

CZECH REPUBLIC

ANNUAL LREPORT 2007

The Romani minority faced severe discrimination in housing, education, health care and employment. Roma and other vulnerable groups were reportedly subjected to police ill-treatment and to racist attacks by private individuals. The European Court of Human Rights ruled that the use of anonymous witnesses breached the right to a fair trial.

Background

The Civic Democratic Party won inconclusive elections to the Chamber of Deputies in June. Mirek Topolánek was appointed to head a minority government. An offer to resign his post after a vote of no confidence in the Chamber in October was declined by President Klaus.

On 26 January, the Senate returned an anti-discrimination bill to the Chamber of Deputies. The Senate opposed the introduction of affirmative action to assist disadvantaged groups, and considered the bill too vague. The proposed law was intended to fulfil obligations following the Czech Republic's accession to the European Union in 2004. Approval of the bill was pending.

On 10 July, the Czech Republic ratified the Optional Protocol to the UN Convention against Torture.

Discrimination against Roma

Roma face discrimination in access to housing, education and employment, according to the final report on the human rights situation of the Roma, Sinti and Travellers in Europe by the Commissioner for Human Rights of the Council of Europe, published in February. The report found that Romani children were unjustifiably placed in special schools for children with mental disabilities, and recommended mechanisms to enable women who had been sterilized without informed consent to obtain compensation.

The number of Roma in low-standard housing has risen over the last 10 years, according to a report by the Ministry of Labour and Social Affairs in August. The study found no comprehensive government programme combating social deprivation.

- In October, the Chief of Police apologized for the misuse of police powers in the town of Bohumín on 4-6 October 2005. Private security guards hired by the municipality had prevented independent observers from entering a hostel where several hundred residents, many of them Roma, were being targeted for expulsion by the municipality.

Concerns that Romani children were being taught in segregated classes in primary schools and were over-represented in special schools were highlighted by the European Monitoring Centre on Racism and Xenophobia in a report on Roma and Travellers in public education in May. While recognizing improvements, such as the government's decision in January to collect anonymous data on the Roma community, the report pointed to the need for more active state policies.

- On 7 February the European Court of Human Rights rejected a complaint of discrimination in education brought by 18 Romani people from Ostrava who had been placed in special elementary schools for children with learning difficulties. The Court concluded that the Czech Republic had not breached the prohibition on discrimination and the right to education in the European Convention on Human Rights and the related Protocol. The Court said that it could assess only individual complaints, not their social context. An appeal against the ruling was pending before the Great Chamber of the Court.

Forced sterilization of women

In May the government criticized a recommendation in the last Ombudsman's report in 2005 that a law be introduced to provide compensation for women who were sterilized without their consent. The recommendation was not implemented.

The UN Committee on the Elimination of Discrimination against Women in August urged the government to implement the Ombudsman's recommendations. It called for a legal definition of informed, free and qualified consent; mandatory training of medical professionals and social workers on patients' rights; and measures to enable victims of involuntary or coercive sterilization to obtain compensation. The Committee commended the adoption of a national action plan to promote gender equality and new employment legislation prohibiting discrimination and sexual harassment, but urged stronger efforts to overcome persistent and discriminatory stereotypes of women.

The European Roma Rights Centre and two local human rights groups, the League of Human Rights and Life Together, in a report in August, concluded that legal protection against discrimination was insufficient and that women remained vulnerable to serious human rights abuses.

- An appeal lodged in December 2005 was still pending in the case of Helena Ferenčíková, who was sterilized in 2001. In November 2005, a court found that Vitkovice hospital had violated her personal rights but refused to award financial compensation on the grounds that the three-year statute of limitation had expired.

Police ill-treatment

Reports continued of police ill-treatment of vulnerable groups, particularly Roma. An independent body was still not available to investigate complaints of police abuses.

- A police officer severely beat Kateřina Jacques, a Green Party electoral candidate and senior government human rights official, at a demonstration against the far-right National Resistance Movement in Prague on 1 May. The officer allegedly threw her to the ground, kicked her, beat her with a truncheon and continued to assault her at the police station where she was taken for questioning in handcuffs. After an internal investigation, the Chief of Police acknowledged that the police action against Kateřina Jacques was inappropriate. The Prime Minister said the officer's intervention was "inexcusable" and he should leave the police. The officer was reportedly dismissed. Charges against him were withdrawn in November on the grounds that the arrest had followed police regulations. Kateřina Jacques lodged an appeal against the withdrawal of the charges.

- On 30 June, two municipal policemen were alleged to have detained a young Romani man in Brno, driven him to the outskirts, beaten him, put an unloaded gun in his mouth and pulled the trigger. They reportedly suspected him of attacking and robbing the son of one of the officers and other schoolchildren. In November, they were convicted of beating and torturing the man, and given a suspended two-year prison sentence and banned from serving as police officers for five years. Both lodged appeals.

