

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## HUMAN RIGHTS COMMITTEE 90<sup>TH</sup> SESSION CZECH REPUBLIC, 2<sup>ND</sup> REPORT 16-17 JULY 2007

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### Information submitted to the Committee

On 24 May 2006 the Czech Republic submitted its second periodic report to the Human Rights Committee (the Committee) regarding the implementation of the *International Covenant on Civil and Political Rights* (the Covenant).<sup>1</sup> The Czech Republic ratified the Covenant in February 1993 without any reservations. The 171-page report focused on changes relating to the protection of rights guaranteed by the Covenant for the reported period of 2000-2004 and on the Committee's previous concluding observations.<sup>2</sup> The report

<sup>1</sup> CCPR/C/CZE/2, 29 November 2006. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

<sup>2</sup> CCPR/CO/72/CZE, 27 August 2001. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs71.htm#72nd>.

examined the relationship between international and national law and the Committee's concern<sup>3</sup> regarding the Covenant's status in Czech law.<sup>4</sup> In certain other places, however, the report contained only basic updated information on specific matters and referred to other reports presented by the Czech Republic to other committees.

On 18 May 2007 the Committee provided the list of issues to the State Party. Among other things, the list requested follow up information regarding several communications dealing with restitution of property, the effects of the investigation of allegations of police misconduct, the representation of women in senior governmental positions, cases of forced sterilisation of women, measures to combat discrimination against Roma and the discrimination suffered by foreigners. However, the State did not provide written replies to the Committee prior to the plenary meeting.

Six non-governmental organisations (NGOs) submitted reports regarding the human rights situation in the Czech Republic.<sup>5</sup> The League of Human Rights highlighted that the two main issues currently of concern correspond to the recommendations the Committee made in 2001: the prevalence of impunity in relation to police misconduct and discrimination toward Roma children in education. Conscience and Peace Tax International focused on the situation of conscientious objectors following the abolition of mandatory conscription in 2005. The Czech Coordinating Office expressed concerns about laws reversing the original restitution law that rescinded all political verdicts pronounced during the Communist era, and about the fact that no property was brought back to its original owner. The Centre on Housing Rights and Evictions (COHRE) focused on issues involving Roma, especially discrimination and forced sterilisation of Roma women. Amnesty International also dealt with these issues, and further touched upon the issue of mistreatment by the police and racially motivated attacks against Roma. The report of Global Rights and the International Gay and Lesbian Human Rights Commission focused on the discrimination faced by people because of their sexual orientation in various areas such as detention and family life.

## Themes and issues

The Czech Republic delegation was headed by Mrs. Andrea Barsova, Deputy Minister for Human Rights and National Minorities. Mr. Vit A. Schorm, Government Commissioner for Representation before the European Court for Human Rights (ECtHR) at the Ministry of Justice was the alternate head of the delegation. The delegation was accompanied by Mr. Pavel Hrcir, Permanent Mission of the Czech Republic at Geneva and delegation was further composed of representatives from various Ministries.<sup>6</sup>

Mr. Schorm opened by presenting the developments that have taken place in the Czech Republic from 2000 to 2004. He noted that according to recent amendments to the Constitution, the Covenant has primacy over other legislation. However, the power of the Constitutional Court was reinforced, authorising it to evaluate the compatibility of international human right treaties with the Czech Constitution prior to ratification. Mr. Schorm also discussed the activity of the Ombudsman's office in the Czech Republic. Of particular concern were the issues of child abuse, commercial sexual abuses of children and criminalisation of child pornography. In order to deal with the issue of increasing immigration in the Czech Republic, the Government reduced the minimal duration of stay in the country from 10 to 5 years. Mr. Schorm also addressed the Government's efforts to ensure that persons deprived of their liberty enjoyed dignified conditions. A major step forward had been that the means of restraint, such as cage beds, could only be used

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<sup>3</sup> "While the Covenant has a status superior to domestic legislation, not all rights stipulated in the Covenant have been incorporated in the Charter of Fundamental Rights and Freedoms, ....". CCPR/CO/72/CZE, para.5). Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

<sup>4</sup> It argued that the Constitution amendments in 2002 led to a review and clarification in this respect. CCPR/C/CZE/2, 29 November 2006. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs71.htm#72nd>.

<sup>5</sup> Available at <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

<sup>6</sup> Ministry of Justice, Ministry of Interior, Ministry of Labour and Social Affairs, Ministry of Culture, Ministry of Education, Youth and Sports, Office of the Government; Ministry of Foreign Affairs.

as a last resort, and the Government was making sure that their use was gradually reduced. Numerous training programmes on human rights had been organised for the police forces, military and judiciary. In his concluding remarks Mr. Schorm said that all matters related to human rights and minority rights would be taken into account by the Government and that the Czech Republic will remain committed to its international obligations.

