

Report of the Czech Republic for the universal periodic review under Part D, Section 1.15 (a) of the Annex to Human Rights Council resolution 5/1. "Institution-building of the United Nations Human Rights Council"

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1) The Czech Republic and the Human Rights Council

The Czech Republic was elected member of the Human Rights Council for the 2006-2007 term. In June 2006 a Czech representative was elected Vice-President of the Council for the group of Eastern European states.

In the same period a representative of the Czech Republic acted as facilitator of the Working Group for the review of mandates of the Special Procedures. One of the first countries to issue standing invitations to all thematic Special Procedures, the Czech Republic is strongly aware of their importance and greatly welcomed the opportunity to participate in the review. The Working Group sought to preserve the main elements of Special Procedures, to make the system more efficient, to give each procedure greater strength and transparency, and to improve the cooperation of the States concerned. Reports on its work, presented to the President of the Human Rights Council in March and June 2007, were reflected the crucial resolution 5/1 "Institution-building of the United Nations Human Rights Council".

2) Fulfilment of the voluntary pledges and commitments made by the Czech Republic on presenting its candidature for election to the Human Rights Council in 2006

Operative paragraph 8 of General Assembly resolution 60/251 provides that when electing members of the Human Rights Council, Member States should take into account the voluntary pledges and commitments made by candidates regarding the promotion and protection of human rights. All voluntary pledges and commitments made by the Czech Republic on presenting its candidature in 2006 had been fulfilled by June 2007, when the country's short one-year membership term expired. The pledges and commitments were the following:

a) To ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment

The Czech Republic ratified the Optional Protocol on 10 July 2006, and fully meets its requirements. The functions of the national preventive mechanism in terms of the Optional Protocol are performed by the Public Defender of Rights (under an amendment to the Public Defender of Rights Act which took effect on 1 January 2006). The Public Defender of Rights (Ombudsman), who previously reviewed only complaints from individuals harmed by the actions of public authorities, is now authorized to undertake systematic preventive visits to places where people are or may be deprived of their liberty. It is not relevant whether the people have been deprived of liberty by an executive order or as a result of their personal situation, and whether they are held in a public or private facility. The Public Defender of Rights may inspect e.g. prisons, police detention cells, aliens detention centres, military facilities, institutions treating juvenile offenders, asylum facilities, social care institutions, health care institutions, institutions involved in the social and legal protection of children, etc.

The Public Defender of Rights schedules his visits taking into account his previous experience; the reports he receives from the general public and from the inmates and clients of institutions; or the results of other national control mechanisms. After the visit, he presents a report on his findings and recommendations, and continues to urge the visited institution to act on it. In case of any difference of opinion, he may present his findings to the authority in charge of the visited institution, or may publish his views on the case. His objective is to set and enforce standards of treatment for each type of institution.

b) To ratify the European Charter for Regional or Minority Languages

The Charter, approved by the Committee of Ministers of the Council of Europe in 1992, is designed to protect and promote historical regional and minority languages in Europe. It lays down the objectives and principles to be applied by each Party to regional and minority languages spoken in its territory, and introduces numerous measures encouraging the use of such languages in public life. On depositing its instrument of ratification, each Party must undertake to apply at least 35 provisions of the Charter, including all the "core provisions". A Committee of Experts is set up to monitor the implementation of the Charter and consider periodic reports of the Parties.

The Czech Republic ratified the Charter on 15 November 2006. On depositing its instrument of ratification, it identified the minority languages to which the Charter would apply (German, Polish, Roma and Slovak) and made a declaration specifying its undertakings, covering different spheres of public life (education, judicial authorities, administrative authorities and public services, media, cultural activities and facilities, economic and social life, transfrontier exchanges). Due to the historical context, demographic composition and the territorial base of

each language, the Czech Republic decided that the protective and promotional measures of the Charter would apply to Polish and Slovak. The undertakings in respect of the Polish language apply in a part of the Moravia-Silesia Region, where roughly 50,000 Czech citizens speak Polish as their mother language. The undertakings in respect of the Slovak language, the mother language of roughly 200,000 Czech citizens, apply in the whole territory of the Czech Republic.

c) To support the approval of the Convention on the Rights of Persons with Disabilities

The Convention was adopted by the General Assembly on 13 December 2006, together with an Optional Protocol concerning communications from individuals and the procedure for inquiries into grave or systematic violations of the Convention.

The Czech Republic actively supported the adoption of the Convention. A Czech representative served as a vice-chairperson of the Ad Hoc Committee established to negotiate and draft the Convention. The Convention and Optional Protocol were signed by the Czech Republic upon their opening for signature on 30 March 2007 in New York.

