

**REPORT OF THE CZECH REPUBLIC ON THE IMPLEMENTATION OF THE
RECOMMENDATIONS MADE DURING THE SECOND CYCLE OF THE
UNIVERSAL PERIODIC REVIEW**

1. In accordance with its pledge announced upon adoption of the outcome of the second cycle of its Universal Periodic Review at the twenty-second session of the Human Rights Council, the Czech Republic submits an interim progress report on the implementation of the recommendations made during the interactive dialogue with the Working Group on the Universal Periodic Review on 22 October 2012. The report contains information on the implementation of the 129 (out of 136) recommendations accepted by the Czech Republic from the time of the review up to the present day, including plans for their continued implementation where appropriate. The recommendations are divided into several groups by topic. References are made to the Czech Republic's national report for the second cycle of the Universal Periodic Review, to the Report of the Working Group on the Universal Periodic Review concerning the review of the Czech Republic and, where appropriate, to the Czech Republic's responses to and comments on the Working Group report.

I. International commitments (recommendations No. 2 – 6, 8 – 14, 17 – 22, 29)

2. As stated by the Czech Republic in the national report (p. 4) and during the interactive dialogue (p. 3 and pp. 8 – 9 of the report), the adoption of legislation concerning the criminal liability of legal entities enabled the Czech Republic to ratify many international human rights conventions. The Czech Republic ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on 26 August 2013, the Convention against Transnational Organized Crime, its Protocol against the Smuggling of Migrants by Land, Sea and Air and its Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition on 24 September 2013, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, on 17 December 2014. The proposal to ratify the two amendments to the Rome Statute of the International Criminal Court has already been approved by both parliamentary chambers and submitted to the President of the Czech Republic.

3. The Government's proposal to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Abuse with reservations was presented in the Parliament but then withdrawn from the agenda in anticipation of additional legislative changes that will enable the Czech Republic to ratify the Convention without reservations during 2015. The Government's proposal to ratify the Council of Europe Convention on Action against Trafficking in Human Beings will be presented in the Parliament in the nearest future. By the end of 2015, the Czech Republic plans to ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure. The Czech Republic continues to consider the ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance. Regarding the International Convention on the Rights of Migrant Workers and Members of Their Families, the Czech Republic maintains the negative position indicated in previous documents.

4. According to the Constitution, ratified international treaties are part of national legislation and take precedence over national laws; accordingly, if the provisions of an international treaty differ from those of a national law, the provisions of the international treaty are applied. To minimize such conflicts, the Czech Republic takes care to bring its national legislation into line, as much as possible, with the international treaty in question already in the pre-ratification stage. By the time when the Rome Statute of the International

Criminal Court was ratified in 2008, its provisions had been reflected in the new Criminal Code that entered into force in 2009 and in the Code of Criminal Procedure, as well as in the Act concerning international judicial cooperation in criminal matters that entered into force in 2013. As a result, Czech legislation was already in line with the Rome Statute.

5. Regarding the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Czech Republic takes similar steps to align its national legislation with the Convention and conducts a constructive dialogue on its implementation with the Committee against Torture. One of the issues raised during the dialogue is the definition of torture in Czech law. Torture and other inhuman and cruel treatment is a crime in Czech law, but the definition of torture merely refers to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which takes precedence over national laws, as noted above. Government representatives and experts are currently consulting on how to identify and try cases of torture and ill-treatment in practice. On the basis of the outcome of the consultations, the definition of torture will be amended if necessary so as to better serve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

II. Combating discrimination (recommendations No. 23 – 24, 42, 57, 59, 71, 73, 76, 122 – 124)

6. The 2009 Anti-Discrimination Act and related regulations form the basis of Czech anti-discrimination legislation. The Anti-Discrimination Act prohibits discrimination in a number of areas including access to employment, employment relations and access to housing. Victims of discrimination can take several courses of action to defend their rights. The victim may ask a court to order that the discrimination be ceased, the consequences of the discriminatory action remedied and reasonable satisfaction awarded, including pecuniary compensation for non-pecuniary damage. Alternatively, the victim may bring in government inspection authorities who will inquire into the case and impose fines as appropriate. As another option, government inspection authorities may be brought into the case by legal entities protecting victims of discrimination; such legal entities may provide legal assistance to discrimination victims in their disputes and may represent victims in court.

7. In addition, the victim may contact the national equal treatment authority – the Ombudsman. The Ombudsman’s task is to assist victims in asserting their rights, and to conduct research and publish reports and recommendations on issues related to discrimination. The Ombudsman analyzes individual cases of discrimination and advises victims what course of action they should take to assert their rights. The Ombudsman’s website contains basic information on the problem of discrimination, advice how to deal with it, as well as recommendations and legal opinions on specific cases of discrimination.

8. Equal treatment and non-discrimination are among the present Government’s priorities. In its Policy Statement the Government undertakes to “strengthen legal opportunities to put up a defence against discrimination” and to “intensify the Ombudsman’s power to propose the abolition of unconstitutional laws”. To this end, in early 2015 the Government presented in the Parliament an amendment to the Ombudsman Act; the amendment gives the Ombudsman the power to ask the Constitutional Court for a ruling abolishing an act or its part, and the power to bring a public interest action in situations where discrimination affects large or indefinite groups of people or otherwise constitutes a threat to public interest. These powers are given to the Ombudsman because,

as a national equal treatment authority, the Ombudsman has the greatest experience with the fight against discrimination.¹ The Government will also cooperate with the Ombudsman in analyzing the way the present anti-discrimination legislation works in practice and in proposing amendments to reflect the current needs and the development of EU law.²

9. Discrimination is one of the issues addressed in the Roma Integration Strategy for the period ending in 2020, approved by the Government at the beginning of 2015. One of the strategic goals is to ensure equal treatment of the Roma and to protect them from discrimination. This strategic goal includes three specific aims. The first aim is to ensure that legislation is designed and implemented in a way consistent with the prohibition of discrimination. To this end, the existing legislation and policies will be analyzed and their practical impacts assessed in order to eliminate any discriminatory provisions and procedures. New legislation and policies will be assessed for their potential impact on the Roma and other disadvantaged groups. The second specific aim is to assist and protect victims of discrimination. To this end, there is to be a general and accessible system of free or low-cost legal assistance available to victims regardless of their property or social status. The Ombudsman's role as a national equal treatment authority is to be strengthened by giving the Ombudsman more powers and resources, financial as well as human. The above-mentioned amendment to the Ombudsman Act is one part of this process, the other part are regular courses on anti-discrimination legislation for judges, public prosecutors, legal counsels and administrative officials. The last specific aim is a tolerant society respecting diversity and enabling the development of all its segments. The key issue in this regard is to work with pupils and students and teach them about tolerance and respect for diversity, to raise public awareness by means of campaigns combating hatred and promoting tolerance, and to make public authorities and local governments cooperate with the media in order to foster a tolerant society respecting equal rights for everyone.

III. Rights of the child (recommendations No. 25, 32, 34 – 39, 85 – 88, 91)

10. The Czech Republic continues to implement its National Strategy to Protect Children's Rights – The Right to Childhood. The main strategic goal is to transform of the system of care for vulnerable children. One of the related tasks, to be accomplished by the end of 2016, is to analyze the system of protection of children's rights and to set up a mechanism for independent monitoring of the implementation of the Convention on the Rights of the Child. At present, the Ministry of Labour and Social Affairs coordinates the implementation of the Convention. The Ombudsman serves as an independent institution protecting children's rights; however, only in cases that fall within the Ombudsman's remit. The way forward for transformation of this system will depend on the results of the above-mentioned analysis. Implementation of the National Strategy will be supported by an individual project for System-Wide Support of the Processes of Transformation of Care for Vulnerable Families and Children. This project was launched by the Ministry of Labour and Social Affairs in July 2012 and is financed from the European Social Fund and from the state budget.

11. One of the main results of the National Strategy is an amendment to the Act concerning the Social and Legal Protection of Children ("Child Protection Act") effective

¹ The possibility to extend this power to some additional public authorities will be considered in the light of experience with the functioning of this anti-discrimination mechanism, namely with the public interest actions brought by the Ombudsman.

