



International Convention on the Elimination of All Forms of Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventieth session

SUMMARY RECORD OF THE 1805th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 2 March 2006, at 10 a.m.

Chairperson: Mr. de GOUTTES

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION
SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE
CONVENTION (agenda item 5) (*continued*)

Sixth and seventh periodic reports of the Czech Republic (CERD/C/CZE/7)
(*continued*)

1. *At the invitation of the Chairman, the members of the Czech delegation took places at the Committee table.*

2. The CHAIRPERSON invited the delegation to reply to the questions put at the previous meeting.

3. Mr. BUREŠ (Czech Republic) said that the Organized Crime Division, which came under the Ministry of the Interior, included a special unit tasked with monitoring and controlling the activities of terrorist groups, extremist groups and skinheads. Even though the number of concerts organized by skinheads in the Czech Republic remained too high, it had fallen from 30 in 2004 to 18 in 2006. It was true that the local police authorities were sometimes too lenient and did not take the necessary steps to prohibit such events. A task force had drawn up guidelines on local police intervention on the occasion of concerts organized by skinheads. By and large, the delegation shared the views of Mr. Yutzis that racism was also a social problem and that the eradication of racial discrimination did not depend simply on law enforcement.

4. All offences and violations committed by police officers were investigated by the inspection services of the Ministry of the Interior, which were however composed of former police officers. To address that problem, the Government was planning to set up an independent body to investigate all acts and offences committed by police officers, prison guards, customs officials, etc.

5. The provisions of the Criminal Code were fully in line with the requirements of article 4 of the Convention. Thus, under article 198 (a) of the Code, whoever encouraged any form of hatred or incited racial discrimination against any group of persons of another colour or of another ethnic origin was liable to a prison sentence of up to two years. The same penalty applied to all those who were associated with acts of racist violence or provocation and to all those involved in organizations or groups inspired by theories based on racial superiority. All forms of hate speech and incitement to discrimination were punished by the Criminal Code. Unfortunately, some types of remark, particularly certain jokes, could not be regarded as offences under the Criminal Code, even if they reflected marked intolerance towards other individuals.

6. Ms. MAŠKOVÁ (Czech Republic) said that under the 2004 Education Act, framework education programmes had been developed for schools, which set out goals to be achieved and basic values to be transmitted to pupils at each stage of education. Those framework programmes also determined numbers and material resources required for a given period. Schools nevertheless enjoyed considerable latitude and could adapt their curricula to demographic and economic conditions in their respective areas. Parents were required to enrol their children in education but in a school of their own choosing. If they chose a school that was outside their catchment area, they had to notify the appropriate authorities. While the Education

Act stipulated that the language of education was Czech, it also provided for instruction in the language of national minorities in nursery, primary and secondary school. It was thus possible to create a class or a school in order to teach the language of the national minority if the number of pupils belonging to that national minority were at least eight in nursery school, 10 in primary school and 12 in secondary school. Again under the Act, children from culturally and socially disadvantaged backgrounds were entitled to specific instruction. The Act did not refer explicitly to Roma children. The Ministry of Education wished it to be made clear that special schools did not practise any form of discrimination and were in no case second-class schools. They simply proposed other teaching methods, centred on individual work and basic skills training. Such schools cost twice as much as conventional schools and they had a far lower pupil/teacher ratio.

7. There was no specific human rights programme in higher education, but human rights were an integral part of the course taught by law faculties and teacher training institutes. In addition, there were cross-cutting courses on tolerance throughout compulsory schooling.

8. Ms. KOPSOVA (Czech Republic) said that the Ministry of Education was planning to amend the 2004 Education Act in order to ensure access to basic education for all children, under the same conditions, whether they were of Czech nationality or children of foreigners, and whether or not their papers were in order.