Racially motivated attacks on Roma

Roma were often the target of racially motivated attacks, and penalties handed down by the courts did not reflect the seriousness of the crimes or the racist motives of the assailants.

- On 17 May, three young members of the National Resistance Movement broke into a block of flats in Neratovice, banging on the doors of Romani residents and threatening to kill them. Police detained the men on the spot.

- On 31 August, three young men had their sentences for an attack on a Romani couple in Jeseník increased by the regional appeals court in Olomouc. Two were given prison terms of three years and three months and three years respectively, and the third received a suspended three-year prison sentence. A public outcry had greeted the original suspended sentences on all three, passed by the district court in Jeseník in January 2004.

- A two-year suspended sentence on a soldier convicted of beating a Romani man, imposed by the Regional Court in Plzeň in September, was met with protests by five Romani organizations.

Fair trial rights denied

On 28 February the European Court of Human Rights found the Czech government had violated the right to fair trial by allowing witnesses to remain anonymous

in breach of cross-examination requirements under

the European Convention on Human Rights. In

response to an appeal lodged on behalf of Hasan Krasniki on 2 September 1999, the Court found that, while the use of anonymous witnesses could be compatible with the Convention, in this case it was not. The reliability of anonymous witnesses should be tested and the conviction should not rely exclusively or determinedly on anonymous statements. Czech law has since been amended.

Same sex partnership

In March a law was passed that allowed same-sex couples to register their partnership after the Chamber of Deputies overrode a veto by President Klaus. The law accorded some of the same rights and obligations as married couples have, including the rights to raise children, to inherit property and to information on the health of the partner, and the mutual obligation to pay maintenance. It did not provide the right to adopt children.

ANNUAL REPORT 2006

Roma continued to suffer discrimination at the hands of public officials and private individuals. There were continuing reports of police ill-treatment.

Discrimination against Roma

Roma continued to face discrimination in employment, housing and education. They also suffered frequent violent attacks by racist individuals.

Housing

Discriminatory practices in public and private rental markets meant that in practice Roma could frequently not obtain housing, even if they were able to present financial guarantees, and as a result lived in segregated substandard housing. Ostensibly neutral eligibility requirements, such as an adequate education level for all members of the family applying for housing, disproportionately affected Roma whose level of education was often lower than that of ethnic Czechs.

- In June, the municipality in the northern town of Bohumin issued eviction orders to the predominantly Romani residents of a hostel that it decided to convert into flats. The municipality offered no feasible plan to provide the low-income residents with alternative accommodation. Instead, it proposed to segregate the men from the women and children, and move them into a shelter for single mothers. Most of the residents left, while the remaining 15 appealed against the eviction orders. By November a regional court had ordered them to leave the hostel, without instructing the authorities to provide alternative accommodation. They appealed, and pending a decision, the town authorities were prohibited from evicting them.

Education

In May the European Court of Human Rights in Strasbourg decided to admit a complaint filed by 18 schoolchildren of Romani origin against the Czech Republic. The complaint alleged racial discrimination in education. The applicants claimed that their placement in "special schools" for mentally disabled children on the basis of their ethnic origin constituted racial discrimination and contravened international human rights principles.

Police ill-treatment

Reports of ill-treatment by the police continued, particularly of Roma, but also of other vulnerable groups, such as homeless people, people with substance abuse problems and foreigners. There was no mechanism, totally independent from the Interior Ministry, for investigating complaints about the actions of law enforcement officials.

- The League of Human Rights, a local non-governmental organization, reported that on 1 February an 18-year-old Roma youth, R.B., was assaulted by municipal police in the city of Krupka. He was stopped on the street by the police and taken in a patrol car to a bar where he had allegedly earlier broken a window. He was reportedly kicked in the body and head in front of several witnesses, and required treatment for extensive injuries. The League of Human Rights filed a complaint on behalf of R.B. with the state police but, despite witness testimonies, the case was closed.
- On 20 April, brothers Jan M. and Jozef M., both minors, were reportedly ill-treated after being taken into custody by police in a Prague street on suspicion of illegally pasting posters. In the car, Jan M. was hit by a policeman. At the police station in Prague 3 (Úiřkov), the boys were made to strip naked and do push-ups in front of three policemen. During the interrogation, Jan M. was reportedly hit on the head so hard that his ear and nose bled and he had concussion. Relying on the testimony of the three policemen and despite a medical report on one of the youngsters, the case was not taken forward by the Inspectorate of the Interior Ministry. The League of Human Rights appealed against the decision of the inspectorate and, as of November, the case was under investigation by the state attorney.
- On 30 July police intervened to disperse some 5,000 people gathered in a field near the village of Mlynec, West Bohemia, for a music festival known as "CzechTek", which was allegedly unauthorized and causing damage to private property. Police in riot gear reportedly shot tear gas grenades and used water cannons to end the festival. More than 80 people were injured, and around 20 members of the public and five police officers sought medical attention. In November, the Ombudsman's office stated that the intervention was legal but that police failed to take adequate preventive measures that might have helped to avoid the later use of force.

