



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture

Forty-seventh session

31 October–25 November 2011

### List of issues prepared by the Committee to be considered during the examination of the fourth and fifth periodic reports of the Czech Republic (CAT/C/CZE/4-5)

#### Articles 1 and 4

1. Please provide information on whether consideration has been given to introducing a definition of torture in the new Penal Code that is fully in compliance with the definition of the Convention (para. 5).<sup>1</sup>

#### Article 2

2. Please provide information on the steps taken by the State party to guarantee the rights of persons in police custody from the very outset of detention, including prompt access to a lawyer, being informed of the charges against them and having their detention duly registered, the right to have access to an independent doctor, if possible of their own choice, and the right to notify family members or persons of their choice about their detention. Please indicate how this is implemented in practice and any restrictions that may be imposed on these rights. Are arrested persons detained separately from convicted detainees? Please provide information on whether detained suspects or accused persons have access to legal assistance free of charge, including by “visiting European lawyers” and “established European lawyers” (paras. 139 and 141).

3. Please provide information on the State party’s policy on the prevention of trafficking in human beings for purposes of sexual and economic exploitation, including forced labour, in particular as regards Roma women and girls (see CEDAW/C/CZE/CO/5, para. 24). Please provide information on establishing concrete indicators and procedures to systematically identify, protect and assist the victims of trafficking (ibid., para. 24). Also, please provide information with regard to the current system of protection of and assistance to trafficked persons. In addition, please provide information on the status concerning ratification of the United Nations Convention against Transnational Organized Crime and

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<sup>1</sup> Stand-alone paragraph numbers in brackets refer to the State party report published under symbol CAT/C/CZE/4-5.

its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and on any amendments to legislation that would enable it.<sup>2</sup>

4. Please provide information on the status of the bill on the General Inspectorate of the Security Forces to verify and investigate crimes by police officers, customs officers and members of the Prison Service (paras. 104 and 127).

5. Please provide information on measures taken by the State party to amend legislation and policies with a view to better preventing and prosecuting acts of domestic and sexual violence and affording greater protection to victims (see CEDAW/C/CZE/CO/5, para. 24) and on the current status of the draft national action plan on the prevention of domestic violence (ibid., para. 22). Please provide information on steps taken to enhance the reporting of domestic violence and rape and gathering gender-specific data on such violence (ibid., para. 22). Also, please provide information on the number of complaints, prosecutions, convictions and sentences related to sexual and domestic violence, as well as on the number of shelters for battered women and girls and on the number of women and girls in those shelters.

6. Please provide information on any envisaged legislative changes to clearly define the requirements of prior free and informed consent with regard to sterilization (see report of the Working Group on the Universal Periodic Review on Czech Republic, A/HRC/8/33, para. 37).

7. Please provide information on whether consideration has been given to the establishment of an independent national human rights institution set up in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (see CERD/C/CZE/CO/8-9, para. 9).

### **Article 3**

8. Please provide information on any cases in which persons were expelled or extradited during the reporting period and to which countries. Also, please provide information on the mechanisms put in place by the State party to prevent refoulement to countries where there are substantial grounds for believing that the persons would be subjected to torture or ill-treatment.

9. Please provide information on any amendments made to the Foreign Nationals Act in connection with the implementation of Directive 2008/115/EC of the European Parliament and of the Council on common standards and procedures for returning illegally staying third-country nationals. Have the standards and procedures for returning illegally staying third-country nationals been regulated in accordance with international law, including obligations relating to the protection of refugees (para. 28)?

10. Please provide information concerning the detention of asylum-seekers under 18 years of age (see CRC/C/CZE/CO/3-4, para. 64).

11. Please clarify information contained in paragraphs 117 and 158 of the joint study on global practices in relation to secret detention in the context of countering terrorism (A/HRC/13/42) whereby flight logs of airplanes (see A/HRC/8/33, para. 44.17) associated with the CIA rendition programme had landed in and departed from the Czech Republic. Also, please provide information on whether the State party has requested or provided

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<sup>2</sup> Confidential comments by the Office of the United Nations Commissioner for Refugees to the Committee on the Elimination of Discrimination against Women.

diplomatic assurances in cases involving receiving, or expelling or extraditing individuals from its territory.

### **Articles 5, 6, 7 and 8**

12. Since the consideration of the previous report, please indicate whether the State party has rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.

### **Article 10**

13. Please provide information on whether the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment includes the absolute prohibition of torture. In addition, please provide information on whether special training is provided in order to sensitize civil servants and law enforcement personnel regarding issues of discrimination against ethnic groups such as the Roma.

