

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION 70TH SESSION CZECH REPUBLIC, 6TH & 7TH REPORTS

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Information submitted to the Committee

On 11 January 2006, the Czech Republic submitted its combined 6th and 7th periodic reports to the Committee on the Elimination of All Forms of Racial Discrimination (the Committee).¹ It also submitted written replies to the list of issues provided by the Committee but these were made available only on the day of the examination. The periodic report covers general information about foreigners, asylum seekers, the Roma and other minority populations, as well as the status of the country as a member of the European Union (EU). It also addressed changes in legislation and other legal and administrative practices relating to the Czech Republic's obligations under the *International Convention for the Elimination of All Forms of Racial Discrimination (the Convention)*.

The report mentioned statistics on asylum seekers and right wing extremism, but lacked statistics about the Roma population's access to goods and services, and the rate of housing evictions. The report was also lacking in coverage of the efforts being made towards the establishment of the Centre for Equal Treatment, as described in previous reports, or on the effectiveness of other human rights mechanisms, such as the Ombudsman.

¹ CERD/C/CZE/7, 11 January 2006.

Four NGOs submitted parallel reports. The European Roma Rights Centre (ERRC) submitted a detailed report² providing meticulous examples of racism in the Czech Republic, particularly in relation to the coercive sterilisation of Romani women, racial segregation in the field of housing and forcible eviction of Roma, continued racial segregation in education for Roma, and exclusion from employment of Roma. They also presented key points at the NGO briefing. The Public Defender of Rights, also known as the Ombudsman for the Czech Republic, produced a report³ detailing cases of sterilisation of Romani women. The Dženo Association submitted a general report⁴ covering Roma evictions in numerous countries, including a brief summary of the problem in two areas of the Czech Republic. The League of Human Rights of the Czech Republic (LIGA or Lidských Práv) submitted a report that covered examples of discrimination under Articles 4 and 5 of the *Convention* and problems contributing to discrimination in the legal framework. LIGA also presented its views to the Committee at the NGO briefing.

The Czech Republic has made a declaration regarding Article 14 and accepted, on 6 August 2002, the amendment to Article 8, paragraph 6.

Themes and issues

Semantic concerns regarding the periodic report

In his opening remarks as Country Rapporteur, Mr. Mario Yutzis expressed concern regarding various diction in the periodic report alluding to an embedded negative opinion of Roma by the general Czech society. He mentioned that Roma parents were accused of not taking appropriate measures to ensure their children were educated, asking the delegation for a source on that matter. He also pointed to the fact that the report suggested, without sources, that Roma do not have the ‘tradition’ for work. José Francisco Cali Tzay commented on this same issue in relation to the notion of “proper” life management and lifestyle, as mentioned in paragraph 132 of the report.

Mr. Yutzis also expressed concern over the combined mention of immigrant and minority groups and internal security, believing such an association was dangerous. Radim Bureš of the Czech delegation responded that the periodic report covered the issues of immigrant and minority groups across the span of social structures, and that internal security was one small place of mention. Mr. Yutzis replied that he hoped the matter of police as protectors of internal security were applied with respect to the *Convention* under article 4(b).

Incorporation of the Convention in domestic law

The Committee expressed concern over the lack of any movement of the Anti-Discrimination Bill through parliament. At the last session, the Committee requested that the country pass such legislation in order to comply with Article 2 of the *Convention*. The Bill was submitted to the parliament in two forms, one that would have strengthened the Ombudsman’s role in promoting anti-discrimination measures, and one that would have created an independent human rights commission, the Centre for Equal Treatment. The bill that favoured the Ombudsman was chosen without any justification by the delegation or in the report, but was rejected by parliament. Mr. Youtzis expressed confusion about this point, wondering if the proposal was in some way inadequate. Morten Kjaerum hoped that the new Bill currently under consideration was not too advanced to include new elements discussed in the session. In the follow-up responses, the delegation stated reasons for the rejection stemming from members of the Senate, or the Czech upper house, wishing to modify existing laws or add anti-discrimination clauses to relevant pieces of existing legislation, rather than create a whole new piece of legislation. The Committee expressed hopes that the stalled Anti-Discrimination Bill would proceed through the parliament and that progress would be mentioned in the next periodic report.