### **Status of the Covenant in domestic law**

The Committee enquired about the Constitutional and legal framework within which the Covenant was implemented. Committee member Mr. O’Flaherty asked about the actions undertaken by the State at the domestic level with regard to individual communications received by the Committee under the Optional Protocol (OP). The Committee members also asked to provide an update on the follow-up of the communications for selected cases in terms of remedies provided to the victims.

Mr. O’Flaherty pointed out the fact that the State party did not accept the Committee’s interpretation of the Covenant with regard to communications referred to in the list of issues<sup>7</sup> and he invited the delegation to enter into a friendly and open dialogue. The Committee member agreed that the findings of the Committee were not formally binding but added that they constituted more than merely recommendations. Mr. O’Flaherty also inquired about the implementation of the views of the Committee, referring to a number of cases where a high level of domestic parliamentary resistance arose. This, however, did not remove the obligation under the Covenant.

The head of the delegation explained that the Government discussed the findings of the Committee concerning these communications in general terms. These findings have been translated and posted on the website of the Ministry of Justice. In May 2002 the Czech Republic addressed the problem of the implementation of the Committee’s findings, particularly concerning nationality and the restitution of property.<sup>8</sup> The Czech Republic was criticised by the European Court of Human Rights for its approach regarding property under the communist regime. He further explained that there were more favourably reviewed cases that have been subject to national authorities since no alternative channel was created to deal with the right to property. He enumerated a number of cases where the domestic review had not been completed yet. Referring to a number of communications in the list of issues<sup>9</sup>, the head of the delegation assured that the Czech Republic fully respected the view of the Committee but also declared that there are no violations of the right to life and freedom of privacy. In those cases strictly related to the restitution of property, he assured that they had noted the findings of the Committee even though the author of the complaint was not satisfied with the result. He concluded his speech stating that the Czech Republic is a party to the Optional Protocol and that the national authorities are informed about the findings of the Committee, and are respectfully taking them into account in their decisions. Responding to Mr O’Flaherty’s comment, he confirmed that the delegation is ready to engage in a constructive dialogue.

Committee member Mr. Amor asked the delegation to comment on the legal value of findings and observations of the Committee. He further inquired about the implications of the examination and review of the individual communications and on whether that process was of a ‘jurisdictional’ nature. The head of the delegation responded that at the domestic level the primacy of the Covenant over the legislation is guaranteed by the Constitutional Court. It is the view of the Constitutional Court that was used in reply to the Committee’s inquiries on the implementation of the observation concerning the cases. He stressed that the way in which the Government set up the mechanisms to give effect to observations of the Committee was

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<sup>7</sup> CCPR/C/CZE/Q/2/Add.1, 4 July 2007. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

<sup>8</sup> Mr. O’Flaherty inquired about the compensation fund for property loss. The delegation responded that a high amount of compensation was allocated to those families who lost their property. Committee member Ms. Wedgwood commented on the Government’s unwillingness to restore people’s right to their property, because they had fled a past regime, and said that it was contradictory to the Covenant.

<sup>9</sup> CCPR/C/CZE/Q/2, 18 May 2007. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

specifically in the context of the changes taken place in the Constitutional Court. He believed that the implementation mechanism has moved to a highly advanced phase of giving effect to observations of the Committee. The question of the restitution of property in the Czech Republic was viewed as an extremely sensitive and complex issue. It did not target the former Czechoslovak citizens that lived for the USA, for example. Despite certain restrictions, the resident or nationality requirements found in the Czech Constitutional Court in the process of the restitution of property had been addressed in very broad terms and this decision was adopted by the parliamentary majority.

Committee member Sir Nigel Rodley, referring to the case with the Czechoslovak citizens, commented that while understanding the political sensitivity, the task of the Committee is to observe and ensure the implementation of the Covenant. Regarding the effect that the State party had to give to the Committee's views, Sir Nigel Rodley explained that from what he understood, the basic approach of the Government was to reject the Committee's view that there was certainly discrimination on the basis of residence and nationality, which was leading to the inaccessibility of the ownership of property. And in these circumstances, the argument of the State party was not credibly explained.

In its concluding observations the Committee urged the State party to implement all of its views in order to restore the property of persons concerned, or compensate them.<sup>10</sup>

### **Judicial reforms**

The representative from the Ministry of Justice talked about the current developments in the judicial system. In response to the Committee's concern about considerable delays in both civil and criminal cases, the delegation responded that the appeal procedure was put in place for preventive purposes. The issue of getting compensation for moral damages due to excessive delays in the proceedings was recently included in the legislation. As for how these compensations should be calculated, the delegation responded that they use the European standards of justice, which has an appropriate jurisdiction of using compensation. As for the reorganisation of the work of the court, he noted that judges are no longer burdened with administrative tasks. A number of tasks had been transferred from the court to mediation services, such as services operating outside the court system.<sup>11</sup> Mediation services could be pursued with the explicit and expressed consent of the victim. A number of measures had also been undertaken to improve technical supplies and the electronic storage of cases.