14. Please indicate if there are programmes to train medical personnel involved with detainees and asylum-seekers in detecting signs of and treating physical and psychological injuries resulting from torture and ill-treatment in accordance with international standards, as outlined in the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Also, please indicate whether such training is also available to all professionals involved in the documentation and investigation of allegations of torture and ill-treatment.

15. Please provide information on training provided by the State party to officials who deal with trafficked persons, including with regard to the systematic identification of victims of trafficking by a variety of actors such as specialized police units, social and health-care workers, institutions working with refugees and migration-related issues.<sup>3</sup>

16. Please provide information on training provided to professionals and forensic and other experts with regard to domestic violence and rape, including in the use of appropriate recording equipment and interrogation records in court proceedings to avoid re-victimization and unnecessary confrontation of victims and perpetrators (see CEDAW/C/CZE/CO/5, paras. 22 and 23).

17. Please provide information on any awareness-raising campaigns undertaken by the State party concerning the prohibition of corporal punishment in all settings.

### **Article 11**

18. Please provide information on the status of the possible transfer of health services from the Prison Service, and by extension the Ministry of Justice, to the Ministry of Health (para. 160).

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<sup>3</sup> Confidential comments by the Office of the United Nations Commissioner for Refugees to the Committee on the Elimination of Discrimination against Women.

19. Please clarify information that prison hospitals may include non-medical data such as the use of security measures as well as means of restraint in a patient's medical file only and not in registers to be used for this purpose.<sup>4</sup>

20. Please provide information on the current number of pretrial and convicted prisoners, disaggregated by crime, gender and ethnicity, as well as on the occupancy rate of all places of detention. Also, please provide information on the number of persons deprived of their liberty in psychiatric hospitals. Please provide information on mechanism and measures taken to address overcrowding, including the use of alternative penalties and non-custodial measures. Please provide information on the status and efficiency<sup>5</sup> of home detention in combination with the use of an electronic control system to reduce overcrowding (para. 85).

21. Recalling paragraph 6 (i) of the Committee's previous concluding observations (CAT/C/CR/32/2), please provide information on whether further consideration has been given by the State party to completely abolishing the requirement for some categories of prisoners to cover a portion of their incarceration expenses (para. 166). Please also provide information on the measures taken by the State party to:

(a) Review relevant legislation so as to ensure that patients placed involuntarily in a psychiatric hospital, under criminal law, are entitled, as a matter of principle, to be placed in a position to give their free and informed consent to treatment options;<sup>6</sup>

(b) Regulate the use of pepper spray in prisons, as recommended by CPT;<sup>7</sup>

(c) Ensure that regulation 82/2006 on the prevention and timely detection of violence between prisoners is implemented effectively in Valdice Prison;<sup>8</sup>

(d) Adopt procedural safeguards prior and during the placement of prisoners in Section E of Valdice prison (including the right to appeal) as well as regular and multi-disciplinary review, as recommended by CPT;<sup>9</sup>

(e) Ensure that all medical examinations of life-sentenced and high security prisoners are conducted out of hearing and – unless the doctor concerned requests otherwise – out of sight of prison officers and in appropriate conditions.<sup>10</sup>

## Articles 12 and 13

22. Please provide detailed statistical data, disaggregated by crime committed, ethnicity, age and sex, on the number and type of complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and on related investigations, prosecutions and convictions and the penal or disciplinary sanctions applied. Also, please provide information on the number of complaints regarding domestic and sexual violence,

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<sup>4</sup> See report to the Czech Government on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 to 23 October 2009, document CPT/Inf (2010) 22.

<sup>5</sup> Radio Praha, "Czech Helsinki Committee criticizes conditions in country's prisons", 21 June 2011. Available from <http://www.radio.cz/en/section/curaffrs/czech-helsinki-committee-criticizes-conditions-in-countrys-prisons>.

<sup>6</sup> CPT/Inf (2010) 22, para. 19

<sup>7</sup> Ibid., para. 46

<sup>8</sup> Ibid., para. 48

<sup>9</sup> Ibid., para. 58

<sup>10</sup> Ibid., para. 61

trafficking in human beings and in psychiatric hospitals, and on related investigations, prosecutions, convictions and on the penal or disciplinary sanctions applied.

23. Please provide information on whether the very limited number of cases of prosecution and indictment for the crime of torture and other cruel and inhuman treatment by the competent authorities, namely only one during the current reporting period (para. 36), stems from the lack of knowledge among the public at large about the existence of criminal law provisions penalizing such acts and the possibility for victims to lodge complaints.

