



**International Convention for
the Protection of All Persons
from Enforced Disappearance**

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Committee on Enforced Disappearances

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General and cross-cutting issues

Constitutional protection from enforced disappearance

1. In the Czech Republic's legislature, the ban on enforced disappearance is constitutionally derived from Article 8 of the Charter of Fundamental Rights and Freedoms (the "Charter"), which guarantees every individual's personal liberty and provides that no one may be prosecuted or deprived of liberty other than on grounds and in the manner laid down by law. The Criminal Code¹ elaborates on this, defining enforced disappearance as a criminal act and classifying this phenomenon as described below.

International conventions on protection from enforced disappearance

2. The Czech Republic is not currently bound by any other international convention specifically regulating protection from enforced disappearance. Nor is it a state party to any bilateral or multilateral agreements specifically dealing with this area.

3. The key document guaranteeing the protection of personal liberty on an international scale that is binding on the Czech Republic is the European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 5 of that Convention guarantees the right to liberty and security of person and precisely defines, in paragraph 1, what forms of restriction of personal liberty are admissible and under what conditions. This is an exhaustive list and cannot be extended to include further grounds. The same article also requires the state authorities to notify arrested persons immediately of the reasons for their arrest and any charges brought against them, and then to bring them before a judge, who shall decide whether the deprivation of their liberty is lawful or whether they are to be released. Everyone in such a situation also has recourse to a court of law in order to apply for their release. Decisions must be taken promptly on any such application. Anyone who has been deprived of their liberty unlawfully has a right to compensation. Similar provisions can be found in the International Covenant on Civil and Political Rights (e.g. in Article 9), which is also binding on the Czech Republic.

Position of the Convention and its application in national law

4. Based on Article 10 of the Czech Constitution,² the Convention for the Protection of All Persons from Enforced Disappearance, like other promulgated international treaties approved for ratification by Parliament and binding on the Czech Republic, is part of national law. Where the provisions of such an international treaty are at variance with those of a national legislative act, the international treaty prevails.

Article 1

Absolute nature of the ban on enforced disappearance

5. The absolute nature of the ban is derived from the aforementioned provisions of the Charter of Fundamental Rights and Freedoms. The ban on enforced disappearance brooks no exemptions; enforced disappearance cannot be justified by the existence of exceptional circumstances, no matter whether these take the form of external military conflict, internal political crisis, or another public danger, or if they are of any other nature. This is confirmed by the above-mentioned international conventions.

¹ Act No 40/2009, the Criminal Code, as amended.

² Act No 1/1993, the Constitution of the Czech Republic.

Articles 2, 3, 4 and 5

Implementation of the ban on enforced disappearance in Czech law

6. The Criminal Code does not define enforced disappearance, nor does it establish the specific constituent elements of a criminal offence labelled as enforced disappearance. Nevertheless, conduct constituting enforced disappearance, as defined in the Convention, may be prosecuted – depending on the specific form it takes – as one of several criminal offences built primarily around the personal liberty of the individual. In particular, these criminal offences are the deprivation of personal liberty (Section 170 of the Criminal Code), used to prosecute the imprisonment or other deprivation of the personal liberty of another person without justification, as well as the restriction of personal liberty (Section 171), the transfer of a person against their will (Section 172), and, where appropriate, blackmail (Section 175) or infringement of another person’s rights (Section 181). More heavily penalised (“qualified”) constituent elements of these criminal acts come into play if the offence results, for example, in physical or mental suffering, grievous bodily injury or death. In addition, if an offence is committed by an official, the criminal act of abuse of power by an official also comes into consideration (Section 329 of the Criminal Code). Statistics covering criminal acts that are related to protection from enforced disappearance and the criminal prosecution thereof are provided in Annex 1.

7. In any event, the aforementioned constituent elements of general criminal acts are a vehicle ensuring that any conduct meeting the definition of enforced disappearance under the Convention is criminal in the Czech Republic and that such conduct is investigated, prosecuted and punished. Consequently, the objective pursued by the Convention is achieved in that all conduct that is to be criminalised is covered by those constituent elements. In this light, it would be superfluous to draw up separate constituent elements covering the criminal act of enforced disappearance. Furthermore, the above-mentioned constituent elements of criminal acts have been defined generally and broadly in the Criminal Code, guaranteeing that all foreseen forms of enforced disappearance can be prosecuted according to relevant provisions of the Criminal Code, depending on the specific act perpetrated. For the reasons outlined above, the Czech Republic believes that the path which it has followed, and which has been similarly pursued by numerous other states, is compliant with the Convention’s requirements.

Criminal penalisation of cases of enforced disappearance perpetrated by private individuals

8. These criminal acts are also punishable in cases where they are committed by private individuals. Since 1 December 2016, following an amendment to the Act on the Criminal Liability of and Proceedings against Legal Persons,³ it has also been possible to prosecute legal persons for perpetrating all of the aforementioned criminal acts, subject to relevant conditions.⁴

Criminal penalisation of extensive and systematic cases of enforced disappearance as a crime against humanity

9. Crimes against humanity are punishable in the Czech Republic according to applicable international law, which also lays down the consequences that need to be derived from such conduct. The Criminal Code facilitates the prosecution of extensive and systematic cases of enforced disappearance as the criminal act of an attack against humanity.⁵

³ Act No 183/2016 amending Act No 418/2011 on the criminal liability of and proceedings against legal persons.

⁴ Before this amendment took effect, of the criminal acts listed, legal persons were liable only for blackmail (Section 175 of the Criminal Code); prior to 1 January 2012, the criminal liability of critical persons did not exist at all in Czech law.

⁵ Section 401(1)(g) of the Criminal Code.

Article 6

Criminal penalisation of all forms of criminal activity encompassing cases of enforced disappearance

10. Cases of enforced disappearance may be prosecuted where the constituent elements of the criminal acts described above have been met. An attempt, as a general form of criminal act governed by Section 21 of the Criminal Code, is punishable in relation to all of the criminal acts listed. Preparation (Section 20 of the Criminal Code), unlike an attempt, is punishable only in relation to a particularly serious crime (an intentional criminal act punishable under the Criminal Code by a maximum term of imprisonment of at least 10 years) in those cases where this is expressly laid down by law. Where criminal acts potentially encompass enforced disappearance, preparation is punishable in relation to an attack against humanity (Section 401 of the Criminal Code) or the more heavily penalised version of the constituent elements of the deprivation of personal liberty (Section 170(2) and (3)) or the transfer of a person against their will (Section 172(3) and (4)) provided that the perpetrator perpetrates this act as a member of an organised group, on grounds of racial, ethnic, national, political or religious intolerance, if the act causes physical or mental suffering, grievous bodily injury or death, or if the act is committed with the intention of deriving considerable gain. The same shall apply to the more heavily penalised version of the constituent elements of the criminal act of blackmail (Section 175(3) and (4) of the Criminal Code) if, by that act, the perpetrator causes grievous bodily injury or death, if the act is committed with the intention of enabling or facilitating a terrorist offence, the criminal act of terrorist financing or the threat of a terrorist offence, or if the act results in large-scale damage.

11. Participation consisting of organisation, incitement, aiding or abetting is also punishable under Section 24 of the Criminal Code. Where a criminal act is perpetrated by two or more persons wilfully acting together, Section 23 of the Criminal Code prescribes that each of those complicit is equally liable as though he or she had committed the criminal act alone. Another particular form of criminal complicity is the criminal act of assistance to a perpetrator under Section 366 of the Criminal Code. Here, aiding a perpetrator of a criminal act by enabling them to avoid criminal prosecution, punishment, protective action, or the implementation thereof is punishable.

Penalisation of a superior member of staff of a state authority who orders enforced disappearance

12. A superior member of staff who orders enforced disappearance could be prosecuted as a participant (Section 24 of the Criminal Code), specifically as an organiser if they orchestrate or direct the perpetration of the criminal act or as an instigator if they incite a subordinate's decision to carry out the criminal act. Essentially, provisions on the criminal liability and criminality of the perpetrator apply to a participant's criminal liability and criminality. As a result, they are subject to analogous penalisation. If a superior exerts such intense pressure on a subordinate that the latter acts in extreme distress, the superior would be the "indirect perpetrator" of the criminal act (Section 22(2) of the Criminal Code). In addition, this case would also constitute the criminal act of abuse of power by an official (Section 329 of the Criminal Code).

13. A member of the security forces convicted of a criminal act perpetrated wilfully or a criminal act perpetrated out of negligence that is contrary to the requirements imposed on that member must be discharged. Any member engaging in deplorable conduct bearing the hallmarks of a criminal act and capable of harming the reputation of the security forces must also be discharged.

Penalisation of a person executing an order of enforced disappearance at a state authority and the possibility of refusing such an order

14. If an order is not accompanied by violence, the threat of violence or any other type of coercion that could exclude the unlawfulness of the subordinate's conduct (extreme distress), the conduct of the person executing the order of enforced disappearance is punishable as deprivation of personal liberty or another of the criminal acts mentioned

above. However, coercion could be taken into account as a mitigating circumstance when imposing a punishment on such a perpetrator.⁶

Penalisation of a person ignoring a case of enforced disappearance within their competence as a state authority or neglecting their duty to hinder or prevent it

15. Under Section 8 of the Act on judicial criminal proceedings⁷ (the “Code of Criminal Procedure”), state authorities are required to notify a prosecutor or police authorities immediately of facts from which it may be presumed that a criminal act has been committed.

