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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Czech Republic**

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## **I. Preparation of the report at the national level**

1. The initial draft of the Report was prepared by the Section of the Government Commissioner for Human Rights. It was circulated to ministries and central government authorities, the Constitutional Court, the Supreme Court and the Supreme Administrative Court, the Ombudsman, NGOs, academic institutions, members and committees of the Government Council for Human Rights and other government advisory bodies involved in human rights protection, with a request for comments and suggestions. The resulting consolidated text was reviewed by members of the Government in a consultation process and finally approved by the Government.

## **II. Developments in the Czech Republic in the area of human rights promotion and protection in 2008–2012**

2. The Constitution of the Czech Republic was amended twice during the period under review. The first amendment made in 2009 enables the President of the Republic to dissolve the Chamber of Deputies of the Parliament, subject to the consent of three fifths of all deputies. This amendment provides a constitutional basis for the holding of early elections and puts an end to the previous practice of calling early elections on the basis of a constitutional act adopted on an *ad hoc* basis to shorten the current election period. The other constitutional amendment made in 2012 provides for the direct election of the President of the Republic. The President is to be elected in a two-round election by all nationals of the Czech Republic aged over 18. During the period under review there were no changes to the ultimate constitutional safeguard of human rights and freedoms – the Charter of Fundamental Rights and Freedoms.

3. An important development in the period under review was the adoption of the Anti-Discrimination Act in 2009. Stronger protection and enforcement of individual rights and freedoms was also the aim of many other legislative changes, such as the new Criminal Code (2009) that requires greater respect for human rights and freedoms, the amended Code of Civil Procedure (2008) that improves the protection of the rights of the child and the procedural status of children, and the amendments to the Code of Criminal Procedure that address privacy protection in the context of telephone interception (2008) and the right of crime victims to claim compensation for non-pecuniary damage in *partie civile* proceedings (2011). The Foreigners Residence Act was amended in 2010 to introduce alternatives to custodial detention of foreigners and to improve the procedural protection of their rights. The amendment prolongs the maximum time foreigners can spend in detention; however, this applies only to foreigners who obstruct the execution of an administrative expulsion order. A minor foreigner can be detained only if there are reasonable grounds for believing that he or she would otherwise pose a risk to national security or seriously disrupt public order. When an entire family is in detention, special regard must be given to the children's situation at all times. Minor asylum seekers cannot be detained. The new healthcare legislation in force since 2012 defines the rights and status of patients as equal partners of the healthcare staff.

4. Certain problems accompanied the 2009 amendment to the Code of Criminal Procedure concerning the disclosure of information on individuals involved in criminal proceedings. In the initial stages of the drafting process the amendment protected the privacy of minors and victims of crimes violating personal integrity. Suspects, defendants and witnesses were added at a later stage, and the scope of the amendment was further expanded to prohibit the disclosure of information gathered from telephone intercepts. The sanctions for the disclosure of such information were to be much stricter than initially

proposed. On the whole, at this stage privacy protection prevailed over the freedom of speech and information. There was also no room left for resolving potential conflicts between these rights in a way that would take into account the circumstances of each individual case. Accordingly, a new amendment was adopted in 2011 to permit disclosure in cases where public interest takes precedence over the privacy of the individual concerned. Potential conflicts between the two rights are to be resolved in court. Similar problems were encountered in connection with an amendment to the Public Assemblies Act that introduced sanctions for wearing a face covering at public assemblies. In this case, the Interior Ministry eventually explained in its interpretative comments that the sanctions were intended for those who cover their faces with criminal intent, not those who want to hide their identity when demonstrating their views.

5. During the period under review the Czech Republic ratified a number of international human rights conventions. Additional particulars are provided in the appropriate section of Part C. Legislation concerning the criminal liability and punishment of legal entities for certain crimes was adopted in late 2011. This will enable the Czech Republic to ratify a number of international conventions on the fight against organized crime and the protection of its victims, as well as conventions concerning human trafficking and protection of the rights of the child.

6. During the period under review the Constitutional Court, as the guardian of constitutionality, abolished i.a. the rule precluding judicial review of administrative expulsion orders for illegally residing foreigners; the unreasonably short deadline for asylum seekers to bring action for violations of their right to judicial protection in asylum proceedings; the unreasonably short time-limit for denying paternity that left no time to take full account of the biological ties and justified interests of all parties concerned; and the legislation concerning the retention and use of telecommunication traffic and location data that unduly infringed on personal privacy. On the other hand, the Constitutional Court ruled that information contained in pending court decisions should be made publicly accessible since courts are subject to public supervision. It also ruled that a court warrant was necessary to enter and search any premises, not only private homes. Other Constitutional Court rulings e.g. reaffirmed the right not to submit to unlawful decisions or actions of public authorities; strengthened the status of individuals who are legally incapacitated or whose legal capacity is limited; defined the rights of parties to execution proceedings; and stressed that courts must decide in accordance with morality as well as law.

7. Likewise important was the Supreme Administrative Court ruling that dissolved the far-right Workers' Party for promoting violence and intolerance towards groups of population and for denying democratic principles. In another ruling the Supreme Administrative Court set limits on interference with the right of assembly. In many of its cases it defined the right of access to information; its rulings also helped strengthen the status of individuals charged with administrative offences. The Supreme Court, the highest judicial body in civil as well as criminal matters, issued unifying opinions concerning the practice of removing children from families because of economic hardship or poor housing (the Supreme Court clearly condemned this practice); concerning proceedings on the admissibility of commitment to and detention in a healthcare facility, and the amount of compensation to be awarded in accordance with the European Court of Human Rights (ECtHR) case-law for unreasonable delays in court proceedings and for unlawful detention.

### **III. Implementation of the recommendations made during the first review**

8. A total of 30 recommendations were made to the Czech Republic during the interactive dialogue in the first cycle of the Universal Periodic Review. The Czech Republic accepted 29 of them; the only exception was recommendation no. 7 concerning the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Czech Republic implements all the remaining recommendations as described in the respective sections below (as a rule, several recommendations are grouped under one section according to topic). Information on the progress made in implementing some of the recommendations was presented to the Human Rights Council at its regular sessions in 2009–2012.

