barrier for a large part of the detainees.

Some of my findings constitute a violation of **the Czech Republic's international obligations** (the living conditions in the container units in the forest and the living conditions of children in the Facility), and others constitute a **clear violation of the Residence of Foreign Nationals Act** (non-provision of hygiene products,<sup>11</sup> shared accommodation of men and women<sup>12</sup>, failure to ensure outings in the low security parts of the Facility for detainees housed in the gym,<sup>13</sup> and insufficient furnishing of the rooms<sup>14</sup>). **Such living conditions represent violation of the fundamental rights guaranteed by the Charter of Fundamental Rights and Freedoms to all persons.**

I even consider the living conditions under which male detainees, including minors, are kept in the container units in the forest to represent a case of **degrading treatment**. I am appalled by the degree of dehumanisation present in the system of detention of foreign nationals in the Czech Republic, as well as the degrading treatment which the Facility's management tolerates and the living conditions in which children are held in the Facility.

### Further steps – informing the superior authority

Refugee Facilities Administration did not respond to my Report on Visit to the Facility. In between the inspection visit and the completion of evaluation, I received a statement from the Ministry of the Interior through the letter of the head of the Department of Asylum and Migration Policy.<sup>15</sup>

Through the inspection visit, I learned that the situation at the Facility continued, despite limited progress in some areas, to show signs of ill-treatment. Therefore, pursuant to Section 21a (4) in conjunction with Section 20 (2)(a) of the Public Defender of Rights Act, I request that the Ministry of the Interior as the superior authority provide for a remedy.

I recommend to adopt the following remedial measures:

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<sup>11</sup> Section 134 (1)(a) of the Residence of Foreign Nationals Act.

<sup>12</sup> Cf. Section 141 (2)(b) of the Residence of Foreign Nationals Act.

<sup>13</sup> Section 134 (1)(h) of the Residence of Foreign Nationals Act.

<sup>14</sup> Cf. Section 133 (1) in conjunction with Section 134 (1)(a) of the Residence of Foreign Nationals Act.

<sup>15</sup> With regard to the situation at the Facility, I also note the statement of the Minister of the Interior of 1 October 2015, through which he responded to my letter of 1 September 2015, which contained recommendations for specific changes concerning the regime of the detention of foreign nationals based on the visit to the facility of autumn 2014 (i.e. to stop placing families with children in the Facility, to prepare the foreign nationals for release from the Facility, etc.). See the PUBLIC DEFENDER OF RIGHTS. Reports on Systematic Visits in the Facilities for Detention of Foreigners [online]. Brno: Office of the Public Defender of Rights, 2015 [retrieved on: 12 October 2015]. Available at: [http://www.ochrance.cz/fileadmin/user\\_upload/ochrana\\_osob/ZARIZENI/Zarizeni\\_pro\\_cizince/KM\\_DOPIS\\_MINISTRA\\_ELEKTR.pdf](http://www.ochrance.cz/fileadmin/user_upload/ochrana_osob/ZARIZENI/Zarizeni_pro_cizince/KM_DOPIS_MINISTRA_ELEKTR.pdf)

- 1) Ensure that the detainees are treated in accordance with the international obligations of the Czech Republic and the rights following from the Residence of Foreign Nationals Act.<sup>16</sup>**
- 2) Cease housing persons in the gym and container units in the forest immediately. Discontinue the practice of shared accommodation of women with men and minors with adults, except for close persons.**
- 3) Avoid housing families with children in the Facility for Detention of Foreigners in Bělá-Jezová under the current living conditions, which constitute a breach of Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms in terms of accommodation of children.**
- 4) Guarantee the provision of free legal advice to detainees<sup>17</sup> and actively participate in ensuring its real availability.**
- 5) Change the personnel structure so that only civilian employees work with the detainees. Task uniformed officers in the Facility exclusively with guarding duties.**
- 6) Stop demonstrating force through police officers in masks and helmets and accompanied by dogs.**
- 7) Ensure that services of an adequate number of interpreters are available, especially at the health care facility.**
- 8) Improve social work at the Facility in order to increase awareness on the part of the detained persons and provide for their basic social needs.**
- 9) Actively assist the detainees in gathering information and bringing relatives together, both within the Facility in the Czech Republic and abroad.**
- 10) Adopt suitable measures in relation to the upcoming winter: in particular, stop accommodating families with children in container units and provide them (especially the children) with adequate clothing and shoes.**

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<sup>16</sup> These include the rights of detained persons specified in Title XII of the Residence of Foreign Nationals Act (in particular Sections 131, 132, 133, 134, 141 and 143).