² E.g. to apply the reverse burden-of-proof rule to all discrimination cases and to introduce rules on multiple and derived discrimination.

since January 2013. This legislation makes it clear that the main concerns in the area of social and legal protection are the child's best interests and wellbeing, the protection of parenthood and family, and the parents' and children's right to parental upbringing and care. Situations of children who are identified as potentially vulnerable must be assessed on a case-by-case basis. Once the authority responsible for social and legal protection of children ("child protection authority") finds that the child is indeed vulnerable in terms of the criteria set by the Child Protection Act, it develops an individual protection plan based on its findings. The child, his/her family and, where appropriate, experts must take an active part in the planning. The plan identifies the causes and reasons for the problems faced by the child and his/her family, and goes on to set realistic goals and describe specific measures needed to improve the situation. The plan clearly says who is responsible for each step – the child protection authority, the parents or carers, experts or providers of related services for families with children. The child must be given an active role in developing and implementing the plan. Standardized procedures to be followed by child protection authorities when assessing children and creating individual protection plans are set out in Regulation No. 473/2012 implementing the Child Protection Act. The process of work with vulnerable children and families should take advantage of multidisciplinary approaches and tools such as case conferences. The Czech Republic will support the development of a network of field and ambulatory services for families with children that enable the vulnerable child to remain with his/her family and help the child's parents improve their parenting competences. Child protection authorities receive methodological guidance and regular training to meet the requirements of the Child Protection Act. The Ministry of Labour and Social Affairs is currently working on a number of guidance materials and manuals that describe the steps to be taken in different situations and present examples of good practice.

12. The Ministry of Labour and Social Affairs continues the transformation of the foster care system which represents an important part of the effort to limit the use and/or overuse of institutional care for children. The Child Protection Act defines in specific terms the roles of each involved individual and organization, sets the criteria for pre-service and in-service training of foster carers and provides for the monitoring of foster care. The aim of the Ministry of Labour and Social Affairs is to build a professional foster care service. Foster carers will be thoroughly trained before entering the service and will receive every kind of support when actually fostering a child. To this end, the Ministry has begun to adapt the PRIDE programme (Parenting Resources for Information, Development and Education), a standardized framework for the training and support of foster carers. Training under the PRIDE programme is provided by experienced foster carers and experts on foster care. In the pilot stage in 2014, the programme provided training to 31 prospective foster carers in 9 regions. During this initial stage the Ministry of Labour and Social Affairs organized information and awareness raising activities to make the PRIDE programme widely known to the expert community. In 2015 the Ministry will publish a compilation of articles on foster care to serve as a source of practical advice and guidance for child protection authorities. The Ministry also wants to make prospective foster carers more interested in the categories of children who are less easy to place (namely Roma children and children with disabilities). The aim is to give more children a chance to grow up in a family environment in their home country and to reduce the number of Czech children for whom international adoption is the only way to get into a foster family.

13. Standardization of the social and legal protection of children is another important step in transforming the system of care for vulnerable children. The Child Protection Act and the above-mentioned implementing Regulation No. 473/2012 require child protection

authorities and other involved individuals and organizations to comply with quality standards. The aim of the standardization process is to put into place a robust, efficient and transparent system of work with vulnerable children and families and to introduce uniform qualification criteria, operational and technical standards and working methods. Compliance with the standards at municipal level will be supervised by regional authorities; compliance at regional level will be supervised by the Ministry of Labour and Social Affairs. Individuals in charge of foster care and providers of sheltered accommodation for children requiring immediate intervention will be supervised by regional branches of the Czech Republic Employment Office. The three categories of quality standards for social and legal protection of children, including the criteria for compliance, are set out in Annexes 1, 2 and 3 to the above-mentioned Regulation No. 473/2012. In the pilot stage in 2014, the system of quality standards was tested in the Olomouc and Pardubice regions. In 2014, the Ministry of Labour and Social Affairs published manuals on the implementation of quality standards intended for child protection authorities, other involved individuals and organizations and for providers of sheltered accommodation for children requiring immediate intervention. The Ministry also published supervision and quality inspection manuals.

14. The Ministry of Labour and Social Affairs provides long-term system-wide support to the processes related to transformation of the system of care for vulnerable children and families. This includes an overall effort to scale down institutional care and deinstitutionalize vulnerable children. Before sending a child into an institution, the court must consider whether placement with an individual carer might be a better option. The initial period for which a child can be placed in an institution by court order must not be longer than three years; however, this period can be prolonged. The court must review the case at intervals no longer than six months to make sure that the reasons for institutional placement still exist and to consider whether it might be possible to move the child into foster care. Child protection authorities are not allowed to request courts to interfere with parental responsibility solely because of the family's economic hardship or unsatisfactory housing. The Civil Code specifically prohibits the practice of sending children to institutions on these grounds. To ensure that social workers have the level of expertise necessary to comply with the above-mentioned rules and standards, new general legislation on the social work profession will be developed in 2015. There will be clear criteria for entering the profession as well as options for professional development; the profession will be organized in a self-governing social workers' chamber established as a public corporation.

15. New legislation on family support, foster care and protection of children's rights will be developed during 2015. The aim is to define the basic principles of child protection and family support systems; to set up a network of services for families with children and for parents who need to improve their parenting competences; to regulate the foster care system; to define the roles of the public administration in protecting children's rights and the roles of municipal and regional authorities in the family support system, and set out rules for the work of non-public providers of services for children and families.

16. Children's participatory rights are being strengthened as well. According to the 2014 Civil Code, children aged over 12 years are considered capable of forming and communicating their own views; the child's view should be taken into account in matters affecting the child. When dealing with younger children, the judge or other decision-maker must assess the child's intellectual and volitional maturity and decide whether the child's view can be taken into account. In any case, the court or another public authority must provide the child with any information the child may need to form and communicate his/her own view; the information must be provided in a way appropriate to the child's

intellectual and volitional maturity. The legislation requires parents to follow the same rules in their daily contact with the child. The question of children's participation in judicial and other proceedings and their right to have a say in their own lives will be further analyzed and possibly reflected in additional legislation during 2015.

17. Sexual and other abuse of children is a crime in Czech legislation. These cases are prosecuted under the headings of trafficking in children, putting a child in another person's power for the purpose of adoption, rape, sexual abuse of a child aged under 15 years, prostitution adversely affecting a child's moral development, production and other handling of child pornography, using a child in the production of child pornography, sexual duress, conduct adversely affecting a child's upbringing, and enticing children to have sexual intercourse for payment. New definitions of crimes (participation in pornographic performances and establishing unauthorized contacts with children for the purpose of sexual abuse) were added to the Criminal Code in order to implement the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Additional protection against violence and abuse is offered by the provisions of the Criminal Code that make it a crime to abandon a child or a dependent person, to ill-treat a dependent person, and to kidnap a child or a mentally disabled person. The fact that the victim is a child is a general aggravating factor that warrants a stricter sentence in any criminal case. The new legislation on the criminal liability of legal entities introduced in 2012 has helped improve the prosecution rate of crimes against children. The reporting rate is also increasing thanks to ongoing preventive campaigns and better awareness among children. The Czech Republic Police have a special hotline receiving reports of such crimes; suspicious online content (e.g. child pornography) can be reported using the police online cybercrime reporting form.³

18. Commercial sexual exploitation and child prostitution are not separate headings in the Czech Criminal Code. These cases are prosecuted under the headings listed above, namely under enticing children to have sexual intercourse and under conduct adversely affecting a child's upbringing. Beside that, the definition of trafficking in children makes it a crime to make, recruit, solicit, entice, transport, conceal, detain, receive or surrender a child for the purposes of sexual intercourse with another person, other forms of sexual abuse or harassment, production of pornography or other forms of exploitation. It is also a crime to profit from these and similar harmful activities. The above-mentioned new definitions of crimes make it possible to punish participation in pornographic and similar performances and the proposal of an adult to meet a child aged under 15 years for the purpose of committing a sexually motivated crime against him/her. The aim of this amendment is to punish the clients and those who profit from child prostitution.

19. The Czech Republic Police takes care to ensure that the situation and needs of vulnerable children are duly taken into account in the process of investigating and clearing crimes, in accordance with international conventions and standards. The 2013 Crime Victims Act has greatly improved the rights of child victims. Its basic principle is that all public authorities and other individuals and organizations (including e.g. the media) must respect the person and human dignity of the victim, treat the victim courteously and sensitively, and comply with the victim's wishes as far as possible. The Crime Victims Act gives victims the following rights:

³ See <http://aplikace.policie.cz/hotline/>.

- a) the right to expert assistance in the form of psychological and social counselling, legal assistance and restorative programmes,
- b) the right to be informed about the rights and obligations of crime victims in a way that the victim can understand,
- c) the right to privacy protection and to protection against secondary victimization by law enforcement authorities,
- d) the right to financial assistance.