Committee member Ms. Palm acknowledged that considerable efforts had been made to modernize the judiciary. She asked the delegation to give explanations about the administration of criminal justice and judicial proceedings. Committee member Mr. Bhagwati asked about the composition of the mediation service, availability of the law for the mediation services and the subject areas. Mr. Bhagwati also asked whether there were cases brought to the Administrative Court before they would have been brought to the Constitutional Court.

The Committee member asked about the procedure of the appointment of judges in the highest courts, about the percentage of the cases that come before to the Supreme Court, and about whether there was any backlog in the Supreme Court and what measures had been taken in this respect. The delegation responded that judges were appointed by the Chair of the Supreme Court after the consultation with Parliament. Also they had to

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<sup>10</sup> CCPR/C/CZE/CO/2, para. 7. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

<sup>11</sup> If the court concludes that it is in the juvenile's interest that his proper education be supervised in his own family in which the juvenile lives, it orders supervision of the juvenile by a probation official of the Probation and Mediation Service. The objective of Probation and Mediation services is to reduce the risk of continuing criminal activities and to contribute to the juvenile's reintegration in society. The Ombudsman also will be able to provide mediation services leading, among other things, to filing a motion for an out-of-court settlement. CCPR/C/CZE/2, 29 November 2006. paras. 315-316; 323. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

meet certain criteria, including at least 10 years of legal experience and in-depth legal knowledge. It was further explained that the Supreme Court in the Czech Republic is not an appeal court but that it can deal with extraordinary appeals.

## **Freedom from torture**

### ***Police misconduct***

The Committee asked the delegation to comment on the investigation of allegations of police misconduct by the Police Inspectors and also on the reform of the Law on Police Services. The representative from the Ministry of Interior responded that the prison Government pledged to ensure the independent investigation of crimes committed by police officers. The new status of the Inspectorate had been discussed to ensure the independence of police inspections. Three options were offered on how to set up the investigation into the crime committed by the police officers, namely the establishment of an independent body, the shift of the present inspectorate to the Prosecutor's office and lastly the maintaining of the present inspectorate with minimum control by the Ministry of Interior and strong parliamentary control.

Mr. O'Flaherty, Committee member expressed his gratitude for the frank acknowledgement of the problems in the area of police misconduct. However, he was concerned about why the matter took so long and the conclusion was not reached yet since the Committee pointed it out back in 2001. He was interested in to what extent the country's Council for Human Rights recommendations of 2007 were reflected on the oversight of the system considered by the Parliament.

Regarding the length on the investigation of crime committed by police officers, the representative from the Ministry of Interior answered that the criminal procedures give power to prosecutors to investigate the crime committed by police office. Since January 2002 the role of the State Prosecutor does not imply merely supervision but rather direct management and guidelines for each case. This new approach had not been fully adopted by the Government but the new grounds had been taken into account in order the established system to be fully independent and impartial.

In its concluding observations the Committee asked the State party to take measures to eradicate all forms of police ill-treatment, particularly by setting up a mechanism for the investigation of complaints concerning actions of law enforcement officials, initiating disciplinary and criminal proceedings against alleged perpetrators, and providing training to the police force on excessive use of force.<sup>12</sup>

## **Rights of detainees**

Committee member Mr. Iwasawa raised the issue of overcrowding in prisons. He referred to the State report which acknowledged that the number of detainees had significantly increased in prisons since 2003, whereas the statistics in the written replies indicated the low level of prison overcrowding for the same period. The Committee member asked the delegation to comment on the differences in the written replies and the replies given in the State report, as well as on the current situation in prisons.

Committee member Mr. Sanchez-Cerro asked about pre-trial detention, a question which was not touched upon in the list of issues. He also pointed to new legislation introduced in 2002 which failed to provide any reference to the right to access to a doctor for persons in custody, and sought clarification from the delegation as to whether this was the case in practice.

Referring to the information provided in the State report<sup>13</sup> the Committee also inquired about the right of accused to be heard during the court's decision, i.e. whether the procedure was taking place 'behind his back',

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<sup>12</sup> CCPR/C/CZE/CO/2, para 9. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

<sup>13</sup> The Constitutional Court stated that the approach of the ordinary court, which does not give space for the accused to be heard during proceedings on remaining in custody, is isolated because it does not respect the principle of giving precedence to international treaties, and therefore not in accordance with the Constitution. para.147

and what has been done about the conclusions<sup>14</sup> of the Constitutional Court. Regarding the judicial inspection of deprivation or limitation of freedom, the Committee asked the delegation to clarify how one should envisage the aggressiveness of the person. The representative from the Ministry of Interior responded that aggressive behaviour means that the person attacks other people or police officers. It was not just an attitude of being aggressive but rather a behaviour. In such cases the person can be isolated for few minutes or hours until he becomes less aggressive. The person can also raise a complaint.

Concerning the inquiry from the Committee on the right of detainees to submit a written communication to a State authority, the representative from the Ministry of Interior explained that as of 1 August 2007 the new binding regulation on police cells will enter into force. The annexed text to that regulation explains how to file a complaint against police misconduct. It will empower the Ombudsman to systematically visit places of detention and make new recommendations and interventions.