9. Mr. YUTZIS said that it was very important that the State party had realized that the problem of racial discrimination went beyond mere law enforcement. He wondered however whether article 4 (b) of the Convention was really respected in the Czech Republic, since the country did not penalize associations of persons that disseminated racist ideas or speech. He also wished to know the meaning of the expression "persons from a socio-culturally disadvantaged environment" contained in paragraph 87 of the report (CERD/C/CZE/7).

10. Referring to the statement that the tendency to educate Roma children in special schools was not a discriminatory measure against them, he said that the problem was that that tendency had become a long-term reality. There was perhaps no *de jure* discrimination in the Czech Republic against the Roma but the fact that Roma children were confined to that system of education suggested that there was a *de facto* discrimination against them.

11. Mr. PROSPER wished to know whether Czech history textbooks contained information on the Roma and whether there were school programmes on inter-community understanding. Further information would also be appreciated about the efforts made to recruit Roma into the police.

12. Mr. BUREŠ (Czech Republic) said that a distinction should be made between political organizations with legal status and associations or movements without such status. The former could not disseminate racist ideas without being immediately dissolved by the Ministry of the Interior; on the other hand, movements without legal status could bring together individuals who used racist language but, technically, they could not be dissolved because they had no legal existence.

13. The Ministry of the Interior encouraged the national police to recruit persons from minorities. Special courses in preparation for entrance into police school had been developed for Roma applicants but the operation had had only limited success owing to the small number of persons interested.

14. Ms. MAŠKOVÁ (Czech Republic) said that the expression "persons from a socio-culturally disadvantaged environment" was perhaps not well chosen and that it referred in fact to families who were socially and culturally disadvantaged, in other words, persons of low social standing who were not motivated by their family and cultural environment.

15. Ms. BARŠOVÁ (Czech Republic) said that since 2002 her country had been examining the possibility of adopting a single legal standard that would provide full protection against discrimination. A bill on legal instruments for protection against discrimination and on equal treatment (anti-discrimination act), based on European Union directives, had been prepared in 2002 by the Deputy Prime Minister and the Chairman of the Government Legislative Council, at the request of the Government. That text, which provided for the establishment of a national institution to combat discrimination and increased powers for the Ombudsman, had been approved by the Government on 1 November 2004 but had been rejected by the Senate, which had considered that further legislation in that field was superfluous and that it was preferable to improve existing laws on the subject. That bill had also been criticized for its imprecise legal language.

16. Another bill was currently being studied, aimed at explicitly prohibiting discrimination in respect of housing. In the Czech Republic, there were very few cases of judicial proceedings regarding discriminatory practices in housing. In 2003, there had been a lawsuit by a Roma woman who had asked to be housed in a shelter but had been refused on the grounds that there was no room available. Shortly after she had left, other, non-Roma persons had asked for a room and had obtained one without difficulty. Following the proceedings instituted by the Roma woman claiming protection of individual rights, compensation had been paid for moral injury and the court had demanded that the company responsible for that discrimination should apologize to the complainant. The new law should enable petitioners to obtain financial compensation not only for moral injury but also as redress for violation of a basic right.

17. The word "nationality", used in paragraph 3 of the report, actually referred to membership of a national minority. Thus, the persons of Moravian, Slovak, Polish, German and Silesian nationality mentioned in that paragraph were in fact persons of Moravian, Slovak, Polish, German and Silesian origin who were not of Czech nationality. Censuses were the only way for the Czech Republic to obtain statistical data on the ethnic composition of the population; they were based on the principle of self-declaration in accordance with the relevant European directives. It was true, however, that there was a problem in the Czech Republic since, according to the 2001 census, 11,716 persons had declared that they belonged to the Roma community whereas, according to the estimates of experts, there were 200,000 Roma in the country at that time.

18. There were 452 Africans living in the country in 2005; most of the African immigrants had benefited from family reunification measures.