² Available at <http://www.ohchr.org/english/bodies/cerd/docs/ngos/ERRCCzech-republic.pdf>.

³ Available at <http://www.ohchr.org/english/bodies/cerd/docs/ngos/Public-defender-rights.pdf>.

⁴ Available at <http://www.ohchr.org/english/bodies/cerd/docs/ngos/sdruzeni1.doc>.

The delegation, through Andrea Baršová, mentioned that the new government elected in 2006 brings a different strategy to bear on discrimination, preferring to implement actions at the local level. This echoed an argument often set forth by the delegation: through a desire to create distance from the communist past, the State has favored processes of decentralization, leaving room for regional differences. Committee member Linos-Alexander Sicilianos responded to this argument that local authorities exist under the government and that when undesirable decisions are taken by such entities, the central government may use financial ‘leverage’ to bring about compliance. He added that States are not judged on regions, but as a whole, and therefore it is necessary to ensure all regions and localities are in compliance with the international obligations undertaken by the State through their central authorities. In its concluding observations, the Committee requested that the State party adopt legislation that would prohibit and protect against racial discrimination.⁵

Roma and general racial prejudice⁶

The issue of the Roma population in the Czech Republic took predominance in the previous concluding remarks of the Committee on the Czech Republic, in the 6th and 7th periodic State reports and in the delegation's general presentation to the Committee. The periodic report frequently mentions the Roma population, from special schools and educational reform, to police discrimination and hate crimes. Mr. Yutzis took up the issue by mentioning the basic statistical discrepancies over the Roma population in the country, with State figures quoting 17,000 and other studies placing it at 200,000. The delegation stated that this resulted from relying on census data modelled on the US system of census classification, using self-reported subjective measurements of ethnicity. This meant that some of the Roma population might have categorized themselves differently. They also stated that the approximately 200,000 persons of Roma origin live in the country, based on academic literature in demography and statistics. The Committee urged the State party in its concluding observations to review their methods of data collection as to better reflect the community. Although other populations of minorities exist, the Roma population clearly represents the biggest concern for the delegation.

Mr. Yutzis, along with LIGA, cited alarmingly that 76% of the population reported feeling that the Roma population was “unsympathetic.” He worried that with such deep-rooted public sentiment, effectuating change in actual discrimination will be made more difficult. The Government discussed the plans they have in place to combat this, including using media channels to promote understanding and through cultural exchange measures. The delegation presented information about cross-cultural curricula for children in the pre-primary and primary levels, as well as the implementation of the Council of Europe’s “All Different, All Equal” project. Additionally, a project involving summer camps for Roma children is in place to help build trust between the police community and the Roma population. According to the delegation, police officers, in their free time, serve as managers in these camps, helping to build a bridge between the groups.

Mr. Yutzis ended the session with the point that the ‘real’ integration of the Roma people into the Czech society was a substantive issue. He noted in his oral concluding statement to the session that for any country to construct a democracy, there must be equality, and for equality, all populations in a society must be fully integrated.

Police discrimination

Police discrimination and violence against the Roma population was highlighted as an area of concern in the periodic report. A specific demand from the previous session requested that the State establish an independent body responsible for handling complaints against the police. Mr. Yutzis asked for statistics on the number of

⁵ CERD/C/CZE/CO/7, March 2007. Available at <http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.CZE.CO.7.pdf>.

⁶ Discrimination of Roma peoples in the Czech Republic was mentioned in additional spheres, but these will be detailed according to each thematic sector below.

Roma officials in the Czech police force, and Mr. Prosper asked what measures were being taken to recruit Roma to the force. Chengyuan Tang asked for clarification of the role of the independent commission. The delegation pointed to a function of the Ministry of the Interior, a civil society element, in this oversight. They stated that the body was composed of former police officers, but remained distanced from the State Police in general. The delegation insisted that they were still in the process of ensuring the independence of the oversight commission. Mr. Yutzis finished by hoping to see additional progress towards a more independent commission in the future. This was re-iterated in the concluding observations of the Committee, which strongly recommended that police discrimination against the Roma minorities be investigated and prosecuted.