The Committee inquired about new regulations concerning detention facilities for foreign detainees. The representative from the Ministry of Interior stated that since January 2006 detention facilities are no longer under the responsibility of the police but under the Ministry of Interior. Foreigners can be placed in detention facilities only when the police issue an administrative order. Regarding the cases where the foreigner is aggressive or requires extra surveillance for other serious reasons, Section 135 of the *Foreigners Act* provides additional information concerning the conditions for the detention of foreign nationals. These are cases where the person was aggressive; seriously and repeatedly violated the facility's internal rules and breached the prohibitions under the *Foreigners Act*. Foreigners may be kept in a 'strict regime' for no more than 30 days unless there are reasons to extend the detention of the person under a 'strict regime.' The placement may be extended by another 30 days; otherwise he is placed in the 'lenient regime' section.

In response to the inquiry raised by Sir Nigel Rodley about the differences between 'strict' and 'lenient regimes', the representative from the Ministry of Interior stated that the lenient regime had evolved through the years and, originally it was a more 'police-alike' institution run by police. The management of these institutions moved from the police to civilian management and the lenient regime is similar to those in asylum seeker' institutions. People can freely move within the institution and speak to each other, unlike the strict regime which limits the movement within the institution to one hour during the day. There are also limits on speaking to other detainees. The basic time to place a person in the strict regime is 30 days, however it can be prolonged for another 30 days if a reason occurs. Thus, the maximum duration of placing a person in the strict regime could be up to 60 days.

Committee member Mr. Iwasawa asked about the binding guidelines on police cells, about the language in which the guidelines would be available and about how the detained foreigner would be informed of his right to submit a complaint. The representative from the Ministry of Interior responded that the information notice for foreigners was being translated in eleven languages and was expected to be ready by 1 August 2007, when the new regulation on police would be enacted. The foreign detainee will be communicated to in a language which he or she will be able to understand. Complaints raised by detainees can be also addressed through NGOs.

To the question of the Committee why there were twice as many incidents in the institutions in Poštorná than in any other institutions, the delegation responded that Poštorná was the only institution which was fully operating throughout the year, unlike other institutions that were being repaired for some time during the year. Another reason behind the high rate of incidents recorded in Poštorná could be that only men are kept there, unlike other institutions where women and children are placed.

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<sup>14</sup>The Constitutional Court thus concluded that the failure to respect the right of the accused to be heard during decision-making on remaining in custody represented an inadmissible deprivation of freedom, which is at variance with the stated rights. CCPR/C/CZE/2, 29 November 2006. para.147. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

## Criminalisation of domestic violence

The Committee was concerned about the criminalisation of domestic violence, including the number of complaints and sentences imposed, as well as remedies provided to the victims. The representative from the Ministry of Interior responded that there was a shift in the legal protection, particularly through the *Act 91/2004* of 1 June 2004 which introduced a new provision in the Criminal Code criminalising cruelty to a person living in a shared dwelling. Effective from January 2005, the *Act* gave more authority to police officers in cases of domestic violence. They are now authorised to order a violent person to leave the shared shelter within ten days. The delegation member was glad to inform the Committee that in the first half of 2007, 253 expulsion orders had been issued against violent persons as of 2007 225 persons have been convicted for this crime. Police officers were also extensively exposed to training for the preparation and enactment of this law. These trainings were frequently attended by the NGO members.

Committee member Ms. Palm asked about follow-up mechanisms and expressed her concern about children witnessing domestic violence. The figure of 225 persons convicted for domestic violence did not say much since there was no information about this figure before in the state previous reports. The representative from the Ministry of Interior highlighted the importance of established intervention centres in the Czech Republic. Those are social services established by law to offer both psychological treatment and legal advice to the victim of domestic violence. Apart from this, the whole process of issuing the order or expulsion is monitored by NGOs. Child witnesses of domestic violence can also be recommended to receive similar support, and special interviewing rooms are established for child victims in order to minimize 'second victimisation'. In its concluding observations the Committee asked the Czech Republic to, *inter alia*, compensate and grant assistance to victims of forced sterilisation; initiate criminal proceedings against alleged perpetrators; and ensure fully informed consent in all cases of sterilisation.<sup>15</sup>

## Coercive sterilisation

The Committee inquired into cases of women subjected to coercive sterilisation without their consent, the availability of impartial and effective investigations and measures undertaken to avoid such practices in the future. Committee member Ms. Palm asked the delegation to further comment on the 86 registered cases of sterilisation of women without their consent. She asked the delegation to explain the difference between the investigation carried out by the Ombudsman<sup>16</sup> and the findings by the advisory body that was set up by the Ministry of Health. Regarding compensation, Ms. Palm referred to the written replies where they said that there is no compensation, whereas in the oral replies they pointed out the possibility of compensation. She asked whether the State party had conducted impartial investigation into these cases and if so whether doctors have been prosecuted. The Committee member was interested in whether the State party intended to follow up on the Ombudsman's report and establish a compensation scheme or whether the issue of compensation would be left before the court. Ms. Palm was further concerned that the sterilisation was not forbidden and that the State party did not prevent new cases of sterilisation.