16. Here, the Criminal Code regulates two separate sets of constituent elements of criminal acts – failure to obstruct a criminal act (Section 367) and failure to notify a criminal act (Section 368). If anyone reliably learns that another person is preparing or is committing any of the criminal acts listed in Section 367 of the Criminal Code, they are obliged to obstruct the perpetration or completion of such an act if this can be done without significant difficulty and if, in doing so, they do not expose themselves or anyone close to them to a particular serious risk, otherwise they are committing the offence of failing to obstruct a criminal act. Criminal acts that must be prevented or notified include the deprivation of liberty (Section 170 of the Criminal Code), the transfer of a person against their will (Section 172(2) and (3)), blackmail (Section 175(3) and (4)) and an attack against humanity (Section 401). Failure to notify a prosecutor or a police authority of a perpetrated criminal act of which a person reliably learns is similarly punishable, under Section 368 of the Criminal Code, in relation to the deprivation of personal liberty (Section 170 of the Criminal Code) and an attack against humanity (Section 401). The criminal act of the abuse of power by an official also has a passive form, i.e. if an official fails to do their statutory duty.

Article 7

Level of criminal or disciplinary punishment in cases of enforced disappearance

17. Where enforced disappearance takes the form of the criminal act of the deprivation of personal liberty, the penalty, if the basic constituent elements are met, is a two-to-eight-year term of imprisonment. Perpetrators face imprisonment for five to twelve years if they commit the offence as a member of an organised group, on grounds of racial, ethnic, national, political or religious intolerance, if the offence causes physical or mental suffering or grievous bodily injury, or if the offence is committed with the intention of deriving considerable gain for the perpetrator or another person. Where an offence causes death or is committed with the intention of deriving large-scale gain for the perpetrator or another person, the term of imprisonment is between eight and sixteen years.

18. Cases of extensive or systematic enforced disappearance that could be classified as the criminal act of an attack against humanity are punishable with imprisonment of between 12 and 20 years, or with an exceptional sentence, i.e. 20 to 30 years’ imprisonment or a life sentence.⁸

19. In cases of disciplinary punishment, penalties under the Act on the Service of Members of Security Forces⁹ may be applied – a written warning, a reduction in base pay by as much as 25% for up to three months, the stripping of the perpetrator’s service medal or rank, a fine, disqualification, forfeiture of assets, or discharge.

Mitigating or aggravating circumstances

20. Under the Criminal Code, when determining the type of punishment and the extent thereof, the court takes into account the nature and seriousness of the crime committed, the personal, family, economic and other circumstances of the perpetrator, the perpetrator’s

⁶ E.g. pursuant to Section 41(d) and (g) of the Criminal Code.

⁷ Section 8(1) of Act No 141/1961 on judicial criminal proceedings, as amended.

⁸ An exceptional sentence may be imposed in accordance with Section 54 of the Criminal Code.

⁹ Act No 361/2003 on the service of members of security forces.

lifestyle to date and any opportunity to correct it, and the perpetrator's conduct after the offence, in particular any efforts to compensate for damage or to remove other harmful consequences of the offence. The court also considers the effects and consequences that can be expected in the perpetrator's future life as a result of the punishment.

21. In addition, the court factors in any mitigating and aggravating circumstances, which are governed by Sections 41 and 42 of the Criminal Code. Under Section 41, mitigating circumstances include the commission of a criminal act under the influence of a threat or coercion, assistance in clarifying the perpetrator's criminal activity, a significant contribution to an investigation into a criminal act committed by another person, or a contribution to an investigation into the criminal activity of an organised crime group as a "cooperating accused". Where perpetrators are designated as a "cooperating accused", their punishment may be waived or their prison sentence may be reduced to below the minimum term, provided that they inform the prosecutor of facts that could make a significant contribution to the investigation into a crime committed by members of an organised group, in conjunction with an organised group, or for the benefit of an organised crime group, give a full and true statement of these facts and, at the same time, confess to the offence for which they are being prosecuted. However, punishment cannot be waived if the cooperating accused has committed a criminal act that is more serious than the crime which they are helping to be investigated, if they were involved as an organiser or instigator in the perpetration of the criminal act which they are helping to be investigated, if they have intentionally caused grievous bodily injury or death, or if there are reasons for an extraordinary increase in their prison sentence.

22. The aggravating circumstances referred to in Section 42 of the Criminal Code include the perpetration of a criminal act to the detriment of a child, a person who is close to the perpetrator, pregnant, ill, disabled, elderly or infirm, the perpetration of a criminal act out of greed, revenge, national, racial, ethnic, religious, class or other similar hatred, or out of other particularly reprehensible motives, the perpetration of a criminal act exploiting someone's hardship, distress, helplessness, dependence or subordination, the perpetration of a criminal act with deliberation or premeditation, the perpetration of a criminal act in a brutal or harrowing manner, maliciously, with particular subterfuge or by other similar means, the misuse of one's employment, position or function to commit a criminal act, the perpetration a criminal act against a person involved in saving life and health or in protecting property, the perpetration of a criminal act on a large scale, with respect to multiple items or multiple persons, or the continuation thereof over an extended period, the perpetration of a criminal act as an organiser, as a member of an organised group or a member of a conspiracy, or the causing of large-scale damage or large-scale harmful consequences.

23. These lists are non-exhaustive as the court always takes into account all the circumstances of the case and may view essentially any specific factors of a particular case as aggravating or mitigating circumstances.

Article 8

Statute of limitations in respect of the criminal prosecution of cases of enforced disappearance

24. Under Czech criminal law, the duration of the limitation period for the criminal prosecution of a perpetrator is tied to the penalty applicable to the specific criminal act and graded according to the level thereof. According to Section 34(1) of the Criminal Code, the limitation period for criminal liability may be between one and twenty years. For the basic constituent elements of the criminal act of the deprivation of personal liberty under Section 170(1) of the Criminal Code, the limitation period is ten years; for the more heavily penalised version, the limitation period is fifteen years. The statute of limitations in respect of criminal liability for the criminal act of an attack against humanity pursuant to Section 401 of the Criminal Code is excluded in view of the wording of Section 35(a) of the Criminal Code. This means that criminal liability for this criminal act does not cease to exist when the limitation period expires.

25. Enforced disappearance is inherently a continuing offence, which remains true regardless of the specific constituent elements it is classified under in the Criminal Code. According to Section 34(2) of the Criminal Code, the commencement of the limitation period coincides with the completion of the deed or, in the case of a continuing offence, with the elimination of the unlawful situation, the maintenance of which is a legal characteristic of such a criminal act. The limitation period therefore starts, for example, when an unlawful situation comprising the deprivation of personal liberty comes to an end.

26. Victims' claims for compensation for damage or non-material harm caused by a criminal act or for the relinquishment of unjust enrichment acquired by the perpetrator at the victims' expense by means of the criminal act may be successfully applied in criminal proceedings through "adhesion procedure" only in cases where the criminal proceedings result in a conviction. In this respect, it is necessary for the injured party to claim compensation for damage or non-material harm before evidence starts to be taken at the trial. The court is bound by the injured party's claim, i.e. it cannot award more than is requested, but the injured party is entitled to refine the claim at a later date, provided that this is before the court withdraws for its final deliberation. Naturally, like criminal proceedings themselves, such a claim may be raised only before criminal liability is statute-barred.

27. Besides criminal proceedings, a claim for compensation for the harm suffered may also be raised in civil proceedings. In this case, the Civil Code lays down a subjective limitation period of three years from the date on which the injured party forms some idea of the amount of damage and who is responsible for it. Besides this subjective period, a general, objective ten-year limitation period runs from the day on which the damage or harm is incurred, and is extended to fifteen years if the damage has been caused intentionally.

28. Compensation for damages, or an agreement on compensation, is also broadly required for the potential application of "diversions" in criminal proceedings, i.e. the conditional cessation of a criminal prosecution, settlement, conditional postponement of an application for sentencing and withdrawal from juvenile prosecution. This is also typically essential for the possible negotiation of an agreement on guilt and punishment. All of this may motivate the perpetrator to compensate the victims voluntarily.

29. If victims' health has been harmed by a criminal act and compensation for the injury has not been forthcoming in any other way, they may be entitled to financial assistance from the state in accordance with the Victims of Crime Act. According to Section 30(2) of the Victims of Crime Act, an application for financial assistance must be submitted within two years of the date on which the victim learns of the injury caused by the criminal act, but no later than five years after the perpetration of the criminal act, otherwise the right is extinguished.

Article 9

Territorial and personal scope of the criminal prosecution of cases of enforced disappearance

30. The territorial scope of Czech criminal laws is governed by Sections 4 to 9 of the Criminal Code. According to Section 9 of the Criminal Code, the criminality of an act is also assessed according to the law of the Czech Republic where so provided by an international treaty forming part of the legal system. In such an eventuality, the international treaty takes precedence over the law. Article 9 of the Convention, which governs jurisdiction, is therefore applicable as a matter of priority, and the criminality of enforced disappearance is assessed according to laws of the Czech Republic in all cases required by the Convention.

31. Sections 4 to 9 of the Criminal Code provide that the following are to be assessed according to Czech regulations: a criminal act committed in the Czech Republic, even if only in part, a criminal act committed outside the Czech Republic but on a vessel or aircraft registered in the Czech Republic, a criminal act committed abroad by a Czech citizen or a stateless person permanently residing in the Czech Republic, a criminal act committed

abroad against a citizen of the Czech Republic or against a stateless person residing permanently in the Czech Republic, and, in any case, the most serious criminal acts, including the criminal act of an attack against humanity and criminal acts in the cases foreseen by Article 9(2) of the Convention that are committed outside the Czech Republic by a foreigner. A criminal act committed abroad for the benefit of a legal person with a registered office or organisational unit in the Czech Republic is also assessed according to Czech law. The same rules apply to criminal acts committed by legal entities.

