



EUROPEAN MASTER'S DEGREE in
HUMAN RIGHTS and DEMOCRATISATION



Karl-Franzens-Universität Graz

SURGICAL CASTRATIONS OF SEXUAL OFFENDERS – DEGRADING TREATMENT?

THE DIALOGUE BETWEEN THE EUROPEAN COMMITTEE FOR THE
PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT (CPT) AND THE CZECH REPUBLIC

Master Thesis presented by Ms. BARBORA VÁGNEROVÁ

Supervised by Ass.- Prof. DDr. RENATE KICKER

2009 – 2010

Abstract

Surgical castration as a treatment of sexual offenders is a method that raises a passionate and emotional debate on how to treat sexual offenders without violating their human rights on the one hand, and how to protect the society as effectively as possible on the other hand. This thesis tries to present in a balanced manner the arguments for and against the use of surgical castrations in the concrete context of protective sexological treatment in the Czech Republic. It focuses on the dialogue between the Czech authorities and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), whereas the Czech Republic wants to preserve voluntary surgical castration as a possible treatment of sexual offenders and the CPT recommends its complete abolition. The information gained during the research on the topic from the Czech and international physicians, psychologists, sexual offenders, governmental representatives and lawyers serve to further develop the impact of the dialogue on the CPT as well as on the Czech Republic and even on the other European countries.

Acknowledgements

My thanks go directly to:

- *Ass.-Prof. DDr. Renate Kicker, for her supervision.*
- *Mag. Lisa Maria Heschl, E.MA, for her patience, kindest remarks and guidance through the whole writing process.*
- *Prof. Dr. Wolfgang Benedek, for his support.*
- *JUDr. Zdeněk Hájek, Mgr. Hubert Smekal M.A. Ph.D. and doc. PhDr. Jan Holzer Ph.D., for their trust.*
- *And - last but not least - to all the persons interviewed who so kindly and openly expressed their opinions and shared their experiences.*

In the memory of prof. JUDr. Stanislav Zdobinský, CSc.

Acronyms

CAT	Committee Against Torture
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DSM-IV-TR	Diagnostic and Statistical Manual of Mental Disorders IV Text Revision
ECHR	European Convention on Human Rights
ECPT	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECT	Electroconvulsive Therapy
EFS	European Federation of Sexology
IATSO	International Association for the Treatment of Sexual Offenders
ICD-10	International Statistical Classification of Diseases and Related Health Problems 10 th Revision
LHRH	Luteinizing-Hormone Releasing Hormone
SPT	Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
SSRIs	Selective Serotonin Re-uptake Inhibitors
UN	United Nations

Table of contents

1. <i>Introduction</i>	1
2. <i>The legal context</i>	6
2.1 Law on the Care for the People's Health	6
2.2 Criminal Code	7
2.2.1 Protective treatment	7
2.2.2 High-security detention	9
2.3 Concept of free and informed consent	10
2.3.1 Convention on Human Rights and Biomedicine	10
2.3.2 Decree 385/2006 on Medical Documentation	11
2.4 Ministry of Health's best practice manual	13
3. <i>The medical context</i>	16
3.1 Czech sexological treatment	16
3.2 Purpose, nature and side effects of a surgical castration	16
3.3 Target group of surgical castrations	19
4. <i>Substance of the dialogue between the CPT and the Czech Republic</i>	21
4.1 The CPT – basic information on its role, mandate and working methods	21
4.2 The CPT and the Czech Republic – visits carried out and their focus	25
4.2.1 The CPT's findings during its visit to the Czech Republic in 2006	28
4.2.2 The CPT's ad hoc visit to the Czech Republic on surgical castrations in 2008	30
4.2.3 Main points of the CPT's criticism to the performance of surgical castrations	34
4.3 The Czech Republic's response	36
4.3.1 Response of the Czech Government to the CPT's report in 2006	36
4.3.2 Response of the Czech Government to the CPT's report in 2008	39
4.3.3 Main arguments in favour of surgical castrations	40
4.4 Interviews and statements of different actors to surgical castrations	42
4.4.1 Government Council for Human Rights and its human rights reports	42
4.4.2 Deputy of the Government Council for Human Rights to surgical castrations	46
4.4.3 Ministry of Foreign Affairs to surgical castrations	49
4.4.4 Ministry of Health to surgical castrations	49
4.4.5 Interviews with Czech sexologists and psychologists	51
4.4.6 Interviews with Czech sexual offenders	58
4.4.7 International sexological organisations to surgical castrations	61
4.4.8 Academic literature to surgical castrations	62
5. <i>Impacts of the dialogue</i>	66
5.1 Impacts of the dialogue on the creation of new law	68
5.2 Impacts of the dialogue on the Czech Republic	70
5.2.1 Public debate	71
5.2.2 Loopholes in the practice of surgical castrations	72

5.2.3	New areas of concern	73
5.2.4	Concern of international politics	77
5.3	Impacts of the dialogue on the CPT	78
5.3.1	Cooperation with other human rights bodies in the field	79
5.3.2	Attention from abroad	79
5.3.3	Surgical castrations as a treatment possibility in other Council of Europe Members States?	81
5.3.4	Castration tourism	82
5.3.5	Other solutions of long term detention and the CPT's position	83
6.	<i>Future Perspectives</i>	86
7.	<i>Bibliography</i>	91
8.	<i>Annex I – Paraphilia</i>	99
9.	<i>Annex II – Interviews with Czech sexologists and psychologists</i>	103