



**International Convention
on the Elimination
of all Forms of
Racial Discrimination**

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**COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION**

Seventh periodic reports of States parties due in 2006

Addendum

Czech Republic * **

* This document contains the sixth and seventh periodic reports of the Czech Republic, due on 9 January 2006, submitted in one document. For the fifth periodic report and the summary records of the meetings at which the Committee considered the report, see document CERD/C/491/Add.1 and CERD/C/SR.1590-1592 and 1603.

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INTRODUCTION

1. The Czech Republic (hereinafter the CR) is a contracting party to the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter the Convention), which was signed by the former Czechoslovak Socialist Republic 7 March 1966. It thus submits regular reports on the performance of obligations arising from this Convention to the Committee for the Elimination of Racial Discrimination. The CR submitted the fifth periodic report in November 2002.
2. In accordance with the Concluding Recommendation no. 21 to the fifth periodic report, the CR submits the sixth and seventh reports on the performance of obligations arising from the Convention for the period from 1 June 2002 to 31 March 2005.

I. GENERAL PART

Survey of minorities

3. The latest census of people in the CR was held in 2001. Of the total population, 9.9 % were of other than Czech nationality (1 022 318 people), ie. 490 630 more than in the previous census. The majority of these registered as of Moravian nationality (373 294), followed by Slovak (183 749), Polish (50 971), German (38 321) and Silesian (11 248). Only 11716 people registered as of Roma nationality. Qualified estimates, however, suggest that approximately 200 000 Roma who are generally regarded as Roma and who consider themselves part of this community live in the CR.

4. As at 31 December 2002, the CR had a total population of 10 204 000 according to the definitive processing of the results from the census of 2001. As at 31 March 2005, the CR had a total population of almost 10 224 000.

5. Traditional national minorities long-term resident in the CR are as follows: Bulgarians, Croatians, Hungarians, Germans, Poles, Roma, Ruthenians, Russians, Greeks, Slovaks, Serbs and Ukrainians. These minorities also have representatives in the Government Council for National Minorities, the permanent advisory and initiative-taking body for questions concerning national minorities and their members.¹ The status and situation of these national minorities are dealt with in annual evaluation reports, which are discussed by the Government and submitted to the Parliament of the Czech Republic for its information.² Reports submitted to the Government by the Government Council for Roma Community Affairs also have important information value.³

Foreigners

6. As at 31 May 2005, the total number of foreigners living legally in the CR was 252 316, of which 41 % were women (102 843). Of the total number, 102 391 people had been granted permanent residence⁴ (of which 49 % were women), and 149 925 foreigners were persons with

¹ see also point 30

² These reports are available to the general public on the web site of the Government Council for National Minorities (http://wtd.vlada.cz/pages/rvk_rnm.htm), and in print as a publication issued by the Office of the Government of the CR.

³ In 2005, a Report was issued on the Situation of Roma Communities in the CR in 2004. The Government took this into account in Resolution No. 276 of 9 March. The Report is published on the pages of the Office of the Government (www.vlada.cz).

⁴ Permanent residence in the CR is governed by Act No. 326/1999 Coll., on the Residence of Foreigners in the CR, as amended. Under Section 64a of the Act, a foreigner may reside in the CR with permanent residence on the basis of a residence permit or decision by the relevant body to place the foreigner in substitute care. Every foreigner may apply for residence after 10 years of uninterrupted residence in the country on a long-term visa or permit for long-term residence (following the CR's accession to the EU). Under certain conditions a foreigner may apply for residence after 8 years of residence. Previous, uninterrupted residence is not required for a foreigner who applies for a permit in order to live with a Czech citizen or who applies on humanitarian grounds, or if his permanent residence is in the interests of the CR, or if he or she is an unprovided-for child of a foreigner who already lives in the CR on the basis of a residence permit.

one form or another of temporary residence exceeding 90 days⁵ (of which women formed 35 %). In comparison with 2004 this represented a fall of 1 978 in the number of foreigners, which is an opposite trend to that of the previous three years (from 2001 there had been a regular increase in the number of foreigners in the CR – in 2002 by approximately 20 000, in 2003 and 2004 by around 10 000). A survey of the most common countries of origin for foreigners in the CR is given in table no. 1.

7. Since 2003 the CR has also monitored the proportion of women in individual categories of foreigners. This is stable at around 40 %, with a slight year-on-year increase of one per cent.

8. With the CR's accession to the European Union (hereinafter the EU)⁶ the question of the status of foreigners underwent major changes⁷. Types of residence were categorised according to whether the foreigners is or is not a citizen or relative of a citizen of an EU member state. An EU citizen can enter and reside in the CR without special restrictions on the basis of a valid travel document, which also includes an identity card. If a citizen of another EU member state resides in the CR for more than three months, e.g. for reasons of employment, study, business or other activity, he/she is entitled (not obliged) to request a permit for temporary residence under the Act on the Residence of Foreigners (No. 326/1999 Coll.). The aforementioned permit is not, however, a condition for his/her residence in the CR, including in the event of his/her employment, business, study or other activity. There nevertheless exists a range of cases where an EU citizen must request special residence permission, e.g. in order to allow a relative of an EU citizen who is not an EU citizen to also request the granting of such permission etc. Also simplified have been the conditions for citizens and relatives of EU citizens who want to reside in the CR on a permanent basis. An EU citizen is obliged to report his/her place of residence in the CR within 30 days of entering the country if his/her planned residence is longer than 30 days. The obligation to report the place of residence to the police does not apply for foreigners who have fulfilled this obligation with a quarter master.

9. In 2002 and 2003, the number of applications for permanent residence ranged around 10 000. In 2004, the same number of applications was received from EU citizens and about 15 000 from citizens of third countries (i.e. states outside the EU). Since 2002, the number of applications for a visa for residence of more than 90 days has ranged around 42 000, which represents an increase of approximately 100 % in comparison with 2000.

⁵ I.e. temporary residences of EU citizens, visas over 90 days and long-term residence permits for citizens of non-member states. A visa for residence over 90 days (type D visa) is a long-term visa and is also granted under Act No. 326/1999 Coll. The visa is granted by the Police at the request of a foreigner who intends to stay in the CR for a purpose that requires more than 3 months, unless the residence is on sufferance or for the purpose of temporary protection. Residence on the basis of this visa can be repeatedly extended, but only up to the maximum length of the visa (i.e. 1 year). The foreigner's further stay in the CR, if for the same purpose of residence, must be on the basis of a long-term residence permit.

⁶ The CR became a member of the EU on 1 May 2004.

⁷ In particular Act No. 326/1999 Coll., on the Residence of Foreigners in the CR – which has been amended by several acts, particularly Act No. 217/2002 Coll. and Act No. 222/2003.

Table no. 1: Foreigners in the CR according to nationality 2002 - 2005

Citizenship/ numbers in specific years		31 December 2002	31 December 2003	31 December 2004	31 March 2005
Slovakia	Total	61 102	64 879	47 354	42 102
	Of which with permanent residence	18 %	18 %	36 %	43 %
Ukraine	Total	59 145	62 282	78 263	79 179
	Of which with permanent residence	18 %	18 %	17 %	17 %
Vietnam	Total	27 143	29 046	34 179	34 875
	Of which with permanent residence	49 %	58 %	61 %	61 %
Poland	Total	15 996	15 766	16 265	16 663
	Of which with permanent residence	71 %	71 %	71 %	69 %
Russia	Total	12 814	12 605	14 747	14 933
	Of which with permanent residence	35 %	37 %	38 %	38 %

10. Since 2002, the Ministry of the Interior has initiated and financially supported projects of non-governmental, non-profit organisations which aim to provide free legal advice to foreigners with residence permits in the CR allowing them to stay more than one year. Other programs support these organisations' further information activities aimed at resolving problems of co-existence between the domestic majority population and foreigners.

11. Since 1 January 2004, the implementation of the policy for the integration of foreigners, which up to the end of 2003 had been the responsibility of the Ministry of the Interior, has come within the competence of the Ministry of Labour and Social Affairs. This set up an inter-departmental Commission of the Minister of Labour and Social Affairs for the integration of foreigners, which replaced the Commission of the Ministry of the Interior for the preparation and implementation of the policy of the government of the CR in relation to the integration of foreigners and the development of relations between communities.

12. The police headquarters of the Police of the CR monitors the migration of Roma from Slovakia.⁸ The chief aim of the monitoring is to obtain prompt information on increased attempts by members of the Roma community in Slovakia to settle in the CR and to prevent this happening in an uncontrolled fashion.

⁸ Under Government Resolution of 19 November 2003 No. 1160 and Government Resolution of 28 April No. 396 (see <http://vladce.vlada.cz/apac/www.htm>)

Refugees and asylum seekers

13. In 2002, compared with the previous year there was a sharp fall in the number of asylum seekers, chiefly as a result of a change in legislative conditions concerning the CR's accession to the EU. The sharp fall in the number of asylum seekers is also due to the introduction of the so-called Dublin Accords (Dublin II).⁹ The following table provides a summary of the numbers of asylum seekers, decisions granting asylum and persons with current asylum during the monitored period.

Table no. 2: Asylum

As at	31 December 2002			31 December 2003			31 December 2004			31 March 2005
Sex	Women	Men	Total	Women	Men	Total	Women	Men	Total	Total
Number of asylum seekers	2 653	5 831	8 484	4 423	6 977	11 400	1 980	3 479	5 459	951
Number of decisions granting asylum	0	103	103	99	109	208	0	142	142	69
Number of people with current asylum	606	859	1 465	623	890	1 513	674	949	1 623	1 686

14. In 2005 (as at 31 March), citizens of the Ukraine made up almost one-third of asylum seekers (299 people). Quite some way behind them were citizens of China (157), Slovakia (78), Russia (63), Belarus (59) and Vietnam (57). This represented a change in the composition of asylum seekers' nationalities, for in 2002 the most numerous categories (after citizens of the Ukraine) included citizens of, for example, Moldova (724) and Georgia (678). Asylum is most frequently granted to citizens of Russia (almost 50 %), Belarus and Kazakhstan.

15. As of 1 January 2003 a new administrative justice system was introduced, including a new remedial measure – cassation complaint against a decision of a regional court. If an asylum application is turned down the foreigner is entitled to submit a cassation complaint to the Supreme Administrative Court. At the same time, the foreigner can ask for the cassation complaint to have suspensory effect so that he can continue to live in the CR. Upon request, the foreign and border police will grant him a visa on sufferance. In 2003, a total of 1,069 cassation complaints were submitted. In 2004, the number of new cassation complaints tripled (to 3 130). In both years, the majority of complainants came from the Ukraine and Vietnam.

⁹ Council Regulation No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. The Regulation states the mechanisms to define the member state responsible for examining the asylum application from third-country national in one of the member states (the essence of the Regulation is that an asylum application should be dealt with only in one EU state).

Table no. 3: Numbers of illegal migrants across the border of the CR

Year	2002	2003	2004	1st. quarter 2005
Men	11 429	10 146	7 755	1 121
Women	3 312	3 060	2 940	442
Total	14 741	13 206	10 695	1 563

Table no. 4: Nationality of illegal migrants across the state border of the CR

Year	2002		2003		2004		1st quarter 2005	
Citizenship	China	2 301	Russia	2 912	Russia	3 725	Russia	328
	India	1 190	China	2 152	China	1 009	Ukraine	158
	Vietnam	1 074	Poland	793	Ukraine	878	China	111
	Germany	1 022	Germany	602	Georgia	564	Moldova	102
	Poland	1 019	Ukraine	575	Poland	553	Bulgaria	97
	Georgia	895	Vietnam	550	Germany	456	Poland	63
	Russia	368	Slovakia	263	Romania	152	Vietnam	39
	Other	6 872	Other	5 359	Other	3 358	Other	665
Total	14 741		13 206		10 695		1 563	

II. SEPARATE PART

Fulfilment of articles 2 – 7 of the Convention

Article 2

Legal and administrative measures against discrimination

Integrating the CR in international human rights treaties

16. On 4 November 2000, the CR signed Protocol No. 12 to the European Convention on the Protection of Human Rights and Fundamental Freedoms. The Protocol broadens the prohibition of discrimination laid down by article 14 of the Convention to include all cases of discrimination. The CR has not yet ratified this protocol, and in September 2004 the Prime Minister, at the request of the Minister for Foreign Affairs, decided to postpone ratification to 30 July 2007. The CR's cautious approach is caused by the cases brought against it before the European Court for Human Rights and the UN Committee for Human Rights in Geneva involving property matters, in which the CR's approach has in many cases been deemed to be discriminatory.

17. On 9 November 2000, the CR signed the European Charter for Regional and Minority Languages, the aim of which is to safeguard and support Europe's linguistic diversity. The CR has not yet ratified the convention. A proposal for the convention's ratification will be submitted to the Government by 31 December 2005.

18. In 2004, the CR ratified the European Convention on Citizenship, which is a modern instrument dealing with the issue of state citizenship and whose aim is among other things to eliminate discrimination in matters relating to state citizenship.

19. In 2004, the CR also ratified the Convention relating to the Status of Stateless persons.

National legislation for protection against racial discrimination

20. National legislation for protection against racial discrimination has been described in detail in previous reports. The basic legal regulation anchoring the protection of fundamental rights and freedoms is the Charter of Fundamental Rights and Freedoms, which forms part of the constitutional order. It contains a general prohibition on discrimination in article 3, which guarantees "*basic rights and freedoms for all regardless of sex, skin colour, language, faith and religion, political or other opinion, national or social origin, membership in a national or ethnic minority, property, family or other status*". Protection against discrimination is also covered by

the international covenants binding on the CR.¹⁰

21. Until 31 May 2002, article 10 of the Constitution of the CR only acknowledged one category of international treaty – treaties on human rights and fundamental freedoms, which at a constitutional level it accorded priority over the law. All other treaties were only directly applicable at a national level where explicitly stipulated by law. This situation led to a certain non-transparency, inconsistency and lack of uniformity in the application of the relevant treaties by courts and other bodies, and thus in application practice.

22. The change to article 10 of the Constitution effective from 1 June 2002 (Constitutional Act No. 395/2001 Coll.) represents a turnaround by stating that “*promulgated¹¹ international treaties whose ratification has been agreed by Parliament and which are binding for the Czech Republic form part of the legal order; if an international treaty stipulates something different to the law, the international treaty be applied*”. This change to the Constitution establishes the precedence of international treaties over the law. If a law is found to be at variance with an international treaty which forms part of the CR’s legal order, precedence must be given to the international treaty in applying the law. If the variance is such that it prevents the effective enforcement of rights stated by international treaties, it is possible to seek annulment of such laws, other legal regulations or their individual parts at the Constitutional Court. The change to article 10 of the Constitution gave the Constitutional Court new powers – it can decide on a petition to judge compliance of an international treaty with constitutional order, including before its ratification.¹² Authorisation to submit a petition to review compliance of international treaties with constitutional order before their ratification belongs to the President of the Republic, a certain number of members of parliament or senators. If the Constitutional Court finds a conflict between constitutional order and a treaty this conflict shall be removed as otherwise a breach of the Constitution shall have occurred.

23. Between 2002 and 2005 several legal regulations were amended and several new legal regulations were adopted that relate to the question of discrimination. These concern chiefly the following:

a) An amendment to the Civil Procedure Code (Act No. 99/1963 Coll.) establishes the principle of shifting the burden of proof in cases of alleged discrimination on the basis of racial or ethnic origin in matters involving the provision of health and social care, access to education and expert training, access to public orders, membership of employee or employer organisations and membership of professional and interest associations and the sale of goods in shops or the provision of services.¹³

¹⁰ International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination Against Women, International Pact on Civil and Political Rights, International Pact on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.

¹¹ Under the Act on the Collection of Laws and the Collection of International Treaties (No. 309/1999 Coll.), international treaties are promulgated in the Collection of International Treaties. The Collection of Laws and Collection of International Treaties are official instruments for publication of binding legal regulations.

¹² The amendment to Act No. 182/1993 Coll., on the Constitutional Court, was implemented by Act No. 48/2002 Coll.

¹³ The amendment was implemented by Act No. 151/2002 Coll., amending certain acts relating to the adoption of the administrative procedure code. See article 6 for the conditions on the shift of the burden of proof.

b) An amendment to the Labour Code (Act No. 65/1965 Coll.) prohibits direct or indirect discrimination on grounds of, among other things, racial or ethnic origin, prohibits harassment and sexual harassment, defines the terms relating to discrimination and provides a more detailed definition of sexual harassment in the workplace.¹⁴ The Labour Code further states that if in labour-law relations there is a breach of rights and obligations in the equal treatment of men and women, or if there is discrimination, employees are entitled that he or she is not subjected to breaching of rights, to have the consequences of such breach remedied and to receive commensurate redress. The amendment was adopted partly on the basis of the EU directive on equal treatment and the prohibition on discrimination.¹⁵

c) A new Employment Act (No. 435/2004 Coll.) was adopted which, like the Labour Code, contains more detailed legislation on the discrimination issue. The Act covers access to employment and establishes certain positive measures for members of national and ethnic minorities. It prohibits direct and indirect discrimination in the application of the right to employment on grounds of sex, sexual orientation, racial or ethnic origin, nationality, state citizenship, social origin, family, language, health, religion or faith, property, marital and family status, age or family obligations, political or other orientation, membership and activity in political movements, in trade unions or employee organisations.¹⁶

d) An amendment to the Act on Regular Soldiers (No. 221/1999 Coll.) includes an obligation for service bodies to ensure equal access and equal treatment for all candidates for service functions and for all soldiers in creating the conditions for the performance of service.¹⁷ The Act includes anti-discrimination provisions prohibiting discrimination on a wide range of grounds, and these have been expanded to cover nationality, pregnancy, maternity or breastfeeding. The Act also covers relations during the service relationship, i.e. also before it begins, and thus also applies to the recruitment procedure for a service function. Indirect discrimination is defined as "*behaviour that discriminates not directly but in its consequences*". It also includes a definition of harassment as an "*unacceptable form of behaviour that abuses the rights and obligations relating to the service function*", and also defines sexual harassment.

e) In 2002, comprehensive legislation was adopted for the employment relationship of state employees where such relationship became a service relationship. The so-called Services Act (No. 218/2002 Coll.) includes the principle of equal treatment for all state employees with regard

¹⁴ The amendment was implemented by Act No. 46/2004 Coll., which amends Act No. 65/1965 Coll., the Labour Code, and Act No. 312/2002 Coll., on Officials of territorial self-governing Units. The regulation came into effect 1 March 2004.