32. If perpetrators present in the Czech Republic are not extradited abroad, their criminal prosecution is ensured both by Article 9(2) of the Convention itself, the content of which is directly applicable in conjunction with Section 9 of the Criminal Code, and by Section 4 of the Criminal Code and its principle of territoriality and subsidiary principle of universality, as detailed in Section 8(1) of the Criminal Code. In keeping with this principle, the criminality of an act committed abroad by a foreign national or by a stateless person who has not been granted permanent residence in the Czech Republic is also assessed according to the laws of the Czech Republic if all of the following hold true: (i) the act is punishable under the law effective in the territory where it was committed; (ii) the perpetrator was caught in the Czech Republic, the extradition or surrender procedure was held, and the perpetrator was not extradited or surrendered; and (iii) the foreign state or other authorised entity which requested the perpetrator's extradition or surrender subsequently seeks the criminal prosecution of the perpetrator in the Czech Republic.

33. The Czech Republic does not have records of any cases of extradition or refusal of extradition handled on the basis of the Convention. Regarding extradition for criminal acts which could result in prosecution for enforced disappearance under the Czech legal system, the Czech Republic has recorded one case. This involved a request for the extradition of a person to Ukraine for the criminal act of blackmail, which was made in 2016 and executed in 2019. The extradition request was granted in this case by the Czech Republic.

Articles 10, 11 and 12

Obligation of the criminal prosecution of perpetrators of criminal acts encompassing enforced disappearance in the Czech Republic

34. In accordance with the principle of *ex officio* prosecution contained in Section 2(4) of the Code of Criminal Procedure, law enforcement agencies (according to Section 12(1) of the Code of Criminal Procedure these are the court, the prosecutor and the police authority) are required to act *ex officio* in the prosecution of criminal acts. Prosecutors are obliged to prosecute all criminal acts of which they learn, unless otherwise provided by law or an international treaty, in accordance with the principle of legality expressed in Section 2(3) of the Code of Criminal Procedure.

35. Criminal cases must be heard expeditiously and without undue delay. Law enforcement agencies handle criminal cases with full respect for the rights and freedoms guaranteed by the Charter and international treaties on human rights and fundamental freedoms that are binding on the Czech Republic. In the performance of tasks related to criminal proceedings, it is possible to encroach on the rights of persons affected by such tasks only in justified cases on the basis of law and to the extent necessary to ensure the purpose of the criminal proceedings.

36. Law enforcement agencies proceed in accordance with their rights and obligations as set out in the Code of Criminal Procedure and with the assistance of the parties in such a way as to establish the facts of the case without any reasonable doubt to the extent necessary for them to take a decision. A confession by the accused does not relieve law enforcement agencies of the obligation to examine all relevant circumstances of the case. In pre-trial proceedings, law enforcement agencies just as assiduously investigate, in the prescribed manner and – where necessary – of their own motion, circumstances in favour and to the detriment of the person against whom the proceedings are conducted. In court proceedings, prosecutors and defendants may propose and present evidence in support of their views. Prosecutors are obliged to prove the guilt of the accused in court proceedings. This does not relieve the court of its duty to supplement the taking of evidence itself to the extent necessary for its decision. The principle of the free assessment of evidence applies,

according to which law enforcement agencies assess the evidence according to their internal convictions that are based on careful consideration of all the circumstances of the case. They assess the evidence both individually and as a whole.

37. The right to a fair trial is expressly governed by Article 36(1) of the Charter, according to which anyone can claim their rights before an independent and impartial tribunal in the prescribed manner. The presumption of innocence and the right of defence are constitutionally guaranteed by Article 40(2) and (3) of the Charter, and are elaborated on in Section 2(2) and (13) of the Code of Criminal Procedure. A person subject to criminal proceedings cannot be regarded as guilty until their guilt has been pronounced by a final judgment convicting them.

38. The detention of persons is governed by Section 67 *et seq.* of the Code of Criminal Procedure. Persons may only be held on remand if they have been charged, a criminal prosecution has been opened against them, and there are reasonable concerns that they will: (i) abscond or go into hiding (flight-risk custody); (ii) engage in collusion with, the intimidation of or retaliation against witnesses who have yet to be heard (witness-tampering custody); or (iii) repeat their criminal activity or complete the criminal act (preventive custody). Decisions on remand are taken by a court and, in the pre-trial process, by a judge further to an application from the prosecutor. Remand always lasts for as long as is strictly necessary, but maximum limits of one to four years are set, depending on the severity of the criminal act. In cases concerning the basic constituent elements of the criminal act of the deprivation of personal liberty, remand would be for a maximum of two years, and in cases concerning the criminal act of an attack against humanity it would be four years. Of these maximum periods, the pre-trial process accounts for one third and proceedings before a court account for two thirds. In principle, after every three months of remand, the court decides whether it is to continue. In general, according to the Code of Criminal Procedure flight-risk and preventive custody can be replaced by a guarantee, a financial guarantee, supervision, an interim measure or a promise. Accused persons have the right to seek release from remand at any time. If their request is refused, they may repeat it every 30 days without having to cite new reasons.

39. Another option governed by the Code of Criminal Procedure is detention (Section 75 *et seq.*). Once charged, a person may be detained by a police authority if any grounds for remand exist. Detention must be notified to the prosecutor without undue delay so that, where appropriate, he or she can apply for the person to be placed on remand. A person suspected of committing a criminal act may, where there are grounds for remand, be detained by a police authority in urgent cases, even if no criminal prosecution has been initiated against that person. The prosecutor's prior consent is required for detention. Without such consent, detention is possible only if the case brooks no delay and advance consent cannot be obtained, especially if the person is caught in flagrante or is apprehended after fleeing.

40. The personal liberty of a person who is caught in flagrante or immediately after committing a criminal act may be restricted by anyone where this is necessary to establish that person's identity, to prevent their escape or to preserve evidence. However, the person restricting personal liberty is required to hand the person in question over to the police authority immediately. Where such a person cannot be handed over immediately, the deprivation of personal liberty must be notified without undue delay to one of the said authorities.

41. The police authority which made the arrest or to which a person caught in flagrante is handed over will release that person without undue delay if the grounds for detention cease to exist. If the police authority does not release a detainee, it forwards a report on the interrogation, a copy of the resolution to initiate prosecution, and other evidence to the prosecutor so that the prosecutor, where appropriate, can apply for remand. A detainee must be transferred to the jurisdiction of a court or released within 48 hours.

42. Provisional custody relating to extradition or surrender proceedings is governed by the Act on International Judicial Cooperation in Criminal Matters.¹⁰ The presiding judge

¹⁰ Act No 104/2013 on international judicial cooperation in criminal matters.

may decide to place a person being extradited in provisional custody if the findings of fact justify concerns that the person will abscond. A complaint may be lodged against a decision on provisional custody. A person must be released from provisional custody if the preliminary investigation is commenced without receipt of a request from a foreign state for extradition and such a request is not served on the ministry within 40 days of the date on which the person is placed in provisional custody. In all cases, the court must notify the Ministry of Justice of the provisional custody of a person and of the release thereof from such custody.

Possibility of filing a criminal complaint concerning a case of enforced disappearance, the investigation thereof, and the authorisation of competent authorities

43. Anyone who is aware of facts from which it may be presumed that a criminal act has been committed may file a criminal complaint in accordance with Section 158(2) of the Code of Criminal Procedure. State authorities are duty-bound to notify facts from which it may be presumed that a criminal act has been committed without undue delay (Section 8(1) of the Code of Criminal Procedure). Criminal complaints are received by police authorities and prosecutors. A criminal complaint may be made on paper, electronically or orally (by means of a formal statement) and must comply with the requirements for the filing of such a complaint under Section 59 of the Code of Criminal Procedure. Such a submission must clearly indicate the law enforcement agency to which it is addressed, who is making it, what matter it concerns and what it is pursuing, and must be signed and dated. If it does not meet these requirements, the law enforcement agency returns it to the submitter for completion, with appropriate guidance on how to correct the deficiencies. At the same time, it sets a deadline for correction. If the submitter is unknown or if the deficiencies are not remedied within the prescribed time limit, the submission is disregarded.

44. However, police authorities do not act on the basis of criminal complaints alone. They also proceed on their own initiative. After concluding that a suspected criminal act has been committed, they are required to engage in all necessary investigations and measures to detect facts from which it may be presumed that a criminal act has been committed and to identify the perpetrator. They are also required to take measures necessary to prevent a criminal act.

45. In proceedings on the criminal act of the deprivation of personal liberty, police authorities are entitled, under relevant conditions, to use ad hoc investigative means, i.e. the pretence of a transaction, the surveillance of persons and things, or the deployment of an agent (Sections 158b to 158e of the Code of Criminal Procedure). The interception and recording of communications (Section 88 of the Code of Criminal Procedure), the ascertainment of data on telecommunications (Section 88a) and other means under the Code of Criminal Procedure may also be used.

46. The protection of whistle-blowers, witnesses and other interested parties is ensured under Section 55(2) of the Code of Criminal Procedure, which allows measures to be taken to conceal the identity and appearance of a witness. In these cases, a witness's given name, surname and other personal data are not recorded in the report, but are kept separate from the criminal file, and may only be accessed by law enforcement agencies involved in the case. Witnesses are advised of the right to ask for their appearance to be concealed and to sign the report with a fictitious given name and surname, under which they are then referred to.

47. Furthermore, protection is also ensured by the Act on the Special Protection of Witnesses and Other Persons in Connection with Criminal Proceedings,¹¹ which facilitates personal protection, the relocation of a protected person, the concealment of their true identity, etc. As it is the victim of a criminal act who often acts as a whistle-blower or witness, the Victims of Crime Act comprehensively governs the rights of victims of criminal acts, including the right to protection from imminent danger and to protection from secondary harm.

¹¹ Act No 137/2011 on the special protection of a witness and other persons in connection with criminal proceedings.