Forced sterilisation

Guided by information from the ERRC and LIGA briefings, as well as the Public Defender of Rights' (or Ombudsman's) report, the discussion of forced sterilization surfaced as a primary issue of concern. The LIGA report categorized sterilisation as primarily an issue for Romani women. They stated that such methods towards women were a policy of the Czechoslovak State from 1973 to 1991, at which time it ended. The Ombudsman's report claimed that occurrences after this time are a product of doctor-patient interactions. Mr. Yutzis called sterilizations a problem of the past, but one to which Czech society should put an end, by way of compensation and other means. Mr. Sicilianos expressed concern over recent cases of sterilisation mentioned in the Ombudsman's report, calling for the State, under Article 6 of the *Convention*, to investigate, punish, and compensate for any such egregious activity as coerced sterilisation. The delegation claimed that these sterilisations have no racial motive, and that the important issue in the matter is the communication between medical professionals and their patients. They also discussed the steps being taken by the Ministry of Health, specifically an Advisory Commission set up to investigate cases. Five of the cases submitted were forwarded to a central expert committee, and the Ministry of Health admitted violations had occurred. The Advisory Committee is currently adopting recommendations, which include the drafting of informed consent materials, informing physicians about patients' rights, and discussing financial or service-related compensation for victims. The delegation also pointed to the development of awareness raising campaigns and a new law defining sterilization at a statutory level. The delegation clarified that these initiatives were not yet approved by the government, but were currently under discussion.

Patrick Thornberry concluded that even if sterilization was a general practice, if it falls disproportionately on one group, such practices are discrimination 'in effect'.

In Mr. Yutzis' closing remarks, he commended the government for their attempts at answering such difficult questions as those on forced sterilisation. In its concluding observations, the Committee asked the state to take strong action, without delay, to acknowledge the harm done to the victims and to facilitate their access to justice and reparation. They suggested a fund that would help women bring claims. They also urged the State to establish clear and compulsory criteria for the informed consent of women prior to sterilization.

Housing and segregation

In the periodic report, the State admitted to problems, under Article 3 of the *Convention*, of spatial segregation through the emergence of Roma enclaves. The Czech Government had admitted that such segregation requires action in paragraph 114 of the periodic report, yet problems of housing evictions continued to arise. The Director of the Office of Roma and Community Affairs, Mr. Czeslaw Walek, discussed the problem of 'social exclusion' in Roma communities, referring as such to lack of housing and ghettoisation of Roma peoples, and also to education (referenced below). He countered that the State is working on providing housing to those in need as well as emergency housing construction. He discussed the development of a program called 'Field Work Support', where research is done in communities to help eliminate the mechanisms that cause social exclusion, including finding work, increasing education, and securing low-cost housing.

Mr. Kjaerum noted that paragraph 101 of the report mentioned that no legal provision exists prohibiting discrimination in housing. He added that perhaps problems related to housing for the Roma population relates

to the lack of such a provision. Mrs. Baršová mentioned in paragraph 125 a singular case regarding a Roma woman who was financially compensated after bringing complaints of violations of personal rights in securing accommodation in a hostel.

This was another area where the delegation argued that decentralization tied the hands of the central government from providing full oversight. The delegation claimed that municipalities had full ownership over oversight, making integration difficult. Mr. Walek commented that although local elements are crucial, the state can only use “promotion” and “dissemination of information” to influence municipalities. He noted local seminars and methodological coordination as primary elements of these means. He later emphasized that ‘social exclusion’ was an area of concern for the state, and that programs involving social workers were being put in place to remedy the situation. In the delegation’s written answers to the Committee’s List of Issues, they stated that one critique of the programs against social exclusion was that there were no programs specifically aimed at the exclusion of the Roma community. The Committee reminded the State party in its concluding observations that it may not “invoke the provisions of its internal law” as a justification for not implementing the Convention. The statement urged the committed to ensure the right to housing clearly in domestic legislation in a way that protects against racial discrimination.