¹⁵ Directive 2002/73/EC, amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, Directive 2000/78/EC, establishing a general framework for equal treatment in employment and occupation, Directive 2000/43/EC, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

¹⁶ for further details see 1. 5

¹⁷ The amendment was implemented by Act No. 254/2002 Coll. For means of protection against discrimination see article 6.

to conditions of performance of service, remuneration and other financial payments, education and the opportunity to gain promotion in the service, regardless of their racial or ethnic origin, among other things. The Act came into effect 1 January 2007.

f) The Act on the Service Relationship of Members of Security Forces (No. 361/2003 Coll.) also provides comprehensive legislation for the service function of members of the Czech Police, Fire Service, Customs Administration, Prison Service, Intelligence Agency and the Office for Foreign Relations. It prohibits discrimination in service functions, including on grounds of nationality, race, family or ethnic origin, defines the terms relating to discriminate and establishes the victim's right to judicial protection in the event of discrimination. The Act defines direct discrimination ("behaviour as a result of which, on the grounds stated in paragraph 2, a member has been, is or could be treated less favourably than another members in a comparable situation"), interprets indirect discrimination as apparently non-discriminatory behaviour that disadvantages one member in relation to another on the basis of the specified grounds, prohibits harassment ("behaviour that is justifiably perceived by another member to be unwelcome and whose aim or consequence is to lessen the dignity of a natural person or to create a hostile or humiliating environment"), sexual harassment and stipulates those exceptions that are not considered to constitute discrimination. The Act will come into effect 1 January 2006.

g) With effect from 1 January 2005, an equal approach to education without any discrimination (including on grounds of race) is provided for by the new Education Act (No. 561/2004 Coll.).¹⁸

h) An amendment to the Code of Criminal Procedure (Act No. 141/1961 Coll.) regulates the specific conditions for an injured party to consent or reject a criminal prosecution. For example, a criminal prosecution for a violent crime against a group of the population and against an individual can only be brought with the consent of the injured party.¹⁹

i) An amendment to the Act on Radio and Television Broadcasting (No. 231/2001 Coll.),²⁰ contains a prohibition on advertising and teleshopping that attack religious or political persuasions and a prohibition on advertising and teleshopping that are discriminatory on grounds of sex, race, skin colour, language, national or social origin or membership of a national or ethnic minority.²¹

j) In July 2005 a new Labour Inspection Act (No. 251/2005 Coll.) was adopted which enlarged the powers of the labour inspection bodies to inspect compliance with obligations arising from legal regulations concerning employee rights or obligations in labour-law relations, including legal regulations on the remuneration of employees. This means that the labour inspection bodies have assumed the powers of Labour offices in matters of discrimination.

24. In December 2004, the Government approved an anti-discrimination bill, which among other

¹⁸ For more detail see article 5

¹⁹ The change was implemented by Act No. 265/2001 Coll.

²⁰ Implemented by Act No. 341/2004 Coll.

²¹ A breach of this prohibition is subject to a fine of between CZK 5 000 and 2.5 million, imposed by the Radio and Television Broadcasting Council (the administrative body performing state administration for radio and television broadcasting).

things implements EU directives on equal treatment and protection against discrimination.²² The Act harmonises legislation covering protection against discrimination and removes any shortcomings in Czech law from the point of view of EU directives. The anti-discrimination bill specifies the Ombudsman as a subject that will systematically concern himself with the issue of equal treatment and provide assistance to victims of discrimination. Government approved the bill in December 2004 and in January 2005 submitted it to the Chamber of Deputies to be read.²³

National measures of a non-legislative nature to protect against racial discrimination

25. In fulfilment of the Concluding Recommendations of the Committee for the Elimination of Racial Discrimination, and in particular recommendation no. 9,²⁴ since January 2003 the Ministry of the Interior has co-ordinated the implementation of the National Strategy for Police Work in relation to national and ethnic minorities (hereinafter the Strategy). The Government adopted the first Report on the procedure and ongoing results of the Strategy's introduction (hereinafter the Report on the Strategy's Introduction) on 25 August 2004.²⁵

26. The Strategy arose from co-operation between the Ministry of the Interior, the Police, government and non-governmental organisations in the CR with the aim of creating an effective instrument to combat xenophobia and racial intolerance inside police bodies and the whole of society and to help develop cultural diversity and tolerance. The Strategy introduces three basic preventive instruments for police work with minorities in the Police structure: an operations plan for the Police in relation to national and ethnic minorities, a contact officer for the issue of minorities and a Police assistant for work in socially excluded Roma communities.²⁶

27. The operations plan for the Police in relation to national and ethnic minorities (hereinafter the Operations Plan) is a document stating the specific priorities for Police operations with regard to members of minority communities. The Operations Plan is a basic strategic document enabling the Police to formulate specific goals in relation to members of minorities or minority communities, the means to achieve these goals and the mechanisms for monitoring their success. In this document, the Police in a given region set themselves: goals (e.g. forms of co-operation with representatives of self-administration, state administration, non-governmental organisations and schools in the region, preventive action; the systematic monitoring of the structure of members or communities of national minorities and foreigners in the locality; forms of co-operation with minority communities; strategies for building trust between the Police and

²² The bill implements Council Directive No. 2000/43/EC, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Directive No. 76/207/EEC, on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, and Directive 2000/78/EC, establishing a general framework for equal treatment in employment and occupation.

²³ The Government approved the Act on equal treatment and legal means of protection against discrimination (Anti-Discrimination Act) in its Resolution of 1 December 2004 No. 1193 (<http://kormoran.vlada.cz/usneseni>).

²⁴ For the text of the recommendation see part III

²⁵ Government Resolution of 25 August 2004 No. 800 (<http://vladce.vlada.cz/apac/www.htm>)

²⁶ A Police operations plan for national and ethnic minorities, as well as the creation of the post of contact officer for minorities, are systemic measures implemented in the Police structure with effect from January 2004.

members or communities of national and ethnic minorities; police work in relation to foreigners etc.), specific means to achieve these goals, the Police service in the given area responsible for implementing the goals and the deadline for implementation and fulfilment of the goals. The implementation of the Operations Plan's goals should be greatly assisted by the mechanism of the contact officer for minority issues. The Police's Operations Plan is annually reviewed at a regional and central level. Pilot runs of the Operations Plan were held in 2003 and 2004 in two regions of the CR. The measure was only introduced on a nation-wide basis from 2005.

28. The mechanism of the contact officer for minorities balances the Police's repressive approach concerning extremist crime and is linked to existing initial preventive activities regarding members or communities of minorities. The contact officer is an employee specialised in police work relating to minorities and his services may be used by a variety of police units to resolve problems falling within their competence.²⁷

29. Both projects (the Operations Plan and the contact officer for minorities) were tested in pilot form in 2003 and 2004. After being judged as beneficial and effective both projects were introduced in January 2005 in all regional administrations of the Police.²⁸

30. The task of the Police assistant for work in socially excluded Roma communities is to facilitate the Police's contact and communication with the minority community. The function of the Police assistant supplements the activity of the contact officers in risk localities.²⁹ At present, Police assistants work in cities of Ostrava and Cheb. The work of police working groups and the police assistants is making it easier for the Police to detect latent criminal activity in socially excluded communities.³⁰

Institutional safeguards

31. In the CR, protection against discriminatory behaviour is guaranteed by the general courts (action for the protection of personal rights in civil law – for more detail see article 6). The prosecution of behaviour connected with racial or ethnic intolerance is guaranteed by the relevant provisions of the Criminal Procedure Code (Act No. 141/1961 Coll.) and the Criminal Code (Act

²⁷ The position of contact officer for minorities is filled by an employee from the department fighting extremist crime at regional Police administration level. This person is responsible for implementing the following activities: compiling and implementing the Operations Plan for the relevant regional Police administration in respect of minorities in the area; systematic monitoring of the structure of communities of national minorities and foreigners in the area; pro-active police work in relation to minorities; specialisation in criminogenic possibilities among minority communities in the region; systematic co-operation with self-administration, state administration and non-governmental organisations in solving specific problems relating to the life of a minority; systematic fulfilment of the post of competent mediator between the police and the minority community; assistance in investigating all serious offences connected to the life of minority communities, etc.

²⁸ The directors of the relevant regional Police administrations are responsible for appointing the contact officer for minorities, and for the marking the police working groups.

²⁹ The proposal to create the post of Police assistant comes from the experience of the French Police Force with the project Police de Proximité (Police de Proximité - la police plus proche de la population – bringing the police closer to the people).

³⁰ In Ostrava, the work of the two Roma assistants focuses on the problem of usury. Their work contributes to the criminal prosecution of this practice. In Cheb, two field social workers work as police assistants, concentrating on the issue of child prostitution.

No. 140/1961 Coll.).³¹ Municipal authorities also offer protection against discriminatory behaviour by punishing minor offences.³²

32. Protection against various aspects of discrimination, particularly at the level of planning and formulating policy, is the responsibility of three Government advisory bodies – The Government Council for Human Rights, the Government Council for National Minorities and the Government Council for Roma Community Affairs.³³

33. The fight against extremism and racially motivated crimes is the responsibility of a special inter-departmental body - the Commission for Combating Extremism, Racism and Xenophobia. The Commission is an advisory body of the Minister of the Interior.³⁴

34. The protection of fundamental rights and freedoms is also a responsibility of the Ombudsman, who offers protection against the actions of state administrative bodies where these are in conflict with the law or are counter to the principles of a democratic state governed by the rule of law and good administration.³⁵ During the period monitored, the Office of the Ombudsman received very few complaints concerning racial discrimination. As the Ombudsman does not keep statistics of these complaints this information can not be interpreted. The most important such complaints are those by Roma women who claim that they were involuntarily sterilised by certain medical establishments. The Ombudsman has been investigating these complaints since 2004.³⁶

35. The anti-discrimination legislation under preparation should result in a major expansion of the Ombudsman's powers with regard to private persons. The anti-discrimination bill defines the Ombudsman as a subject that will systematically handle the question of equal treatment and provide assistance to victims of discrimination.³⁷

36. The Czech Trade Inspection is an inspection body supervising compliance with conditions stated by special legal regulations or other binding measures for operating or providing activities connected with the sale or supply of goods and products or the provision of services, including compliance with the prohibition on discrimination.³⁸

37. In the field of employment, inspection activity is by law the responsibility of the Ministry of Labour and Social Affairs and the Labour Offices. The inspection duties of the Labour Offices consist primarily of ensuring compliance with the prohibition on discrimination in the application

³¹ for more detail see article 4

³² This involves violations against civil co-existence which are prosecuted under the Act on Violations (No. 200/1990 Coll.). A violation is also behaviour that disturbs or threatens the interest of society and which is considered a violation by this Act.

³³ The powers and composition of these bodies have been described in the previous report.

³⁴ see article 4

³⁵ The activity of the Ombudsman was outlined in the previous report.

³⁶ see article 5

³⁷ see article 6

³⁸ see article 5

of the right to employment, i.e. access to employment. As of 1 July 2005, when the Labour Inspection Act (No. 251/2005 Coll.) came into effect, inspection activity ensuring compliance with labour-law regulations covering equal treatment and the prohibition on discrimination in the employment relationship according to the Labour Code were transferred from the Labour Offices to the labour inspection authorities (State Office for Labour Inspection and the regional labour inspectorates).

38. Support for national minorities at a local level is given by committees for national minorities or other bodies (commissions) for national minority affairs. Following the communal elections in 2004, committees for national minorities were established in four regions and 35 municipalities of the Moravian-Silesian region. In addition, statutory cities³⁹ have also seen the establishment of commissions for national minority affairs as advisory bodies to the councils.

Roma advisors, assistants and co-ordinators

39. Roma advisors and assistants worked in district authorities from 1997 to the end of 2002. When the district authorities were dissolved as a result of the reform of local public administration, the Roma advisors and assistants were transferred as of 1 January 2003 to the relevant municipal authorities. The function of the regional co-ordinator for Roma advisors was established in 2001. In 2002, regional co-ordinators for Roma advisors were appointed in all regions (a total of 14 regional co-ordinators thus operate in the CR).⁴⁰ As a result of the transformation of public administration, the regional co-ordinators and municipal Roma advisors have become employees of self-administration while retaining responsibility for the exercise of state administration as defined by the Act on the Rights of Members of National Minorities (No. 273/2001 Coll.).⁴¹

40. In conjunction with experts from many fields, the Government Council for Roma Community Affairs developed a Roma Integration Policy Concept which, among other things, contains general guidelines for the work of regional co-ordinators for Roma advisors, Roma advisors and assistants to the municipalities and field workers. The work remit of the regional co-ordinators is to co-ordinate the work of Roma advisors, assistants to the municipalities and field workers active in the relevant region. If their work is to be effective the regions should develop a regional Roma integration policy concept which takes into account the specific needs of the region.⁴²

³⁹ e.g. Prague, Brno, Liberec, Most

⁴⁰ The number of Roma advisors is not recorded.

⁴¹ Act No. 273/2001 Coll., on the rights of members of national minorities, states (Section 6[8]): „*The municipal authority of a municipality with expanded administrative powers fulfils the tasks involved in enforcing the rights of members of the Roma community and the integration of members of the Roma community in society*“. The Act does not therefore state that this activity should be performed by the person marked for it – the Roma advisor. The Act states (Section 6[7]): “*The regional authority manages and co-ordinates fulfilment of the task within its administrative remit in the state policy department helping to integrate members of the Roma community in society*”.

⁴² A concept of this type was adopted in June 2003 by the Hradec Králové region („Concept of the Hradec Králové region for Roma affairs for the period 2003 to 2007“). The Concept defines the problems faced by the region in implementing an integration policy in the Roma community and proposes possible solutions. From its budget, the Hradec Králové regional authority annually funds the activities of Roma non-profit organisations as part of the program “Supporting the Integration of Roma in Society”, and the regional authority has created an Advisory Body for Roma affairs. In 2004, the Olomouc region prepared “Bases for the integration of members of Roma communities”, which provide municipalities, educational facilities and other participating subjects with the basic

41. The work of Roma advisors and assistants in the municipalities is not strictly defined and can vary according to the municipality. The function of most Roma advisors and assistants is merged with other activities. This therefore leads to cases where the Roma advisor's function comes into direct conflict with another activity that the employee has to perform (child care), while in other cases the combination of activities is inappropriate because the employee has clients who should not come into contact with each other (e.g. Roma and drug addicts).

Article 3

Prohibition on racial segregation and apartheid

42. As stated in the previous report, the CR is a contracting party to the International Convention on the Suppression and Punishment of the Crime of Apartheid. The implementation of apartheid or other inhuman acts ensuing from racial discrimination in time of war is prohibited by the Criminal Code. There were no legislative changes in this area during the monitored period.

43. The aspect of segregation involves the problem of emerging Roma enclaves.⁴³ In 2004, the Ministry for Regional Development ordered a study with the title "Possibilities of using local planning to prevent spatial segregation", which gave a summary of the basic aspects of segregation, its consequences and the possibilities of preventing its further development.

44. In 2005, the Ministry for Regional Development has prepared a publication which will include a survey of expert opinions on the question of spatial segregation. Also, in autumn 2005, the Ministry for Regional Development has organised a public conference on the theme of segregation, its consequences and the possibilities of preventing it, which will form one of the instruments by which to increase awareness among representatives of self-administration and also to help launch a public debate on the matter. In the following years, these activities should culminate in a long-term research project entitled "Segregation in the CR: current state and development, causes and consequences, prevention and remedy". One of the research outputs should be a methodology for information retrieval from segregated areas, which should in turn lead to a recommendation for instruments and procedures at a national, regional and local level

information on this issue in the CR and the Olomouc region. By September 2005, the region will have developed the document Strategy for the Integration of Members of Roma Communities. The Pardubice region set up the Pardubice Region Council Committee for the integration of the Roma minority and other ethnic groups. The Zlín region also has a regional integration concept, and the regional authority there set up a Committee for National Minorities, Ethnic Groups and the Integration of Roma Communities. Since 2003, the Moravian-Silesian region has implemented a grant program to support the activities of members of national minorities living in the Moravian-Silesian region. The same region also has a document prepared by a Roma co-ordinator which is titled "Proposal for a solution to the local accumulation of people belonging to the Roma ethnic group in areas within the Moravian-Silesian region". Work with national minorities by the capital city Prague is governed by the Prague Policy Concept in relation to national minorities.

⁴³ The subject is dealt with in the Report on the State of Roma Communities in the Czech Republic in 2004.

which will help to prevent or reduce segregation.

Article 4

Legislative, administrative and other measures against propagating racial intolerance and violence against racial and ethnic minorities

45. During the monitored period there were no legislative changes concerning measures combating racial hatred and violence against racial and ethnic groups. The Government continues to monitor the issue. Since 1997, the Ministry of the Interior has submitted an annual report to the Government on the question of extremism in the CR.⁴⁴

Criminal activity with an extremist sub-text

46. The Czech Police has noted a decline in right-wing extremist printed matter which is related to the ever-increasing use of the Internet. There has also been a significant move away from public manifestations that may be subject to prosecution, i.e. from wearing extremist symbols on clothing, which occurs, for example, at right-wing extremist musical events. The problem remains of investigating the varieties of Fascist and neo-Nazi symbolism, including racist graffiti, for example on building walls, where it is not possible to determine the perpetrator, or the goods on offer in so-called army shops, where insignia and other memorabilia of the Third Reich are presented as items of collector interest. This includes specific cases where the accused has been found innocent in judicial proceedings. In one case, for example, an entrepreneur sold uniforms and insignia with Nazi symbols in his army shop, while in another case a traveller transported to Russia promotional material relating to the neo-Nazi movement. Another case concerned a publisher who issued a Czech translation of the book "Mein Kampf" by Adolf Hitler without a commentary and distributed it for general sale.

47. According to Police statistics, the composition of crimes continues to register the trend first recorded in 1998 – in first place are crimes "Support and promotion of movements aimed at suppressing a person's rights and freedoms" (Sections 260, 261 and 261a of the Criminal Code),⁴⁵ followed by crimes involving the "Defamation of a nation, ethnic group, race and persuasion" (Section 198 of the Criminal Code),⁴⁶ "Incitement of hatred for a group of people or limitation of their rights and freedoms" (Section 198a of the Criminal Code),⁴⁷ and "Violence

⁴⁴ see point no. 50

⁴⁵ These crimes are systematically included in the category Crimes against Humanity. Under Section 260, the grounds of the crime are the support or promotion of movements that wish to suppress people's rights and freedoms or spread national, racial, religious or class hatred or hatred towards other groups. Under Section 261, the ground of the crime is the public manifestation of sympathy towards a movement stated in Section 260. Under Section 261a, the ground of the crime is the public rejection, questioning, approval or attempt to justify Nazi or Communist genocide or other Nazi or Communist crimes against humanity.

⁴⁶ This crime is systematically included among crimes constituting a gross violation of civil co-existence. The case lies in the public defamation of a nation, its language, an ethnic group or race.

⁴⁷ The ground of the crime is public incitement to hate a nation, ethnic group, race, religion, class or other group or to limit the rights and freedoms of its members.

against a group of the population and against individuals" (Section 196 of the Criminal Code).⁴⁸ The majority of perpetrators are men, with the number of female offenders for this type of crime remaining statistically marginal. Perpetrators are both followers of the skinhead movement and members of the majority population who have no link to right-wing extremist entities. In isolated cases they also include Roma, however.

The following tables chart crimes with an extremist sub-text⁴⁹ and the characteristics of offenders.

Table no. 5:
Total number of crimes with an extremist sub-text recorded in the CR between 2002 and 2005

Year	2002	2003	2004	2005 (1 January to 31 May)
Number of recorded crimes	473	335	366	108
Proportion of total crime	0.1 %	0.09 %	0.1 %	0.07 %
Number of crimes detected	374	265	289	82
Number of crimes prosecuted	483	334	401	115

⁴⁸ This again involves the crime of grossly violating civil co-existence. Paragraph two of the Section defines a qualified ground of the crime where violence against a group of people or individuals is used because they belong to an ethnic group, race or nationality.

⁴⁹ Crimes with an extremist subtext include crimes motivated by racial intolerance or hatred, crimes motivated by national intolerance or hatred, crimes motivated by religious intolerance or hatred and crimes motivated by another form of intolerance or hatred. The criminal code specifically covers these grounds of the crime: breach of copyright, rights relating to copyright and rights to databases (Section 152), attacking a public official (Sections 155 and 156), false accusation (Section 174), violence against a group of people and individuals (Sections 196 and 197a), vilifying a nation, race and persuasion (Section 198), incitement to hate a group of people or to limit their rights and freedoms (Section 198a), spreading alarmist reports (Section 199), hooliganism (Section 202), murder (Section 219), intentionally harming somebody's health (Sections 221 and 222), robbery (Section 234), blackmail (Section 235), limiting religious freedom (Section 236), breaching house freedom (Section 238), damage to property (Section 257) and supporting and promoting movements that wish to suppress a person's rights and freedoms (Sections 260, 261 and 261a).