#### **A. Combating racism and neo-Nazism (recommendations nos. 1, 2, 3 and 16)**

9. Neo-Nazi propaganda and racial attacks are crimes in the Czech Republic. The new 2009 Criminal Code makes it a crime to commit violence against a group of population or against an individual, to defame a nation, a race, an ethnic or other group of persons, to instigate hatred for a group of persons or to instigate actions infringing upon the group's rights, to establish, support and promote a movement that seeks to suppress human rights and freedoms, and to declare sympathies for such a movement. For many other crimes the racial motive is an aggravating circumstance that warrants a stricter penalty. The Czech Republic's criminal justice system ensures a fair process resulting in the punishment of perpetrators in accordance with international commitments. Victims have the right to claim compensation (for non-pecuniary as well as pecuniary damage) in criminal proceedings.

10. Beside the reactive criminal law mechanism the Czech Republic has a Strategy for Combating Extremism, revised on a yearly basis. Reports on the implementation of the Strategy are presented to the Parliament annually. The report consists of information on the developments on the extremist scene during the year under review, and of an Anti-Extremism Policy Concept for the next year. The Strategy is preventive rather than repressive, with measures designed to prevent the emergence and spread of extremism. It includes activities targeting children and young people. In recent years the Strategy has e.g. prevented extremist infiltration into the security structures, and helped reduce the number of extremist concerts and demonstrations. However, extremist content on the Internet and the conspiratorial practices of extremists remain a problem. Action to eliminate crimes with racial, national and religious motives is also at the core of the Crime Prevention Strategy for 2012-2015. In addition to preventing racism and xenophobia, the Crime Prevention Strategy fosters the coexistence of the majority society and ethnic minorities as a way of eliminating the usual pretexts for some extremist attitudes and manifestations.

11. The Interior Ministry's "Handbook for Municipal Authorities concerning the Public Assemblies Act" provides an overview of Czech legislation relevant to the right of assembly and recommends ways to deal with difficult situations that may arise in connection with public assemblies. Another brochure called "Unwelcome Visitors", published jointly by the Government and non-profit organizations in 2009, describes the extremist and neo-Nazi scene, the experience with extremist and neo-Nazi rallies and other events, and shows possible ways to deal with extremist activities. Both brochures have been distributed to regional and municipal authorities and are available on the Internet.

12. The Czech Republic attaches increasing importance to the social integration of foreigners, since successful integration is crucial to the positive and effective contribution

that immigration can bring to the Czech Republic. Integration prevents the emergence of closed immigrant communities, social isolation and exclusion of foreigners, fosters natural ties between foreigners and Czech society, and helps overcome mutual prejudice and friction. With this in mind, the Government has developed, and regularly revises, a long-term Foreigners Integration Policy Concept. The aim is to facilitate and encourage active participation, development of Czech language competences, economic self-reliance and social orientation of foreigners, as well as to build conflict-free relations between foreigners and Czech society. In this process the Government cooperates with municipal and regional authorities, NGOs and associations of foreigners. In addition the Government subsidizes projects such as Czech language courses, labour law counselling services, as well as fieldwork and socio-cultural orientation courses teaching foreigners about their rights and obligations and about life in the Czech Republic. The Foreign Nationals Integration Support Centres, opened in ten regions and in Prague, provide information and counselling services and organize courses and seminars tailored to local needs. Government authorities post on their websites information for foreigners in English, produce publications and leaflets in foreign languages and establish special portals for foreigners.

13. The Czech Republic supports human rights defenders at home and abroad. Human rights defenders can freely work and pursue their activities in the country, subject to national legislation. In the international context, action in support of human rights defenders is part of the Czech Republic's transition cooperation programmes.

## **B. Measures to counter discrimination and to protect the rights of ethnic minorities, especially the Roma (recommendations nos. 2, 15, 21, 24, 28 and 30)**

14. The Czech Republic makes a sustained effort to improve the situation of the Roma and other national minorities in society. To this end, it encourages and supports the exercise of minority rights and full participation of minorities in social life. Persons belonging to national minorities have the right to maintain and develop all elements of their identity, including their own culture and the use of their own language, and to associate with others in defence of their interests. In municipalities where their number reaches a certain threshold they have the right to education in their own language and the right to take part in the public affairs affecting them. At the central government level, creating national minority policies and advising the government on national minority affairs in general is the task of the Government Council for National Minorities. The specialized Government Council for Roma Community unifies and coordinates the work of ministries, government institutions and local governments as regards Roma integration. It presents to the Government data, background information and proposals for measures helping the Roma live a full and dignified life in Czech society. National minorities are represented on both councils; the Roma hold half of the seats on the Government Council for Roma Community Affairs. A key role in protecting the rights of the Roma and other national minorities is played by the Government Commissioner for Human Rights.

15. The crucial government policy document in this area is the Roma Integration Policy Concept for 2010-2013. It focuses on the key challenges the Roma may encounter, and proposes ways to improve their situation, to give them equal opportunities and to compensate for their initial disadvantages. It takes into account the cultural needs of Roma communities, proposing ways to support research into the Roma culture, language and history, to integrate the Roma culture into the culture of Czech society and to promote the remembrance of Roma Holocaust victims. In addressing the situation of socially excluded people belonging to the Roma minority, the Roma Integration Policy focuses on their key needs such as social care, education, employment, housing and health care. It also looks at

the safety and security needs of the Roma and proposes ways to combat extremism and prevent crime. To implement the Roma Integration Policy, the Government supports a network of regional Roma affairs coordinators who coordinate the policy at the regional level. Their task is to supervise and provide guidance to Roma advisors who lead the integration effort in municipalities.

