



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the third periodic report of the Czech Republic**

1. The Committee considered the third periodic report submitted by the Czech Republic (CCPR/C/CZE/3) at its 2992nd and 2993rd meetings (CCPR/C/SR.2992 and CCPR/C/SR.2993), held on 16 and 17 July 2013 respectively. At its 3003rd meeting (CCPR/C/SR.3003), held on 24 July 2013, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of the Czech Republic and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high level delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/CZE/Q/3/Add.1) to the list of issues, which were supplemented by the oral responses provided by the delegation, and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) The adoption of the Act on Equal Treatment and Legal Means of Protection against Discrimination ("Anti-discrimination Act") in 2009, assigning the role of national equality body to the Ombudsman;

(b) The adoption of the new Civil Code, abolishing the full deprivation of legal capacity as of 2014;

(c) The adoption of the National Action Plan for the Prevention of Domestic Violence (2011-2014), the introduction of restraint orders authorizing the police to expel

* Reissued for technical reasons on 9 September 2013.

** Adopted by the Committee at its 108th session (8-26 July 2013).

perpetrators of domestic violence and the establishment of intervention centres in all regions of the State party;

(d) The establishment of Anti-Conflict Teams among police to prevent social conflict and the Organised Crime Detection Unit to fight against organized extremist crimes;

(e) The establishment of the Agency for Social Inclusion in Roma Localities, in 2008.

4. The Committee welcomes the ratification by the State party of the following international instruments:

(a) The Rome Statute of the International Criminal Court in 2009; and

(b) The Convention on the Rights of Persons with Disabilities in 2009.

C. Principal matters of concern and recommendations

5. While noting the information provided by the State party in relation to the extended mandate of the Public Defender of Rights, now also officially empowered to act as a national preventive mechanism for the purposes of the Optional Protocol to the Convention against Torture, the Committee is concerned that this institution has not been established as a consolidated national institution with broad competence in the field of human rights, in accordance with the Paris Principles (General Assembly resolution 48/134) (art. 2).

The State party should either provide the Public Defender of Rights with a consolidated mandate to more fully promote and protect all human rights, or achieve that aim by other means, with a view to establishing a national human rights institution with a broad human rights mandate and providing it with adequate financial and human resources, in line with the Paris Principles (General Assembly resolution 48/134, annex).

6. While acknowledging the legislative measures adopted by the State party to improve the coordination of its implementation of the Committee's Views, the Committee expresses once again its concern at the State party's continuing failure to implement the Committee's Views under the Optional Protocol to the Covenant, in particular the numerous cases concerning the restitution of property under Act No. 87/91 of 1991. The Committee further recalls that, by acceding to the First Optional Protocol, the State party has recognized the Committee's competence to receive and examine complaints from individuals under the State party's jurisdiction, and that a failure to give effect to the Committee's Views would call into question the State party's commitment to the First Optional Protocol. (art. 2)

The Committee urges the State party once again to review its position in relation to Views adopted by the Committee under the Optional Protocol to the Covenant and establish appropriate procedures to implement them, in order to comply with article 2, paragraph 3, of the Covenant, which guarantees the right to an effective remedy and reparation when there has been a violation of the Covenant.

7. The Committee recalls its previous concluding observations (CCPR/C/CZE/CO/2, para. 11) and notes with concern that women continue to be underrepresented in decision-making positions in the public sector, particularly in Government ministries, parliament, regional councils and among governors. The Committee regrets that patriarchal stereotyped attitudes still prevail with respect to the position of women in society (arts. 2, 3, 25 and 26).

The State party should adopt concrete measures to increase the representation of women in decision-making positions in the public sector, and, where necessary, through appropriate temporary special measures to give effect to the provisions of the

Covenant. It should also take steps to address the difficulties identified with regard to women's access to key positions in the hierarchies of political parties, as mentioned in paragraph 22 of the State party's third periodic report. The State party should take the necessary practical steps, including awareness-raising campaigns, to eradicate stereotypes regarding the position of women in society.