The representative from the Office of the Government, Mrs Lucie Otahalova, stressed that this issue was of a medical nature. The delegation member explained that an investigation was carried out by the Ombudsman office together with the Ministry of Health advisory body. They later stated that in the majority of cases the sterilisation was made in error or through misunderstanding when it came to obtaining the informed consent of the patient before the operation.

According to the investigation, out of 86 cases of alleged forcible sterilisation registered by the Ombudsman, in 76 cases sterilisation had not taken place, 5 cases were still under investigation by the expert committee set up for this purpose, 3 cases remained under doubt and in 2 cases no evidence was found. Further, the advisory

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<sup>15</sup> CCPR/C/CZE/CO/2, para.10. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

<sup>16</sup> The Ombudsman found all these complaints illegal and justified, whereas the investigative body at the Ministry of Health found only a few of these cases illegal.

body at the Ministry of Health proposed to set measures to raise the awareness about this issue, including informing the public through publications, website, distributing leaflets and brochures and through separate courses on the right of patients in the university curriculum. The delegation member admitted that there were deficiencies in the process of receiving consent from the patients. The 2006 decree on healthcare documentation was modified to define the nature of informed consent for sterilisation. The later must meet all requirements laid down in the decree.

The Government of the Czech Republic refused the statements that the sterilisations were conducted on a racial basis. The delegation member explained that the Government discusses the possible forms of extending public apologies to the victims. The victims of coercive sterilisation can also claim for the compensation under the national law.

She also asked whether the State party considered any assistance either psychological or legal to be provided to Roma women, expressing concern that the means chosen by the State party to raise awareness about forced sterilisation through websites would probably not target Roma women and asked the delegation to explain whether the State party considered any other means to inform Roma women and also to bring the claim before the court. Ms. Wedgwood also asked about the availability of trainings in medical schools and about other available means to inform Roma people about their rights.

Regarding the channels of providing information to Roma women, the representative from the Office of Government explained that social workers and NGOs closely cooperate with Roma families and advise them about their rights.

### **The use of net-beds**

The Committee asked the delegation whether the State party had abolished the use of cage-beds and net-beds as a means of restraint in psychiatric hospitals. The representative from the Office of the Government responded that cage-beds were not used at health-care facilities. There had been professional debates about the issue of these means of restraint, according to which the use of net beds in psychiatric facilities were still considered as a necessity. These means were used only in serious medical cases as a last resort, and the use was gradually reduced. Very confused patients were placed in net-beds overnight as that was considered to be safer and more humane. The application of this means of restraint were recorded and justified in health-care documentation. There were also methodological medical guidelines explaining the use of these means in psychiatric hospitals which was published in the Journal of the Ministry of Health (2005). The Ombudsman has a power to conduct systematic visits to these institutions.

Committee member Mr. O’Flaherty commented that most commentators, including the Council of Europe, do not make any distinction between cage-beds and net-beds. He also commented that the Committee was equally critical about whether these constraints were fabric or metallic. Sir Nigel Rodley commented that the issues of coercive sterilisation and the use of both cage-beds and net-beds are questions of the same nature, which is the observation about the attitude of doctors towards their patients. He further noted that the question of putting persons in cage-beds was a question related to the voluntary or involuntary guardianship of people with mental health. Sir Nigel Rodley urged the State party to seriously think of these issues.

Mrs Lucie Otahalova, representative from the Office of Government, argued that the European Committee for the Prevention of Torture (CPT) in its annual report 2006 the CPT makes a clear distinction between cage-beds and net-beds. Also she added that every psychiatric facility had its own regulations on the use of means of restraints.

The Committee asked the delegation to think of abolishing the use of net-beds instead of diminishing their use. It also queried how the use of these means would be strictly monitored in the future. In its concluding observations the Committee asked the State party “to abolish completely the use of restraint beds in

psychiatric and other institutions”; and establish inspection systems. It further requested that the State party ensure that all persons without legal capacity are placed under guardianship.<sup>17</sup>

### **Non-discrimination**

On the issue of discrimination, the head of the delegation, Mrs Barsova, acknowledged the need to fight against discrimination and reinforce the protection of minorities. Though the Constitution of the Czech Republic prohibits discrimination, this is not covered by the law. This is why an Anti-Discrimination Act is needed.

In his closing statement, the Chairman of the Committee emphasised that discrimination against minorities and Roma in particular had been raised by several NGOs. There were no doubts that the State party was aware of these shortcomings and had taken measures but the Chairperson urged that it was essential to address the practical aspect of implementing these measures.

