



# Convention on the Rights of the Child

Distr.: General  
15 November 2018

Original: English  
English, French and Spanish only

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## Committee on the Rights of the Child

### Eightieth session

14 January–1 February 2019

Item 4 of the provisional agenda

Consideration of reports of States parties

### List of issues in relation to the report submitted by Czechia under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Addendum

### Replies of Czechia to the list of issues\*, \*\*

[Date received: 7 November 2018]

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

\*\* The annexes to the present document are on file with the secretariat and are available for consultation. They may also be accessed from the Committee's web page.



1. **Please provide statistical data, disaggregated by sex, age, nationality, ethnic origin, socioeconomic background, and urban or rural residence, for the past three years on the number of:**
  - (a) **Reported cases of the sale of children for the purposes of sexual exploitation, transfer of organs or engagement in forced labour, of child prostitution and child pornography, as well as of other forms of exploitation, including sexual exploitation of children in travel and tourism, with additional information on the type of action taken as a result, including the prosecution and punishment of perpetrators;**
  - (b) **Children trafficked from or through the State party and children trafficked within its territory for the purposes of sale, prostitution, engagement in forced labour, illegal adoption, organ transfer or pornography as defined in article 3 (1) of the Optional Protocol;**
  - (c) **Children offered, delivered or accepted by whatever means for the purposes of engagement in forced labour, illegal adoption, organ transfer or marriage;**
  - (d) **Child victims of all the offences defined in article 3 of the Optional Protocol who have been given assistance with reintegration or have received compensation.**

1. The data are included in the Annex. In general, the number of cases of trafficking in human beings in all forms, as well as the number of prosecuted and accused persons for this crime, remain rather low. The reasons for this not very satisfactory situation are the following: a large part of the crime remains unreported, problems persist in gathering evidence as well as finding sufficiently credible witnesses. Victims of labour exploitation or in vulnerable situations have a great distrust against law enforcement authorities and are not always willing to cooperate with them for reasons such as linguistic barrier, unknown environment, social connections, fear of reprisals against themselves or their family members.

2. **Please provide information on the progress made towards establishing a centralized system for the compilation of data within all the State party's agencies involved in child protection under the Optional Protocol.**

2. A centralized system for sharing information and collecting data on children at risk in the Czech Republic has not yet been established, as stated in the introductory report.<sup>1</sup> An amendment to the Social and Legal Child Protection Act in force since 2013 was a partial step in the transformation of the care system for vulnerable children. This law emphasizes the provision of timely assistance to families with children through social work and the provision of necessary follow-up services. Authorities for social and legal protection of children assess the situation of the child and its family at risk and on its basis create an individual child protection plan to resolve the situation. They organize case conferences to share information about the child, coordinate the procedures of all involved subjects, and evaluate progress in meeting the plan. In addition to social workers, health care professionals, educators, psychologists, police officers and other professionals, the conference also directly involves the child with his/her family in solving their situation. Workers of authorities for social and legal protection of children also specialize in and are continually educated about the protection of tormented and abused children.

3. **Please indicate the measures taken by the State party to prevent children from the age of 16 from engaging in prostitution.**

3. The Ministry of the Interior does not carry out any specific preventive activities targeting children aged 15–18 who would be at risk of prostitution because they are too narrowly defined target groups. However, every year, extensive preventive and information activities on trafficking in human beings are being carried out under the auspices of the

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<sup>1</sup> CRC/C/OPSC/CZE/1, para. 27.

Ministry, which are also intended for children and adolescents. Preventive activities include professional social counselling for potential victims of human trafficking and crisis assistance.

4. The Ministry of the Interior has for a long time been monitoring prostitution which is closely related to the trafficking of human beings aimed at sexual exploitation. In this context, developments in the field of pimping crime are also being pursued. Monitoring of the situation on the prostitution scene in the Czech Republic is based on several sources, mainly from the reported findings of the state police and the municipal police. Non-governmental organizations also have a role to play in the prevention of prostitution.

**4. Please inform the Committee about the strategies and current action plans that specifically aim to prevent and counter the offences covered under article 3 of the Optional Protocol, in particular the forced labour, sexual exploitation and prostitution of children. Please also report on the human, technical and financial resources allocated to the implementation of these strategies and plans.**

5. No public strategy is aimed only at eliminating the sale of children, child prostitution and child pornography, forced labour and other forms of abuse. Warranties of protection are fulfilled through more general mechanisms and strategies.