Mental health issues

Despite the banning of cage beds in psychiatric institutions under the Ministry of Health, their use was still permitted in social care centres under the Ministry of Labour and Social Affairs. These centres housed children and adults with mental disabilities and people with substance abuse problems.

In May, parliament adopted an amendment to the law on social care on the use of restraint in all social care institutions, including cage beds. Regularization of restraint use was cited as the objective of the law, although in fact it legalized the use of restraints. The amendment allows employees of social care homes who are not qualified physicians to make decisions regarding restraint use. Moreover, the amendment does not provide for supervision of the restraint order, time limits on restraint, or a complaint mechanism for victims.

Forced sterilization of women

In late 2004, the Ministry of Health established a panel to review the files of alleged victims of forced sterilization, to facilitate investigation of the issue and to respond to queries from the Ombudsman. The Ombudsman was conducting an independent investigation into approximately 80 complaints against hospitals that allegedly sterilized women without their informed consent. In December, the Ombudsman produced a final report, stating that in most cases of forced sterilization, women were not able to give informed consent because they did not understand the procedure, because of lack of time (sometimes the procedure was carried out within a few minutes of their agreeing to it, or after labour had started) or because of misleading information on the part of hospital personnel about the nature and consequences of the sterilization procedure. A number of these cases were transferred to the state attorney and the police for investigation.

- The Group of Women Harmed by Sterilization, a victim advocacy group, lodged formal complaints in cases of Romani women sterilized under coercion.

In November, the Ostrava District Court indicated that it would uphold the complaint of Helena Ferencikova, who was sterilized in an Ostrava hospital in 2001 while giving birth to her second child by caesarean section. The court was expected to rule that, in violation of the rules on informed consent, the doctors secured her consent when she was deep in labour and did not fully understand the consequences of her actions.

ANNUAL REPORT 2005

Racism and intolerance towards minorities was reported in both the private and public spheres. No action was taken against public figures whose statements appeared to incite intolerance. Police reportedly used excessive force against non-violent demonstrators.

Background

2005 was a year of significant political changes. After general elections in September and a presidential election in October, the Law and Justice party (Prawo i Sprawiedliwość, PiS) came to power. Before the elections, the PiS criticized gay rights campaigners and expressed support for the death penalty. Following Lech Kaczyński's election as President, the European Commission issued a formal warning to Poland, saying that it could lose its European Union (EU) voting rights if the President continued to oppose gay rights and sought to introduce the death penalty.

One of the first decisions of the new government was to abolish the Office for Gender Equality, making Poland the only EU country without a statutory equality watchdog.

Identity-based discrimination

Members of sexual minorities continued to face discrimination and restrictions on their right to freedom of expression and assembly. In June, Lech Kaczyński, then mayor of Warsaw, refused for the second year to authorize the Equality Parade, holding that such an event would be "sexually obscene" and offensive to other people's religious feelings. An improvised parade still took place on 10 June, gathering more than 2,500 participants. Less than a week later, the mayor authorized the so-called Normality Parade, allowing an extremist homophobic grouping known as All Polish Youth (Młodzież Wszechpolska) to mobilize on the streets of Warsaw.

In November the mayor of Poznań banned a gay parade, ostensibly because of security concerns. However, the parade's organizers claimed that the Poznań municipality had earlier indicated that there were no reasons to ban the parade, and that the mayor had given in to the demands of the conservative political parties Law and Justice and the League of Polish Families (Liga Polskich Rodzin). An unauthorized parade which took place on 19 November was met with physical attacks and verbal abuse from members of All Polish Youth. As a protest, demonstrations in support of tolerance and equality took place throughout Poland on 27 November. In December an administrative court in Poznań annulled the authorities' decision to ban the parade.

There was no action against public statements inciting intolerance against sexual minorities, such as that made by a then Member of the European Parliament from the League of Polish Families: "After the elections, we will legalize all homosexual organizations and we will attack paedophiles who are statistically the most numerous among them."

Racism

In its third report on Poland, released in June, the European Commission against Racism and Intolerance (ECRI) expressed concern that the authorities rarely investigated and prosecuted cases of racial hatred, and allowed anti-Semitic material to freely circulate on the market. ECRI pointed out that in investigating violent attacks against ethnic minorities, such as Roma or migrants, the police often did not take into account the racist motivation of crimes, which resulted in a lighter sentence for the perpetrator, if convicted. Moreover, there was still no comprehensive body of legislation prohibiting racial discrimination in all fields of life.