Table no. 6:

Survey of the most common extremist crimes involving an attack on a nation, nationality or race, or for membership of such, or spreading national or racial hatred in 2002 – 2004 according to the grounds of the crime

Crime/year	2002	2003	2004
Support and promotion of movements aimed to suppress a person's rights and freedoms (Section 260 of the Criminal Code)	95	77	50
Public manifestation of sympathy with a movement aimed to suppress a person's rights and freedoms (Section 261 of the Criminal Code)	123	123	87
Defamation of a nation, ethnic group, race and persuasion (Section 198 of the Criminal Code)	105	71	101
Incitement of hatred against a group of people or limitation of their rights and freedoms (§ 198a of the Criminal Code)	18	11	13
Violence against a group of the population and against an individual (Section 196(2))	71	41	45

Table no. 7:

Method of closing criminal proceedings with perpetrators of crimes with racial or other extremist subtext by the Police (1 January 2002 – 31 December 2004)

Method of completion/year	2002	2003	2004
Motion for submission of an indictment	289	206	238
Summary pre-trial proceedings (Section 179c odst.1 of the Criminal Code) ⁵⁰	44	31	49
Suspended under Section 159a (2) and 159a (3) of the Criminal Code ⁵¹	57	16	18
Conditional discontinuance under Section 307 of the Criminal Code ⁵²	3	7	5
Discontinued under Section 172(1)d of the Criminal Code ⁵³	4	6	5
Transferred for prosecution in home state under Section 173 (1)d of the Criminal Code ⁵⁴	2	0	0

⁵⁰ Summary pre-trial proceedings can be held for crimes where the highest prison sentence does not exceed three years and the proceedings in first instance are held by a district court. Following their end, the Police either suspend the matter or submit a proposal for punishment to the Public Prosecutor.

⁵¹ Under Section 159a (2), the matter can be suspended if the prosecution is inadmissible, e.g. because it is subject to limitation, if it involves a person below the age of criminal responsibility, if the President of the Republic orders it within his power to grant a pardon or amnesty etc. Under Section 159 (3), the case may be suspended if the prosecution is purposeless, e.g. because the punishment that the prosecution can result in is meaningless beside the punishment for another crime for which the accused has already been sentenced, or because another body (e.g. foreign court) has already given a judgement on the accused's actions.

⁵² A prosecution can be conditionally discontinued with the consent of the accused for crimes where the highest prison sentence does not exceed five years in the event that the accused has admitted the commission of the crime and paid compensation for damage caused by the crime.

⁵³ The public prosecutor shall discontinue a prosecution if it is inadmissible, e.g. because it is subject to limitation, if it involves a person below the age of criminal responsibility, if the President of the Republic orders it within his power to grant a pardon or amnesty etc.

⁵⁴ The public prosecutor shall suspend the prosecution if it is recommended that the prosecution be transferred to another country.

Remained under investigation	84	68	88
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Table no. 8 :
Perpetrators of crimes with an extremist subtext according to education

Perpetrator's education/year	2002	2003	2004
Elementary with applied training	211 (43.6 %)	99 (29.6 %)	187 (46.1 %)
Elementary without qualification	143 (29.5 %)	123 (36.8 %)	112 (27.6 %)
Middle school	26 (5.4 %)	25 (7.5 %)	37 (9.1 %)
University	2 (0.4 %)	1 (0.3 %)	4 (0.1 %)
Other (special school – applied training or without qualification, did not complete elementary education, foreigner, child, not identified)	101 (25 %)	86 (25.7 %)	66 (16.3 %)

Table no. 9:
Perpetrators of crimes with an extremist subtext according to age

Age category/year	2002	2003	2004
up to 15	36 (7.5 %)	13 (3.9 %)	8 (2.0 %)
15 – 17	80 (16.6 %)	59 (17.7 %)	51 (11.7 %)
18 – 20	99 (20.5 %)	74 (22.2 %)	87 (20 %)
21 – 29	156 (32.3 %)	112 (33.5 %)	160 (36.7 %)
30 – 39	55 (11.4 %)	43 (12.9 %)	67 (16.5 %)
Other (40 and over)	57 (11.8 %)	33 (9.9 %)	33 (8.1 %)

48. During the monitored period the Czech Army recorded 6 cases of crimes with extremist motivation.⁵⁵ All the cases involved crimes of public manifestation of sympathy with a movement that seeks to suppress a person's rights and freedoms.⁵⁶ In 2002, four such cases were investigated (one of a soldier who kept symbols with a subject that suggested sympathy for Fascism, a sympathy that he also expressed publicly; two cases of a soldiers who shouted Fascist and racist slogans, and a fourth of giving a Nazi greeting). In 2004, two such cases were investigated (the first involved a professional soldier who physically attacked a civilian and also shouted racist and Fascist slogans; in the second case a professional soldier publicly shouted out Fascist slogans). All these cases were passed on to the criminal police and investigation service at the relevant Police District Headquarters.

49. As mentioned in the previous report, the policy of combating extremism is supported by a wide range of Government resolutions.⁵⁷ These resolutions currently form the framework for the

⁵⁵ In total 6 people, of whom 2 were soldiers in basic service and 4 were professional

⁵⁶ Sections 260 and 261 of the Criminal Code

⁵⁷ Government Resolution of 20 February 2002 No. 169, on the concept for social work in preventing and suppressing extremism; Government Resolution of 18 March 2002 No. 268, on the proposed concept for educational activities in the fight against extremism; Government Resolution of 14 October 2002 No. 994, on Rules for co-operation between bodies of state and self-administration with Police bodies in suppressing extremist mass events;

strategy of combating manifestations of extremism, racism and xenophobia, both at a preventive and a repressive level. Many of them are permanent. They relate, for example, to ensuring constant monitoring of Czech and foreign extremist scenarios and their criminal manifestations, as well as educational activities relating to extremism, co-operation between state administrative bodies and self-administration with the Police etc.

50. In 2002, the Ministry of the Interior set up an advisory body to combat extremism – the interdepartmental commission to combat extremism, racism and xenophobia. Its powers and composition have already been described in the previous report. In 2004, the commission approved the setting up of a “hot line” to report web sites with racist, anti-Semitic and other hate-filled content,⁵⁸ the organisation of a work seminar on the subject of prosecuting racist, anti-Semitic and other hate-filled propaganda on the Internet with the participation of foreign experts, and finally the organisation of a round table debate in 2005 on the subject of anti-Semitism and its manifestations in the CR.⁵⁹

51. The fight against organised extremist crime with international elements is the responsibility of the extremism section set up in the department of terrorism and extremism as part of the division for the detection of organised crime of the criminal police and investigation service.⁶⁰ On 1 November 2004, Police Headquarters set up an information crime section at the Office of the criminal police and investigation service in which a specialist is employed on the question of extremism, racism and xenophobia.

52. As stated at the beginning of this chapter,⁶¹ the Ministry of the Interior prepares annual reports on the subject of extremism in the CR.⁶² Every month, the Ministry of the Interior’s security policy department prepares an aggregate situational report on extremism which monitors current activities in the area of extremism, provides a summary of incidents in the CR, monitors extremist events and public gatherings and maps statistical data in this field.

53. For a regular evaluation of the situation regarding extremism, the Ministry of the Interior uses, among other things, reports and information from the Security Information Service and the Office for Foreign Relations and Information. The information from both intelligence services relates primarily to right-wing and left-wing extremist activities, the issue of Islamic extremism and possible related threats, or to sects and new religious movements. The Ministry of the Interior also uses reports from Czech embassies on the question of extremism, annual reports from the Police on the situation regarding extremism, racism and xenophobia in the CR and

Government Resolution No. 85 of 22 January 2003, on the National Strategy for Police work in relation to national and ethnic minorities; Government Resolution of 6 October 2004 No. 968, on the proposal to sign the Convention on computer crime.

⁵⁸ For this reason, an e-mail address has been set up for the public at the Police Headquarters:

ukpvextr@mvr.cz

⁵⁹ Since March 2005, the Committee has also constituted an expert background for the CR contact officer with the European Monitoring Centre on Racism and Xenophobia – EUMC), and the members of the Committee work with him when required

⁶⁰ Police activity in this field is methodologically based on Police President Instruction No. 100 of 6 June 2002 and other internal management acts.

⁶¹ See point 43

⁶² The reports are published on the Ministry of the Interior’s web site (www.mvr.cz) in Czech and English.

individual regions, including a survey of cases that the Police has recorded.

54. With effect from January 2005, there are now greater possibilities for the separate identification of crimes motivated by religious and national intolerance towards Jews and the Jewish faith, including attacks on Jewish community buildings and their facilities, synagogues, Jewish cemeteries and their facilities.⁶³

55. Since 1996, the Republic Committee for the Prevention of Crime⁶⁴ has implemented the "Program for the prevention of crime at a local level – Partnership" (hereinafter the Program Partnership"), the aim of which is to systematically improve inter-ethnic relations, to overcome prejudices and limit xenophobia. The program's purpose is to eliminate or alleviate the social exclusion of Roma communities, the result of which is an increased risk of racial and extremist feelings. The projects chiefly focus on children and juveniles whose values and habits are most amenable to positive change. A Program Partnership priority is the Roma national minority, which has long represented the greatest risk in terms of security. The program seeks to reduce the social handicaps of Roma and to support their full integration. The general objectives of the Program Partnership are to minimise the risks and consequences relating to crime, to increase the feeling of safety and to strengthen trust in the police and public administrative institutions. The Program Partnership incorporates towns with the highest crime rates and with an accumulation of other socially pathological features – unemployment, poverty, extremist manifestations, socially excluded Roma communities etc.⁶⁵ The program includes projects focusing on eliminating or alleviating the handicaps of Roma communities, and these projects generally focus on children and juveniles. Another category of supported projects is in social prevention - these projects generally focus on children and juveniles at risk and are intended (although not exclusively so) for children from the Roma community.⁶⁶ The project realisers are usually non-profit organisations, schools, self-administrative municipalities and Church organisations.

56. In 2001, the Probation and Mediation Service prepared a concept for probation and mediation activities in the fight against extremism. Although the concept was limited to the years 2001 and 2002, most of the stipulated tasks are still being fulfilled. One of these is the so-called regular statistical assessments of the activity of probation and mediation service centres regarding their involvement in resolving crimes related to extremism. The data obtained over the past four years show that probation and mediation service centres have only registered a minimal number of cases concerning extremism-related crime (about 0.3 – 0.4 % of the total number of newly-recorded cases). The fact that the Probation and Mediation Service is involved in resolving so few cases of this type is evidently primarily due to insufficient co-operation on the part of bodies active in criminal proceedings with the probation and mediation service in this field. The Ministry of Justice can improve co-operation between bodies active in criminal proceedings and the Probation and Mediation Service by supporting and co-ordinating joint training events, and

⁶³ By communicating the code-book for the Police Headquarters Crime Statistics Record System

⁶⁴ the body is subordinate to the Ministry of the Interior

⁶⁵ In 2004, 41 projects relating to the Roma community were implemented in 31 towns (municipalities). The communities received a total of CZK 2 919 000.

⁶⁶ In recent years, over CZK 50 million has been spent on 560 projects.

organising meetings between the chairs of regional courts and regional public prosecutors and representatives from the Probation and Mediation Service at which co-operation between these institutions is discussed in detail.

57. The Probation and Mediation Service⁶⁷ supports activities aimed at creating probation programs adapted to work with ethnic minorities, including problems relating to racism. The first of these programs was the project Street Law – Law for Every Day, which was designed to increase legal awareness and strengthen the social skills of juvenile offenders. The second, and very successful developing program is the Mentor project. This is intended for probation and mediation service clients belonging to the Roma minority, for whom it creates conditions and equal opportunities for them to successfully perform their alternative sentence. The essence of the project lies in co-operation between the competent employees and bodies (Labour Offices, social curators, municipal authorities, Probation and Mediation Service centres, prisons) in resolving the specific problems of the target groups of people.

58. The Prison Service adopted a Code of Professional Ethics for Employees of the Prison Service in order to ensure more effective prevention of manifestations of racism, xenophobia and intolerance. Among other things, the document states as unacceptable any behaviour or actions on the part of an employee that display any form of discrimination.

59. In 1999, the Ministry of Education, Youth and Sports issued a Methodological Instruction on educating people against manifestations of racism, xenophobia and intolerance. The Czech Schools Inspectorate is responsible for supervising the fulfilment of tasks required of school directors in this field. The prevention of manifestations of racism, xenophobia and intolerance is the subject of the publication School Preventive Program for Nursery and Elementary Schools and School Facilities. The publication describes specific problem situations relating to socio-pathological features in schools and school facilities (drugs, violence, bullying) and the ways to resolve them.⁶⁸ The strategy for the prevention of socio-pathological features among children and juveniles within the competence of the Ministry of Education, Youth and Sports for 2005 – 2008 is a document that defines the principles of primary prevention for the field of education. The implementation of the strategy's objectives is chiefly based on projects for the prevention of socio-pathological features among children and juveniles, the aim of which is to induce a healthy life style and to positive social behaviour among children and juveniles.⁶⁹

60. In 2003, the Ministry of Foreign Affairs began to prepare a draft Action Plan to combat racism. To create this plan, UN states use the concluding documents of the European and World Anti-Racism Conference. During the report's preparation an analysis was conducted of the possibilities of implementing a national action plan against racism. The plan's implementation is still being considered, as the principles and objectives contained in it to a certain degree overlap

⁶⁷ The probation and mediation service seeks to find effective and socially-beneficial solutions to conflicts arising from crime, and also hands out alternative punishments. It was set up by Act No. 257/2000 Coll., on Probation and Mediation Services, as a body subordinate to the Ministry of Justice. Probation means the supervision of the accused, supervision of the performance of alternative punishments etc., while mediation seeks to resolve disputes between the accused and the injured party (with their consent).

⁶⁸ The document is published on MEYS web pages: (http://www.msmt.cz/_DOMEK/default.asp?CAI=2945).

⁶⁹ The document is published on MEYS web pages: (http://www.msmt.cz/_DOMEK/default.asp?CAI=2945).

with the existing plans adopted by the CR in the field of human rights. In order to avoid their duplication it is possible that existing plans will be expanded instead of drafting a new document.

61. In 2004, the Ministry of Defence approved the “Concept for the prevention of socially undesirable phenomena for 2005 – 2009”. This defines the basic principles and objectives in dealing with the prevention of socially undesirable phenomena within the Ministry’s field of competence, which includes discrimination, racial intolerance, manifestations of extremism and terrorism. Its chief goal is to prevent socially undesirable phenomena. The concept should guarantee the quality of selection, training and education of professional soldiers in performing the profession, and should create favourable conditions for the healthy life style of professional soldiers, civilian employees and their family members. The concept stipulates specific tasks, which include organising activities in free time, advisory activity and diagnostics.

62. In December 2002, the Ministry of Labour and Social Affairs announced a grant program to support social services focused on social work with groups of young people at risk of falling into the clutches of extremism.

International co-operation in the fight against extremism

63. The Working Group to Combat Extremism of the Visegrad Four and Austria continued its activities, working under the management of the Ministry of the Interior from February 2002.⁷⁰ The Working Group disseminates information among its members concerning extremism and its manifestations, assesses security risks connected with extremism in the central European geo-political area, shares findings and examples of so-called good practice and co-operates with experts working in this field at the level of individual ministries or police bodies.

64. In 2002, the working group was instrumental in setting up national contact bodies which were used to assist police experts responsible for the security of the NATO summit held in Prague in the autumn of that year.⁷¹ In 2003, it was decided that the Working Group should be active within the EU as an expert working group at a supra-national level. Since 2004, the Working Group has stated its priorities on an annual basis. In 2005 these are: 1. anti-Semitism, 2. anti-globalism/alter-globalism, 3. racist and extremist attacks that threaten the lives of asylum seekers, migrants and foreign workers, 4. the abuse of the Internet and modern information technology by extremist groups, 5. Islamic extremism.

65. At the end of 2004, the Ministry of the Interior organised an international seminar on the issue of prosecuting racist, anti-Semitic and other hate propaganda on the Internet. The seminar was attended by experts from Germany, Spain, Greece and Slovakia. The Ministry of the Interior thus responded to the suggestions of international institutions and the need to find ways to monitor and suppress this type of socially serious crime. The Czech Security Information Service and the Czech Police Headquarters were involved in preparing the seminar’s subject matter. The

⁷⁰ The working group to combat extremism of the Visegrad Four and Austria was set up at the decision of the Ministers of the Interior of the V4 and Austria.

⁷¹ Anti-extremist experts from Germany also work on these activities.

seminar is linked to a similar meeting which will focus on a narrower range of technical security measures and technological questions with a view to sharing good practice.

66. From 24 – 26 September 2003, the Ministry of Foreign Affairs hosted a regional seminar organised by the Office of the UN High Commissioner for Human Rights. The seminar focused on the implementation of the conclusions of the UN World Conference against racism, racial discrimination, xenophobia and related intolerance. It was conceived for the group of states constituting eastern and southern Europe (according to the UN's regional classification). The seminar was made up of three blocks: 1. Rights of members of national, ethnic, religious and language minorities, 2. Roma: problems and perspectives on the road to equality, 3. Xenophobia. The issue of racism and extremism entered all sections of debate to a greater or lesser extent.⁷²

Development of the extremist stage

67. Developments and changes in extremism in the CR and abroad are the concern of the intelligence services (the Czech Security Information Service and the Office for Foreign Relations and Information) and the Police. Their findings confirm that there were no significant changes in extremism in the CR between 2002 and 2005 (first quarter), and no developmental trends were identified that would register a threat to the state's democratic bases by extremists. There was no record of activity by so-called dangerous religious sects or new religious movements, no information was forthcoming of the activity of Islamic extremists, and there was no evidence of the existence or activity of extremist groups in the armed elements of the state.

68. No extreme right-wing political party is represented in either the Chamber of Deputies or the Senate of the Czech Parliament. In the 2002 elections (both to the Chamber of Deputies and in municipal and regional election), as well as in elections to the European Parliament in 2004, no political party from this spectrum registered any success. In Czech society their importance remains marginal.

69. At present, both the right and left wings of the extremist spectrum remain non-unified and splintered, particularly in the anarchic-autonomous segment, and there is an absence of leading personalities. In general terms, the current situation is characterised by drift, inactivity and ideological schisms. These factors have been and still are responsible for the failure of different streams of opinion to come together in a single entity, both on the right and left wings of the extremist scene.⁷³ The ultra-right has continued to organise concerts by skinhead groups, although these are of a strictly private character. They involve a closed group of no more than 250-300 people which rents a hall in order, for example, to celebrate a birthday or a wedding. The events are not open to the public and are generally by personal invitation only. Neither are the concerts (with a few exceptions) advertised as such, even via the Internet. Otherwise they are by personal invitation by telephone or specific phone text messages. In 2003, about twenty such

⁷² The conclusions adopted at the seminar are published on the web pages of the Ministry of Foreign Affairs (www.mzv.cz).

⁷³ Among right-wing extremists, the most militant entity remains the neo-Nazi organisation *Národní odpor*, while on the left-wing it is the organisation *Antifasistická akce*. *Národní odpor* has no "political ambitions", and favours street action. It is a decentralised organisation. There remains the risk of conflict between militants, anti-Fascist anarchists and neo-Nazi followers of the skinhead movement.

concerts took place, and in 2004 over forty. In July 2005, the Ministry of the Interior held a round table discussion on the subject of neo-Nazi concerts which was attended by Police experts on extremism, representatives of the security service, public prosecutors, academia and civic associations. On the basis of this meeting's results, the Minister of the Interior and the Police president set up a working group which will prepare concrete steps in order to be able to prosecute the organising of right-wing extremist concerts and participation in music groups as a manifestation of support and promotion for movements that aim at suppressing people's rights and freedoms.