Education

Several issues related to education were discussed, predominantly involving Roma children and access to education, but also including children of foreigners and languages of instruction. While the Government’s School Act supposedly changed the name of what were previously “special schools”⁷ for Roma children, NGOs such as LIGA and ERRC claim that the teachers, internal categorization of students, and curricula remain the same. Additionally, the Committee raised concerns about the tests children are given, and after being informed by LIGA about possible culturally prejudiced tests, asked the delegation to comment. The delegation responded that the curriculum is undergoing change and will be finalized and implemented by September 2007.

After the first day recess, Irena Mašková of the Ministry of Education for the Czech Republic added to the delegation’s response by claiming that special schools have never had a discriminatory character, and do not embody lower standards, but rather provide an alternative educational system. In its concluding observations, the Committee asked that the State party put an end to the segregation of Roma in the area of education. They asked that the State party review the methodological tools used to determine the criteria for sending children to special schools in order to avoid indirect discrimination on the basis of Romani cultural identity.

Another area of concern in education was the availability of instruction in the values of human rights. Mr. Thornberry expressed concerns about a perceived lack of human rights education in the university level. He expressed confusion about paragraph 182 of the periodic report, which characterized ‘mandatory optional’ courses in human rights available at the university level. He also asked about human rights training in the discipline of Law. The delegation responded that the human rights courses at the university level are classed in a group of electives from which the students must chose several. They apologized for the confusion, relating it partly to issues of translation. They also mentioned that courses on human rights were included in programs of Public International Law.

The delegation proceeded to mention other measures taken to ensure educational equality, such as the Framework Educational Programs. These programs include free preparatory courses to bring disadvantaged students to the levels of regular schools; preschool care; and teaching assistants. The teaching assistant position aims to prevent communication problems between Roma students and schools. There were 230 of them in the country in 2006. The delegation claimed that statistics are already available for the preparatory courses, and that the academic quality from students is now better than in the 1990s. The delegation also

⁷ These schools were traditionally separate from mainstream schools. The Government asserts the schools arose out of a desire to respond to different needs of segments of society. LIGA argues on page 17 of their shadow report that Roma children earn entry to these schools because they test poorly compared to other children, perhaps because of cultural differences, and call this evidence of educational segregation.

mentioned that children attend kindergarten free of charge, and that the final grade of nursery school is also free. The delegation discussed another project, the 'Project of Timely Care', which provides children with benefits of 'full curriculum' approaches, or a wide array of activities designed to assist in their education. In its concluding observations the Committee commended the State party for their *2004 Education Act*, which will provide basic education to all regardless of citizenship and legality of residence.

Another issue in education was the Government's classification system of disadvantaged groups. The delegation used the terminology of 'socially or culturally disadvantaged' in reference to some Roma children's special needs. Mr. Thornberry expressed concern over the concept of 'cultural' disadvantage, believing this could be confused as privileging traditional Western cultures over others. Mr. Yutzis seconded the concerns over the concept of cultural disadvantage. Mrs. Mašková replied to these concerns by stating that the pedagogical and psychological institute which evaluates students always aims to consider the nature of various disadvantages, and strives to develop appropriate diagnostic tools. She mentioned that discussions are underway about whether this institute should take on a different role of protecting children's social and legal needs. Mr. Thornberry followed up by inquiring whether perhaps the stated problem of Roma parents not wanting schooling for their children, which could be considered a cultural disadvantage, resulted from a lack of ownership of schools. The delegation did not use their limited time at the end of the second session to address this question.

The issue of non-citizen access to education was raised by Mr. Kjaerum. The delegation responded that the Minister for Education had prepared an amendment to ensure access to education for preschoolers who legally stay in the Czech Republic and basic education to all who are not citizens, whether they reside legally or illegally. This amendment will enter into force in September 2007.

The matter of minority languages being used in classrooms was also discussed by the delegation. They informed the Committee that for primary education, a minimum of 10 students requesting minority language instruction was required, and for secondary education, a minimum of 12 students was required. In addition, a head teacher may decide certain subjects will be taught bilingually, with the consent of their superiors.