8. The Committee is concerned that, despite the State party's efforts to combat extremism and the existing legal framework against incitement to racial hatred, an anti-Roma climate remains prevalent among the Czech population. The Committee is also concerned about the use of discriminatory remarks against the Roma by politicians and in the media and at the extremist demonstrations, marches and attacks directed against members of the Roma community (arts. 2, 19, 20 and 27).

The State party should redouble its efforts to combat all forms of intolerance against the Roma, by, inter alia:

- (a) Establishing clear benchmarks and allocating sufficient resources to awareness-raising campaigns against racism to promote respect for human rights and tolerance for diversity, in schools among the youth, but also throughout the media and in the political arena;**
- (b) Actively engaging in nurturing respect for the Roma culture and history through symbolic acts, such as removing the pig farm located on a World War II Roma concentration camp in Lety;**
- (c) Increasing its efforts to ensure that judges, prosecutors and police officials are trained to be able to detect hate and racially motivated crimes;**
- (d) Taking all necessary steps to prevent racist attacks and to ensure that their alleged perpetrators are thoroughly investigated and prosecuted and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated.**

9. While noting the adoption of various programmes to improve the situation of the Roma community, including the Strategy for Combating Social Exclusion 2011-2015 and the 2010 Roma Integration Concept, the Committee recalls its previous recommendation (CCPR/C/CZE/CO/2, para. 16) and notes with concern that Roma continue to suffer from discrimination, widespread unemployment, insufficient access to subsidized municipal housing, forced evictions and territorial segregation (arts. 2, 26 and 27).

The State party should establish a consolidated strategy with concrete goals, indicators and adequate budgetary allocations that contains enforceable measures to promote access by Roma to various opportunities and services at regional and municipal levels, including, where appropriate, through temporary special measures particularly designed to improve the availability of social housing and jobs. The State party should frequently monitor the implementation of the strategy at all levels and take additional steps to increase the representation of Roma in the civil service and public life.

10. The Committee recalls its previous recommendation (CCPR/C/CZE/CO/2, para. 17) and reiterates its concern that Roma children continue to be overrepresented in schools for pupils with mild mental disabilities or "practical elementary schools". The Committee is further concerned at the continuing reports of placement of Roma children in Roma-only classes or classes with a limited curriculum in mainstream schools. (arts. 26 and 27).

The State party should take immediate steps to eradicate the segregation of Roma children in its education system, by ensuring that the placement in schools and classes is carried out according to clear and objective criteria that are not adversely

influenced by the child's ethnic group or socially disadvantaged condition. Furthermore, the State party should take concrete steps to ensure that decisions for the placement of all children, including Roma children, in special needs classes may not be made without an independent, culturally sensitive medical evaluation nor based solely on the capacity of the child.

11. While welcoming the adoption of the Law on Specific Health Care Services, in force since 2012, defining the requirement of free, prior and informed consent with regard to sterilizations, the Committee remains concerned that no broad compensation mechanism has been established for victims who were forcibly sterilized and that only three victims have received compensation to date. Moreover, the Committee notes with concern that all the criminal proceedings initiated against alleged perpetrators of forced sterilization have been discontinued or statute-barred (arts. 2, 3, 7 and 26).

The State party should:

- (a) Consider establishing a compensation mechanism for victims who were forcibly sterilized in the past and whose claims have lapsed;**
- (b) Ensure free legal assistance and advice to victims who were forcibly sterilized, so that they may consider lodging claims before the courts;**
- (b) Initiate criminal proceedings against possible perpetrators of coercive sterilization;**
- (e) Monitor the implementation of the Law on Specific Health Care Services to ensure that all procedures are followed in obtaining the full and informed consent of women, particularly Roma women, who seek sterilization at health facilities.**

12. While noting that, according to the May 2013 proposal for the new Election Code, citizens with disabilities can only have their capacity to exercise the right to vote and take part in public life restricted by a court, the Committee is concerned at reports indicating a tendency of the courts to excessively restrict persons with disabilities, in particular mental, intellectual or psychosocial disabilities, in their legal capacity despite their de facto ability to engage in certain activities, such as voting (arts. 2, 25 and 26).