Expert assistance is provided by the Probation and Mediation Service, by municipal social workers and other providers such as legal counsels, and by NGOs accredited with the Ministry of Justice (the accreditation provides an assurance that the holder meets the professional, technical and financial requirements). Children are included in the group of especially vulnerable victims who receive assistance free of charge.⁴ Victims who have been suffered physical and psychological harm as a result of the crime have the right to receive financial assistance as temporary relief from the financial hardship caused by the crime. In addition, victims of crimes violating human dignity in the sexual area and child victims of the crime of ill-treating a dependent person have the right to receive compensation for the cost of psychotherapeutic or physiotherapeutic treatment and other expert services needed to remedy the harm. The financial assistance ranges from CZK 10,000 to CZK 200,000 depending on the degree of harm and damage. The state may claim this cost from the offender.

20. All Czech Republic Police officers, including operations officers, have been briefed on the Crime Victims Act. The Czech Republic Police advise victims how to choose the right service provider from the service providers' directory. In addition, the Czech Republic Police train the staff of service providers in order to ensure that all individuals and organizations involved in criminal proceedings follow the same rules, and also to establish closer cooperation with providers. The Czech Republic Police has developed a common methodological guidance material on working with victims. In connection with the new Crime Victims Act, the forms used in criminal proceedings were revised and new forms created, namely the ones containing information for victims. The new and revised forms will be tested in practice to make sure that victims get the information they need in a way they can understand. The guidance material and forms were made available to the Ministry of Justice and the Supreme Public Prosecutor's Office who distributed them to all courts and Public Prosecutor's Offices to ensure that law enforcement authorities use a common approach.

21. Experts working with vulnerable children take care to protect, as much as possible, child victims and witnesses from secondary victimization in criminal proceedings. The Ministry of the Interior supports the building of special interview rooms for child victims and witnesses at regional directorates of the Czech Republic Police. At present there are 42 interview rooms and additional ones are being set up. Experts continue to develop their

⁴ According to Section 2, paragraph 4 of the Crime Victims Act, the eligible victims include children, people with disabilities, victims of human trafficking, victims of crimes violating human dignity in the sexual area and victims of crimes involving violence or threat of violence, if there is an increased risk of secondary harm due to the victim's age, gender, race, nationality, sexual orientation, religion, health condition, intellectual maturity, ability to express himself/herself, personal situation, or due to the victim's relationship to or dependence on the person suspected of the crime.

skills in order to minimize the impact of crime on child victims and witnesses. The Czech Republic Police, child protection authorities, courts, Public Prosecutor's Offices, schools, childcare facilities and other relevant actors keep improving their cooperation as well as their expertise in this area. Preventive activities, such as lectures at primary and secondary schools, are important as well.

22. The Czech Republic regards violence against children as absolutely inadmissible and combats it in every way possible in all settings. One of the basic goals and priorities of the National Strategy and Plan of Action is to promote positive parenting and children's right to be brought up without corporal punishment. To this end the Czech Republic adopts legislative measures, develops services to help parents improve their parenting competences, and organizes educational and awareness programmes to follow up on the past years' campaigns on violence against children and sexual violence.

23. The fact that the Civil Code does not specifically prohibit all forms of corporal punishment does not mean that the Czech Republic regards corporal punishment as an acceptable disciplinary practice in and outside the family. Children naturally have the right to protection of their person and physical integrity from unreasonable interference. According to the Civil Code, parents are only allowed to use disciplinary measures that are proportionate to the situation, do not endanger the child's health and development and do not violate the child's human dignity. As a measure of last resort to protect the child, parents who use unreasonable corporal punishment may have their parental rights taken away or restricted. Parents or other close persons who unintentionally injure a child by corporal punishment and who treat, or threaten to treat, a child harshly may be held liable for a minor offence. In case the injury is caused intentionally, the case may be classified as the crime of bodily harm. The penalties for this crime are stricter if the victim is aged under 15 years. In an extreme case, the crime may fall under the heading of ill-treating a dependent person. Crimes under this heading involve ill-treatment of a person whom the offender has in his/her custody, committed with a considerable brutality and ruthlessness and perceived by the victim as a great wrong. This treatment has to continue for some time but it does not have to be persistent. It is not relevant whether the victim has actually suffered any physical and psychological harm.

24. Protection of children from corporal punishment in and outside the family is supported by procedural rules that enable the court to place the child in an appropriate setting or in temporary foster care for a strictly necessary period, in order to put an end to situations that disrupt, or are likely to disrupt, the child's healthy development. Children also benefit from the legislation addressing domestic violence, according to which the violent family member may be ordered to stay away from the shared home and its neighbourhood. In both cases, the courts issue preliminary injunctions to protect the child's interests as much as possible and as quickly as possible. The time limit for issuing the injunctions is 24 hours and 48 hours respectively in cases of domestic violence. Appeals must be decided upon within 7 days.

25. In all public facilities such as schools and childcare institutions, children are entitled to treatment respecting their rights and human dignity. School rules and house rules of childcare institutions must respect the applicable legislation. Corporal punishment is not a permitted disciplinary measure, and therefore it must not be used. Compliance with the applicable legislation is supervised by the Czech School Inspectorate, the Ministry of Education, Youth and Sports, child protection authorities and the Ombudsman.

IV. Human trafficking (recommendations No. 25, 83 – 87)

26. The basic policy document on the suppression and prevention of human trafficking is the National Strategy to Combat Trafficking in Human Beings for the Period 2012-2015. The Strategy has 4 pillars: prevention, prosecution, protection and support of victims, and Government-NGO partnership. It focuses on analysis of the legal tools available to combat human trafficking, on particularly vulnerable groups of people from socially excluded communities, on training the professionals who are likely to get into contact with victims, on evaluation of the Programme on Support and Protection of Victims of Trafficking in Human Beings, and on ratification of international treaties concerning the fight against human trafficking. The new Social Workers Act will give social workers an important role in the fight against human trafficking and guarantee that they have the required level of expertise. The Strategy is implemented by the Ministry of the Interior in cooperation with other authorities and with NGOs.

27. Victims of human trafficking receive immediate psychological, social and legal assistance at intervention centres. This assistance is provided jointly by government authorities, local governments and NGOs. Other social services available to victims include helplines, emergency assistance, sheltered accommodation, social counselling, intervention centres, etc. The above-mentioned Crime Victims Act has improved the status of victims of human trafficking. They are included among the particularly vulnerable groups of crime victims and enjoy the rights listed above. Victims who do not speak and understand Czech receive information in a language they understand. Their origin, residence status in the Czech Republic and their (un)willingness to cooperate with law enforcement authorities have no bearing on their status and rights as crime victims.

28. A manual on “Trafficking in Children – Recommended Procedures for Public Authorities” was published in 2011 as part of the effort to prevent trafficking in children. The manual was created jointly by government authorities and NGOs. It describes in detail recommended procedures to be followed by public authorities when dealing with minor offenders. The manual emphasizes that a child involved in criminal activities may actually have been coerced into crime and should be treated as a victim, not as an offender. The manual has been distributed to all relevant authorities and is available on the Interior Ministry website.

29. A special Programme to Support and Protect Victims of Trafficking in Human Beings has been in place since 2003. The programme offers assistance to victims and encourages them to cooperate with law enforcement authorities. It is based on cooperation between law enforcement authorities and the NGOs that provide accommodation and other services to victims. Victims eligible for inclusion in the programme have two months to decide whether to take part and cooperate. Foreign victims of human trafficking and foreigners who are able to assist in detecting serious crimes may get a long-term residence permit for the purpose of protection, provided that they cooperate with law enforcement authorities. The programme includes an Assisted Voluntary Returns scheme for safe and dignified repatriation of victims. The voluntary returns are arranged by IOM Prague and financed by the Czech Republic.

30. Police experts on human trafficking give lectures and take part in workshops organized, for example, as part of the courses offered by the Judicial Academy or the MEPA (Mittleuropäische Polizeiakademie). Human trafficking and the latest trends in this area are included in training programme of the Alien Police. Courses to develop skills such as

identification of victims of human trafficking have been organized, for example, for the staff of the Refugee Facilities Administration who work with refugees and people seeking international protection, and for the staff of the State Labour Inspection Office. The issue of human trafficking is included in training programmes for judges and trainee judges. Consular staff get regular briefings on the fight against human trafficking and are reminded that monitoring of the situation in the countries of origin is part of their consular duties. To raise public awareness, there are leaflets with information on organizations offering help and advice to victims of human trafficking. The leaflets are translated into the languages of the most common countries of origin.