19. The main purpose of the monitoring by the Czech police authorities of Roma immigration from Slovakia was to obtain information on the growing attempts of members of the Roma community in Slovakia to settle in the Czech Republic. The monitoring was carried out with the assistance of the International Organization for Migration and did not entail measures to restrict the freedom of movement of Slovak immigrants. Following major social reforms adopted in 2003 and 2004 by

the Czech Republic, many Roma originating from Slovakia had immigrated to the country for economic reasons. The Czech authorities had been concerned about the social consequences of that immigration and the possible tension to which it might give rise at the local level, particularly in terms of overcrowding and the housing crisis.

20. On the question of the representation of minorities in Parliament, no Czech parliamentarian had declared his or her ethnic origins. She believed that many members of ethnic minorities were represented in the country's regional and municipal authorities, but she did not have any precise statistics in that regard.

21. Ms. OTÁHALOVÁ (Czech Republic) said that the Ombudsman had conducted a thorough investigation into the question of forced sterilization and had acknowledged that the majority of victims belonged to the Roma minority. According to the Ombudsman, such occurrences did not form part of a deliberate policy by the public authorities and were due in particular to the fact that the training of doctors was geared more to the development of their medical skills than to their ability to communicate with patients.

22. As for the compensation of victims of forced sterilization, in the Ferenčíková case in particular, the victim had received only apologies and had not been awarded damages by the courts, on the grounds that her application had been time-barred. She had been able to appeal, however, since, under case law, compensation could be sought in some cases, even when the time bar applied. Ms. Ferenčíková's appeal was currently pending before the appeal court.

23. In order to look into the allegations of forced sterilization, the Government had asked the advisory body of the Ministry of Health to undertake an investigation. It had shown that there had been isolated cases of violations, but had not found the practice to be widespread. Out of 76 complaints, five had been referred to a commission of experts of the Ministry of Health, which had confirmed that the legislation governing sterilization had been violated in each case. The advisory body had consequently recommended that the Ministry of Health should define the concept of informed consent in cases of sterilization, issue guidelines on methods of sterilization, make medical personnel aware of the obligation to have the patient's informed consent before undertaking sterilization and bring it to the attention of medical establishments that they were required to comply with the legislation. In addition, rules governing the procedure to be followed in cases of sterilization were being prepared and a draft decree on informed consent drafted by the Ministry of Health had been adopted and should enter into force on 1 April 2007.

24. The Czech Council for Human Rights was currently studying the question of how the State could compensate victims of forced sterilization. The Council of Roma Committees, for its part, had prepared an initiative providing for measures such as the presentation of public and individual apologies to victims, the granting of compensation in the form of damages or special services to the victims, the launching of an awareness-raising campaign on legislation in regard to sterilization and the adoption of a health bill or, failing that, the amendment of provisions still in force concerning sterilization. That initiative, which had been approved by the Government Council for Roma Community Affairs, was currently being considered by the ministries concerned, which would subsequently transmit it to the Government for adoption.

25. When preparing the report, the Secretariat of the Government Council for Human Rights had requested non-governmental organizations to submit information to it on their areas of concern and, on completion of the report, had invited them to make comments thereon. The final version of the report had been issued in English and in Czech and placed on the website of the Government Council for Human Rights.

26. The mandate of the Ombudsman was to defend persons claiming to be victims of violations of the law by State officials, who included not only government officials but also personnel of the National Bank and public media and members of the police and army. The Ombudsman had recently been empowered to inspect prisons. Generally speaking, his margin of manoeuvre was somewhat limited: when he was seized of a complaint, he conducted an investigation and, where appropriate, made recommendations to the authorities concerned. If they did not take action on those recommendations, he brought to public attention the violations involved or informed supervisors or the Government. He was not at present competent to receive complaints concerning discriminatory conduct, but that gap would be filled upon adoption of the anti-discrimination act, since, under some of its provisions, the Ombudsman would have authority to intervene in cases of discrimination, regardless of whether the alleged offender was a public official or a private individual.