Article 5

Rights especially guaranteed by the Convention

A. Right to equal treatment before courts and all state bodies that dispense justice

70. This area witnessed no changes during the monitored period concerning protection against racial discrimination.

B. Right to personal freedom and security and state protection against violence and bodily harm

Table no. 10:
Survey of crimes with a racial or ethnic subtext 2002 – 2004

Crime/year	2002	2003	2004
Murder (Section 219(2)g)	0	0	0
Bodily harm (Section 221(2)b)	6	14	9
Aggravated bodily injury (Section 222(2)b)	4	7	5
Blackmail (Section 235(2)f)	2	1	4
Limiting freedom of worship (Section 236)	1	0	0
Harm done to a thing of another (Section 257(2)b)	14	4	4
Genocide (Section 259)	0	0	0

Table no. 11:
Numbers of finally decided crimes with a racial subtext from 1 January 2002 to 31 March 2005 (in total and for the five most common crimes with racial subtext)

Year/crime	2002	2003	2004	1st quarter 2005
Breach of the public peace under Section 202 ⁷⁴ of the Criminal Code	119	91	88	24
Defamation of a nation, ethnic group, race and persuasion under Section 198 of the Criminal Code	73	55	53	17
Manifestation of sympathy for a movement aimed to suppress a person's rights and freedoms under Section 261 of the Criminal Code	76	62	42	18
Violence against a group of the population and against individuals under Section 196 of the Criminal Code	50	59	28	8
Harming somebody's health due to their race or membership of ethnic group under Section 221 of the Criminal Code	24	21	23	3
Total	431	355	319	81
of which under the influence of alcohol	59	88	47	21

71. In 2003, no police officer was prosecuted for a crime with an extremist sub-text. In 2004, there were seven accusations of racist or other extremist behaviour by members of the police, of

⁷⁴ The crime "breach of the public peace" is found in gross indecency or rowdiness in a publicly accessible place, in particular an attack on someone else, despoliation of historic or cultural monuments, graves or sacred places, or disturbing a citizen's meeting or ritual.

which one was a criminal information and six were normal complaints. One police officer was prosecuted and charged for the crime of defaming a nation, ethnic group, race and persuasion (Section 198 of the Criminal Code).

72. The monitored period saw the continuing operations of the Government Working Group for Roma Affairs for the interior and the Czech Police. The Working Group is made up of 25 permanent members: 14 Roma co-ordinators from regional authorities,⁷⁵ 8 employees from the Ministry of the Interior and the Police and 3 representatives from the Government Council for Roma Community Affairs. Every year, the Group prepares a Report on extremism in the CR, initiates discussions at a regional level with the aim of improving coexistence between the majority and minorities (so-called round tables), addresses the problems of usury, prostitution and drugs in the Roma community, racial discrimination in access to restaurants and similar premises, and individual cases of complaints about Police procedure. During the monitored period this concerned tardy Police procedure in qualifying crimes with a racial motive or complaints about inadequate Police procedure and its behaviour.⁷⁶

C. Political rights, particularly the right to participate in elections

73. The right to participate in the administration of public matters (taking part in elections, being elected) is guaranteed by the Charter of Fundamental Rights and Freedoms for all citizens, regardless of their race, skin colour, language, faith, religion, political or other persuasion, national or social origin, membership of a national or ethnic minority, property, family or other status.

74. In 2003, the Act on Elections to the European Parliament (No. 62/2003 Coll.) was adopted. This acknowledges the active and passive right to vote not only for citizens of the CR but also for citizens of other EU member states.⁷⁷

D. Other civil rights

Right to freedom of movement and choice of residence inside the state's borders

75. Records of the population (Czech nationals, foreigners with residence permit and foreigners granted asylum) are regulated by the Act on Population Records (No. 133/2000 Coll.) The Act

⁷⁵ Relates to the official working group, which brings together the Roma co-ordinators from the regional authorities.

⁷⁶ In 2004, the working group adopted the Operations Plan for 2004 – 2005. The Plan includes excursions to places implementing co-operation programs between the Police and Roma, sample programs integration the Roma community, or places where a problem has occurred and the group's involvement would help to resolve this.

The Plan also contains the following subjects: Roma migration, Police work in relation to national and ethnic minorities, discrimination and racism, specific problems of the Roma community (usury, social exclusion, drugs), the role of local public administration, the activities of Roma co-ordinators from regional authorities, the work of Roma advisors in municipalities with expanded powers, conceptual measures.

⁷⁷ If they have been maintained in population records for at least 45 days and if they meet the relevant age requirement.

introduced a new understanding of permanent residence for Czech nationals as a provision for formal contact between public authorities and Czech state citizens. This is chiefly reflected in the fact that a Czech national is no longer obliged when changing residence to report this change and he or she can not be punished for failing to report permanent residence in the place where he or she actually lives.⁷⁸ For this reason the obligation was also cancelled for Czech citizens to register temporary residence as an alternative to permanent residence so that the situation formally correspond as far as possible to the actual situation.

76. As far as foreigners are concerned, however, during the monitored period they still generally had to apply for a residence permit in the CR. A change was introduced from 1 May 2004, when the CR became a member of the EU, for foreigners – nationals of another EU member state. Citizens of other EU member states can live in the CR legally without the consent of a public body. EU citizens should register their residence with the Police within 30 days if they plan to stay for more than 30 days. If they intend to stay in the CR for more than three months they shall register their residence, chiefly due to the needs of daily life. If they are registered for a stay of three years (and they meet the required conditions) they can apply for permanent residence.⁷⁹ Unlike all other foreigners, upon meeting these conditions they are legally entitled to be granted permanent residence. Other foreigners can reside in the CR either on a temporary basis, or on the basis of permanent residence, and are obliged to report their residence to the Police within three business days of entering the CR. The foreigner and border police decide requests for resident permits for foreigners who are not nationals of another EU member state.⁸⁰

Right to leave any country, including one's own and return to one's own country

77. Following the CR's accession to the EU the problem of Roma emigration from the CR to EU countries abated somewhat.⁸¹ At present, the problem is one of so-called internal Roma migration, which in most cases is caused by economic problems and which itself is responsible for the growing spatial segregation of Roma communities.⁸² Following the CR's entry into the EU there was no significant increase in the number of Roma leaving for other EU countries, neither has there been a mass migration of Roma from the Slovak communities to the CR, although migration does play a definite role in creating social tension.⁸³

⁷⁸ This is a considerable difference compared to the previous legislation, when records of the population were maintained by the Police, and a Czech citizen was obliged to report a change in permanent residence within three days.

⁷⁹ For example, that they won't be a burden for the social system of the state where they are applying for residence because they have already arranged a livelihood. For an EU citizen, five-years' residence in the CR is required to become eligible for permanent residence. In the enumerated mentioned cases the period may be shorter.

⁸⁰ Other foreigners generally need to live in the CR for ten years in order to receive permanent residence. In the stipulated cases the period may be shorter (generally eight years).

⁸¹ This matter was described in detail in previous periodic reports.

⁸² See Article 5

⁸³ Slovak Roma continue to emigrate to the CR, where some of them seek to obtain asylum (in 2003, 1,055 Slovak citizens applied for asylum in the CR, practically all of them members of Roma communities). The International Organisation for Migration prepared a Report on an Analysis of Current Migration and Settlement by Members of Roma Communities from Slovakia in the CR, which described the factors for migration in Slovakia as the increase in the number of Roma settlements and their expansion, high birth-rate, the reduction in the maximum level of welfare, the practice of usury and its toleration by state administration. In the CR, pro-emigration factors

78. The monitored period saw an amendment (No. 559/2004 Coll.) to the Act on Travel Documents (No. 329/1999 Coll.), which introduces a new offence for Czech nationals – the unauthorised crossing of the CR state border without a valid travel document. The offence can be punished with a fine of up to CZK 10 000.

Right to nationality

79. The amendment to the Citizenship Act,⁸⁴ which came into force 29 October 2003, allows other groups of Slovak nationals to acquire Czech citizenship simply by means of declaration, and without these persons losing their Slovak citizenship. After acquiring Czech citizenship by this means the following categories of individual can enjoy dual citizenship :

- former Czech nationals who acquired Slovak citizenship from 1 January 1994 to 1 September 1999,
- Slovak nationals who were born in the Slovak Republic after 1 January 1975 and up to 31 December 1992, i.e. before attaining the age of 18 they were citizens of the Czech and Slovak Federative Republic and also the Slovak Republic, and one of the parents was a citizen of the Czech Socialist Republic or the Czech Republic and the second a citizen of the Slovak Socialist Republic or the Slovak Republic.

80. The amendment to the Citizenship Act also stipulated an exception to losing Czech citizenship in the event that a Czech national at his or her own request acquires on marrying a foreigner the citizenship of the state of which the spouse is a citizen. In such cases Czech citizenship shall be retained.

81. As concerns the acquisition of Czech citizenship by children, there has been a change in children's procedural eligibility in administrative proceedings relating to citizenship. The possibility of obtaining Czech citizenship has been expanded to include natural persons over the age of 15.

Right to conclude a marriage and choose the spouse

82. During the monitored period there were no changes concerning protection against racial discrimination. A further three bills of the Act on Registered Partnerships between Persons of the Same Sex were debated, and at present the Chamber of Deputies is reading the bill prepared by a group of deputies, under which a condition of entering into a partnership would be that at least one of the persons is a Czech citizen.⁸⁵

include family solidarity, the increasing number of spatially segregated localities with a primarily Roma population, opportunities of gainful employment, accommodation and food in asylum facilities.

⁸⁴ Amendment to Act No. 40/1993 Coll., on State Citizenship, was implemented by Act No. 357/2003 Coll.

⁸⁵ Previous proposals also contained this condition.

Property rights, right to acquire an inheritance

83. During the monitored period there were no changes in legislation concerning property rights and rights to receive an inheritance with regard to protection against racial discrimination.

Right to freedom of thought, conscience and religion

Right to freedom of opinion and expression

84. During the monitored period there was an amendment to the Act on Churches (No. 3/2002 Coll.). A judgement of the Constitutional Court⁸⁶ cancelled some of its provisions. The Constitutional Court found that there was a breach of the right of churches and religious societies to set up monastic and other church institutions independent of state bodies in that the records of Church legal entities at the Ministry of Culture were restricted to those *‘for the purpose of organising, professing and disseminating religious faith.’* The cancelled provision also contained a definition of the term “Church legal entity” as a circle of entities defined by the Ministry of Culture under this Act. The Constitutional Court also cancelled the provision on withdrawing authorisation to exercise special rights unless a church or religious society publish an annual report on the exercise of special rights (for example the right to teach religion in state schools). The Constitutional Court also found unconstitutional the limitation on the use of profits by churches and religious societies, as well as the year-long time limit from the date of the Act coming into effect for the addition of data on registered church legal entities. In its decision, the Constitutional Court confirmed that the purpose of registration is not the formal establishment of a church but the acquisition of legal personality by the church, for if the opposite were the case this would mean a breach of the principle of the independence of church and state.

Right to freedom of assembly and association

85. During the monitored period there were no legislative changes in relation to freedom of assembly.

86. Since the previous periodic report there have been no major changes relating to the right of association. During the monitored period, the Ministry of the Interior did not dissolve any civic associations. In 2002, no registration for association was refused, in 2003 one association, in 2004 four associations and from 1 January 2005 to 31 March 2005 eighteen associations. The reason for refusing registration is in the majority of cases the attempt to associate for the purpose of gainful activity. As at 31 December 2003, the Ministry of the Interior had registered a total of 538 civic associations which declare a national minority program in their statutes.

E. Economic, social and cultural rights

⁸⁶ Judgement of the Constitutional Court of 27 November 2002 published in the Collection of Laws under No. 4/2003

Right to work

Legislative measures

87. Access to employment on the basis of equal treatment regardless of racial or ethnic origin is enshrined in the new Employment Act (No. 435/2004 Coll).⁸⁷ The new Employment Act adopts measures to support and implement equal treatment for men and women, persons regardless of their racial and ethnic origin, persons with disabilities and other groups of people who are disadvantaged in the labour market in the sense of access to employment, retraining, work training and specialised retraining courses, and measures to employ these persons. The Employment Act gives special attention to certain groups in facilitating employment.⁸⁸ Under the Employment Act, Labour offices⁸⁹ are obliged to offer university graduates and natural persons under the age of 25 an individual action plan aimed at improving their chances of finding work. An action plan may also be offered to other job seekers (including natural persons who need special assistance). An individual action plan chiefly contains the procedure and schedule for the implementation of measures designed to improve the job seeker's chances of finding work. The plan is prepared in accordance with the person's qualifications, possibilities and skills. The job seeker is obliged to co-operate in developing the individual action plan and to fulfil the conditions stated therein. This policy was introduced in Labour offices in 2004. The Act also expanded the instruments of the active employment policy focusing on job seekers, who are given special attention, and job seekers who have special problems in being employed⁹⁰.

88. Under the Employment Act, inspection activity is performed by the Ministry of Labour and Social Affairs and the Labour offices. The activity supervises compliance with labour-law regulations, i.e. on compliance with the prohibition on discrimination. Under the new Labour Inspection Act, as of 1 July 2005 the State Labour Inspection Office and the regional labour inspectorates took over authority to inspect compliance with labour-law regulations and obligations in labour-law relations⁹¹. All the aforementioned authorities are responsible for inspecting compliance with the prohibition on discrimination. The Ministry of Labour and Social Affairs has monitored data on breaches of the prohibition on discrimination since the third quarter of 2004.

Table no. 12: Breach of the prohibition on discrimination on grounds of race or ethnic origin under labour-

⁸⁷ see article 6 for more information on discrimination in approach to employment

⁸⁸ Section 33(1)h of Act No. 435/2004 Coll., defines the relevant group as "*natural persons who need special help; these persons particularly include natural persons who temporarily find themselves in extremely difficult circumstances or who live in such circumstances, natural persons who are socially unadaptable, natural persons who have finished a prison sentence and natural persons from a socio-culturally disadvantaged environment*".

⁸⁹ Labour offices are state administrative bodies that register the unemployed, seek employment, provide advisory and information services on employment, carry out supervisory activity, etc.

⁹⁰ Instruments of the Active Employment Policy include advisory activities, publicly beneficial work, socially useful jobs, retraining. Candidates for whom it is difficult to find employment are fast-tracked into programs using the active employment policy. These are programs such as MOST for the young and Opportunities for Older People. The programs are integrated, i.e. for the minority and majority populations, and comprise four linked models – motivation and activation, advice, practical retraining and subsidised employment.

⁹¹ Including provisions governing remuneration and safety and health protection at work

law regulations identified by the Ministry of Labour and Social Affairs

	Employment Act	Labour Code	Of which women	Total
3rd quarter 2004	0	1	1	1
4th quarter 2004	0	1	1	1
1st quarter 2005	0	0	0	0

89. The most important legal regulation in the field of labour-law relations is the Labour Code (No. 65/1965 Coll.). Its amendment (No. 46/2004 Coll.) in 2004 broadened the prohibition on discrimination in labour-law relations to include a definition of direct and indirect discrimination, harassment and sexual harassment, and introduced exceptions to the prohibition on discrimination and provisions on positive measures.⁹² As has already been mentioned (article 2), the amendment incorporated requirements from EU directives in Czech law.

90. During the monitored period new legal regulations were introduced referring to the creation, termination and performance of a service relationship (function) in government service (Act No. 218/2002 Coll.) and the service relationship of members of security forces (Act No. 361/2003). This consists of specific legislation for labour relations which contains similar protection against discrimination to that in the Labour Code. Both norms contain a prohibition of discrimination, among other things on the grounds of race and ethnic origin. The second norm also applies the prohibition to recruitment proceedings, in which a candidate can not be turned down on the basis of his or her racial or ethnic origin.⁹³

91. The amendment to the Act on Regular Soldiers (No. 221/1999 Coll.) effective since June 2002 (No. 254/2002 Coll.) established the obligation on the part of service bodies to ensure equal treatment for service candidates regardless of their racial or ethnic origin.⁹⁴

Non-legislative measures to support employment

92. In July 2004, the Government of the CR approved the National Employment Action Plan for the years 2004 to 2006. The document presents the objectives and implementation of the national employment policy in the medium term up to 2006, responds to the general and specific recommendations of the European Commission on employment policy in accordance with the European Commission's employment guidelines. The medium-term document contains a number of measures designed to integrate disadvantaged persons in the labour market, to support the fight against discrimination, to improve the level of social integration, to improve the employment rate and to improve the sustainability of the social protection system. In February 2005, the Government adopted the so-called Schedule for the institutional, material and timely implementation of the National Employment Action Plan for 2005-2006, which specifically defines the time-limits and material conditions for the implementation of measures adopted in the National Employment Action Plan.

93. In November 2004, the Ministry of Labour and Social Affairs prepared the Human Resources

⁹² for protection against discrimination in labour relations see article 6

⁹³ for the basic characteristics of both acts see article 2; for specific protection against discrimination see article 6

⁹⁴ for more detail see article 2

Development⁹⁵ operational program. The program's goals include increasing the proportion of long-term unemployed job-seekers in the active employment policy programs and strengthening the active employment policy in employing job-seekers. The program aims to ensure that in 2006, 20 % of the long-term unemployed participate in one form or another of active measure, especially by taking part in consultation activities, training and retraining programs, in expert practice, inclusion in short-term jobs and other measures to support employment.

94. The Ministry of Labour and Social Affairs intends to apply the employment programs⁹⁶ at a local level for job seekers from a different cultural environment, particularly members of Roma communities, asylum seekers and foreigners with permanent residence in the CR.⁹⁷ Employees of employment services and employees involved in organisation with regard to racial discrimination on the labour market obtain experience as part of their training for work with job-seekers who are difficult to place and members of the Roma communities.

95. In December 2004, the Ministry of Labour and Social Affairs called for projects to be submitted on the basis of a supra-regional grant program for the measure "Integration of specific population groups threatened by social exclusion".⁹⁸ In respect of employment, this focuses on the following target groups: people who are socially excluded or at risk of social exclusion due to long-term unemployment caused by low education levels or the absence of education, low level of qualifications, age, health or mental disability, belonging to a different socio-cultural environment or long-term care for a dependent family member, juveniles living in a disadvantaged social environment or in a different socio-cultural environment.

96. As part of the Monitoring Committee for the Human Resources Development Operation Program a Working Group for Roma Community Affairs was established whose aim is chiefly to monitor assistance and the instruments used in socially excluded communities. The Working Group submits to the Monitoring Committee proposals and recommendations which result from its activities. The Working Group's first meeting was held in April 2005.

97. Between 2001 and 2004, the CR implemented support programs for small and medium-size businesses⁹⁹. These programs included the supplementary SPECIAL program, which was designed to support entrepreneurs creating job positions for citizens from problem population groups and allowed for a grant to be provided for each such new employee. Under the program, 1013 new jobs were created between 2001 and 2004, with total support amounting to CZK 155.4 million.

⁹⁵ see http://www.esfcr.cz/files/clanky/5630/oprlz_cz.pdf. The document was prepared by the Ministry of Labour and Social Affairs in November 2004. In the period 2004 – 2006 the program will be co-financed by the European Social Fund.

⁹⁶ Chiefly involves advisory activity and the compilation of Individual Employment Action Plans, retraining.

⁹⁷ This includes course in Czech to increase the adaptability of foreigners.