V. Institutional framework of human rights protection (recommendations No. 27 – 31)

31. Already now, the Ombudsman complies with many of the principles and rules related to the functioning of independent national human rights institutions (the Paris Principles). The Ombudsman's responsibilities and competences are set out in a special Ombudsman Act. The task of the Ombudsman is to promote respect for law and the principles of good governance in public administration in order to contribute to the protection of fundamental rights and freedoms. The Ombudsman cannot directly interfere with the work of administrative authorities and cannot change or abolish their decisions; nevertheless, she/he does have some quasi-judicial powers. The Ombudsman can conduct independent inquiries after receiving a complaint or on her/his own initiative. In the conclusions of an inquiry she/he may recommend steps to rectify mistakes or shortcomings and require the authority concerned to implement these recommendations. The Ombudsman may recommend the complainant how to effectively defend his/her rights. The authorities must provide the Ombudsman with cooperation and any relevant information, and must notify her/him of the steps they are taking to remedy the situation. If they fail to do so, the Ombudsman notifies the superior authority and/or the Government; she/he also publishes her/his conclusions and issues press releases to make the case publicly known. In addition, the Ombudsman inspects places where people are deprived of their liberty in terms of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. As noted above, the Ombudsman also serves as the national equal treatment authority. The Ombudsman monitors the treatment of foreigners awaiting removal to ensure that their rights are respected throughout the removal process.

32. The Ombudsman is elected by the Chamber of Deputies of the Parliament for a period of 6 years. She/He reports to this parliamentary chamber; otherwise she/he is fully independent. The Ombudsman's Office is permanent and financially independent, and its tasks are defined by law. The Ombudsman presents to the Chamber of Deputies regular quarterly and annual reports; cases in which the Ombudsman has been unable to secure a remedy are reported to the Chamber on an ongoing basis. This and other information about the Ombudsman's work is published on his website. The Ombudsman may present to the Government and the Chamber of Deputies recommendations to change to existing legislation, government policies and administrative procedures on the basis of his experience. The Ombudsman often analyzes proposed government policies and legislative changes and comments on their human rights aspects already during the drafting process. The Ombudsman cooperates with academic institutions and NGOs, and organizes conferences on issues falling within his remit. She/He also publishes expert opinions and manuals and makes them available on his website. The Ombudsman conducts research in areas within her/his remit (e.g. discrimination).

33. In 2014, the Government drafted an amendment to the Ombudsman Act which reflects long-term experience with the Ombudsman's work. The aim is to give the Ombudsman even more power and leverage in human rights protection. The Ombudsman's administrative processes will be simpler and more efficient in order to leave more room for practical work directly related to human rights protection. Complainants will find it easier to contact the Ombudsman and the whole procedure will be informal, to facilitate the Ombudsman's role as a mediator between the complainant and the public authority or organization that has interfered with the complainant's rights. Complaints will be examined more quickly and with less red tape. Public as well as private entities will have the duty to provide the Ombudsman with any information and cooperation the Ombudsman may require. The additional competences mentioned above will enhance even more the Ombudsman's role in human rights protection. The Ombudsman's possible accreditation with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) will be considered after the above-mentioned amendment to the Ombudsman Act enters into force in 2015.

VI. Roma integration (recommendations No. 33, 44, 93, 105, 121 – 123, 127, 129 – 135)

34. The Government has approved a new comprehensive Roma Integration Strategy for the period ending in 2020, developed on the basis of international recommendations. The aim of this Strategy is to set up a framework for measures that will gradually close the gap existing between a significant part of the Roma population and the majority society in areas such as education, employment, housing, health care and social welfare. The Strategy will effectively protect the Roma from discrimination, foster a safe and tolerant coexistence of the Roma and majority society, and contribute to the development of Roma culture and language as well as to Roma participation. The Strategy sees integration of the Roma in Czech society as a two-way process in which the Roma and the majority together move towards an integrated and cohesive society. The Strategy covers social and economic integration as well as the development of the historical, social and cultural identity of the Roma and their participation in the conduct of public affairs. Emancipation of the Roma minority is seen both as an aim and as a means of integration, since only a self-confident minority will be able to establish a healthy relationship with the majority and with other minorities.

35. The Strategy proposes measures for each of the specified fields. It guarantees the Roma equal access to active employment policy tools in order to promote their employment and economic activity. The tools include retraining, contributions to promote community service, creation of public utility jobs, bridging benefits to cover the initial costs for unemployed people starting their own business, induction allowance, etc. The Roma will get help in overcoming specific barriers and obstacles in the job market and their employment will be promoted, namely the employment of young people aged under 24 years. There will also be support for social entrepreneurship, including in the public procurement process, targeting namely poor areas with higher concentrations of people belonging to the Roma minority.

36. Consistent promotion of equal approach is essential also in the area of housing. The Roma will get easier access to housing under the new social housing system set up by the Czech Republic's Social Housing Policy Concept for 2015 – 2025 which is to be presented to the Government in the nearest future. The aim is to ensure local access to decent housing for people who are at risk of losing, or have already lost, their homes. The Policy Concept

will define the types and standards of social housing, the respective roles of the government and municipalities, and the funding arrangements based on investment incentives, social services, social benefits and other sources. There will be schemes to prevent loss of housing, and social work schemes to promote access to and retention of decent housing. An offer of good and affordable housing should keep tenants away from dilapidated and overpriced lodging houses and similar types of sub-standard housing associated with social exclusion. The system will take into account the situation of Roma families with children and make sure that they have decent homes, so that no more children will be placed away from their families because of unsatisfactory housing. All housing support tools will be assessed for their impact on the Roma and adjusted if necessary to ensure that the Roma are not excluded from this support.

37. In the social welfare area, the Strategy aims to make sure that the Roma and other groups at a risk of social exclusion have access to the social services they need. To this end, there will be targeted support for these services in socially excluded neighbourhoods, and municipal and regional authorities will regularly assess whether, and how, the Roma can use social services in their neighbourhood. The support will go mainly to fieldwork in Roma neighbourhoods, community work and low-threshold services to activate socially excluded people. In addition to their role in these empowerment services, municipal social workers are crucial actors in assessing all kinds of adverse social situations and planning intervention. The above-mentioned Social Workers Act will guarantee that social workers have the required level of expertise. This legislation will also enable municipalities to claim subsidies under a special budget heading in order to improve their social work. Similarly, to ensure that the Roma have equal access to health care, health professionals will be trained to communicate with Roma patients sensitively and there will be targeted field programmes to make the Roma population more aware of health issues and healthy lifestyle. The health status of the Roma population will be subject to monitoring and research.

38. The Strategy attaches key importance to the area of education. The main thrust is to promote pre-school education, in particular to increase the capacity of kindergartens, to train teachers, and to support Roma parents and make them more aware of the importance of pre-school education. An important change is that every child will have to be enrolled in a pre-school education programme for one year before entering primary school. This change will be introduced in 2015 and will take effect in 2017. The Strategy requires an analysis of the capacities of educators, in particular teachers, who are the first line of contact with parents. This analysis will help define the job of a school social worker, whose competences will differ from those of educational counsellors and school preventivists. In the area of primary education, beside the pro-inclusive measures described below, the Strategy promotes the training of teachers who will learn a more culturally and socially sensitive approach to Roma children and their families. Poor pupils and their parents will get financial support to cover various educational activities both in and out of school. There will be increased financial support for socially disadvantaged Roma students at general secondary and technical secondary schools. Higher education will be made more accessible to students from low-income families in order to increase the share of Romas attaining higher education. The Strategy also supports educational activities designed for adult Romas, namely those that develop crucial competences and functional literacy and reflect the current needs of the job market.

39. The existing institutional framework for Roma integration and participation will continue to develop. The Government Council for Roma Minority Affairs will retain its role as a government body bringing together representatives of the Government, local

governments and the Roma minority for a direct dialogue on the Roma minority's rights and integration. The Council deals with issues related to the protection and development of the Roma minority; it analyses the situation in the Czech Republic and proposes system-wide measures to better protect the rights of the Roma. Through its secretariat, the Council will also monitor the implementation of the Strategy. At the regional level, Roma integration is facilitated by regional coordinators who reach down to the local level through municipal Roma advisors. The Strategy aims to strengthen these mechanisms and provide them with central methodological guidance. Another body that will continue its work is the Agency for Social Inclusion. The Agency addresses the situation of municipalities with socially excluded neighbourhoods, often inhabited by the Roma. It works with the municipality to establish a local partnership between the local government and NGOs, public authorities, schools, the Czech Republic Police and other stakeholders. The Agency analyses the situation on the ground and assists in the development of a local social inclusion strategy. The next crucial task is to ensure that all stakeholders work together in the interests of effective Roma integration. The Strategy encourages the broadest possible participation of the Roma in social integration activities, in the conduct of public affairs and the life of civil society.

