



# Convention on the Rights of the Child

Distr.: General  
20 May 2019

Original: English  
English, French and Spanish only

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Committee on the Rights of the Child

## Combined fifth and sixth periodic reports submitted by Czechia under article 44 of the Convention, due in 2018\*

[Date received: 13 August 2018]


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

GE.19-08203(E)



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## General section

Czechia is a State Party to the Convention on the Rights of the Child (the “Convention”), which the former Czech and Slovak Federative Republic signed on 30 September 1990 and ratified on 7 January 1991. For Czechia the Convention entered into force on 6 February 1991, binding it to submit to the Committee on the Rights of the Child (the “Committee”) periodic reports on compliance with the obligations under the Convention.

In accordance with Recommendation no. 75 to the Third and Fourth Periodic Report, Czechia submits the Combined Fifth and Sixth Periodic Report on Compliance with Obligations under the Convention, covering the period from 1 January 2011 to 31 December 2017. Czechia prepared the report in accordance with relevant guidelines<sup>1</sup> and took into consideration the last concluding observations of the Committee.<sup>2</sup>

Once approved by the Government the present report will be published on the website of the Government Council for Human Rights, along with other documents on the compliance with Czech international human rights obligations. The report has been drawn up by public authorities in conjunction with representatives of civil society and academia working with the Council, its committees and its secretariat.

## Special section

### I. General measures of implementation

#### Reservations and declarations on the Convention and Recommendation no. 9

1. Czechia clarifies that it did not express any reservation regarding Article 7, paragraph 1. Czechia has only declared that anonymous irrevocable adoption and in vitro fertilisation, where the doctor is required to ensure mutual anonymity between the infertile couple and the donor are not at odds with this provision. Current legislation on adoption in the Civil Code requires parents to inform their child about the adoption by the time of compulsory schooling. When children reach full legal capacity, they have the right to study files of the court and the child protection authority on their adoption. A child over 12 years of age may peruse the documents at the registry office with details on the child’s parents, unless a court has ruled to keep the adoption classified. In such a case, an adoptee may peruse the documents after reaching the full legal capacity. A court may decide to conceal the identity of a biological parent and their consent to adoption from the adopted child and adoptive parents, and to declassify such information in cases of risk to the child’s life or health. As for in vitro fertilisation, the Specific Health Services Act permits the use of an anonymous donor’s embryonic cells and the health service provider is required to maintain mutual anonymity between the donor and the infertile couple or the child who may only request information about the anonymous donor’s state of health. In this light, the explanatory statement remains valid for Czechia.

#### International obligations of Czechia and Recommendations no. 71 and 72

2. Czechia ratified the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography on 26 August 2013, the Optional Protocol to the Convention on a communications procedure on 19 November 2015, and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse on 2 May 2016. It has also taken the steps towards the ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities. Czechia is not planning to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their

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<sup>1</sup> CRC/C/58/Rev.3.

<sup>2</sup> CRC/C/CZE/CO/3-4.

Families because it considers migrant workers' rights assured by existing national legislation.

**The National Strategy to Protect Children's Rights, the downstream action plan, and Recommendation no. 15**

3. The core strategic document for the implementation of the Convention is the National Strategy to Protect Children's Rights ("Strategy"), adopted by the Government in 2012, which covers the period from 2012 to 2018. The creation of the Strategy was prompted by the Committee's concluding observations from 2011 and other international organizations' recommendations. The Strategy aims to create a system to protect consistently all rights of any child and to meet the child's needs, a system to promote the improvement of the lives of children and families, eliminate discrimination and unequal approach to children, and promote the overall development of the child in the natural family or alternative family environments, as appropriate, with the child's participation in relevant decision-making processes. The document establishes fundamental principles, priorities and targets in the protection of the children's rights in Czechia, based on relevant articles of the Convention, the Committee's recommendations and general comments, and other international conventions or case-law.

4. The objectives of the Strategy were pursued under a 2012–2015 action plan, which contained specific activities to fulfil the Strategy's targets, deadlines and responsibility for fulfilment, the funding and expenses of implementation, and performance indicators, including a monitoring mechanism. Differences between the various ministries regarding the unification of services for children at risk and their coordination under only one ministry prevented the adoption of the 2016–2020 action plan. Consequently, and in view of the approaching end of the Strategy's action period, in 2018 work began on a new strategy covering the 2018–2025 period.

**Government authority responsible for coordinating the implementation of the Convention and Recommendation no. 13**

5. The authority responsible for implementing the Convention remains the Ministry of Labour and Social Affairs, which coordinates the rights-of-the-child policy established by the Strategy and its implementation by the other respective ministries. The Inter-ministerial Coordination Group on the Transformation of the System of Care for Children at Risk, comprising representatives of ministries essential for the protection of children's rights and civil society, monitors the progress made in the Strategy. Until 2016, the Ministry reported annually to the Government on progress in the implementation of the first action plan which stopped as subsequently no new action plan was adopted. Implementation of the Strategy is also followed by the Committee on the Rights of the Child, a body under the Government Council for Human Rights, which enables the dialogue on the rights of the child between central government and civil society.

**Changes in law and practice ensuring compliance with the Convention and the Optional Protocols and Recommendation no. 11**

6. One of the objectives of the Strategy was to establish legislation meeting the needs of children and young people. The plan was to adopt a comprehensive Act on the Support to Families, Alternative Family Care, and the System to protect Children's Rights. The Ministry of Labour and Social Affairs laid the ground work by conducting underlying analyses. A project of the new law was also drafted. However, persistent disagreements stopped the work on the legislation and only minor amendments were made to existing legislation. An amendment to the Child Protection Act in effect since 2013 established the primary consideration of the social and legal protection of children: the best interests and well-being of the child, the protection of parenthood and the family, and the right of parents to provide – and the rights of children to enjoy – parental upbringing and care. Instruments of social work, i.e. evaluations of the situation of the child and their family, an individual child protection plan, and case conferences to develop multidisciplinary cooperation in the handling of a case, were introduced into the practices of child protection authorities. Social and legal protection provided by child protection authorities was standardised to create a

high-quality, transparent, efficient and non-discriminatory system of care for children at risk. Other significant changes ushered in by the new Civil Code and related regulations, effective from 2014, will be described below. Work on the new system will proceed in the coming period.

7. The Constitutional Court in its rulings regularly works with principles entrenched in the Convention and refers to it and to general comments issued by the Committee.

#### **Data monitoring and Recommendation no. 21**

8. The implementation of the Strategy and projects of the Ministry of Labour and Social Affairs included the research and analyses to monitor the system of care for children at risk. The results are used for the creation of systemic measures. A child protection information system, managed by the Ministry of Labour and Social Affairs, has been legislatively enshrined in the Child Protection Act. The Ministry also establishes system parameters to monitor data on children at risk and on the measures to protect them, including data on alternative family care.

9. The situation of Roma children can be tracked as part of the monitoring of the implementation of the Roma Integration Strategy. In 2016, the Government approved the Guideline for the Monitoring and Evaluation of the Implementation of the Roma Integration Strategy, drawing on indicators to shed light on the Roma situation. The monitoring outputs are published every year in the Report on the Situation of the Roma Minority.

#### **Allocation and monitoring of the budget for implementing the Convention and Recommendation no. 19**

10. Expenditure on the implementation of the Convention and on the rights of the child is not currently a separate budgetary indicator in Czechia, so it cannot be quantified with more precision. Information on specific outlay on the various measures can be found in the text and in the annexes.

11. The Strategy includes the objective of transparent system financing restructuring of the funding and identifying budget resources spent on children's rights. However, this objective is hampered by the fact that the Government in 2017 did not approve a proposal for the unification of services for children at risk and their transfer under the Ministry of Labour and Social Affairs together with the optimisation of financing focusing on preventive services for family preservation and reunification. For the time being, the Ministry of Labour and Social Affairs is pushing for annual budgetary priorities.

#### **International and foreign aid and cooperation in the implementation of the Convention and Recommendation no. 29**

12. Czechia is spending ever-increasing amounts on official development assistance (ODA). Under the 2030 Agenda for Sustainable Development and the Addis Ababa Action Agenda, Czechia pledged to work towards achieving a share of 0.33% of GNI in ODA by 2030. Czechia is striving to defend the interests and rights of the child in developing countries via bilateral international cooperation. Its support encompasses projects of maternal and child care, the prevention of child malnutrition, reductions in child and maternal mortality, and the integration of children with disabilities. Among supported projects are, for example, regional UNHCR projects protecting children and other vulnerable groups of refugees in Ethiopia, Sudan and Kenya, or unaccompanied minor internally displaced persons and refugees in Iraq. Czechia also makes annual voluntary un-earmarked contributions to the Office of the High Commissioner for Human Rights (OHCHR).<sup>3</sup>

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<sup>3</sup> In 2017, these contributions amounted to CZK 1,300,000.

### **Independent supervision of compliance with and implementation of the Convention and Recommendation no. 17**

13. Czechia's principal human rights institution is the Ombudsperson, whose legal task continues to be the protection of persons against any conduct by authorities and other institutions in contravention of the law or the principles of good administration, or in cases of their inactivity. The Ombudsperson has the competence to deal with cases brought to her attention by a complaint or on her own initiative. The relevant bodies are required to cooperate with the Ombudsperson and to inform her of the measures taken in response to her recommendations. The Ombudsperson also oversees observance of the rights of persons deprived of liberty, provides protection against discrimination, monitors the forced returns of foreigners and monitors the implementation of the Convention on the Rights of Persons with Disabilities. The Ombudsperson's work serves as a basis for the recommendations she makes to improve the protection of human rights. She regularly reports on her activities to the public and to the Chamber of Deputies, which appointed her. The Ombudsperson also formally participates in the drafting of government materials and guides ministries to improve protection of human rights within the scope of their competence. The Office of the Ombudsperson with its own sources of financing continuously performs the Ombudsperson's tasks in all areas of competence.

14. In her activities, the Ombudsperson also touches on the majority of the rights of the child covered by the Convention. Her activities mainly centre on child protection authorities and other bodies affecting the rights of the child. In her role as a national preventive mechanism, she also visits prisons, school facilities, children's hospitals and social service facilities where children have been deprived of liberty or are dependent on care. She deals with discrimination of children, the rights of minor foreigners faced with removal or extradition, and the rights of children with disabilities. The Ombudsperson wields no powers in relation to the courts or law enforcement agencies, and her authority in relation to private individuals is highly limited.

15. Children themselves may also turn to the Ombudsperson by letter, email or a simple form available on a special web portal.<sup>4</sup> This gateway, established in 2012, has been especially designed for and adapted to children and young people looking for help. It clearly sums up the Ombudsperson's activities and, most of all, explains the options open to children to protect their rights. Children's complaints are given priority and are handled in an informal way. Once received, the complaint is assigned to a lawyer, who usually contacts the child within two or three days to discuss the basic avenues of help. In some cases the child is recommended another entity to approach<sup>5</sup>, otherwise the lawyer will agree with the child on how to move forward. For the most part, children want advice on family-related problems, family relationships, any consequences of the breakup of families, including the stay in a facility for children, or financial issues burdening children and their parents.

16. The Ombudsperson's activities for children are currently being analysed, whether to expand her competence or set up a new institution for the protection of the rights of the child.

### **Dissemination of information on the Convention and Recommendation no. 23**

17. The rights of the child are incorporated into all training programmes for experts working with children. In January 2014, an information gateway was launched to disseminate information on children's rights.<sup>6</sup> This website includes sections for children, parents, the general public and professionals. The children's section spells out their rights and advises them in difficult situations. The section for parents and the public provides information on services for families in need. The site is periodically updated. A monthly E-bulletin about the transformation of the system of care for children at risk is published on the portal. The incorporation of the Convention into school education is described below.

<sup>4</sup> <https://deti.ochrance.cz/>.