48. A complaint may be filed against a resolution in criminal proceedings further to Section 141 et seq. of the Code of Criminal Procedure. It can be used to challenge any resolution by a police authority, as well as resolutions of the court and prosecutor in cases where the law expressly permits this and those entities hand down decisions at first instance. A complaint must be filed within three days of the notification of the resolution with the authority against whose resolution the complaint is directed. Unless otherwise provided, a complaint may be filed by a person who is directly concerned by the resolution or who initiated the resolution by way of an application.

Articles 13, 14 and 15

International criminal cooperation concerning cases and victims of enforced disappearance

49. The conditions for extraditing perpetrators abroad are governed by the International Judicial Cooperation Act. The Ministry of Justice is competent to accept an extradition request from a foreign state. The Ministry then forwards the request to the prosecutor's office for a preliminary investigation to determine whether or not the perpetrator can be extradited to the foreign state.

50. However, the request is rejected immediately if the person to be extradited is not criminally liable under Czech law because of their age, cannot be detained on account of the privileges or immunity they enjoy, or if a final decision has already been taken that the person will be surrendered to another state or an international judicial authority.

51. The extradition of a person to a foreign state is admissible only if the deed for which extradition is sought would be a criminal act with a maximum term of imprisonment of at least one year under Czech law. The extradition of a person to a foreign state for the enforcement of a custodial sentence or a protective measure involving deprivation of personal liberty is admissible if the sentence or protective measure to be enforced is at least four months. On condition of reciprocity, multiple sentences or protective measures of fewer than four months which are to be enforced are aggregated.

52. By contrast, the extradition of persons to a foreign state is inadmissible where this concerns Czech citizens who have not given their consent, or persons who have been granted international protection, a pardon or amnesty in the Czech Republic. Extradition is also inadmissible if persons are at risk of the death penalty or manifestly disproportionately affected due to their age, personal circumstances and the seriousness of the offence, or if the criminal act for which extradition is sought is exclusively of a political or military nature. However, as, under Article 10 of the Constitution of the Czech Republic, the Convention for the Protection of All Persons from Enforced Disappearance is part of the legal system and takes precedence over the law, Article 13 of the Convention provides that enforced disappearance is not regarded as a political offence and a request for extradition cannot be refused on those grounds alone.

53. Extradition will also not be granted if the criminal act consists solely of a breach of tax, customs, foreign-exchange or analogous regulations of the foreign state, unless reciprocity is guaranteed. Furthermore, extradition is not possible if, under Czech law, criminal liability or imprisonment for the offence committed has been statute-barred or if criminal proceedings have already been held and completed with finality, either directly in the Czech Republic or in another EU member state, and therefore the principle of *ne bis in idem* comes into play.

54. Finally, extradition is unenforceable if there is reasonable concern that persons who are to be extradited would be exposed to persecution in the foreign state on account of their origin, race, religion, sex, membership of a particular ethnic or other group, citizenship or political opinions or for other analogous reasons, or that their position would be impaired in criminal proceedings or in the enforcement of a custodial sentence or protective measure involving the deprivation of personal liberty, or if extradition would be contrary to the commitments of the Czech Republic under international treaties on human rights and fundamental freedoms.

55. The International Judicial Cooperation Act also governs the transfer of criminal proceedings to a foreign state and the taking-over of criminal proceedings from a foreign state. Criminal proceedings may be transferred to a foreign state if the deed for which they are being held is also punishable under the law of that state and falls within the competence of its authorities, all available evidence has been gathered in the Czech Republic, and it can be reasonably assumed that the purpose of criminal proceedings will be better achieved in that state.

56. Criminal proceedings cannot be transferred if the persons to be extradited would be at risk of the death penalty in the state in question, if there is reasonable concern that such persons would be exposed to persecution in the foreign state on account of their origin, race, religion, sex, membership of a particular ethnic or other group, citizenship or political opinions or for other analogous reasons, or that their position would be impaired in criminal proceedings or in the enforcement of a custodial sentence or protective measure involving the deprivation of personal liberty, or if extradition would be contrary to the commitments of the Czech Republic under international treaties on human rights and fundamental freedoms.

57. The transfer of criminal proceedings to a foreign state is possible only at the request of the prosecutor or the court. The Ministry of Justice examines a request for the transfer of criminal proceedings in particular with regard to the conditions and particulars under the International Judicial Cooperation Act or an international treaty, and sends it to the foreign state.

58. Criminal proceedings may be taken over from a foreign state if the deed for which they are being held is also punishable under the law of the Czech Republic and falls within the competence of Czech authorities. The Supreme Prosecutor's Office decides on requests from foreign authorities for the takeover of criminal proceedings. If it decides to take over the criminal proceedings, it promptly provides instigation for the commencement of criminal proceedings to the competent prosecutor's office, otherwise it returns the request for the takeover of criminal proceedings to the foreign authority, stating the reasons why the criminal proceedings were not taken over. Evidence obtained by a foreign authority in accordance with the law of the foreign state may be used in taken-over criminal proceedings as if it had been obtained by a Czech law enforcement agency.

59. If, in the course of criminal proceedings that have been taken over, grounds arise in respect of which it can be assumed that the purpose of criminal proceedings will be achieved better in the foreign state which transferred the criminal proceedings to the Czech Republic than in the Czech Republic, the authority which decided on the takeover of criminal proceedings may return the criminal proceedings to the foreign authority.

Article 16

Ban on returning persons to a state where they would be at risk of enforced disappearance or other similar harm to life and health

60. The Act on the Residence of Foreign Nationals¹² defines the concept of administrative removal, which means the termination of a foreign national's stay in the Czech Republic and is connected with the setting of a period for departure. The law exhaustively lists the grounds on which an administrative authority issues a decision on administrative removal and specifies the conditions under which a decision on administrative removal may be issued to various named categories of persons. If the statutory conditions are not met, removal is inadmissible. The decision on administrative removal is issued by the police.

61. The international commitment of non-refoulement is implemented by Section 179(1) of the Act on the Residence of Foreign Nationals, which sets out reasons preventing departure. According to that provision, the departure of a foreign national is impossible if there are reasonable concerns that, were the foreign national to be returned to the state of which they are a citizen or, if a stateless person, to the state of their last permanent

¹² Act No 326/1999 on the residence of foreign nationals.

residence, they would be at genuine risk of serious harm and that, due to such risk, they cannot or will not use the protection of that state. Under the law, serious harm is taken to mean the imposition or execution of the death penalty, torture or inhuman or degrading treatment or punishment, or a serious threat to life or human dignity by reason of indiscriminate violence in situations of international or internal armed conflict, or a disconnect between the departure of a foreign national and the international commitments of the Czech Republic. For these reasons, a foreign national may subsequently be granted subsidiary protection in the Czech Republic under the Asylum Act.

62. Section 179(1) of the Act on the Residence of Foreign Nationals does not apply if there is a reasonable suspicion that a foreign national has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes, has committed a particularly serious crime, has engaged in acts contrary to the principles and purposes of the United Nations, or constitutes a threat to state security. That provision is also inapplicable if a foreign national instigates or participates in the perpetration of such offences, or has committed one or more criminal acts other than the criminal acts referred to above outside the Czech Republic and has left the state of which they are a citizen or, if a stateless person, the state of their last permanent residence in order to avoid criminal prosecution for such offences, provided that these are deeds for which a custodial sentence may be imposed in the Czech Republic. In any of these cases, a foreign national will be permitted to seek admittance in another state within 60 days.

63. The principle of non-refoulement in connection with the extradition of a person to a foreign state is governed by Section 91 of the Act on International Judicial Cooperation in Criminal Matters. The extradition of persons to a foreign state is inadmissible if any of the exhaustively listed conditions is met. These include the reasonable concern that persons who are to be extradited would be exposed to persecution in the foreign state on account of their origin, race, religion, sex, membership of a particular ethnic or other group, citizenship or political opinions or for other analogous reasons, or that their position would be impaired in criminal proceedings or in the enforcement of a custodial sentence or protective measure involving the deprivation of personal liberty.

Process for the extradition or removal of foreign nationals

64. As noted above, a decision on administrative removal, which includes the setting of a period for departure from the Czech Republic and a period over which the foreign national's entry into member states of the European Union cannot be facilitated, is issued by the police, subject to statutory conditions. An appeal against a decision on administrative removal may be lodged within 10 days; in cases of a decision on the administrative removal of a foreign national under 18 years of age, the time limit for appeals is 15 days. An appeal against a decision on administrative removal has suspensive effect in all cases. If such an appeal is unsuccessful, an action against a decision on administrative removal may be submitted within 10 days of service of the decision of the administrative authority at last instance. A court decides on an action against a decision on administrative removal within 60 days.

65. The Act on the Residence of Foreign Nationals also sets out conditions to "alleviate the harshness of administrative removal". Here, for example, there is a possibility for an administrative authority to issue a decision revoking a decision on administrative removal if the grounds for the issuance of that decision cease to exist and half of the period over which the foreign national's entry into the Czech Republic cannot be facilitated has passed. The ordering of administrative removal does not preclude foreign nationals' right to seek asylum if they have not already done so.

66. The extradition of a person from or to a foreign state is governed by of the Act on International Judicial Cooperation in Criminal Matters. In relation to the extradition of a person from a foreign state, this Act lays down the jurisdiction of the court, the underlying documentation for extradition from a foreign state, the concept of provisional custody and other requirements. The extradition procedure under the Act requires a person extradited by a foreign state to be taken over by the Police of the Czech Republic. Where extradition is for purposes of criminal prosecution, the Police of the Czech Republic deliver the person to

the court without undue delay, if an arrest warrant has been issued, or to a police authority, if a detention order has been issued. Where extradition is for the enforcement of a custodial sentence or a protective measure involving deprivation of personal liberty, the Police of the Czech Republic delivers the person to the nearest prison or facility for protective measures without undue delay. The conditions for the extradition of a person to a foreign state are described above.