VII. Equality of women and men (recommendations No. 34, 42 – 47, 88)

40. The Government Strategy for Equality of Women and Men in the Czech Republic for 2014-2020 was adopted by the Government at the end of 2014. The main mission of the Strategy is to set up a general framework for measures taken by the public administration to promote gender equality in the Czech Republic. The Strategy covers 8 main areas – institutional framework for gender equality, balanced representation of women and men in decision-making positions, gender equality in the job market and in business, work-family-private life balance, education, research and gender equality in a knowledge-based society, dignity and integrity of women and men, gender equality in external relations, and everyday life and lifestyle – and 5 horizontal strategic priorities to be reflected in each of the main strategic areas: gender stereotypes and relationships, gender equality legislation, statistical data collection, men and gender equality, and cooperation with partners. On the basis of the Strategy, the Government will define its Priorities and Policies in Promoting Gender Equality for each calendar year in order to move towards the individual strategic goals.

41. One of the main strategic goals is equal representation of women and men in decision-making positions. The target of approximately 40% representation of women in decision-making positions in the public and well as private sectors should be achieved by 2020. To this end, a Plan of Action for balanced representation of women and men in decision-making positions will be finalized by the end of 2015. Government authorities are required to promote balanced representation of women and men in the government system, in senior civil service positions and on the managing boards of all state-owned companies and joint-stock companies where the state is a majority shareholder. Appointments to these positions will be subject to objective and transparent rules. There will be mechanisms and programmes to increase women's decision-making competences.

42. Another important priority is a systematic search for ways to effectively eliminate gender stereotypes and prejudice in all social spheres and at all levels of the society and to consistently and systematically promote gender mainstreaming. To this end, for example, the Ministry of Justice will regularly monitor the case-law of Czech courts in cases of gender discrimination and violence against women and provide online access to the relevant rulings. Another area addressed by the Strategy is the protection of women. An important

priority is to reduce the incidence of all forms of gender violence and to ensure that women and men are able to enjoy all rights in dignity and equality. The primary step in this regard will be to counter domestic violence and violence against women, including psychological violence (stalking, cyberbullying) and trafficking in women. This will require better cooperation among all stakeholders, better protection for victims of violence, more robust primary prevention programmes, the establishment of a system and standards for work with perpetrators of violence, as well as public awareness activities. In addition, there will be gender-specific programmes of support for homeless women and men.

43. Another priority is to support the family, namely to foster, at all levels of the society, favourable conditions for effective reconciliation of work, private and family life. This will involve promotion of flexible employment arrangements such as part-time jobs and teleworking, as well as a review of labour and social legislation to identify pointless obstacles. A related issue is the capacity of childcare facilities and support of alternative childcare arrangements, including a move to get men more involved in caring for children. The capacity and quality of facilities caring for dependent people, namely for the elderly and disabled, will be improved as well.

VIII. Combating crime, racism and racial violence (recommendation 40, 42, 48 – 72, 126, 128)

44. The Czech Republic attaches key importance to crime prevention and supports it by regularly updated Crime Prevention Strategies. Each update reflects the lessons learned from the functioning of the crime prevention system, defines the content of the system and sets new goals, principles and priorities for the government and for local governments in regions and municipalities. The present Crime Prevention Strategy for 2012-2015 is built on the existing system of cooperation between the national, regional and municipal levels. At all levels it requires a pro-active and comprehensive approach to problems, cooperation and information exchange, and maximum efficiency of the adopted measures. The Ministry of the Interior provides financial and methodological support to nationwide, regional and municipal crime prevention projects.

45. In social prevention, the area of priority concern is the situation of vulnerable children and their families, including domestic violence, and the reoffending problem. Special attention is paid to crime victims. The types of crime that are seen as the major concern are property crime, violent crime and crimes related to public morals; attention is also turning to crimes using virtual communication, namely where children and young people are involved, and to the problem of over-indebtedness and related risks. Social workers have a key role to play in prevention activities. There are nationwide projects specifically designed to keep children and young people out of crime and to assist crime victims; for example, the above-mentioned project to set up special interview rooms, or the programme to assist and support victims of human trafficking. Another important issue is prevention in socially excluded neighbourhoods. The Dawn crime prevention programme promotes cooperation between the competent members of the local government, NGOs and the Roma population in these neighbourhoods; it encourages and helps local people to get involved in efforts to improve public order in their neighbourhood. Under the Dawn programme, municipal police forces recruit crime prevention assistants from among the people living in socially excluded neighbourhoods (quite often the Roma); after a period of training the assistant helps the municipal police improve safety, security and public order in the neighbourhood. The preventive role of the Czech Republic Police is supported by specially trained minority liaison officers whose main task is to liaise between the Czech

Republic Police and minority communities and to build mutual confidence between the police and persons belonging to minorities. Minority liaison officers help detect latent crime and address the crimes committed by or against people belonging to minorities and socially excluded people.

46. Racist propaganda and racial attacks are crimes in Czech law. The new Criminal Code introduced in 2009 includes crimes such as violence against a group of population or against an individual, dangerous threats, dangerous persecution, defamation of a nation, race and ethnic group or another group of persons, instigation of hatred for a group of persons or instigation of actions infringing upon the group's rights and freedoms. The gravest crimes against national, ethnic, religious or other groups fall under crimes against humanity, including genocide, attacks on humanity, apartheid and discrimination of a group of persons, persecution of population, as well as establishing, supporting and promoting a movement that seeks to suppress the rights and freedoms of human beings, and expressing sympathies for a movement that seeks to suppress the rights and freedoms of human beings. The definitions of many crimes specifically mention the racial motive as a factor warranting a stricter sentence.⁵ The racial motive is also a general aggravating factor that increases the sentence in any criminal case. This means that the courts punish crimes with a racial or similar motive more severely in order to make it clear that such crimes are especially reprehensible.

47. Public prosecutors in charge of criminal cases motivated by racial, national, religious or other hatred must make sure that all appropriate steps are taken to establish the offender's motivation. It is not relevant to which ethnic or other group the victim actually belonged; it is sufficient that the offender assumed that the victim belonged to a particular group, and that this motivated him/her to commit the crime. Victims may claim damages within criminal proceedings; if there is evidence that the crime caused harm or damage to the victim, the court may order the sentenced offender to pay damages. A large percentage of victims of racist and extremist crimes are considered particularly vulnerable because these crimes, with their elements of violence or threat of violence directed against a certain race or nationality, are especially likely to generate secondary harm.

48. In addition to the attention paid to prosecution of individual crimes, the Government annually updates its Policy for Combating Extremism. Reports on the implementation of the policy concept are presented in the Parliament; they consist of information on the developments on the extremist scene during the given year and on measures to be taken in the next year. The policy designed to counter the emergence and spread of extremism is preventive rather than repressive and includes activities targeting children and young people. Public order police have been instructed to report any concerns regarding extremism, namely in connection with excluded neighbourhoods, in order to enable the prevention and monitoring of interethnic conflicts that might attract the attention of extremists and set off demonstrations. Police officers investigating extremist crime are guided by a manual of recommended procedures that describes the steps to be taken in the most common situations involving extremism. Ministry of Interior is currently preparing additional analytical and methodological guidance materials for investigators of extremist crimes. One of the tasks under the Policy for Combating Extremism is to focus on extremist crimes committed using the Internet and social networks; part of this effort is the above-

⁵ E.g. murder, bodily harm, torture and other inhuman and cruel treatment, deprivation and restriction of personal liberty, abduction, and abuse of official powers.

mentioned police hotline for reporting undesirable online content and activities, including racist crime and propaganda.

49. Programmes under which judges, public prosecutors and Czech Republic Police officers are trained to detect and prosecute racist and extremist crime are available in the Czech Republic on a long-term basis. The Judicial Academy organizes courses and workshops on extremism, racism and xenophobia for judges, public prosecutors and court officials both within and outside the criminal justice system. Its courses on extremism are taught by judges, public prosecutors, members of the Agency for Social Inclusion, Czech Republic Police, Ministry of the Interior, expert witnesses, academics, etc. The Czech Republic Police have courses designed primarily for experts from the Criminal Police and Investigating Service who are taught to detect and assess cases of extremism and to conduct intelligence gathering operations within extremist groups. Members of anti-conflict teams are trained to handle extremist assemblies. Lessons on extremism are included in the curricula of police schools and the Police Academy.