⁹⁸ In all, 97 projects were registered – applications for grant support (the total sum applied for was CZK 710 million). Twenty-one projects involving Roma or mainly Roma issues were passed for material assessment, and the total sum requested for their implementation amounted to CZK 160 million. At present, the applications are being assessed.

⁹⁹ Government Resolution of 11 December 2000 No. 1257 (<http://vladce.vlada.cz/apac/www.htm>)

Monitoring job advertisements

98. The activities of the non-governmental sector play an important role in promoting equal opportunities irrespective of racial or ethnic origins. In the period from 1 February to 31 March 2005, the non-governmental, non-profit organisation *Poradna pro občanství, občanská a lidská práva* (Counselling Centre for Citizenship, Civic and Human Rights), which is involved in the protection of human rights, monitored job advertisements to determine if they contained discriminatory elements.¹⁰⁰ Special emphasis was placed on assessing the purpose of the requirements placed by employers on candidates for the positions offered.¹⁰¹ The requirement of a „clean statement of criminal records“ may be considered grounds for discrimination and in breach of the principle of equal treatment for all persons irrespective of their racial or ethnic origin (even if only indirectly). In Labour office advertisements the requirement for a clean criminal record was the common grounds of discrimination (93 % of advertisements). This requirement was judged to be discriminatory only in cases where it was found to be inappropriate (clearly unjustified) in respect of the job offered. It was particularly common for job offers for auxiliary and unqualified workers, positions that members of the Roma community most commonly apply for. The requirement for a “clean” criminal record did not occur as frequently in printed advertisements as it did in advertisements published via Labour offices (only 15 % of advertisements).

Monitoring discrimination in access to employment

99. Non-governmental non-profit organisations also monitor discrimination in access to employment (in a similar way to consumer discrimination) by testing. During the monitored period the results of testing led to three actions being brought for protection of personal rights in which the defendant (of Roma origin) sued for moral satisfaction and financial compensation for non-material loss. In one case, where a Roma job-seeker applied for a job in a works canteen, for which she had been recommended by the Labour office, the employee responsible for recruiting employees justified the candidate’s rejection on the grounds of her Roma origin and also recorded this fact in writing in the recommendation from the Labour office. Moreover, a statement was made in the regional press that could have injured the candidate’s human dignity. Before the first judicial proceedings were held the accused owner of the works canteen settled the matter out of court and paid CZK 200 000 in compensation for non-material loss. The other two cases of racial discrimination in access to employment were decided in favour of the plaintiffs.

Right to form and join trade unions

¹⁰⁰ Chief among the discrimination grounds monitored were: sex, sexual orientation, racial or ethnic origin, nationality, citizenship, social origin, property, family, language, health, age, religion, faith, marital and family status or obligation to family, political and other orientation, membership and activity in political parties, union organisations or employee organisations.

¹⁰¹ Job ads were derived from two main sources: the offer of vacant positions on the web pages of Labour offices, and employment supplements in printed periodicals. These sources were also monitored according to their regional organisation, with the offer of vacant positions from Labour offices being monitored in Prague, Ostrava, Decín and Ústí nad Labem. The research covered 21 732 advertisements, of which 17 713 were from Labour offices and 4 019 from printed periodicals.

100. During the monitored period there were no changes regarding the right to protection against racial discrimination in this area.

Right to housing

101. During the monitored period there were no changes in legislation concerning protection against discrimination in respect of housing. Legal regulations concerning housing still do not contain any anti-discriminatory provisions, including provisions of a declaratory character. Neither is a prohibition on discrimination explicitly stated in regulations concerning the lease, privatisation or sale of council flats.¹⁰²

102. Since Czech law currently does not have a definition of a right to housing, we can, in reference to the State's international undertakings,¹⁰³ only speak of the right to adequate housing. A continuing problem in the CR is the conflict between this right and property rights. A typical example of this conflict is a situation where a socially vulnerable person (often of Roma origin) lives either on the basis of a lease contract concluded orally, or without any lease contract whatsoever, for several years in an apartment with unsatisfactory hygiene, and either pays nothing or only a minimal amount for the use of such apartment. The owners of these apartments often take legal action to have the apartment vacated without finding an alternative apartment on the grounds that it was used without any legal basis, and the court of first instance often complies with them due to the very low legal awareness of the tenants. The constant judicature of the Constitutional and Supreme Court, however, generally resolves this conflict in favour of the right to adequate housing, usually by arguing that to act differently would be inconsistent with good morals under the Civil Code.

103. In the CR, the proportion of the population that lives in rented apartments is 46%. These are either apartments owned by the municipality or owned by private proprietors. 47 % of apartments are used by the owner of the house or apartment, 17 % are co-operative apartments, 29 % are rental apartments; of this number, 17 % are council flats, which are often privatised. Under the Act on Municipalities, the management of apartments owned by the municipality is in their sole independent power, which enables them to issue rules regulating the management of these apartments, particularly in relation to access to this type of housing. The status of the municipality is often marked by a disparity between the scope of rights and obligations in this field – the right to unilaterally set the rules for the management of these apartments does not in practice correspond to the unambiguous obligation to respect the principle of equal treatment. Applications for council flats are thus assessed on the basis of a points system which privileges people with secure incomes over people, for example, who in the past shared an apartment with someone who didn't pay, including in the event that such a person was at the time a minor.¹⁰⁴

¹⁰² Act No. 40/1964 Coll., the Civil Code, Act No. 72/1994 Coll., on the Ownership of Apartments, Ministry of Finance Decree No. 85/1997 Coll., on Rent from Apartments acquired in co-operative housing, Act No. 128/2000 Coll., on Municipalities

¹⁰³ International Pact on Economic, Cultural and Social Rights

¹⁰⁴ If we used the above criteria to construct an ideal applicant for a municipal apartment it would be an employed married couple without criminal record, with long-term residence in the municipality and a small number

Although the setting of rules to decide on the conclusion of contracts for council flats is the responsibility of the municipality, they should not contain conditions which often have hidden discriminatory elements.

104. There are also cases where an application to rent a council flat is not only not considered but is not even accepted, despite everyone being entitled under the Act on Municipalities (No. 128/2002 Coll.) to have a matter considered in fields of independent powers. The right to have a matter considered by the municipal authorities, however, may be considered indisputable. Every application to rent a council flat must be assessed. Although legislation does not acknowledge the provision of a “fictive” residence, applications for an apartment are often rejected on the grounds that the person’s permanent residence in the municipality is only fictive.¹⁰⁵

105. Although the behaviour of the municipalities described here is very problematic, under the Act on Municipalities it is possible. Municipalities defend their right to manage their property independently. It is therefore desirable that the CR should create effective mechanisms to prevent socially insensitive procedures on the part of towns and municipalities when handling housing needs.

106. On 1 January 2003, an amendment to the Act on Municipalities came into effect which, among other things, excluded matters of civil law from the supervision of their independent powers.¹⁰⁶ This means that regional authorities can not supervise the actions of municipalities when concluding lease contracts, including rules on deciding the conclusion lease contracts for council flats. Supervision by regional authorities, or the Ministry of the Interior, in areas where the municipality acts with independent powers, is thus practically limited to simply reviewing whether the municipality has acted in conformity with the Act or other legal regulation. The supervisory activity of the regional authorities and the Ministry of the Interior has recently proved beneficial in the sense that the requirement to submit an extract from the criminal register with an application for a council flat is now considered to be in breach of the Act by these supervisory bodies.

107. Shortcomings concerning the protection of the rental relationship, as part of the right to adequate housing, can be found in the privatisation of municipality property which is inhabited by socially vulnerable individuals. In practice, this concerns cases where the municipality sells the housing fund to another party, thereby resulting in a change of landlord. Although under the Civil Code (No. 40/1964 Coll.) this change can have no influence over the validity of lease contracts concluded with the original landlord (usually for an indefinite period) as the new owner

of children.

¹⁰⁵ One of the conditions of applying for a municipal apartment is registered permanent residence in the municipality.

¹⁰⁶ Act No. 313/2002 Coll., which amends the Municipalities Act, states (Section 124a[1]) that if a resolution, decision or measure by a municipal body with independent powers is in conflict with the Act or other legal regulation, the regional authority shall ask the municipality to take remedial measures. If the municipality fails to do so, the regional authority shall ask the Ministry of the Interior to suspend the validity of such resolution, decision or measure. The matter can then be decided by the Constitutional Court, which can either cancel the municipality’s resolution, decision or measure or reject the proposal for cancellation and the Ministry of the Interior’s decision to suspend such resolution, decision or measure. This provision is not used in cases of a breach of legal regulations of civil, commercial or employment law.

assumes all the rights and obligations from the original owner, there are frequent cases where the new owner of the property forces the tenants to terminate the original lease contract and to sign a new contract, this time for a definite period, without giving them the space to study the new contract in detail. Tenants often discover this fact when the contract expires and they are contacted by the landlord with an order to vacate the apartment. The new landlord's actions are an attempt to move out the original tenants (paying regulated rent) as quickly as possible and to rent the property at a market rent, which is several times higher. And a tenant who has concluded a lease contract for a definite period has no right under the Civil Code to an alternative apartment.

108. In 2004, the Ministry for Regional Development ordered research to be conducted with the title "Legal aspects of the status of municipalities in respect of housing". The research will perform a legal analysis of municipalities' independent powers with regard to housing which should provide the grounds on which to determine the optimal rights and obligations of the municipalities concerning housing policy for the enactment of the Act on Municipalities. It should also assess the possibilities that the law offers for the implementation of housing policy at a local level, particularly in relation to the most needy social target group – socially vulnerable and threatened households, groups of people at threat of discrimination.

109. Eliminating discrimination in the housing sphere also covers rental payments for apartments. Until now it has not been possible to adopt an act which would respond to the judgements of the Constitutional Court on regulating rents. The CR thus still does not have a regulation that would cover this matter. Previous decrees and price assessments from the Ministry of Finance, which have sought to resolve this matter have been successively cancelled by the Constitutional Court. The Government order prohibiting rent increases for a period of three months¹⁰⁷ was annulled by the Constitutional Court on 19 March 2003.¹⁰⁸ As in previous cases, rents were subsequently regulated by means of a regulation that could not be substantiated in law. The Constitutional Court ruled that this latest Government order was also in conflict with constitutional order and the CR's international undertakings.¹⁰⁹

110. Major reform is currently under preparation in the rented housing sector, taking the form of a gradual deregulation of previously regulated rents. The reform should be completed by 2012.¹¹⁰ Also in preparation as part of wider social reform is a substantial change in housing support for citizens with lower incomes – housing costs will not be included in the amount for even the subsistence level - instead, social support in paying housing costs will come from two

¹⁰⁷ Government Order No. 567/2002 Coll., which states a price moratorium on apartment rent

¹⁰⁸ Judgement of the Constitutional Court No. 84/2003 Coll., on the cancellation of Government Order No. 567/2002 Coll.

¹⁰⁹ According to the judgement of the Constitutional Court, the provisions of the Charter and Constitution were breached concerning the enforcement of state power only in cases and limits stipulated by the law, provisions ensuring equality for all persons, provisions concerning the principle that the legal limitation of rights and freedoms applied equally for all cases, the prohibition on the abuse of the limitation of rights and freedoms for other purposes than those stipulated, the right to ownership and the principle of the protection of property in connection with the principle of the prohibition of discrimination (Article 1 of the Supplementary Protocol to the European Convention on Human Rights and Fundamental Freedoms in relation to its Article 14).

¹¹⁰ Government bill on the unilateral increase in apartment rent, Chamber of Deputies, document 1059/0.

benefits: a housing contribution under the draft amendment to the Act on State Social Support (No. 117/1995 Coll.),¹¹¹ and a housing supplementary payment according to the Government bill on assistance in material need.¹¹² The relevant bills on assistance in material need were submitted to the Chamber of Deputies of the Parliament of the CR in July 2005.

Non-legislative housing support measures

111. In 2004, the implementation continued of two housing support programs aimed at households which can not financially participate in acquiring an apartment, or which are disadvantaged for health or other reasons. These are the Program to support the construction of rented apartments and technical infrastructure for 2004, and the Program for the construction of assisted apartments. The aim of the first program is to construct rented apartments owned by the municipalities for lower income groups of households which can not be expected to be able to financially participate in acquiring housing. The program is specifically designed to construct rented apartments for socially vulnerable families. Under the same conditions a grant is also provided for the construction of rented apartments for low -income households from the State Fund for Housing Development.¹¹³

112. The aim of the Program for the construction of assisted apartments is to construct rented apartments owned by the municipalities or voluntary associations of municipalities for people who are disadvantaged in their access to housing not only in terms of their income but also for other reasons (e.g. health, age, unfavourable social or life circumstances etc.), and who are thus at greater risk of social exclusion. Among other things, the program's conditions oblige municipalities as recipients of the grant to provide, in addition to the housing itself, social services that support the integration of people at risk of social exclusion for those apartments built with the aid of the state grant.¹¹⁴

113. The Ministry of the Interior is implementing a special program to support housing for asylum seekers. Between 2002 and 2005, the Ministry of the Interior provided funds exceeding CZK 27 million for housing for asylum seekers.

Characteristics of Roma enclaves

114. In many parts of the CR there are Roma enclaves that arose over many decades through a succession of accumulations of the Roma population. The social problems that are encountered by the vast majority of the inhabitants of these localities (indebtedness, unemployment) affect the human environment and coexistence of Roma with other inhabitants. Due to the fact that

¹¹¹ Government bill amending certain acts in relation with the adoption of the Act on a Living and Existence Minimum and the Act on assistance in material need. Chamber of Deputies, document 1065/0.

¹¹² Government bill on assistance in material need. Chamber of Deputies, document 1063/0.

¹¹³ In 2004, a total of CZK 285 million was distributed for 877 apartments; in 2005, the Ministry for Regional Development has designated CZK 483 million to support the construction of rented housing.

¹¹⁴ The program focuses on two basic target groups, of which one are people with reduced self-sufficiency due to poor health and advanced age, and the other people at risk of social exclusion due to a variety of social handicaps, such as the lack of a family background for children abandoned to institutional care, a conflicting form of life, membership of a minority group etc. In 2004, a total of CZK 201 million was distributed for the construction of 824 assisted apartments. In 2005, the Ministry for Regional Development has been earmarked CZK 500 million.

municipalities or boroughs have no social housing that can be offered to families in case of crisis, these cases end with a judicial decision to remove children from family care. Members of these communities generally have problematic access to institutional support. Roma families in these communities have low incomes, adults are long-term unemployed, are dependent on state social support and social care. Children from these communities visit special schools, or classes with special educational programs. In the CR, this trend (moving Roma into special settlement units – ghettos) has become a long-term reality.

115. An example of good practice at a local level is the “Draft solution to the local accumulation of inhabitants belonging to the Roma ethnic group in localities in the Moravian-Silesian region”, which contains specific proposals to deal with this situation. The assisted housing program includes the program “Housing Cleared of Debt” (the town council waives sums owed in rent, if the person acknowledges the debt, arranges a repayment calendar, duly pays rent and works an agreed number of hours), the program “Assisted Housing” (supporting inhabitants of Roma enclaves who want to live elsewhere and in a different way), and the program “Crisis Housing” (developing social housing for inhabitants of Roma enclaves who for various reasons can not and do not want to live in a different way).

Comment on Concluding Recommendation no. 13

116. At present, preparations are under way for the Civil Code to be re-codified in such a way that would, among other things, remedy the inappropriate regulation of civil-law norms in respect of rental relationships. Even before the new Civil Code is adopted, the situation could be improved by the Government draft amendment to the Civil Code,¹¹⁵ which contains changes that chiefly relate to the passage of the lease of flat, termination of tenancy and associated matters. The change broadens the possibility of providing shelter even in cases where tenancy is terminated due to non-payment of rent or sums owing in relation to the apartment’s use.

117. During 2006, the Ministry for Regional Development will compile a manual which, in very simple terms, will be aimed at people who, for whatever reason, have found themselves in a crisis situation with regard to housing (insufficient funds, new rent agreement, new landlord). The manual should offer a simple recipe to prevent housing being lost.¹¹⁶

118. In 2005, the Ministry for Regional Development prepared a change to the Government order on the application of funds from the State Housing Development Fund to cover some of the costs associated with the construction of apartments for people on low incomes (No. 146/2003 Coll.). The change should help streamline conditions with the Ministry’s program to construct

¹¹⁵ The Government approved the draft with its resolution of 13 July 2005 No. 876 (see <http://vladce.vlada.cz/apac/www.htm>).

¹¹⁶ The Ministry for Regional Development also provides financial assistance to non-governmental, non-profit organisations which offer free advice on accommodation to clients. In addition, the Ministry is preparing the National Development Plan, a document setting out financing from EU structural funds in the years 2007 – 2013. When debating this new program period, the Ministry will try to gain the highest possible representation of investment subsidies so that the structural funds can be used to finance housing construction as part of specific projects with broader goals and which are aimed explicitly at social inclusion.

rented apartments and should also ensure a larger offer of rented apartments for people who have been granted asylum.

Research projects on the Roma question

119. Research into the Roma question is regularly included in the important research tasks ordered by the Ministry of Labour and Social Affairs. In the past three years, three research projects have been conducted which focus on the socio-economic situation of Roma in the CR.

120. In 2003, a two-year research project was completed entitled Analysis of the Socio-Economic Situation of the Roma Population in the CR, including recommendations for measures.¹¹⁷ The research analysed the demographic, socio-economic, political and other aspects of the life of Roma communities. It focused especially on factors of vertical social mobility, on the policy of municipalities in this field and current social work questions in Roma communities. Among other things it produced findings on the Roma question as a negative factor etc. In its conclusions it pointed to the need to redefine policy in this area, to separate financial flows for social support in this area, and drew attention to the problematic nature of current practice in supporting specific projects and the need for research in this field.

121. In 2003, as a result of the research, the report was published entitled Evaluation of Programs designed to Reduce the Risk of Social Exclusion of the Roma Community.¹¹⁸ Part of the research focused on describing the Government policy of inclusion for the Roma community, a general definition of the dimension of social exclusion, the characteristic forms of social exclusion for the Roma community in the CR, and the development of a typology for the projects.

122. 2004 saw the completion of the project Long-Term Stationary Field Research into Socially Excluded Roma Communities.¹¹⁹ The aim of the project, which lasted one and a half years, was, using current anthropological and sociological conceptual trends, to develop and in seven selected localities to run a pilot version of an analytical model that could interpret the environment of socially excluded enclaves in the CR in respect of the life strategies applied in a situation of social exclusion, the external factors that play a part in creating and maintaining socially excluded enclaves, the socio-cultural processes, and the possibility of overcoming the current trend towards disintegration, and help to bring about social cohesion.

123. In conjunction with the office of the Government Council for Roma Community Affairs, the Ministry of Labour and Social Affairs prepared the project Analysis of Socially Excluded Roma Communities and the Absorption Capacity of Subjects Working in this Field. Its chief goal is to obtain relevant and up-to-date information so as to be able to stipulate the appropriate instruments to resolve the given problem via European Structural Funds between 2007 and 2013,

¹¹⁷ Project HS 91/02 was implemented as part of the target subsidy in 2002 – 2003 by *Socioklub Praha* (<http://www.socioklub.cz/studia.php>).

¹¹⁸ The Project was implemented by the Labour and Social Affairs Research Institute ÚPSV, research centre Brno, (<http://www.vupsv.cz/an138.html>).

¹¹⁹ Project HS 108/03 was implemented by the University of West Bohemia in Pilsen as part of the target subsidy in 2003-2004.

and to earmark the right types of areas to be supported.

