



**International Covenant on  
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**Human Rights Committee**

**Fourth periodic report submitted by Czechia  
under article 40 of the Covenant pursuant to the  
optional reporting procedure, due in 2018\* \*\***

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\* The present document is being issued without formal editing.

\*\* The annexes to the present report are on file with the Secretariat and are available for consultation.  
They may also be accessed from the web page of the Human Rights Committee.

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## Introduction

1. The Czech Republic hereby submits its Fourth Periodic Report in accordance with Article 40, paragraph 1(b), of the International Covenant on Civil and Political Rights (the “Covenant”) and the Concluding observations of the Human Rights Committee (the “Committee”) on the third periodic report of the Czech Republic<sup>1</sup> and the List of Issues prior to reporting.<sup>2</sup>

2. The Fourth Periodic Report covers the period from 1 January 2013 to 30 June 2018. In view of the limited space available, the Report focuses on changes related to the questions asked and the implementation of the Committee’s most recent concluding observations. Where appropriate, the Report also alludes to other reports submitted by the Czech Republic to other UN treaty bodies.

## General information on the national human rights situation and the implementation of the Covenant

3. The implementation of the Committee’s observations is governed by the Act on the Cooperation in the Proceedings before International Courts and Other International Supervisory Bodies requiring the competent bodies to immediately take all necessary individual and general measures intended to halt and prevent any violation of the Covenant or any other international convention. The Ministry of Justice has been delegated to represent the Czech Republic in the proceedings on communications under the Optional Protocol to the Covenant and the implementation of the Committee’s views, and is kept informed of implementation measures. The Committee of Experts for the Enforcement of Judgments of the European Court of Human Rights – and the opinions of other international bodies – also contributes to their implementation by discussing individual cases and recommending the adoption of implementation measures.

4. The Czech Republic’s position on the implementation of the Committee’s views remains the same as put forward in its previous responses. It does not share the Committee’s legal opinion that the requirement of citizenship for restitution purposes is discriminatory.<sup>3</sup> It draws on the relatively wide-ranging case-law of the Constitutional Court touching also on the relevant provisions of the Covenant. Furthermore, the reopening of restitution processes would run counter to the principle of legal certainty and the stability of ownership rights. The Committee’s views are implemented via hearing of individual cases by courts and the Constitutional Court, and where appropriate by other means. The core protection of fundamental rights and freedoms guaranteed by the Covenant remains in the Czech Republic in the jurisdiction of ordinary courts and the Constitutional Court. In this respect, the situation remains unchanged.<sup>4</sup> The Covenant itself, as an international treaty, is a part of the legal system binding upon the courts and administrative bodies and takes precedence over national law. In the past eight years, it has been applied in more than 40 decisions by the Constitutional Court, the Supreme Court and the Supreme Administrative Court.

## Constitutional and legal framework for the implementation of the Covenant

5. The Ombudsperson remains the central institution for the protection and promotion of human rights. The activities and competence of the Ombudsperson’s office were detailed in the previous report,<sup>5</sup> and are also described in our responses to some of the concluding

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<sup>1</sup> CCPR/C/CZE/CO/3.

<sup>2</sup> CCPR/C/CZE/QPR/4.

<sup>3</sup> CCPR/C/CZE/3, paragraph 13, and CCPR/C/SR.2992, paragraph 19.

<sup>4</sup> See CCPR/C/CZE/3, paragraphs 10 and 12.

<sup>5</sup> CCPR/C/CZE/3, paragraph 11.

observations.<sup>6</sup> The described amendment to the Ombudsperson Act intended to enhance the Ombudsperson's powers<sup>7</sup> was not adopted by Parliament. Consequently, the Ombudsperson's powers have only been extended to monitoring the implementation of the Convention on the Rights of Persons with Disabilities and the equal treatment of EU workers. As indicated in our previous responses, the Ombudsperson's activities are now in line with the vast majority of the Paris Principles. Negotiations are now under way with the Ombudsperson to discuss legislative changes to her powers and other steps necessary for her office to be accredited as a national human rights institution.

## **Non-discrimination and gender equality**

### **A. Non-discrimination**

6. The Antidiscrimination Act described in our previous responses<sup>8</sup> is intended to guard against discrimination in areas and for grounds regulated by EU law – race, ethnic origin, nationality, gender, sexual orientation, age, disability, and religion or belief. Discrimination on other grounds as language, national or social origin, property, birth or other status is prohibited directly by the Charter of Fundamental Rights and Freedoms.<sup>9</sup> Hence fundamental rights and freedoms, including rights accorded by the Covenant, fall under the constitutional protection from discrimination on those grounds by both ordinary courts and the Constitutional Court. Some regulations contain a longer list of discriminatory grounds, including language, social origin, property or birth.<sup>10</sup> Victims of discrimination may claim in court to cease discrimination, remedy its consequences and obtain reasonable compensation under either the Antidiscrimination Act or the Civil Code depending on the grounds of discrimination.<sup>11</sup> Protection from discrimination is thus secured in all circumstances, and there are no plans to expand the grounds covered by the Antidiscrimination Act.

### **B. Gender equality**

7. Combating gender stereotypes is one of the horizontal principles of the Government Strategy for Gender Equality in the Czech Republic 2014–2020. That strategy sets out to find ways to weed out gender stereotypes in all spheres of society. Annually updated measures of the Government Priorities and Procedures in the Promotion of Gender Equality encompass specific tasks primarily devoted to employment and education. In the field of employment, for example, career advisers, employment agents and other employees of the Czech Labour Office are trained to avoid gender stereotypes when offering job opportunities to reduce horizontal and vertical segregation in the labour market. Projects to combat gender stereotyping also benefit from the support of national and European funds.

8. The gender pay gap is a particularly sensitive topic for the Czech Republic. The Ministry of Labour and Social Affairs is implementing a project called “Gender Equality on the Labour Market, focusing on (In)equality in the Remuneration of Women and Men – 22% TO EQUALITY”,<sup>12</sup> aiming to raise awareness via a website and a Facebook account<sup>13</sup> and to champion specific measures to narrow the gender pay gap. Project outputs include methodology to run checks on equal pay between women and men in collaboration with the State Labour Inspection, methodology for the Labour Office, a wage and pay calculator for employees, a report on the position of social partners including model provisions of collective agreements covering issues of unequal pay, the implementation of the Logib

<sup>6</sup> CCPR/C/CZE/CO/3/Add.1, paragraphs 2–5, and CCPR/C/CZE/CO/3/Add.2, paragraph 3.

<sup>7</sup> See CCPR/C/CZE/CO/3/Add.1, paragraphs 6–8, and CCPR/C/CZE/CO/3/Add.2, paragraph 4.

<sup>8</sup> CCPR/C/CZE/CO/2/ADD.1, paragraph 17, and CCPR/C/CZE/CO/2/ADD.2, paragraph 19.

<sup>9</sup> CCPR/C/CZE/3, paragraphs 8, 18 and 232.

<sup>10</sup> See, for example, Section 16 of the Labour Code.

<sup>11</sup> CCPR/C/CZE/3, paragraphs 233 and 234.

<sup>12</sup> <http://www.rovnaodmena.cz/> See also CEDAW/C/CZE/Q/6/Add.1, paragraph 18

<sup>13</sup> <http://www.rovnaodmena.cz/>, <https://www.facebook.com/rovnaodmena/>.

software tool for employers to discover discrimination within their organisation, and in-depth studies on unequal pay in the Czech Republic. Stereotyping is also targeted by the government media campaign called “That’s Equality!”<sup>14</sup> launched in November 2016 including TV spots aimed, among other things, at breaking down gender stereotypes, a website,<sup>15</sup> a Facebook profile<sup>16</sup> and promotional materials.

9. In schools, pupils are encouraged to opt for non-stereotypical subjects. For example, guidance on adopting a gender-sensitive approach has been drafted for teachers and pupils. In addition, the guide for career and education advisers has been revised to include model non-stereotypic professional careers. Schools host presentations, for example, by men and women with unconventional occupations. Combating gender stereotyping is also part of civic education and will be reinforced during the revision of the framework curricula or in new textbooks and other educational materials.<sup>17</sup>

10. Sexual harassment is another of the government strategy’s central planks. All state authorities and other employers should detect, monitor, deal with, and prevent sexual harassment in the workplace. In 2016, an anonymous survey into sexual harassment was conducted at certain ministries. Drawing on the results, a methodological guideline establishing a uniform approach to sexual harassment at central government authorities should be prepared by 2019 as well as an analysis of sexual harassment in public transport. Attention is also paid to the prevention of sexual harassment in schools.

11. The representation of women in politics and in decision-making positions is the subject of the Action Plan for the Balanced Representation of Women and Men in Decision-making Positions 2016–2018. The balanced representation of women and men in decision-making positions is promoted in state administration, the judiciary, the security corps, science and research, education, the health sector and the arts by means – among other things – of transparent selection procedure and gender-sensitive advertising. We are aiming to achieve, over time, a minimum share of 40% of each gender at each level of management. State-owned enterprises and companies with public share should proceed along similar lines in order to inspire other businesses. An amendment to the Capital Market Act introduced the obligation for publicly traded companies to publish, in their annual reports, information on the representation of women and men in their management, along with measures encouraging (gender) diversity. Parents returning onto the labour market should benefit from an expansion in the capacities of preschool facilities,<sup>18</sup> greater opportunities to collect a parental allowance for children enrolled in school facilities, and support for men engaged in childcare, e.g. by introducing a paternal postnatal care benefit or the alternating collection of the parental allowance. A manual on the active promotion of equality between women and men and an analysis of gender stereotyping in election campaigns have been drawn up for political parties and movements. Support is also channelled into the projects of NGOs, social partners and enterprises aimed at the balanced representation of women and men in politics and decision-making positions. Special temporary measures, such as statutory quotas, have been avoided so far. However, some political entities apply their own internal quotas. Detailed numbers can be found in Annex No. 1.

### **C. Combating racism and hatred**

12. Racist propaganda and racial abuse continue to be punishable under the relevant provisions of the Criminal Code described in the previous report without any major changes in the reporting period.<sup>19</sup> The racist motive of a crime is covered directly in the law alongside factors such as religious or political prejudice. Other motives, such as sexual

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<sup>14</sup> <http://www.tojerovnost.cz/en/>.

<sup>15</sup> [www.tojerovnost.cz](http://www.tojerovnost.cz) with approximately 1,000 hits per week.

<sup>16</sup> Approximately 2,500 likes and 2,500 followers, with posts reaching an average of 20,000 users.

<sup>17</sup> CEDAW/C/CZE/Q/6/Add.1, paragraphs 41 and 42.

<sup>18</sup> Since 2014 more than 700 children’s groups with a capacity for over 9,000 children have been set up.

<sup>19</sup> CCPR/C/CZE/3, paragraph 196.

orientation or gender identity, can be punished as general aggravating circumstances when handing down sentences. This legislative arrangement is currently deemed to be sufficient.

13. Law enforcement agencies pay maximum attention to criminal investigations of cases involving a race-based motive. The Police of the Czech Republic have racist-crime specialists operating centrally, regionally and at individual units. The same applies to public prosecutors. Number of hate crime is shown in Annex No. 2.

14. Anti-hate crime Concepts are drawn up annually and subsequently evaluated in the annual Report on Hate Crime in the Czech Republic. The Concept has long focused on five strategic objectives: the provision of information on hate crimes and prevention of its spread, anti-hate crime training and awareness-raising, the prevention of social schisms and hatred, improvements in the expertise of police and judiciary authorities, and assistance for victims of crime. The Crime Prevention Strategy 2016–2020 also focuses on the elimination of racially motivated crime. A set of examples of good practice to combat racism and intolerance on a grassroots level is disseminated as part of prevention activities.

15. Educational activities for Czech Police officers and prosecutors, with the involvement of NGO's, have been intensified.<sup>20</sup> Training events have been accompanied by the production of guidance documents for the police placing stress on working with victims of hate crime. The Methodology for the Selection, Training and Activity of Crime Prevention Assistants for the Police and Municipalities is another underlying document providing guidance. In 2016, support was also channelled into teacher training on the primary prevention of hate violence behaviour at schools. A working party of experts from the Ministry of the Interior and the Police of the Czech Republic is preparing systemic improvements in the collection of data on hate violence, including a better-quality police hotline for reporting hate crime online. Further police specialists in IT crime have also been recruited concentrating on hate crime on the internet, especially social media. However, problems arise when these websites are registered in countries that do not prosecute such activities as a crime and hence refuse to cooperate in their investigations on the basis of non-mutuality. Subsequently, those offences are extremely difficult to investigate and the offenders may escape punishment.