27. Mr. AMIR asked whether Roma migrants from Slovakia settled permanently in the State party or whether there was a to-and-fro movement between the Czech Republic and Slovakia. He also wished to have information regarding their status: were they refugees, asylum seekers, Slovak or Czech citizens or stateless persons? It would also be interesting to know if there were any statistics disaggregated by ethnic origin on the number of women sterilized against their will.

28. Mr. LINDGREN ALVES said that the forced sterilization of members of a minority in particular was a very disturbing phenomenon, which recalled certain Nazi practices. It would therefore be appreciated if the delegation could say whether such measures formed part of a policy carried out on the initiative of local authorities or the directors of certain medical establishments. Given that several concerts by neo-Nazi groups had taken place in the State party, it would be interesting to know whether the Czech authorities would allow a group advocating terrorism to give a concert in the country.

29. Mr. KJAERUM said that when he had asked about same-sex marriage, he had wished to know mainly why couples, whether heterosexual or homosexual, did not receive the same treatment according to whether one of the two persons was of Czech nationality or, on the contrary, was a non-citizen. Fuller information would also be useful regarding the right of non-citizens to participate in political life in the State party.

30. Mr. YUTZIS, Country Rapporteur, inquired whether the flows of Roma migrants from Slovakia had ceased and, if so, whether the policy of the public authorities had been adapted accordingly.

31. Mr. WALEK (Czech Republic) said that the implementation of national strategies to integrate the Roma at the local level was a crucial and sensitive matter, given that the State could not compel local authorities to take concrete measures. The only measures that the State could take in that regard were awareness-raising, dissemination of information, organization of local and regional seminars on

practical issues concerning the implementation of public strategies and the mobilization of Roma coordinators.

32. Ms. VOJTEČHOVSKÁ (Czech Republic), recalling the context in which Roma advisers, helpers and coordinators had been appointed and the way in which they performed their work, said that, every three months, the Ministry of Labour and Social Affairs held consultations with Roma advisers so that they could describe their respective experiences and exchange ideas on the best practices in integration. The Ministry had also launched a social service training project, with the participation of the Government Council for Roma Community Affairs. The purpose of the project, which had been supported by the European Social Fund, had been to establish guidelines on social service for the personnel of municipalities where the most marginalized Roma communities lived.

33. Mr. WALEK (Czech Republic) said that the State had no influence on the housing policy of municipalities, which enjoyed full independence in that respect. It was difficult to measure the impact of the programme to combat social exclusion since most of the time the social workers present on the ground were not called in to shape long-term social policy but in response to an emergency, when the families they were helping had already been notified that they were to be expelled. That was why, in most cases, social work did not go hand in hand with educational measures for target groups, any more than with job incentive measures. However, the programme was assessed annually in order to determine whether social integration policies had produced any results in municipalities over the year and what had been the biggest problems. In 2005, housing issues had taken up nearly 30 per cent of the time of social workers, the allocation of social benefits about 23 per cent and unemployment problems some 20 per cent. In the same year, the number of calls to do with prostitution, drugs and gambling had decreased.

34. The pilot programme entitled "healthy lifestyle in a Roma family", launched in 2006, was not meant to impose a new life style on the Roma community but to provide it with preventive health care, in particular through health assistants, who accompanied Roma on visits to the doctor, ensured check-ups or encouraged them to get vaccinated.

35. The Czech Republic was involved in the Decade of Roma Inclusion (2003-2015), one of whose priorities was to establish equality between the sexes within that community. Following a conference bringing together a hundred or so Roma women in Prague in 2006, the Government Council for Roma Community Affairs had set up a working group on Roma women comprising representatives of Roma women's NGOs and NGOs working to promote gender equality, together with Government officials. The working group had prepared for the Government Council a compilation on gender equality within the Roma population and the double discrimination often suffered by women in that community. The women had been given a one-year course of training for political life whose success had been reflected in the fact that two of them had been elected to positions in local government.