Article 17

Rules governing the restriction and deprivation of liberty

67. As follows from the constitutional framework described above, personal liberty is constitutionally guaranteed and protected. No one may be held on remand unless this is done for reasons and for a period of time prescribed by law and on the basis of a court decision. The Charter also lays down strict time limits for any restriction on personal liberty in criminal proceedings – 72 hours for a detainee who has not yet been charged and 48 hours for a person who has been charged. In criminal proceedings, personal liberty may be deprived when a person is placed on remand, or as a result of an order of imprisonment, inpatient protective treatment, or preventive detention. The law must also prescribe those cases in which a person may be accepted or held for inpatient health care without their consent. Such a measure must be notified within 24 hours to a court, which decides on such a placement within seven days.

Conditions for a decision on the restriction or deprivation of personal liberty, including placement

68. Conditions for a decision on imprisonment, preventive detention and protective treatment are regulated by the Criminal Code. Conditions for a decision on remand are regulated by the Code of Criminal Procedure.

69. As a matter of principle, a court hands down a custodial sentence for a maximum of twenty years in accordance with the rules under Section 55 et seq. of the Criminal Code. Clearly set rules differentiate where convicted prisoners are placed – maximum-security prisons or guarded prisons, which are internally divided by security level into low-, medium- and high-security units.

70. A court orders protective treatment under Section 99 of the Criminal Code for perpetrators who are not criminally liable on grounds of insanity if it would be dangerous for them to remain at large, for perpetrators in a state of diminished sanity whose penalty has been reduced below the minimum term of imprisonment, or perpetrators whose punishment has been waived. In addition, the court may order protective treatment if the criminal act is committed when the perpetrator is in a state caused by a mental disorder and in cases where a criminal act is perpetrated under the influence of or in connection with the use of an addictive substance. Depending on the nature of the disease and the treatment options, the court orders protective treatment that is either inpatient or outpatient, i.e. without restricting personal liberty. If, in addition to inpatient protective treatment, a custodial sentence is imposed, the inpatient protective treatment is provided, as a general rule, in prison or, if it cannot be provided in prison, at a healthcare facility. Protective treatment lasts for as long as required to achieve its purpose. Inpatient protective treatment lasts for a maximum of two years, but if the treatment is not completed by this time, the court may – repeatedly – decide to extend it for two years at a time.

71. Preventive detention is regulated by Section 100 of the Criminal Code. This protective measure may be imposed on very dangerous perpetrators who are suffering from a particular mental disorder, who are insane, who are in a state of diminished sanity, or who abuse addictive substances and have committed an act that is otherwise criminal, with the characteristics of a crime, and whose placement in protective treatment would not result in sufficient protection for society. A court may impose protective detention of its own accord, in conjunction with a decision to refrain from punitive measures or in addition to imposing a penalty. Preventive detention takes place at a preventive detention institution with special security and with medical, psychological, educational, pedagogical, rehabilitation and activity programmes. It lasts for as long as required for the protection of society. At least

once every twelve months, a court examines whether reasons for continuing the detention remain in place.

72. People on remand are placed in remand centres. The remand regime has been described above in relation to criminal proceedings and investigations.

Judicial protection of personal liberty and prevention of the illegal restriction or deprivation of personal liberty

73. The judicial protection of personal liberty is first and foremost guaranteed by the Charter, specifically by Article 8 thereof, guaranteeing personal liberty to all persons, in conjunction with Title Five, governing the right to judicial and other legal protection, especially Article 36(1), according to which everyone can assert their rights and/or the constitutional duty of the courts to provide protection under Article 4 of the Constitution by following prescribed procedure before an independent and impartial court or, in specified cases, another body. The judicial protection of personal liberty within the framework of criminal law is guaranteed by the criminalisation of acts that restrict personal liberty and the consequent procedural arrangements under the Code of Criminal Procedure.

Right of access to a court and attendant rights

74. The right of access to a court is exercised via the possibility of appealing a decision which deprives an individual of personal liberty. Once placed on remand, accused persons may seek release from remand at any time in accordance with Section 71a of the Code of Criminal Procedure. If they are unsuccessful, they may repeat their request – without having to cite new reasons – 30 days after the last decision becomes final. Convicted prisoners may be conditionally released from prison, including on the basis of their own request, by a court decision. Similarly, persons may also be released from protective treatment. Furthermore, anyone in prison, on remand or in preventive detention who believes that their liberty has been wrongfully restricted may contact a prosecutor, who has the power to order their release.

75. Persons against whom criminal proceedings are held must be advised appropriately and comprehensibly, at all times during criminal proceedings, of their rights of defence and their right to choose a lawyer. In accordance with Section 33(2), if accused persons prove that they do not have sufficient resources to pay for the costs of their defence, the judge decides that they are entitled to defence free of charge or for a reduced fee. In addition, in certain cases, e.g. if personal liberty is restricted or in relation to more serious criminal acts, the law requires accused persons to have a lawyer, either at their own expense or, again, at the expense of the state.

76. The notification that a person's personal liberty has been restricted is regulated by the Act on the Police of the Czech Republic. In accordance with Article 24(2) and (3), the notification is made in such a way that, at the request of the person whose liberty has been restricted, the police inform a person close to them or another person designated by the person whose liberty has been restricted. Notification is not provided only if this would constitute a threat to the purpose pursued by a serious action or if such notification is associated with disproportionate difficulties. The locally competent prosecutor is informed in writing of this fact by a police officer without undue delay. In this situation, the police officer provides notification as soon as the impediment has passed.

77. The systems in place for visitors and the possibility of medical examinations, treatment or operations are governed by special legislation for the individual types of deprivation of personal liberty. Specifically, the main laws in this respect are the Act on the Police of the Czech Republic, the Remand Act, the Imprisonment Act, the Preventive Detention Act, and other secondary legislation.¹³

¹³ Act No 273/2008 on the Police of the Czech Republic, Act No 293/1993 on remand, Implementing Decree No 109/1994 issuing remand rules, Act No 169/1999 on imprisonment and amending certain related acts, Implementing Decree No 345/1999 issuing imprisonment rules, and Act No 129/2008 on preventive detention and amending certain related acts.

78. A person restricted in their liberty by being placed in a police cell is entitled to be examined or treated by a doctor of their choice; this does not apply to medical examinations to determine whether that person can be placed in police custody or whether they must be released from police custody. Where a police officer discovers that a person to be placed in a cell is injured, where such a person warns that they have a serious disease, or where there is reason to suspect that such a person suffers from such a disease, the police officer arranges for medical treatment and seeks a doctor's opinion on the person's health. If a person placed in police custody becomes sick, suffers other injury or attempts suicide, the police officer carrying out surveillance of the person in custody takes the necessary steps to protect the person's life or health, including arrangements for essential medical treatment. If, in a doctor's opinion, the person's health prevents further custody, the police officer releases them from custody without undue delay. A person placed in a cell is entitled to the provision of necessary medicinal products and medical devices. As a person may be detained in a police cell for no more than 48 hours, there is no specific regulation of the system for visitors.

79. Under the Remand Act, an accused who has been placed on remand has the right to receive a ninety-minute visit comprising a maximum of four persons once every two weeks. More frequent visits or visits by a larger number of persons may be authorised by the prison governor in justified cases. However, no restrictions may be imposed on visits by or any other form of contact with the defence lawyer.

80. An accused must undergo preventive entry, periodic and exit (and where appropriate non-routine) medical examinations to the extent specified by the physician, including the necessary diagnostic and laboratory examinations and vaccinations, and preventive measures prescribed by public health authorities. If the health of an accused requires health services that cannot be provided in prison, they are provided outside the prison by a health service provider.

81. The accused is entitled to health services to the extent and under the conditions laid down by the Health Services Act,¹⁴ taking into account the constraints arising from the purpose of remand. The costs of providing urgent and acute health care to an accused who is not insured under the law governing public health insurance and who cannot pay the costs out of their own resources are covered by the Prison Service from the central government budget. If an accused prisoner is seriously ill or sustains an injury requiring hospitalisation, the remand centre notifies the competent law enforcement agency without delay. The remand centre also notifies the person designated by the accused or a person close to the accused. If an accused dies, the remand centre always immediately informs a close person and the prosecutor supervising the enforcement of the law during remand.

82. Under the Imprisonment Act, a convicted prisoner has the right to receive visits from close persons for a total of three hours per calendar month, at times determined by the prison's internal rules or by the prison governor. A maximum of four persons may visit a convicted prisoner at any one time. In the interests of the correction of a convicted prisoner, or for other serious reasons, a convicted prisoner may be permitted visits from non-close persons. Convicted prisoners placed in an inpatient unit of a healthcare facility may receive visits only if the attending physician so agrees, taking into account the convicted prisoner's health.

83. A convicted prisoner has the right to legal assistance from a lawyer, who is entitled, within the limits of his or her authorisation, to maintain correspondence with the convicted prisoner and speak with him or her in private. This right of a convicted prisoner must be processed within 24 hours of receipt of a request. Convicted prisoners have the right to use a telephone at a time defined by the prison's internal rules in order to contact their lawyer.

84. Convicted prisoners have the right to health services to the extent and under the conditions laid down by the Health Services Act, taking into account the constraints arising from the purpose of the sentence. The costs of providing urgent and acute health care to a convicted prisoner who is not insured under the law governing public health insurance and who cannot pay the costs out of their own resources are covered by the Prison Service from

¹⁴ Act No 372/2011 on health services and on the conditions for the provision thereof, as amended.

the central government budget. Convicted prisoners with a severe disability have the right to adequate conditions allowing for the dignified serving of their sentence. If a convicted prisoner is seriously ill or sustains an injury requiring hospitalisation, the prison notifies the person designated by the convicted prisoner or a close person without delay. If a convicted prisoner dies, the prison always immediately informs a close person and the prosecutor supervising the enforcement of the law during the sentence.

