



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

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List of issues prior to the submission of the combined fourth and fifth periodic report of the Czech Republic****Article 1**

According to the third periodic report of the State party (CAT/C/60/Add.1), torture violates Act No. 140/1961 Coll. of the Penal Code. Please inform the Committee whether all elements of the definition of torture contained in article 1 of the Convention have been incorporated into the Penal Code.

Article 2

Please provide the Committee with information regarding measures actually taken by police officers in practice to notify a relative or other person when a person is deprived of his/her liberty. Please provide relevant statistics. Are persons informed in practice of this right immediately upon detention? Please also explain the extent to which other safeguards, such as access to an independent medical doctor or lawyer, are guaranteed in law and practice to persons in police custody. What progress has been made in providing such guarantees since the review of the third periodic report?

Please provide up-to-date information on the status of the draft Anti-Discrimination Act cited in CAT/C/CR/32/2/RESP/1 and whether it has entered into force. Please also provide information on the establishment of a mechanism to protect against discrimination, particularly with regard to the Roma population, and to “regulate equal treatment”.

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Article 3

Please provide the Committee with detailed information regarding steps taken by the State party regarding reported detention of asylum-seekers and other aliens. Have amendments to the asylum law been implemented, as reported, to widen the grounds for the rejection of asylum requests and to allow the detention of asylum-seekers in the process of being removed for a period of up to 180 days? If so, please describe how this agrees with the requirements of the Convention. Please also describe the conditions in these centres and whether the persons confined there have access to safeguards and any possibility of appeal. Please provide relevant statistics about the nationality, ethnicity, sex, and age of persons rejected and removed to third countries. Has a person ever been denied removal because of a risk of torture upon return? Please provide details and illustrative cases, as well as statistics, if any, regarding any such removals and the assessment process.

Please indicate the status of the amendment to the Aliens Act which reportedly prohibits the detention of unaccompanied minor aliens under 15 years of age and requires the Czech Republic Police to appoint a guardian for each unaccompanied alien under 18 years of age. Are unaccompanied minor aliens held separately from adults? Please describe the number, location, supervision and treatment of asylum-seekers and minor aliens while refugee status determinations are in progress.

Article 4

In its conclusions on the third periodic report of the Czech Republic in 2004 (CAT/C/CR/32/2), the Committee urged the State party to devise modalities of collecting data and monitoring any occurrence of ill-treatment by the police or other public officials, including any which are ethnically motivated, in order to address the issue more effectively (para. 6(b)). Please provide updated statistical information on the number of individuals investigated, tried and/or convicted, including the punishments received, for the crime of torture or ill-treatment, including violence against the Roma or other minorities or groups. Please clarify the legal provisions that were violated in any such cases.

Please update information on the measures planned or in place to strengthen safeguards provided in the Code of Criminal Procedure against torture or ill-treatment. Information communicated to the Committee on 14 January 2008 (CAT/C/CZE/CO/3/Add 2) in response to the letter dated 16 May 2006 from the Rapporteur for Follow-Up on Conclusions and Recommendations to the Czech Republic (CAT/C/CZE/CO/3/Add.1/LFP) indicates that, from 1998-2005, “there was no person investigated, prosecuted, or convicted of the criminal offense of “torture, and other forms of inhuman and cruel treatment” as defined under Sc. 259(a) of the

Criminal Code.” Please provide in the combined fourth and fifth periodic report updated information on criminal investigations into suspected acts of torture or other ill-treatment pursuant to article 259(a) of the Penal Code and any prosecutions that resulted, together with punishments meted out. Please indicate whether steps have been taken to ensure that the classification of acts prohibited under the Convention is made by an impartial authority with a view to initiating appropriate proceedings. Please explain what oversight or review takes place with regard to initiating investigations and laying charges concerning suspected abusive acts.

In its previous conclusions, the Committee also invited the State party to provide statistical data on inter-prisoner violence to facilitate determination of the root causes and the design of appropriate prevention strategies (para. 6(g)). Please provide information on any follow-up measures taken regarding prevention and prosecution regarding interprisoner violence including sexual violence and rape. What investigations are conducted into reports of such incidents?