16. The Agency for Social Inclusion was set up in 2008. The Agency is part of the Human Rights Section at the Government Office and reports to the Government Commissioner for Human Rights. Its task is to improve the life in socially excluded Roma neighbourhoods, to stop the spread of such neighbourhoods and encourage the full social integration of their inhabitants, and to give all people equal access to education, housing, health care, employment, social services, as well as safety and security. The Agency's expert team creates and helps apply social work and social inclusion models. In 2010–2012, the Agency has implemented a project promoting social inclusion in selected Roma neighbourhoods. As part of this project, municipalities can benefit from the Agency's counselling and assistance on social inclusion issues, including help with community planning, advice on ways to address the needs of local people, as well as examples of good practice. In this process, the municipality can form a local partnership, bringing in NGOs, public authorities, schools, the Police of the Czech Republic and other stakeholders to work together with the Agency on local development and integration projects. The Agency may also help with applications for ESF funding for these projects. Since its establishment, the Agency has entered into such cooperation arrangements with 33 municipalities and neighbourhoods.

17. In December 2011 the Czech Republic adopted a new Crime Prevention Strategy for 2012-2015. The aim is to improve the overall sense of safety and security among the population and to reduce interethnic tensions. Safety and security in socially excluded neighbourhoods is treated as a comprehensive problem requiring the cooperation of municipal authorities, the Police of the Czech Republic and other organizations and institutions. A practical example of this approach is the Crime and Extremism Prevention Programme "Dawn" aimed to counter the persistent discriminatory and xenophobic stereotypes, to end or alleviate social exclusion, and to foster the coexistence of society with ethnic and national minorities. As part of the programme, each municipal police force has appointed a crime prevention assistant whose task is to help reduce crime and offending and ensure that law is fully enforced in the neighbourhood, as well as to prevent neighbourhood disputes and delinquency, and to help change society's negative attitude toward socially excluded people. The assistant must be a local man or woman of good standing in the community and a good understanding of its internal structures, development and concerns. In 2011 the project received a government subsidy to cover the costs of 104 assistants in 17 towns.

18. The Czech Republic has adopted a Minority Policing Strategy for the Police of the Czech Republic for 2008-2012. The Strategy sets out the principles of minority policing and requires an equal approach and respect for each minority's different characteristics. The main step under this Strategy was to appoint a minority liaison officer and set up a minority liaison working group at each regional headquarters of the Police of the Czech Republic. The minority liaison officer is an expert on minority policing and his or her task is to monitor minority structures and help prevent crime in the neighbourhood, using the combined expertise of the working group. Systematic minority policing builds mutual confidence between the police and persons belonging to minorities, helps the police get to know and understand the minority's specific characteristics, successfully imports law and justice into the specific environment of socially excluded neighbourhoods, and encourages persons belonging to minorities to take responsibility for their own safety and security.

19. The Ministry of Labour and Social Affairs develops tools and measures to support Roma employment and minority employment in general. These include retraining, public utility jobs, investment incentives, induction allowance, contributions to bridge the transition to a new product line, specialized counselling as well as targeted pro-employment programmes. The Employment Centre, in cooperation with the jobseeker, creates an individual plan of action setting out the steps necessary to improve the jobseeker's chances in the job market, including deadlines and assessment of progress. The plan may include job-related counselling, retraining or other steps to improve the jobseeker's qualifications. In accordance with the active employment policy, it may require the jobseeker to take up a public utility job or to do periods of work for the community. The plan is tailored to the jobseeker's qualifications, health, capabilities and limitations. The Employment Centre must develop a plan of action for anyone who has been registered as unemployed for more than five months. This individualized planning provides enough flexibility to take into account the socio-cultural aspects that affect the integration of persons belonging to the Roma minority into majority society. Interested jobseekers are included in programmes supporting social integration, social services and social economy, as well as social integration of people living in excluded Roma neighbourhoods.

20. The National Plan of Action for Inclusive Education was adopted in 2010 in response to the judgment of the ECtHR in the case *D.H. and others v. the Czech Republic*. It establishes a framework for activities promoting equal access to and equal opportunities in education, with the aim to make education more inclusive and to prevent social exclusion of individuals and whole social groups. As a result of legislative amendments made in 2011, the educational and psychological counselling system became responsive to special educational needs. The emphasis is on the quality of counselling; assessments must be made within the prescribed time-limits and then regularly reviewed to keep track of the child's progress. The amendments help ensure that choice of an educational programme, and of the learning environment, is based on a professional assessment of the pupil's educational needs, subject to the informed consent of the pupil's statutory representatives. Pupils without disabilities are not taught according to school educational programmes for disabled pupils. A pupil who is disadvantaged (socially or in terms of health) but not disabled may be temporarily placed in a class for disabled pupils if his or her overall performance in the mainstream class remains poor despite all available measures and support. However, such placement must not last more than five months. Throughout this period, the pupil must continue to be taught according to a mainstream primary school education programme. An assessment recommending a pupil for education in a school programme for disabled pupils is valid for one year and then must be reviewed. This means that education programmes are always chosen on the basis of expert assessment, subject to the informed consent of statutory representatives. The Ministry of Education, Youth and Sports provides guidance and systematic support, including financial support, for all these steps.

21. Early intervention services for socially disadvantaged pre-school children and their families focus on ways to make pre-school education more accessible for the target group. The aim is to facilitate and encourage systematic development of the skills and competences (including language and communication skills) that are necessary for successful school entry. This involves the promotion of head-start classes, as well as schemes to increase the capacity of kindergartens, and the training of teachers to work with children with different educational needs. Support is also provided e.g. to low-threshold centres and assistant teachers.

22. The Inclusive Education Support Centre is a project launched in 2009. To date it has provided support to openness and inclusion schemes at more than 200 primary schools. 130 schools participated in the project in the 2010/2011 school year. In the next stage of the project the Centre will develop methodology for teacher – assistant teacher cooperation, for



teaching catch-up lessons in and out of school and creating individual education plans, as well as for different forms of cooperation with families based on the principles of social work and for cooperation with other organizations and institutions.

23. The General Inspection of Security Forces was established in 2012 as an independent law enforcement authority to investigate crimes committed by members of the Police of the Czech Republic, the Prison Service and the Customs Service. The Inspection accepts complains from anyone who believes that a member of a security force has committed a crime. There is no special body charged with investigating crimes against the Roma, since the Roma can file their complaints with the same bodies, and asserts their rights in the same proceedings, as anyone else.