85. Under the Preventive Detention Act, an inmate, during a stay in an institution, is entitled to receive visits at least twice a week for periods of at least two hours each at times determined by the institution's internal rules or by the institution's director. Visits by a defence lawyer or other lawyer authorised to represent an inmate, a court-appointed trustee, chaplains and officials are not subject to this limitation. An institution's director may, on the recommendation of a healthcare facility, prohibit visits by a particular person if the inmate's health so requires, in which case the director immediately notifies the inmate and, if possible, the persons who were to make the visit. The director draws up a record of this decision, accompanied by the justification for it, and files it in the inmate's personal records. A maximum of four persons may visit an inmate at any one time.

86. Inmates have the right to health services to the extent and under the conditions laid down by the Health Services Act, taking into account the constraints arising from the purpose of preventive detention, in much the same way as a person servicing a prison sentence.

87. Under the Vienna Convention on Consular Relations, Czech citizens whose personal liberty has been restricted have the right to contact a diplomatic mission of the Czech Republic. Some bilateral international treaties allow citizens who have been sentenced to imprisonment abroad to apply, under certain conditions, for extradition to the Czech Republic in order to serve their sentence here. Similar rules apply to foreign nationals in the Czech Republic.

Checks on places used for the restriction of personal liberty

88. Under Section 4(1)(b) of the Prosecutor's Office Act,¹⁵ the prosecutor's office is responsible for supervising the observance of legislation in places used for remand, imprisonment, protective treatment, preventive detention, or protective or institutional care, and in other places where, by legal authorisation, personal liberty is restricted, under the conditions laid down by the aforementioned special legislation on the individual types of restriction of personal liberty. The prosecutor may visit prison facilities, run checks on documents, speak with prisoners and Prison Service staff, seek their assistance, issue orders to enforce regulations applicable to penalties, and order persons held at a facility illegally to be released immediately.

89. The Ministry of Justice runs checks on compliance with legislation and internal regulations governing the duties of officers and civil servants of the Prison Service in the handling of accused persons, convicted prisoners, and inmates who have been placed in preventive detention.

90. Within the Ministry of the Interior, checks of places used for the restriction of personal liberty are conducted in all cases by individual heads of specific departments and their superiors, as well as the internal control departments of the regional police directorates, the internal control department of the Police Presidium, and the Directorate of the Public Order Police Service.

91. In accordance with Section 1(3) of the Ombudsman Act¹⁶ and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Ombudsman methodically visits places where persons restricted in their freedom by public authority or as a result of dependence on care are or may be found. These visits are intended to strengthen the protection of these persons from torture, cruel, inhuman, degrading treatment or punishment and other mistreatment.

¹⁵ Act No 283/1993 on the prosecutor's office.

¹⁶ Act No 349/1999 on the Ombudsman.

Registration of the restriction or deprivation of personal liberty, records thereof, and recorded data

92. In accordance with Section 2(1)(i) of the Act on the Prison Service and the Judicial Guard of the Czech Republic¹⁷ (the “Prison Service Act”), the Prison Service keeps records of persons who are on remand, in preventive detention or serving a prison sentence in the Czech Republic (“records”).

93. The records contain data taken from the decisions of law enforcement agencies notified to the Prison Service, data facilitating the identification of every person in preventive detention or imprisoned, and information on the course of preventive detention, remand or imprisonment, including the exact location and the time the person underwent preventive detention, remand or imprisonment, an overview of remuneration granted and disciplinary penalties imposed, and data on the results of medical examinations. Similar data is included in the records of persons placed in police custody under the Act on the Police of the Czech Republic.

94. The Prison Service provides data from its records, on request, to law enforcement agencies and the intelligence services of the Czech Republic, courts and prosecutors’ offices in the exercise of their other powers, administrative authorities, and the Register of Criminal Records, where required for their activities, and to other persons, if there is a legal interest in the disclosure of such information and this is not precluded by a special law. Similarly, the Police of the Czech Republic provide data on persons held in police custody.

Articles 18, 19 and 20

Access to information on persons who have been restricted in or deprived of their liberty for their relatives and other close persons

95. Access to information on persons who have been restricted in or deprived of their liberty for their relatives and other close persons is guaranteed at the Police of the Czech Republic at least to the (minimum) extent laid down in the Convention. Information on convictions (or charges or preventive detention) is sensitive personal data and is subject to special protection regime. It cannot normally be disclosed without the consent of the person imprisoned. This system of protection is regulated by the Act on the Prison Service and Judicial Guard of the Czech Republic¹⁸ and the Personal Data Protection Act.¹⁹ Information on whether a particular individual is on remand, serving a prison sentence or in preventive detention may be found in the Central Records of Imprisoned Persons managed by the General Directorate of the Prison Service. According to Section 23a of the Act on the Prison Service and Judicial Guard, the provision of data from those records may be requested by law enforcement agencies, the intelligence services of the Czech Republic, courts, prosecutors’ offices, administrative authorities, the Register of Criminal Records and other persons, if there is a legal interest in the disclosure of such information and this is not precluded by a special law (e.g. the Personal Data Protection Act). In private-law relations, documents evidencing labour-law relations (documented, for example, by employment contracts, agreements on the performance of work, agreements on work activities, employment records) or family relationships (documented, for example, by birth, marriage and death certificates, or extracts from the property register) may be accepted as documents proving a legal interest. In public-law relations, the applicant’s reference to misdemeanour, criminal, judicial, enforcement, administrative or other proceedings held by the applicant may be accepted as proof of a legal interest. No one can be penalised for exercising their rights to information on persons whose liberty has been restricted. State authorities engaging in any such penalisation would be perpetrating, at the very least, the criminal act of the abuse of power by an official.

¹⁷ Act No 555/1992 on the Prison Service and Judicial Guard of the Czech Republic, as amended.

¹⁸ Act No 555/1992 on the Prison Service and Judicial Guard of the Czech Republic.

¹⁹ Act No 101/2000 on personal data protection and amending certain acts.

Protection of the personal data of persons who have been restricted in or deprived of their liberty, and the use of such data

96. Processing of personal data by the Police Force of the Czech Republic is permitted under the Act on the Police of the Czech Republic.²⁰ Processing is carried out in accordance with the General Data Protection Regulation and the Personal Data Protection Act, which will soon be superseded by the Personal Data Processing Act. Specific procedures and rules governing work with personal data are described in internal Police President management regulations covering both the processing of personal data and the operation of specific information systems. A distinction is made between the categories of persons and the categories of personal data being processed. Retention periods are set, after which the data is destroyed. The Office for Personal Data Protection supervises the observance of statutory obligations in the processing of personal data.

97. Under the Prosecutor's Office Act, the prosecutor's office is entitled to process personal data, including sensitive data, within the scope of its jurisdiction. The Supreme Prosecutor's Office keeps central records of prosecuted persons, which contain personal data relating to persons against whom criminal proceedings are held, the injured parties, and any other persons involved in the criminal proceedings, as well as data on the criminal acts actually or allegedly committed, and directly related data. The central records of prosecuted persons are not publicly accessible. Only entities specified by law have access to the central records of prosecuted persons.

Article 21

Release and checks on the release of persons, and competent authorities

98. The release of persons restricted in their personal liberty is recorded in the Criminal Proceedings Register (ETŘ) information system. By running checks in the information and filing systems of the Police of the Czech Republic, it is possible to reliably verify, retrospectively, that the release has actually taken place. Checks on the release of persons are conducted by individual heads of relevant departments and their superiors, the internal control departments of the relevant regional police directorates, the internal control department of the Police Presidium, and the Directorate of the Public Order Police Service. Checks are also carried out by prosecutors, who may order the release of individuals wrongfully restricted in their liberty.

Article 22

Penalties for breaches of rules governing the restriction of personal liberty

99. Any breach of rules governing the restriction of personal liberty may be penalised as a disciplinary offence or as a criminal act constituting encroachment on personal liberty, described above as a restriction in or the deprivation of personal liberty, abuse of power by an official, etc., with the penalties described above.

Article 23

Training of police officers, prosecutors and judges on the prohibition of enforced disappearance and on the rules governing the restriction or deprivation of personal liberty

100. At the training facilities of the Police Education and Service Training Department (the "Police Training Department"), the topic of the protection of persons from the illegal restriction of personal liberty is mainly covered in the qualification courses "Basic Training 2018, Public Order Police Qualification Courses, and Criminal Police and Investigation Service Qualification Courses". The above courses encompass the teaching of criminal and constitutional law, including analyses of the constituent elements of the relevant criminal acts. Training is also provided in relation to acts of detention and the possibility of the restriction or deprivation of personal liberty in accordance with the Act on the Police of the

²⁰ Act No 273/2008 on the Police Force of the Czech Republic.

Czech Republic and the Code of Criminal Procedure. Any amendments to legislation or changes in the methodology applied in the work done by the police or police authorities are also incorporated into the training process.

Internal control system at security forces to prevent breaches of rules governing the restriction or deprivation of personal liberty, and reporting on such breaches

101. The internal control system at the Police of the Czech Republic consists of “control units”, as defined by Article 2(d) of the Code of Inspection Procedure. The system of control units, which deal – among other things – with the restriction of individuals’ personal liberty, comprises the internal control department of the Police Presidium (directly accountable to the Police President), the internal control departments of the various regional police directorates (directly accountable to the director of the regional police directorate), the internal control teams of the district police directorates (directly accountable to the director of the district police directorate), and organisational units or staff of police departments with nationwide reach (directly accountable to the director of such departments with nationwide reach).