<sup>5</sup> The portal also offers links to non-governmental organisations specialising in assistance for children.

<sup>6</sup> [www.pravonadetstvi.cz](http://www.pravonadetstvi.cz).

18. In 2015, the Ministry of Labour and Social Affairs ran a campaign called “The Right to Childhood” to promote the protection of children’s rights, to open an all-society debate on systemic changes in the protection of children’s rights, and to engage experts and the general public in their preparation. The campaign contained press conferences, articles on children’s rights, expert conferences, public presentations, e-learning modules, a travelling interactive exhibition, and events at schools to promote children’s participation.

19. Information on the Convention and its implementation can also be found on the website of the Office of the Government.<sup>7</sup> All periodic reports, concluding observations made by the Committee, and other related documents are published here.

### **Cooperation and participation of children**

20. Children’s participation was fuelled by amendments to civil law, as described below, which reinforced the position of a child in judicial proceedings and in family relationships. Children’s participation in decision-making was also incorporated into the Child Protection Act, which governs the work of child protection authorities. The Ministry of Labour and Social Affairs supported 11 projects intended to raise awareness regarding the participation and rights of children among the general public and experts. The principle of the active participation of children is also put into practice in the form of training and methodological guidance for all staff in contact with children, including judges and members of the judiciary.

21. In 2014, the Government adopted the 2014–2020 Youth Support Concept, which sets strategic goals for central government policy on young people, and measures to fulfil those goals. The Concept’s aim is to improve the quality of life of young people by developing their personalities to enable their adaptation to the constantly evolving democratic environment and to capitalise on their artistic and innovative potential in active participation in society. Czechia also supports child participation on international fora like the UN Human Rights Council.

### **Supervision of the protection of children’s health and safety in business activities**

22. Czechia has special standards to protect children’s health and safety to be respected by businesses providing goods and services. The baseline standard for the safety of products and services for children is the Public Health Protection Act, which is regularly updated based on new findings in medical science. The 2015 amendment clarified and partially tightened conditions for child camps and similar events. Another amendment from 2015 banned schools from selling foodstuffs contrary to the requirements of healthy nutrition for children.

23. The Public Health Protection Act authorises ministries and the Government to issue implementing regulations laying down specific hygiene standards and requirements regarding the safety of products and services for children, including hygiene requirements for the school premises, swimming pools, saunas and sandpits, recovery activities for children, and toys and products for children under the age of three years. Supervision of compliance is mainly placed in the hands of regional health authorities, which conduct inspections and set standards and restrictions, including financial penalties. The Ministry of Health bans the sale of dangerous products and adopts further special measures, such as product recalls, publication of warnings in the public media, etc.

## **II. Definition of the child**

24. The term “child” was defined in the initial report.<sup>8</sup> No changes were made in the reporting period. Under the new Civil Code from 2014, a child continues to mean a minor up to 18 years, when they reach the age of full legal capacity. All minors under this age are

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<sup>7</sup> <http://www.vlada.cz/cz/pracovni-a-poradni-organy-vlady/rlp/dokumenty/zpravy-plneni-mezin-umluv/umluva-o-pravech-ditete-42656/>.

<sup>8</sup> CRC/C/11/Add.11, paragraph 23.

considered to have the capacity to engage in legal acts that, by nature, are consistent with the intellectual and psychological maturity of a minor of their age.

25. A child under the age of maturity may acquire legal capacity by marriage or by judicial granting of legal capacity. In exceptional circumstances, a court may permit a child who has reached the age of 16 to enter into marriage for important reasons. The law does not specify those reasons. Usually, the courts examine whether the marriage will serve its purpose, while also taking into account the overall mental maturity of the couple, their relationship, the economic situation of the newly established family, etc. Legal capacity acquired through marriage is not revoked when dissolving or annulling the marriage. A minor who has reached the age of 16 may also apply to a court to be granted legal capacity. The court will comply with the proposal if the child's ability to take care of themselves and see to their affairs has been verified and with the legal guardian's consent. A court may also grant a minor legal capacity if compelling reasons in the interest of a child exist.

26. A minor with full legal capacity on account of marriage or granted by a court continues to be viewed as a child by the Child Protection Act. Even so, social and legal protection may be provided by the state only if the emancipated child consents and insofar as strictly necessary, e.g. if the child themselves seeks assistance, a court has imposed an institutional or protective order on the child, criminal or administrative proceedings are held against the child, or the child is in prison.

27. The age of criminal responsibility is still 15 years. The Act on the Residence of Foreign Nationals specifically grants full procedural capacity to a foreigner who has reached 15 years of age and is able to express their will and to act independently.

### III. General principles

#### **Equal treatment and non-discrimination, including Recommendation no. 31**

28. The legislation is based on constitutional principles of equality in dignity and rights, and of the prohibition of discrimination on unlawful grounds.<sup>9</sup> The Antidiscrimination Act effective since 2009 prohibits discrimination on grounds of race, ethnic origin, nationality, gender, sexual orientation, age, disability, religion, belief or world view. The Act prohibits discrimination in employment and related matters, social security and social benefits, health care, education and the provision of goods and services, including housing. It covers direct and indirect discrimination, along with harassment, victimisation, and instruction and incitement to discriminate.

29. Czechia guarantees equal access to rights under both substantive and procedural law. Courts and administrative authorities are required to treat all persons equally in criminal, civil and administrative proceedings. The Charter of Fundamental Rights and Freedoms universally guarantees all children equal access to all fundamental rights and freedoms. Special measures to protect various groups of children are described in the chapters below.

30. Following the Durban Declaration and Programme of Action, Czechia considered adopting a National Action Plan against Racism. After a careful analysis of existing legislative and non-legislative measures, institutional arrangements, programmes and policies, it was decided not to adopt such a plan as Czechia gradually implements the individual points of the Durban Declaration and Programme of Action via the annually updated Concept against Hate-Crime and existing structures and measures.

#### **Best interests of the child and Recommendation no. 33**

31. The principle of the best interests of the child is enshrined in Czech legislation, though national law uses the term "interests of the child". It is a decision-making criterion under the Civil Code in connection with adoption, parental responsibility, relations between parents and children and divorce. Likewise, in the Code of Civil Procedure and the Act on Special Judicial Proceedings, the interest of the child is a criterion for determining the jurisdiction of a court, the initiation and holding of proceedings, or the appointment of a

<sup>9</sup> For more details, see HRI/CORE/CZE/2010, p. 42, paragraph 145 et seq.

guardian. The Act on the Residence of Foreign Nationals expressly mentions the best interests of the child as a criterion for the expulsion of a minor EU citizen.

32. In practice, the courts work with the principle of the best interests of the child in accordance with the Constitutional Court's case law. The Constitutional Court has often criticized ordinary courts' decisions for failing to take sufficient account of this principle. The Constitutional Court has explicitly said that the best interest of the child is not only a procedural rule, but also substantive right and an interpretive principle that ordinary courts must apply in their decisions.<sup>10</sup> The Constitutional Court has stressed the best interests of the child in rulings on custody and parental contact, disputes between parents, the acknowledgement of parentage, the right to damages, or the determination of the type and level of punishment of a convicted parent.

### **Respect for the views of the child in laws and proceedings and Recommendation no.**

#### **36**

33. The Strategy emphasises the participation of the child as a cross-cutting principle and Milestone no. 3 – the creation of opportunities for children and young people to participate in decision-making on matters concerning and affecting them. New legislation has been adopted based on an analysis and review of existing legislation.

34. New legislation reinforces the participation of the child and their status in judicial proceedings and in other decision-making. The new Civil Code and other related laws have confirmed the right of the child to be heard in matters affecting them. This obligation explicitly applies to parents or other persons in charge and to courts. If a child is sufficiently mature, able to understand relevant information and to form and communicate their own views, parents or other representatives must provide them with the necessary information prior to taking a decision affecting the child to enable them to form an opinion on the matter. The parents must then give due weight to the child's views and take them into account in their decision-making, e.g. on their education or career path. A child over 12 years of age is presumed to be capable of accepting information and forming and communicating their own views.

35. Similarly, under the Act on Special Judicial Proceedings, courts shall provide the child in advance with the necessary information on the judicial proceedings and its consequences prior to a decision concerning their interests to enable them to form and communicate their views which must be given due weight by the court. If the child is unable to accept information, to form their own views or to communicate them, the court instead informs and questions the person protecting the child's interests. Since 2009, courts have been required in civil proceedings to ascertain the child's views by personal examination and, only exceptionally, via the child's guardian, an expert opinion or the child protection authority. The Constitutional Court has noted in several findings that minors are entitled to participate in judicial proceedings according to their age and intellectual and emotional maturity.

36. Certain proceedings, such as proceedings on the permission to marry or to grant legal capacity to a minor, to permit a child to engage in business or other self-employment, or on an interim measure to provide protection from domestic violence, can be initiated by the child. An express consent of a child over 12 years of age is required for their adoption, unless it is beyond all doubt that obtaining the personal consent would be essentially contrary to the child's interests, or that the child is unable to understand the consequences of the consent. Similarly, a child over the age of 15 years must give consent to a change of their name. A child capable of understanding the situation and forming their own views must be heard in proceedings concerning their care, contact with parents, maintenance, parental responsibility, representation, guardianship, foster care, institutional care, etc. A court, legal guardian and procedural ad hoc guardian are required to provide the child with the necessary information on the subject of the proceedings, on the potential consequences of complying with the child's views, and on the consequences of the judicial decision.

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<sup>10</sup> Judgment I. ÚS 3226/16 of 29 June 2017.



37. Child protection authorities are required to respect the child's views in consultations on all matters concerning the child. In its activities, a child protection authority must take account of the child's wishes and feelings, with due consideration for the child's age and development. Where a child is capable of assessing the reach and significance of a decision, child protection authorities must provide them with information on all significant matters, especially on judicial or administrative proceedings to which the child is party.

38. Under the Health Services Act effective since 2012, a minor patient is entitled to express views on the provision of the health care service consistent with the intellectual and psychological maturity of the child's age, and those views must be duly taken into account. A minor patient may give consent to the provision of a health service when consistent with the intellectual and psychological maturity of the child's age. When a child over the age of 14 strongly opposes a medical operation, it cannot be carried out without judicial approval, despite the consent of the child's legal guardian. A woman above the age of 16 may have an abortion without the consent of a legal guardian or a person in care. The healthcare facility notifies her legal guardian of the abortion if the woman is under the age of 18.

39. A child's participation in judicial proceedings has been the subject of seminars held by the Judicial Academy for judges ("The Psychology of Examining a Child" and "Colloquium on Joint Custody") and a lecture on the methods for questioning a minor in court at the seminar "Family Law for Family Judges". The Ministry of Labour and Social Affairs has drawn up guidance documents and instructions for child protection workers. Other activities have included an information campaign, training, and awareness activities aimed at determining a child's views.

40. In 2012, the Standards for the Quality of Child Protection in the Provision of Social and Legal Protection by Child Protection Authorities were adopted. Those Standards define the fundamental principles of social and legal protection, including deep respect for human rights and fundamental freedoms, the rules for handling the client and the provision of information to the client on the social and legal protection procedures. The Implementation Manual describes these principles in more detail and also expressly mentions the best interests of the child, the obligation of authorities to respect a child's right to communicate their views and wishes, and to honour those views as far as possible.

## IV. Civil rights and freedoms

### Given name and surname

41. Every birth of a child in Czechia and every birth of a child with Czech citizenship abroad is registered by the competent municipal authority. The birth of a child must be reported to a registry without undue delay by the healthcare facility where the child was born, by the first doctor who provided health services to the new-born child, by the child's parent, legal guardian or appointed ad hoc guardian, or, when any of these fail to do so, by anyone who learns of the child's birth.