24. Attention has also been paid to the Roma Holocaust and the remembrance of victims of the Roma labour camps at Lety u Písku and Hodonín u Kunštátu. The Lety memorial site is now managed by Lidice Memorial (an organization in charge of a WW II memorial of major importance, located at the site of a village destroyed by the Nazis in retaliation for the assassination of Reichsprotektor Reinhard Heydrich). Lidice Memorial is partly funded from the state budget and has the necessary expertise to ensure a high standard of professional care. The Roma Holocaust Memorial to be established at Hodonín u Kunštátu will be managed by J.A. Komenský National Pedagogical Museum and Library. The museum, located in Prague, will organize lectures and other educational and awareness-raising events for experts and the general public.

25. The gathering of ethnic data in the Czech Republic is complicated by the fact that according to international treaties and EU law, such data must be treated as sensitive and can be processed only with the data subject's consent or for legitimate purposes determined by law. The gathering of statistical data for the use of public administration authorities is not considered a "legitimate purpose". This means that the only possible sources of information for assessing the size of the Roma or any other ethnic group are either self-assigned ethnicity data or non-personally identifiable ethnicity data from anonymous surveys. As a result, for practical purposes ethnicity is mostly observer-assigned, regardless of the person's self-identification. This may lead to differences between subjective and objective perceptions of ethnicity.

26. The census is the main source of self-assigned ethnicity data. The 2011 census was accompanied by a project targeting excluded Roma neighbourhoods. The project was managed by the Government Commissioner for Human Rights in cooperation with the Czech Statistical Office. It included an awareness-raising campaign informing the Roma about the census process, the protection of census data, and ways in which the data can be used to help the Roma exercise their rights. The information was distributed on leaflets and through 139 Roma assistant enumerators who visited Roma households to explain and help complete the census forms. Briefings on the census process were organized for assistant enumerators, Roma advisors and fieldworkers from municipal authorities and NGOs. A banner calling attention to the census was posted on the websites of Roma civic associations. Awareness-raising activities included press conferences with Roma community leaders, as well as articles in selected Roma magazines and newspapers. In the 2011 census, 18,349 respondents classified themselves as Romas. Of this number, 5,199 reported a single (Roma) ethnic identity, while 13,150 reported a multiple (Roma and other) ethnic identity.

27. Anonymous surveys mostly work with researcher-assigned ethnicity data. In 2008-2010 there were several surveys to assess Roma children's chances of success in the mainstream education system. In 2010 the Czech School Inspectorate used this method to measure the progress made in transforming the former special schools. Currently the Ombudsman conducts another survey to count Roma children in selected primary schools for disabled pupils. This will show whether the share of Roma pupils in these schools is

proportionate to the incidence of mental disability in the total population. The aim is to detect any continuing indirect discrimination practices based on ethnic origin. The survey is anonymous, based on questionnaires for class teachers and on-site visits by the Ombudsman's staff. The teacher identifies Roma children on the basis of their family backgrounds, and the Ombudsman's staff identify them on the basis of observation in class. The results of the survey will be known in 2012.

28. The first meeting of the integrated platform on Roma inclusion took place in Prague in 2009, under the Czech Presidency of the Council of the EU. The platform brings together representatives of the EU Member States, the European Commission and NGOs. Its main aim is to coordinate and facilitate the development of integration policies at the national level in each EU country, and to make it easier to share examples of good practice. The Czech Republic also had a major role in securing the approval of the EU Council Conclusions on Inclusion of the Roma in June 2009.

### **C. Anti-discrimination legislation (recommendations nos. 4, 6, 9, 20 and 30)**

29. Anti-discrimination legislation is based on the constitutional principles of equality in dignity and rights, and on the prohibition of discrimination on illegitimate grounds. The Anti-Discrimination Act effective since 2009 defines the right to equal treatment and protection against discrimination. In accordance with EU law, it prohibits discrimination on the following grounds:

- race;
- ethnic origin;
- nationality;
- sex;
- sexual orientation;
- age;
- disability;
- religion, belief or world view.

In the following areas:

- right to employment and access to employment or independent gainful activity;
- employment or alternative employment arrangement, including remuneration;
- social security and social benefits and facilities;
- health care;
- education, and
- access to goods and services available to the public, including housing.

30. Beside the Anti-Discrimination Act there are laws and regulations prohibiting discrimination on other illegitimate grounds (political opinion, social origin, birth, etc.). The Charter of Fundamental Rights and Freedoms prohibits discrimination in general. The Anti-Discrimination Act prohibits direct as well as indirect discrimination, harassment, persecution, instruction to discriminate and instigation to discriminate. On the other hand, it provides that different treatment is not to be regarded as discriminatory if it is objectively

justified by a legitimate aim and the means used to pursue such aim are reasonable and necessary.

31. The law gives everyone the right to equal treatment and the right not to be discriminated against. This must be respected by public authorities, whose general duty is to ensure equal treatment for all parties in any proceedings in accordance with constitutional legislation and procedural rules, as well as by private entities and individuals, whose duties are specified in the Anti-Discrimination Act. Anyone whose rights have been affected by discrimination may bring action in court and request that the discrimination be ceased, the consequences of the discriminatory action remedied and reasonable satisfaction granted. If this is not adequate to remedy the harm done, the victim has the right to financial compensation for non-pecuniary damage. Courts have an irreplaceable role to play in protection against discrimination. In discrimination disputes, the plaintiff and the defendant share the burden of proof, which means that after the plaintiff presents to the court facts indicating that the conduct was discriminatory, the defendant must prove that there has been no discrimination. In addition, equal treatment is the subject of inspections by government inspection authorities such as Labour Inspectorates, the Czech School Inspectorate, the Czech Trade Inspection Authority, the Health Ministry, and the Ministry of Labour and Social Affairs. The inspectors can impose fines.

32. The national authority with a central role in the fight against discrimination is the Ombudsman. His task is to help enforce the right to equal treatment, to assist victims in asserting their rights, to conduct research, to publish reports and recommendations on issues related to discrimination, and mainly to provide counselling and disseminate information. His website includes basic information on the problem of discrimination, advice how to deal with it, as well as recommendations and legal opinions on specific cases of discrimination.