16. In one of its decisions in 2015, the Constitutional Court contributed to the punishment of politicians and public officials for racially motivated hate speech.<sup>21</sup> An MP published racist comments on his Facebook profile, prompting his criminal prosecution for incitement to hatred towards a group of persons and incitement to restrict their rights and freedoms. The Czech Constitution prevents MPs and Senators from prosecution for speeches they make in the Chamber of Deputies, the Senate or its bodies. According to the Constitutional Court, this immunity may only be applied to information conveyed or opinions expressed at a session of a parliamentary chamber or a meeting of its bodies directed against other participants in parliamentary debate, i.e. not exclusively outwardly. A public status on social media does not meet that condition. In other words, immunity does not mean that MPs and Senators are exempt from criminal prosecution for racially motivated hate speech. Conversely, political statements campaigning against hate speech are to be lauded. The Minister of Education, Youth and Sports publicly protested the verbal hatred directed against a primary school publishing a photograph of first graders of minority origin and nationality.<sup>22</sup> The then Prime minister, along with other politicians such as the Minister of Justice and a Czech MEP, condemned the assault of a man of African origin by a group of fans of a football club who joined the chorus of disapproval.<sup>23</sup> In 2017, general statements denouncing racist attacks in the Czech Republic were made by the

<sup>20</sup> For example, in 2016 almost 300 police officers received training by instructors from In iustitia, an organisation providing assistance to victims of hate violence.

<sup>21</sup> Finding of the Constitutional Court I. ÚS 3018/14 of 16 June 2015.

<sup>22</sup> Class photo in Teplice daily sparks hate speech on social networks. <http://www.radio.cz/en/section/curaffrs/class-photo-in-teplice-daily-sparks-hate-speech-on-social-networks>. "Education Minister Stanislav Stěch issued a statement to the effect that attacks against innocent young children and institutions of learning were cowardly and would not be tolerated."

<sup>23</sup> PM condemns football fans attacking African in Prague tram.

<http://praguemonitor.com/2017/11/10/pm-condemns-football-fans-attacking-african-prague-tram>.

former Minister for human rights and equal opportunities. A similar stance on such attacks was also voiced by the chairpersons of certain parliamentary parties.<sup>24</sup>

17. A government campaign targeting racism and hate violence, launched in 2014, was aimed primarily at improving awareness of hate violence issues and promoting Czech society's tolerance of minorities. The campaign's website at [www.hatefree.cz](http://www.hatefree.cz) has so far published more than 600 articles, interviews and stories from the lives of members of various minorities and social groups, along with positive examples of coexistence from the Czech Republic and abroad. The campaign has exposed more than 100 hoaxes and responded by setting the record straight. The website also advises victims of violence, their friends and family, and witnesses how to react to hate violence. The website is visited by an average of 40,000 people every month. The HateFree Culture Facebook page, with a moderated debate on social diversity and tolerance, has currently more than 60,000 likes and approximately the same number of followers.<sup>25</sup>

18. The project has included radio, television and photo campaigns.<sup>26</sup> More than 280 public places across the Czech Republic have subscribed to the campaign as HateFree Zones. More than 100 festivals have supported the project and more than 100 exhibitions and performances of HateFree Art have been held in art centres and public spaces. The campaign team has also organised public events, such as HateFree Stage stand-up comedy evenings, open-for-all breakfasts for people from different groups, and other lectures, debates, workshops and conferences. Another project area is the promotion and sharing of good practices in social inclusion at [www.dobrepraxe.cz](http://www.dobrepraxe.cz).

19. In addition, the project provided training for pupils, teachers, the police and other social inclusion stakeholders, with a view to raising awareness of intolerance and hate violence and how to counter it. This training was attended by 770 teachers, police officers and representatives of municipalities in the Ústí nad Labem and Moravian-Silesian Regions. Another project, School Mediation, aims to address conflicts arising in a school environment by moderating a dialogue to agree on a solution for mutual coexistence. A pilot set of 10 schools have been involved in the project with 20 school mediators and 81 peer mediators (i.e. the pupils themselves). A special website has also been set up at [www.mediaceveskole.cz](http://www.mediaceveskole.cz). Another project implemented in schools since April 2017 is Media Workshop – an interactive multimedia environment where pupils can produce work on the theme of otherness, prejudices and stereotypes. Guidance and an instructional video were available for teachers. The campaign had a budget of almost CZK 40 million and, although it officially ended in April 2017, some activities have continued. A new campaign, starting in 2019, is under preparation.

#### D. Roma integration

20. The Roma Integration Strategy 2015–2020 creates a framework for measures to improve the situation of many Roma in key areas of life, such as employment, housing, health and social care, education, an effective protection against discrimination, safe coexistence, and encouragement of the development of Roma culture, Romani and Roma engagement. Implementation of the strategy is monitored annually in the Report on the Situation of the Roma Minority.

21. In employment, the strategy focuses on safeguarding equal access to instruments of active employment policy, along with advisory services adapted to the needs of Roma

<sup>24</sup> Czech Human Rights Minister: Hatred of minorities is being exploited during elections. <http://www.romea.cz/en/news/czech/czech-human-rights-minister-hatred-of-minorities-is-being-exploited-during-elections>.

<sup>25</sup> The average daily reach is almost 50,000 users. More than 60% of active users of the page have not liked the page.

<sup>26</sup> In 2014, almost 800 radio and television spots were broadcast as part of the “Hatred Does Not Become You” campaign. In 2015, nearly 1,500 radio and television spots were broadcast as part of the “In It Together” campaign. The Facebook reach of the “Hatred Does Not Become You” photo campaign was approximately 500,000 users, and more than a million for “In It Together” and “Love, Simply”.

clients. These measures include publicly beneficial work or socially purposeful jobs intended to support the employment of the most disadvantaged jobseekers, to mobilise them, and to get them (back) into the working life. The motivation for employers comes in the form of contributions to wages or pay. Other measures include retraining and career advice. “Guarantees for Youth”, a programme offering all jobseekers up to the age of 25 suitable employment, further education, training or internships, is designed to rise employment among young people, including Roma. Other core areas are support for business and freelancing among Roma and the promotion of social entrepreneurship. Social entrepreneurship projects are supported by ESI funds. The Government is drawing up a new Social Entrepreneurship Act laying down the conditions of social entrepreneurship and fostering its development.

22. Prevention and awareness are important in relation to health. According to Health Promotion in Excluded Communities – Reducing Inequalities in Health, a project of the National Institute of Public Health, the inequalities in health felt by the inhabitants of socially excluded communities can be attributed to their poorer education and diminished socio-economic conditions. Inappropriate diet, lack of exercise, the risk of addiction, and poorer access to health care are more of a risk to socially excluded communities than the mainstream population.<sup>27</sup> Health care in socially excluded communities and raising awareness among their inhabitants will continue to be in focus. Starting in 2016, in a bid to improve the health awareness of Roma, the Ministry of Health supported a project to reduce inequalities in health faced by excluded communities. Health and social assistants, making a significant contribution to awareness among Roma and their motivation to use public health services, have proven to be a very sound social service.<sup>28</sup>

23. The Czech Republic did not introduce a comprehensive and state-guaranteed system of social housing in the reporting period. Although the Government approved a Social Housing Concept in 2015, a subsequent bill was rejected by Parliament. The Government is now preparing a new draft for submission during 2018. Consequently, the provision of social housing remains in the hands of municipalities with systematic backing from the Ministry of Labour and Social Affairs. Some municipalities have taken their cue from successful projects abroad and are trying the “Housing First” approach, offering families proper housing from the outset and setting a basis to find a job and improve school attendance. Elsewhere, municipalities are introducing a “housing ready” system. According to the Civil Code, legislation on housing rentals should continue to be based on the protection of the tenant as the weaker party. A tenancy may be terminated only for statutory reasons; unlawful terminations can be contested in court.

24. The Government Council for Roma Minority Affairs, along with its bodies, remains the key mediator between Roma and state administration. Half of the Council’s members are representatives of the Roma minority. Other members are the ministers in charge of departments crucial for improvements in the Roma situation, representatives of state institutions, and experts in fields affecting the Roma situation. All regions have coordinators for Roma minority affairs involved in the formation of Roma regional strategies and working with Roma advisers in municipalities and others involved in tackling regional problems. They also provide the state with feedback and information on the regional situation. Each municipality with extended powers is meant to have a Roma adviser responsible for coordinating grassroots Roma integration activities. In 2017, there were 188 advisers in 180 out of the 205 municipalities with extended powers. For three years, the Council Office has been running a project called “Mobilisation and Empowerment of Roma Stakeholders via the National Roma Platform”, which aims to help Roma to engage in public life and to acquire the needed public representation skills. 12 workshops and training courses have been held, and two publications on Roma integration at local level have been published.

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<sup>27</sup> Health Promotion in Excluded Communities – Reducing Inequalities in Health. Available at: <http://www.szu.cz/tema/podpora-zdravi/podpora-zdravi-ve-vyloucenych-lokalitach-snizovani>.

<sup>28</sup> A key service provider is the Roma centre DROM, which has run the programme “Health and Social Assistance” since 2007. In 2015, there were nine health and social assistants in seven communities; in 2016, there were six health and social assistants in six communities.

25. Roma engagement in governance is also supported by regions and municipalities. Municipalities and regions with higher concentrations of members of national minorities<sup>29</sup> set up national minority committees. A committee may also be established voluntarily in other municipalities. In numerous municipalities, national minority issues are covered by a commission of the municipal council, by the appointment of a minority affairs coordinator or adviser, etc. In municipalities with higher concentrations of members of national minorities, official election materials are also published in their languages. No special measures in the form of quotas have been adopted nationally. Number of Roma in politics are shown in Annex No. 3.

26. The Agency for Social Inclusion lends support to municipalities with socially excluded communities as they seek to integrate inhabitants at risk of social exclusion by pursuing a local strategic plan of social inclusion. The Agency primarily helps municipalities to secure education, employment, social services, social housing, social work and community activities, to provide safety, to disseminate information and examples of good practice, to take up funding for social inclusion activities, and to communicate with central bodies responsible for social inclusion. At the end of 2017, almost 100 municipalities or their associations were involved in cooperation with the Agency.

27. The Government's frontline strategic tools for social inclusion are the Social Inclusion Strategy 2014–2020 at the Ministry of Labour and Social Affairs, and the Strategy to Combat Social Exclusion 2016–2020 – and its Action Plan – at the Agency for Social Inclusion. The Social Inclusion Strategy addresses social exclusion comprehensively, with a stress on prevention, while the main objective of the Strategy to Combat Social Exclusion remains the elimination of social exclusion in existing socially excluded communities.

28. The Social Inclusion Strategy encompasses core areas for the social inclusion of persons socially excluded or at risk of social exclusion. It sets out the Czech Republic's priority themes, including funding from national and EU resources, and provides an overview of measures for social inclusion and for combating poverty. Social work is fundamental to social inclusion solutions. Besides measures intended to develop social work, the Strategy concentrates on encouraging access to and maintaining employment, social services, family support, access to education, housing and health care, and the provision of decent living conditions. In all of these areas, the cross-cutting principles of equal opportunities, support for social inclusion at local level, the reinforcement of social cohesion, and the mainstreaming of social inclusion come into play.

29. The Strategy to Combat Social Exclusion is one of the fundamental documents underpinning the activities of the Agency for Social Inclusion and requires government bodies to systematically monitor socially excluded communities. In employment, recommendations centre on active employment policy instruments, creating jobs suitable for people from socially excluded communities, motivating them to enter the legal labour market, and encouraging employers to cooperate with labour offices and social workers of municipalities and NGOs. The Strategy tries to tackle overindebtedness by improving financial literacy and regulating lenders. In housing, the key lies in social work to prevent loss of housing and to pass on the skills needed to maintain housing, accompanied by support for municipalities seeking to create and manage social housing stock and prevent the emergence of further socially excluded communities. In social matters, it is essential to sufficiently support and coordinate social work with the planning and provision of adequate social services, especially for families with children. In education, the Strategy recommends integrating children from excluded communities into mainstream education and discouraging them from early dropping out of the education system, e.g. by taking on more expert and education advisers at schools.

30. Towards the end of 2017, the Government purchased the pig farm standing on the site of the former Roma concentration camp in Lety u Písku. The piggery should close within the next few months, after which structures here will be demolished to give way to an appropriate memorial site managed by the Museum of Romani Culture. The activities

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<sup>29</sup> At least 10% of the population in a municipality or 5% of the population in a region.



pursued by the Museum of Romani Culture have long concentrated on the persecution of the Roma during the Second World War and on commemorating victims of the Roma Holocaust. Since 2018, the Museum of Romani Culture has also managed the Roma Holocaust memorial in Hodonín u Kunštátu.

## **E. Inclusive education**

31. As of 1 September 2016, an amendment to the Schools Act created a new system of education for pupils with special educational needs. This system abolished the categorisation of pupils according to their health or social status, focusing instead on their educational needs and the provision of support measures helping them in their education. The support measures are broken down into several levels according to their complexity in organisation and funding. They are provided free of charge. The principle is primarily to integrate pupils with special educational needs into mainstream schooling.

32. A counselling facility proposes specific support measures for each pupil with special educational needs, along with modifications to their education in response to their state of health, cultural background or other conditions impacting their lives. The legal guardian is apprised of the content of the recommendation for the education of their child, together with the examination report, and gives consent to that recommendation. If the service provided by a school counselling facility is not satisfactory, the person applying for the counselling service, a school, or a child protection agency may request the review body to review the recommendation for a pupil's education. Parents may also request a review of the examination report. The changes should also ensure sufficient financing for the system.