50. In 2014 the Government launched a campaign against racism and hate violence. The campaign is coordinated by the Agency for Social Inclusion and its aim is to foster social and economic cohesion at the national, regional and local levels by raising public awareness of the problems of social exclusion and hate crime and by promoting tolerance towards minorities and foreigners. The campaign targets young people, educators, local governments in towns and municipalities, and police officers. It has a budget of almost CZK 40 million and will continue until 2016. Its effects will be assessed on an activity-by-activity basis by comparing the attitudes of the target groups before and after the campaign.

51. The main part of the campaign will be a nationwide media campaign against racism and hate violence targeting young people aged between 15 and 25. The target group will be informed about manifestations of racism and hate violence and advised how to counter them. The campaign has a Facebook page (HateFree Culture) and a website (Hatefree.cz)⁶ exposing the most common myths and hate stereotypes and offering advice to victims of hate crime, their families and people who have witnessed hate violence. The aim is to raise public awareness of hate violence, to publicize the victims' stories and showcase positive examples, and to use reliable information, creativity and humour as an antidote to hate. TV and radio spots "Hate is not cool!" show that hate does not match modern lifestyle and social values. The next step will be to promote good practices in socially excluded neighbourhoods through a website and information materials targeting local governments, public authorities and other actors involved in the social inclusion process at the local level, such as the Czech Republic Police and municipal police forces, heads of schools, educators, healthcare professionals, NGOs and others.

52. The campaign will be accompanied by educational activities. These activities will take place in the Ústí nad Labem and Moravia-Silesia regions where the lingering problem of high unemployment and economic anxiety has led to tensions between groups of the population, including manifestations of racism. There will be educational programmes for schools targeting teachers as well as children at the formative stage between 10 and 15 years. The programmes will advise them how to counter manifestations of racism and hate violence, and will provide teaching materials (films, methodological guidance materials). In addition, there will be educational programmes for officers of the Czech Republic Police who serve in these regions. The programmes will help them understand the situation in

⁶ <http://www.hatefree.cz/>

socially excluded neighbourhoods and will improve their ability to apply preventive measures and counter hate crime and violence. Another part of the campaign will be research into the problems of socially excluded neighbourhoods, such as usury and migration of poor and socially excluded people. The aim will be to propose ways to prevent and suppress these phenomena.

IX. Rights of people deprived of their liberty (recommendations No. 41, 77 – 79)

53. All Special Procedures of the Human Rights Council have standing invitations to visit the Czech Republic. The Czech Republic communicates with them intensively, answers their questions and provides them with the required information.⁷

54. Czech legislation includes mechanisms enabling individuals to defend themselves against ill-treatment and abuse of authority by law enforcement authorities. The Security Services General Inspectorate established in 2012 is an independent law enforcement authority investigating the crimes committed by the personnel of the Czech Republic Police, Prison Service and the Customs Administration. Its advantage is that it is strictly separate, in terms of staff and management, from the security services that fall within its remit. The director of the General Inspectorate is appointed by the Government and supervised by the Committee on Security and the Permanent Commission on Oversight over the Work of the Security Services General Inspectorate of the Chamber of Deputies of the Parliament. The General Inspectorate can accept a report from anyone who believes that a member of a security service has committed a crime. The General Inspectorate must investigate all reported cases; in doing so it must follow the procedure mandatory for all law enforcement authorities. Beside its role in criminal proceedings, the General Inspectorate conducts integrity tests to find out how individual officers respond in real-life situations involving possible criminal behaviour. The General Inspectorate monitors and assesses information on the unlawful activities of security services personnel and proposes preventive measures. It develops methodological recommendations for each of the security services and organizes educational and awareness raising activities for their personnel.

55. In addition, each security service has its own control mechanism. Anyone can complain to the Czech Republic Police about the conduct of its officers. The Czech Republic Police must examine all complaints, take measures to remedy the situation as necessary, and inform the complainant about the outcome if the complainant asks to be informed. Similarly, people in custody, prison and detention may complain to the head of the prison and the competent inspection bodies about ill-treatment and other violations committed by the personnel. Prison Service officers must report each detected case to the competent authorities and take measures to prevent the recurrence of such conduct. Inmates must have the opportunity to submit their complaints on a confidential basis, through authorized officers and without the risk of reprisals. In addition, the progress of the cases of people in custody, prison and detention is overseen by public prosecutors; the treatment of inmates by Prison Service personnel is also overseen by the Ministry of Justice. Independent oversight of the treatment of all people deprived of their liberty is the responsibility of the Ombudsman who serves as the national preventive mechanism in terms of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The control mechanisms will be kept under regular review to make sure that all cases of ill-treatment are efficiently investigated.

⁷ See A/HRC/23/39/Add.2, p. 20 or A/HRC/25/55/Add.3, p. 22.

56. The problem of overcrowding in Czech prisons was temporarily eased by the amnesty declared by the President of the Czech Republic in early 2013 which reduced the prison population and ended the overcrowding. As a result of the decline in prison population, the living conditions in prisons improved and there are also better conditions for the implementation of programmes for prisoners and other inmates. The decline in operational costs has enabled the Prison Service to improve the living conditions for people remanded in custody. For example, the cells and other areas are better equipped and there is more space for out-of-cell activities; inmates can receive visitors more frequently, spend more time in outdoor recreational areas of the prison, and have more opportunities to buy food and other goods for personal use and to use the telephone.

57. However, amnesty is not a system-level response to the problem. The upcoming new concept of the prison management policy emphasizes rehabilitation and resettlement of prisoners. To this end, the classification of prisons will be changed in order to enable individual treatment taking into account each inmate's needs and personal situation. The new policy will support education and employment of inmates and improve the treatment programmes and pre-release programmes. Probation, rehabilitation and resettlement programmes will be introduced or strengthened to make sure that people in post-release situations find a job and accommodation and avoid reoffending and returning to prison. The above-mentioned new Social Workers Act will give social workers a more prominent role and guarantee that they have the required level of expertise. In addition, alternative sentences such as house arrest or community service will be promoted in cooperation with the Probation and Mediation Service. The Probation and Mediation Service will make sure that the alternative sentences are properly served and do not have to be transformed into prison sentences. Efforts to improve the living conditions for people in custody and prison will continue. As a related issue, the policy concept will address over-indebtedness and its prevention, since debts are a very common cause of crime.

X. Inclusive education (recommendations No. 73, 95 – 114)

58. In 2012, the Ministry of Education, Youth and Sports revised the National Action Plan for Inclusive Education. The result is the Consolidated Action Plan for the execution of the judgment of the European Court of Human Rights in the case of *D.H. and others v. the Czech Republic*, "Equal Opportunities".⁸ Under the Action Plan, the Ministry of Education, Youth and Sports took measures to progressively and efficiently eliminate segregation in any form and to enable closer and stricter scrutiny and methodological guidance at all stages of the counselling, decision-making and executive process. The Action Plan was implemented in cooperation with experts, representatives of the civil sector and representatives of the Roma minority who took part either through the Government Council for Roma Minority Affairs or through cooperation at local level. Among other tasks, the Action Plan required a revision of regulations concerning the education of children, pupils and students with special educational needs and the provision of counselling services at schools and school counselling centres. Under the revised regulations it is no longer possible to place a non-disabled pupil in a school or class for pupils with disabilities. There is only one exception – a primary school pupil can be temporarily placed in a primary school or class for pupils with disabilities, unless the school or class is designed for pupils with mild mental disabilities. However, such placement is subject to a recommendation from the school counselling centre and the informed consent of the pupil or the pupil's

⁸

<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2186980&SecMode=1&DocId=1953724&Usage=2>

statutory representative, and must be approved in writing by a medical expert. A non-disabled pupil who is placed in a school or class for pupils with disabilities must not be taught according to an educational programme for pupils with disabilities. Diagnostic stays of non-disabled pupils at schools for pupils with mild mental disabilities have been ruled out as well.