<sup>17</sup> Especially in accordance with judgment of the Supreme Administrative Court Ref. No. 4 Azs 122/2015-23 of 30 June 2015; see also Article 27 (5), (6) and (7) of the Dublin III Regulation.

**11) Stop charging the detainees for the costs associated with detention of persons for the purpose of relocation under the Dublin III Regulation,<sup>18</sup> as there is no legal basis for this practice.<sup>19</sup>**

**12) Provide psychological support to the Facility staff.**

I also request that the Minister of the Interior take steps to prevent **delays in access to the facilities administered by the Ministry of the Interior such as those I repeatedly faced**, in this instance due to the conduct of the police unit chief, 1<sup>st</sup> Lieutenant Mgr. Pavel Šarapatka.

I have also decided to release my findings to the public pursuant to Section 20 (2)(b) of the Public Defender of Rights Act.

### Notes on changes to the system

This report shows serious individual shortcomings which must immediately be addressed. However, it also highlights the need for systemic changes in the area of detention of foreign nationals, including **setting up an effective and regular independent supervision** of the treatment of detainees at the Facility for Detention of Foreigners. I believe that such supervision could be provided, conditional on a suitable increase in personnel and technical equipment, by the Public Prosecutor's Office, pursuant to its statutory authorisation to inspect compliance with the law in places where freedom is restricted.<sup>20</sup> It is now obvious that the Ministry of the Interior<sup>21</sup> failed to provide sufficient supervision. My supervisory activities are only of monitoring nature and serve the purposes of prevention. They can substitute for neither a permanent and effective mechanism of supervision of the conditions in detention nor an effective remedy stipulated by Article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which is binding on the Czech Republic.

Furthermore, I believe it is necessary to raise awareness of the fact that a major part of contact between the detainees and the State, which has deprived them of their freedom, is **mediated through the employees of a private security contractor**, i.e. persons whose qualifications for the job are not guaranteed in an official capacity. This is not acceptable. The Facility management

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<sup>18</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (amended wording). Hereinafter the "Dublin III Regulation".

<sup>19</sup> Section 176c of the Residence of Foreign Nationals Act.

<sup>20</sup> Section 4 (1)(b) of Act No. 283/1993 Coll., Coll., on public prosecutors, as amended.

<sup>21</sup> Section 148 of the Residence of Foreign Nationals Act.

repeatedly stressed that their only role in the Facility was to provide for internal security and escort of the detainees between the individual parts of the Facility. In reality, however, they deal with everyday requests of the detainees and communicate with them since they are the only ones to spend 100 % of their working hours with the detainees.

The attention I pay to the **living conditions in the Czech facilities for detention of foreigners must be understood in a wider context**. I have notified the Ministry of the Interior of the individual as well as the systemic shortcomings through my Report on the Visit to the Facility For Detention of Foreigners in Bělá-Jezová of 18 February 2015. The report on the visit as well as all communication with the individual stakeholders is publicly available on the Public Defender of Rights' website.<sup>22</sup> I have suggested that the detainees be, over the course of their stay in the Facility, prepared for leaving the Facility, and that the provider of telecommunication services be changed so that the prices of phone calls are reduced, and that the detainees be allowed to access the Internet. The Ministry of the Interior promised to adopt these measures. On the contrary, the Ministry refused to cease placing families with children in the Facility for Detention of Foreigners in Bělá-Jezová and it unlawfully continues to charge foreign nationals detained for the purpose of relocation under the Dublin III Regulation for the costs of accommodation and food in the Facility for Detention of Foreigners.

Mgr. Anna Š a b a t o v á, Ph.D., signed  
Public Defender of Rights  
(this report bears an electronic signature)

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<sup>22</sup> THE PUBLIC DEFENDER OF RIGHTS. Reports on Systematic Visits in the Facilities for Detention of Foreigners [online]. Brno: Office of the Public Defender of Rights, 2015 [retrieved on: 7 September 2015]. Available at: <http://www.ochrance.cz/ochrana-osob-omezenych-na-svobode/zarizeni/zarizeni-pro-cizince/>