In March 2007 the Government of the Czech Republic established an interministerial working group to coordinate the preparations for ratification of the Convention. After examining whether the current national legislation met the requirements of the Convention, the working group concluded that the existing legislation provided high standards of protection for people with disabilities and would not require any major amendments. Due to the extent of the commitments contained in the Convention, and to the fact that the Optional Protocol establishes a new international mechanism for individual complaints, the Government will decide on the next step only after studying the detailed expert analysis, to be presented by 30 June 2008.

d) To support the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance

The Czech Republic supported the approval of the draft Convention in the Human Rights Council and its adoption by the General Assembly on 19 December 2006. The Convention defines "enforced disappearance" and requires the States Parties to make it a crime under their national legislation and to punish it. A Committee on Enforced Disappearances will be established to monitor compliance with the commitments of States Parties. Experts in the Czech Republic are currently discussing the amendments to national legislation that are necessary for the ratification of the Convention.

3) Institutions protecting human rights in the Czech Republic

The primary protection is provided by the independent judiciary, in particular the Constitutional Court and the Supreme Administrative Court. In addition, the Czech Republic is subject to the jurisdiction of the European Court of Human Rights, delivering binding judgments on the basis of applications received from individuals and groups claiming to be the victims of violations of the rights and freedoms covered by the European Convention for the Protection of Human Rights.

The Constitutional Court decides on constitutional complaints concerning final decisions and other actions of public authorities violating the fundamental rights and freedoms safeguarded by the Constitution. Constitutional complaints may be filed by natural or legal persons claiming that their fundamental rights or freedoms safeguarded by constitutional legislation have been violated as a result of a final decision in proceedings to which they were parties, or as a result of other actions by a public authority. The Constitutional Court may be requested to repeal an act, in whole or in part, if the party presenting the complaint believes that application of the act has led to the violations described in the complaint, or that the act is inconsistent with constitutional legislation (the Constitutional Court may also be requested to repeal a regulation that is considered inconsistent with an ordinary law).

The Constitutional Court may cancel a final decision if it finds that the decision violates a fundamental right or freedom safeguarded by constitutional legislation. In case the complaint is directed against other actions by public authorities, the Constitutional Court may order the public authority to refrain from continued violations and, if possible, to restore the state of affairs as it was before the violation.

The Supreme Administrative Court provides protection to public subjective rights of natural and legal persons. It decides on cassation complaints requesting it to reverse final decisions of regional courts in administrative cases. Beside protection against unlawful decisions of administrative authorities, it provides protection against their unlawful action or inaction.

In addition, the Supreme Administrative Court decides on cases concerning elections, dissolution of political parties and political movements, suspension or resumption of their activities. It may be requested to cancel, in whole or in part, generally applicable measures that are considered inconsistent with law.

A major role in human rights protection is played by the executive mechanisms set up to assist in the preparation of legislative changes and government policies.

The post of a Government Minister for Human Rights and National Minorities was created in January 2007. The Minister, assisted by a team of government officials and experts, works to enhance respect for human rights, the development of civil society and non-governmental

sector. She deals with the affairs of the Roma community and national minorities and assists in improving the situation of people with disabilities. Her team prepares or assists in the preparation of legislative amendments and organizational changes. The task to initiate and coordinate government action in monitoring the state of human rights in the Czech Republic is assigned to the Government Commissioner for Human Rights.

The Minister for Human Rights and National Minorities works closely with a number of government advisory bodies: the Government Council for Human Rights, the Government Council for National Minorities, the Government Council for Roma Community Affairs, the Government Council for Equal Opportunities for Women and Men, and the Government Council for Older Persons and Population Ageing. These advisory bodies comprise the responsible Deputy Ministers and representatives of civil society. Their proposals, including draft legislation, are presented to the Government for approval, for attention, or for information. Their annual reports are presented to the Government and posted on the government website.

The Government Council for Human Rights is the government advisory body on the protection of human rights and fundamental freedoms of individuals within the jurisdiction of the Czech Republic. It monitors compliance with the Constitution, the Charter of Fundamental Rights and Freedoms and other relevant legislation, as well as domestic compliance with the Czech Republic's international commitments concerning human rights and fundamental freedoms. The Council may establish expert committees comprising ministry officials and representatives of civil society. At present it is assisted by the Civil and Political Rights Committee, the Economic, Social and Cultural Rights Committee, the Committee against Torture and Other Inhuman, Cruel or Degrading Treatment or Punishment, the Committee on the Rights of the Child, the Committee on Equal Opportunities for Women and Men, the Aliens Rights Committee, and the Human Rights and Biomedicine Committee.