Employment

The Committee expressed concern regarding the complaints of unequal opportunity for Roma individuals in finding employment, especially the issue of entrenched ideas about suitable jobs and ideas about their work ethic. The delegation's representative from the Minister of Labour and Social Affairs spoke about the employment agency which is required to verify alleged discrimination and take action against errant enterprises. Another relevant problem predominantly in the Roma community mentioned by the delegation was the high level of debt and usury resulting from financial duress. They discussed efforts to improve employment access, mostly through their 'Field Work Support' program, at the local level. The Committee commended the State party in its concluding observations for the *Employment Act of 2004*, which prohibits direct and indirect discrimination in the enjoyment of the right to work.

Right wing extremism

The delegation discussed the decrease in right wing extremism in terms of violent crimes, and stated that the most frequent case of this kind involved speech or expression, and not aggression or violence. The Committee expressed concern in number 8 on their list of issues that the State was not fulfilling Article 4 (b) of the *Convention* by not declaring punishable *any* participation in organizations promoting and inciting racial discrimination. The delegation confirmed that in their reading of the law, right wing activities can be convicted as criminal now just for association, with a possible prison term of up to 2 years. Additionally, the delegation mentioned a clause of the Czech penal code, which awards a minimum of 6 months and maximum of 3 years in prison for those actively participating in such organizations.

Another topic of concern for the delegation and the Committee was the existence and response to concerts of an extremist nature. In such concerts neo-Nazi musical groups and their followers have a forum for activity

that likely violates the *Convention*. The committee expressed concern that these concerts were not broken up by local police, or at least were not done so in a unified matter. The delegation responded with its decentralized authority explanation, but conceded that some local commanders were ‘not acting properly’. They reminded the Committee that in these cases, the public and the media vocally criticized police inaction. The delegation also mentioned that a special group had put together a set of guidelines on how to respond to such concerts, and they hoped that in the future these would help guide reactions. In its concluding observations, the Committee urged the State party to ensure that hate speech in any form against the Roma does not enjoy impunity.

Non-citizens

A final area of concern for the Committee was the difference between the citizens and non-citizens. Mr. Kjaerum expressed concern that a law extended the ability for same-sex civil unions only if one partner was a Czech citizen. The delegation responded that this came about as a compromise with more conservative authorities as a means of allowing civil unions. The Committee reaffirmed their concern, and the delegation argued that under Article 1 (2), the Czech Republic could use citizenship as a factor in their allowance of civil unions.

Mr. Kjaerum also expressed concern regarding the regulations about citizenship as a requirement for joining political parties. The delegation responded that non-citizens could still run for elections on a municipal level as non-partisans, but they ran out of time to fully explain their answer.

Conclusions and next steps

The delegation submitted the report in the guidelines of the *Convention*. In general, the Committee considered the material and answers given by the delegation with appreciation. However some questions remained unanswered or not fully explained at the end of the session. The delegation discussed many of their programs in place as not yet being fully evaluated. In his concluding remarks, Mr. Yutzis thanked the delegation for the “considerable attempt” they made to answer questions, specifically on Article 4, sterilisation, compensation, and housing. He marked several issues as outstanding: the response about dangerous neo-Nazi sects; approval of an Anti-Discrimination Bill; an independent body to monitor the police; and more information about sterilisation. Although these issues were discussed in the Committee's dialogue with the State party, some of the delegation's candid answers either were not able to satisfy the Committee because their position, or they were incomplete due to the delegation's inadequate available information.

The Committee admitted that they hoped to use the session as a way to assist the State honour the *Convention*, and thus took a strong but not forceful approach. Much of the Committee's time went to encouraging the delegation to continue efforts, collect better statistics and information, and avoid hiding behind an argument of decentralisation as a way to rationalize activities not in line with the *Convention* within the country.

The Committee published the advance version of their concluding observations.⁸ They commended the timely submission of the report which contained responses to the concerns raised in the previous concluding report, as well as the frank dialogue throughout the session. They asked, however, that the State party provide updated information in one year's time about the Committee's recommendations regarding anti-discrimination legislation; the sterilization of women; the segregation of Roma into special schools or other separated educational facilities; and the existence of some body that would hear claims from victims of discrimination. The Committee hoped that their 8th and 9th periodic reports would update all points raised in the concluding observations.

⁸ CERD/C/CZE/CO/7, March 2007. Available at <http://www.ohchr.org/english/bodies/cerd/docs/CERD.C.CZE.CO.7.pdf>.

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