Article 5

Please indicate whether the domestic legislation of the State party includes provisions establishing **universal jurisdiction** for acts of torture. Has the State party exercised such jurisdiction and brought charges or initiated any proceedings to give effect to this provision of the Convention? Please also indicate whether the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and has thus initiated its own prosecution as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

In the light of information received by the Committee regarding persistent acts of violence against the Roma and the reported reluctance on the part of the police to provide adequate protection and to investigate such crimes, please provide updated information on any measures taken to ensure that all personnel involved in the custody, detention, interrogation and treatment of detainees receive training regarding the prohibition of torture and ill-treatment, particularly when dealing with individuals from populations made vulnerable, including Roma people, undocumented migrants and asylum-seekers, women, and other minorities.

Please indicate under which conditions human rights defenders have access to places of detention, and to information and statistics.

Articles 10 and 14

After the extensive study by the Public Defender on cases involving involuntary sterilizations prior to 1991, have the recommendations issued in 2005 by the Public Defender been implemented yet? In view of the study and recommendations, please explain the aims and the objectives of the newly established government Commission. Will there be investigations into any of the five cases outlined illustratively in the report, or the 80 complaints cited in the Public Defender’s report? Will the Commission investigate cases of any other women who claim to have been involuntarily sterilized after 1991, both with reference to the legality of the consent procedure, and the accountability of the physician or other persons involved in the cases, or the healthcare facility? Please provide updated information on the status of the legal proceedings initiated by Ms. Helena Ferenčíková and by Ms. Iveta Červeňáková, and the reasons for the differences in compensation reached in each case. Please clarify whether the State party intends to take any measures to assist other victims of involuntary sterilizations to initiate criminal or civil proceedings against those responsible.

Recalling that both education (article 10 of the Convention) and remedial measures (article 14 of the Convention) are themselves a means of preventing further violations of the obligations of the State party under the Convention, please explain whether any efforts have been made after 1991 to inform and re-educate the medical community on the issue of coerced sterilization with a view to ensuring that no sterilization takes place without fully informed consent of the patient. Please also provide information on sensitization measures taken by the State party to educate members of the general public on this issue to address the discriminatory roots of pre-1991 eugenics and the policy of coerced sterilization of women, most of whom were Romani.

Article 11

While the amendment to Act No. 349/1999, Coll., the Ombudsman Act, as implemented under Act. No. 381/2005 Coll. which provides for the competence of the Ombudsman to make systematic visits to places of detention, is noted, please describe the procedures planned or in place to keep under systematic review, interrogation rules, instruction, methods and practices and arrangements of custody with a view to preventing any cases of torture, in accordance with article 11 of the Convention. Please also indicate the frequency of this review. Please clarify the role and approval process for non-governmental organizations (NGO) to examine places of detention; are measures in place or under consideration to enable NGO recommendations to be implemented by authorities? Please also indicate whether the nomination by the State party of the Ombudsman’s Office as the independent national preventative mechanism following the ratification by the Czech Republic, in July 2006, of the Optional Protocol to the Convention against Torture has resulted in any changes to the existing responsibilities of the Ombudsman’s Office, and if so, with what impact? Have additional resources been allocated to the Ombudsman’s Office to enable it to carry out its new functions?

Following the reported incidents of routine sexual violence and rape of newly-arrived prisoners in the Valdice prison, what has been the outcome of the investigation of such cases in the Valdice prison? Please be as specific as possible. Further, has the State party taken any specific measures to deal with such abuses, including holding those responsible accountable and taking measures to prevent such incidents in the future? Are there specific mechanisms competent to receive complaints of abuse or violence from prisoners that will ensure the privacy of victims and protect both victims and witnesses against ill-treatment or intimidation as a consequence of the complaint? What measures also ensure prompt, impartial and full investigation and punishment of the alleged perpetrators and of prison personnel who know that the newly arrived prisoners are being subjected to such treatment?

Please provide the Committee with information on what measures are planned or in place to separate juveniles from adults in all situations of detention.

Please comment on the reports of de facto delay in ending the use of net beds in psychiatric institutions and that some patients continue to be reportedly restrained on these beds without clothing. Please provide up-to-date information on what procedural safeguards are in place to ensure that the dignity and human rights of every patient in psychiatric institutions is respected?