The Government Board for People with Disabilities is the government advisory and coordinating body on policies concerning support for people with disabilities. It deals mainly with major cross-cutting issues. Its objective is to assist in creating equal opportunities for people with disabilities in all spheres of life. The Board includes representatives of people with disabilities.

The Public Defender of Rights (Ombudsman), elected by the Chamber of Deputies of the Parliament, plays a major role in protecting the rights of individuals vis-à-vis public authorities. His task is to provide protection in cases where public authorities act (or fail to act) in violation of the law or of the principles of democratic rule of law or good governance. He cannot cancel or change any decisions; however, he may take action, *ex officio* or upon individual complaints, to make the violator rectify the situation. When dealing with individual cases, he may carry out independent inquiries and inform the authorities, including the

Government and its ministers, about his findings and recommendations. The Public Defender of Rights presents an annual report to the Chamber of Deputies of the Parliament.

In January 2008 the Government approved a report in which it informs the Parliament about its response to the legislative proposals made by the Public Defender of Rights. The Government states that it pays great attention to the recommendations of the Public Defender of Rights and takes them into account in drafting new legislation. Except for one, all legislative recommendations presented to the Government by the Public Defender in 2001 – 2006 are reflected in current legislation.

4) The Czech Republic and compliance with the commitments arising from the core human rights treaties of the United Nations

The Czech Republic is a party to six out of the seven core international human rights treaties in force. It is also a party to optional protocols enabling the review of individual communications concerning alleged violations of the rights safeguarded by each treaty (Optional Protocols to the International Covenant on Civil and Political Rights and to the Convention on the Elimination of All Forms of Discrimination of Women) or inspection visits by monitoring bodies (Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

The Czech Republic presents to the competent treaty-based bodies periodic reports on compliance with the commitments arising from international human rights treaties and provides additional information on request. Final recommendations of treaty bodies are presented to the Government and reflected in new legislation and other measures. The recommendations greatly assist the Government's human rights advisory bodies. The following are examples of measures reflecting the recommendations of treaty bodies.

Human Rights Committee

In July 2007 the Human Rights Committee considered the Czech Republic's second periodic report on the implementation of the International Covenant on Civil and Political Rights in 2000-2004. Its final recommendations will be presented to the Government in the nearest future. The main recommendations include the following:

- To abolish completely the use of enclosed restraint beds in psychiatric and related institutions (see item 13 of the Committee's Concluding Observations, 2007)

The recommendation refers to the restraint beds ("netted" and "cage" beds) used in health care facilities within the competence of the Ministry of Health and in social care facilities within the competence of the Ministry of Labour and Social Affairs.

The new Social Services Act, effective since 1 January 2007, bans the use of restraint beds in social care institutions. It provides that restraints can be applied only if the client endangers his own health and life or the lives and health of others. The permitted means of restraint are the use of bodily force, seclusion to a safe room, or administration of medicines prescribed by a physician. The service must be organized and managed to prevent situations in which restraints become necessary. Carers must always apply the least restrictive restraint and obtain a physician's consent before each application. Each application of a restraint must be recorded, giving the first name, surname and date of birth of the client, the reason for applying the restraint, the date, hour and place of applying the restraint and the date and hour when the client was released from restraint, the names of the staff members applying the restraint, the physician's consent, description of the situation immediately preceding the application of restraint, a note confirming that the client's statutory representative has been informed, and description of injuries sustained by the client, if any. Compliance with these duties will be checked as part of quality inspections.

The Health Minister's instruction prohibiting the use of "cage beds" in health care facilities has been in force since 2004. Only "netted beds" are currently used to protect agitated or confused patients, especially in geronto-psychiatry. Their application is subject to a detailed Health Ministry guideline. Restraints of all types are to be applied only as a last resort, for a strictly necessary period and only on serious medical grounds, never as a means of discipline or punishment. Each application of a restraint must be registered and explained in medical records. Inpatient facilities are currently trying to recruit additional staff and change their ward arrangements in an effort to do away with restraints. However, restraints of all kinds cannot be abandoned completely - some agitated, aggressive, suicidal, deluded or hallucinating psychotic patients do pose a risk to other patients, to the staff as well as to themselves and must be controlled in some way.

Following consultations with experts, the Government Council for Human Rights proposed that the use of restraints in health care facilities of all types should be regulated by law (like in the case of social care institutions), instead of mere internal guideline. The bill is to be considered by the Government in the nearest future.