#### **D. Cases of Roma women whose sterilizations were inconsistent with law (recommendations nos. 5 and 27)**

33. In 2009 the Government of the Czech Republic issued a statement of regret for the identified individual cases of women whose sterilization procedures were not consistent with the applicable regulations. The Government also undertook to adopt measures to prevent the recurrence of such cases. The new Act on Specific Medical Services, introduced in 2012, contains comprehensive rules relating to sterilization. The patient's written informed consent is strictly required in all cases, which means that sterilization cannot be performed unless the patient agrees. Sterilization of minor and legally incapacitated patients is only permitted on compelling medical grounds, subject to the consent of the patient's statutory representative, an expert commission and a court. The patient must be informed about the nature of the surgery, its lasting effects and possible risks. He or she must then have at least seven days to consider the benefits and risks. The consent form must explain the purpose, nature, expected benefits, effects and potential risks, the alternatives, future discomforts and strain on the body, as well as post-surgery treatment and suitable prevention, and must briefly describe internal sexual anatomy. The consent form must contain a section in which the surgeon certifies that he or she has informed the patient, and the patient certifies that he or she has been informed about the surgery and possible complications. The consent form must be signed by the surgeon, the patient and by a witness (if required). The form has been translated into the Roma language. The Health Ministry supports education and awareness raising on patients' rights among the general public as well as among healthcare staff.

34. Criminal prosecution was instituted against several surgeons who had performed the sterilizations, but all these cases were eventually suspended or discontinued in compliance

with the Code of Criminal Procedure. The women whose sterilization procedures were not consistent with law can bring action in court and claim compensation for damage, including for non-pecuniary damage caused by the infringement of their personal rights. These claims are adjudicated in accordance with generally applicable laws and regulations, including the statute of limitation. Nevertheless, in some cases the Constitutional Court has already found that strict application of the statute of limitation was contrary to morality, namely if the claimant missed the statutory time limit through no fault of her own and, with regard to the circumstances of the case, it would be unduly harsh to dismiss her claim. On this basis, in 2011 a ruling dismissing a sterilization claim as statute-barred was overturned by the Supreme Court and the claimant received her compensation. However, it would be premature to draw any final conclusions, as some of the cases are still pending.

35. In 2011 the Government instructed the Justice Ministry to analyze the problem of the statute of limitation and propose solutions. In early 2012 the Government Council for Human Rights recommended the Government to pay compensations to all women whose sterilization procedures were not consistent with law. The Council believes that compensations were payable to women who were sterilized before 1991 following inducement or pressure from state-run social care services, as well as to women in whose cases the responsibility for an unlawful sterilization lies with the healthcare facility, but who are barred by the statute of limitation from bringing their claims in court. With reference to the results of the Justice Ministry analysis, the Government Council for Human Rights also recommends that the Government should develop a mechanism for such compensations. The Government is currently considering the Council's recommendations.

#### **E. Adoption of international treaties and cooperation with international bodies (recommendations nos. 7, 12, 19, 23 and 25)**

36. The Czech Republic ratified the Rome Statute of the International Criminal Court in 2009. In the same year it ratified the Convention on the Rights of Persons with Disabilities without any reservations. In 2011 it submitted its first report on the implementation of this Convention, and is currently preparing to put into place an independent monitoring mechanism as required by the Convention. Preparations to ratify the Optional Protocol to the Convention are progressing as well. In 2012 the Czech Republic ratified the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, and the Convention on the International Protection of Adults. Ratification of the International Convention on the Protection of All Persons from Enforced Disappearance is currently being considered. On the other hand, the Czech Republic does not intend to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, as it believes that the protection offered by the existing national legislation is sufficient and consistent with all other commitments the Czech Republic has undertaken in the field of human rights. For this reason the Czech Republic has not accepted the relevant recommendation.

37. The Czech Republic is also a party to the International Covenant on Economic, Social and Cultural Rights, honours its obligations arising from this instrument and fully cooperates with the UN Committee on Economic, Social and Cultural Rights. Its second periodic report on the fulfilment of its obligations has recently been submitted and is currently awaiting consideration by the Committee.

## **F. Training in international human rights law for the judiciary and measures to strengthen its independence (recommendation no. 8)**

38. The Constitution of the Czech Republic provides that international human rights conventions are directly applicable and take precedence over national law. This means that they must be observed by all bodies exercising public power. Classes on the protection of human rights are part of constitutional law and public international law courses at universities. They are also included in specialized training programmes for judges, public prosecutors and the staff of public authorities. Trainee judges attending the Judicial Academy develop their knowledge of human rights in general training courses as well as specialized courses, seminars and lectures on different aspects of human rights. Human rights conferences and courses for judges are organized by the Supreme Court, the Supreme Administrative Court and by the Constitutional Court.

39. Judicial independence and impartiality is a cornerstone of the judiciary. Judges are bound solely by law and international treaties and must interpret them according to their best knowledge and conscience. They must decide on cases within a reasonable time, without delay, impartially and equitably, on the basis of evidence obtained in accordance with law. To protect judicial independence, there are criminal sanctions for any action infringing on judicial independence or otherwise influencing the judicial process (including bribery). There is also a number of practical safeguards and controls: a judge is appointed for an unlimited period and cannot be removed unless a disciplinary panel orders his or her removal or unless his or her post has been abolished for reasons permitted by law. A judge cannot be transferred to another post without his or her consent. Judges are not allowed to hold certain other positions and to engage in gainful activities. To enhance the independence of the judiciary, there are currently plans to set up a Supreme Judicial Council composed of judges and other legal professionals with no direct involvement of the executive branch.

## **G. Protection of the child and family (recommendations nos. 10, 22 and 26)**

40. The Czech Republic pays great attention to the protection of the rights of the child. In 2010, following ECtHR rulings, the Government approved a policy paper on “General Measures for the execution of ECtHR judgments – preventing the removal of children from their parents on social and economic grounds”. The General Measures should prevent unreasonable interference with the child’s right to be cared for by his or her parents and the right to the protection of family and private life. The basic principle is that the practice of removing children from their families solely because of economic hardship or poor housing is inadmissible, unless the child’s life, health or healthy development are seriously at risk, and that only in situations where it is not possible to protect the child in other ways. The appropriate legislative changes are now being approved.