24. Please inform the Committee whether persons with mental disabilities and psychological problems in institutions and psychiatric hospitals, have the right to lodge complaints with an independent authority, with no institutional connection with the establishments, and retaliation by staff of such institutions and others against whom complaints have been lodged is prevented?

25. Please provide information on the measures taken by the State party to establish an independent body to investigate allegations of torture or ill-treatment by police and prison service officers, and with no institutional or hierarchical connection with the alleged perpetrators.

26. Please provide information on the status of the investigation of complaints regarding the excessive use of force by law enforcement officials in connection with the demonstrations at the International Monetary Fund/World Bank meeting in September 2000 regarding the four cases where complaints were found to be legitimate (para. 168).

27. Please provide information on the measures taken by the State party to prevent and prosecute acts of domestic and sexual violence and further increase the number or capacity of shelters for victims of such violence.

#### **Article 14**

28. Please provide information on the number of cases where victims of torture or ill-treatment have been awarded compensation, including the means for as full rehabilitation as possible, including cases of persons with mental disabilities and psychological problems in institutions and psychiatric hospitals.

29. Please provide information on any envisaged legislative changes to abolish the general limitation period of three years for victims of torture and other inhuman and cruel treatment to seek compensation for damage (para. 114), including the means for as full rehabilitation as possible in civil proceedings (para. 56).

30. Please indicate the measures taken by the State party to enable women sterilized in a coercive and non-consensual manner to claim compensation (paras. 56 and 172) and have access to free legal aid (para. 56).

31. In addition, please provide information on whether investigations have been carried out regarding the illegal shredding of medical records on unlawful sterilization (para. 56) and on any preventive measures taken to ensure that this does not occur again.

#### **Article 15**

32. Please provide information about any legislation stipulating that evidence obtained through torture is inadmissible in any proceedings and measures taken to ensure this in practice (para. 115).

## Article 16

33. Please provide information on the efficiency of the Police Force Inspectorate with regard to allegations of ill-treatment by police officers against minority groups (CERD/C/CZE/CO/8-9, para. 17), such as Roma (A/HRC/8/33, para. 44.15) as well as reports of ill-treatment of foreigners, mainly asylum-seekers, in detention centres (CERD/C/CZE/CO/8-9, para. 20).

34. Please provide information on any legislative measures taken to explicitly prohibit and eliminate corporal punishment of children in all settings, including in the family (CRC/C/CZE/CO/3-4, paras. 39 and 40) and alternative care settings.<sup>11</sup>

35. Please provide information on the status of the bill on the ombudsman for children. Also, please provide information on the status of the establishment of a “school” commissioner for children in facilities for institutional and protective care (para. 94). In addition, please provide information on any amendments to the Orphanage Ordinance in order to ensure mandatory registration of child care institutions and criminalize those operating without a licence and establish uniform standards for public and private institutions (CRC/C/CZE/CO/3-4, para. 46).

36. Please provide information on the measures taken to bring to an immediate end the application of surgical castration in the context of treatment of sex offenders and pending its abolition, to impose a moratorium in its application.<sup>12</sup>

37. Please provide information on the following:

(a) Are violent and discriminatory practices in a medical setting, such as forced administration of intrusive and irreversible treatments, practised?<sup>13</sup>

(b) Are persons with disabilities subjected to the use of cage-net beds (A/HRC/8/33, para. 18, and A/63/175, para. 56)?

38. Please provide information on the situation of an inmate in Pankrac Prison hospital who is alleged to have been subjected to severe ill-treatment by the Czech Police Force.<sup>14</sup> Have investigations been carried out and have prosecutions, convictions and penal or disciplinary sanctions been applied to the perpetrators?

39. Please provide information on the status of the amendment to Act. No. 109/2006 with a view to limiting the numbers of children in institutional care, substantially increasing the quality of care and extending the range of advisory services, envisaged in the context of the National Action Plan to Transform and Unify the Care of Vulnerable Children in the period from 2009 to 2011 (para. 15).

## Other issues

40. Please provide updated information on measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these anti-terrorism measures have affected human rights safeguards in law and practice and how it has ensured that those measures comply with all its obligations under international law, especially the Convention,

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<sup>11</sup> Briefing to the Committee from the Global Initiative to End All Corporal Punishment of Children.

<sup>12</sup> CPT/Inf (2010) 22, para. 44.

<sup>13</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the General Assembly, A/63/175, paras. 41, 47, 61 and 63.

<sup>14</sup> CPT/Inf (2010) 22.

in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005). Please describe the relevant training given to law enforcement officers; the number and types of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

41. Please also provide further information on the issues raised by the follow-up rapporteur on the conclusion and recommendations of the Committee in her letter dated 16 May 2011.

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