### ***Anti-discrimination legislation***

The delegation’s reply focused on general anti-discrimination measures that have been taken. The representative of the Ministry of Interior explained that the Czech Republic was making efforts to adopt complex legislation to fight against discrimination. As to the current status of the anti-discrimination law, the delegation was pleased to announce that the Government had approved the Bill. This law would prohibit discrimination on six grounds, define terms leading to direct or indirect discrimination and establish an institution providing for legal assistance to victims of discrimination. The delegation highlighted that this law was an opportunity to adopt affirmative action measures to support women and minorities in different areas of life. On discrimination in obtaining legal aid, the delegation added that the Ombudsman should provide information about the possibilities of legal assistance and draft recommendations for the future. On the strategy for police work with minorities, the representative of the Ministry of Interior specified that liaison officers for minorities had been appointed to regional police authorities, and that a campaign to incite members of minority groups to join the police had been launched.

Committee member Mr Shearer congratulated the Czech Republic for this “well thought out Bill with interesting new concepts” and enquired whether it was likely to receive broad support in the Parliament. He also asked the delegation on the difficulty for foreigners to obtain information, particularly because of the language. He suggested the establishment of a bureau for non-citizens. Committee member Ms Majodina asked if affirmative action measures would include benchmarks to determine when substantive equality has been reached. Due to time constraints, the delegation was not able to reply but stated that it would submit a written reply. The Committee also thanked the delegation for its detailed and informative written reply on the issue of discrimination in obtaining legal aid, but would have liked more specifications on the measures taken to eliminate the difficulties faced by victims.

In its concluding observations, the Committee recommended that the Czech Republic take effective measures to combat discrimination by enacting comprehensive anti-discrimination legislation that ensures effective protection for the victims of racial and related discrimination in all areas and related policies and programmes. It also advised to provide legal aid for victims of discrimination, and establish effective monitoring mechanisms as well as indicators and benchmarks to determine whether relevant anti-discrimination goals have been reached. On the discrimination suffered by foreign citizens, the concluding observations call for the establishment of mechanisms to remove obstacles to the practical enjoyment of the rights guaranteed by the Covenant to non-citizens living in the Czech Republic. Effective measures should be taken to promote equality of non-citizens and citizens under the Covenant, including by providing non-

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<sup>17</sup> CCPR/C/CZE/CO/2, paras 13, 14. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs90.htm>.

citizens with information, in a language that they understand, on the rights and services which they are entitled to enjoy.

### ***Anti-discrimination measures for Roma***

The delegation stressed that it was aware of the situation of Roma and presented the Committee with all the measures that have been taken to prevent discrimination against them. In the housing sector, several programmes have been established in the area of social work and in the building of flats, for example. A project to help socially excluded persons had also been put in place in the health sector. Concerning education, the delegation emphasised that schools had to adapt their methods for pupils and a curriculum reform was introduced in 2007 for this purpose. Other measures taken included providing additional staff to support children with special needs, the provision of a service teacher as an efficient tool to integrate Roma pupils and the possibility to open preparative classes for disadvantaged children. On the labour market, discrimination is also prohibited in the new *Labour Act* and in practice special attention is given to persons belonging to minority groups. For example, a national action plan to integrate disadvantaged persons in the labour market was put in place in 2004. Furthermore, a Council for Roma Affairs had been established and an agency to help socially excluded communities with the current problems they face should be operational in 2008.

The question of discrimination against Roma sparked interest among Committee members. Ms Motoc pointed out that there was still discrimination against Roma (70% are unemployed) and enquired about the programmes put in place to fight against this phenomenon. She then drew the attention of the delegation to the persistence of classes for disabled children, where a certain number of Roma children are placed because they cannot pass the test due to the fact that they are already socially disadvantaged. She also mentioned that in spite of the existence of certain programmes for them, the majority of persons being evicted were Roma and that discrimination remained because they are placed all together in “ghettos”. Ms Majodina also took the floor on this issue and insisted on the persistence of discrimination. She asked the delegation what monitoring mechanisms have been established to ensure proper implementation of the programmes put in place. Due to time constraints, the delegation did not reply to these questions but was given the possibility to provide the Committee with written replies.

In its concluding observations, the Committee asked the State to provide additional training to Roma to equip them for suitable employment and to promote employment opportunities; prevent unjustified evictions and dismantle segregation of Roma communities in housing; and conduct campaigns of public information to overcome prejudice against the Roma. On the issue of classes with distinct curricula for Roma children, the concluding observations of the Committee insist that the Czech Republic should assess the specific educational needs of the Roma, taking account of their cultural identity, and develop programs aimed at ending the segregation of Roma in schools.

### **Prostitution, trafficking in human beings and sexual abuse of children**

#### ***The Act on the Regulation of Prostitution***

In its oral reply to question 13 of the list of issues concerning the entry into force of the *Act on the Regulation of Prostitution*, the delegation told the Committee that the proposal to serve notice on the 1951 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others had been rejected by the Parliament and that there was no need to discuss the Bill. The Committee requested further information on the reasons that lead the Parliament to reject the *Act*. She also wanted to know how things stand at present and if this meant that there was not yet any distinction between prostitution with consent and without consent. The delegation replied that prostitution is remains unregulated in the Czech Republic though there are provisions in the Penal Code to investigate and prosecute those who profit from prostitution.