6. An important document on this issue is the National Strategy for Combating Trafficking in Human Beings in the Czech Republic for the period 2016–2019. One of its priorities is the fight against trafficking in children. Objectives have been set in this area to ensure a coordinated procedure for victims of trafficking below the age of 18 in the context of evolving trends and to cooperate with key actors at regional level, to review key documents on the cooperation and procedures of public authorities in the field of child trafficking and the repatriation of unaccompanied minors and their possible updating and supplementing. The fight against trafficking in children will also be a priority in a follow-up strategy that will reflect current trends and needs.

7. In addition, the Interdepartmental Coordination Group for the Fight against Trafficking in Human Beings, headed by the Minister of the Interior, operates in the Czech Republic. The group meets several times a year and is responsible for coordinating activities in the field of combating trafficking in human beings and fulfilling tasks arising from the National Strategy for Combating Trafficking in Human Beings and relevant materials. The Group is also responsible for submitting proposals for various specific activities to combat trafficking in human beings at inter-ministerial level, collecting, analysing and evaluating data on trafficking in human beings. Its members include representatives of the Government Council for Human Rights, as well as representatives of non-governmental organizations dealing with human trafficking. The members of the group prepare documents for the Annual Report on Trafficking in Human Beings in the Czech Republic.

8. The National Correspondent for the fight against trafficking in human beings, abuse of women and children, illegal migration and employment, and the protection of the rights of victims of crime is active at the Supreme Public Prosecutor's Office. The Supreme Public Prosecutor's Office is also a member of the National Committee for Crime Prevention. In the system of the public prosecution there is a mandatory specialization of prosecutors in illegal migration and trafficking in human beings at regional and high prosecution offices and the Supreme Public Prosecutor's Office. Specialization in moral criminality is determined at all levels of the public prosecutor's office including the district level.

9. Protection of children from the sale of children, child prostitution and child pornography and other forms of abuse is also the subject of the main strategic document of the Czech Republic for the Protection of Children's Rights — National Strategy for the Protection of Children's Rights and its Action Plan, as described in the introductory report.<sup>2</sup>

<sup>2</sup> CRC/C/OPSC/CZE/1, para. 9–11.

**5. Please inform the Committee about the mechanism in place to guarantee the coordination of labour inspectors, police and other authorities in charge of protecting children, for the prevention of the offences defined under article 3 of the Optional Protocol, and about the impact of changes to the Timely Intervention System on this coordination.**

10. Law enforcement authorities (police, public prosecutors and courts) are required to cooperate and to assist each other in the exercise of their tasks under the Criminal Procedure Code. These authorities are obliged to provide each other with information and assistance. Under the Act on Social and Legal Protection of Children, social and legal protection authorities are required to report to law enforcement authorities information indicating that a crime has been committed, including offenses involving the sale of children, child prostitution and child pornography, forced labour and other forms of abuse. In the provision of assistance to victims of these crimes, law enforcement authorities cooperate with subjects providing assistance to victims of crimes under the Victims of Crime Act.

11. The task of Strengthening the Regional Cooperation of the Authorities of Social and Legal Protection of Children and the Police of the Czech Republic is being carried out as part of the National Strategy for Combating Trafficking in Human Beings in the Czech Republic for the period 2016–2019. Its aim is to ensure a coordinated procedure in cases of victims of trafficking in human beings under the age of 18 and the cooperation of key stakeholders at regional level.

12. Information on the Early Intervention System is provided in answer to question 2. Youth Teams in some form work in most of the former district towns, and the form of their further focus, support and development is currently under discussion.

**6. Please provide updated information on the programmes put in place by the State party and by civil society organizations to raise awareness of the Optional Protocol among the general public, among groups of professionals who work with children and among children themselves. Please also report on the steps taken to introduce mandatory training on the provisions of the Optional Protocol for border guards, national police, judges and prosecutors, as well as labour inspectors.**

13. The Ministry of the Interior organizes educational activities focused on trafficking in human beings, in cooperation with public institutions and non-governmental organizations. The aim of continuous training is to inform about the activities of the Ministry in the field of trafficking in human beings, the functioning and effectiveness of the Program for the support and protection of victims of trafficking in human beings, possibilities of support and protection, current trends and possibilities and ways of identifying potential victims by professional groups who can come in contact with cases of trafficking in human beings. Regular trainings of the police, judiciary and consular staff before departure abroad are also conducted.