33. Since 2013, the Czech School Inspection has conducted annual surveys to monitor trends in the education of Roma taught according to the Framework Curriculum for the Primary Education of Children with Mild Mental disability, with a particular focus on Roma pupils. The amendment to the Schools Act introduced the authority to require schools to provide qualified estimates of numbers of Roma children, pupils and students. Since 2015, the survey has encompassed all primary schools entered in the schools' register. The methodology used to identify Roma pupils continues to draw on the Analysis of Socially Excluded Roma Communities and the Absorption Capacity of Entities Operating in this Area, drawn up in 2006 by the Ministry of Labour and Social Affairs and the Government Council for Roma Minority Affairs. Head teachers use in their qualified estimates of numbers of Roma children, pupils and students the following definition to identify Roma: Roma are defined as individuals who consider themselves to be Roma without necessarily subscribing to such ethnicity in all circumstances and/or who are considered to be Roma by a significant proportion of their surroundings on the basis of actual or perceived anthropological, cultural or societal indicators. The results are in Annex No. 4.

34. In order to ensure the effectiveness of the reform in practice, all materials for the implementation of inclusive education are published on an ongoing basis on the website of the Ministry of Education, Youth and Sports. An information package containing brief guidance and interpretations related to inclusive education and changes to the education of pupils with special educational needs has been prepared.<sup>30</sup> Between April and June 2016, 28 information workshops were held in all regional capitals. They focused on inclusive education and provided training to almost 3,000 head teachers of kindergartens and primary schools, along with staff from school counselling facilities. These activities continued in 2017. The workshops provided information on legislative changes, changes in the counselling work of schools and school counselling facilities, support measures, the placement of pupils, and communication between pupils' legal guardians, the school counselling facility and the school. The workshops also included information on the use of funds and opportunities for the further training of teachers. In 2016, the National Institute for Further Education ran 248 inclusive education training programmes for primary school teachers and 147 training programmes for school management. These training programmes were attended by 2,850 kindergarten teachers, 4,451 primary school teachers, 471

<sup>30</sup> <http://www.msmt.cz/vzdelavani/spolecne-vzdelavani-1>.

secondary and post-secondary school teachers, 105 primary and secondary art school teachers and 99 teachers from school facilities for special education. In 2017, the 487 inclusive education training programmes were attended by 9,567 people from 2822 schools, while 28 courses were held for 694 new teaching assistants and training courses were organised for new teachers. These training activities have continued in 2018.

## **F. Rights of persons with disabilities**

35. Although persons with disabilities have the same right to vote as anyone else, a court may restrict their legal capacity to exercise that right. However, restrictions may be imposed only if a person is exposed to the risk of genuine and serious harm as a result of exercising that right and the situation cannot be resolved by milder action. According to the Constitutional Court's case-law, there should first be an assessment of whether a person is able to understand the meaning, purpose and consequences of elections; any restriction on the right to vote should be duly reasoned.<sup>31</sup> That restriction must then be explicitly specified in the corresponding court decision.<sup>32</sup> Nevertheless, these arrangements may be problematic in the light of the Convention on the Rights of Persons with Disabilities. In this respect, the National Plan for the Support of Equal Opportunities for Persons with Disabilities 2015–2020 aims to improve conditions in persons with disabilities' access to the exercise of their right to vote; it envisages an analysis of the possibility of scrapping obstacles in the way of persons with disabilities' right to vote resulting from a restriction in their legal capacity by the end of 2018.

36. Laws on the various types of elections also lay down measures easing the exercise of the right to vote by persons with disabilities. Voters unable to make their way to a polling station for health or similar reasons may place a request with the municipal authority or the district electoral commission to vote away from the polling station. The district electoral commission will then dispatch two of its members to that voter with a portable ballot box, an official envelope and ballot papers. Members of the district electoral commission must maintain the secrecy of such votes. Voters who cannot mark their ballot paper due to physical disability or who are unable to read or write may be accompanied into the polling booth by another voter to mark the ballot paper, insert it into the official envelope and then place it into the ballot box for them. It is overwhelmingly the norm for polling stations to be set up in public buildings obligatorily accessible for persons with reduced mobility. The National Plan for the Support of Equal Opportunities for Persons with Disabilities expects information on elections to be published in formats accessible to persons with disabilities, especially online and in the form of readily comprehensible texts. Information on the method of voting in the Czech Republic in elections were sent to organisations of people with disabilities who readapted into an accessible format for persons with disabilities (easy-to-read form, Braille, large print, Czech sign language, etc.) and distribute it among their members.

37. The new legislation governing the actions of persons with mental disabilities or intellectual impairment was described in our responses to some of the concluding observations.<sup>33</sup> The new Civil Code, effective from 1 January 2014, no longer allows a person to be completely deprived of legal capacity for an autonomous legal act, but only for restriction of legal capacity in relation to a specific legal act. Chiming with the Convention on the Rights of Persons with Disabilities, the new Civil Code has switched from a model of surrogate decision-making to a model of supported decision-making. Restrictions on legal capacity are viewed as a last resort. The Civil Code gives preference to milder measures, such as assisted decision-making or representation by a member of the household, helping persons to take decisions and carry out legal acts in those cases where they are unable to do so entirely on their own on account of their health. Such measures must respect the conditions of subsidiarity and proportionality. A decision to restrict legal

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<sup>31</sup> See Decision of the Constitutional Court IV. US 3102/08 of 12 July 2010.

<sup>32</sup> Opinion Cpjn 23/2016 of the Supreme Court from 15 February 2017 on the possibility to judicially restrict legal capacity to exercise the right to vote.

<sup>33</sup> See CCPR/C/CZE/CO/3/Add.1, paragraphs 34–37.

capacity does not deprive anyone of the right to perform autonomous legal acts in routine matters of everyday life. A restriction may last for a maximum of five years. The rights of a person whose legal capacity has been restricted are protected and implemented by a court-appointed guardian, who is required to cooperate with that person and act in their favour. Guardians are subject to checks by a court and guardianship council; municipalities acting as a public guardian are subject to checks by regional authorities. Number of persons with limited legal capacity or support measures is shown in Annex No. 5.

## G. Rights of LGBT persons

38. A Constitutional Court finding lifting the ban on adoption for registered partners<sup>34</sup> needs not, in itself, be implemented in any way. Findings handed down by the Plenum of the Constitutional Court repealing of an act or other legislation, or their individual provisions are published in the Collection of Legislative Acts, thereby rendering them enforceable and generally binding on all bodies and persons. The finding in question was published on 22 July 2016. As the ban on adoption for registered partners ceased to apply on that day, they may apply to adopt, albeit only as an individual,<sup>35</sup> i.e. only one of the partners may become an adoptive parent, because Czech law does not yet enable them to adopt jointly. In 2016, the Government tabled a draft amendment to the Registered Partnership Act enabling one partner to adopt the child of the other to make them both that child's parents, as is the case for married couples.<sup>36</sup> However, that bill was not approved by the Chamber of Deputies by the end of the parliamentary term. While the Government currently has no plans to resubmit that bill, in June 2018 it supported a members' bill introducing marriage for same-sex couples.

## Right to life, protection against violence, torture and cruel, inhuman and degrading treatment

### A. Unlawful sterilisation

39. Regarding compensation for victims of unlawful sterilisation, the government refers in full to its previous responses to certain concluding observations.<sup>37</sup> It currently considers court actions to be a remedy for violations of the rights of unlawfully sterilised persons. In all cases, the supreme judicial authorities have ordered to assess the conformity of the plea of statutory limitation of a monetary claim with public morals. Other forms of redress as moral satisfaction or termination of an intervention and removing its consequences cannot be time-barred and may be sought at any time. In five cases of unlawful sterilisation the Czech courts have had to deal with pleas of statutory limitation.<sup>38</sup> In two cases, the Supreme Court found the plea *contra bonos mores* and in at least one case the victim has received compensation.<sup>39</sup> The outcome of the second case is not yet known. In other three cases, the Czech courts upheld the statutory limitation. In two cases submitted to the European Court of Human Rights, an amicable settlement was reached and the state paid compensation.<sup>40</sup> In one case, the European Court of Human Rights has yet to decide.<sup>41</sup> The government is not currently preparing any other out-of-court compensation mechanisms. It is willing to consider revising the statutory three-year time limit for bringing actions for financial compensation for non-material harm. However, if legislation on the statute of limitations

<sup>34</sup> Decision of the Constitutional Court Pl. ÚS 7/15 of 14 June 2016.

<sup>35</sup> Section 800(1) of the Civil Code.

<sup>36</sup> Section 832(1) and Section 833(2) of the Civil Code.

<sup>37</sup> CCPR/C/CZE/CO/3/Add.2, paragraph 13 et seq.

<sup>38</sup> CCPR/C/CZE/CO/3/Add.3, paragraph 10.

<sup>39</sup> This case Červeňáková versus Czech Republic was also heard by the European Court of Human Rights (Application No 26852/09). However, as the applicant failed to inform the court of the compensation awarded at national level, her application was found to be inadmissible.

<sup>40</sup> R.K. versus Czech Republic (Application No 7883/08) and Ferenčíková versus Czech Republic (Application No 21826/10).

<sup>41</sup> Maděrová versus Czech Republic (Application No 32812/13).

were to be amended, it would only apply to future cases, in accordance with the principle of legal certainty. So extending the time limit in the future would be of no help to victims of past unlawful sterilisation.

40. However, the government is also engaged in other methods to redress the harm caused by unlawful sterilisation than pecuniary compensation. In March 2016, the Government Council for Roma Minority Affairs set up the Working Party on Unlawful Sterilisations to identify other ways of public support for unlawfully sterilised persons than financial compensation. For example, in cooperation with the Czech Psychotherapy Society, experts have provided free psychological assistance to unlawfully sterilised women.

41. As far as criminal prosecution is concerned, the government refers once again to our previous responses,<sup>42</sup> in which it noted that criminal complaints filed in cases of unlawful sterilisation had been duly investigated and that the criminal proceedings had been closed in accordance with the Code of Criminal Procedure. Most of the cases were dropped because facts indicating that a crime had been committed were not found. In some instances, the case was dismissed because the legal time limit to initiate a prosecution had passed. For the same reason, those proceedings cannot be reopened. Furthermore, the initiation of criminal proceedings after many years passed complicates the discovery of relevant facts, the examination of witnesses and other procedures and is problematic from the perspective of the hearing of the case without undue delay in accordance with the Covenant. If criminal proceedings have been finally dismissed, the *res judicata* principle under the Covenant dictates that they cannot be reopened unless new facts come to light. Finally, neither the Covenant nor any other international commitment of the Czech Republic envisages the automatic criminalisation of unlawful sterilisation, as also recognised by the European Court of Human Rights.<sup>43</sup>

42. The system used to run checks on compliance with the rules on sterilisation with free and informed consent has also been described in our previous responses.<sup>44</sup> These checks are included in inspections of healthcare facilities' activities. Providers are required to observe the procedures for obtaining consent, provide relevant information, and duly record everything in medical records. They run the risk of financial penalties if they fail to abide by the rules. The law envisages that persons with restricted legal capacity can only be sterilised if required from a medical perspective. This operation is then subject not only to the written consent of the guardian, but also of a special expert committee and guardianship court. The committee comprises four medical positions and a lawyer. At least four members are not allowed to have any association at all with the hospital carrying out the operation, and they must agree unanimously on the surgery. By law, patients are fully apprised of the nature of this medical procedure, its permanent consequences and potential risks. They are invited to a committee meeting and their opinion is taken into account and recorded. The Ministry of Justice will monitor courts' decision-making on the approval of sterilisation for persons with limited legal capacity, persons with mental disorders unable to assess the procedure themselves, and minors. The aim is to prevent opportunities to abuse sterilisation. The programme of statistical surveys for 2018 will be expanded to include the number of sterilisations carried out according to gender, age and legal capacity.

## **B. Domestic and gender-based violence**

43. One of the headline targets of the aforementioned Government Strategy for Gender Equality in the Czech Republic 2014–2020 is to reduce the incidence of all forms of gender-based violence. The Action Plan for the Prevention of Domestic and Gender-based Violence 2015–2018 was adopted in 2015. Unlike previous documents, this plan encompasses not only domestic violence, but also other forms of gender-based violence in accordance with the definition under the Istanbul Convention, in particular rape, sexual

<sup>42</sup> CCPR/C/CZE/CO/3/Add.1, paragraph 32, CCPR/C/CZE/CO/3/Add.2, paragraph 16, and CCPR/C/CZE/CO/3/Add.3, paragraph 12.

<sup>43</sup> For example, the judgment in *V.C. versus Slovakia* of 8 November 2011, Application No 18968/07.