124. The Ministry of Labour and Social Affairs is also preparing a project whose aim is to institute an effective system of field social work in excluded Roma communities. The project aims to develop field social work and support public administration employees affected by the provision of this type of social service. This chiefly concerns ensuring specialised education and supervising field social workers, including stipulating rights and obligations for these workers and their superiors in the implementation of this agenda, as well as stipulating the powers and degree of communication with those who are responsible for co-ordinating activity in matters of Roma integration and promoting the interests of the Roma community.¹²⁰.

Monitoring discrimination in access to housing

125. In 2003, a case of discrimination was recorded in housing, where an action was successfully brought for protection of personal rights. A Roma woman applied for accommodation in a hostel and was refused on the grounds that no room was currently available. Other applicants (not of Roma origin) who applied for accommodation shortly after she had departed obtained accommodation without any problem. The Roma woman's action for protection of personal rights resulted in her receiving compensation for non-material loss as she had been exposed to different treatment for which there was no acceptable explanation. The court accepted that this was discriminatory and demanded that the company responsible for the discrimination apologise to the plaintiff and pay her CZK 10 000 in compensation for non-material loss.

Right to protection of health, medical care, social security and social services

Alleged forced sterilisation of Roma women

126. In 2004, the European Centre for Roma Rights¹²¹ contacted the Ombudsman with the suspicion that in the 1990s Roma women had been forcibly sterilised in the CR, giving ten specific cases.¹²² In September 2004, ten Roma women submitted a complaint to the Ombudsman via a non-governmental non-profit organisation for an investigation to be held into the procedure of some medical establishments in which women had been sterilised during the 1990s. The women alleged that the operations were conducted without their knowledge, i.e. without their informed consent, or that this consent had been requested and granted in a situation where they could not fully judge its consequences. In 2005, the number of complainants rose to 78.¹²³ Most

¹²⁰ The project's importance was underlined by the fact that in the Peer Review program, which is one of the activities of the European Commission's Community Action Program to combat social exclusion, in May 2005 EU member states selected the field social work in excluded Roma communities as one of four examples of good practice.

¹²¹ International non-governmental organisation involved in fighting for human rights, particularly Roma rights – see www.errc.org

¹²² for more details see <http://www.errc.org/cikk.php?cikk=2228> – in English

¹²³ data from the second quarter of 2005

concern members of the Roma community, with the complaints referring to the fact that sterilisation is an attempt to regulate birth rate, which is a function of racist prejudices.

127. The Ombudsman passed these complaints on to the Ministry of Health and will follow how the complaints are handled and assess the Ministry of Health's procedure once the process has been completed. At the Ombudsman's request, the Ministry of Health set up an advisory body, whose purpose is to analyse in detail the medical documentation provided and give an opinion on the medical aspects of the sterilisation operations, and also to consider whether these operations were in accordance with Czech law.¹²⁴ The advisory body meets regularly to discuss the cases passed on by the Ombudsman and gives regular comments on the subject which are in turn passed to the Ombudsman.

128. The advisory body has met six times since it was established. The first meeting was held 20 December 2004. So far, the body has looked at 77 cases of forced sterilisation. The requisite documentation¹²⁵ is collected for each case and an expert opinion prepared by an independent expert.¹²⁶ The body prepares an independent expert statement for each case of reported sterilisation, a general recommendation for the Minister of Health and a press statement for the media and the public.

129. The advisory body's most recent meeting was held 29 June 2005. In conjunction with expert companies, the body is preparing a proposal for a review of the current indications for sterilisation, a proposal for the directive on sterilisation¹²⁷ to be updated, including greater detail on the indications and means of carrying out Caesarean sections, and a proposal for informed consent to sterilisation to have new wording. When it completes its activity, the advisory body will provide the Ombudsman with its findings. The Ombudsman will then evaluate the Ministry of Health's procedure. At the time of preparing this Report, the advisory body's findings were not available, and the Ombudsman's investigation therefore remains open.

130. At the beginning of 2005, twenty-five women formed an informal grouping called the „Association of Women Harmed by Sterilisation“. In March 2005, the first action for protection of personal rights was submitted by one of the harmed women represented by a lawyer from a non-governmental organisation.

¹²⁴ The body has 17 permanent members: five representatives from the Ministry of Health, six specialists in gynaecology and obstetrics from teaching hospitals and expert societies, one representative from the Ministry of Foreign Affairs, one representative from the regional town, one representative from the office of the Government Council for Roma Community Affairs, one representative from the secretariat of the Government Council for Human Rights, and one member of the German Bundestag. Where necessary, other experts may be invited and asked for their expert opinion. Each member of the advisory body is obliged to respect the confidentiality of facts with which he comes into contact through his membership, and to immediately divulge any facts that might affect the impartiality of his decisions.

¹²⁵ Requests by the complainant for an investigation, complete health documentation, including operation protocols, signed informed consent to sterilisation and consent to the operations, protocols of sterilisation committees, including signed requests for sterilisation etc.

¹²⁶ The body considers every case comprehensively – the accuracy of the procedure in providing health care, including indication, choice of treatment, means of informing the patient, confirmation of patient's consent etc.

¹²⁷ Ministry of Health guideline of 17 December 1971

131. In 2003, the Ministry of Health, as part of its grant program the National Health Program, supported a project entitled a “Healthy Lifestyle in a Roma Family”.¹²⁸ In 2004 it supported the projects “Sport and Free-time Activities as Preventive Health in the Roma Centre”¹²⁹ and “Healthy Diet for Pregnant Czech and Roma Women”. Since 2000, the research project “Influence of the Environment on Health and Immunity of the Population”, which also monitors selected groups of the Roma population.

132. The co-operation between the Ministry of Health and non-governmental organisations produced a proposal for the creation of the post of Roma health assistant, who would chiefly be involved in prevention, both primary, such as proper life management and proper lifestyle, and secondary, such as regular check-ups with GPs and inoculations, particularly for children.

Comment on Concluding Recommendation no. 12¹³⁰

133. The CR is involved in the European strategy for social integration, the aim of which is to resolve the problem of poverty and social exclusion. The Minister of Labour and Social Affairs, together with the EU Commissioner for employment and social affairs, signed a Joint Memorandum on social inclusion in Brussels in 2003. The document assesses the social situation in the CR, identifies the main problems and tasks for future policy. The memorandum formed the basis for the preparation of the two-year strategy stating national priorities and goals – the National Social Inclusion Action Plan,¹³¹ which the CR submitted in July 2004. The aim of the National Social Inclusion Action Plan is to ensure that problems of poverty and social exclusion receive the proper attention and to help resolve them. The document summarises the most important problems facing the CR in respect of poverty and social exclusion, and publishes the objectives, tasks and measures needed to combat them. Special emphasis is placed on groups that are disadvantaged and thus also at risk, such as Roma. The National Social Inclusion Action Plan is a key instrument in bringing about social cohesion.

134. The Ministry of Labour and Social Affairs is a partner in the international project Supporting Active Measures for the Social Integration of Members of Roma Communities (and traveller minorities), which is implemented as part of the International Program for the Exchange of Experience by the EU (the Fight Against Social Exclusion: 2002 – 2006¹³²) in two stages from November 2002 to November 2005.¹³³ The project’s main objective is to support co-operation

¹²⁸ The project’s aim was to introduce a healthier life style for Roma families through two levels of intervention: the first were Roma women and adolescent girls, and the second their families, with special attention paid to pre-school children.

¹²⁹ The project’s aim was to improve the health of children from socially-threatened groups of the population by means of physical activity.

¹³⁰ text of the recommendation - see part III

¹³¹ see <http://www.mpsv.cz/clanek.php?lg=1&id=1098>

¹³² see http://europa.eu.int/comm/employment_social/social_inclusion/programme_en.htm

¹³³ Seven countries take part in the project (Spain, Portugal, Ireland, Greece, the CR, Hungary, Romania) in a supra-national association. The association is comprised of public institutions of the member states and candidate countries responsible for the National Social Inclusion Action Plans, and of non-governmental organisations that have a wealth of experience with the policy of inclusion and measures benefiting the Roma communities. The body responsible for the project is the Spanish organisation *Fundacion Secretariado Generale Gitano*.

between all agents in the field of the social exclusion of the Roma minority. Attention is concentrated on stimulating and monitoring measures relating to social integration which influence Roma communities, and on strengthening the Roma minority's participation in decision-making processes in respect of social integration.

135. One of the most effective programs realised as part of the support for Roma community integration projects is the Support Program for field social workers – field social work in socially excluded communities. The aim of the program (of the Government Council for Roma Community Affairs) is to analyse the social situation of Roma families that are at risk of social exclusion or are socially excluded as a result of a disadvantageous socio-cultural environment, and, using the appropriate methods of social work to help eradicate the undesirable factors preventing their integration in society. The field social workers' task is to provide assistance and advice to clients according to their actual needs, to help resolve conflicts between the Roma community and the rest of the public, to co-operate with other public administration institutions and with educational and medical establishments, to maintain contacts with non-governmental organisations and other institutions.

Right to education and training

136. In 2004, a new Education Act (No. 561/2004 Coll.) was adopted which came into effect 1 January 2005. The general introductory provisions state that every Czech citizen shall have equal access to education without any form of discrimination on grounds of race, skin colour, sex, language, faith or religion, nationality, ethnic or social origin, property, family and state of health or other status, and also state the principle taking into account the educational needs of individuals. The equal access, as stated in the definition, is thus conditional on the individual's having Czech citizenship. People who are not citizens of the CR have access to education under the same conditions as Czech citizens if they are either citizens of another EU member state, or if they can prove that they are justified to be resident in the CR. The basic objectives of education are to understand and apply the principles of democracy and the rule of law, basic human rights and freedoms with responsibility and a sense for social cohesion, creating an awareness of national and state citizenship and respect for everyone's ethnic, national, cultural, language and religious identity, and understanding and applying the principle of equality for women and men in society. The Education Act contains special provisions for the education of national minorities, teaching religion, educating pupils with special educational needs and exceptionally gifted pupils.

137. In municipalities that have set up a committee for national minorities the Education Act provides for education in the language of the national minorities in nursery, elementary and middle schools. In accordance with the conditions of the Education Act, a class or school can be set up in these municipalities in order to teach the language of the national minority, as long as the number of pupils stipulated by the Act belong to the relevant nationality. This opportunity is used by the Polish national minority in pre-school, elementary and middle schools. Schools that teach the language of the national minority issue bilingual diplomas – in Czech and the language of the national minority.

138. The Act on Universities (No. 111/1998 Coll.) remained unchanged during the monitored period in respect of racial discrimination .

Special schools

139. The previous report provided detailed information on a feature that has occurred in the CR in recent years of placing the majority of Roma pupils in special schools. The approach of members of the Roma community to education and learning is different to that of the majority population. Even today, many Roma, particularly those who live in excluded communities and with a host of social and other problems, have little regard for education and do not support their children in ensuring they regularly attend school. The experience of many parents of today's pupils comes from having completed special schools.¹³⁴

140. The new Education Act systematically provides the necessary support for educating Roma pupils. The Act does not distinguish between elementary and special schools (original special schools have been renamed elementary schools), although within elementary education it creates conditions to ensure that pupils receive the education and support corresponding to their specific education needs. Socially disadvantaged pupils¹³⁵ are entitled to be lent free textbooks, and in schools where education is paid for, these payments can be waived.

141. The key to improving pupils' chances is in assessing pupils' school attendance records. The attempts by many schools to provide Roma children with quality education are compromised, for example, by poor attendance and frequent absences. Success in school is also influenced by the fact that most pupils are not able to ask their parents for help with homework, and by the lack of material and spatial conditions in which to do homework. The number of pupils at special elementary schools in some regions of the CR¹³⁶ is falling markedly, especially in areas densely populated by the Roma community. This shows that Roma parents living in these regions are not seeking out special schools.

Pedagogic assistant

142. For children from socio-culturally disadvantaged environments the school head teacher can create the job of pedagogic assistant.¹³⁷ The conditions for this position are stipulated by the Act on Pedagogic Employees (No. 563/2004 Coll.). The details for creating the position of pedagogic assistant are given by an implementing regulation to the Education Act.¹³⁸ The

¹³⁴ In 2003, employees of municipalities charged with state administration conducted research which found that of 51 691 adult members of Roma communities whose education and qualifications were assessed, about 60 % had completed special schools (or not completed elementary schools in the final year), 29 % had completed elementary school, 9.3 % had skilled training, while 1.3 % had completed middle or higher schooling.

¹³⁵ The Act defines social disadvantage as a) a family environment with low socio-cultural status, risk of socio-pathological features, b) ordered institutional care or imposed protective care, or c) status of an asylum seeker and party to proceedings for the granting of asylum in the CR.

¹³⁶ E.g. in the Moravian-Silesian region.

¹³⁷ Previously "assistant teacher", the original term was "Roma pedagogic assistant".

¹³⁸ Decree No. 73/2005 Coll., on the education of children, pupils and students with special educational needs and especially gifted children, pupils and students.

pedagogic assistant helps pupils adapt to school environment and pedagogic employees in school and educational activities. They can also communicate with pupils and co-operate with the legal representatives and the community from which the pupil comes.

Preparatory classes

143. Public administrative bodies (municipalities, municipal associations or regions) can establish preparatory classes for socially disadvantaged children in the final year before beginning mandatory school attendance, if this is expected to be good for their development. The minimum number of children in a preparatory class is seven and the maximum fifteen. The decision to include pupils in an elementary school preparatory class is taken by the school director upon the request of the child's legal representative. The conditions for children's inclusion in preparatory classes and their disqualification are regulated by a decree.¹³⁹ The project Monitoring the Effectiveness of Preparatory Classes showed that preparatory years markedly improve Roma children's relations to school. Completion of the preparatory year reduces absences by 20 to 40 hours. Roma children who complete the preparatory year thus feel better in school and learning is not so stressful for them.

144. For the education of Roma children the pre-school education is important. Unfortunately, it is often precisely the Roma children who fail to attend nursery schools, thereby reducing their chance of preparing properly for a successful beginning to their school attendance. In 2005, the Ministry of Education prepared a Concept on Timely Care for Children from a Socio-Culturally Disadvantaged Environment,¹⁴⁰ according to which care relating to education must be provided to children from a socio-culturally disadvantaged environment chiefly from the age of three until the beginning of mandatory school attendance. Experience from the work of preparatory years for children from socio-culturally disadvantaged environments shows that one or two years' work in preparatory classes helps children from such environments to successfully begin mandatory school attendance in elementary schools.

145. Another advantage of pre-school education in nursery schools is the joint attendance of children from the majority society with those from a different cultural environment. Developing parents' competence to prepare children for school attendance in the home environment is another desirable objective. The aim is also to increase the number of children from a socio-culturally disadvantaged environment who will complete pre-school education in nursery schools or in preparatory classes for children from such environments. A further prerequisite for the successful integration of Roma children is the creation of timely care centres at nursery schools or elementary schools that offer preparatory classes, the creation and implementation of residential courses for parents and children from socio-culturally disadvantaged environments from the age of three up to the beginning of school attendance, and the creation and

¹³⁹ Decree No. 48/2005 on elementary education and requirements for fulfilling school attendance (Originally, the establishment of preparatory classes was governed by a methodological instruction of the Ministry of Education, see the previous Report, p. 29, point 123.)

¹⁴⁰ authorised by Government Resolution No. 564/ 2005 of 11 May 2005

implementation of long-term courses for parents and children from socio-culturally disadvantaged environments from the age of three up to the beginning of school attendance. The Ministry of Education will submit the results of these measures in a report to the Government by 28 March 2008.

146. The Ministry of Education provides grants to assist the Program for the Support of Education in Language National Minorities and Multicultural Education, and the Program to Support the Integration of the Roma Community.¹⁴¹ Since 2003, the program Support for Roma Middle School Pupils has been announced twice yearly. The aim is to support the studies of those Roma pupils whose families find it difficult to meet the costs associated with middle-school studies. The program is intended for schools and school facilities included in the schools register. The application is judged by means of a recommendation, which usually comes from the Roma advisor. The grant is intended for specific pupils, which means that the funds allocated can not be used for any other purpose than meeting the costs of the pupils chosen as recipients.

147. As part of the European Social Fund, the Ministry of Education initiated the project Minority – Open Path,¹⁴² the aim of which is to prepare programs to develop multicultural didactic know-how and competence for pedagogic employees and to create a system of integrated support for the education of pupils from socio-culturally disadvantaged environments in the conditions of the main current of education.

Education for foreigners

148. As part of the Concept for the Integration of Foreigners in the CR, the Ministry of Education regularly issues and updates the necessary instructions for the children of foreigners in the field of education. The Ministry of Education ensures that people who have been granted asylum receive free courses and is responsible for the mandatory school attendance of the children of asylum seekers and people involved in asylum proceedings. Teachers are systematically trained in integrating foreigners, with pedagogic faculties educating their students to tolerate and support the integration of foreigners and to reject xenophobia. Multicultural education is particularly developed in schools with large numbers of foreign children, which have long-term experience in their education. The Ministry of Education implements projects to integrate foreigners which focus on multicultural education for children and juveniles and teaching Czech as a foreign language. The projects help remove communication barriers and make it possible for the children of foreigners to integrate in everyday life, while respecting the difference of individual ethnic groups, their culture, religion, customs etc. Another aim of the projects is to help teachers acquire the skills needed to teach the children of foreigners, in particular when teaching them Czech, to place such children in out-of-school activities and to

¹⁴¹ In accordance with Government Order No. 98/2002 Coll., which sets the conditions and means of providing subsidies from the state budget for activities of members of national minorities and to support the integration of members of the Roma community, the Ministry announces selection proceedings for projects every year.

¹⁴² The body responsible for the program is the National Institute of Further Education, and the implementing body is the Institute of Pedagogic Psychological Advice.

resolve conflicts that may arise from mutual misunderstandings.¹⁴³

Right to equal participation in cultural life

149. During the monitored period, the Act on the Rights of Members of National Minorities (No. 273/2001 Coll.) was only amended in relation to the reform of local public administration, although the changes did not affect the right to equal treatment.

150. The Act on Churches (No. 3/2002 Coll.) was amended to include the decisions of the Constitutional Court cancelling some of its provisions due to their being in breach of fundamental rights and freedoms.¹⁴⁴

151. In respect of the mass media the Ministry of Culture provides funds for periodic publications and radio and television broadcasting in languages of national minorities, or predominantly in the languages of national minorities, or containing information about national minorities in society.¹⁴⁵ With regard to cinematography and state funds, during the monitored period the Ministry of Culture provided a grant in the audio-visual and mass-media program for “Festivals, shows, exhibitions”. The Ministry of Culture also supported two projects for the presentation of Czech Roma culture abroad.¹⁴⁶

152. In accordance with the Strategy for More Effective State Support for Culture in the CR,¹⁴⁷ the Ministry of Culture provides non-investment grants from the state budget to support the cultural activities of members of national minorities living in the CR and to support the integration of members of the Roma community. For this purpose the Ministry of Culture announces grant selection proceedings.

153. Every year as part of its grant policy, Prague provides CZK 3 million to support the activities of national minorities, based on the City Support Programs for the Activities of National Minorities. Also in 2004, grants were realised to support national minorities in two programs – cultural and publications. For 2005 the grants have already been authorised in three programs (cultural, publications and adult education).¹⁴⁸ A program unique to Prague is support for publishing activities. Prague seeks to motivate members of national minorities to publish in their own language, ideally in Czech and the language of that nationality. Since 1999 there have already been 60 such publications.

154. In 2004, the Museum of Roma Culture was set up in Brno¹⁴⁹ as a state contributory

¹⁴³ In 2004, the Ministry of Education provided financial assistance for 16 projects in a total amount of CZK 2 658 000.