41. Problems related to children must be addressed jointly by courts, authorities responsible for social and legal protection of children, municipal and regional authorities, NGOs and the parents themselves. The action to be taken in each child’s case should be set out in an individual protection plan. The policy is to supervise and provide protection while letting the child stay with, or quickly return to, his or her natural family. This means that the referral of children to emergency protection centres will be subject to stricter rules requiring cooperation between the centre and the child’s family. The number of children per one social worker will be regulated by means of workload quotas, and the funding of authorities responsible for social and legal protection of children will be targeted more effectively. Quality standards will be set for social and legal protection of children, and compliance will be monitored. There will be more intensive cooperation with providers of

social activation services for families with children, emergency assistance and temporary shelters. Professionals working with vulnerable children and families will undergo training courses on preventive work with families in hardship situations. Judges and court staff will be briefed on the relevant case-law and advised how to more efficiently cooperate with other professionals when gathering information about a family's situation and about the available forms of financial, social and psychological assistance.

42. There is a significant body of case-law on the rights of the child and on family protection. A unifying opinion issued by the Supreme Court in 2010 says that a court cannot order a child to be placed in an institution solely because of the family's economic hardship. This opinion is supported by Constitutional Court rulings that declare it inadmissible to remove children from parents solely on the grounds of economic hardship. The Constitutional Court also stresses that a child who is capable of forming his or her own views must be heard in proceedings affecting him or her.

43. In 2012 the Czech Republic adopted a National Strategy for the Protection of the Rights of the Child. The Strategy is based on international conventions and on the recommendations of international bodies, including the Committee on the Rights of the Child (CRC). It sets out the aims and policies that will form the core of a system for protecting children's rights and addressing their needs in a natural or foster family setting. The Strategy respects the child's needs and development, and promotes his or her long-term interests. It treats every child as a unique individual while ensuring equal opportunities for all. Special attention will be paid to children and families with specific needs. In these cases, all the competent government authorities and NGOs will be brought in to work closely with the family, friends, school and local community to ensure the child's healthy development. The cross-cutting priorities include: the child's participation, elimination of discrimination and unequal treatment of children, the right to family life, and the quality of life for children and families. The secondary aims are: to identify the children's needs, to provide equal opportunities for all children, to allow the children to participate in matters affecting them, to support positive parenting and foster care, to deinstitutionalize care, to put into place services for families with children, to unify the system of care for children, and to raise public awareness on the rights of the child. The Plans of Action developed for the Strategy are described in Chapter IV. A similar aim – to ease the situation of families with children – is also at the core of the new legislation on alternative childcare services. This legislation promotes the reconciliation of work, family and private life. It makes it easier for parents to retain contact with the workplace during parental leave and to return to work or to find a new job after the leave.

44. The National Coordination Mechanism for Search for Missing Children is a missing children alerts system launched in 2010. The system is activated and data on missing children entered by the Police of the Czech Republic subject to certain criteria. The system gets the public involved in search for missing children. At present there are ten cooperating radio and TV stations, news agencies and Internet portals. The media and general public receive alerts via the [www.pomoztemenajit.cz](http://www.pomoztemenajit.cz) website. An SMS alert service will begin soon on a trial basis. The mechanism includes psychological support for missing children's families. So far, the system has been activated in 69 cases. The experience with its practical operation is reflected in the internal regulations of the Police of the Czech Republic.

45. The rights of the child and their protection are promoted in government awareness-raising campaigns. The aim of a campaign organized by the Government Commissioner for Human Rights in 2009–2010 was to raise public awareness of violence against children and the forms it may take. All campaign publications were posted on the dedicated website [www.stopnasilinadetch.cz](http://www.stopnasilinadetch.cz). The basic publication was the “ABC on Violence against Children”, a picture book describing the most serious forms of this phenomenon. Another publication, a “Calendar on Violence against Children”, was distributed to schools and

psychological and educational counselling centres and used during the expert seminars that were part of the campaign. A specially designed school timetable form was distributed to all first-formers at the beginning of the school year. The schools also received a brochure for teachers on “Interpersonal Violence against Children”. Other brochures distributed to the public dealt with issues such as positive parenting or child Internet safety. There were twelve seminars on forms of violence against children, ways to help child victims of violence, forms of prevention, and alternative methods of positive parenting. The seminars held in Prague and other towns across the Czech Republic were attended by experts, staff of government authorities and NGOs. The campaign included TV and radio spots and billboards with pictures from the “ABC on Violence against Children” across the Czech Republic.

46. In 2011 the Government Commissioner for Human Rights, in cooperation with the Council of Europe, organized a campaign to “Stop Sexual Violence against Children”. The aim was to draw attention to the problem of sexual violence against children, and to present to the public Council of Europe materials on the problem and its prevention. The main campaign tool was a children’s picture book “Kiko and Hand”, accompanied by guidance materials and other advice for adults using the book to explain the problem to children. All campaign materials were distributed to organizations working with vulnerable children. They are also available in public libraries and on the website [www.tadysenedotykej.org](http://www.tadysenedotykej.org). The campaign included a preparatory expert seminar and a large national conference discussing the forms and statistical incidence of sexual violence, as well as efficient and child-friendly approaches to prevention and protection, ways to combat the problem, care and assistance for victims and their families, and awareness-raising policies.

## **H. Establishing a human rights institution in accordance with the Paris Principles (recommendation no. 11)**

47. The Czech Republic does not have a national human rights institution fully conforming to the Paris Principles. The institution that meets them most closely is the Ombudsman. The Ombudsman’s task is to see to it that public power is exercised in accordance with law and the principles of good governance. The Ombudsman cannot directly intervene with the administrative authorities and cannot annul or change their decisions. However, he can conduct independent inquiries, recommend ways to correct mistakes and shortcomings, and demand the authorities to comply with his recommendations. The authorities must cooperate with the Ombudsman and report to him on the steps they have taken to rectify the situation. If they fail to do so, the Ombudsman informs the supervising authority, the Government or the public. The Ombudsman also monitors places where people are deprived of their liberty in terms of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. He visits such places to inspect the treatment of people deprived of personal liberty, namely as regards the protection of their fundamental rights and freedoms, and recommends ways to improve the situation. The inspected facilities must cooperate with the Ombudsman. In addition, the Ombudsman performs the duties of a national anti-discrimination authority (see above) and monitors foreigners who are under expulsion orders, namely as regards the protection of their rights.