Committee on Economic, Social and Cultural Rights

In May 2007 the Government approved the second periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights in 2000-2006. The report includes information on the implementation of the main recommendations made by the Committee in 2002, which include the following:

- To take all necessary measures, legislative or otherwise, to eliminate discrimination against groups of minorities, in particular Roma (see item 29 of the Committee's Concluding Observations, 2002)

In its Policy Statement of January 2007, the Government pledged to establish an agency to provide comprehensive services designed to prevent the emergence of social exclusion and end the social exclusion of Roma communities. The agency should also ensure more effective spending of EU funds on activities supporting the integration of socially excluded Roma people.

On 23 January 2008, the Government approved a pilot project to establish an Agency for Social Inclusion of Roma Communities (hereinafter referred to as "the Agency"), including its funding and staffing arrangements. Since 1 February 2008, the Agency has been working on a pilot project basis, as part of the new Department for Social Inclusion of Roma Communities at the Government Office. A proposal to institutionalize the Agency is to be presented to the Government by 30 June 2008.

In the initial phase of the project in 2008, 12 municipalities and microregions in the Czech Republic will benefit from comprehensive tailor-made programmes to improve the situation in socially excluded Roma communities. Other interested municipalities will receive counselling. The project will be implemented on a national scale once the Agency is established as an institution with legal personality.

The Government decided to develop a comprehensive tool for social inclusion at local level, since it believes that Roma integration in the field of education, employment and housing will help stop the process through which socially excluded Roma communities emerge, and will enable the people living in such communities to take a full part in the life of the society. The basic working method will be to encourage "networking" and partnership of local institutions (municipalities, schools, NGOs/NPOs, private entities and other institutions) that have a direct influence on the living strategies and motivations of people living in socially excluded Roma communities. Municipalities will work with their partners (NGOs/NPOs, schools, employment centres, local employers, Roma communities) to implement projects supporting employment and education and improving the quality of housing for people in socially excluded Roma communities.

The Agency will greatly assist in the implementation of the "Roma Integration Policy Concept", the fundamental government policy document setting out the main directions of the integration of persons belonging to Roma communities. The Concept is periodically updated to reflect the current trends inside socially excluded communities and the structural trends of the whole society. The next updated version is to be presented to the Government by 30 September 2008.

The Agency's mission reflects the objectives of the "Decade of Roma Inclusion 2005-2015", an international initiative bringing together governments (including the Czech Government), international institutions as well as Roma civil society to accelerate the process of social inclusion.

- To take effective action to reduce the unemployment rate in particular among Roma people and other vulnerable groups (see item 33 of the Committee's Concluding Observations, 2002)

According to the Analysis of the Needs of Roma Integration in Czech Labour Market (hereinafter referred to as "the Analysis"), Romas are prone to long-term unemployment (lasting more than one year). The long-term unemployed account for 75% of all unemployed Romas; 30% of them have been unemployed for more than four years. The Analysis identifies regions where long-term 90% - 100% Roma unemployment gives rise to excluded enclaves with high concentrations of Roma people affected by the industrial decline (e.g. Most and Ostrava regions). These enclaves are targeted by a pilot project of the Agency for Social Inclusion of Roma Communities.

The Agency's objectives in the field of employment, approved by the Government, are the following:

- To introduce and support programmes for employment of people with job placement problems who live in socially excluded communities, and to continuously develop and adjust methods used in such programmes,
- To provide for the training and education of staff involved in programmes targeting long-term unemployed Roma people, as well as the training and education of staffing and recruiting professionals working for the involved employers,
- To provide for efficient cooperation with employment centres at local level and with the Employment Services Administration at national level,
- To support the employment of socially excluded Roma people in municipal technical services, either directly or under subcontracts,
- To support social companies/social economy,
- To offer retraining and continued education programmes responding to the needs of the local labour market,
- To help the unemployed regain positive work habits and key social competences,
- To introduce programmes supporting small business, to assist small companies in preparing business plans and obtaining credit; to offer basic accounting courses, bookkeeping assistance, to develop microfinancing programmes.

Already now, employment centres are running local programmes for jobseekers with long-term job placement problems, including Roma jobseekers. An example is "Try it Together" ("Zkusit to spolu"), a project of Salinger civic association working with young people at risk of social exclusion. The project helps jobseekers registered with the local employment centre to acquire and improve the skills that they need to find a job. Launched in 2006, the project

targets children and young people aged between 15 and 25 years living in the Roma community in Hradec Králové.