**7. Please provide information on the efforts made to establish an ombudsperson for children and on the role of the ombudsperson with regard to the implementation of the Optional Protocol. Please also inform the Committee about the financial, technical and human resources that are planned or allocated to the fulfilment of the ombudsperson's function.**

14. Children's rights are dealt with by the Ombudsperson as part of her current mandate, in relation to the public authorities (e.g. the authorities for social and legal protection of children), as described in the report itself.<sup>3</sup> The institution of a special Ombudsperson for Children has not been established for the time being. At present, the whole system of independent protection of the rights of the child is being analysed, considering whether the most appropriate step is to strengthen and improve existing institutions or to establish new institutions.

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<sup>3</sup> CRC/C/OPSC/CZE/1, para. 22–24.

**8. Please inform the Committee about the preventive measures taken to protect children in vulnerable situations from falling victim to the offences covered by the Optional Protocol, especially Roma children, children living in poverty, children living in institutions, children in street situations, children who use drugs, as well as migrant, refugee, asylum-seeking and stateless children. Please also provide information on the measures taken to protect children who use the Internet from falling victim to these offences.**

15. Within the Crime Prevention Program at the local level, preventive residential events for children and youth like camps, suburban camps, weekend stays and trips are financially supported in the Czech Republic. These projects are often designed for children from a socially excluded environment. The Ministry of the Interior also implements the Crime Prevention Assistance project, whose priority activities include the work with children and adolescents affected by negative phenomena such as truancy, smoking, drinking alcohol and drugs, as well as educational influence in the context of leisure activities.

16. The Crime Prevention Division of the Ministry of the Interior financially supports projects on cybercrime prevention by the Crime Prevention Program of the Ministry of the Interior and the Local Crime Prevention Program for municipalities and regions. Cybercrime is defined as one of the new threats and the priority of both of these schemes. In the years 2016–2018, the Ministry of the Interior supported over 20 projects focusing on the prevention of cybercrime by a total amount of CZK 3 053 750. These include, in particular, prevention of victimization and risk behaviour on the Internet, focusing on mostly children and adolescents, parents, seniors, teachers, as well as social workers and members of the Police of the Czech Republic as target groups.

17. In 2017, the Ministry of the Interior supported the National Anti-Organized Crime Centre in the implementation of a pan-European campaign against child abuse online in the Czech Republic called NO!. The Crime Prevention Division is currently working on creating a cybercrime prevention library. This library is currently in trial mode. The Action Plan on Crime Prevention for the years 2016 to 2020 imposes on the Ministry of the Interior the task of compiling an overview of available projects and materials addressing the risks of virtual communication and cybercrime, or the creation of new ones.

18. In 2016, two methodological manuals were developed for staff of authorities for social and legal protection of children. The first is the “Methodical Handbook for Curators for Children and Youth”. The manual contains the legislative basis of social curators for children and youth, qualification requirements for the profession, basic principles and approaches of the curator’s work, and a description of the most common problems a curator deals with. In addition, the handbook contains practical procedures for working with children at risk in field work and the principle of working with other relevant partners. The guidebook is enriched with case studies and also focuses on children at risk of sale of children, child prostitution and child pornography and other forms of abuse.

19. The second manual is the “Methodological Handbook for Working with Child Migrants, Unaccompanied Minor Foreigners and Children in Contact with the Police”. The Handbook deals with the specifics of working with children with a foreign element. It defines the role of authorities for social and legal protection of children in working with foreign minors and introduces the legislation that governs this area. The manual contains recommended guidelines for working with applicants for international protection and with minors who did not apply for international protection and contains measures to support families with foreign children.