48. Beside the Ombudsman, there are government advisory bodies specifically created to deal with human rights issues: the Government Council for Human Rights, the Government Council for National Minorities, the Government Council for Roma Community Affairs, the Government Council for Equal Opportunities for Men and Women, the Government Council for Non-Governmental Non-Profit Organizations, the Government Council for Older People and Population Ageing, and the Government Board

for People with Disabilities. These bodies deal with human rights and minority issues, analyze the situation in the Czech Republic and propose system-wide measures. The seats are divided between government authorities and civil society representatives in order to facilitate the human rights dialogue between the Government and civil society.

49. The Government Commissioner for Human Rights is the highest-ranking executive authority responsible for human rights. The Commissioner serves on the advisory bodies listed above, monitors respect for human rights within the Government's remit and the implementation of international human rights conventions, proposes measures to improve compliance with the conventions, and acts as a liaison between the Government and civil society organizations dealing with human rights. A crucial role in the human rights protection system is played by the judiciary, namely as regards the protection of the rights of individuals vis-à-vis the State, as well as in disputes between private parties.

#### **I. Integrating the gender perspective in the follow-up process to the review (recommendation no. 13)**

50. The Czech Republic regards the equality of men and women as one of the fundamental elements of a democratic state and a free society based on respect for human rights. The equality of women and men is an issue that cuts across all government policies. According to the Government's Legislative Rules and Rules of Procedure, all government materials, legislative as well as non-legislative, must be assessed in terms of their impact on the equality of men and women, namely as regards the risk of any unjustified differences. This means that all government policies are assessed from the gender perspective.

51. The Government annually adopts a plan for promoting equal opportunities for men and women. Each ministry is assigned tasks based i.a. on the Beijing Platform for Action and the European Commission's Strategy for equality between women and men. The plan includes a report on the implementation of policies promoting equality between men and women in the past year. In addition, every ministry must have its own plan for promoting equal opportunities for men and women and must appoint an equal opportunities coordinator. The specialized government advisory body is the Government Council for Equal Opportunities for Women and Men.

#### **J. Using the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity (recommendation no. 14)**

52. The Czech Republic is committed to supporting all minorities living in its territory, including sexual minorities. The Committee for Sexual Minorities set up within the Government Council for Human Rights in 2009 uses the Yogyakarta Principles as a guidance document for its work. The seats on the Committee are divided between government authorities and civil society representatives. The Committee analyzes the situation and rights of sexual minorities in the Czech Republic and, like the Council's other committees, may present to the Council proposals concerning legislative amendments, changes to the procedures followed by government authorities, and solutions to other problems facing sexual minorities. For example, the Committee helped create a handbook on "Homophobia in the Classroom" and recommendations for the media how to treat and present to the public different sexual identities.



**K. The use of airports in the Czech Republic for secret flights of the CIA (recommendation no. 17)**

53. All cases of persons transferred to another country through the territory of the Czech Republic, as well as all cases of extradition from the Czech Republic, are processed strictly in accordance with the applicable legislation which respects the Czech Republic's international human rights commitments and the ECtHR case-law. According to Czech legislation, all such transits of sentenced persons are subject to permission from the Supreme Court. The transit is not permitted if there are reasonable grounds for believing that the criminal proceedings in the country of destination would be inconsistent with the Czech Republic's human rights commitments. This means that if requested to grant a stopover landing permission to a flight carrying a person to a country where he or she might face torture or cruel, inhuman or degrading treatment or punishment, the Czech Republic would not grant the permission.

54. The Czech Republic honours the absolute ban on torture and other cruel, inhuman or degrading treatment or punishment. It has conducted an inquiry into the matter and found that no public authority or official has been involved, actively or passively, in restricting the personal liberty of individuals or transferring them to countries where they would face torture, cruel, inhuman or degrading treatment or punishment. Likewise, the Czech Republic has never identified any cases of persons being carried in transit through, or extradited from, its territory to countries where they would face torture or other cruel and inhuman or degrading treatment or punishment. In such case, in order to protect such persons, the Czech Republic would be entitled to interfere with the rights accorded to civil aircraft under international law.

**L. The use of caged and net beds in healthcare and social care facilities (recommendation no. 18)**

55. The use of caged and net beds in residential social care facilities is prohibited by the 2006 Social Care Act. It is only permitted to restrain a client by holding him or her, by secluding him or her in a safe room, and by means of medication prescribed by, and administered in the presence of, a physician. Clients can be restrained if their behaviour poses an imminent danger to human life and health, unless the situation can be brought under control by other means. The restraint must not be applied for longer than is strictly necessary to deal with the imminent danger. The client must be warned that he or she is going to be put under restraint. The social care provider must record every use of restraint and notify the client's statutory representative without undue delay. Compliance with these rules is the subject of inspections and there are sanctions for violators.

56. The use of caged beds in healthcare facilities is prohibited. The new 2012 Healthcare Services Act permits only the use of net beds, and that only in cases where physical restraint is necessary to avert an imminent danger to human life, health or safety. Confinement to a net bed must be ordered or, if there is a danger in delay, immediately endorsed by a physician. The patient and his or her statutory representative must always be informed about the reasons. Every use of a net bed must be recorded in the patient's medical record. Confinement to a net bed must not last longer than strictly necessary. If the patient is to remain confined in a net bed for more than 24 hours without his or her consent, a court approval is required. The patient must be under medical supervision at all times.