<sup>44</sup> CCPR/C/CZE/CO/3/Add.1, paragraphs 33–34, CCPR/C/CZE/CO/3/Add.2, paragraphs 17–18, and CCPR/C/CZE/CO/3/Add.3, paragraph 13.

harassment and stalking. In all, the action plan contains 70 measures broken down into seven strategic areas. The incidence of domestic violence and other forms of gender-based violence is to be reduced by reinforcing the cooperation of all stakeholders, improving victim protection, strengthening primary prevention schemes, devising a system working with the perpetrators, and raising public awareness.

44. In the support of persons at risk of violence, the plan envisages, for example, the enshrinement of social service providers' work standards, the introduction of a national round-the-clock toll-free telephone hotline for victims and persons at risk, the establishment of a specialised secret shelter and sufficient numbers of crisis beds in each region, and the availability of professional and specialised health and therapeutic services. For children at risk, the plan envisages arrangements to ensure the availability of professional therapeutic assistance, the creation of standards, assisted contact between violent parents and their children, the development of their parental competence, and preventive activities focusing on domestic and gender-based violence at schools. Work with violent persons will centre on therapeutic interventions complying with uniform standards. Education and interdisciplinary cooperation should be geared towards boosting the theme of domestic and gender-based violence in school education and in the training of social workers, the staff of child protection agencies, health professionals, representatives of the Czech Police, the judiciary and others, to consolidate their expertise and strengthen their mutual cooperation. In the area of legislation, the plan proposes – besides the ratification of the Istanbul Convention – the establishment of instant emergency assistance benefits for persons at risk of domestic and gender-based violence, arrangements for assisted contact for violent parents, greater protection of children within the family, the requirement for police officers to inform victims of available services, the creation of a specialised social service for violent persons and the organisation of their compulsory participation in treatment.

45. In practice, the measures focus on all relevant aspects. Domestic and gender-based violence is punishable primarily as the mistreatment of a person living in the family home. Other criminal offences include bodily injury, human trafficking, the deprivation or restriction of personal liberty, duress, rape, sexual coercion, menace or stalking. A person at risk of domestic violence may ask the Czech Police to expel an abusive or threatening person from the family home for a maximum of 10 days. The victim may then apply to a court for an interim measure ordering the aggressor to leave the family home, to stay away from the surrounding and to refrain from any contact with the victim. The court decides within 48 hours. This measure may last for one month and can then be extended for up to six months. Similarly, under the Civil Code it is possible to petition a court to restrict or remove the right of the other spouse or partner to reside in the family home for a period of up to six months, which may be repeated. A ban on contact with a violent offender or on entering the home may also be imposed in criminal proceedings. Data on domestic and gender-based violence are included in Annex No. 6.

46. The punishment and prevention of domestic and gender-based violence is given greater attention, for example, by supporting the specialisation of police teams in cases of domestic violence, by training judges and public prosecutors at the Judicial Academy, Czech Police officers at police schools, social workers in their social service training, and health professionals in their postgraduate studies, or by organising expert conferences and workshops to exchange good practices. Experts from the non-government sector also contribute to these activities. In 2015, for example, an e-learning course for police officers was created in collaboration with the Association of Intervention Centres under the project "Improvement in Practices for the Prevention, Identification and Elimination of Domestic Violence via Professional Specialisation".

47. The 2013 Victims of Crime Act provides that central government authorities and other bodies must treat victims with courtesy, consideration and respect for their dignity. Under that law, victims have the right to readily understandable information on their rights and duties, the right to professional psychological, legal or other assistance, the right to privacy, the right to be protected from secondary victimisation, and the right to monetary aid to compensate to some degree for the harm occasioned by the criminal offence. Particularly vulnerable victims, including victims of crimes against human dignity in sexual areas or crimes encompassing duress, violence or the threat of violence resulting in an

increased risk of secondary harm, receive free assistance. Victims of sexual violence are entitled to the reimbursement of costs of professional psychotherapy and physiotherapy or other expert services to alleviate their suffering. Uniform methodology, with advice forms and basic information for victims of crime, has been provided to the courts, the prosecution service and the police. The Ministry of Justice supports the activities of NGOs providing legal advice and other types of assistance to crime victims with an outlay of approximately CZK 12 million annually. A Helpline for Victims of Crime and Domestic Violence, operated by the White Circle of Safety (Bílý kruh bezpečí), is available to victims. According to the Czech Police Act, child victims of domestic violence will automatically be included among victims of violence within the family. Under the new Misdemeanours Act, violent persons can be ordered to participate in anger management or violence control programmes.

48. Services for victims or persons at risk of domestic or gender-based violence are primarily provided as social services. Intervention centres in each region are required to proffer help to victims within 48 hours of the expulsion of the violent person by the Czech Police or at any time those persons request; they may also act on their own initiative. An intervention centre provides social therapy, as well as assistance in the exercise of rights and legitimate interests, and in the organisation of personal affairs and, where appropriate, accommodation or meals. There is cooperation and mutual reporting between intervention centres, the providers of other social services, child protection agencies, municipalities, Czech Police, municipal police, and other bodies of public administration in the form of an “interdisciplinary team”. Centres are financed with subsidies from the regions and the Ministry of Labour and Social Affairs. The Ministry also supports assistance in areas such as preventive and support services for families. Schemes aimed at working with violent persons are also supported. Shelters provide a temporary place to stay for persons in an adverse social situation without a roof over their heads. These facilities may specialise in persons at risk of domestic violence and have secret addresses. Advice centres for victims of crime and domestic violence provide professional social counselling by mediating contact with social environment, social therapy, and assistance in the exercise of rights and legitimate interests and in the organisation of personal affairs.

49. “That’s Equality!”, the government campaign described above, also targets the prevention of domestic and gender-based violence. In March 2018, approximately 100 spots were broadcast on Czech Television with the aim, among other things, of motivating witnesses to report cases of domestic violence. In 2016 and 2017, nine analyses were conducted to ascertain, inter alia, the availability of specialised social services for victims of domestic violence, the incidence and latency of gender-based violence in Czech society, the efficiency of schemes for work with violent persons, and the way gender-based violence is depicted in the media. Workers from the education sector, social services and NGOs were trained in the use of a special animated film for children to explain domestic violence.

### C. General Inspection of Security Forces

50. The General Inspection of Security Forces was established 1 January 2012.<sup>45</sup> It was tasked with detecting and investigating criminal activity perpetrated by the officers and employees of the Czech Police, the Customs Administration, the Prison Service, and the General Inspection itself. It is also responsible for testing the reliability of such persons, monitoring and evaluating information on unlawful activity perpetrated by officers, proposing measures to prevent such activity, and issuing methodological recommendations for the work of the various security forces. The Inspection is entirely independent of any security forces or their superior authorities. The Inspection director is nominated by and accountable to the Prime Minister. Nominations must be consulted with the competent parliamentary committee. The Chamber of Deputies also sets up a special commission to supervise the Inspection. The Inspection reports on its activities annually to the Government and the Chamber of Deputies. Data on its activities are included in Annex No. 7.

<sup>45</sup> CCPR/C/CZE/Q/3/Add.1, paragraphs 47 and 48.

51. The most frequent cases that crop up in the Inspection's activities are classified as "other general crime". This includes common property or violent crime, followed by economic crime such as fraud and embezzlement, or crimes related to currency or tax. Corruption, drug offences, domestic violence and information leaks also make appearances. No hate crimes have been detected. Most crimes tend to be detected among Czech Police officers as the largest security force. Attention is also paid to investigations into violence perpetrated in the exercise of the powers of a security force.

#### **D. Police detention**

52. Core duties of Czech Police officers in the performance of their tasks include exercising common courtesy and treating others and themselves with respect, esteem and dignity. Police officers on duty are required to avoid any unreasonable harm or loss and must limit any intervention in the rights and freedoms of others to the extent necessary to achieve their task. The law explicitly prohibits torture, cruel, inhuman or degrading treatment, or treatment contrary to human dignity. Police officers witnessing such treatment must act to end such treatment and report it to their superior without undue delay. Furthermore, under the Code of Criminal Procedure evidence obtained by unlawful coercion, or the threat thereof, cannot be used in proceedings, except in as evidence against its perpetrator.

53. The law also details the conditions and form of police intervention. Police officers may intervene only if public order and safety is endangered or breached and may use a weapon or prescribed means of coercion to protect their own safety, the safety of others, or property or public order in a form and to the extent necessary to fulfil their task. Police officers are required to report the use of a weapon or means of coercion immediately to their superior and must draw up an official record explaining its reasons, course and outcome. If the use of a means of coercion or weapon results in injury, police officers must administer first aid and arrange for medical treatment of the injured person as soon as possible. A public prosecutor must be notified of the incident without undue delay. A person may be arrested and placed in a police cell only for statutory reasons and for 24 or 48 hours, as appropriate. A record must be drawn up and the person must be informed of their rights. Persons in cells are kept under surveillance and a physician must be called immediately in response to any health problems. Such incidents must also be reported to a superior and the public prosecutor.<sup>46</sup>

54. After placing a person in detention, the police must, if requested, contact a close person or other designated person, including a legal guardian. Such contact may be postponed if it would jeopardise the purpose of detention, in which case the public prosecutor must be notified. A person who has been placed in detention has the right to be examined or treated by a physician of their choice. They also have the right to secure, at their own expense, legal assistance and to speak with their legal counsel in private. No specific system for the provision of free legal assistance in such cases is in place at present. While everyone has every right to make use of the general system of legal aid described below, it is quite likely that, considering how short the detention time limits are (as mentioned above), they will be released before the Czech Bar Association can assign them a lawyer. If criminal proceedings are initiated, they have all the rights of an accused, including – where appropriate – mandatory legal representation and the opportunity to apply for free legal assistance.

55. Any infringement of these rules is a breach of the obligations of the Czech Police and is duly investigated. Anyone who becomes a victim of such an infringement may lodge a complaint against the police officer's conduct with the Czech Police's inspection departments. If the facts set out in the complaint indicate that a crime has been committed, the Czech Police forward it to the General Inspection of Security Forces to initiate criminal proceedings. Otherwise, the subject of the complaint may be a misdemeanour under general law or a disciplinary misdemeanour breaching a police officer's duty. In this case, the Czech Police's inspection department holds proceedings and the competent staff officer

<sup>46</sup> For more details, see also CAT/C/CZE/6, paragraphs 10–12.

takes corrective action in the form of a disciplinary punishment, another penalty, or another measure to prevent reoccurrence. Punishment may be a written warning, a reduction in pay by up to a quarter for a maximum period of three months or, in extreme circumstances, a demotion leading to dismissal. During these proceedings, police officers are suspended from duty. Naturally, disciplinary or criminal proceedings may be initiated by a superior police officer or the public prosecutor in the absence of a complaint.<sup>47</sup> Victims may seek compensation in criminal proceedings, may apply to a court for compensation for maladministration, or may obtain financial assistance from the Ministry of Justice.

56. CCTV systems with audio recordings are also gradually being installed in police cells. The recordings are retained in a restricted-access repository for 30 days. When a complaint is processed, the recordings are archived and attached to the case file. The Czech Police's inspection departments also run checks to ensure that people who have been detained are treated properly. Compliance with the rules is included in the training and continuous professional development of police officers. The Ombudsperson as the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also checks the treatment on people in police cells.

57. By law, prior to placing someone in a police cell, police officers are authorised to verify that the person is not in possession of a weapon or any other item that could be used to endanger life or health. To this end, a police officer of the same sex is authorised to examine the person. This examination entails direct physical contact or direct observation of the person's naked body, including an inspection of clothing and personal belongings. The examination must be conducted in a proportionate manner and must respect the detainee's dignity.

58. The criteria for examinations depend on the police officer's subjective assessment of the circumstances, taking into account the conduct of the detained person. As the situation will vary from case to case, it is impossible to set specific criteria in law. The guidance provided to Czech Police officers will be aimed at ensuring that examinations are not conducted routinely, but only after an assessment of the individual risk in cases where other measures would be insufficient and the purpose of the examination could not be achieved by another method of examination, such as a pat-down or the use of detectors. Further to recommendations made by the European Committee for the Prevention of Torture, body searches will be conducted so that the examined person is undressed only to the waist up and then down.<sup>48</sup>

59. Stringent statutory conditions are also in place for cuffing persons with handcuffs to an appropriate object. Handcuffs may be used in response to the physical assault of a police officer or another person, the endangerment of the person's own life, damage to property or an attempt to flee. The person must be uncuffed within two hours when it becomes clear that they will not repeat their actions. In January 2014, a binding instruction of the police president on escorts, the guarding of persons and police cells established a rule on the exceptional nature of the use of handcuffs in a police cell as a safe environment. Information on handcuffing is set out in documents on a person's stay in a police cell. In keeping with previous recommendations made by the European Committee for the Prevention of Torture, wall fixtures have been removed from police cells and grips have been mounted to the frames of benches inside and outside cells, enabling people to be shackled in a harmless, natural and comfortable sitting position.<sup>49</sup>

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<sup>47</sup> Ibid., paragraphs 16–23.

<sup>48</sup> For more details, see the Response of the Czech Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the Czech Republic from 1 to 10 April 2014 (CPT/Inf (2015) 29), p. 4n.

<sup>49</sup> See also CAT/C/CZE/6, paragraphs 103–104.