¹⁴⁴ For further detail see article 5

¹⁴⁵ During the monitored period, subsidies of around CZK 30 million were paid every year for this purpose.

¹⁴⁶ The civic association received support for the projects “Roma culture across Europe” and “Presentation of Czech Roma culture in the Netherlands”.

¹⁴⁷ Government Resolution of 28 April 1999 No. 401, Government Resolution of 10 January 2001 No. 40

¹⁴⁸ The best-known are the Khamoro World Roma Festival and the Prague Heart of Nations International Folklore Festival.

¹⁴⁹ Act No. 483/2004 Coll., amending Act No. 122/2000 Coll., on the protection of Museum Collections and on a change to certain other laws, as amended by Act No. 186/2004 Coll.

organisation of the Ministry of Culture. This ensures the Museum's financial stability, which results in more systematic work on behalf of the Roma community and in eradicating racial prejudices. Between 1998 and 2003, the Moravian Regional Museum in Brno (a contributory organisation of the Ministry of Culture) prepared an exhibition cycle on the world's great religions (Islam, Hinduism, Orthodox Christianity, Chinese religions), which help prevent intolerance and xenophobia. The question of racial extremism in relation to Judaism is handled by a specialised museum – the Terezín Memorial and the Jewish Museum in Prague.

F. Right of access to all places and use of all services intended for the public

155. During the monitored period there were no changes in legal regulations regarding the right to equal treatment in access to services intended for the public. The non-governmental, non-profit organisation the Counselling Centre for Citizenship, Civic and Human Rights, which is involved in the protection of human rights, performed a number of test experiments looking at possible discrimination in access to public spaces on grounds of race or ethnic origin. Seven cases concerned either the fact that people of Roma origin were not served, or they were not allowed into the relevant premises. In all these cases, a complaint was submitted, followed by actions for protection of personal rights. In all these cases, bodies of the Czech Police postponed the matter and passed it to the violations commissions of the relevant municipal authorities. A complaint was submitted against this procedure which was rejected as unjustified in every case. In seven cases the violations commission decided that the challenged action did not meet the degree of a violation. Only in one case was a fine imposed, of CZK 5 000.¹⁵⁰

156. Supervision of compliance with the prohibition on discrimination concerning the sale of products and goods and the provision of services is the responsibility of the Czech Trade Inspection¹⁵¹, which can impose fines on a vendor (services provider) for discriminating against a consumer. If the discriminatory behaviour identified by the Czech Trade Inspection constitutes a gross breach of the Act on Consumer Protection, the Inspection can call for the Trades Licensing Office to cancel the trade licence on grounds of consumer discrimination.

157. The Czech Trade Inspection's powers are supervisory, which means that it can not investigate complaints of discrimination that have already happened. A person who has suffered discrimination may, however, contact the Inspection with a request that it inspect the business where the discrimination occurred. Any evidence can only serve as a proposal for inspection. Neither the complainants, civic associations or other entities who submit the proposal can be parties to the proceedings. The inspection is not obliged to act on the basis of the proposal.

158. The Czech Trade Inspection only launches administrative proceedings with an inspected person if the inspection finds shortcomings. A fine of up to CZK one million can be imposed for a breach of obligations stipulated by the Consumer Protection Act, and for a repeated breach of obligations in the space of one year from the date of the final inspection the fine is doubled.

¹⁵⁰ Individual cases of discrimination are described in detail in the information on the fulfilment of article 6.

¹⁵¹ The powers of the Czech Trade Inspection are governed by Act No. 64/1986 Coll., on Czech Trade Inspection. It is a state administrative body subordinate to the Ministry of Industry and Trade.

159. The vast majority of the Czech Trade Inspection's inspections derive from suggestions from citizens and citizens' initiatives. The Czech Trade Inspection also works with local civic associations for consumer protection. Racial discrimination is also subject to further inspections as a part of the overall supervision of businesses. Representatives of Roma citizens' initiatives also often take part in the inspections, and there is co-operation with the Police and trade licensing authorities. The findings are recorded in an overall database, which is used as a basis for follow-up inspections of businesses that have been subject to a complaint. The best-known case was a written prohibition on Roma entering a hotel at the beginning of the 1990s. Since then, there has been no repeat of such a gross form of discrimination. Inspections focusing on racial discrimination take place in the presence of Roma inspectors.

Table no . 13: Number of complaints of racial discrimination sent to the Czech Trade Inspection 2002 – 2005 (to 31 May)

	Number of complaints of racial discrimination	Assessed as partially justified	Assessed as justified
2002	14	0	2
2003	8	0	1
2004	3	0	1
2005 (to 31 May)	4	0	1

Article 6

Protection against all manifestations of racial discrimination

160. On the procedural side, protection against racial discrimination is supported by the shift of the burden of proof, which is laid down in the Civil Procedure Code (No. 99/1963 Coll.). In labour-law relations, the originator of the discriminatory behaviour must, in cases of discrimination based on racial or ethnic origin, sex, religion, faith, world view, disability, age or sexual orientation prove that he or she did not commit the discrimination. In cases of discrimination on grounds of racial or ethnic origin, the burden of proof is also shifted in the provision of health and social care, access to education and specialist training, access to public orders, membership of employee or employer organisations and membership of professional and free-time associations, as well as in the sale of goods in shops or the provision of services.

161. Following the example of the Civil Procedure Code, the Administrative Procedure Code (No. 150/2002 Coll.) also allows a party who alleges discrimination on the part of an administrative body to be represented by a civic association if he demands judicial protection. In a similar spirit, the Consumer Protection Act¹⁵² has also been changed to allow a civic association involved in protection against discrimination to petition for proceedings to be brought before a court to prevent unlawful actions relating to consumer protection.

162. Legislation for protection against discrimination is most effective in labour law. In addition

¹⁵² The amendment to Act No. 634/1992 Coll., on Consumer Protection, as amended, was implemented by Act No. 151/2002 Coll.

to the Labour Code, the newly adopted Service Act (No. 218/2002)¹⁵³ also contains provisions on protection against discrimination on a wide variety of grounds in service relations. The Act also explicitly regulates the right of victims of discriminatory behaviour to seek relief from such behaviour, remedy of the consequences of such behaviour and the right to adequate compensation. If the dignity of a state employee or respect in the service relationship have been significantly breached, he shall be entitled to a financial payment for non-material loss. Here also, the burden of proof has been shifted: under the Act, in proceedings concerning a service relationship the service body is responsible for facts alleging that the party to the proceedings was directly or indirectly discriminated against on grounds of sex, nationality or race, unless the proceedings prove otherwise.

163. Similarly, the Act on Service Relationship of Members of Security Forces (No. 361/2003 Coll.) states the right of victims of discriminatory behaviour similar to those in the Services Act. It also explicitly mentions the shift of the burden of proof.

164. The new Employment Act (No. 435/2004 Coll.)¹⁵⁴ considers a breach of the prohibition on discrimination to be a violation (or administrative offence) for which a fine of up to CZK one million can be imposed. The Act newly contains provisions on rights of judicial protection for people discriminated against and whose right to equal treatment in access to employment has been breached. It forbids offers of employment that are discriminatory in character or which are counter to good morals. The employer may not demand personal data unless this is part of his obligations under special regulations.¹⁵⁵ If the principle of equal treatment is breached in the right to employment, the injured party can demand that this behaviour be retracted, that the consequences of such behaviour be remedied, and that he receive adequate satisfaction, or financial compensation for non-material loss, which will be determined by the court.

165. The new Labour Inspection Act (No. 251/2005 Coll.) expanded the powers of labour inspection bodies to include the inspection of compliance with obligations under legal regulations giving employees rights and obligations in labour relations, including legal regulations on employees' remuneration. In accordance with these new powers, the above Act legislated for the grounds of violations by natural persons and administrative offences of legal entities in relation to equal treatment. It also stipulates a fine of up to CZK 400 000 for these grounds if the relevant legal regulation has been breached.

166. The Act on Regular Soldiers (No. 221/1999) also stipulates the means of remedy for breaches of rights and obligations concerning equal treatment (right to demand relief from such behaviour, the remedying of its consequences), and also lays down a prohibition of victimisation.

¹⁵³ Act No. 218/2002 Coll., on services of state employees in administrative bodies and on the remuneration of these and other employees in administrative bodies. See also articles 2 and 5

¹⁵⁴ for the basic characteristics see articles 2 and 5

¹⁵⁵ The Act prohibits direct or indirect discrimination in the enforcement of the right to employment on grounds of sex, sexual orientation, racial or ethnic origin, nationality, citizenship, social origin, family, language, health, age, religion or faith, property, marital and family status or family obligations, political or other orientation, membership and activity in political parties or political movements, union organisations or employee organisations.

Unfortunately, the repeated postponement of the effectiveness of Act No. 309/2002 Coll., on amendments to acts relating to the adoption of the Services Act, means that it still impossible to implement Section 150a, according to which allegations of direct or indirect discrimination on grounds of sex, nationality or race shall be considered proven by the service body, unless the proceedings prove otherwise.¹⁵⁶

167. Generally, individuals can also have recourse to the court on the grounds that as a result of discrimination they have suffered injury to health or property through a breach in legal obligations, or may claim their right to protection of personal rights, particularly life, health, civic honour, human dignity, as well as privacy, name and reputation, and can submit an action with the relevant court.¹⁵⁷

168. The first case of a successful action for protection of personal rights, where the court confirmed that racial discrimination had occurred, was in 2002.¹⁵⁸ The Roma plaintiff was not allowed into a discotheque on the grounds that entrance was forbidden to Roma. Other guests were allowed into the discotheque when they paid for the tickets. As a result of the action for protection of personal rights the Roma received an apology from the relevant company and financial compensation for non-material loss. The regional court admitted the action in the first instance, although only concerning the defendant's obligation to apologise. After a series of appeals, the obligation to pay financial compensation was awarded in the amount of CZK 50 000.

169. Another action for protection of personal rights was submitted by a member of the Roma community against a company owning a restaurant in which there was a metre-high statue depicting a Classical deity with a baseball bat in its hand bearing the inscription „FOR GIPSIES“. The plaintiff argued that the company's action constituted an attack on human dignity, suggesting that as a guest in a publicly accessible business he was not welcome, and as an individual he was only there to be attacked. The regional court nevertheless rejected the action on the grounds that this did not represent an unlawful infringement of personal rights. In the court's opinion, the existence of the statue with a baseball bat bearing the inscription "For Gypsies..." created an individual negative reaction in the plaintiff to a fact that was not an unlawful infringement of personal rights. The court did however admit that for racists the baseball bat is used as a weapon against Roma, and that it could also be used to kill. The court did not however find that this constituted an infringement of the plaintiff's personal rights.

Bill on legal instruments for protection against discrimination

¹⁵⁶ Similar anti-discriminatory legislation was also contained in the draft amendment to the Act on basic or substitute service and military training and on certain legal relations of soldiers in reserve (No. 220/1999 Coll.). However, Parliament ultimately approved only a small amendment, from which these provisions were omitted.

¹⁵⁷ Under Section 11 of the Civil Code (No. 40/1964 Coll.): "A natural person is entitled to protection of his person, particularly life and health, civil honour and human dignity, as well as privacy, name and expression of his personal nature."

¹⁵⁸ 1 Co 62/2002-63

170. As was mentioned in the previous report, since 2002¹⁵⁹ the CR has prepared a legal norm providing comprehensive protection against discrimination. The bill on legal instruments for protection against discrimination and on equal treatment (anti-discrimination act) and the bill on amendments to certain acts relating to the adoption of the anti-discrimination act were approved by the Government 1 December 2004¹⁶⁰ and submitted to the Chamber of Deputies of the Czech Parliament.¹⁶¹ This has yet to read the bill.

171. The obligation to guarantee equal treatment and protection against discrimination stipulated in the anti-discrimination bill relates to employment in the broadest sense (the right to employment and access to employment, professions, business and self-employment; it also relates to legal and service matters and other related activities, including remuneration), membership of organisations (e.g. membership of and participation in union organisations or employee organisations, membership and activity in professional chambers) and the advantages that these organisations confer on their members, social security and social advantages, health care, education and access to goods and services which are available to the public, including housing, and their provision.

172. The bill contains a prohibition on discrimination not only on the grounds stated in EU directives but also the grounds contained in the Charter of Fundamental Rights and Freedoms and international conventions. It involves a prohibition on discrimination on discrimination on grounds of racial or ethnic origin, sex, sexual orientation, age, bad health, religion or faith, or because someone does not have a religion, language, political or other persuasion, nationality, membership or activity in political parties or political movements, union organisations and other associations, social origin, property, family, marital and family status or family obligations. Sex discrimination also covers discrimination on grounds of pregnancy or maternity and discrimination on grounds of sexual identification. The prohibition on grounds of sexual identification applies to all situations, regardless of whether the relevant person has actually undergone a sex change, is preparing for a sex change, or is actually undergoing a sex change (this is quite a long process), or is not preparing for a sex change and is not intending to do so in the future. Discrimination will also include unequal treatment based on so called assumed grounds. This means that in practice it is not decisive whether the person suffering discrimination is of a certain race, sexual orientation or age, but that the person who committed the discriminatory behaviour considered him as such.

173. The anti-discrimination bill defines terms such as direct and indirect discrimination, harassment, sexual harassment, victimisation etc. Discrimination also covers instructions and incitement to discrimination. Obviously, not all forms of different treatment can be considered discrimination, and the bill thus states exceptions to the principle of equal treatment. These are based on two different concepts: whether they concern areas and discriminatory grounds under

¹⁵⁹ In its resolution of 20 February 2002 No. 170, the Government required the Deputy Prime Minister and the Chairman of the Government Legislative Council to prepare draft legislation for protection against discrimination by 31 December 2002.

¹⁶⁰ Resolution no. 1193

¹⁶¹ Parliamentary documents nos. 866 and 867

EU directives or not. For grounds and areas falling under EU directives the exceptions are stated explicitly by the bill, and can not be broadened in their interpretation, whereas in other cases the bill allows for different treatment to be justified for a legitimate objective and proportionate requirement. A court shall always decide on the legitimate objective and proportionate requirement.

174. As regards positive measures, the bill expressly permits these as a possibility and not a legal obligation. It also provides a list of material cases in employment and the professions in which positive measures can be focused. This approach was chosen because types of positive measures can not be precisely predicted and will rely on the activity of the relevant entities. Legal proceedings can be taken if such measures continue even after equality of status has been introduced.

175. The bill also allows for independent actions of legal entities. This is to enable the prosecution of large-scale discriminatory practices affecting large numbers of people, where the breach of rights is evident but difficult or impossible to prove in the case of a specific person because the actual victims are unknown. This therefore does not involve representing victims of discrimination before the courts. Instead, these activities are expected to fall on non-governmental organisations set up to offer protection against discrimination. Victim protection is based on the current legislation for protection of personality, and victims of discriminatory behaviour can thus take legal action to be relieved of such discrimination, to seek remedy for the consequences of discrimination and to receive adequate satisfaction, or financial compensation for non-material loss. European Union directives also provide the direct obligation on member states to create or define an institution that addresses equal treatment and protection against discrimination.¹⁶²

176. In respect of institutions, the bill was originally developed in two variants. The first counted on the creation of a new body – the Centre for Equal Treatment, which should be a body specialising in equal treatment and discrimination and which should act as an advisory-information and educational body. When authorising the Act, the Government decided that the agenda relating to equal treatment and protection against discrimination should be part of the Ombudsman's powers.

177. Under the bill, the Ombudsman would help promote equal treatment for all persons and provide legal aid in matters of protection against discrimination, issue recommendations and opinions, conduct research and provide information to the public. However, entrusting this agenda to the Ombudsman has a host of theoretical-legal and practical aspects and consequences. According to the existing concept of the Ombudsman in Czech law, his powers relate only to public entities, while it is generally agreed that those responsible for cases of discrimination mostly fall within private law. It is obvious, therefore, that the proposed solution in no way corresponds to the Czech Ombudsman's status, which is designed to protect people against "wrong administration". As a result, the Ombudsman's powers will follow two paths, with distinctions having to be made as to whether to act within the existing agenda, or follow the

¹⁶² The recommendation of the European Commission against Racism and Intolerance also proposes the creation of a special entity to combat racism, xenophobia, anti-Semitism and intolerance at a national level.

newly-entrusted equal treatment agenda.

178.Under the bill, the Ombudsman should provide independent help to victims of discrimination. This help covers assistance, e.g. in preparing petitions to the courts, preparing motions for the appointment of a representative by the court, or complaints to various administrative inspection bodies (e.g. Labour offices, Czech Trade Inspection), and information, e.g. on the possibilities of legal aid, either through a lawyer or non-governmental organisation. The Ombudsman can not therefore represent victims of discrimination in judicial proceedings, but can only offer them advice on which means they should employ and to whom they should have recourse. One form of specific assistance that the Ombudsman can offer victims is mediation. Under the bill, one of the results of successful mediation is the agreement of the parties to submit a petition to the court for reconciliation. The Ombudsman's power to issue recommendations and opinions is also important. This should prove an effective instrument in influencing practice in regard to protection against discrimination. The Ombudsman will also be authorised to carry out research with regard to equal treatment.

Article 7

The State's role in educating against racial discrimination

Education in schools

179.The new Education Act led to the creation of framework education programs for education in schools. The framework education program for elementary education includes the educational area “People and Society”, which focuses on creating positive civic attitudes, supporting desirable value assessments and integrating knowledge and skills from a variety of disciplines, primarily, the humanities. An important part of the education in the relevant educational field is the prevention of racist, xenophobic and extremist positions, educating people to be tolerant and to respect human rights and educating them to respect the natural and cultural environment. The program also includes so-called inter-linked subjects which represent the current range of problems in today's world and which form an integral part of the education. One of these issues is „multicultural society“, where pupils start, for example, to learn to live and communicate with members of different ethnic groups, to understand and respect their differences, and perceive that racism and xenophobia can not live alongside the principles of a democratic society. At present, the Ministry of Education is preparing Framework Education Programs for high-school pupils which will include the obligatory inter-linked subject “The Citizen in a Democratic Society”. The programs aim to produce pupils who understand the meaning of a multicultural society and who reject racism and xenophobia.

180.The PHARE program implemented by the Ministry of Education, Youth and Sports in 2003 included the training of elementary school teachers and pedagogic assistants in elementary schools and preparatory classes in multi-cultural themes and the creation of special conditions for the education of Roma pupils. The following projects were implemented: Supporting Roma

Integration, Supporting Preparatory Class Equipment and Reform of Multi-cultural Education.¹⁶³

181. The Ministry of Education, Youth and Sports asked the Czech School Inspection to gauge the current state of training in human rights.¹⁶⁴ The inspection was intended to identify and evaluate the conditions that schools create for the education and training of pupils in human rights and tolerance, how schools apply the human rights issue in their teaching and out-of-school activities, how aware pupils are of the human rights issue, how they manifest their opinions and what positions they take up. The inspection was held from 1 October 2003 to 31 January 2004 in 81 schools in all regions of the CR, of which 61 were in elementary schools and 20 in grammar schools. The inspection focused on a target group of pupils in their final year of mandatory school attendance (ninth year of elementary school and fourth year of eight-year grammar school). Among other things, the school inspectors monitored and evaluated school literature, documents, the content of school regulations, the setting-up of pupil self-administration, the existence of a confidentiality box, and training and education in human rights as a part of teaching. Subject matter directly relating to human rights is contained in civic education. It is covered by the subjects of mankind and morality, mankind and human rights, mankind and civil life, the State and law.¹⁶⁵

182. No separate human rights study program currently exists in the universities.¹⁶⁶ Specific human rights subjects are usually taught in the form of mandatory optional lectures or seminars as part of the common basis for studies in the social sciences or pedagogy. In 2004, university development programs included the projects Education in Multicultural Tolerance and Multiculturalism in Education at Masaryk University.