## **M. Combating human trafficking and assisting the victims (recommendation no. 29)**

57. The Czech Republic is very strongly committed to combating human trafficking. The 2009 Criminal Code makes human trafficking a crime, along with deprivation or restriction of personal liberty, abduction abroad, sexual coercion, sexual abuse, procurement and unauthorized employment of foreigners. The Czech Republic has a National Strategy to combat trafficking in human beings for 2008–2015. The Strategy provides an overview of the situation and identifies the key problems, such as the application of criminal legislation and coordination of prevention, research and victim protection. Following a review of the situation, new policies for the years 2012–2015 underline the need to educate and train the appropriate professional groups, to raise awareness among the vulnerable groups, and to establish cooperation with additional institutions and organizations, namely as regards worker exploitation. The policies are developed by the Interior Ministry in cooperation with other ministries and government authorities, and with NGO's helping the victims of human trafficking.

58. The education, training and awareness-raising activities target both professionals and the general public. Police officers are trained to identify victims of human trafficking and offer them assistance. Education and training is provided to public prosecutors, judges, physicians, municipal police forces, and institutions such as Employment Centres, Czech embassies, social welfare departments of local government authorities, and the Interior Ministry's Refugee Facilities Administration. In 2007–2010, the IOM, in cooperation with the NGOs La Strada and Caritas of the Archdiocese of Prague, organized an awareness-raising campaign "Say it for Her" against human trafficking in Prague. The campaign targeted the clients of prostitutes as well as the wider public. Participating organizations created a platform called "Together against Human Trafficking" and opened a hotline for anonymous reporting of suspected human trafficking cases. The campaign included a dedicated website (in Czech, English and German) and publication of materials on human trafficking. In 2009 the Interior Ministry published a bilingual brochure and a leaflet for victims of human trafficking with basic information about organizations offering help. In 2011 the leaflet was translated into the languages of the most common countries of origin of victims, and will be distributed in 2012.

59. A three-year project for "Detecting cases of people trafficked for the purpose of worker exploitation or forced labour" was launched in 2010. The project is managed by the Interior Ministry in cooperation with the NGO La Strada and the Judicial Academy. The aim is to raise public awareness on human trafficking and to give the victims better access to legal representation and other services. The project i.a. charts the experience with criminal law approach to cases where people are being trafficked for the purpose of forced labour or other forms of exploitation. One of the specific objectives is to create a definition of "forced labour" and "worker exploitation" reflecting Czech as well as foreign experience, and to promote the active use of the definition in Czech courts.

60. In cooperation with NGOs, the Czech Republic has developed a Programme to Support and Protect Victims of Human Trafficking. The Programme offers assistance to victims, including psychosocial and health care, accommodation and related services, and encourages victims to cooperate with law enforcement authorities. Another aim of the Programme is to support the victims' social rehabilitation and to regularize the residence status of victims who are not EU citizens. As part of the programme, the Interior Ministry coordinates and funds the victims' voluntary and safe return to their countries of origin. Since 2003 there have been 50 cases of voluntary return, including 14 cases of victims returning to the Czech Republic.

61. A policy document on “Trafficking in children – recommended procedures for public authorities” was published in 2011 as part of an action to prevent child trafficking. The recommended procedures were developed jointly by government authorities and NGOs. They should be followed by public authorities when dealing with crimes against property committed by minor foreigners. It stresses that the child offender may actually be a victim of human trafficking who has been coerced into committing the crime. The document was distributed to all relevant authorities and institutions and is available on the Interior Ministry website.

#### **IV. Main national future-oriented priorities and initiatives to improve the human rights situation**

62. In 2011 the Human Rights Section of the Government Office created a “Strategy for Combating Social Exclusion for 2012-2015”. The Strategy has been approved by the Government and will be implemented by the Government Human Rights Commissioner and the Agency for Social Inclusion. The main aim is to eliminate social exclusion and poverty in socially excluded neighbourhoods. To this end, the Strategy helps excluded individuals and families find their way back to the mainstream social and economic structures. The main concerns are care for vulnerable children, planning and development of social services, pre-school and school education, active employment policy, support of low-income housing, etc. The Strategy proposes measures to address the situation of socially excluded communities in the context of their wider neighbourhoods, and to prevent the emergence of socially excluded neighbourhoods.

63. In 2011 the Government approved the Czech Republic’s Housing Policy Concept for the period ending in 2020. One of the aims is to improve access to housing for people at risk of social exclusion and for people disadvantaged in access to housing. A task for 2012 is to propose a comprehensive social housing policy based on the criterion of “housing need”, i.e. the social situation of people whose housing needs are not met. The criterion, and the status of people with recognized housing need, will be defined on the basis of upcoming legislation.

64. The long-term education and school system development policy for 2012–2015 requires i.a. support for the participation of socially disadvantaged children in pre-school education, support for primary schools establishing head-start classes, assessment of the contribution of head-start classes to inclusive education, measures to ensure the regular school attendance of socially disadvantaged pupils throughout the school year, support for primary schools preparing to take in socially disadvantaged pupils, and close interaction between educational and social intervention services with a view to timely identification of special educational needs.

65. The first Plan of Action to implement the National Strategy for Protecting the Rights of the Child (see Chapter III, paragraph 43) covers the years 2012–2015. It contains a list of tasks for each government authority. The aim is to improve the quality of life for children and families, to eliminate discrimination and unequal treatment of children, to support the child’s full development in a natural or foster family setting, and to promote the active participation of children and young people in decision-making processes directly affecting them.

66. Starting from 2013 the Czech Republic will be building a system of legal aid to people who are unable to afford standard legal services when defending their rights. The system will have two levels: basic and extended. Basic legal aid will be limited to legal advice, while the extended level will include representation in court or in administrative proceedings. Decisions on the claimant’s entitlement to basic legal aid will be made by the

provider of aid. Decisions on entitlement to extended aid will be made by the authority conducting the proceedings. Claimants in hardship situations will receive legal aid free of charge or for a nominal fee. Aid providers will be recorded in a public register containing information about their services.

67. The new Civil Code which is to take effect in 2014 will improve the status of the individual within the legal system and leave more room for asserting individual will and protecting individual rights. Other upcoming legislation includes e.g. a new act establishing a comprehensive protection and assistance system for crime victims, a mediation services act or a comprehensive act on the residence of foreigners.

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