Article 12

According to the response of the State party to the conclusions and recommendations of the Committee CAT/C/CR/32/RESP/1), a “multilevel mechanism has been built to supervise compliance with the applicable laws and internal regulations in the police force” (p. 8). In addition, the local government is reported to be responsible for investigations into the actions of municipal police officers. Please provide detailed information on these supervisory mechanisms, the number of police officers and officials investigated, prosecuted and convicted for the crime of torture and ill-treatment.

The State party also notes in its response that all Prison Service Officers serving at the Prevention and Complaints Departments of prisons and remand prisons and at the Prevention Unit of the Prison Service are “competent to perform the functions of the police in the course of investigations and criminal proceedings, in accordance with the Code of Criminal Procedure” (ibid., p. 11). Please indicate the status of these bodies, the scope of their powers, procedures for their recruitment and the availability of appeal procedures. Please provide data on the outcome of any investigations. Additionally, please outline any complaints lodged against prison service officers and the results. Please clarify what training and re-evaluation of prison service officers takes place and whether how this compares to the training and oversight of police.

Article 13

The State party also notes in its response that with the exception of cases arising in the context of criminal proceedings, complaints against police officers may be lodged with the Public Defender of Rights (Ombudsman), who has registered a “wide variety of complaints against the police” (ibid., p. 10). Please provide detailed information on the number, charges and outcome of the Public Defender’s investigations of these complaints. Please also indicate what steps have been taken to establish an effective, reliable and independent complaint system to undertake prompt and impartial investigations into all allegations of ill-treatment or torture by the police or other public officials, including allegations of racially motivated violence by non-State actors, in particular, any that have resulted in deaths, and to punish the offenders.

Article 14

Please provide the Committee with detailed information on redress and compensation available and provided to victims of torture or ill-treatment, or to their families.

Article 15

Please indicate the existence of any legal provisions in the domestic legislation that ensure that the absolute prohibition against torture is not derogated from under any circumstances; prohibit the use of any statement obtained under torture; and establish that orders from a superior may not be involved as a justification of torture.

Please indicate whether the State party has taken any initiatives to review past cases of torture and ill-treatment of prisoners as well as any instances whereby coerced testimony was used as the basis for convictions under the Communist regime.

Article 16

Please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons and the occupancy rate for the period 2002-2008. What measures have been implemented to address the ongoing problem of prison overcrowding, as outlined in the third periodic report of the State party? Are new prisons being constructed? Are alternative punishments under consideration?

Please provide information on the availability of work opportunities outdoor exercise or activities available for those serving life sentences.

Other

Information communicated to the Committee on 14 January 2008 (CAT/C/CZE/CO/3/Add 2) indicates that some measures have been taken to reduce the payment required by detainees covering the cost of imprisonment. Is further reduction or a complete abolishment of this requirement still under review? Please provide up-to-date information in this regard, in particular, whether the Ministry of Justice is taking further steps to eliminate the requirement for detainees to cover the cost of imprisonment, as recommended by the government representative for human rights (ibid., p. 12) and by the Committee in its previous conclusions (para. 6(i)). Please provide updated information also on the number of persons affected by these provisions, and the sums of money collected, as well as the use to which it is put, if any.

Please provide detailed information on any measures adopted by the State party, aiming at the prevention and prohibition of the production and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment.

Please provide information on the legislative, administrative and other measures the Government has taken to respond to the threat of terrorism, and please indicate if, and how, these have affected human rights safeguards in law and practice.

Please indicate concrete measures that have been taken to widely disseminate the Convention as well as the Committee's conclusions and recommendations in all appropriate languages in the State party. What actions or programmes have been taken in cooperation with NGOs?

Other new measures and developments relating to the implementation of the Convention

Please provide detailed information on the relevant new developments that have occurred since the previous periodic report and the relevant parts of the follow-up information submitted with regard to the legal and institutional framework within which human rights are promoted and protected at the national level, including any relevant jurisprudential decisions and statistical data.

Please provide detailed relevant information on any new political, administrative and other measures that have been taken to promote and protect human rights at the national level since the previous periodic report, including any national human rights plans or programmes, and the resources allocated to it, their means, objectives and results.

Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2004, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.