9. **Please describe the measures taken to raise awareness among private sector entities, in particular in the tourism and the information and communications technology industries, of how to prevent the offences covered by the Optional Protocol. Please also provide information on the regulatory and other measures taken to eliminate the sexual exploitation of children in travel and tourism, as well as on related cases that have been tried by the courts of the State party.**

20. Awareness-raising about the behaviour on the Internet is in focus, for example, of the project of the Regions for Safer Internet implemented under the auspices of the Association of Regions of the Czech Republic. The project is the most supported project in the area of cybercrime prevention. It aims to contribute to the prevention of cybercrime through cooperation and unification of crime prevention across all regions of the Czech Republic. The project aims at a wide range of Internet users with the help of e-learning lessons supplemented by learning and competition quizzes, video spots, seminars and international conferences. Other successful projects supported by the Ministry of the Interior include the Safer Cyberspace Project of the South Moravian Region, an online PRVok Center for Risk Behavior on the Internet in the Olomouc Region, and the Mamina Network project also from the Olomouc Region. To protect children from the dangers of the Internet, especially social networks, many civic activities, such as the Child on the Net project, focus on prevention.

21. Sexual abuse in connection with travel and tourism is prosecuted by the same crimes as its other forms described in the answer to the following question as well as in the introductory report.<sup>4</sup>

10. **Please inform the Committee about the measures taken to define and criminalize the sale of children separately from the offence of human trafficking and clarify whether all the offences covered by the Optional Protocol are defined and classified in the Criminal Code. Please also provide information on the measures taken to protect the best interests of the child at all stages of the legal process.**

22. All offenses under the Optional Protocol are covered by the Criminal Code. Offering, transferring or accepting a child by any means for the purpose of sexual exploitation, transferring the child's bodily organs for profit or engaging a child in forced labour in connection with the sale of children is directly included in the definition of the crime of trafficking in human beings and its various forms in the Criminal Code. The exact text of the legal regulation is included in the Annex. Obtaining permission to adopt a child by an intermediary with the use of inappropriate funds in connection with the sale of children can be perceived primarily as the crime of entrusting the child into the power of another person, or as a participation in this crime consisting of instructions or assistance. Offering, retrieving, mediating or providing a child to prostitution is also a crime of trafficking in human beings. The production, distribution, import, export, offering, sale or possession of child pornography is then punished as production and other handling of child pornography. The aforementioned actions can also be classified as other crimes in fulfilling the foreseen features in specific cases.

23. In the context of criminal proceedings, care must be taken to protect children and adolescents. The best interests of the child victim are primarily the protection against secondary victimization which may be potentially caused by the criminal proceedings and the approach of the competent law enforcement bodies or providers of assistance services, the protection against imminent danger and the provision of the necessary professional assistance before the start, during and after the conclusion of criminal proceedings. Protection of child victims from imminent danger is provided under the Act on Victims of Crime and related legislation. Child victims are always considered to be particularly vulnerable under the Act on Victims of Crime and are entitled to use a variety of measures to ensure their best interests. They are provided with all required professional assistance, whether psychological counselling, social counselling, legal advice, legal assistance or any restorative programs, free of charge. In the framework of the protection against secondary

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<sup>4</sup> CRC/C/OPSC/CZE/1, part 4, para. 34sq.

victimisation, child victims have the right to prevention of the contact with the offender, the right to conduct interrogation by a particularly sensitive, specially trained person according to the victim's choice, the right to conduct the interview in a manner so that it does not have to be repeated later, or the right to interpretation according to the victim's choice.

24. The Czech police place great emphasis on improving the quality of work with child victims or witnesses of serious crime. The hearing of witnesses under the age of 18 must be carried out in a particularly gentle and substantive manner so that interrogation in the further proceedings is no longer necessary. If the act or its continuation adversely affects the mental state of the child, it can be interrupted or terminated if there is no risk of delay. Children's hearings are conducted in pre-trial proceedings in so-called special interrogation rooms, e.g. in specially adapted premises where the child feels natural and safe. Since 2007, the Ministry of the Interior has been supporting the construction of special interrogation rooms for child victims or witnesses of serious crime. At present, there are 68 specialty interrogation rooms in the Czech Republic.

25. Projects focusing on the reduction of secondary victimization of child victims are regularly promoted and supported under the so-called Interior Crime Prevention Program. In 2016, the Office of the Criminal Police and Investigation Service set up a Methodology for approach to a particularly vulnerable victim, which includes, for example, the texts of Advising the Child before Questioning in a Special Interview Room, Especially Vulnerable Victim, The Role of a Child in Criminal Proceedings. The aim of this methodology was to create a model for working with particularly vulnerable victims in special interrogation rooms and to create a nationwide unified standard in the work of the police. A Guide for the Child's Legal Representative in Criminal Proceedings and the Instruction of a Child before an Action in a Special Interview Room was also created. A major benefit is also the Children's Witness Education Course, which currently has two follow-up levels. This weekly course is attended by all specialists working with youth workers. Various seminars and training courses on child labour are organized regularly for the transfer of good practice and meeting with experts and other areas.