The State party should ensure that it does not discriminate against persons with mental, intellectual or psychosocial disabilities by denying them the right to vote on bases that are disproportionate or that have no reasonable and objective relationship to their ability to vote, taking account of article 25 of the Covenant.

13. The Committee is concerned that persons deprived of, or with limited legal capacity can be confined in social care institutions by the decision of their guardians or legal representatives without being subject to any legal requirement for justification for their confinement or consideration of less restrictive alternatives. In addition, it is concerned that they do not have a legal right to bring proceedings to have the lawfulness of their confinement decided by a court, nor is the decision on their confinement limited to a maximum period of time after which the decision has to be reviewed (arts. 2, 9, 10 and 26).

The State party should:

- (a) Review its policy of limiting the legal capacity of persons with mental disabilities and establish the necessity and proportionality of any measure on an individual basis, with effective procedural safeguards, ensuring in any event that all persons who have their legal capacity restricted will have prompt access to an effective judicial review of the decisions and free and effective legal representation in all proceedings regarding their legal capacity;**

(b) Ensure that persons with mental disabilities or their legal representatives are able to exercise the right to effective remedy against violations of their rights, and seriously consider providing less restrictive alternatives to forcible confinement and treatment of persons with mental disabilities, as provided for in the National Plan on the transformation of psychiatric, health, social and other services for adults and children with intellectual or psychosocial disabilities;

(c) Ensure an effective and independent monitoring and reporting system of mental health and social care institutions, and ensure that abuses are effectively investigated and prosecuted and that compensation is provided to the victims and their families.

14. While noting that the use of enclosed restraint beds (cages/net beds) on psychiatric patients is now regulated under the Health Care Services Act, the Committee is concerned at reports of excessive and unsupervised use of these and other restraints in psychiatric institutions and the poor monitoring of control mechanisms. The Committee recalls that this practice constitutes inhuman and degrading treatment (arts. 7 and 10 of the Covenant).

The State party should take immediate measures to abolish the use of enclosed restraint beds in psychiatric and related institutions. The State party should also ensure that any decision to use restraints or involuntary seclusion should be made after a thorough and professional medical assessment to determine the restraint strictly necessary to be applied to a patient and for the time strictly required. Furthermore, the State party should establish an independent monitoring and reporting system, and ensure that abuses are effectively investigated and prosecuted and that redress is provided to the victims and their families.

15. While noting the adoption of the National Action Plan for the Prevention of Domestic Violence (2011-2014) and the introduction of restraint orders, the Committee is concerned at the low level of reporting of cases of domestic violence to the police (arts. 3 and 7).

The State party should adopt concrete measures to prevent and address gender-based violence in all its forms and manifestations. The State party should encourage the reporting of cases of domestic violence by victims. It should also ensure that such cases are thoroughly investigated, that perpetrators are prosecuted, and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated.

16. While noting the various programmes implemented by the State party to combat trafficking in human beings and to support victims through the Programme of Support and Protection of Victims of Human Trafficking, the Committee is concerned at the persistence in the State party of this phenomenon (art. 8).

The State party should:

(a) Continue its efforts to raise awareness and to combat trafficking in persons, including at the regional level and in cooperation with neighbouring countries;

(b) Compile statistical data on the victims of trafficking, which should be disaggregated by gender, age, ethnicity and country of origin, with a view to addressing the root causes of this phenomenon and assessing the efficiency of the programmes and strategies that are presently carried out;

(c) Ensure that all individuals responsible for trafficking in persons are prosecuted and receive punishment commensurate with the crimes committed.

17. The Committee recalls its previous concluding observations (CCPR/C/CZE/CO/2, para. 15) and notes with concern that foreign minors awaiting deportation could be detained

for up to 90 days in detention centres. The Committee is further concerned that foreigners may be detained on grounds that are not narrowly defined, such as failure to observe their duties during their stay, and that existing alternatives to administrative detention do not seem to be applied systematically. Finally, the Committee notes that, according to the Asylum Act, asylum seekers may be placed in reception centres for up to 120 days, sometimes in inadequate facilities, such as at Vaclav Havel airport (arts. 9, 10, 13 and 24).