36. Under the Charter of Fundamental Rights and Freedoms, only citizens had the right to vote and to be elected in national elections, which was fully in keeping with the provisions of article 25 of the International Covenant on Civil and Political Rights. The existence of a possible discriminatory policy should not be inferred from citizenship rights. Regarding the right to vote, citizens of European Union

countries now had the right to take part in local elections and in elections to the European Parliament. Other rights, such as freedom of assembly, association, petition and expression, were accessible to all, with no distinction between citizens and non-citizens. On the other hand, only Czech citizens had the right to join a political party.

37. Law faculties increasingly focused on human rights teaching, offering in particular courses on relevant international standards and regional and international mechanisms. They also provided an optional course on the protection of minorities.

38. Mr. MACHOŇ (Czech Republic) said that he did not have statistics on the number of detainees belonging to ethnic minorities, as ethnic origin was not one of the criteria used for prison population censuses, unlike nationality. However, the number of foreigners in pretrial detention was far higher than the number of Czechs, the reason being that foreigners without ties in the country were at greater risk of fleeing before their trial than Czech citizens, and judges therefore had a greater tendency to require such detention in their case.

39. Many seminars had been held for criminal magistrates on a wide variety of subjects relating to racial discrimination and racial hate crimes in particular. In 2005, the College of Magistrates had organized a seminar for judges and members of the Office of the Public Prosecutor on racially-motivated offenses and domestic violence.

40. Mr. KJAERUM asked why foreigners were prohibited from joining a political party.

41. Mr. SICILIANOS said that, although municipalities answered only to themselves in the matter of housing policy, the Government, which determined the size of the budget allocated to them, could influence that policy. International bodies, particularly the United Nations system, regarded States parties as fully-fledged entities, irrespective of the internal structure of the country and the various levels of responsibility within that structure.

42. Mr. THORNBERRY, reverting to the question of the sterilization of Roma women, noted that when one group was affected by a practice in a far greater proportion than any other population group, that was a ground for concluding that *de facto* discrimination existed, in contrast with deliberate discrimination; such discrimination was no less covered by the Convention.

43. Ms. BARŠOVÁ (Czech Republic) said that, up to the time that the Czech Republic had joined the European Union, Roma from Slovakia had enjoyed preferential treatment over other foreigners by virtue of bilateral agreements between the two countries. Since 1 January 2004, they were treated as Slovak citizens, in other words as citizens of a member country of the European Union and therefore enjoyed a privileged status in comparison with nationals of non-member countries of the European Union. There were currently some 50,000 Slovak citizens in the Czech Republic and that figure seemed to have remained fairly stable over the past few years.

44. Recalling that one of the conditions for the establishment of a same-sex partnership was that at least one of the persons should be of Czech nationality, she concurred that such a provision could count as an inequality based on sexual orientation, since that condition did not apply to a heterosexual partnership.

45. Mr. BUREŠ (Czech Republic) said that the fact that only Czech citizens had the right to join a political party was indeed a restriction, but did not exclude anyone in particular. It was none the less true that a foreigner could be a candidate in his own name and be backed by a political party. Participation in political life was then not completely excluded.

46. If a rock concert served as an occasion for the featured group to encourage racism or a terrorist attack, proceedings could be instituted under articles 198 *bis* (incitement of hatred against a group of persons or limitation of their rights and freedoms) and 196 (violence against a population group and against individuals) of the Criminal Code.

47. Mr. YUTZIS (Country Rapporteur) thanked the delegation for its numerous replies and the open-mindedness it had demonstrated throughout consideration of its sixth and seventh periodic reports. In its concluding observations, the Committee would mention the problems of violence in the State party, the forced sterilization of Roma women, housing and sects. He was sorry not to have received a more precise reply on whether or not the anti-discrimination bill had been approved or on the new law on sterilization and hoped that that information would be included in the next periodic report of the State party. Lastly, the question of the real integration of the Roma had been inadequately addressed. He recalled, in conclusion, that there could be no democracy without equality and that care must be taken not to treat one population group as a scapegoat.

The meeting rose at 1.10 p.m.