26. In 2015, new demonstration aids (Jája and Pája characters) were created for the work in the interrogation rooms. These aids have been used in the work of the police since 1996, in clarifying the crimes committed against children, persons with mental disabilities and persons with difficult or limited ability of verbal communication. The set was complemented by 4 other characters, so a whole family is currently being created (children — Jája and Pája, mom and dad, grandmother and grandfather). In connection with the creation of new demonstration aids, a professional methodology has been developed to use these aids properly.

27. The best interest of the child as a victim is seen as a fundamental aspect in the practice of courts and the Constitutional Court. A good example is a ruling of the Constitutional Court,<sup>5</sup> where the court states: "For completeness, it is necessary to add that the courts at all levels have also answered responsibly and adequately the question of why the hearing of a minor injured shall not be repeated in the trial. Considering the right of the accused to a fair trial including the right to hear witnesses in his favour under the same conditions as witnesses testifying against him, which is not superior to other basic human rights, namely the right to special protection of children guaranteed in both Charter of Fundamental Rights and Freedoms, as well as in a special international treaty superior to the national law which is the Convention on the Rights of the Child. The court of first instance, for the very low age of the victim, the sexual nature of the crime, and the need to save her person from other psychologically burdensome situations, read her testimony from the preparatory proceedings in the main hearing; while the video and audio recordings of the testimony were also played. The counsel of the complainant was present at the hearing of the minor as well as the representative of the authority for social and legal protection of children. The Constitutional Court did not find any indication of arbitrariness in the interpretation of such legislation, so even from this point of view the constitutional complaint cannot be justified."

<sup>5</sup> Ruling of the Constitutional Court from 07/03/2017, No. I. ÚS 2655/16.

- 11. Please provide information on the compensation, short- and long-term physical and psychological recovery and social reintegration services that are available to child victims of the offences defined under the Optional Protocol, including to those who reside irregularly in the State party and those who do not cooperate with the authorities in criminal proceedings. Please further inform the Committee about the measures taken to provide social services to victims of trafficking, following the analysis referred to in the State party's report (see CRC/C/OPSC/CZE/1, para. 74).**

28. During the criminal proceeding, all victims, including child victims, have in accordance with the Code of Criminal Procedure, based on the procedural position of the injured party, the right to claim financial compensation for damage or non-material harm caused by a criminal offense or for unjust enrichment obtained by a criminal offense. This claim must be made at the latest during the trial before the start of presentation of evidence. The obligation to compensate for such damage, non-material harm or unjust enrichment shall be set by the court in the convicting judgment if it has sufficient support for such a decision on the basis of the evidence presented. If that is not the case, the court will refer the injured party to civil proceedings where the claim can be sought further.

29. Victims of violent crimes that have been injured as a result of such crimes, survivors of deceased victims, victims of crimes affecting human dignity in the sexual area, and abused children have the right to financial assistance from the state in form of a one-off payment, a quasi-social benefit that serves to bridge the worsened social situation of the victim of a crime or to cover the expenses of psychological, therapeutic or other expert assistance. Financial assistance is provided in principle either in a lump sum or in an amount corresponding to proven treatment costs, at the victim's choice. From 1 January 2018, it is possible to use the money obtained from the property sanction imposed on the perpetrator of a given crime in accordance with the rules on the use of funds from proprietary criminal sanctions imposed in criminal proceedings.

30. Social counselling is provided to child victims in accordance with the Social Services Act by subjects registered by the Ministry of Justice as one of the components of free professional assistance under the Act on Victims of Crime. This does not exclude, that social counselling may be provided by other entities under the Social Services Act. Another body accredited to provide assistance to victims of crime is the Probation and Mediation Service, which is offering psychosocial support and legal information to victims of crime in all their centres. The service also provides advice to victims of crime in 55 specialized counselling centres that have been set up under the project Why Me? II. These counselling centres include, among others, a comprehensive assistance program for particularly vulnerable victims.