59. At the end of 2014, the 2012 Action Plan was replaced by a Revised Action Plan for the execution of the judgment of the European Court of Human Rights in the case of *D.H. and others v. the Czech Republic*, “Equal Opportunities”⁹. The two successive Action Plans required a revision of diagnostic instruments. The new diagnostic instruments are designed to test the child’s intelligence and school preparedness as well as his/her adaptive skills such as independence and self-help, social adaptability and academic skills. There are new general standards for the testing of pupils with special educational needs; enhanced psychological and special education diagnostic instruments for more accurate assessment of the abilities of pupils from different cultural backgrounds; and tests of adaptive skills specifically designed for such pupils. Starting from 2013, every counselling centre in the Czech Republic must have at least one staff member trained to use these diagnostic instruments. This means that at present the needs of counselling centres are met very evenly in all parts of the country; however, the Ministry of Education, Youth and Sports continues to support the introduction of the new diagnostic instruments and to provide the necessary training and methodological guidance. For example, work on a standard methodology for diagnosing the cognitive skills of pupils from socially disadvantaged backgrounds began in 2014 and will be finalized in 2015. The use of diagnostic methods is monitored by the Czech School Inspectorate.

60. An important role in the integration system is played by school counselling centres and by assistant teachers supporting Roma pupils at primary schools. Their task is to help the pupils adjust to the pre-school and school environment, and to work with pupils, their families and teachers in addressing the everyday problems of children with special educational needs. Many schools have opened head-start classes to facilitate the integration of socially disadvantaged children. These classes are free of charge and their education programmes consist mainly of compensatory measures, in order to promote equal opportunities for socially disadvantaged pupils. An important step in this direction will be the above-mentioned compulsory one-year pre-school education programme. The National Institute for Further Education offers a broad range of training courses for teachers in order to improve their competences in inclusive education. The courses include demonstrations of tried-and-tested teaching techniques and explanations of methodology and practical techniques.

61. The above measures are already bringing results. According to the thematic report of the Czech School Inspectorate on the Progress of Transformation of Former Special Schools in the 2011/2012 Academic Year, published in 2012, the share of Roma pupils taught according to education programmes for pupils with mild mental disabilities was estimated at 26.4%, which is 8.6% less than in the 2009/2010 academic year. Surveys carried out in schools with 5 and more pupils diagnosed with mild mental disabilities in the 2013/2014 and 2014/2015 academic years showed that the number of Roma children taught at such schools according to educational programmes for pupils with mild mental disabilities declined by 11%, while the number of such children in mainstream classes increased by 12%.

⁹
<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2684956&SecMode=1&DocId=2234972&Usage=2>

Another survey carried out at the beginning of 2014 examined the diagnostic review processes at 131 counselling centres (approximately 58% of all counselling centres). The centres invited 7,176 pupils (or their statutory representatives) to have their diagnoses reviewed. Out of this number, 6,713 pupils came to the centres; transfer to a mainstream class was recommended in 149 cases. The surveys confirmed that the centres were indeed using the new diagnostic instruments. Similar surveys will take place in coming years.

62. Like in the entire education sector, equal and non-discriminatory access to education is emphasized also in the area of education of children, pupils and students with disabilities. In setting out the rules for the education of children with disabilities, the Education Act ensures respect for the children's rights as well as for the rights of their statutory representatives. Amendments to this legislation, such as those described above, have enhanced the right of children with disabilities to benefit from mainstream education. Their access to mainstream education will no longer depend on the local conditions and on the openness and equipment of the school; the disabled child will have the same right to attend his/her catchment school as non-disabled children. The assistant teacher will now be expected to help pupils with severe disabilities to take care of themselves and move about the school during school hours.

63. In addition to the above changes resulting from the Action Plans, in 2014 the Government presented in the Parliament another amendment to the Education Act. The amendment thoroughly changes the system of education of pupils with special educational needs, including pupils with disabilities as well as pupils with other special educational needs (socioculturally disadvantaged backgrounds, etc.). The arrangements for equal access to education will reflect the new paradigm introduced by the Convention on the Rights of Persons with Disabilities. Pupils will no longer be divided into categories (pupils with disabilities, pupils with health disadvantages, and pupils with socio-cultural disadvantages). There will be a list of specific support measures designed to enable all pupils to receive full mainstream education and reach their full academic potential.

64. Accordingly, "pupils with special educational needs" will be pupils who need support measures in order to exercise their right to equal participation in education. The support measures will be divided into 5 levels according to organizational, educational and financial requirements.¹⁰ In the standard education model, the teacher will provide the basic level of support and this level will be increased as necessary.¹¹ Education models using the second to fifth levels of support will be subject to recommendation from the school counselling centre and to the informed consent of the pupil or his/her statutory representative. In any case, the choice of support measures must be based on the pupil's health condition, cultural background and personal situation. They must be proportionate to the pupil's needs and must enable the pupil to remain in his/her original educational setting. Education models using the second to fifth levels of support must meet their specific purposes while remaining as close as possible to the standard education model. Pupils will be transferred to "special" classes or schools only if the education model using support measures to assist the pupil's individual integration does not actually meet the pupil's educational needs and does not enable the pupil to fully exercise his/her right to education. School counselling centres will

¹⁰ The measures will include e.g. adjustment of the conditions, content, form and methods of education, support of sight and hearing impaired people, adjustment of a pupil's educational programme, individual education plan, assistant teachers or other assistants, and alterations and technical upgrades in school buildings.

¹¹ The basic level of support includes mainly the teacher's ability to meet the pupil's needs, to work with the pupil on an individual basis and to conduct relations with the pupil professionally.

have to examine these situations carefully on a case-by-case basis. Each support measure will get a budget allocation based on the organizational requirements, and the whole funding system will be unified and more efficient.

65. The change of the support system will require a change of the educational counselling system. The counselling centre will no longer be expected to simply classify pupils by disability category; the centre will have to go on to find the exact form of support the pupil needs. Counselling centres and schools will have to work more closely together. At the request of the pupil or his/her statutory representative, the work of the counselling centre will be reviewed by the National Education Institute. This means that there will be supervision over the assessment process. The amendment to the parts of the Education Act that regulate the education of children, pupils and students with special educational needs is to take effect on 1 September 2016. Its implementing regulations will be finalized and approved by that date.

XI. Rights of sexual minorities (recommendation No. 74 – 75)

66. Registered same-sex partnership has existed in the Czech Republic since 2006. Marriage remains restricted to opposite-sex partners; however, in many respects, registered same-sex partners have similar status as married opposite-sex partners. They are considered “close persons”, have the same rights and obligations towards each other, make joint decisions and have joint commitments, and may act on each other’s behalf in everyday matters. They have the duty to support and maintain each other, and they jointly care for either partner’s children. Registration does not exclude the partner from parental responsibility for his/her own child and from having the custody of the child. According to the new Civil Code, registered same-sex partners have the same status in civil law matters as married opposite-sex partners; they can jointly lease a home or inherit each other’s property, and in these respects they enjoy the same entitlements as married opposite-sex partners. Nevertheless, some important differences remain mainly in family law and related matters. Registered same-sex partners do not have estate by the entirety and do not benefit from some of the tax reliefs available to married opposite-sex partners. Registered same-sex partners are not entitled to a widow’s/widower’s pension. The greatest problem is that registered same-sex partners cannot adopt children: in case one of the partners dies, the other partner will not be allowed adopt the deceased partner’s child. This may lead to situations when an orphaned child is abruptly separated from the remaining close person.

67. The Anti-Discrimination Act prohibits discrimination based on sexual orientation in all areas falling within its scope. Victims of such discrimination have access to all the remedies described above. However, as mentioned in the previous paragraph, some issues related to the rights of sexual minorities are yet to be addressed. For example, certain differences in taxation have been eliminated. The current public debate on same-sex families may lead to a policy change that will, at minimum, enable a partner to adopt the other partner’s child. Other questions for future public debate are, for example, the question of access to artificial insemination for single women and women living in registered lesbian partnership, or the question of sex change procedures for transsexuals, in particular the necessity of sex change surgeries. The approach of other European countries such as Germany, the United Kingdom and Spain may be a source of inspiration. Methodological recommendations from the Ministry of Education, Youth and Sports encourage teachers to help raise awareness of the rights of LGBT persons and to prevent homophobia among children and young people. To this end, teachers have access to recommended practices,

specialized publications and information about organizations dealing with the rights of LGBT persons.