### ***Trafficking in human beings***

In the presentation of the report, the head of the Czech delegation pointed out the efforts made by the Government in the fight against trafficking thanks to the National Strategy to Combat Trafficking in Human Beings (2005-2007) - involving emergency psycho-social or health care and accommodation, as well as assistance towards reintegration of the victims into normal life. He added that the programme of assistance to victims of trafficking granted them with residence permission if they cooperated with law-enforcement bodies. With regard to foreign victims, their repatriation to their country of origin is carried out with the help of the International Organisation of Migrants.

The Committee was eager to know what steps were adopted as far as Czech trafficked women were concerned. The representative of the Ministry of Interior informed Committee members that anti-trafficking norms in the Czech Republic reflected international norms and covered trafficking in all ways, i.e. from abroad to the country, and from the country to abroad.

In its concluded observations, the Committee commended the efforts of the Czech Republic in combating trafficking and commercial sexual exploitation of women and children. Nevertheless, it expressed concern about the lack of a coordinated system of response to this phenomenon. It therefore recommended that the State concerned establish such a coordinated system and prosecute and punish perpetrators. It also asked for the establishment of prevention and rehabilitation programmes for victims.

### ***Abuses of children***

While presenting the report, the head of the delegation drew the attention of the Committee members to the newly established National Plan to Combat Commercial Sexual Abuse of children. There were also plans to make the possession of child pornography a criminal offence. The representative of the Ministry of Interior stated that the prevention and suppression of child abuse had been given more attention lately. Cases have been prosecuted and all victims are eligible for medical treatment.

The Committee requested more details about the National Plan to Combat the Commercial Sexual Abuse of Children (2006-2008). Ms Motoc stated that the Plan specifies that many measures need to be adopted in the future but it is already July 2007. Therefore, she wanted to know about the practical steps undertaken as well as their consequences. The State did not take the floor to provide further information on this question.

### ***Counter-terrorism measures***

On the question of anti-terror legislation, the delegation explained that the Czech Republic was involved in efforts to combat terrorism and was a party to all international instruments on the issue, including the European Convention on the Suppression of Terrorism.<sup>18</sup> It highlighted that the Czech Republic did not have specific legislation to counter terrorism and that it was not planning to draft one. However, under the current legislation acts of terrorism and any logistical support to them can be prosecuted. The Czech law also provides protection, assistance and compensation for persons affected by terrorist activities.

The Committee was interested to hear the comments of the delegation concerning the Council of Europe's Marty report on secret detentions, which alleged that Prague airport had been used as a transit point for rendition.<sup>19</sup> Committee member Mr O'Flaherty asked whether the State was aware of any flight, either civil or military, participating in rendition and how the State party deals with the issue in light of its obligations under

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<sup>18</sup> European Convention on the Suppression of Terrorism. CETS No.: 090. Entered into force in 4 August, 1978. Available at: [http://www.coe.int/t/e/legal\\_affairs/legal\\_co-operation/Fight\\_against\\_terrorism/](http://www.coe.int/t/e/legal_affairs/legal_co-operation/Fight_against_terrorism/).

<sup>19</sup> For a copy of the report, see

[http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/CommitteeDocs/2006/20060124\\_Jdoc032006\\_E.pdf](http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/CommitteeDocs/2006/20060124_Jdoc032006_E.pdf)

the Covenant. In response, the representative of the Ministry of Foreign Affairs quoted a letter of the Czech Minister of Foreign Affairs to the Council of Europe stating that the Government did not have any knowledge of public officials that had been involved in acts of rendition. It specified that the second and final report of Mr Marty did not specifically address the Czech Republic. Mr O'Flaherty took note of the response but did not seem satisfied with it. He reiterated that these allegations were a serious matter and that the State had a responsibility to investigate. Therefore, an inspection system should be established to ensure that no flights used for this purpose transit through Prague airport.

The Committee advised the Czech Republic to investigate allegations related to incidents of transit through Czech airports of rendition flights and ensure that airports are not used for such purposes by establishing an inspection system.

## **Other issues**

### ***Gender equality***

Other issues dealt with during the examination of the Czech Republic report included gender issues. During the presentation of the report, the delegation focused on the place of women in decision-making. The representative of the Ministry of Labour and Social Affairs explained that a three-year project on gender equality funded by the Government and carried out by NGOs had been put in place. It emphasised that last year, the representation of women in this area increased by two per cent.

The Committee pointed out that the number of women in Parliament had dropped from 34 to 31 and that the Czech Republic was well below the world average regarding women's participation in politics. It then enquired if the quotas for candidates in the election code had entered into force and if so, what number had been established. It also asked the delegation on the percentage of women to participate in politics that it considered feasible. Finally, it enquired if there was an ongoing discussion with the political parties to motivate them to include women on their lists. To this, the Czech delegate replied that there was a need to educate the electorate rather than the political parties. It also emphasised that there was no propositions for any obligatory quotas but that the Election Act provided for the voluntary inclusion of a certain percentage of women in electoral lists. To conclude on this issue, the Committee member was disappointed to hear that they do not want to put any quotas and that women's participation was decreasing. Therefore, measures were needed.