## Prohibition of slavery and forced labour

### A. Human trafficking

60. The priorities of the Government's National Strategy to Combat Human Trafficking in the Czech Republic 2016–2019 are combating labour exploitation and child trafficking, and punishing offenders. One of the cross-cutting priorities is taking account of the vulnerability of victims, their gender and the harm suffered. This strategy should improve the identification of victims of human trafficking by raising awareness and sensitivity and reinforcing mutual cooperation among state administration. In order to put the strategy into practice, the Ministry of the Interior collaborates with other bodies of state administration and non-governmental and intergovernmental organisations. The Czech Republic remains primarily a target and transit country, but it is also a source country. For the most part, this criminality is related to labour and sexual exploitation.

61. The crime of human trafficking continues to be prosecuted according to the Criminal Code. Amendments have made it possible to punish offenders taking possession of victims of human trafficking, and to punish the systematic and repeated unlawful employment of foreign nationals under particularly exploitative working conditions or its mediation. In 2017, a new instruction of the police president on human trafficking was issued. Among other things, it established cooperation in the field of human trafficking among the competent regional departments or the National Organised Crime Prevention Headquarters and minority liaison officers. Data on human trafficking are included in Annex No. 8.

62. The Labour Inspection continues to prevent human trafficking by raising awareness and providing advice to Czech citizens and foreign nationals alike. The project Innovations to Prevent the Labour Exploitation of EU Citizens was implemented in 2014–2015 by the Ministry of Labour and Social Affairs. The aim was to protect migrants from new EU Member States (in particular Bulgaria) against labour exploitation. Besides the migrants themselves, the project's target groups were representatives of state administration and other institutions who may come across labour exploitation. The project included an information campaign among vulnerable groups of workers. In addition, a draft concept was drawn up to protect EU citizens from labour exploitation in the Czech Republic.

63. Human trafficking is a constant topic in the training of police officers, judges and public prosecutors. Since 2013, the Police Presidium has been implementing a project to provide Foreign Police officers working on the EU's external borders with knowledge about human trafficking. Since 2015, a training course has been implemented for Public Order Police Service officers focusing on human trafficking. Training events continue to be held for judges and public prosecutors. In recent years, for example, workshops have been held on human trafficking for sexual exploitation, human trafficking with a focus on migration to Germany, and asylum proceedings. Responding to the current situation, the government strategy also focuses on training the persons dealing with migration and integration of foreign nationals in the Czech Republic, and the consular officers and Labour Inspection officers.

64. Under the Victims of Crime Act, human trafficking victims are particularly vulnerable victims with the rights described above. The Probation and Mediation Service is developing a network of accessible services for crime victims, including human trafficking victims, and provides comprehensive counselling, including psychosocial assistance and legal advice. The victim advice centres have been contacted by 15 human trafficking victims since coming into being.<sup>50</sup> Assistance for victims is supported through leaflets giving information about organisations providing assistance and advice translated into the languages spoken in the countries of origin of the most frequent victims.

65. In 2003, a special Programme to Promote and Protect Victims of Human Trafficking was set up. Under that Programme, human trafficking victims are able to draw on the services of a specialised NGO at least over the duration of "crisis intervention" like safe asylum accommodation, food and clothing, health and psychological care, legal counselling

<sup>50</sup> Five cases in 2015, four cases in 2014 and six cases in the period from 1 April 2017 to October 2017.

and/or interpreting. Where necessary, victims may be granted police protection as witnesses. Foreign nationals may legalise their stay in the Czech Republic and enlist help for their social integration, e.g. in their search for a job or retraining. They may also be helped with a voluntary return to their country of origin. The victim's status and rights do not depend on the victim's residence status in the Czech Republic or willingness to collaborate with law enforcement authorities.<sup>51</sup>

## **Right to personal liberty and security, treatment of persons deprived of liberty**

### **A. Surgical castration**

66. Surgical castration in the Czech Republic is carried out in accordance with the 2012 Specific Health Services Act, which encompasses a range of procedural guarantees to protect patient rights. A fundamental prerequisite for this operation is the patient's voluntary request, based on his own free choice. Other requirements are age above 21 years, a medically confirmed paraphilic disorder manifested in the perpetration of a sexually-motivated crime<sup>52</sup> and a high degree of likelihood of committing another violent sexually-motivated crime and the failure or medical impossibility of other treatment methods. An amendment in 2017 made possible to carry out castration in particularly justified cases on patients not yet having committed a sexually-motivated crime, whose paraphilic disorder has a dire impact on their quality of life. However, that amendment emphasised the subsidiarity of castration and specified the conditions and individual steps in the process.

67. In all cases, castration applications are assessed by an expert panel comprising a sexologist, a urologist, a psychiatrist, a psychologist and a medical lawyer without any association at all with the provider carrying out the operation. The panel receives at least two independent expert opinions justifying castration from the aspects described above. The panel invites the patient to a meeting, informs them of the nature of the medical procedure, its permanent consequences and potential risks and verifies that they have fully understood the information and submitted the application entirely of their own accord. The panel must approve the operation unanimously. Since the new legislation took effect, the panel has processed nine applications, approving three and rejecting the others.

68. The law forbids entirely the castration of imprisoned persons. Nor is castration possible for patients with restricted legal capacity. Patients undergoing protective treatment or in preventive detention may undergo castration only in particularly justified cases, subject to approval not only by the expert panel, but also by a court. These patients must be advised by the expert panel that castration will not bring about their release. Castration is in no circumstances a form of punishment.<sup>53</sup>

69. Surgical castration in the Czech Republic has also been addressed by the European Court of Human Rights.<sup>54</sup> The court acknowledged that the applicant, who was undergoing protective sexological treatment, faced a stark choice between taking antiandrogens meaning an earlier release from the hospital, or psychotherapy and social therapy, entailing a longer spell of residential treatment. In this particular case, however, antiandrogenic treatment was medically necessary and the applicant had not been forced into it. Consequently, the court found that there had been no infringement of the ban on torture and inhuman or degrading treatment or punishment. Furthermore, it pointed out that surgical castration was legally regulated in the Czech Republic and required the patient's free and informed consent. This judgment shows that, by respecting statutory conditions, in particular the medical necessity for treatment and its free, non-coercive offer to the patient, a patient undergoing protective treatment can voluntarily consent to such therapy, which

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<sup>51</sup> See also, for example, CAT/C/CZE/6, paragraphs 145–157, and CERD/C/CZE/12-13, paragraphs 93–99.

<sup>52</sup> Violent sexually-motivated crime and the crime of sexually abusing a person under the age of 15.

<sup>53</sup> For more details, see CAT/C/CZE/6, paragraphs 166–170.

<sup>54</sup> Judgment in *Dvořáček versus Czech Republic* of 6 November 2014, Application No 12927/13.

cannot be regarded as degrading treatment. Hence it is in line with the Czech Republic's international commitments, including the Covenant.

## **B. Prison conditions**

70. In 2016, the Government approved the Prison System Concept up to 2025, which envisages fundamental changes in the Czech prison system and criminal policy geared towards a lower rate of recidivism and the more efficient social reintegration of prisoners upon their release. The Concept's objectives include a safe environment in prisons and the creation of humane conditions and treatment of imprisoned persons. According to the Concept, the Prison Service should find ways of preventing inter-prisoner violence as efficiently as possible, devise a model of the ideal prison in terms of space and staffing requirements, establish minimum training for the prevention of violence, and reinforce measures to prevent unauthorised items being brought into prisons. It also foresees a rise in the number of Prison Service employees and officers working directly with prisoners. The Concept incorporates motivational steps to increase the number of officers and employees, including a recruitment allowance, accommodation, employment benefits, a predetermined career ladder, etc. Relevant data on the prison population are included in Annex No. 9.

71. Broadly speaking, the conditions applied in prisons are the same as those for police cells. Offices of the Prison Service, which, by law, supervises prisons, must respect the rights of incarcerated people and prevent cruel or degrading treatment. In carrying out interventions and actions in the course of their work, officers are required to respect personal honour and dignity, not to allow any person to sustain baseless injury, and to prevent any excessive interference with the rights and freedoms of prisoners. Any physical violence or verbal assaults motivated by race or other hatred are therefore entirely inadmissible.

72. Complaint mechanisms, similar to police mechanisms, have been set up in prisons. Upon entering the prison, all prisoners are comprehensibly advised of their rights, including the right to lodge complaints. Prisoners may file complaints with any employee of the Prison Service and may request an interview with the prison director. In each prison, the director appoints employees exclusively designated to collect, record and dispatch complaints. Complaints may also be addressed to the Directorate General of the Prison Service or to a public prosecutor or, where appropriate, the General Inspection of Security Forces. Depending on the results of the investigation, the body investigating the complaint may refer the case to the General Inspection of Security Forces if there is a suspicion of a crime, or to the body competent to hear the complaint in misdemeanour or disciplinary proceedings, which may – again – result in dismissal. The handling of a complaint may also be reviewed by the Ministry of Justice. Unlike police cells, in prisons a public prosecutor also has supervisory powers to examine the regularity of the Prison Service's procedures, visit prisons at any time, demand explanations from their employees, peruse files and documents, issue orders for the preservation of law, or order the immediate release of unlawfully imprisoned person. Prisons are also supervised by the Ombudsperson as the national preventive mechanism.

73. The Prison Service has issued a director-general regulation on the prevention, countering and timely detection of interpersonal violence in prisons devising effective procedures to prevent violence, to detect it in a timely manner, and to prevent it subsequently. The implementation of this regulation is also inspected at individual prisons by the Directorate General of the Prison Service. Preventive measures rely on the identification of prisoners who, in light of their physical or mental disposition or in connection with their past, could be perpetrators or victims of violence. Extra attention is then systematically devoted to those persons, and they are subject to protective and preventive measures, such as increased checks, the separation of potential perpetrators from victims, and searches. Cells with CCTV surveillance are gradually being introduced into prisons. General measures, such as opening up new accommodation capacities in smaller collectives, the application of treatment programmes helping to reduce aggression, the meaningful spending of leisure time, education, and greater opportunities for work in

prisons, also help to stave off inter-prisoner violence. Increases in the number of employees on guard duty and in educational programmes are also important.

74. As with police officers, for Prison Service officers the ban on mistreating prisoners is the subject of extensive and continuous training at the Judicial Academy and the Prison Service's schools. An emphasis is also placed on non-discrimination on grounds of race, age, disability or sexual orientation. The expertise of employees and officers is also reinforced in areas such as psychology, teaching and social work.

75. Convicted prisoners are generally assigned to work according to their expertise, skills, and medical condition. Prisoners are required to do the assigned work. The employment of convicted prisoners is one of the Concept's top priorities. The aim is to expand opportunities for the employment of prisoners, drawing on cooperation with employers from the public and private spheres. Other measures include the use of prison space for the employment of prisoners and the introduction of multi-shift operations. The measures adopted resulted in increased prisoner employment by 20% in 2016 and a further 10% in 2017. Prisoners may work either for the prison itself or for other entities under a contract with the prison. The employment relationship and working conditions are governed by the Labour Code in the same way as for any ordinary employee. Convicted prisoners are entitled to remuneration, set by the Government under a regulation. A new regulation in 2017 increased the base monthly rate of remuneration to CZK 5,500 for unskilled prisoners, CZK 8,250 for apprentices, CZK 11,000 for those with secondary education, and, newly, CZK 13,750 for degree-holders. Another rise in remuneration for work has been prepared in 2018. Convicted prisoners use this remuneration to pay for their liabilities outside the prison (e.g. maintenance) and to cover the costs of imprisonment, unless they have been exempted from it (e.g. they have not been assigned to work and they have no other funds, they participate in a training programme, they are younger than 18 years, etc., or this requirement has been waived). Deductions to cover the costs of imprisonment are equal to 26% of the net remuneration, up to a maximum of CZK 1,500 per month. The rest of the remuneration comprises pocket money (17%), which convicted prisoners can use as they see fit, and savings (at least 11%), used as a financial base for life upon release.

76. There have been systematic improvements in conditions at prisons in recent years. The Concept aims to allow convicted prisoners to be accommodated in smaller cells intended for fewer people in keeping with international standards. The Prison Service is making new furniture for remand prisoners – beds, cabinets for their personal belongings, chairs, and small tables. Over time, all existing furniture will be replaced throughout the accommodation capacity. On the same time, the units are being refurbished (repairs of the energy distribution systems, painting and decorating, etc.). All legislation on hygiene conditions during the serving of sentences is respected in prisons. An amendment to the rules on the serving of custodial sentences has made it possible, for example, for convicted prisoners to bathe at least twice a week. Convicted prisoners are provided with regular meals under conditions and at values to maintain their health, taking into account their health, age and the difficulty of their work. The requirements of convicted prisoners' cultural and religious traditions in terms of meals and in other respects are taken into account as far as possible in the light of prisons' operations. A prison chaplain works at all prisons.