42. Every child has the right to a name, which is a first name and surname. A child's name is selected by the parents. If they fail to do so, a court decides on the name. A name may be changed. However, a registry will not allow a child's name to be changed if contrary to the child's interests. A child over 15 years of age must always consent to the change of their name. In case of adoption, a child's first name may be changed by the adoptive parents within six months after the adoption judgment becomes final. The surname is changed to the adoptive parent's surname or to the surname of the common children of the married adoptive parents. An adopted child over the age of 15 can keep their birth surname with added adoptive parent's surname.

### Establishing citizenship and Recommendation no. 38

43. According to the Citizenship Act, a child acquires Czech citizenship upon birth if at least one of the parents is a Czech citizen. The same applies if a Czech citizen's parentage is determined after the birth, e.g. after a paternity test or upon adoption. Citizenship may also be granted by the Ministry of the Interior by application based on considerations. The

main factors examined are the integration of the applicant into society and the duration of their residence in the country which is not examined by child applicants.

44. Czech legislation fully respects the principle of preventing statelessness through the acquisition of citizenship in accordance with international treaties.<sup>11</sup> Children under the age of three found in Czechia, whose identity cannot be ascertained acquire Czech citizenship on the date of their discovery, if they have not acquired the citizenship of another state within six months. Children born in Czechia to stateless parents or who have not acquired the citizenship of either of the parents, automatically acquire Czech citizenship upon birth if at least one of the parents has been granted residence for more than 90 days. Czech citizenship is also granted to a stateless child in alternative care born and legally residing in Czechia based on declaration from the parents, another person or the director of the institutional care facility or emergency assistance facility for children judicially assigned to care for the child. Czech citizenship may also be granted to persons of unknown identity older than three years and found in Czechia, unless discovered within six months, that they hold the citizenship of another state.

**Freedom of expression and the right to information, freedom of thought, conscience and religion, freedom of association and assembly**

45. Freedom of expression and the right to information, freedom of thought, conscience and religion, freedom of association and assembly have not undergone any significant changes since the last report.<sup>12</sup> Freedom of expression and the right to seek out and collect information are guaranteed by the Charter of Fundamental Rights and Freedoms for children just as much as for adults. Public-service media are legally required to target their output to all age groups, including children.

46. Freedom of religion, including the freedom not have any religion, is guaranteed by the Charter of Fundamental Rights and Freedoms. The Churches and Religious Communities Act guarantees minors the right to freedom of religion and the right not to have any religion. The legal guardians of minors may guide the exercise of this right in a manner consistent with the developing capabilities of minors.

47. Children have the same rights to assembly and association as adults, with the odd exception. Under the Assembly Act, only a person over the age of 18 may convene and organise an assembly, but children may freely participate in an assembly. Anyone can become a member of an association if they are sufficiently intellectually and morally mature to understand the essence of membership and the rights and obligations deriving from it. Only people with full legal capacity may be members of a legal entity's bodies. Nevertheless, the Civil Code allows children to become members of elected collective bodies of legal entities whose principal activity concerns minors, are not commercial, and its articles expressly allow it. This enables children to contribute directly to the management of youth organisations.

48. The protection of public order and morality, as well as the harmonious development of minors, is one of the grounds permitted for legally curbing freedom of expression. In extreme cases, the provision of unsuitable content to a child may be a criminal act. Under Czech criminal law, the provision of pornographic material to a child is a criminal offence. Children are also protected against unsuitable media content. Under the Radio and Television Broadcasting Act, broadcasters may not include programmes seriously undermining the physical, psychological or moral development of minors in their broadcasting between 6 AM and 10 PM and must provide a verbal warning immediately preceding broadcasting of programmes inappropriate for minors and their labelling with a pertinent pictorial symbol. Same conditions apply to on-demand audiovisual media services distributed over the internet. Similarly, under the Audio-visual Act from 2012 a producer must seek classification for each film introduced into Czechia to show the suitability of its content for minors according to their age. Distributors must not allow children into a

<sup>11</sup> Czechia is a State party to the Convention relating to the Status of Stateless Persons, the Convention on the Reduction of Statelessness and the European Convention on Nationality.

<sup>12</sup> CRC/C/83/Add.4, par. 103–108, CRC/C/CZE/3-4, par. 73.

screening of an unsuitable movie or sell them or lend them its reproduction. Failure to comply with these obligations constitutes a misdemeanour. These obligations also apply to distribution over the internet and to on-demand audio-visual services.

### **Protection of privacy and protection of image**

49. State authorities have the general obligation to pay special attention to the protection of children's privacy in proceedings. The Child Protection Act authorises the employees of a child protection agency to visit homes and to ascertain how the parents or other persons responsible for the child's upbringing provide care to the child, the conditions in which the child is living, and how the child behaves. However, at the same time they have the legal obligation of confidentiality. In other proceedings, officials also have the obligation to examine the interests of children and to pay special attention to the protection of their privacy. The Juvenile Judiciary Act prohibits the publication of any information containing the name or any other information about the identity of a young person or child under the age of 15 who has perpetrated an act that would otherwise be a crime. A parent, acting on behalf of a minor, may consent to an intrusion into their privacy or give consent to the distribution of photographs or other recordings. However, not even a parent has the right to approve any disproportionate intrusion.<sup>13</sup>

## **V. Violence against children**

### **Abuse and neglect of a child, including sexual abuse, and Recommendation no. 68**

50. The Criminal Code covers child ill-treatment by the crime of "maltreatment of entrusted person". It punishes the mistreatment of a person in care of the perpetrator, entailing poor treatment with a high degree of roughness and heartlessness and a certain constancy, which the person perceives as a severe wrong. The perpetrator's actions may be directed both at the psychological state and the physical integrity of the victim; a causal link between the perpetrator's actions and consequences for the victim is not required. A person abandoning a child in their care and thereby exposing them to the risk of death or harm to health may commit the crime of "abandoning a child". A perpetrator of the crime of "endangering a child's care" undermines the intellectual, emotional or moral development of the child by, for example, enticing or allowing them to lead an indolent or immoral life, allowing them to engage in a criminal activity or another condemnable activity, allowing the child to play on gambling equipment, or otherwise seriously breaching their care obligation. A person in charge who leaves a child without proper supervision and thereby exposes them to the danger of serious harm to health, or enables the child to inflict harm to another person or damage another person's property, may commit a misdemeanour under the Child Protection Act. A fine may also be imposed on a person who exploits a child by making them carry out physical work disproportionate to the child's age and level of physical and intellectual development. Child neglect may also result in the limitation or loss of parental responsibility under the Civil Code, as described below. Under the new Act on Liability for Misdemeanours and on Misdemeanour Proceedings, the proceedings may be initiated without the consent of a child victim, even against a parent or another close person.

51. Legal provisions on domestic violence also protect children. The Act on Special Judicial Proceedings allows for interim measures against domestic violence. The court may issue a restraining order for a person to leave a shared dwelling, not to enter its immediate proximity or to refrain from establishing contact with the applicant in any way whatsoever.

52. The sexual abuse and other crimes committed on children have been described in the Initial Report of Czechia on the Implementation of the Optional Protocol to the Convention on the sale of children, child prostitution, and child pornography.<sup>14</sup>

<sup>13</sup> Judgment of the Supreme Court 30 Cdo 3770/2011 of 12 December 2012.

<sup>14</sup> CRC/C/OPSC/CZE/1.

**Measures to combat harmful practices**

53. Luring another person to another state in order to force them into marriage is criminally punishable as the crime of “abduction” of a person from or to Czechia. An amendment to the Criminal Code that will supplement this crime covering the luring of a person from or to a state other than Czechia is now in legislative procedure to bring the definition in line with the Council of Europe Convention on preventing and combating violence against women and domestic violence which Czechia signed in May 2016. Forced marriage can be also prosecuted as “bribery” or “human trafficking”.

**Torture, degrading treatment, corporal punishment and Recommendations no. 40 and 42**

54. In Czechia, torture and degrading treatment are prohibited by the crime of “torture and other cruel and inhumane treatment”, committed by anyone who causes bodily or mental suffering to another person by means of torture or other inhuman and cruel treatment in connection to exercise of public authority. The punishment is more severe if committed against a child under the age of 15.

55. Czechia considers violence against children to be utterly inadmissible in all environments, including the family. Corporal and psychological punishment is not allowed in schools and social or healthcare facilities. Parents may apply disciplinary methods only in a proportionate form and degree, and must not endanger a child’s health or development of or impair their human dignity. Where a child’s favourable development within the family 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. A less serious harm to the health of a child or other gross conduct towards a child or a disciplinary measure may be a misdemeanour against civil coexistence under the Act on Certain Misdemeanours or Child Protection Act. A more serious intentional or even negligent bodily harm is a crime. The most serious cases constitute the crime of maltreatment as described above.

**VI. Family environment and alternative care****The right of the child to be brought up by parents and the right and obligation of parents to bring up their child**

56. Under the new Civil Code, children are required to heed their parents and, until they gain legal capacity, they must abide by parental disciplinary measures consistent with their developing abilities in order to protect their morality, health and rights, as well as the rights of other persons and public order. Parents may apply disciplinary measures only in a proportionate form and degree neither endangering the health or development of the child, nor impairing the child’s dignity. Generally, parents should give to their children a universal example in their way of life and conduct of family affairs.

57. Under the Child Protection Act, a parent or another person in charge has the right to ask for help of a child protection authority, a court, or the Police in the exercise of their rights and obligations. These authorities are duty-bound to provide assistance. Besides those entities, assistance is also provided by persons designated to provide social and legal protection by a regional authority with professional competence and the necessary hygiene, technical and material conditions. These are often specialist non-governmental organisations.

58. If the proper upbringing and favourable development of a child is at risk and the parents or other persons in charge cannot or are unable to remedy the situation, a child protection authority will take measures to protect the child and provide assistance to the parents. Measures include pressuring the parents to meet their parental obligations, monitoring the adverse effects on the children and determining their causes, imposing the use of professional advisory assistance or the obligation to meet a registered mediator, and petitioning of a court to order institutional care or to restrict or remove parental responsibility or its exercise.

### **Joint responsibility of parents for bringing up and developing a child**

59. Parental responsibility includes parents' obligations and rights encompassing care for the child's health and physical, emotional, intellectual and moral development, protection of the child, maintaining of personal relations with the child, upbringing and education of the child, representation of the child, and management of the child's property and personal affairs. Parental responsibility begins by birth and ends when acquiring full legal capacity. Each parent has equal parental responsibility. The duration and scope of parental responsibility may be changed in the interests of the child only by a court.

60. A court may suspend parental responsibility in the interests of the child if a parent is prevented from its exercise by serious circumstances or if it is not exercised properly. A court will remove the parental responsibility of a parent who abuses or flagrantly neglects their parental responsibility or its exercise. A court may also remove parental responsibility if a parent commits an intentional crime against their child or uses the child to commit a crime. A parent whose parental responsibility has been removed may also be deprived of other rights like the right to consent to adoption. However, the court should preserve the parent's right of personal contacts with the child if it is not contrary to the child's interests. The parent's maintenance obligation is preserved in full. If neither of the parents can exercise fully parental responsibility, or if both parents' parental responsibility has been suspended, the child can be placed in alternative family-based care as described below.

61. Parents exercise parental care in keeping with the interests of the child and while taking into account the child's views. As a matter of principle, parents exercise their parental responsibility in agreement. If they fail to agree, both may apply to court to decide on the matter. The parents are required to communicate to each other everything of essence relating to their child and their interests. If only one parent is in charge of the child, the parent's spouse or partner living in the common household also contributes to the care and upbringing of the child. A child in the care of only one parent has the right to be in contact with the other parent to an extent which is in their interests. A court restricts or directly prohibits personal contacts between a parent and the child if necessary in their interests.

62. Parents have the obligation and the right to represent their immature child in legal matters and to take care of the child's property with sound management. Anything obtained by the parents in the use of the child's property belongs to the child. As soon as the child reaches full legal capacity, the parents hand over the managed property to the child.