The Committee reiterated in its concluding observations that it did not notice any significant progress concerning the participation of women in political life. It asked the State to take firm, positive and coordinated measures to increase the participation of women in the public sector.

### ***Dissemination of information regarding the Covenant***

A member of the Committee insisted that it was fundamental to provide training in human rights and stated that he did not see any framework for human rights education in the State party. He suggested the State to develop a plan of action for human rights education with the advice of the Office of the High Commissioner for Human Rights. He enquired whether there was an academic human rights centre in the State party. He added that the fact that concluding observations were available on the Internet was not enough and that they should be available in hard copy and widely disseminated.

In its concluding observations, the Committee reiterated that the Czech Republic consider adopting a comprehensive plan of action for human rights education that includes elements of training activities for public officials, teachers, judges, lawyers and police officers on the rights protected under the Covenant and the Optional Protocol.

## Conclusions and next steps

As the session ended, the Chairman thanked the delegation. It stated that it appreciated its efforts to provide the greatest possible amount of information and that the report was very serious and self-critical. The Chairman reminded the delegation that it would have the opportunity to reply in writing to the questions of the Committee.

The head of the delegation thanked all the members of the Committee for their questions. She said that she appreciated the constructive dialogue that took place in spite of disagreement on certain points.

Previously, other treaty bodies made recommendations on the issues dealt with by the Committee during its review of the report of the Czech Republic. On the question of discrimination against Roma, the Committee Against Torture and the Committee on Economic, Social and Cultural Rights asked the State party to continue efforts to counter all forms of discrimination against minorities and to take the necessary legal and practical measures to eliminate discrimination against minorities, especially Roma.<sup>20</sup> As for discrimination towards Roma children, the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights recommended the State to integrate them into mainstream educational system, and not in special schools.<sup>21</sup> The Committee on the Rights of the Child also said that effective measures to implement educational reforms should be put in place with extra funding, teacher training, and processes for quality evaluation of new programmes.<sup>22</sup>

The Committee Against Torture asked the State to investigate claims of involuntary sterilisations, using medical and personnel records, and urged complainants to assist in substantiating allegations.<sup>23</sup> On domestic violence, the Committee on the Elimination of Discrimination against Women (CEDAW) recommended the State party to enact legislation on this issue and ensure that violence against women in the family and in the society are prosecuted and punished with required seriousness and speed. It also advised the State to take measures to provide shelters for women victims of violence in sufficient numbers, to ensure that public officials are fully sensitised to all forms of violence against women, and undertake awareness-raising measures through media and public education programmes to make such violence socially and morally unacceptable.<sup>24</sup> CEDAW also made recommendations to increase the representation of women in elected and appointed bodies.<sup>25</sup> The Committee on the Rights of the Child asked the Czech Republic to increase protection provided to victims of sexual exploitation and trafficking, including prevention, social reintegration, access to health care and psychological assistance in a coordinated manner, including by enhancing cooperation with NGOs.<sup>26</sup> Finally, the Committee against Torture urged the Government to take appropriate measures to ensure independence of investigations of offences committed by law-enforcement officials by introducing mechanisms of external control, and to reduce occurrences of ill-treatment by police and other public officials, including those which are ethnically motivated.<sup>27</sup>

The Committee invited the Czech Republic to submit its third periodic report on 1 August 2011.

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<sup>20</sup> Paragraph(s) 114 A/56/44(SUPP) (CAT, 2001) and Paragraph(s) 29 E/C.12/1/ADD.76 (CESCR, 2002).

<sup>21</sup> Paragraph(s) 55 CRC/C/15/ADD.201 (CRC, 2003), Paragraph(s) 45 E/C.12/1/ADD.76 (CESCR, 2002) and Paragraph(s) 10 CERD/C/304/ADD.109 (CERD, 2001)

<sup>22</sup> Paragraph(s) 55 CRC/C/15/ADD.201 (CRC, 2003).

<sup>23</sup> Paragraph(s) 6 CAT/C/CR/32/2 (CAT, 2004).

<sup>24</sup> Paragraph(s) 94 ter A/57/38(SUPP) (CEDAW, 2001).

<sup>25</sup> Paragraph(s) 92 ter A/57/38(SUPP) (CEDAW, 2001).

<sup>26</sup> Paragraph(s) 62 CRC/C/15/ADD.201 (CRC, 2003).

<sup>27</sup> Paragraph(s) 114 A/56/44(SUPP) (CAT, 2001) and Paragraph(s) 6 CAT/C/CR/32/2 (CAT, 2004).

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## **ABOUT THE PUBLICATION**

The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the six treaty bodies (all but the Committee on the Rights of the Child) and provides an overview of every treaty body session. It is currently an online publication that can be found at <http://www.ishr.ch/hrm/TMBs>.

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