77. By law, officers are authorised to conduct strip searches or body searches of persons in prison; these are always carried out by a person of the same sex or by a physician. Searches are conducted on arrival at the prison, before and after visits, when a prisoner joins a closed unit, or as part of the process of ensuring order within the prison. According to an order of the director-general issued in 2016, thorough body searches, requiring a prisoner to strip naked, are carried out only if an individual risk assessment gives rise to a strong suspicion of dangerous or unauthorised items in the possession of the prisoner. Searches may only be conducted if their purpose cannot be achieved by other means, e.g. by using appropriate technical means, or by conducting a preventive body search. Searches are also gradually being replaced by other modern technologies, such as scanners.

78. By law, Prison Service officers are entitled to use chains, handcuffs, restraining straps and handcuffs with a shackling belt as a means of coercion against persons

endangering life or health, deliberately damaging property or violently attempting to defeat the purpose of their detention, or breaching the peace or safety on Prison Service premises, in the buildings of courts, prosecution service offices, and other places. These means may also be used when bringing someone in or if there are strong concerns about violent behaviour. Prison Service officers must ensure, however, that means of coercion used are commensurate to the purpose of the intervention and that it will not cause disproportionate harm. In this regard, the principles of proportionality and subsidiarity apply in the same way as to the Czech Police. Any infringement of those principles results in the punishment described above. In 2016, the Prison Service analysed the need to use restraining straps. In addition, medical restraints may be used on persons held in preventive detention under the conditions described below.

79. The classification of prisons was reformed in 2017 to improve work with persons serving custodial sentences and, subsequently, their successful re-socialisation and reduction of the risk of recidivism. The original four types of prison were compounded into two – guarded prisons with low-, medium- and high-security units, and maximum-security prisons. The type of prison is decided by the court in criminal proceedings. Assignment to a particular unit is in the competence of the Prison Service on the basis of an assessment of the internal and external risks posed by individual prisoners. That assessment is conducted by a commission of expert prison employees. Convicted prisoners may ask the court to be placed in a unit with a lower level of security. The court hears the prisoner and takes a decision on the application within 30 days.

80. Disciplinary punishments for prisoners include placement in a closed unit without participation in treatment programmes for up to 28 days, full-day placement in a closed unit for up to 20 days, or placement in solitary detention for up to 20 days. Disciplinary punishments may be imposed only after the circumstances of the disciplinary misdemeanour have been duly clarified and the guilt of the prisoner has been proven. Convicted prisoners must be given the opportunity to respond to all facts they are accused of and to the evidence. They may present circumstances to rebut or mitigate their guilt and propose addition of further evidence in support of their claims. Disciplinary punishments imposed must be commensurate to the seriousness of the disciplinary misdemeanour committed and consistent with the interest in achieving the purpose of the punishment. In these proceedings, a convicted prisoner may make use of legal assistance.

81. For young people, i.e. children aged from 15 to 18, special measures are taken in the penal system. Minors are criminally responsible if they have attained a level of intellectual and moral maturity enabling them to recognise the unlawful nature of their act and to control their conduct. In proceedings involving minors, the judges, public prosecutors and police officers must have a special expertise in the treatment of young people. In the actual proceedings, it is necessary to proceed with due consideration for the age and the intellectual and moral maturity of minors. In relation to remand, stress should be placed on the principle of subsidiarity and restraint, manifested, for example, by a significant reduction in the duration of remand, and the opportunity for the court to replace remand with many other measures, such as the placement of a minor into the care of a trustworthy person. Minors are under the increased supervision of a public prosecutor. Penal measures, including the deprivation of liberty, may be imposed on minors only if the special methods of the proceedings and other potential measures would clearly not prevent unlawful activity. Minors also have the opportunity to stave off the imposition of a punishment if they try to redress the consequences of their actions. This guarantees the subsidiarity of penal repression.

82. Minors must be placed separately from other convicted prisoners. As a matter of priority, minors are placed in the three prisons with special units for minors. In other prisons, they are separated by other means. In certain respects, minors also have alleviated conditions and reinforced rights, e.g. in relation to visits, the receipt of parcels and other remuneration, and disciplinary punishments. Individual methods of treatment, focusing on the development of their intellectual, emotional and social maturity, are applied to a greater extent to curb the adverse effects of isolating minors from society. During the serving of their sentence, prisons focus on educating and training minors for a future occupation and arrange for their compulsory school attendance. In prisons, minors participate in special

treatment programmes geared towards their discipline, education and re-socialisation. The emphasis is on accepting personal responsibility for their wrongdoings, reinforcing their independent handling of situations in life, and stifling and coping with aggressive responses and improprieties. In accordance with the law the content of a programme for the treatment of a minor always targets arrangements for vocational qualifications and independent living. Participation in education and other activities under the treatment programme is compulsory for minors. Minors are not assigned work over the duration of their education. The Concept wishes to pay special attention to minors and devise a special treatment concept for them. In work with minors, the Concept aims to apply a community style, increase the number of educators and professional staff working with minors, and systematically educate them. Special programmes of expert treatment are geared towards minors focusing on each minor's specific situation.

### **C. Restraints and the reform of psychiatric care**

83. The Health Services Act defines different types of restraints, physical and chemical, and lays down the conditions of their use. Restraints may be used only to avert immediate danger to the life, health or safety of a patient or other persons, and remain in place for as long as strictly necessary, if a gentler approach has been unsuccessful. The least limiting restraint must be selected in all cases. These elements have been strengthened in the law by a 2017 amendment. In all cases, restraints may be used only if ordered by a physician. Another health professional may order the use of restraints only in urgent cases and notify the physician without undue delay to confirm the justification for the restraint. Providers must understandably inform patients of the reasons for the use of the restraint and supervise them in order to prevent harm to their health. Every use of a restraint must be entered with reasons in the patient's medical records. In many cases, the physician must also notify the patient's legal or other guardian of the restraint. Since 2017 providers have been required to keep central records of the use of restraints and record the number of annual use for each restraint.

84. According to the Health Services Act, health service providers are inspected by the bodies permitting them to provide health services. In recent years, the Ministry of Health has conducted several inspections of the use of restraints in the psychiatric facilities under its management. Similar inspections are conducted by regional authorities. If the use of a restraint results in harm to health, compensation may also be sought through the courts. Again, the Ombudsperson is involved in supervising compliance with rules on the restriction of liberty in healthcare facilities.

85. In 2018, the Ministry of Health issued a new methodological recommendation on the use of restraints in healthcare facilities, which elaborates on and clarifies legal provisions. It bans the use of restraint as a means of prevention or punishment or as a systemic measure in case of staff shortages, etc. It recommends, for example, the elaboration of a plan to manage risky behaviour of patients, the maximum period of application of restraints, adequate care and a dignified approach to restrained patients, the elaboration of internal regulations, and continuous training.

86. The law does not permit the use of cage beds as a restraint in the Czech Republic. The use of net beds is generally receding in the Czech Republic, though there are still conditions where the use of this restraint is thought to be necessary. Nevertheless, ways and means to replace net beds completely with other resources will be explored in the future. The number of net beds in psychiatric hospitals is steadily decreasing and most of them use no net beds at all.<sup>55</sup>

87. The main objective of the reform of psychiatric care in the Czech Republic, launched in 2015, is to build up community services providing health and social care to persons with mental illnesses, and to shift the centre of care from large-capacity psychiatric hospitals to the patients' natural environment. The 2013 Psychiatric Care Reform Strategy aims to increase the quality of life for persons with mental illnesses. Timely intervention is

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<sup>55</sup> At present, there are about 36 net beds in 5 psychiatric hospitals.

a great help in catching the symptoms of mental illness early on and will help to prevent its development. Accessible, comprehensive and coordinated care, covering the health and social needs of people with mental illness in their surroundings, will be ensured in the systematically established network of community services. Other activities include the development of expanded outpatient centres, the establishment of acute psychiatric care wards in general hospitals, and activities aimed at de-stigmatisation and awareness-raising.

88. Reform projects were initiated in 2017. Projects for the creation of 30 mental health centres will underpin the future network of 100 multidisciplinary field teams providing efficient social and health services for the persons with severe mental illnesses in all regions of the country. The first five centres will start operating in July 2018. Based on an analysis of requirements and the current state of play, a network of health and social services is now being planned for people with mental illness in each region in cooperation with experts from regional authorities, service providers, users and representatives of health insurance companies. Parallel to this, psychiatric hospitals are being transformed to make use of their staffing capacities for the furtherance of other forms of (especially outpatient) care for persons with mental illnesses outside existing complexes. Transformation plans are now being drawn up for each psychiatric hospital setting out the targets of the future care, the roles played by hospitals in regional networks, a proposal of the organisational setup, the training and development of staff, and even the urban-planning and functional development of the complex. In spring 2018, work started on piloting new types of services, e.g. outpatient clinics with extended care, mobile teams for children and people suffering from dementia, or patients addicted to psychoactive substances. In addition, preparations are under way for a general standard of quality in the health care provided to persons with mental illnesses. The quality of existing services is being mapped and follow-up recommended procedures and expert training are being prepared. The whole system of quality assessment will then be integrated into existing systems for the accreditation and certification of services in the health sector. The quality project also includes a study of the use of restraints and the creation of a uniform procedure to inspect and introduce alternative means of dealing with difficult situations in the care of persons with severe mental illnesses. Other projects focus on preventing the development of mental illness, its timely detection, prevention of job losses among persons at risk, de-stigmatisation, and support for users and family members.

#### **D. Rights of refugees, migrants and stateless persons**

89. By law, applicants for international protection belonging to vulnerable groups, including families with children cannot be detained. Persons staying in the Czech Republic illegally may be detained if statutory conditions are met. First of all, the law obliges to assess, whether an alternative measure can be imposed instead of detention, like an obligation to report to the police, the deposition of a financial guarantee or residence checks. Detention is always used as a last resort. Foreign nationals are placed in special facilities with a separate facility for women, families and unaccompanied minors. Unaccompanied minors may be detained only if they could threaten national security or seriously provoke disorder and in keeping with the best interests of the child. In practice, then, unaccompanied minors are not detained. Children are not detained, but staying in facilities together with their detained parents if care for them cannot be arranged outside the facility. The normal detention period cannot exceed 180 days or, for families and unaccompanied minors, 90 days, with no possibility of extension. Extension of the detention period to 545 days is only possible for adult foreign nationals blocking the removal efforts of the police by providing false information about their identity or deliberately hindering their removal. In view of the settled case-law of national courts, the detention period is always shorter than the maximum statutory time limit. A new and reasoned decision must be always issued to continue detention. The police must advise foreign nationals that during their detention they may apply to a court at regular intervals for a review of the legality of their detention. If their detention is found to be unlawful, they must be released immediately. At the same time, the police are required to continue examining whether the grounds for detention persist over the entire detention period.

90. In the Czech Republic, there are three immigration removal centres. One of them is intended solely for the detention of women and families with children and has been given a general overhaul to meet their needs as much as possible. Besides the full-scale provision of material equipment, low-threshold leisure activities and free legal assistance are available, foreign nationals have access to medical care, social counselling, etc. Professional personnel from the Refugee Facilities Administration look after detained persons in facilities. In June 2018, a new structure was opened to improve and increase accommodation and other standards for families with children. The necessary funds are also regularly invested in the quality of accommodation provided in other asylum facilities and immigration detention centres. This funding was increased primarily in response to the migration crisis. Facilities are regularly visited and inspected by the Ombudsperson and international organisations. The Czech Republic spares no effort in its attempts to prevent families with children from being detained. Where detention does occur, responsible authorities make sure that it takes place in conditions consistent with the law, international standards, and case-law. Relevant data are shown in Annex No. 10.

91. By law, state bodies are required to accept applications for international protection, especially on border crossings, at reception centres, at Foreign Police offices, and at immigration detention centres. A decision on administrative expulsion cannot be enforced until a decision on the previous application for international protection has been taken. If protection is granted, the force of the decision on expulsion is voided by law. Decisions not to award international protection may be contested in court with a direct suspensive effect directly or upon request. Applicants are entitled to remain in the country and cannot be removed pending a final decision. When deciding on administrative expulsion, the police must seek a binding opinion of the Ministry of the Interior on the possibility of a foreign national's leave from the perspective of non-refoulement.

92. Czech legislation on the acquisition of citizenship is based on the prevention of statelessness through the acquisition of citizenship in accordance with international treaties. Statelessness itself is not defined in Czech law. Instead, the definitions under international conventions are used. Stateless persons have the status of an ordinary foreign national and may acquire Czech citizenship by following legal procedures. A child born in wedlock acquires Czech citizenship automatically upon birth if at least one of the parents has Czech citizenship. A child born out of wedlock whose mother has Czech citizenship also acquires Czech citizenship automatically upon birth. If a child is born out of wedlock and the mother has not Czech citizenship, but it is born to a Czech father, it acquires Czech citizenship after paternity is determined. The law prescribes that children under the age of three who are found in the Czech Republic and whose identity cannot be ascertained acquire Czech citizenship on the date of their discovery, if they have not acquired the citizenship of another state. The Act also enables children born in the Czech Republic, whose parents are stateless or who have not acquired the citizenship of either of the parents, to automatically acquire Czech citizenship upon birth provided that least one of the parents had been granted residence for a period longer than 90 days at the date of the child's birth. Czech citizenship is also granted to a stateless child born in the Czech Republic and legally resides here which is placed in alternative care. Czech citizenship may also be acquired by a person over the age of three with impaired intellectual maturity or physical disability found in the Czech Republic whose identity has not been ascertained, if they are not citizens of another state.