### **Assistance to parents and provision of childcare services and Recommendation no. 44**

63. Parents continue to be supported by social and family policy instruments, especially in the form of social benefits, social and community services, etc. In 2017, an amendment to the State Social Support Act introduced a birth allowance for the second child and expanded the range of entitled families. Changes made drawing on the overall amount of the parental allowance faster and more flexible. The upper limit of the monthly allowance was significantly increased to encourage parents with small children to return to the labour market earlier. The care for children from a multiple birth was duly appreciated when the amount of parental allowance increased one and half times. Child allowances have also been raised by CZK 300 per month for each first, second and third child, and the range of families entitled to these allowances was expanded. Households where minors suffer from inadequate housing conditions can still be acknowledged as households in housing distress, irrespective of meeting other conditions, if they ensure proper upbringing of their children and comply with other obligations.

64. One of the measures under the Strategy is the deinstitutionalisation and development of a network of services for children at risk and their families available in their natural home environment and responding to a wide range of needs and requirements. Since 2012, the Ministry of Labour and Social Affairs has been focusing on their development and networking. Particular attention is paid to preventive services aimed at timely assistance for families at risk of removing their children, families in a difficult socio-economic situation or with insufficient parental competence, and families taking care of children with disabilities. These activities result in guides for workers developing and networking services and establishing multidisciplinary cooperation. Examples of good practice from

Czechia and other countries are presented and disseminated. Attention is also paid to the introduction of innovative work methods and programmes. All this will be reflected in systemic measures to support children at risk and their families.

65. In 2014, the Agency for Social Inclusion published a Manual for Work with Families in Socially Excluded Communities. This document draws on experience of working with families at risk of child removal. An accompanying publication was Examples of Good Practice with Families at Risk of Social Exclusion. Both documents present municipalities with preventive measures in order to provide these families with effective support and prevent the frequent placement of their children in institutional care.

66. Between 2013 and 2017, the Ministry of Labour and Social Affairs assisted hundreds of positive parenting projects under the “Family” grant scheme. These projects are aimed primarily at strengthening parental competences and family relations, providing assistance in work-life balance and delivering comprehensive support to families with children at risk. Every year, approximately CZK 96.5 million was disbursed under this scheme. In 2014 and 2015, the Ministry also focused on the application of family conferences based on the model of the Dutch Eigen Kracht Centrale in a Czech setting to expand opportunities to work with families and to adapt this model for Czechia with pilots in eight regions.

67. In 2014 and 2015, in response to legislative changes and to improve the quality of childcare, the Ministry of Labour and Social Affairs implemented training programmes for the staff of child protection authorities (40 weekly workshops for 1,800 people), child protection officers and providers of services for families and children (10 weekly workshops for 500 people), and the staff of cooperating entities in education, health, the judiciary, the police, etc. (17 full-day workshops for 850 people).

#### **Judicial removal of children from the care of their parents**

68. Children may be removed from the care of their parents or other persons in charge only by a judicial decision in their interest. A court may place a child in the care of another person or in an institutional facility for a period strictly necessary. A court may order institutional education after exhausting other measures if the upbringing of a child or their physical, intellectual or mental state or their proper development has been severely compromised or disrupted to an extent contrary to the interests of the child, or if the parents are unable to care for the child. A placement of a child in the care of a natural person must be given prior consideration. The inadequate housing or economic conditions of parents or other persons in charge are not a reason to order institutional education. Institutional education may be ordered for a maximum of three years and can be extended. At least every six months, the court is required to reassess whether the reasons for institutional education remain and whether the child can be placed in alternative family-based care. If the reasons for institutional education cease to exist or non-institutional care can be arranged, the court ends the institutional education.

69. With no other choice, the removal of the child from the family should be done as sensitively as possible. The child is informed sufficiently in advance and in an appropriate manner, about why and where they will be placed. Removal should not take place at an entirely inappropriate time (e.g. at night), unless the child’s life is in immediate danger. The child’s parents are also informed about the concrete facility and the form of care for the child. As a rule, the child is accompanied to the facility by a social worker or guardian, or where appropriate by their parents.

#### **Alternative family or institutional childcare and Recommendation no. 46**

70. According to the Civil Code, alternative childcare includes guardianship, ad hoc procedural guardianship, the placing of a child in the care of another person, foster care and institutional education. An ad hoc guardian is appointed by a court if there is a risk of a conflict of interests between the child and another person, if the legal guardian fails to defend the interests of the child sufficiently, if necessary in the interests of the child for other reasons, or if prescribed by law. Before taking action, an ad hoc guardian is required

to ascertain the opinions of the parent or guardian, the child, and other appropriate persons. The work of an ad hoc guardian is subject to court supervision.

71. A guardian is appointed to the child by a court if there is no parent meant to exercise or exercising full parental responsibility. A guardian has all the obligations and rights of a parent in relation to the child, except the maintenance obligation. Only a person with full legal capacity and an appropriate way of life may be a guardian. The guardian appointed by the court is a person nominated by the parents, or a relative or person close to the child or the child's family except if contrary to the interests of the child. The appointment may be refused. A guardian is responsible for the due performance of this role, subject to judicial supervision, and must have every non-routine decision approved by the court. A guardian breaching their obligations is removed by the court. Guardianship ends when at least one parent of the child assumes parental responsibility or the ability to exercise it, or when the child acquires full legal capacity or is adopted.

72. If neither of the parents nor the guardian is able to take care of the child, the court may place the child in the personal care of a foster parent. A foster parent must provide guarantees of proper care, must be resident in Czechia, and must agree with the foster care. A relative or a close person is preferred. Parents keep their obligations and rights deriving from parental responsibility other than those prescribed by law to the foster parent, unless otherwise decided by a court. The foster parent discharges parental obligations and exercises parental rights as appropriate, is required to inform the child's parents of significant matters, and must maintain, develop and deepen the child's sense of belonging to their parents, other relatives and close persons. Parents retain the right to have personal relations with the child, the right to receive information about the child, and the maintenance obligation. Similarly, the court may place the child in the care of another close person.

73. There is a distinction between conventional long-term foster care unlimited in time and foster care provided by professional foster parents for a temporary period of up to one year. During this time, the child's return to the parent's care should be made possible, or another, longer-term form of childcare should be found. As temporary foster parents stand ready to accept a child at any time, they are remunerated even if they are not looking after a child at a particular moment.<sup>15</sup> Foster parents are also entitled to a monthly child allowance, a lump-sum allowance on accepting a child, and a car allowance. Upon achieving economic independence, a child in foster care is entitled to CZK 25,000.

74. If parents are unable to care for their child for a temporary period, the court issues an interim measure placing the child in the care of an emergency assistance facility for children for the maximum duration of six months. The facilities provide protection and assistance to children without any care or whose lives or favourable development are at serious risk, and to children who have suffered mistreatment or abuse. The facilities provide accommodation, meals and clothing, arrange for health, psychological, educative and other similar care, and provide advice and assistance to parents or other persons in charge. A single facility may accommodate a maximum of 28 children, and a single employee may look after a maximum of four children at any one time.

75. The last form of alternative childcare is institutional education. A court may order institutional education if the upbringing of a child or child's physical, intellectual or mental state, or their proper development has been severely compromised or disrupted, or if there are compelling reasons preventing the child's parents from caring for the child. A court must with precedence consider whether a child could be placed in the care of another person. At least every six months, courts are required to examine whether the reasons for institutional education remain and whether the child can be placed in alternative family-based care. The municipal authority helps the child's parents to establish favourable circumstances within the family and arranges for them professional consulting to enable a speedy return of the child to the family.

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<sup>15</sup> This remuneration is CZK 12,000 for the care of one child; the amount increases with each additional child.

76. Under the Act on Institutional Education or Protective Education, institutional education is provided in special school facilities. Institutional education may also be provided in children's homes for children up to three years of age. By law, every child must be guaranteed the right to care and education and conditions must be conducive to the child's confidence, develop the emotional side of the child's personality, and enable the child active participation in society. A facility should provide a child with healthy development, proper upbringing and education. Facilities cooperate with the child's family and provide them with assistance in making arrangements for the child, including, for example, family therapy. Facilities are supervised by the Czech School Inspection, the prosecutor's office and the Ombudsperson.

77. The Ministry of Labour and Social Affairs coordinates residence services provided under the Social Services Act (homes for the persons with disabilities) and the Child Protection Act (emergency assistance facilities for children). Social services must be registered with regional authorities, or with the Ministry of Labour and Social Affairs. Having undergone an initial inspection, registered social service providers are listed in a register of social service providers. Regional authorities also carry out interim checks on compliance with the registration conditions. Social service providers are also required to abide by social service quality standards in the provision of their services which is checked in practice during inspections of social service provision.

78. Operators of emergency assistance facilities for children must be authorised to engage in child protection by the regional authorities entitled to run interim checks on compliance with the registration conditions. Emergency assistance facilities are required to abide by special standards for the quality of social and legal protection, as checked during inspections conducted by four delegated regional branches of the Labour Office of Czechia (in Prague, Plzeň, Brno and Hradec Králové).

79. The Ministry of Education, Youth and Sports coordinates school facilities for institutional and protective education. These facilities must be in the school's register maintained by the ministry. Checks on the conditions in such facilities are conducted by the Czech School Inspection. Institutional and protective education is supervised by the prosecutor's office at regular intervals.<sup>16</sup>

80. The Ministry of Health is responsible for coordinating children's homes for children up to three years of age. Decisions on authorisation to provide health care in such facilities are taken by the regional authority that also run checks. The healthcare facilities are in the National Register of Health Service Providers.

81. Material and technical equipment, the conditions of operation, and the staffing of services for children at risk provided within the scope of social services and social and legal protection are covered in particular by statutory social service quality standards and standards for the quality of social and legal protection. These operating, staffing and procedural standards establish the minimum required of the providers of social services and social and legal protection in order to guarantee the quality of childcare. Staffing standards include the employer's obligations to hold regular appraisals of employees directly providing childcare, to consult workers in order to schedule continuous training in response to any training needs and requirements and to arrange training activities to the statutory scope in accordance with the schedule. The minimum training for social workers is 24 hours per year. The same scope is recommended for workers directly involved in the provision of social and legal protection. An authorised entity should also arrange for employees to have the support of an independent qualified expert (supervisor). Compliance with standards is subject to inspection.

82. At school facilities for institutional and protective care, childcare quality standards are established by Implementing Decision of the Minister for Education, Youth and Sports No 5/2016. The methodological management of these facilities is the responsibility of

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<sup>16</sup> Under General Instruction of the Supreme Prosecutor No 10/2012 of 2 November 2012, prosecutors must visit children's homes and children's homes with integrated schools at least once a year, educational institutions once every four months, and other facilities (e.g. diagnostic institutions) once every three months.



diagnostic institutions. Checks on compliance are conducted by diagnostic institutions or by the Czech School Inspection. At children's homes for children up to three years of age, the material, spatial and staffing conditions of childcare are addressed by Recommendatory Methodological Guideline No 24039/2005 on the activities of institutions for infants and children's homes for children up to three years of age. Compliance with the guideline is monitored by regional authorities within the scope of the health care inspections.

83. The statutory social service quality standards include the obligation of a provider to support persons in their contact and relations with the natural social environment. The standards for the quality of social and legal protection binding on emergency assistance facilities for children include a similar requirement. Another criterion requires the facility to create opportunities for the children to be able to draw on publicly available services. In addition, facilities should draw up written rules on assistance and consulting to the family of the child. These rules can include assistance in the handling and arrangement of matters related to the child, the organisation of therapy or the training of parental and other skills in childcare.

84. At school facilities for institutional and protective care, compliance with the statutory right of a child to have contact with their parents is supervised by the prosecutor's office. This is also an area of focus for the staff of child protection authorities in their regular contact with children placed in a residence facility. Children in these facilities should be visited by the staff of child protection agencies at least once every three months. They should visit the child's parents just as often. This gives the staff of child protection authorities the opportunity to determine whether the child's right to have contact with child's parents is being respected and, where necessary, to remedy the situation.