XII. Unlawful sterilizations (recommendations No. 80 – 82, 94)

68. Women whose personal rights have been violated as a result of sterilization may claim non-pecuniary as well as pecuniary compensation. Initially, these claims were considered imprescriptible. In 2008, the Supreme Court changed its opinion and decided that they were in fact subject to the general three-year limitation period. This period is set by the Civil Code and runs from the date on which the harm was done. On this basis, the courts began to dismiss all claims seeking pecuniary compensation for non-pecuniary damage if the claim is brought after the statutory time-limit. To promote a more flexible approach, the Constitutional Court decided that in these cases, the objection that the claimant missed the time-limit must be considered in the light of the accepted principles of morality. The court must consider that the claimant may have missed the time-limit through no fault of her own and that, given the circumstances of the case, it may be overly harsh to dismiss the claim. On this basis, in 2011 the Supreme Court rejected an objection that a compensation claim in a sterilization case was brought after the time-limit; the claimant then received her compensation. Another case of this type came up in 2014. Other forms of compensation for non-pecuniary damage, such as moral satisfaction or rectification of the violation, are not subject to the statute of limitations and can be claimed at any time. In all cases of unlawful sterilization that have been brought before Czech courts, the courts ruled that a sterilization carried out without the patient's free and informed consent was indeed unlawful. The victims received moral satisfaction in the form of an apology from the hospital concerned. As regards the suggestion to review the existing legislation, it should be kept in mind that the resulting amendment would apply only to cases occurring after its enactment, in accordance with the fundamental principles of legal certainty recognized in modern states.

69. The present Government plans to introduce a special act concerning compensations for victims of unlawful sterilization. This legislation will provide criteria for the victim's entitlement, the procedure to be followed when presenting a claim, and the rules for the functioning of the compensation mechanism. The compensation is to be comprehensive and it is to be provided by the state. This means that victim will no longer have to bring a civil action against the healthcare facility that actually carried out the unlawful sterilization. The outline of the new legislation is to be presented to the Government in 2015.

70. According to the Specific Medical Services Act, sterilization can be carried out only at the patient's written request or with the patient's written consent.¹² Before performing the surgery, the surgeon must inform the patient about the nature of the surgery, its lasting effects and possible risks. This information must be provided in front of a witness (a medical professional) and the patient may request the presence of additional witnesses. The patient must then be given at least 7 days (in the case of sterilization performed on medical grounds) or 14 days (in the case of sterilization performed on non-medical grounds) at the

¹² There are additional requirements concerning the sterilization of minor patients, legally incapacitated patients and patients with limited legal capacity who are unable to understand the reasons for and/or the effects of healthcare services. Sterilization of such patients is subject to the written consent of the patient's statutory representative, the consent of a court and of an independent expert commission. The expert commission must explain to the patient and his/her statutory representative the nature of the surgery, its lasting effects and possible risks. The explanation must be provided in a way appropriate to the patient's intellectual maturity. These sterilizations can be performed only on medical grounds.

patient's request) to consider the benefits and risks of the surgery. The consent form must explain the purpose, nature, expected benefits, effects and potential risks, the alternatives, future discomforts and strain on the body, as well as post-surgery treatment and suitable prevention, and must briefly describe internal sexual anatomy. The consent form must contain a section in which the surgeon certifies that he/she has informed the patient, and the patient certifies that he/she has been informed about the surgery and possible complications. The consent form must be signed by the surgeon, the patient and the witness(es). The form must be kept on file as part of the patient's medical records. The model informed consent form was published in the Health Ministry Journal. Healthcare facilities use this model form or have developed their own forms on its basis. The form has been translated into the Roma language. The consent must be reaffirmed by the patient or his/her statutory representative immediately before the surgery. The Ministry of Health promotes public awareness activities as well as the training of medical professionals in this area.

XIII. Rights of foreigners (recommendations No. 92 – 93, 115 – 120)

71. The Czech Republic is a signatory to the United Nations Convention relating to the Status of Refugees and the United Nations Convention relating to the Status of Stateless Persons. According to the Constitution, these international human rights treaties are part of national legislation and take precedence over national laws; as mentioned above, if the provisions of an international treaty differ from those of a national law, government authorities and courts must apply the international treaty. The rights of foreigners living in the Czech Republic, including migrants, persons granted asylum or subsidiary protection and stateless persons, are set out in the Foreigners Residence Act and the Asylum Act. Both acts are consistent with constitutional legislation and with international conventions.

72. According to the Foreigners Residence Act, any foreigner may challenge his/her removal order by an action brought no later than 10 days from the delivery of the removal order. The action has a suspensory effect, unless the removal is ordered because the foreigner poses a risk to national security. The court must rule on the action within 60 days. According to the applicable legislation, asylum seekers can be detained at a reception centre only for a period strictly necessary to ascertain their identity and to find out whether they might pose a security risk. However, even in this case the foreigner has the right to bring an action challenging the detention. The court must rule on the action within the order of days. Minor asylum seekers and families with children are not detained.

73. In education, foreigners have the same opportunities as Czech nationals. EU citizens and their dependants have access to free education under the same conditions as Czech nationals. Other foreigners have equal access to primary education. To have access to general secondary and technical secondary education, the foreigner must be a legal resident. In accordance with international conventions, there are no restrictions on access to university education. Foreigners who do not fall within any of the above categories do have access to education, but this may be subject to slightly different conditions.

74. An issue closely related to the protection of migrant workers is the fight against human trafficking and labour exploitation. A project for “Detecting human trafficking for the purpose of labour exploitation and forced labour”, coordinated by the La Strada NGO, has been underway since 2010. The partners of the project are the Ministry of the Interior and the Judicial Academy, an institution that provides training to judges and public prosecutors. The aim of the project is to give trafficked and exploited people easier access to

legal protection and services. Information on human trafficking, especially on ways to identify and assist the victims, is included in training programmes for the staff of the State Labour Inspection Office who deal with illegal employment. The next step will be to review the public procurement market in order to identify areas that might provide opportunities for labour exploitation, and to develop a range of recommendations to eliminate the risk of such exploitation in companies performing work or services for the government sector. The recommendations will be incorporated in internal regulations concerning public procurement.

75. Foreigners who want to work in the Czech Republic go through the pre-migration process at a Czech embassy. After arrival they may attend an adaptation and integration course to learn about their rights and obligations. Public authorities are carrying out a number of preventive activities in cooperation with the IOM, e.g. in the Caucasus and the Balkans. Foreigners may benefit, for example, from the services of community interpreters and intercultural workers who help them cope with their vulnerable situation caused by insufficient knowledge of the Czech language, life and institutions and legal system. Information about these and other services is available to foreigners at www.cizinci.cz or at www.domavcr.cz, a multilingual website containing useful advice and practical information on life in the Czech Republic.

XIV. Combating corruption (recommendation No. 26)

76. In 2012 – 2014, the Czech Republic implemented anti-corruption strategies covering four most vulnerable areas: public administration, public procurement, law enforcement, and the legislative power. Several important steps were taken in these areas. The Public Procurement Act was amended several times to strengthen the oversight of public funds. There are stricter financial management rules for the government, state-owned companies and local governments. The above-mentioned new legislation on the criminal liability of legal entities enhances the oversight of legal entities in many areas including corruption. Most government authorities already have their own anti-corruption strategies and codes of conduct requiring civil servants to comply with the principles of good governance. Criminal legislation has been amended to encourage defendants to cooperate with law enforcement authorities in detecting serious organized crime, and to give law enforcement authorities more powers in investigating corruption-related crimes. Police officers, judges and public prosecutors are trained to combat corruption. Another important step in countering corruption was the establishment of the above-mentioned Security Services General Inspectorate, and independent body whose mission includes the fight against corruption in law enforcement authorities and other security services.

77. The new Government reaffirms the importance of the fight against corruption; however, it wants to make the process less formal and to integrate it more closely with the overall government policy. To this end, each government legislative proposal will be assessed for its corruption impacts. There will be anti-corruption policy concepts and plans of action setting out specific tasks on the basis of the goals of government programme documents and recommendations from international organizations and from the European Commission. The government anti-corruption policy will focus on prevention using the proposed measures to pursue specific and realistic goals. The Anti-Corruption Policy Concept for 2015 – 2017 takes over some of the goals of the previous strategies, such as transparent financing of political parties, nominations of experts to supervisory boards, more independence for public prosecutors and more powers for the Supreme Audit Office. One of the main steps was the adoption of the Civil Service Act in 2014. This comprehensive

legislation will regulate the duties of civil servants and keep the civil service free from political influences. In addition, among other goals, the Government intends to provide online access to the national Official Journal (*“Sbírka zákonů”*) so as to improve public access to information on legislative changes; to provide online access to a public register of government contracts so as to promote transparent management of public funds; and to increase the transparency of the legislative process.