## **Right to judicial protection and independence of the judiciary**

### **A. Organisation of the judiciary**

93. The independence of the judiciary continues to be guaranteed primarily by the Constitution.<sup>56</sup> On a practical level, judicial independence continues to be implemented by the appointment of judges for an indefinite period, the cessation of their function solely for statutory reasons, the possibility of removing the judge only on the basis of a disciplinary proceeding, the transfer of a judge only with their consent or on their request, and the

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<sup>56</sup> See CCPR/C/CZE/3, paragraph 140.



incompatibility of the judicial function with other functions within the executive (the President of the Republic, a minister, a public official) and the legislature (an MP or a senator). These guarantees are supplemented by the judge's obligation to maintain dignity and the good name of their function and judicial status. The independence of judges in relation to parties to proceedings is secured by assigning cases to judges on the basis of an objectively set work schedule. Parties may submit an objection of bias, and a biased judge will be excluded from the decision-making process and their decision may be annulled. The independence of courts and judges is protected by the crimes of encroaching on a judge's independence, violence against the court as a public authority or against a judge as a public official, the threatening of a public authority or an official, the abuse and obstruction of the powers of an official and, not least, the acceptance or proffering of a bribe. Independence also includes the corresponding statutory pay grade.

94. The appointment of judges is primarily governed by the Constitution. An upstanding Czech citizen who holds a law degree may be appointed as a judge. The law presupposes experience and moral qualities guaranteeing the due exercise of office, at least 30 years of age, three years of legal experience in the judiciary or another specialist legal occupation and the passing of a specialist judiciary or other adequate legal examination. Once appointed by the President of the Republic, a judge – with their prior approval – is allocated to a particular court by the Minister of Justice and cannot be transferred without their consent. The only exception is a legal change in the organisation of courts, or a change in the jurisdiction or courts circuits. Judges themselves may request a transfer to another court; if they wish to be transferred to a higher court, they must have the corresponding length of legal experience. In the interests of the due performance of the judiciary, judges may also be seconded with their agreement to another court for a maximum of three years. A judge ceases to hold office, according to the Constitution, upon death, loss of personal capacity to hold office due to poor health, loss of integrity or Czech citizenship, removal due to a breach of discipline, resignation or expiry of the year in which the judge reaches the age of 70.

95. Specific details of the process for selecting nominees for judicial preparatory service are laid down by a 2017 implementing decree of the Ministry of Justice. It introduced greater harmony into the system and improved the way of the selection of nominees. In the new system, nominees will assist judges in their everyday work at the courts as part of their preparatory service. In their training, they will apprise themselves of court processes, acquire core skills in the preparation of simple decisions and take on board the concepts of more complex decisions. To be admitted, they must pass an entrance test verifying their basic expert knowledge, meet requirements for admission, and undergo a subsequent admission interview before a commission at the relevant regional court. The implementing decree scrapped the previous requirement of a psychological and diagnostic examination. Preparatory service last for three years, unless specific previous legal experience can be included. Its aims are to gain a deeper expert legal knowledge, to develop the nominee's ability to apply legislation in practice, to gain knowledge of the various court agendas, to get accustomed to the necessary procedures and customs and to become familiar with the ethical principles of the judicial office. The course of the preparatory service and its standards are overseen from a professional and pedagogical aspect by designated judges-trainers and supervised and evaluated by a judicial advisory body.

96. The “White Paper on Judiciary” was prepared in 2016 as a basic document for a debate on changes in the Czech judiciary. It was intended to contain steps that would optimise the way courts function, increase the efficiency of the judiciary and the enforceability of the law, and intensify public confidence in the judicial system. The selection and appointment of judges is one part of it, along with the streamlining of the administration of courts, the evaluation of judges, their advancement, etc. The computerization of the judiciary and the re-codification of civil and criminal judicial proceedings are further significant steps. Although the White Paper has yet to be approved, sections of it are used as a basis for reform steps, e.g. changes in the selection of judges described above.

97. The status of the public prosecution is different as it is part of the executive and represents public interest in criminal proceedings or performs other tasks in accordance

with the law. As such, its independence is weaker. Public prosecutors should be independent primarily in the performance of their activities. The functioning of the prosecution service is regulated by a special law envisaging specific rules on their selection, appointment and removal, a definition of their internal relations within the system, personal and professional conditions for holding the office of public prosecutor, practical guarantees of impartiality in the performance of tasks, the regulation of disciplinary responsibility, and the possibilities of removal. The law defines the competence of public prosecutors in criminal and other judicial proceedings and in supervision of other bodies. Public prosecutors are required to act professionally, conscientiously, responsibly, impartially, fairly and without undue delay. In the holding of their office they must not allow themselves to be influenced in any way, and must not permit their dignity or confidence in the impartial and professional holding of their office to be undermined.

98. An upstanding Czech citizen, who has reached the age of 25, holds a law degree, has successfully passed a final examination, and has the moral qualities to guarantee the duly exercise of office is eligible to be appointed as a public prosecutor. Rules on experience and examinations are similar to those applicable to judges and are also governed by a 2017 implementing decree. A public prosecutor is appointed for an unlimited period by the Minister of Justice further to a nomination from the supreme prosecutor. Public prosecutors are appointed, with their consent, to a specific prosecutor's office and may be transferred only if they agree, unless again organisational changes are necessitated by law. They may also be transferred temporarily upon request. Again, the office of public prosecutor is incompatible with the office of judge, MP or senator, or any function in public administration. As in the case of judges, a public prosecutor ceases to hold office upon death, loss of the personal capacity to hold office due to poor health, loss of integrity or Czech citizenship, removal due to a breach of discipline, resignation or expiry of the year in which the public prosecutor reaches the age of 70.

99. In recent years, preparations were under way for a new law on the public prosecution intended to reinforce the independence of public prosecutors and their liability for the holding of their office and performance of their tasks. The new legislation was meant to contribute to the transparency of internal relations and should have helped to restrict the possibility of hidden interference with the handling of specific cases. The bill was approved by the Government and was submitted to the Chamber of Deputies in 2016, but it was not debated and passed by the end of the parliamentary term. The Government is not currently preparing to submit the bill again.

## **B. Access to judicial protection**

100. General measures to prevent delays in proceedings were described in the last report.<sup>57</sup> Parties to proceedings still have the right to complain about delays and to demand setting a time limit for the execution of a procedural step. Compensation for delays in proceedings continues to be available, inter alia, through the courts. In 2011, the Supreme Court issued a unifying opinion clarifying the rules on compensation for delays and designating reasonable amounts of compensation per year of delay.<sup>58</sup> Many amendments to procedural regulations simplifying judicial proceedings, enabling the use of electronic and communication technology, and restricting the caseload faced by the Supreme Court, etc., are geared towards lightning the burden on the courts. The computerisation of the judiciary is also covered by the Departmental Strategy of the Ministry of Justice for the Development of eJustice 2016–2020.

101. In its annual reviews of the judicial agenda, the Ministry of Justice monitors the duration of judicial proceedings within the individual agendas. Starting in mid-2012, the Ministry of Justice implemented a project called “Streamlining the Activity of Courts by Reinforcing Administrative Capacities”, whose aim was to enhance the efficiency of court activities by scaling up their level of staffing. The 13 courts with the highest number of outstanding cases were selected for project implementation and were assigned 102 new

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<sup>57</sup> CCPR/C/CZE/3, paragraphs 16, 17 and 145.

<sup>58</sup> Opinion Cpjn 206/2010 of the Supreme Court of the Czech Republic of 13 April 2011.

expert and administrative staff to process simpler cases that existing court employees were unable to address because of staff shortages. In 2014, this project helped to reduce the number of outstanding cases at these courts, despite a rise in the number of new proceedings. The project was subsequently extended until 2015. In August 2014, the Ministry of Justice launched another project, “Introduction of Videoconferencing at the Ministry of Justice”, to streamline mutual communication between prosecutors’ offices, courts and prisons. This project envisages the introduction of 143 videoconferencing devices at 123 institutions – all courts, selected prosecutors’ offices and prisons to reduce delays in judicial proceedings. Videoconferencing will also make it possible to save on the transportation of persons in custody or on remand, and on the costs of witness testimonies and expert fees. Its use will also improve the status of victims in criminal proceedings who will not have to come into contact with the offender and protect them from secondary victimisation. Length of proceedings is shown in Annex No. 11.

102. Court fees are regulated by law. In the reporting period, certain fees were increased slightly and some exemptions from court fees were revised, but in all cases the government took care to ensure that the level of court fees does not impede anyone’s access to justice. The basic fee for bringing a first-instance action has been CZK 1,000<sup>59</sup> for several years; most other basic fees are below CZK 5,000.<sup>60</sup> Some fees have even been reduced, e.g. the fee for an antidiscrimination action is now CZK 2,000.<sup>61</sup> Many actions of a social or family nature are fully exempt from fees. In other cases, the applicant may seek a partial or, in exceptional cases, complete exemption from court fees based on their economic standing. Consequently, these measures guarantee access to a court regardless of the plaintiff’s assets.

103. Besides the obligation to pay a court fee, parties to proceedings may, for social reasons, also be exempt from other costs of proceedings, including representation, and may be appointed an attorney as their representative at the state’s expense. The new legal advice system effective as of 1 July 2018 will enable indigent applicants to request the Czech Bar Association for the appointment of a lawyer to provide legal advice or legal services. The duration of such advice amounts to at least 30 minutes and a maximum of 120 minutes annually. The applicant pays a fee of CZK 100<sup>62</sup> per session. Exemptions apply to persons under the age of 15, persons granted hardship benefit, persons with severe disabilities and persons dependent on care and persons caring for them. A special form of legal advice has been devised for foreigners in immigration detention centres and reception centres. Here, applications free of charge are submitted by the facilities themselves, acting on the initiative of foreigners. A lawyer then provides advice, at the state’s expense, at the facility to all interested foreigners. Legal assistance may also now be provided, at the state’s expense, in administrative proceedings and proceedings before the Constitutional Court. The original system has so been supplemented in order to provide legal assistance in all relevant situations.

### **C. Children under the age of 15 in the adolescent judiciary**

104. Under Czech law, children under 15 years are not criminally responsible. If a child commits an act that would otherwise be a crime, special judicial proceedings may be held with them provided the child is able to grasp the essence and fallout of their act and the consequences of the proceedings. These civil proceedings are not held to impose a punishment, but to take corrective measures geared towards the child’s due integration into society. A child may be subject to educative measures and protective measures entailing the child’s placement in a closed school facility or psychiatric hospital. When imposing measures, the court considers their preventive and educative effect on the child. The court may refrain from imposing any measure if the hearing in court is sufficient to correct the child’s behaviour. Beside the child and their legal guardians, the child protection is also a

<sup>59</sup> Approximately USD 43.

<sup>60</sup> Approximately USD 218.

<sup>61</sup> Approximately USD 87.

<sup>62</sup> Approximately USD 4.4.

party to the proceedings. A juvenile court appoints a lawyer as the child's guardian ad litem. The child's opinion must always be ascertained in proceedings.

105. If the criminal proceedings show that an act has been committed by a person under the age of 15, criminal prosecution is inadmissible and cannot be initiated. The public prosecutor is required to apply to the court for corrective measures. During the examination of the facts surrounding a criminal offence, a child under the age of 15 may be asked to provide explanations. The child's legal or other guardian must be notified in advance, unless it is a matter of urgency. A child may enlist the help of a lawyer when submitting explanations. If judicial proceedings are subsequently initiated, the child is appointed a lawyer as a guardian and, as a party to the proceedings, is entitled to access the file.

## **Freedom of expression**

### **A. Crime of defamation**

106. The crime of defamation has long been enshrined in Czech criminal law. One of its aims, in keeping with the Covenant, is to protect people's right to the protection of their personal honour and reputation. Defamation is the communication of untruthful information capable of severely undermining the reputation of another person among fellow citizens. It follows from expert commentaries and case law that the information must be untruthful and the offender must communicate it wilfully, knowing that it is untruthful, and with the intention of thereby undermining the reputation of another person, or must at least be aware that the information may be untruthful and undermine someone's reputation.<sup>63</sup> Consequently, an offender who publishes truthful but disparaging information or untruthful and disparaging information without intending to harm anyone does not commit defamation. Anyone publishing untruthful information believing it to be true would be acting erroneously and not be punished.<sup>64</sup> Only seriously undermining someone's reputation is punishable. Any common or negligible undermining can be handled as a misdemeanour or through a civil action.<sup>65</sup> Finally, communicating information in the form of a value judgment, where the truthfulness is impossible to verify, cannot be regarded as defamation.<sup>66</sup> In several decisions, the Constitutional Court has stated that public persons are subject to broader limits of admissible criticism than private persons.<sup>67</sup> Consequently, the Czech Republic is convinced that the crime of defamation, in this form, is consistent with its commitments under the Covenant.