The State party should:

- (a) Reduce the maximum legal period of detention for foreign minors awaiting deportation and, in any event, ensure that detention of children is permitted only as a measure of last resort and for the shortest appropriate period;**
- (b) Take measures to ensure that the detention of foreigners is always reasonable, necessary and proportionate in light of their individual circumstances, that detention is resorted to for the shortest appropriate period and only if the existing alternatives to administrative detention have been duly considered and deemed not appropriate;**
- (c) Ensure that the holding of asylum-seekers in reception centres is applied only as a measure of last resort for the shortest appropriate period, after due consideration of less invasive means;**
- (d) Ensure that the physical conditions in all immigration detention and reception centres are in conformity with international standards.**

18. While welcoming the legislative measures aimed at reducing the prison population, as well as the increase in accommodation capacities, allowing for an overall reduction of the prison population, the Committee remains concerned at reports of degrading sanitary conditions and lack of privacy in prisons, as well as complaints regarding the quality and availability of medical care services. Furthermore, the Committee is concerned at the conditions of work of prisoners, whose average monthly wages are far below the national minimum salary, have not been updated for many years and are further reduced by 32 per cent in order to pay for their incarceration costs (art. 10).

The State party should continue to take measures to improve prison conditions on a sustainable basis, including with regard to adequate health services and sanitary conditions, with a view to achieving full compliance with the requirements of article 10. In this regard, the State party should strive to achieve sufficient staffing levels to meet the ratio established in the Standard Prisoner Decree. The State party should ensure that prisoners are adequately supervised when working for private entities and that prisoners are equitably remunerated for their work. The State party should reconsider the policy of obliging prisoners to pay their incarceration costs.

19. While welcoming the criminalization of various forms of child abuse, and the various initiatives to prevent these practices, the Committee is concerned at the large number of victims of sexual abuse and the small number of cases that are reported by the victims themselves. The Committee is also concerned that corporal punishment is currently not explicitly prohibited by law in public institutional settings and in the home (arts. 7 and 24).

The State party should further strengthen its efforts to combat child abuse by improving mechanisms for its early detection, encouraging reporting of suspected and actual abuse and taking steps to ensure that all cases of abuse of children are effectively and promptly investigated, and that perpetrators are brought to justice. The State party should also take practical steps to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment, and should conduct more public information campaigns to raise awareness about its harmful effects.

20. The Committee is concerned that, although children under the age of 15 are not held criminally responsible, they are subject to standard pretrial criminal proceedings when suspected of an unlawful act, without the required legal assistance or the possibility of accessing their file (arts. 14 and 24).

The State party should:

- (a) **Ensure, as a minimum, that children under the age of 15 suspected of an unlawful act enjoy the same standard criminal procedural safeguards at all stages of criminal or juvenile proceedings, in particular the right to an appropriate defence;**
- (b) **Consider, wherever appropriate, dealing with juveniles suspected of an unlawful act who are not held criminally responsible without resorting to formal trials or placing them in institutional care;**
- (c) **Consider the desirability of training all professionals involved in the juvenile justice system in relevant international standards, including the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20).**

21. The Committee is concerned that the offence of defamation is still penalized with deprivation of liberty, which may discourage the media from publishing critical information on matters of public interest, and which is a threat to freedom of expression and access to information of all kinds (art. 19).

The State party should guarantee freedom of expression and freedom of the press, as enshrined in article 19 of the Covenant and developed at length in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. The State party should also consider decriminalizing defamation and should in any case restrict the application of criminal law to the most serious cases, bearing in mind that imprisonment is never an appropriate punishment in such cases.

22. The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of the third periodic report, the written replies it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations with a view to increasing awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into the other official language of the State party. The Committee also requests the State party, when preparing its fourth periodic report, to broadly consult with civil society and non-governmental organizations.

23. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations in paragraphs 5, 8, 11 and 13(a) above.

24. The Committee requests the State party, in its next periodic report, due to be submitted on 26 July 2018, to provide specific, up-to-date information on all its recommendations and on the Covenant as a whole.