85. The new Act on Special Judicial Proceedings builds on the concepts of alternative family-based care under the Civil Code. The legislation regulates proceedings in family-law cases like proceedings on the adoption of a minor and judicial care for minors including alternative family-based care. A court is tasked with guiding parents to find a peaceful solution or guiding guardians and foster parents to duly comply with their childcare obligations. In the enforcement of decisions on provisional arrangements for relations between parents and children, a court proceeds with the utmost sensitivity towards the child to avoid any unacceptable disruption of child's psychological and emotional development or any other unjustified violation of the child's rights.

86. The arrangement of alternative family-based care for a child who cannot be cared for permanently or temporarily by their own family is a task for child protection authorities, i.e. municipal and regional authorities. The municipal authority of a municipality with extended powers ascertains which children require alternative family-based care and then, subject to compliance with statutory conditions, applies to the court for the removal of the child from parental care and submits other applications regarding childcare. It also seeks out suitable future foster parents. In addition, it engages in advisory activity by organising lectures and courses on educative, social and other problems in the care and upbringing of a child, and provides future foster parents with advisory assistance. Regional authorities are responsible for training natural persons eligible to become foster parents and provide them with advisory assistance. They also mediate the placing of a child into foster care.

87. The expansion and professionalization of alternative family-based care is one of the priorities of the Strategy. The legislative changes that have been adopted prioritise alternative family-based care for children who are unable, temporarily or permanently, to grow up in their own family environment over institutional care. Other legislative changes were made in 2012 by an amendment to the Child Protection Act and the adoption of the Civil Code. The amendment increased the obligations of municipal authorities, requiring them to assess the child's situation and to draw up an individual child protection plan<sup>17</sup> or to hold case conferences. Active searches for alternative parents were also reinforced. The amendment expressly prioritizes the foster care of relative or a close person.

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<sup>17</sup> A plan devised following an evaluation of the situation of the child and child's family in cooperation with the parents, the child and expert defining the causes of risks to the child and setting measures to ensure the child's protection.

88. The amendment also provides significant support to foster care. Adjustments to and an increase in the remuneration of foster parents were accompanied by a change in their training. During the foster care foster parents are accompanied by organisations or staff of child protection authorities under the foster carer agreement, where the rights and obligations of the foster parents and the accompanying institution are defined in accordance with the judicial placement decision and with the individual child protection plan. Foster family support also includes the mediation of other expert services (e.g. psychotherapeutic services) or the provision of a respite service. The obligation for foster parents to receive childcare training of at least 24 hours per year was also introduced.

89. Since 2012, the Ministry of Labour and Social Affairs has been working on the network of multidisciplinary support services for families with children at risk and for foster families. The PRIDE programme,<sup>18</sup> a standardised framework of training and support for alternative-care families, was adapted from the US to national conditions. During training, this programme draws on experienced alternative parents and experts in alternative family-based care, and prepares applicants for foster care in most regions of Czechia. It also includes the publication of information materials for applicants and children and training courses.

90. The Judicial Academy holds many workshops and training sessions on the rights of the child. In 2016 there were the workshops “Expert Opinions for Family Judges”, “Ascertaining the Child’s Views” and “Developmental Psychology and Psychopathology for Judges”. In 2016, the expert conference “Modern Family Judiciary” was held. At the conference, the introduction of elements of interdisciplinary cooperation such as the formation of interdisciplinary teams at courts or the employment of court-appointed social workers was discussed. In 2015, for example, the workshops “Practices in the International-law Protection of Children” and “The Child in Civil Proceedings” were held. Similar workshops are organised every year.

91. The performance of tasks under the Strategy and Action Plans and amendments to legislation were practically reflected in a decline in the number of children in institutional care and a rise in the number of children in foster care. On the data from 2011 to 2016, it can be observed that the overall number of children in institutional care has gone down, while the number of children placed in alternative family-based care, especially foster care, has gone up. In addition, there has been a sharp rise in interest in foster care, whereas interest in adoption has long remained more or less constant. Temporary foster care is becoming widespread.

### **Reunification of families of foreign nationals in Czechia**

92. As described in the previous Report,<sup>19</sup> the reunification of the families of foreign nationals in Czechia is regulated by the Act on the Residence of Foreign Nationals and the Asylum Act. The Act on the Residence of Foreign Nationals regulates long-term residence for family reunification. Applicants include minor or major dependent children of foreign nationals granted residence, or their spouse, minor children in alternative family-based care of a foreign national granted residence, or their spouse, or the parent, grandparent, or guardian of a minor recognised refugee. The application may be submitted at a Czech diplomatic mission abroad and in certain situations in Czechia. The long-term residence permit for purposes of family reunification is issued to a foreign national subject to compliance with statutory conditions as the adequate duration of the legal residence in Czechia. Asylum or subsidiary protection for the purpose of family reunification is a form of international protection granted under the Asylum Act.

93. The reunification of families of foreign nationals is one of the areas covered by the regularly updated Procedure for the Implementation of the Concept for the Integration of Foreign Nationals – In Mutual Respect, specifically in the part devoted to analysing the reason of residence of foreign nationals in Czechia. This document argues that non-profit reasons prevail in the structure of reasons for residence. Cases of residence for family

<sup>18</sup> Parent Resources for Information, Development and Education.

<sup>19</sup> CRC/C/CZE/3-4, pp. 116–119.

reunification, study, or humanitarian and other reasons account for almost 55% so immigration for the purposes of family reunification is continuing.

#### **Adoption, including international adoption, and Recommendation no. 48**

94. The Civil Code defines adoption as one of the ways of forming family relationships between people. One of the underlying assumptions of adoption is that the relationship between the adoptive parent and the adoptee will be the same as a parent-child relationship. The adoption of a child must be consistent with child's interests. The preferred form is joint adoption by spouses. In addition, a spouse may adopt the jointly brought-up child of the other spouse. In exceptional cases, a child may be adopted by a single person, including one of the spouses with the consent of the other spouse, or one of the persons in a cohabiting unmarried couple, or one of the persons in a registered partnership.<sup>20</sup>

95. The adoption of a child is decided by a court based on an application from the person wishing to adopt. For international adoption, the applicant is required to attach the consent of the competent public authority. Under the Civil Code, the adoptive parent must be a mature person with full legal capacity, with appropriate personal qualities, leading an appropriate life, etc. No one must make an undue profit from activities related to the mediation of adoption. A court may cancel an adoption further to an application from the adoptive parent or the adoptee for important reasons and then the relationship established by the adoption is annulled and the previous family relationships are restored. Re-adoption is possible.

96. In all cases, the consent of a child over 12 years of age to adoption is required. For a younger child, consent to adoption is given by their procedural ad hoc guardian on their behalf; this is typically a child protection authority. A court also examines a younger child and takes their comments into consideration bearing in mind the level of their mental development. The consent of the biological parent is not required if they have lost parental responsibility and, by extension, the right to give consent to adoption, are unable to express their will or to recognise the consequences of their actions or to control them, or whose place of residence is unknown and the court, in collaboration with other public authorities, has been unable to ascertain it. If these circumstances apply to both parents, the consent of the guardian or the ad hoc guardian appointed by the court is required; this shall also apply if both parents have died or if the parentage of the adoptee has not been determined. Furthermore, the consent to adoption is not required of a parent who patently has no interest in the child, e.g. they do not systematically express genuine interest in the child, and thereby permanently and deliberately breach their parental obligations. Prior to the granting or denial of consent, all relevant decisive factors relating to the child and their family must be ascertained; in particular, it is established whether the child has close relatives and whether they are interested in caring for the child, and the person currently caring for the child is also examined. All factors concerning the interests of the child must be also ascertained.

97. Municipal authorities and regional authorities also participate in the adoption process.<sup>21</sup> Municipal authorities provide advisory assistance to persons interested in adoption, seek out suitable candidates, and supervise the success of adoption further to a request from a court. Regional authorities mediate the adoption of a child, arrange for the preparation of persons suitable to become adoptive parents, and provide them with advisory assistance.

98. Czechia has been bound by the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption since 2000. Under the Child Protection Act, the central body responsible for international adoptions is the Office for the International Legal Protection of Children. This Office cooperates only with Convention signatories, as this lends the process certain guarantees. In keeping with the Convention, adoption by a Czech family is given preference. Only if a suitable Czech family cannot be

<sup>20</sup> In 2016, under Finding ÚS 7/15 the Constitutional Court lifted the ban on the adoption by registered partners.

<sup>21</sup> CRC/C/CZE/3-4, pp. 100–101.

found does the Office look for a new family abroad. The Office's activities in the mediation of adoption encompass the registration of children suitable for international adoption and the finding of suitable adoptive parents. Every year, the Office mediates approximately 40 international adoptions. In 2014, the Working Group on International Adoptions was set up focusing, for example, on factors increasing children's likelihood of international adoption. The working group's activities have resulted in proposals of steps improving the system, e.g. improvements in the approach to persons interested in alternative family-based care in Czechia during the assessment process, improvements in the quality of preparations for alternative family-based care, and a reduction in the time to complete judicial proceedings.

#### **International child abductions**

99. Under the Civil Code, parental responsibility rests equally with both parents carried out in mutual agreement. If one of the parents or another person holds a child unlawfully, the other parent or both parents have the right to demand that the child be handed over to them.

100. Czechia ratified the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The abduction of a child to another country is not a crime in Czechia. On the basis of the Hague Convention, parents contact the Office for the International Legal Protection of Children, which helps them to deal with child abduction. To ensure that the Convention's objectives are fulfilled, the Office works closely with other bodies, such as Czech diplomatic missions abroad, the Czech Police, and child protection agencies. On its website, the Office provides consultations for parents considering a long-term stay abroad with their child to avert a potential international abduction. The Office also acts as a mediator. Every year, it deals with approximately 70 cases where a child has been unlawfully relocated to another country or is found in a country that is not the child's habitual place of residence.

#### **Recovery of maintenance for the child**

101. Maintenance determined by a judicial decision and not paid by the parent may be recovered in enforcement proceedings. A court-approved agreement between parents may also be subject to enforcement. An enforcement order on maintenance has certain advantages for the beneficiaries. For example, the enforcement officer cannot demand deposit on the costs of enforcement. Maintenance is also classified among priority claims, i.e. if there are multiple claims, maintenance is satisfied as a matter of priority. The Rules of Enforcement also allow an enforcement officer to suspend the driving licence of debtors who fail to pay maintenance for their children and do not need a car for their living. The crime of "evading a maintenance obligation" covers non-compliance with the legal obligation to maintain or provide for a person in respect of whom the perpetrator has a legal obligation of maintenance for a period of more than four months. If, however, the perpetrator pays the outstanding maintenance before the judgment of the first-instance court and the crime has not had permanently unfavourable consequences, the perpetrator's liability expires. This may also motivate the payment of maintenance.

#### **Measures to protect the children of imprisoned parents and children living with imprisoned mothers**

102. Under the Imprisonment Act, a convicted woman may be granted her request to look after her child, typically up to three years of age, while serving her sentence, unless the court has placed the child in the care of another person. This permission depends on the conditions in the prison concerned and on the personality of the convicted woman, and must be in the interests of the child. The child protection agency then regularly monitors the child's development. The same procedure is also possible for remand prisoners under the Remand Act, usually up to the first year of the child in view of the duration of remand.

103. In October 2002, a Specialised Unit for Mothers of Minor Children was opened in Světlá nad Sázavou Prison, enabling mothers to take care of their minor children while serving their sentence. This unit can accommodate 15 mothers and 20 children. It is equipped with rehabilitation and teaching aids and toys for children. The prison's treatment of convicted mothers is based on the needs of the child and takes into account the

psychological and physiological specificities of mothers and children. The Upbringing and Education Programme prepared by specialist employees of the Prison Service focuses on the all-round development of the child's personality and concentrates on maintaining emotional ties between the mother and her child. The programme's aim for every mother is to cope with childcare and to form her child's personality. Convicted mothers caring for their children subsequently have the opportunity to attend special free time or educational activities under the expert guidance of employees.