31. The Facility for minor foreigners based in Prague is important for the institutionalized support for unaccompanied minors. In 2017, a total of 26 unaccompanied minors from third countries were residing, with 7 unaccompanied minors from third countries applying for international protection in the same year. The activity of the facility is regulated by the Act on the exercise of institutional or protective education and a related decree. The facility provides care to children who are not citizens of the Czech Republic and are in the care of the state on the basis of a preliminary measure of the court or a court decision on institutional care. The main focus of the facility is the integration of children in the Czech Republic while preserving, understanding and respecting their social, ethnic, cultural, historical and religious customs. For each client, an individual personal development program and an individual educational plan are developed at the facility, on the basis of which the client is progressively integrated into the Czech educational system and the Czech society. If the child is entrusted in the care of the facility, they can remain in the facility also after the age of eighteen, even without a court decision. After the eighteenth year, an application for permanent residence may be submitted, which is generally accepted because the client has the status of a student and remains in the care of the facility on the basis of a contract. The application is usually supported by the facility.

32. In order to protect victims of trafficking in human beings, the Ministry of the Interior implements the Program for the Support and Protection of Victims of Trafficking in Human Beings in line the objectives of the Crime Prevention Strategy for the Czech Republic for the years 2016–2020 and the tasks of its Action Plan where victims of

trafficking receive services such as accommodation, psychosocial and medical assistance, interpreting services, legal assistance and representation, employment assistance, legalization of residence and a dignified return to the country of origin. However, the program is only for victims over 18 years of age. An important role in addressing the situation of child victims of trafficking in human beings also includes, in addition to law enforcement bodies, the authorities for social and legal child protection that protect the rights and defend the interests of children at risk. Child victims of trafficking can be viewed in accordance with the Social and Legal Protection of Children Act as children at risk being real or potential victims of a criminal offense threatening their life, health, freedom, human dignity, moral development or property. The project of the Ministry of Labour and Social Affairs on Systemic Development and Support of Social and Legal Protection Instruments focuses on supporting the networking of services for children at risk, including child victims of trafficking in human beings.

**12. Please inform the Committee about the measures taken to establish extraterritorial jurisdiction over all the offences referred to in the Optional Protocol when committed by a citizen of the State party abroad or by a person who habitually resides in the State party, and provide information on corresponding cases. Please also report on the measures taken to reduce delays in court proceedings and clarify the legal basis applicable to repatriation.**

33. In the case of committing any criminal offense abroad by a citizen of the Czech Republic or a stateless person who is allowed to reside permanently in the Czech Republic, the offense shall be judged according to the law of the Czech Republic on the basis of the principle of personality. The competence of criminal legislation in the Czech Republic is therefore always given in this case. If a criminal offense is committed abroad by a person residing in the Czech Republic who, however, does not have Czech citizenship and is not a stateless person with a permanent residence permit in the Czech Republic, the local competence of Czech law will not be given in principle.

34. In accordance with the Charter of Fundamental Rights and Freedoms, everyone has the right to have their case heard publicly, without unnecessary delays and in their presence, and to comment on all the evidence. The principle of trial without undue delay, meaning that criminal matters must be dealt with expeditiously, is one of the basic principles of criminal proceedings. However, its application must be corrected by other fundamental principles of criminal procedure, in particular the principle of a fair hearing, the principle of contradictory nature or the principle of establish facts beyond reasonable doubts.

35. The Czech Republic is aware that delays in criminal proceedings must be prevented through adequate personnel, material and technical equipment of courts and other law enforcement bodies involved in criminal proceedings, as well as by ensuring the professionalism and quality of incoming judges, prosecutors, police officers, as well as other personnel working in the justice and police, and corresponding follow-up training of the relevant bodies. If the delays in the proceedings occur, the injured party may request the public prosecutor under the Criminal Procedure Code to remove delays in the preliminary proceedings. In judicial proceedings, complaints may also be filed in connection with delays in proceedings under the Act on Courts and Judges and the State Administration of Courts to the president of the court in question. A participant in court proceedings may also ask the court to set a time limit for a procedural step or other action in the proceedings. According to the Act on Liability for Damage Caused in the Execution of a Public Power by a Decision or an Incorrect Official Procedure, the state is also liable for the damage caused by maladministration, for which it is also considered a breach of obligation to take action or to issue a decision within a set or reasonable time.