102. In connection with the restriction of personal liberty, control units carry out systematic internal controls that focus on the reasons for restricting personal liberty, their proper documentation, and the treatment of persons whose personal liberty has been restricted. In addition, control units *ex officio* monitor, investigate and evaluate all cases of personal injury to persons restricted in their personal liberty. Inspection unit members are also required to deal with any complaints lodged by persons who have been restricted in their personal liberty by the police, to properly investigate the reasons for and the manner of the restriction of personal liberty, and to inform these persons of the outcome of the investigation.

103. Anyone who is dissatisfied with the handling of their complaint may apply to a senior service official for a review of the investigation. If control unit members detect a suspected criminal act, this information is referred to the General Inspectorate of Security Forces. The Inspectorate is tasked with monitoring and evaluating information on the illegal activities of officers of the Police of the Czech Republic, officers of the Prison Service of the Czech Republic, and officials of the Customs Administration of the Czech Republic. In its investigations, the Inspectorate proceeds in accordance with the Code of Criminal Procedure. The Inspectorate also proposes measures to prevent such illegal activity.

Article 24

Definition of victims of crime

104. The definition of a victim of crime can be found in Section 2(2) of the Victims of Crime Act.²¹ It is understood to mean a natural person who, as a result of a criminal act, has allegedly or actually sustained personal injury, or suffered material or non-material harm, or at whose expense perpetrators have enriched themselves. The Act also defines a “particularly vulnerable victim”, who is at greater risk of secondary harm or intimidation by a perpetrator. This victim may also be particularly prone to an intensification in the stress and emotional injury they experience as a result of participating in criminal proceedings. Under the Act, particularly vulnerable victims include persons under the age of 18, the elderly, the disabled, victims of sex-related crime, criminal acts involving coercion, violence or threats of violence, and others. By law, these victims have certain special rights, including the right to free professional assistance, the right to non-contact with the perpetrator, the right to protection during interrogation, and the right to be represented by an agent free of charge or for a reduced fee. Since the 2017 amendment to the Victims of Crime Act took effect, where there is doubt about whether a victim is particularly vulnerable, they must be treated as such.

²¹ Act No 45/2013 on victims of crime and amending certain acts.

Practical procedures for the protection of victims of crime

105. The procedure for the protection of victims of crime is regulated by the Victims of Crime Act,²² as well as by the Act on the Police of the Czech Republic and the Probation and Mediation Service Act. Law enforcement agencies and other public authorities, entities assisting victims of crime, health service providers, experts, interpreters, defence lawyers and the media have a duty to respect the personality and dignity of the victim, to approach the victim with courtesy and care, and to accommodate the victim's needs as circumstances allow. By law, in particular victims have the right to receive professional assistance, the right to information, the right to protection from imminent danger, the right to privacy, the right to protection from secondary harm, and the right to financial assistance.

106. Victims may be asked intimate questions only if this is necessary in order to clarify facts relevant to the criminal proceedings. Such questions must be asked with particular care and in a way avoiding the need for re-examination of the victim. The way the questions are formulated must be adapted with due consideration for the victim's age, personal experience and mental state. Victims have the right to object to the focus of a question at any time. Victims are entitled to have a confidant accompany them when they are required for actions pertaining to the criminal proceedings and when they submit explanations. The confidant's role is to provide the necessary assistance, especially of a psychological nature. Victims have the right, at any stage of the criminal proceedings, to make a statement on the impact that the criminal act has had on their life. Victims have the right to financial assistance to cover the costs associated with the provision of specialised psychotherapy and physiotherapy or other professional services aimed at remedying the non-material harm incurred, and where appropriate to bridge the downturn in their social situation caused by the criminal act.

107. The right to information is defined by Sections 8 to 13 of the Victims of Crime Act. These sections encompass a wide range of information. Persons providing assistance to victims of crime must inform the victim of victim services, of the victim's rights laid down in the Victims of Crime Act, of the rights granted to the victim as an injured party under the Code of Criminal Procedure, and of the course of the criminal proceedings and the victim's status as an injured party and witness therein. On request, the victim may be provided with further information, for example on the release or escape of an accused person from a remand centre or prison.

108. The safety of the victims and persons close to them is ensured in several ways. Interim measures may be imposed on an accused where, for example, their conduct indicates that there is a reasonable concern they might repeat the criminal activity, or complete the criminal act they had been attempting or preparing. Interim measures might include a ban on contacting a victim or persons close to the victim, or a ban on entering or staying in the family home shared with the victim, or being present in the immediate surroundings.

109. Victims of crime may contact the Probation and Mediation Service (PMS), which operates as part of all district courts in the Czech Republic. The PMS centres have trained professionals who provide specialist assistance to victims. Most often, this involves the implementation of restorative programmes (e.g. mediation) and the provision of legal information. The PMS also implements projects aimed at supporting and helping victims of crime.

Procedural rights of victims of crime in proceedings

110. According to Section 8 of the Victims of Crime Act, the police authority provides the victim with information, even if unsolicited, on matters such as the particular authority where they may report facts from which it may be presumed that a criminal act has been committed, the authority where they can receive further information on the case in which they are the victim of crime, the conditions under which – and to what extent – they have the right to financial assistance, including advice on the time limits for submitting applications, etc. Information is provided to victims in writing. According to Section 11 of

²² Act No 45/2013 on victims of crime.

the Victims of Crime Act, the competent law enforcement agency provides the victim, on request, with information on the state of the criminal proceedings, except where such information could jeopardise the purpose of the criminal proceedings, on the time and place of public hearings in proceedings before the court, etc. The prison, the health service provider at whose healthcare facility the convicted prisoner receives inpatient protective treatment, or the preventive detention institution informs the victim, on request, of the release or escape of the accused from the remand centre, of the extradition of the accused person or convicted prisoner to a foreign state, or of the surrender thereof to another member state of the European Union, and of other changes in their situation.

111. At the end of an investigation, the police authority allows an injured party who has applied for compensation for damage or non-material harm or for the relinquishment of unjust enrichment to study the files and make suggestions on how to supplement the investigation. The injured party has the right to make proposals for the evidence taken to be supplemented. The injured party has the right to take part in negotiations on a plea bargain, to attend the trial and public hearing on the withdrawal or approval of the plea bargain, and to make a statement on the case before the proceedings are closed. In addition, the injured party has the right to question witnesses at the trial, to make a statement on the case before the proceedings are closed, or to lodge an appeal against the judgment concerning the decision on compensation for damage or non-material harm or on the relinquishment of unjust enrichment.

Compensation of victims of crime

112. The Czech legal system regulates the provision of compensation under the Victims of Crime Act and the Act on Liability for Damage Caused in the Exercise of Official Authority by an Unlawful Decision or Maladministration.²³ The Victims of Crime Act also grants some victims the right to apply for state financial assistance. This assistance consists of the provision of a lump-sum of money to bridge the deterioration in the victim's social situation caused by the crime. For example, a victim who has been injured or has suffered grievous bodily injury as a result of a criminal act, a victim of a sex-related crime against human dignity or a child victim of the crime of mistreatment of a person in one's care are entitled to financial assistance. The granting of financial assistance is conditional on the judicial conviction of the perpetrator of the criminal act that caused the damage to health or non-material harm. The law regulates the amount of financial assistance in individual cases.

113. On 1 January 2018, the Act on the Use of Funds from Economic Criminal Sanctions also took effect.²⁴ As a result of this law, an injured party who has been granted a claim for damages in criminal or civil proceedings may request the Ministry of Justice to satisfy this claim from the proceeds of any economic criminal sanction imposed on the perpetrator by the court. The injured party has the same right if the perpetrator is ordered to relinquish unjust enrichment. This virtually guarantees the injured party's right to compensation for the harm suffered.

Procedure in the case of a missing person who is not declared dead

114. The legal status of a missing person with full legal capacity may also be affected by the concept of disappearance (Sections 66 to 70 of the Civil Code). Above all, this concept is intended to facilitate the smooth running of the community or other legal relations in which the missing person is involved and which, as a result of their absence, could not function properly. If a person is declared missing by the court, there is no need for consent, assent, or other action on the part of the missing person that would otherwise be required, except in civil status matters. Even in these cases, however, the interest of the missing person must be taken into account. The court may only declare a person missing further to an application.²⁵ A beneficiary who has a legal interest in having a person declared missing

²³ Act No 82/1998 on liability for damage caused in the exercise of official authority by an unlawful decision or maladministration.

²⁴ Act No 59/2017 on the use of funds from economic criminal sanctions.

²⁵ Section 52 of Act No 292/2013 on special judicial proceedings, as amended.

– especially a spouse or other close person, co-owner, employer or corporation in which the disappeared person is involved – is entitled to submit an application.

115. In keeping with Section 465(1) of the Civil Code,²⁶ the court appoints a curator for a missing person or a person whose whereabouts are unknown. The court is required to commence proceedings on the appointment of a curator *ex officio*. As a rule, the court appoints a relative or another close person as the curator. The curator's role is to protect the interests and exercise the rights of the person under curatorship; the curator may legally act on behalf of the person under curatorship (except in certain cases concerning, in particular, civil status). The curator has a duty to administer the affairs of the person under curatorship in accordance with (previous) legal statements, views and beliefs of that person; if this is not possible, the curator acts according to the interests of the person under curatorship. Curatorship is subject to the supervision of a court, which must also approve any more serious decisions. Supervision may also be carried out by a curatorship board, i.e. an optional association of persons close to the person under curatorship and that person's friends. A person whose whereabouts are unknown must be appointed a curator by a court, and consequently an administrative authority, unless one already exists. The curator becomes a party to the proceedings in order to defend the interests of the missing person.²⁷

Assistance to relatives of victims of crime, including survivors

116. According to the Victims of Crime Act, the survivors of a victim of crime are considered to be victims of crime and may therefore exercise rights under that Act and seek, for example, professional assistance and financial assistance. A survivor within the meaning of that Act is a relative in the direct line, sibling, adopted child, adoptive parent, spouse, registered partner, or common-law spouse of the victim of crime. Survivors of a victim dying as a result of a criminal act who show that they do not have the resources to cover the costs of retaining an agent are entitled to legal assistance provided by the agent free of charge or for a reduced fee.