#### **“Baby Box” and Recommendation no. 50**

104. “Baby Boxes” are not legislatively enshrined in Czechia, hence they are neither regulated nor forbidden by any law. The current ca 70 Baby Boxes are not operated by healthcare facilities, but by the Statim Endowment Fund for Deferred Children in cooperation with those facilities, municipal authorities and other institutions. Children who are left in Baby Boxes are subject to the same procedure under the law. A child found in a Baby Box is not regarded as a victim of the crime of the abandonment of a child because placing a child in a Baby Box is not considered exposing them to the risk of death or harm to their health. When a child is placed in a Baby Box, the mechanism instantly alerts the nearest healthcare facility. Each child is removed from the Baby Box by a health professional and is then hospitalised. Following the provision of health care, other measures are taken, e.g. to identify the child. By law, the discovery of a child in a Baby Box is notified by a health professional to the Czech Police, which investigates the identity of the child, the child's parents and other persons responsible for the child's care. If the child cannot be identified, it is given the status of foundling, is entered in the register as a child of unknown identity, and is given a name and Czech citizenship. If the parents are identified, the court and the child protection agency deal with the care of the child and, where appropriate, other related matters. Further to a judicial decision, the child is returned to the care of their parents, remains in alternative family-based care, or is put for adoption. Since 2005, 166 children have been left in Baby Boxes in Czechia, e.g. in each of the years 2016 and 2017 there were 17 such children.

## **VII. Disability, basic health and welfare**

#### **Children with disabilities and Recommendation no. 52**

105. The care and support of persons with disabilities, including children, is mainly regulated by the Social Services Act and the Act on the Provision of Benefits to Persons with Disabilities. Benefits for persons with disabilities comprise a mobility allowance intended to facilitate mobility in everyday life, a special-device allowance enabling the beneficiary to integrate into everyday life and a carer allowance for persons dependent on the care of another person.<sup>22</sup> Besides these benefits, persons with disabilities are issued with a special pass guaranteeing them various social benefits and preferential treatment.<sup>23</sup> According to the law decisions on benefits also need to respect the best interests of the child.

106. Families with children with disabilities may draw on a whole range of social services, in particular personal assistance provided to persons in their natural social environment and carer, guide or reader services. Parents caring for children with disabilities may also make use of respite services, where another person temporarily takes over the care of the child to give parents the rest they need. Similarly, parents may make use of day service drop-in centres and day and weekly care centres, which can also take over the care of a child for several days. All of these services provide children with the needed help and care while expertly developing their abilities and skills. Homes for persons with disabilities provide long-term accommodation with the attendant services, care and therapy. At healthcare facilities, health services and support are provided to children who are unable to be in their own social environment. The services are paid for in part by the parents, but

<sup>22</sup> This benefit is granted to children at a higher amount than for adults.

<sup>23</sup> For example, reserved seating in public transport, various discounts on services, and the right to priority consultation of their affairs with the authorities.

payment is regulated by legislation. In contrast, early intervention supporting parents caring for their child with disabilities in the form of education, activation, therapy and advisory services, is free of charge.

107. Legislation also requires that equipment and access be provided at schools and school facilities. Other measures implemented are structural alterations so that schools have access for persons with disabilities, lifts and ramps, etc. These and other adaptations are part of the system of support measures for children with special educational needs, as described below. This helps children with disabilities to integrate into mainstream education better.

#### **Child mortality, natal care and breastfeeding and Recommendation no. 56**

108. Child mortality in Czechia is among the lowest in the world. In 2015, the under-five mortality rate was just three per thousand live births; roughly half of these deaths occur in the first month of the child's life. The statistics from 2013 show that the leading causes of death among neonates were premature birth and congenital defects. Czechia owes this success primarily to the sophisticated prenatal care system, which provides future mothers – free of charge – with regular check-ups, screening for congenital defects, a timely detection of gestational diabetes or hypertension, etc. Postnatal care includes the screening of all new-borns for congenital and hereditary diseases, sight and hearing tests to detect congenital defects or developmental anomalies, and hip examinations to detect any dysplasia of the hip.

109. Upon being discharged from the maternity hospital, 82% of Czech mothers breastfeed their babies; at three months 88% and after half a year 67% are still breastfeeding. Lactation counselling is supported under a Ministry of Health grant scheme. Under the Child and Adolescent Care grant scheme, projects on the systemic promotion of proper dietary habits among children aged 0 to 3 years are supported including conferences and workshops to train maternity hospital staff in the promotion of breastfeeding. Other expert trainings concentrated on lactation counsellors providing assistance to mothers having trouble breastfeeding. Educational materials for maternity hospitals and for mothers were published as part of the project.<sup>24</sup>

#### **Child health care and Recommendation no. 54**

110. Health services provided by a paediatric general practitioner are fully covered under the health insurance system. The care of a child from birth until his or her 19th birthday includes preventive check-ups in accordance with an implementing decree. These check-ups are typically carried out within two days of a child's discharge from the maternity hospital, then at 14 days, six weeks, three months, four to five months, six months, eight months, ten to eleven months, twelve months and eighteen months of age. From three years of age, the preventive check-ups are carried out every two years; the final check-up must take place before the child's 19th birthday.

111. Compulsory vaccination against infectious diseases is an integral part of childcare.<sup>25</sup> A non-vaccinated child cannot, for example, be enrolled at kindergarten or playgroup unless having contraindications against these vaccinations. Czech courts have adjudicated on several disputes where parents have been unwilling to have their children vaccinated on account of their beliefs. The Constitutional Court has ruled that the obligation of vaccination is not contrary to fundamental rights because it protects public health.<sup>26</sup> In exceptional circumstances, however, a parent may refuse a vaccination for compelling reasons of their religion or other belief, in which case they should not be forced into vaccination.

<sup>24</sup> A brochure entitled "Standard Practical Guide for Breastfeeding in Czechia". Posters entitled "10 Steps" were issued for maternity hospitals.

<sup>25</sup> Covering tuberculosis, diphtheria, tetanus, whooping cough, invasive disease caused by *Haemophilus influenzae* type b, poliomyelitis, viral hepatitis B, measles, rubella, mumps and pneumococcal infections.

<sup>26</sup> Findings Pl. ÚS 16/14 and Pl. ÚS 19/14 of 27 January 2015.

112. When a child is hospitalised, the Health Services Act allows a legal guardian, or a person designated by a legal guardian, a foster parent or other person in charge, a close person or a person designated by the patient to stay with the child, unless serious circumstances prevent this. This has paved the way for family members to stay with their hospitalised children. The parents of children up to 6 years of age have their stay in hospital covered by public health insurance; the parents' stay may also be covered for an older seriously ill or disabled child. Particular attention is also paid to children with rare diseases, from their neonatal laboratory screening to care in specialised centres which, since March 2016, have been part of the European Reference Network for patients with rare diseases. Twenty-six centres from Czechia are involved in 17 specialised networks.

113. Dependent children permanently resident in Czechia, beneficiaries of international protection, children having applied for international protection, children granted special leave to remain in the country under the Asylum Act and the children of persons granted such legal status are included in public health insurance. Other children are required to have commercial insurance. Further to a decision adopted by the Supreme Court in 2016, in certain exceptional situations children born to foreign nationals in Czechia, on behalf of whom the parents apply for the permanent residence permit despite the fact that neither parent is permanently resident, are notionally permanently resident from birth until a decision on their application. Consequently, during that time they are participants in the public health insurance system.<sup>27</sup> This means that the costs of urgent postnatal childcare are covered.

#### **Prevention and promotion of the health of children**

114. In 2014, the Czech Government approved the National Strategy for the Protection and Promotion of Health and the Prevention of Diseases (“National Health Strategy 2020”). On the basis of that Strategy, action plans are devised for the various sub-themes. For example, the health of children is covered by Action Plan 1 on the promotion of the physical activity of children in schools, Action Plan 2 on the promotion of the healthy nutrition of children in schools and in families, and Action Plan 6 on vaccination, which envisages adjustments to the children’s vaccination schedule according to the latest medical knowledge.

115. In Czechia, accidents are the leading cause of death among children and young adults, and the third leading cause of death within the population as a whole. Although mortality from injuries has decreased slightly in recent years, the total number of accidents has not gone down. Consequently, the Government is continuing to implement the National Action Plan for the Prevention of Children’s Accidents in line with the European Commission recommendation “LIVE – Life without Injuries and Violence in Europe” and following up on the European Child Safety Alliance (ECSA) programme. It aims to minimise child mortality resulting from accidents in Czechia and to stem the growth and reduce the frequency of children’s accidents, especially serious accidents with permanent consequences, including self-harm and suicide. In 2011, the National Coordination Centre for the Prevention of Injuries and Violence and for the promotion of Safety for Children was set up at Motol University Hospital. The Interdepartmental Working Group on the Prevention of Children’s Accidents has been set up at the Ministry of Health to provide a systemic solution to the prevention of intentional and unintentional children’s accidents.

#### **Reproductive health of adolescents, sex education and protection from the substance abuse, and Recommendation no. 58**

116. Under the Framework Education Programme, sexual education is part of “Health Education” and the field of “Family and Sexual Education”, included in the thematic groups of “Humans and Their World”, “Humans and Health”, “Humans and Society” and “Humans and Nature”. On the theme of sexual awakening and reproductive health, teaching under Humans and Health should cover the health of the reproductive system, sexuality as part of the forming of the personality, abstinence, premature sexual experience, promiscuity, and the problems of pregnancy and parenthood among young people. The Family Policy

<sup>27</sup> Decision of the Supreme Court of Czechia 33 Cdo 2039/2015 of 22 September 2016.

Concept, approved by the Government in September 2017, proposes the introduction of separate high-quality sexual and family education at schools to promote instruction and education in responsible partnership and parenthood and to raise awareness of responsibilities concerning contraception, family planning and the functioning and stability of the family.

117. An important element of the National Anti-Drugs Policy Strategy is to protect children from alcohol, tobacco and drugs. Under this Strategy the Government pledged, for example, to restrict the availability of alcohol for minors by introducing licences to sell alcohol or by restricting the availability and affordability of alcohol, e.g. by matching alcohol prices to non-alcohol prices or by regulating the promotion of alcoholic beverages.

118. On 31 May 2017, the new Act on the Protection of Health from Harmful Effects of Addictive Substances entered into force. One of the principal objectives is to protect minors from addictive substances. For example, the law contains a ban on the sale of alcohol and tobacco products at children's events or in shops with predominant children's merchandise. The blanket ban on smoking has been expanded, for example, to social service facilities for children and playgrounds. The adoption of this law should be accompanied, in the future, by public awareness campaigns, preventive programmes for minors from socially disadvantaged backgrounds, support of high-quality and affordable services for smokers to quit, etc.

119. As part of the aforementioned National Health Strategy 2020, Action Plan 4 was drawn up to stem the conduct posing risks to health. It contains three sub-plans: the first envisages the creation of an interdisciplinary interdepartmental framework for primary prevention of risky behaviour among highly vulnerable groups of children; the second covers tobacco control; and the third covers alcohol control. In 2017, the Ministry of Health announced the grant scheme "Anti-Drugs Policy of the Ministry of Health", which was used to fund the creation of four new addiction clinics for children which shall be set up in every region.

120. Abuse of addictive substances is covered under the Framework Education Programme for Primary Schools by Health Education. The aim is to connect health and psycho-social risks associated with the abuse of addictive substances and young people's prospects in life, to tackle socio-pathological phenomena in and out of schools and, where necessary, to seek out professional assistance for themselves or others. This area of education also covers nutrition and health, physical and mental hygiene, daily routine, the impacts of the external and internal environment on health, and protection from disease and accidents.