¹⁶³ The aim of the project Reform of Multicultural Education was to create and introduce a model for a multicultural curriculum in the education system in elementary schools. The result of the multicultural education project was used in the new Framework Education Program for elementary education.

¹⁶⁴ A thematic inspection was held at the request of the Ministry of Education in its Strategy for Training and Education in Human Rights and Tolerance, and under Government Resolution of 3 January No. 28 on the report on training in human rights in the CR, which requires the Ministry of Education, Youth and Sports „by means of the Czech School Inspection to regularly monitor and evaluate fulfilment of undertakings in the training and education of human rights.

¹⁶⁵ Literature relating to the monitored subject deals chiefly with the latest events, the issue of minorities, intercultural education, the Holocaust, Roma history and culture, legal theory and practice, prevention of socio-pathological features, juvenile crime etc. In 11.1 % of schools, neither teachers nor students had access to any specialist literature, and the only text used was that of civil education textbooks. Documents on human rights most commonly used in schools are the Constitution of the CR, the Charter of Fundamental Rights and Freedoms and the Convention on the Rights of the Child. In four-fifths of school regulations the rights of pupils are enshrined in a balanced relation to obligations – in the remaining schools they are only stated peripherally or not at all. Pupils are informed in differing degrees of their rights under the Convention on the Rights of the Child – most commonly they are informed of the right to protection against violence and of the right to education. They are informed far less of the right to protection of personal data and the right to privacy. The inspection found whether pupil self-administration existed in schools and whether pupils could use it to affect the running of schools. Pupil self-administration had been set up in one-half of the monitored school, although it was only deemed to be functional in two-fifths of schools. Pupil self-administration dealt chiefly with behaviour and discipline, and less frequently with the content and method of teaching. Confidentiality boxes were set up in almost three-quarters of schools (71.6 %). In more than one-third of schools in which they had been installed, pupils failed to use them to communicate. Many school favoured other forms of communication, such as via the school computer network, columns in school magazines, questionnaires etc.

¹⁶⁶ Charles University in Prague, for example, has an independently-accredited Roma Studies Program.

Training for members of the Police

183. In its training on nationalities and ethnic minorities the Police chiefly proceeds from the National Strategy for Police Work in Relation to Nationalities and Ethnic Minorities. In this respect, the activity of police training centres can be divided into three basic elements: expert practice of basic specialist training for new recruits;¹⁶⁷ improvement courses for police who are in active service¹⁶⁸ and training for police in addition to the improvement courses.¹⁶⁹ In April 2005, the issue of people trafficking was added to the profile for graduates of courses on multicultural co-existence.

184. Since 2003, the issue of minorities, questions of racial equality and human rights have formed part of the training for students of middle police school and the regular refresher courses for the teachers of these schools. They also form part of the training program for students of elementary specialist training. Since the second half of 2004, lifelong learning for police officers in all regional police administrations has included a course on police work in relation to minorities. Police officers from all Police services go through the course. In the next two years, it is imperative that the issue of minorities be added to the police management training program and that specialisation courses be created for members of the foreign and border police service.

185. The Minister of the Interior is implementing the project Including Human Rights, Respect for

Minorities and their Protection and Professional Ethics in the Training of Czech Police and the Work of the Czech Police. The project's aim is to include the issue of human rights and professional ethics in the program for the basic and other professional training of the Police, and to support the use of new knowledge and skills in the everyday work of police officers, to improve the level of the Police's professional behaviour with citizens and to increase the confidence of minorities in the Police. The project was behind the launch in spring 2004 of the Centre for Human Rights and Professional Ethics at the Ministry of the Interior's Central Police School in Prague.

186. Teachers at central police schools and police training centres regularly take part in instructional methodological work and other seminars, at which they come into contact with the latest information of the topic that they teach. They are issued with teaching and study materials and aids which reflect current developments in human rights and provide instructions on how to combat prejudices and stereotypes¹⁷⁰. The Ministry of the Interior also organises seminars on human rights which are intended specifically for police officers in active service. In 2004, training was held for personnel in the Bálková detention facility for foreigners, and in 2005 this

¹⁶⁷ In 2004, 556 police officers were trained in the question of multicultural co-existence.

¹⁶⁸ In 2004, 2 512 police officers were trained.

¹⁶⁹ In 2004, 132 police officers were trained.

¹⁷⁰ In 2004, the training manual was published entitled „Police work with immigrants and refugees“ and „Police officers in a multicultural environment“.

training will be held in all remaining detention facilities for foreigners.

187. The Police continued to implement its project Training for Citizens of National Minorities for Recruitment as Members of the Czech Police Force. Such training courses have been held since 2000. The aim is to create the necessary groundwork for recruitment proceedings. One such training course was held in 2004.¹⁷¹

Training members of the Czech Army

188. At the decision of the Ministry of Defence and in accordance with the Concept and the program for the prevention of socio-pathological phenomena for the period 2001 – 2004,¹⁷² issues concerning the fight against racism and xenophobia were included in all types of education and training of members of the Czech Army. A system is gradually being devised to inform soldiers and employees of the Ministry of Defence of these issues at a theoretical level and to inform them of solutions in specific cases. Recruiting centres co-operated successfully with Roma advisors and regional co-ordinators. At the end of the assessed period, the Ministry of Defence prepared the Training Concept document, which outlines the goals for education and training in human rights. These focus on gradually familiarising all soldiers and civilian employees in the Ministry of Defence with the theoretical precepts and legislation, and on providing them with practical skills for the entire field of human rights, including the prohibition on discrimination on racial grounds.

Training judges and judicial trainees

189. In 2005, the Academy of Justice¹⁷³ organised a seminar for judges and public prosecutors on the theme: "Racially motivated crimes and so-called domestic violence". In the 2005/2006 school year, this subject will form part of seminars on criminal, civil and administrative justice, namely of seminars for public prosecutors and new judges, a seminar on compensation for damage, and seminars on the judicial protection of immigrants and asylum decisions, as well as a seminar for judicial trainees.

Disseminating information

190. Since 1999, the Government has financed the Campaign against Racism. As part of the campaign, the year 2003 saw the implementation of the project Diversity in Libraries II: Information and Media Campaign at Regional and Local Levels.¹⁷⁴ The project was designed to encourage readers and library personnel in public libraries to take an interest in the various ethnic groups living in the CR, and by so doing to create an environment of tolerance. The project involved sending literature on multicultural issues and minorities to 500 libraries, and organising in conjunction with these libraries accompanying events for children, juveniles and adults. The

¹⁷¹ Of a total of 9 candidates, 2 completed it successfully.

¹⁷² Ministry of Defence task document No. 190/2004 of 23 June 2004

¹⁷³ The Academy of Justice ensures training for people working in the Ministry of Justice. It ensures specialist training for judges, public prosecutors and judicial trainees.

¹⁷⁴ This involved the continuation of the project from 2002.

project also included an extensive publicity campaign aimed at the general public which contained a presentation of the project and the issue of inter-culturalism in the media.

191.The second part of the campaign in 2003 was the Interactive Training-Education Campaign in elementary and middle schools – the Path of Tolerance. The project was also used in previous years. It uses multi-ethnic teams of teachers who visit middle schools where students debate tolerance, prejudices, racism and other related issues.¹⁷⁵

192.In 2004, the Campaign against Racism implemented four projects, two of which were linked to campaigns of previous years. New web sites were created as part of the project Diversity in Libraries III.¹⁷⁶ The project We Are All Victims was made up of two parts. The main part – the media information campaign – acquainted the public with actual cases and victims of racially-motivated violence or discrimination, and with “victims” of their own racial prejudices from the ranks of racist-minded citizens or active racists. The second part of the project focused exclusively on communicating with ultra-nationalist and other extremist groups containing racists.

193.The project Monitoring Czech Right-Wing Extremism for a more effective government campaign against racism as the third part of the campaign was intended to help other campaigns better meet the needs of society in eliminating negative stereotypes in the perception of minority ethnic groups and to increase its effectiveness among the target groups. It resulted in three “Reports on the State of Right-Wing Extremism in the Czech Republic”, which are used by the campaign co-ordinators for their internal use.

194.A new feature of the campaign was the National Education Campaign Against Discrimination, which was held as part of the Community Action Programme to Combat Discrimination 2001 – 2006. Some of the funds needed to finance it were provided by the EU, with the remaining part coming from the so-called national co-financing program. The project included a national conference, regional seminars and student court. A new and beneficial element in the overall campaign was the increased emphasis on the fact that it was a government campaign.

195.The dissemination of information is also one of the tasks of the Ministry of Education, Youth and Sports, which issues and distributes methodological and information materials, including information materials for teaching in elementary and middle schools.¹⁷⁷ The material arose out of co-operation between the Ministry of Education and the Council of Europe as the direct

¹⁷⁵ By means of psycho-social games, young people reflect on their own attitudes and the negative essence of racism. Four-member teams of teachers were generally comprised of two Roma teachers, one foreign teacher from Africa living in the CR, and a Czech teacher. All members of the teams had completed special training in crisis negotiation and communication. In five areas containing Ministry of the Interior asylum facilities, the teachers also focused on children of younger school age, using interesting and informative methods to teach them of the lives of foreigners and refugees in the CR and their problems and complex living conditions.

¹⁷⁶ www.rozmanitost.cz

¹⁷⁷ Subject: Odsun-Vertreibung; Historians against the Abuse of History; Subject of the Holocaust, CD aimed directly at the methodology of Twentieth-Century history - How to use European history of the 20th Century.

fulfilment of the Recommendation of the Council of Europe's Committee of Ministers on the teaching of history and the Ministry of Education's strategy. The project includes seminars for teachers which set the publication's application in a practical context.

196. The Ministry of Education granted accreditation to the Terezín heritage site and the Jewish Museum's Education and Culture Centre in Prague, which are the only educational institutions authorised to organise seminars for teachers of elementary and middle schools. The seminars have been held since 2001, and the special seminar for teachers of elementary and middle schools on "How to teach the Holocaust" is financed by the Ministry of Education, which also contributes financially to international conferences.¹⁷⁸

¹⁷⁸ As at 30 March 2005, approximately 1 500 teachers had received training. After completing the seminar they are trained in methodology for teaching the Holocaust in elementary and middle schools in the CR.

III. INFORMATION ON THE FULFILMENT OF THE CONCLUDING RECOMMENDATIONS

OF THE COMMITTEE FOR THE ELIMINATION OF RACIAL DISCRIMINATION

TO THE FIFTH PERIODIC REPORT OF THE CR

Recommendation no. 8: “*The Committee encourages the state party to complete its efforts with regard to the comprehensive anti-discrimination law promptly and to subsequently ensure its effective enforcement. It urges the State party to incorporate in the new law the definition of discrimination as stipulated in article 1(1) of the Convention.*”

197. Information on the fulfilment of this recommendation is contained in the text to article 2 (point 24) and the text to article 6 (points 170 – 178).

9. Recommendation no. 9: “*While noting the efforts undertaken by the State party to counter racially motivated violence and discrimination, the Committee remains concerned at the continuance of acts of racially motivated violence and incitement to hatred, and the persistence of intolerance and de facto discrimination, in particular with regard to the Roma minority. The Committee recommends that the Government pursue and intensify its efforts towards more effective application of existing legislation..*”

198. Information on the fulfilment of this recommendation is contained in the text to article 4; article 5B (points 70 – 72).

Recommendation no. 10: ”*Furthermore, the Committee notes that the State party has only declared punishable active participation in organisations promoting and inciting racial discrimination. The Committee urges the State party to consider reviewing this provision and declare punishable any participation in organisations which promote and incite racial discrimination, in accordance with article 4(b) of the Convention.*”

199. The wording of the Criminal Code adequately covers manifestations of sympathy for persons and movements that promote racial discrimination. Not only active public incitement is punishable, but also just association or assembly with a view to committing such a crime. A party to such an assembly can be someone who joins it informally without asking for formal membership. This is a far stricter criminal sanction than that recommended by the Committee.¹⁷⁹

¹⁷⁹ This conclusion also came from the meeting of the inter-departmental re-codification commission for the preparation of a new criminal code, and no other legislation was proposed, which was subsequently accepted by the Government Legislative Council and ultimately also the constitutional legal committee of the Chamber of Deputies of the Parliament of the CR.

Recommendation no. 11: “*The Committee is concerned about allegations of racially motivated ill-treatment, ineffective protection, and discrimination against the Roma by law enforcement officials, especially the Police. Furthermore, it has been suggested that allegations of abuse by law enforcement officials are not always promptly and impartially investigated. While noting the many initiatives taken in the field of training and education of the police, the Committee stresses that prompt and impartial investigations are paramount in countering discriminatory attitudes and practices. The Committee recommends that the State party intensify its efforts to end such discriminatory practices. It further recommends that the procedure related to investigation of complaints with respect to the work of the police be conducted and overseen by a body independent of the Police and the Ministry of the Interior. The Committee requests the State party to include in its next periodic report statistical information on the number and nature of complaints of racial discrimination received, prosecutions launched and penalties imposed.*”

200. The independent inspection of procedure of police bodies in criminal proceedings is the responsibility of supervision by the public prosecutor. An amendment to the Criminal Procedure Act (Act No. 265/2001 Coll.) allows the defendant and the injured party in preliminary proceedings to ask the public prosecutor for delays in the proceedings or irregularities in police procedure to be remedied. The application is not limited by time and the public prosecutor must settle it without delay.

201. The Police supervisory bodies remain responsible for investigating complaints about offences by police officers below the level of a crime. As yet, no independent body with powers to resolve an irregularity quickly and effectively has been established to investigate all types of offences by members of the Police.

202. Statistical data on complaints of racial discrimination can be found in the text to article 5 (point 71).

Recommendation no. 12: “*The Committee urges the State party to continue and intensify poverty reduction and employment programmes for the Roma, and also to consider establishing a functional loan system for socially weak sections of the population, including the Roma, as an alternative to usury. In this respect, the Committee encourages the State party to take due account of the situation of Roma women, in accordance with its General recommendation No.XXVII.*”

203. For programs aimed at limiting poverty and encouraging employment for Roma see the text to article 5 E (points 87 - 97). For the suppression of usury see the text to article 2 (point 30). For social integration see the text to article 5E (points 133 - 135). Since 1991, the Czech legal system has had a provision for loans for the socially vulnerable. Interest-free loans to citizens are governed by a decree implementing the Social Security Act and the Act on Powers of Bodies in the CR in Social Security (No. 182/1991 Coll.). An interest-free loan can be granted by a municipal authority with expanded powers to a vulnerable person in a difficult life situation which can be overcome through a loan on condition that the person can not obtain a loan by any other means. The maximum amount of the loan is CZK 20 000, with a time-limit of at most five years. An integral part of the loan is an agreement between the person to whom the loan is

provided and the municipal authority. The agreement contains terms relating to repayment schedules and the size of repayments.¹⁸⁰

Recommendation no. 13: “*The Committee encourages the State party to continue its activities in the area of research related to the problem of housing and to seek solutions promoting social integration of the Roma. With respect to evictions, the Committee recommends that the State party devise measures to prevent evictions or mitigate their negative effects, in particular on the most vulnerable groups.*”

204. Information on the fulfilment of this recommendation is contained in the text to article 5E (points 100 – 112; 115 - 123).

Recommendation no. 14: “*Recalling its General Recommendation No. XXVII, the Committee urges the Government to continue and intensify the efforts to ameliorate the educational situation of the Roma through, inter alia, enrolment in mainstream schools, recruitment of school personnel from among members of Roma communities, and sensitisation of teachers and other education professionals to the social fabric and world views of Roma children and those with apparent learning difficulties.*”

205. Information on the fulfilment of this recommendation is contained in the text to article 5E (points 136 – 147, 180).

Recommendation no. 15: “*The Committee encourages the State party to promptly establish a legal aid system for alleged victims of racism. It requests the State party to include in its next periodic report information on the number of persons that have benefited from legal aid and information on cases where victims have been provided adequate reparation.*”

206. In the CR there is no institutionalised system of legal aid for victims of racism.¹⁸¹ The Ministry of Justice is active in the field of compensation for victims of crime in accordance with the Act on Financial Aid for Victims of Crime (No. 209/1997 Coll.). This allows for financial aid to be paid if the relevant damage has not been paid by the offender. However, this form of aid is not linked to victims of specific crimes with a racial subtext and is entirely general. Only a few instances are known of financial aid being provided to victims of crime with an alleged racial subtext, and data on victims of such crime are not specifically monitored in statistics.

Recommendation no. 16: “*The Committee recommends that the State party continue and intensify its anti-racism campaigns and other efforts aimed at combating racial and ethnic stereotyping. It recommends that the State party, while pursuing public education campaigns,*

¹⁸⁰ In 2002, 313 interest-free loans were provided totalling CZK 4 112 000 to families with unprovided-for children, and 193 loans totalling CZK 1 441 000 to individuals

¹⁸¹ However, in this field, non-governmental organisations are particularly active, particularly *Hnutí za občanskou solidaritu a toleranci* (HOST), *Bílý kruh bezpecí*, *Poradna pro občanství*, *občanská a lidská práva* and *Liga lidských práv*.

continue and diversify targeted training programs for professionals, such as the police, judges and other public officials working with the Roma and other vulnerable groups.”

207.Information on the fulfilment of this recommendation is contained in the text to article 7 (points 178 – 195).

Recommendation no. 17: “*The Committee encourages the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.”*

208.In preparing this report, documents were used from the non-governmental, no –profit organisation *Poradna pro občanství, občanská a lidská práva (Counselling Centre for Citizenship, Civic and Human Rights)*¹⁸², which is active in the protection of human rights and actively intervenes on the part of discriminated people. The organisations employees also act as legal representatives for these people in cases handled by the Czech courts (see the section on discrimination in housing, access to employment). In preparing the report, we also contacted members of the Government Council for Human Rights and its working body – the Committee for the Elimination of all Forms of Racial Discrimination – representatives of civil and specialist public and academic bodies.

Recommendation no. 18: “*The Committee recommends the State party to disseminate widely information on the available domestic remedies against acts of racial discrimination, on the legal avenues to obtain compensation in cases of discrimination, and on the individual complaint procedure under article 14 of the Convention.”*

209.The CR disseminates information in general form through the Government’s various ministries and their press departments. Topical information is regularly published on the Ministries’ web pages. Information on legal paths to obtain compensation is published on the internet portal of the Ministry of Justice.¹⁸³ This also contains information on financial aid for victims of crime, including the relevant legislation and application forms for financial aid. The Ministry of Justice also provides information directly on request, by e-mail, in writing and through the media. In addition, some information on the relevant issue has been published in the Ministry’s periodical. With regard to labour relations and employment, it informs the relevant natural person of the possibilities of recourse from supervisory bodies in the event of discriminatory behaviour.

Recommendation no. 19: “*The Committee invites the State party to include in its next periodic report information on the National Plan of Action and any other measures taken to implement the Durban Declaration and Programme of Action at the national level.”*

210.Information on the fulfilment of this recommendation is contained in the text to article 4 (point 60).

¹⁸² See www.poradna-prava.cz

¹⁸³ www.justice.cz

Recommendation no. 20: *“The Committee recommends that the State party’s reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicised.”*

211. Reports on the fulfilment of the International Convention on the Elimination of all Forms of Racial Discrimination and the Committee’s recommendations on these reports are published on the web pages of the Office of the Government of the CR (www.vlada.cz). The sixth and seventh periodic reports will be published on these pages after they have been submitted to the Committee.

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