Article 25

Protection of children from illegal removal from their family and illegal adoption or other similar acts

117. Safeguards against the illegal removal of children from their family are laid down in the Civil Code in conjunction with the Special Judicial Proceedings Act²⁸ and the Child Protection Act.²⁹

118. The Child Protection Act lays down conditions under which the competent child protection agency is entitled to apply to a court for a child to be placed in a substitute care environment away from the care of the parents. If a child is in a situation where proper care is lacking, a child's life is seriously threatened, or normal development or other important interests of the child are seriously threatened or disrupted, the child protection agency must apply to the court for an interim measure ordering the transfer of the child into the substitute care of a designated person or to a childcare facility. Under Section 27a(7) of the Child Protection Act, further to an application from the competent child protection agency the court may also decide to temporarily place a child in foster care. The court may only place a child in the temporary foster care of a person entered in the register of persons who may provide foster care on a temporary basis. Such care may last for up to one year. Where justified, after one year the court may decide to reassign the child to temporary foster care. In accordance with Section 14(1) of the Child Protection Act, a child protection agency is also entitled to apply to the court for an order for the institutional care of a child, an order for an educative measure requiring a child to stay temporarily (for a maximum of three months) in a protective custody centre, a facility for children requiring immediate

²⁶ Act No 89/2012, the Civil Code, as amended.

²⁷ Section 29(3) of Act No 99/1963, the Code of Civil Procedure, as amended; Section 32(2)(d) of Act No 500/2004, the Code of Administrative Procedure, as amended.

²⁸ Act No 292/2013 on special judicial proceedings.

²⁹ Act No 359/1999 on child protection.

assistance, a children's home for children under three years of age, or a home for the disabled, or for the child to be placed in the care of a facility for children requiring immediate assistance.

119. A child protection agency, as an administrative authority, is not entitled to decide on the placement a child in a substitute care environment against the will of the parents; only a court wields such authority in accordance with Article 32(4) of the Charter of Fundamental Rights and Freedoms, Article 9(1) of the Convention on the Rights of the Child and Section 858 of the Civil Code. Prior to submitting any application to a court proposing the placement of a child in a substitute care environment away from the family, the competent child protection agency must hold discussions with the parents or other persons responsible for the child's upbringing on the reasons why the application is to be or has been submitted to the court, and advise them clearly and demonstrably of their rights and obligations deriving from their parental responsibility, and of the consequences of failing to comply with those obligations. The child protection agency is also required to implement social and legal protection measures stemming from an evaluation of the child's situation and an individual child protection plan, in particular to provide or mediate childcare counselling and assistance to the parents or other persons responsible for the child's upbringing, and where appropriate to impose the obligation to draw on professional assistance. It must also consider imposing educative measures, with an evaluation of the results of their use.

120. Legal conditions for the adoption of children are regulated by Section 794 *et seq.* of the Civil Code. Sections 19a to 27 of the Child Protection Act lay down conditions for the mediation of adoption or foster care and the tasks carried out by individual child protection agencies in connection with the mediation of substitute family care. The Child Protection Act expressly provides that the mediation of adoption and foster care, i.e. matching a particular natural person as an appropriate adoptive or foster parent with a particular child, and arranging for the child to become personally acquainted with that person, cannot be carried out by bodies, legal persons, or natural persons other than child protection agencies. Breaches of this ban on mediation by a natural person, legal person or natural person engaging in business are treated as a misdemeanour under Section 59(1)(c) of the Child Protection Act. The competent regional authority may fine the perpetrator up to CZK 200,000. The mediation of adoption under Section 20(3) of the Child Protection Act is not required if the parents have given their consent to the child's adoption beforehand, with a specific person designated as the adoptive parent. There is also no mediation if the adoption application is submitted by the spouse of the child's parent or by the surviving spouse of the child's parent or adoptive parent, or if the adoption application is submitted by a relative of the child or by another person close to the child, in respect of whom the adoption of the child is not excluded (according to Section 804 of the Civil Code, adoption between relatives in the direct line and between siblings is excluded).

121. Another possibility is for a person to take a child into their care with a view to adoption solely on the basis of consent given by the parent or another person responsible for the upbringing of the child and without a court decision. This person is obliged to notify this without undue delay to the child protection agency with local competence where the parent is resident. Breaches of this notification requirement are punishable with a fine of up to CZK 50,000 as a misdemeanour under Section 59(1)(d) of the Child Protection Act, unless the child is taken over by a relative up to the third degree of kinship. Similarly, parents must inform the child protection agency if, with their consent and without a court decision, their child has been handed over to a future adoptive parent for care in accordance with Section 823(1) of the Civil Code. Breaches of a parent's notification requirement are treated as a misdemeanour under Section 59d(1)(c) of the Child Protection Act. The parent may be fined up to CZK 20,000.

122. The competent child protection agency must always assess whether child protection measures are needed if a child has been handed over to a future adoptive parent for care with the consent of the parents and without a court decision. The child protection agency must take such measures in particular if the person who has taken over the child's care fails to submit an application to the competent authority promptly for the adoption of the child, for the child's placement in foster care or pre-foster care, for the child to be placed in the care of another person, or for the applicant's relationship with the child to be otherwise

legally regulated. In addition, the child protection agency provides assistance to the person to whom a child is transferred in dealing with childcare issues, in the submission of applications to the competent authorities to modify that person's legal relationship with the child, and in the claiming of benefits, especially welfare benefits.

Finding and returning disappeared children to families, including reviewing and, where appropriate, annulling adoption

123. According to the Civil Code, a court annuls an adoption further to an application from the adoptive parent or adoptee if there are important reasons for doing so and a period of three years has not yet passed. On expiry of this period, adoption may only be annulled through the courts if it is contrary to the law.

124. Searches for disappeared children belong to the category of searches for missing persons, one of the basic activities of the police. This is governed by legislation of general application, especially the Act on the Police of the Czech Republic, as well as internal management regulations. According to the Act on the Police of the Czech Republic, in order to search for a wanted or missing person, the police may obtain relevant data about that person from banks, health insurance companies, or legal or natural persons responsible for public communications networks. Police officers have the authority to stop vehicles for inspection when they are searching for wanted or missing persons. Police officers may also request explanations from individuals who could help to clarify facts relevant to the search for a wanted or missing person. In addition, police officers are entitled to demand that an individual matching the description of the wanted or missing person prove his or her identity.

125. Searches for missing persons, including children, are announced in the police search systems accessible to all police officers on duty. Persons may also be reported in international search systems (SIS II, ICIS), thus ensuring that the search by police forces extends beyond the Czech Republic. The public is routinely involved in searches as information on missing persons is published on police websites. In relation to searches for children, the National Coordination Mechanism for Missing Children Searches should also be mentioned. In addition, the police are part of the international Amber Alert network involved in the search for missing children.

Annex

Crimes related to protection of persons from enforced disappearance committed 1. 1.–31. 12. 2017

§ 168 Human trafficking	16
§ 170 Deprivation of personal liberty	5
§ 171 Restriction of personal liberty	238
§ 172 Transfer of a person against their will	4
§ 175 Blackmail	1 050
§ 181 Infringement of another person's rights	684
§ 200 Kidnapping of a child or a person suffering from a mental disorder	8
§ 337/4 Obstructing the execution of official decisions and expulsions	24
§ 366 Assistance to a perpetrator	23

Source: Ministry of the Interior.

Crimes related to protection of persons from enforced disappearance committed 1. 1.–31. 10. 2018

§ 168 Human trafficking	14
§ 170 Deprivation of personal liberty	12
§ 171 Restriction of personal liberty	205
§ 175 Blackmail	911
§ 181 Infringement of another person's rights	496
§ 200 Kidnapping of a child or a person suffering from a mental disorder	4
§ 337/4 Obstructing the execution of official decisions and expulsions	25
§ 366 Assistance to a perpetrator	12

Source: Ministry of the Interior.

Penalties imposed for crimes related to protection of persons from enforced disappearance 1. 1.–31. 12. 2017

Crime	Main imposed penalty							
	Convicted persons	Imprisonment	Conditional sentence	Community service	Financial penalty	Expulsion	Prohibition of activity	Exemption
§ 170 Deprivation of personal liberty	5	5	0	0	0	0	0	0
§ 171 Restriction of personal liberty	76	11	55	4	4	0	0	2
§ 172 Transfer of a person against their will	4	0	4	0	0	0	0	0
§ 175 Blackmail	713	193	465	27	14	1	0	13
§ 181 Infringement of another person's rights	149	25	103	11	6	0	1	3

Source: Ministry of Justice.

Penalties imposed for crimes related to protection of persons from enforced disappearance 1. 1.–31. 12. 2018

<i>Crime</i>	<i>Convicted persons</i>	<i>Main imposed penalty</i>						
		<i>Imprisonment</i>	<i>Conditional sentence</i>	<i>Community service</i>	<i>Financial penalty</i>	<i>Expulsion</i>	<i>Prohibition of activity</i>	<i>Exemption</i>
§ 170 Deprivation of personal liberty	5	3	2	0	0	0	0	0
§ 171 Restriction of personal liberty	61	17	37	2	4	0	0	1
§ 172 Transfer of a person against their will	2	1	1	0	0	0	0	0
§ 175 Blackmail	595	172	363	22	22	3	0	13
§ 181 Infringement of another person's rights	147	22	105	11	3	1	0	5

Source: Ministry of Justice.