### **Social services and social facilities for children**

121. Several types of social services are primarily intended for families with children and for minors. Besides the services for children with disabilities described above, there are numerous preventive services for families and children in a difficult situation. Families can draw on crisis help linked to housing and counselling, or seek accommodation in shelters. A special service is the "social activation service" for families with children, helping families in a crisis to deal with this situation through counselling and the mobilisation of competencies. Low-threshold facilities for children and young people up to the age of 26 provide education and counselling for a positive outlook for the future. Halfway houses provide residence services to people up to the age of 26 from institutional care who need help to start their normal lives. Residence services are provided for a small fee, but the preventive advisory services are free of charge.

### **State social support and hardship benefit and Recommendation no. 60**

122. Family support under the system of state social support is covered by a means-tested child allowance, housing allowance, and birth allowance, as well as a universal benefit for the parents of small children (parental allowance).

123. If a family's income is insufficient to cover basic requirements in life and the family is objectively unable to increase its income itself, it is in "hardship" and is entitled to hardship benefit – subsistence allowance, housing supplement and extraordinary immediate



assistance. The subsistence amount is set for each person individually, following an evaluation of their efforts and opportunities to increase their income. The housing supplement is intended for persons unable to secure dignified housing with their own income. The extraordinary immediate assistance benefit is intended to provide the funding necessary to deal with urgent and emergency situations.

124. In addition to these statutory benefits, the state runs various support schemes helping families and children in a dire financial situation. One example of this is the School Lunch scheme used to pay for the school meals of children whose parents are unable to afford them. There are currently ca 10,000 children covered under this scheme.

125. Czechia 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, the respective bill was rejected by the Parliament. The provision of social housing remains in the hands of municipalities. Some municipalities have decided to draw inspiration from successful projects in other countries and are testing a “Housing First” approach. The basic idea of this concept is to offer families fully-fledged housing from the outset to provide an adequate backdrop at home as a basis for social integration on the job market, in the school etc. Initial experience of these projects has been very positive.

## **VIII. Education, leisure and cultural activities**

### **Right to education and Recommendations no. 62 and 66**

126. Under the Schools Act, education in Czechia is based on the equal access of each Czech citizen to education without any discrimination whatsoever. Education takes into account the educational requirements of the individual and is mindful of mutual consideration, respect, tolerance of opinions, solidarity and the dignity of all those participating in education. Czech citizens are entitled to free education at primary and secondary schools. School attendance is compulsory from 6 to 15 years. The compulsory free preschool education of children from the age of five at kindergartens, encompassing four hours per day, was introduced in 2017. Similarly to primary schools, children are entitled to enrol in the kindergarten in the catchment area where they live, but may be enrolled at any other kindergarten.

127. The Education Policy Strategy of Czechia up to 2020 and the Long-term Plan for Education and the Development of the Educational Structure of Czechia 2015–2020 have also spawned the Inclusive Education Action Plan 2016–2018, containing measures to promote equal opportunities and equitable access to quality education. The 2016 amendment to the Schools Act introduced a comprehensive change in the education of pupils with special educational needs and gifted pupils, and reinforced the inclusive environment of schools. In the same year, an implementing decree was approved incorporating a system of support measures to boost the joint education of children, pupils and students with special educational needs in mainstream schools.

128. The changes yielded, in particular, a new concept of support for pupils with special educational needs. The aim is not to classify pupils under particular handicap categories according to their health or social status, but to identify their problems and find a specific type of assistance for them. Pupils with special educational needs are pupils needing supportive measures to fulfil their educational potential and exercise or enjoy their rights on an equal basis with others. Integration into mainstream schooling is the preferred way of providing education for pupils with special educational needs. Placing such a pupil in a special class or school is currently permitted only where the individual integration of such a pupil, combined with the application of supportive measures, is not sufficient. This must be carefully considered on a case-by-case basis by an education counselling facility.

129. The basic step is to define the pupil’s educational needs and provide the pupil with supportive measures assisting them in their schooling. A basic degree of teacher’s support is part of standard schooling. The counselling facility suggests other supportive measures and schooling modification for a pupil with special educational needs. The measures should be adequate for the pupil’s health, needs and living conditions and permit schooling in

mainstream education. Supportive measures are provided free of charge. Supportive measures are put into practice by collaboration between the education counselling facility, the school, the parents and the child. The pupil, parents, school or child protection authority may request the National Institute for Education to review the recommendations. Parents may also request a review of the examination report.

130. New diagnostic tools are being implemented focusing on assessing children's independence, self-reliance, social adaptability and study habits. Standards have been established to test all pupils with special educational needs, psychological and special educational diagnostic tools have been added for a more precise definition of skills of pupils coming from different cultural environments. Tests have been created to assess their adaptive skills. Since 2013, every counselling facility has had at least one member of staff trained to use such diagnostic tools, and this training is ongoing. In 2015, the Ministry of Education, Youth and Sports published methodology guidance for diagnosing mild cognitive disability or assessing cognitive skills of pupils from socially disadvantaged environments.

131. An important role in integration is played by teaching assistants in primary schools, who help Roma pupils become accustomed to the school environment and also work with them, their families and teachers in dealing with everyday tasks. Primary schools run free-of-charge preparatory classes preparing children for successful transition to regular schooling. Since 2015, preparatory classes have been open to all children, rather than just those with social disadvantages to reduce the risk of segregation of Roma children in primary schooling. Since 1 September 2017, preparatory classes are intended only for children who were recommended by the education counselling facility to defer compulsory schooling as other children are prepared for schooling in the last year of kindergarten. National Institute for Further Education is improving teachers' competence in inclusive education through teacher trainings. Checks by the Czech School Inspection and education counselling facilities ensure the adequate placement of pupils in education programmes consistent with their educational needs and requirements.

132. All of these steps mean that the integration of pupils with special educational needs into mainstream education is gradually taking hold. Parallel to this, there is a fall in their numbers at special schools and in special education programmes. This also applies to Roma pupils, although the extent to which they are represented in mainstream education remains lower than among the majority population. Another positive step for integration was the scrapping of the Annex to the Framework Education Programme for Primary Education governing the education of pupils with mild mental disability in 2016, and its incorporation into the inclusive curriculum. The amendment to the Schools Act has enabled the Ministry of Education, Youth and Sports to solicit data from schools and school facilities to estimate the number of Roma children, pupils and students. Consequently, the Ministry has been making those estimates since the 2016/2017 school year, and they will be rolled out to all schools as of the 2017/2018 school year.

133. In response to the changes, the expert team for inclusive education at the Ministry of Education, Youth and Sports drawing together representatives of associations of schools, non-governmental organisations, education-psychology guidance centres, teacher training faculties of universities and experts in the field met for the first time in 2016. In order to ensure effectiveness of the reform on the ground, the Ministry of Education, Youth and Sports is constantly publishing materials on inclusive education and its practical implementation on its website. An information package containing guidance and interpretations related to inclusive education has been prepared in collaboration with expert associations. Between April and June 2016, the Ministry of Education, Youth and Sports organised 28 information workshops in all regional capitals. Held in cooperation with the National Institute for Further Education and the National Institute for Education, these workshops focused on inclusive education with attendance of almost 3,000 head teachers of kindergartens and primary schools, along with the staff from education counselling facilities. Information meetings and discussions were also held with head teachers.

134. The Ministry of Education, Youth and Sports continues to implement three projects promoting inclusive education. "Support of quality counselling services in schools and education counselling facilities intended to promote inclusion" is a project designed to

enhance the quality, coherence, comparability and efficiency of counselling services and support measures, to increase the standard of counselling and intervention-based care, and to improve the quality of education and counselling services for pupils at risk of unequal treatment. The project is distributed over the period from 2016 to 2019 and is financed with funds approaching CZK 150 million. Projects “Inclusive education and support of schools step by step” is designed to monitor, plan and assess inclusive education, including the teaching of Czech for foreign pupils, and the project “Promotion of inclusive education in teaching practice” focuses on training the management of schools and deepening and enhancing the professional competence of educational staff in inclusive education.

135. The Ministry of Education, Youth and Sports has expanded and clarified measures to tackle bullying and cyberbullying at schools. Besides the grant scheme “Safe Climate in Czech Schools”, the Methodological Guideline for the Prevention and Tackling of Bullying in Schools and School Facilities has also been revised. Furthermore, since 2017 an amendment to the Schools Act has been in effect aiming to ensure improved protection of pupils and educational staff in the face of physical and mental attacks, which are now defined in the Schools Act. If such conduct occurs, the head teacher is required to contact the Child Protection Authority, which will look into the case further in cooperation with the school and the pupil. The Ministry has also prepared guidance materials for schools in a bid to help teachers cope with cases of bullying. Other possibilities are individual education plans for pupils and certified programmes for the primary prevention of risky behaviour.

136. The conditions applicable to the education of foreign children in Czechia are the same as those for Czech citizens. The children of EU citizens and third-country nationals have the right to access free preschool and primary education as part of their compulsory schooling. Access to secondary education and post-secondary vocational education is only available to foreign children legally residing in Czechia. The National Institute for Further Education and its regional support centres provide support for educational staff working with foreign pupils in mainstream schools. The Institute runs training programmes on the education of pupils with a different mother tongue and also offers an accredited e-learning programme to support educational staff.

137. In the integration of foreign nationals, the Ministry of Education, Youth and Sports runs development and grant schemes and offers courses of Czech language to beneficiaries of international protection under the State Integration Programme. The “Support for the Education of Foreign Nationals in Schools” development programme promotes the teaching of Czech language for foreign pupils in the form of courses or one-on-one work between the teacher and the child at kindergartens and primary schools, the schooling of foreign pupils in immigration removal centres, and the integration of pupils from other EU Member States into the education system. The “Support of Activities for the Integration of Foreign Nationals in Czechia” subsidy scheme is aimed at supporting methods in the teaching of Czech language to foreign pupils from third countries, extracurricular education activities, the creation of teaching aids, and cultural and sports leisure activities.

#### **Cultural rights of children belonging to ethnic minorities**

138. Romani is an optional subject at primary schools. In the school statistics for 2017 the number of secondary schools reporting Romani as a subject rose from one to two. At higher-education institutions, Romani is taught at the Department of Central European Studies at the Faculty of Arts of Charles University. The Ministry of Education, Youth and Sports promotes the teaching of Romani via a grant scheme supporting instruction in the languages of national minorities and multicultural education.

139. The Ministry of Culture regularly runs grant proceedings to promote the integration of members of the Roma minority. The Prague Municipality provides financial assistance to the project “Events for unorganised Roma children, youth and adults” encompassing cultural, educational and promotional activities showcasing Roma culture. Many associations provide access to cultural activities for national minorities. The Association of Polish Youth in Czechia regularly holds Days of Student Culture to present the activities of young Polish nationals and the work of pupils and students from the entire Těšín-Silesia Euroregion. Many events for children and educational programmes are organised annually by the Museum of Romani Culture.

140. The Ministry of Education, Youth and Sports also runs a grant scheme called “Support of education in the languages of national minorities and multicultural upbringing”. The Ministry’s financial support has also been used to create the web gateway “Inclusive School – inspiration and support for work with children and pupils with a different mother tongue”, which – besides information – provides guidance, instructions and examples of good practice for the individual levels of education in schools to achieve the required standard of language teaching for foreign children.

#### **Rest, play and free time, cultural and artistic activities**

141. Besides regular education, the educational system in the Czech Republic also includes primary art and special-interest education. Primary art education provides schooling in artistic disciplines at primary art schools, which children may attend in the afternoon to develop their artistic skills. Special-interest education shall fill the free time of children with various special-interest activities at free-time centres, after-school groups and school clubs. Free-time activities for children are also organised by a host of non-governmental organisations and voluntary associations.