107. In the most serious cases, anyone committing defamation may be imprisoned for up to one year. Where communicated by press, film, radio, television, a publicly accessible computer network or other similarly effective means, the punishment is imprisonment of up to 2 years or disqualification. When determining the type of punishment and its extent, the court takes into account the nature and seriousness of the crime committed, the personal, family, economic and other circumstances of the offender, their lifestyle to date and any opportunity to correct it, their conduct after the offence, in particular any efforts to compensate for damage or to remove other harmful consequences of the offence, and the effects and consequences expected in the offender's future life as a result of the punishment. The court cannot impose a heavier criminal sanction on an offender if the imposition of a milder sanction will suffice. As this is a minor offence, the court may refrain from any punishment at all if the offender regrets committing the offence and has made effective efforts to redress the situation. The court may hand down a suspended prison sentence; if the convicted person then leads an orderly life in the probationary period and complies with all the conditions imposed, the court will proclaim that the offender has proved their ability to do well, hence the punishment will not be enforced. House arrest, community work or a fine may be imposed instead of imprisonment. In practice, then, the criminal penalty for

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<sup>63</sup> See, for example, Resolution of the Supreme Court 5 Tdo 83/2003 of 5 February 2003.

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<sup>65</sup> Resolution of the Supreme Court 5 Tdo 83/2003 of 5 February 2003.

<sup>66</sup> Judgment of the Supreme Court 7 Tdo 726/2004 of 1 September 2004.

<sup>67</sup> See, for example, Decision of the Constitutional Court I. ÚS 156/99 of 8 February 2000.

defamation will often not result in imprisonment. Data on the prosecution of defamation are listed in Annex No. 12.

## **B. Media freedom**

108. The amendment to the Conflict of Interest Act in 2017 banned public officials (in particular MPs, senators, cabinet ministers and their deputies, judges and public prosecutors, mayors, regional council presidents and members of regional and municipal councils and assemblies) from radio or television broadcasting or from publishing periodicals or being a partner, member or controlling entity in a company engaged in such operations. Upon entering office, public officials are required to discontinue such activities within 60 days. If they are unable to do this in time, they must take all necessary measures and also notify the Ministry of Justice. Public officials who do not terminate their participation or membership in a given legal entity cannot exercise voting rights in that entity. They must include these facts in their annual notification of activities to the Ministry of Justice, which discloses them publicly in a register. They are also required to submit a notification upon entering and terminating the holding of their office. Any breach of these obligations is a misdemeanour subject to a fine ranging from CZK 5,000 to CZK 250,000.

109. A case of the alleged influencing of news on the television station TV Prima was heard by the Council for Radio and Television Broadcasting as the statutory supervisory body for radio and television broadcasting in the Czech Republic which supervises the preservation and development of the plurality of channels and information in radio and television broadcasting and independence of its content. The fact that journalists were ordered to act contrary to the principles of objectivity and balance was said to be alarming by the Council, but it noted that an internal instruction to modify the news cannot, in itself, infringe the Radio and Television Broadcasting Act in any way. The law is broken only by non-objective and unbalanced news conforming to stereotypical prejudices about ethnic, religious or racial minorities or even inciting hatred on grounds of sex, race, colour, language, religion or belief, political or other opinion, national or social origin, membership of a national or ethnic minority, property, birth or other status. In that case, the Council would be able to demand an explanation from the broadcaster and could then alert it to the breach of the law and specify a time limit to take corrective action; if the problem is not resolved, it may then impose a fine of up to CZK 2.5 million, or CZK 10 million, depending on the circumstances, for the misdemeanour.

110. In 2015–2016, the Council monitored the broadcasting of national broadcasters, including TV Prima, on two occasions. This monitoring focused on compliance with the law when reporting on the migration crisis, and on the media image of events associated with migration and migrants. On the strength of its first analysis, the Council found that the broadcasting of programmes on migration issues conformed to the law among most broadcasters. Even so, it asked TV Prima for explanations on two programmes regarding their balance. The broadcaster provided both of the explanations requested. The Council found that they sufficiently clarified the procedure followed by the broadcaster and did not take any further steps. The second analysis also showed that broadcasting on migration events was consistent with the law. There were again certain misgivings about TV Prima in that, in several reports, it had not separated valuing comments from presenting information, so that viewers were unable to form their own independent views on the basis of the content broadcast. The Council again asked the broadcaster for explanations, and this time it subsequently decided to warn it about a breach of its obligations and set it a time limit of seven days in which to take corrective action. No other penalties were imposed.

## **C. Freedom of information**

111. In 2011, the Ministry of the Interior drew up an analysis of the effectiveness of the Freedom of Information Act. The Government took due note of the analysis in 2012 and instructed the Ministry of the Interior to prepare legislative changes to reinforce the effectiveness of the Act. The main changes included the introduction of an information order, under which a superior body can order a liable entity to provide requested

information, the introduction of a test of public interest to assess statutory bans on the disclosure of information, the possibility of rejecting a manifestly obstructive request and demanding a deposit to cover costs, and a modification to the provision of information on the pay of public employees. However, ultimately the amendment was not passed by the end of the parliamentary term. An amendment was subsequently prepared in 2018 again containing the information order, the deposit to cover costs and the possibility of rejecting an obstructive or provocative request. It was responding, in part, to court rulings concerning the provision of information on the pay of public employees and the definition of a public institution described below. Otherwise, only minor changes were made to the Act linked to the adoption of other legislative acts, e.g. the Cybersecurity Act and the Act on the Central Register of Accounts. In 2015, the obligation to publish information as open-data or other means facilitating their efficient reuse thereof was introduced.

112. At the end of 2013, the Ministry of the Interior analysed the access to information in public administration. This analysis identified certain problems in the disclosure of information, which can be handled in court and do not require any legislative intervention in the law.<sup>68</sup> The main problems are obstructive procedures followed by certain entities in the handling of requests for information, on the one hand, and the misuse of requests by certain applicants, on the other hand, i.e. those who overburden entities with requests for information, which can then be difficult to handle e.g. for small municipalities. These problems should be addressed by an amendment now under preparation. The Supreme Administrative Court has also made it possible to bring an action against repeated refusals in contravention of the opinion of the superior body, so that the court can then immediately order the entity to disclose the information.<sup>69</sup> Research by the Ombudsperson in 2015 also showed that most authorities were managing to process requests for information in time.<sup>70</sup> Appeals are lodged in approximately 2% of cases. All authorities except one were also able to process appeals and complaints against the decisions of subordinate entities in time. Time limits for the provision of information were extended most often on account of voluminous data collection. The Ombudsperson therefore recommended scaling up the capacities of authorities and gave the instruction to reject vexatious requests.

113. One major change saw open data enshrined in Czech law in 2016. “Open data” means information disclosed in a manner facilitating remote access in an open and readable format, where neither the method nor the purpose of subsequent use is restricted. According to a government regulation, this data includes the vacancies of labour offices or in the public service, data in the register of contracts of public bodies, information on data boxes and their owners, public procurement, financial accounts of public entities, subsidies and other public support, data from public registers of legal and natural persons, information on providers of social services, and public transport timetables. A website was set up with guidance for public administration and advice for data users, who may propose further data for disclosure.<sup>71</sup>

114. Access to information is frequently a subject of case-law. The Supreme Administrative Court initially concluded that employees in the public sphere are recipients of public resources, hence information on their pay should be provided de facto in all cases because of lack of legal exception.<sup>72</sup> In 2014, the grand chamber of the Supreme Administrative Court clarified that this information is provided as a matter of principle and only in truly exceptional cases can disclosure be refused, e.g. for employees who carry out activities of a service nature (e.g. maintenance, cleaning, catering).<sup>73</sup> However, employees are entitled to the protection of their rights and must be included in the process of the

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<sup>68</sup> A comparison of information from the annual reports of central administrative authorities and regions on the provision of information also showed that applicants for information submitted appeals in approximately 8% of cases; court actions were brought in approximately 0.5% of cases. However, this information does not include all entities required to provide information.

<sup>69</sup> Judgment of the Supreme Administrative Court 3 As 278/2015 of 10 November 2016.

<sup>70</sup> Only about 1% of requests are completed after the time limit.

<sup>71</sup> <https://opendata.gov.cz/>.

<sup>72</sup> Judgment of the Supreme Administrative Court 5 As 57/2010 of 27 May 2011.

<sup>73</sup> Judgment of the extended chamber of the Supreme Administrative Court 8 As 55/2012 of 22 October 2014.

provision of information on their pay as stakeholders so that the provision of information does not result in unlawful interference with their right of ownership of their data. Conversely, in 2017 the Constitutional Court narrowed access to such information, making the provision of pay-related information conditional on public interest in public debate. Information must concern the public interest, the applicant must request information for purposes of public debate, and the applicant must have in its work description the supervision of the implementation of public interest. According to another finding of the Constitutional Court, public majority stake does not in itself make a commercial company a public institution, and its information obligation must be regulated by law.<sup>74</sup>

## **Rights of the child**

### **A. Violence against children**

115. Violence against children is considered to be utterly inadmissible in all environments, including the family setting. Both corporeal and psychological punishments are banned in schools and social or healthcare facilities. Under the Civil Code, parents may apply disciplinary methods only in a reasonable form and to a reasonable degree, and cannot endanger a child's health or development or impair their human dignity. Where a child's favourable development is put at serious risk or seriously disrupted, a court may issue an interim measure ordering the child's removal from parental care and, in extreme cases, may restrict the parents in, or deprive them of, their parental rights. Minor bodily injury, rough conduct or its threat or the use of unreasonable educative means may constitute a misdemeanour against civil coexistence or a misdemeanour under the Child Protection Act. More serious wilful or even negligent bodily injury is a criminal offence. Extreme cases of violence are covered by the crime of mistreatment of a person under one's care. In cases of domestic violence, children may employ the aforementioned mechanisms of expulsion.

116. The sexual abuse of minors is punished in particular as the crime of sexual abuse of a child under the age of 15. Sexual intercourse with children between the ages of 15 and 18 is a crime if it is forced or carried out for consideration, but not if it is consensual, and is treated as the crime of sexual coercion, inducement to engage in sexual intercourse, rape or human trafficking. The production and other disposal of child pornography, the abuse of a child to produce pornography, or participation in a pornographic performance involving a child are also crimes.<sup>75</sup> Violent crimes such as murder, manslaughter, or bodily injury, or crimes against freedom, such as human trafficking, the deprivation or restriction of personal liberty, illegal restraint, blackmail or duress, committed against a child carry higher prison sentences. The crimes of child abduction and entrusting the child to another also protect children from violence. Failing to prevent the commission or the completion of many of these crimes is also criminally punishable. Child victims are also particularly vulnerable victims and, if they are younger than 15, criminal prosecution is possible even without their consent in all cases.

117. Law enforcement agencies are always particularly meticulous when investigating crimes against children. Children are examined by specially trained police officers. Special interview rooms for child victims and witnesses have been set up in all regions. In all, there are 68 of them, and others are being created. Czech police officers, like public prosecutors and judges, receive continuous training in the prosecution of violence perpetrated against children and in assistance for child victims. The Czech Police runs education programmes for child protection agencies, schools and childcare facilities on how to prevent violence against children, and draws up guidance materials. In addition, precautionary lectures are organised for schools.

118. Mutual cooperation between the relevant bodies and the sharing of information are also important in protecting children from violence. In 2013, an amendment to the Child

<sup>74</sup> Decision of the Constitutional Court IV. ÚS 1146/16 of 20 June 2017.

<sup>75</sup> See CRC/C/OPSC/CZE/1.

Protection Act took effect that partially transformed the system of care for children at risk. This Act places an emphasis on ensuring timely assistance for families with children in the form of social work and the provision of the necessary downstream services. Child protection agencies evaluate the situation of a child at risk and its family and create an individual child protection plan addressing the specific situation. They organise case conferences to share information on a child, coordinate the procedures to be followed by all stakeholders, and evaluate progress in the implementation of the plan. Besides social workers, health professionals, teachers, psychologists, police officers and other experts, case conferences are also attended by the child and their family to have a direct say in solving the situation. The staff of child protection agencies also specialises in the protection of abused children and receives continuous training in this area.

119. Since 2015, a system of European crisis and assistance lines has been running in the Czech Republic.<sup>76</sup> These lines are operated by NGO's and the telecommunication charges are covered by a state subsidy. The aim is to ensure that children facing a crisis and parents and relatives of a missing child can call free of charge and deal with parental and other conflicts and family problems. Since 2010, there has also been a National Coordination Mechanism for Missing Children Searches, developed in order to find missing children quickly and successfully. It anticipates the involvement of the general public in searches and the provision of the necessary psychological support to the families of missing children. The system's mainstay is search activity by the Czech Police. The integrated rescue system is also involved in extensive searches in the field.

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<sup>76</sup> These are the 116 000 line for missing children and children at risk, their families and friends and relatives, the 116 111 assistance line for children, and the 116 006 line to assist victims of crime and domestic violence.