#### **Human rights and citizenship education and Recommendation no. 25**

142. Human rights, including the rights of the child, are intended to be part of primary education focusing on their respect, the prevention of intolerance, gender equality, and the respect for the natural and cultural environment. Under the Framework Education Programme for Primary Education, human rights appears in the education blocks Humans and Their World and Humans and Society, in the educational field of Ethics Studies, and in the cross-cutting themes Personality and Social Studies, Democratic Citizen Studies, Studies on Thought in a European and Global Context, and Multicultural Studies. The most far-reaching description of human rights can be found in Humans and Society, specifically in the educational field of Citizenship Studies under the thematic group of Humans, the State and Law, intended for the second stage of primary education. The cross-cutting theme of Democratic Citizen Studies, with its thematic group of Citizens, Civil Society and the State, centres on the fundamental principles and values of a democratic political system, the active exercise of civil rights and obligations, and coexistence with minorities. Under the Schools Act, a school must incorporate all the cross-cutting themes and their thematic groups into schooling in the first and second stages of primary education. Each individual school then decides about their scope and the way of implementation.

## **IX. Special protection measures**

#### **Protection of children seeking international protection, whether or not accompanied, and Recommendations no. 64 and 66**

143. Under the Asylum Act, the child of an applicant for international protection or a child applicant for international protection resides in an asylum facility – a reception centre, a residential centre or an integration asylum centre. A reception centre houses newly arrived applicants for international protection providing them with all necessary services. Particular attention is paid to vulnerable groups, including unaccompanied minors and families with children. Applicants must stay here until the basic entry procedures are completed. During their international protection proceedings applicants may stay in a residential centre providing a complete range of necessary services for families with children, including free-time activities. Residential centres also offer activities similar to preschool and school facilities. An integration asylum centre, taking the form of separate furnished flats, is for the temporary accommodation of beneficiaries of international protection preparing for an independent life in Czechia.

144. Unaccompanied minors are placed in the care of a close person or in a special school facility for foreign children in the Radlice district of Prague. This facility concentrates primarily on the integration of unaccompanied minors, while respecting their social, ethnic, cultural, historical and religious rights. In addition, the facility arranges, for example, for

the provision of essential medical treatment. The facility also provides guidance on work with foreign children at other facilities.

145. Foreign nationals unlawfully resident in Czechia may be detained only if the corresponding legal conditions are satisfied. Prior to their detention, it is necessary to assess whether, first of all, alternative measures can be imposed. These include the obligation to remain at a notified address, the deposit of funds or the obligation to personal report to the police at a prescribed time. Detention, then, is always used as a last resort. An amendment to the Act on the Residence of Foreign Nationals, which is currently being adopted, envisages the introduction of further potential alternatives to detention, i.e. the obligation to remain at a place designated by the police with regular checks. As a rule, children are not detained in a legal sense. They merely stay in facilities together with their detained parents. The preference is to keep families together rather than place children in different facilities. If the child has a relative, for example, in Czechia, they may leave the facility and stay with that relative. The child may also temporarily leave the facility, for instance, with a free-time teacher as part of free-time activities (for excursions, to attend a cultural performance, etc.). Such excursions are routine. As soon as parents apply for international protection, the procedure under the Asylum Act comes into play, according to which the detention of families with children is not permitted. In this respect, Czechia spares no effort in its attempts to prevent families with children from being detained. Where detention does occur, Czechia makes sure that it takes place in conditions consistent with the law, international standards, and case-law.

146. The Bělá-Jezová immigration removal centre is intended solely for the detention of families with children and women. The facility has been overhauled to adapt it to families with children in accordance with international standards. Further work is under way in 2018. Outside play areas are situated in front of the accommodation buildings. Security features – such as barbed wire and mesh on the windows – have been removed as far as practicable. The employees of a private security service are permanently present to guard the floors in the residential building. Their uniform has also been adapted to distinguish it from the police uniform. Besides a full range of material furnishings, the facility also offers free-time activities, a children's centre, playrooms, free legal assistance and a newly refurbished health centre, including a paediatric surgery. Professional personnel from the Refugee Facilities Administration, specialising in work with children, look after detainees in these facilities. Facilities are regularly visited and inspected by the Ombudsperson and international organisations. According to the Ombudsperson's most recent report from 2016, the average time children spend here is approximately 55 days. In spring 2018, a new facility was opened to improve accommodation and other standards for families with children and other security features were removed.

147. The education of foreign children is mainly the domain of a primary school and a diagnostic class at the Facility for Foreign Children. The school diagnoses each pupil for a period of one month and then draws up an individual education plan for the development of the child's personality, consistent with child's age, individual expectations and abilities. The school aims to prepare foreign pupils for successful integration into mainstream schools. In addition, the Bělá primary school operates a subdivision for foreign nationals' children directly in the Bělá-Jezová immigration removal centre. A special class has been set up and furnished here.

148. In accordance with the law, the Ministry of the Interior – via the Refugee Facilities Administration – runs a State Integration Programme for beneficiaries of international protection. One of the areas of integration is education, which includes the integration of child refugees or beneficiaries of subsidiary protection into preschool education and compulsory schooling, and the mediation of premium language courses. The Ministry of Education, Youth and Sports organises a basic free Czech language course, comprising 400 lessons, in and outside the facilities operated by the Refugee Facilities Administration.

### **Children from minority groups**

149. Several points in the Roma Integration Strategy up to 2020 focus on Roma children, particularly in education, health care, housing and social services. In all of these areas, measures take into account and support the situation of Roma children and families. For

example, in all the steps supporting housing, the situation of Roma families shall play a role to avoid their substandard housing and segregation, and provide access to the necessary services and assistance. Another of the goals is to improve their access to social and health services, while raising their awareness of health issues. Measures in the fields of education and other areas are described in the relevant sections.

#### **Juvenile justice system and Recommendation no. 70**

150. Under Czech law, children younger than 15 are not criminally responsible. If a child commits an act that would otherwise be a crime, proceedings may be held with them in accordance with the Juvenile Justice Act, if the child is able to grasp the essence and fallout of their act and the consequences of the proceedings. These proceedings are not held to impose a punishment, but to take corrective measures and gearing towards the child's due integration into society.

151. Decisions on the imposition of such measures are taken by a court in special proceedings governed by rules on non-contentious civil proceedings. A juvenile court may impose a disciplinary obligation, a disciplinary restriction, a rebuke combined with a warning, placement in a therapeutic, psychological or another suitable educational programme in a centre of educational care, supervision of a probation officer, protective education or protective treatment. When imposing a measure, the court should balance its disciplinary and preventive effects. The court may impose multiple measures at once, but it also has the discretion not to impose any if the hearing of the case itself has a sufficient disciplinary and preventive effect on the child. Any measure imposed may last until the child reaches 18 years of age, with the exception of protective treatment.

152. Protective education is the most severe possible measure for a child who is not criminally responsible. It involves their judicial placement in a school facility for protective education, e.g. a children's home with an integrated school or an educational institution. Protective education may be imposed on a child under 15 years if justified by the nature of the act and necessary to ensure their proper discipline. Protective education is imposed on a child over the age of 12 in those cases where an adult committing the same act would be facing imprisonment of more than 20 years. The main purpose of protective education is to have a positive influence on the mental, moral and social development of the child and to protect society from youth crime. Protective education lasts for as long as required to achieve its purpose, up to a maximum of the time the child reaches 18 years of age. Where required in the interests of the youth, the court may extend this education until they reach 19 years of age.

153. The child aged between 15 and 18 is criminally responsible if they have attained a level of intellectual and moral maturity enabling them to recognise the unlawful nature of the act and to control their conduct. Juveniles are subject to measures conducive to their social and mental development and their protection from harmful elements preventing their further wrongdoings. It is possible to impose disciplinary, protective and criminal measures, similar to punishments under the Criminal Code. The terms of custodial sentences laid down in the Criminal Code are halved for juveniles. The juveniles have also more possibilities to avoid prosecution. Simpler conditions apply to the expungement of juveniles' convictions. As a matter of principle, in prisons juveniles are kept separate from adults and participate in special programmes geared towards their discipline, education and re-socialisation.

154. In proceedings involving juveniles, it is necessary to proceed with consideration for their age, health, and intellectual and moral maturity. Cases are heard by specialised judges, prosecutors and police officers with experience of working with juveniles. Under certain conditions, law enforcement agencies may step away from a criminal prosecution. Juveniles must have a defence counsel from the start of criminal proceedings. Juveniles may be held on remand for limited time and the court may replace remand with many other measures, such as placing a juvenile in the care of a trustworthy person. In order to protect the privacy of juveniles, all proceedings are held in camera. There is a ban on publishing the identity of the juvenile other than in the public proclamation of the judgment.

155. The basic institution intended to assist child offenders is the Probation and Mediation Service. Probation officers offer child offenders, their families and victims assistance in finding an out-of-court solution to the conflict. All activities are free of charge. The Probation and Mediation Service is responsible for the supervision of a juvenile in criminal proceedings and guides the juvenile towards a proper way of life in the probationary period. Accredited probation programmes are intended for children and juvenile offenders. In 2014, 12 probation programmes were accredited in the Czech Republic and they had 283 clients. In 2016, 10 probation programmes were accredited in the Czech Republic and they had 197 clients.

#### **Child victims and Recommendation no. 68**

156. The 2013 Crime Victims Act requires state authorities and other bodies to treat victims, including children, politely, considerately and with respect for their dignity. Victims are entitled to clear information on their rights and obligations, expert assistance, protection of their privacy, and monetary assistance in defined cases. Law enforcement agencies provide victims with information about registered entities providing expert assistance. Assistance is provided to children as particularly vulnerable victims free of charge. Children also have the right to the prevention of contact with the perpetrator. Uniform methodology with forms providing advice and basic information for crime victims has been drawn up for law enforcement agencies by Czech Police and provided to courts and prosecutor's offices. Children are examined by specially trained police officers. As many as 68 special examination rooms for child victims and witnesses have already been established across the country and more are being set up. The Czech Police collaborates with and holds training for child protection agencies, schools and childcare facilities. In addition, precautionary lectures are organised for schools.

## **X. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

#### **Legal and policy measures**

157. Under the Professional Soldiers Act, the minimum age for voluntary military service is 18 years. Conscripting children for the armed forces and involving children in hostile activities is punishable as human trafficking, committed, inter alia, by someone who forces, arranges, hires, lures, seduces, transports, conceals, detains, accepts or issues a child to be used for service in the armed forces, or as persecution of the population, committed by someone who, inter alia, conscripts children for service with a weapon during a war or other armed conflict.

158. Pupils of military secondary schools are not members of the armed forces and their school studies obligate them in no way to enter the armed forces as professional soldiers or civilian employees. Their status is therefore the same as the status of pupils of other secondary schools. The only military secondary school and post-secondary vocational school of the Ministry of Defence in Czechia remains in Moravská Třebová. During their studies, pupils are acquainted with the Convention and the Optional Protocol. At the school, there are control and complaint mechanisms in case of a breach of their rights, along with mechanisms to prevent risky conduct (a social worker, an education counsellor, a psychologist and a lawyer). The school is also supervised by the Ministry of Defence.

#### **Rehabilitation and social reintegration**

159. The needs of unaccompanied minors or minor victims of severe violence must be taken into account during their stay in an asylum facility. In line with the Convention and the Optional Protocol, psychological rehabilitation is provided at facilities where necessary. The competent social worker works with a psychologist with experience of working with foreigners and their needs and requirements. The facility for minor foreigners provides comprehensive psychological, educational, health and socio-legal treatment of children. The Refugee Facilities Administration provides professional counselling and intervention.

160. On other matters, see the preceding report on the implementation of the Optional Protocol.<sup>28</sup>

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<sup>28</sup> CRC/C/CZE/3-4, paragraphs 250–283.