Another group very vulnerable to unemployment are people with disabilities. The Employment Act includes them in the group of jobseekers who require special attention of employment centres. They are offered work rehabilitation, sheltered jobs and sheltered workshops, and their employers receive special grants. Health condition is listed among the grounds on which discrimination is prohibited. Refusal or failure to take measures facilitating access to employment for disabled person is regarded as indirect discrimination.

The new Employment Act introduced in 2004 brought many changes. It increased to almost EUR 5,000 the maximum amount of the grant paid by employment centres to employers offering sheltered jobs or sheltered workshops, and to approximately EUR 8,000 the amount of the grant paid to employers who recruit seriously disabled people. The Act encourages economic independence of people with disabilities – e.g. it introduces a new type of grants to cover some of the operating costs of sheltered jobs held by self-employed disabled people.

An important tool is the "Programme for the Renewal or Upgrading of Tangible Fixed Assets", approved by the Government in 2005. It encourages the recruitment of people with disabilities. In 2006, the Programme supported 93 employers, helped preserve 3,159 jobs and created 310 new jobs suitable for disabled workers.

Committee on the Elimination of Racial Discrimination

In March 2007 the Committee on the Elimination of Racial Discrimination considered the Czech Republic's sixth and seventh periodic reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee invited the Czech Republic to provide, within one year, information on the way it has followed up on certain recommendations of the Committee. The required information is to be approved by the Government in the nearest future. The Committee's main recommendations include the following:

- To adopt a general anti-discrimination law and to mandate a special institution to promote and monitor the right to equal treatment and assist victims in bringing their claims including through legal aid (see items 8 and 19 of the Committee's Concluding Observations, 2007)

In its Policy Statement of January 2007, the Government pledged to introduce an anti-discrimination law safeguarding the right to equal treatment and protection against discrimination according to EU directives, with a view to making the prohibition of discrimination effectively enforceable. The bill concerning equal treatment and legal tools of protection against discrimination (hereinafter referred to as the "Anti-Discrimination Bill")

safeguards the right to equal treatment and protection against discrimination on the grounds of race and ethnic origin, nationality, sex, sexual orientation, age, disability, religion, faith or world view. It prohibits discrimination in the following areas: the right to employment and access to employment; access to a profession, business or other independent gainful activity; the area of employment including remuneration; membership of and activity in trade unions, employee councils or employer organizations; membership of and activity in professional chambers including the benefits and facilities provided by such organizations to their members; social security and social benefits and facilities; health care; education and access to goods and services available to the public, including housing, and to the provision of such services. The bill describes the situations in which different treatment is not discriminatory. It specified the claims that can be filed by victims of discrimination.

According to the bill, equal treatment will fall within the competence of the Public Defender of Rights who should assist the victims filing charges in discrimination cases, conduct research, publish reports, make recommendations on issues concerning discrimination, and ensure the exchange of information with the competent EU bodies.

The bill was approved by the Government in June 2007 and is currently going through the Chamber of Deputies of the Parliament.

- To establish clear and compulsory criteria for the informed consent of women prior to sterilization and ensure that criteria and procedures to be followed are well known to practitioners and the public (see item 14 of the Committee's Concluding Observations, 2007)

Sterilizations are regulated by the Health Care Act (Act No. 20/1966), which provides that sterilization can be performed only with the consent or at the request of the person concerned, in accordance with the conditions set out in the applicable Health Ministry guideline. Medical personnel must inform the patient about the purpose and nature of the proposed treatment and of every medical test or measure, as well about its consequences, risks and alternatives. The Health Care Act defines exceptional situations in which the patient can be subjected to medical examination or treatment without his/her consent.

Despite the existing legal safeguards, in the past there were some sterilization cases that did not strictly comply with the law and the Health Ministry guideline. However, non-compliance with the established procedure was neither widespread nor motivated by a racial or national bias, and remained limited to individual, isolated cases. Since the inquiries found that the main problem was the way of obtaining the patient's prior informed consent, the following measures have been proposed and/or adopted to improve the effects of the existing legislation:

- The new Medical Records Regulation that took effect on 1 April 2007 contains detailed rules on informed consent and on refusal of medical treatment. The Health Ministry

has reminded health care facilities about their duty to observe the rules of informed consent. Health care personnel are briefed on the laws and regulations concerning informed consent, medical records, and on the rights of patients in general, especially the Convention on Human Rights and Biomedicine.

- An amendment to the Health Care Act, adopted in 2007, introduces detailed rules on the patient's right to information. The patient has the right to any information about his condition, the right to identify persons who should be informed about his condition, and the right to prohibit the disclosure of such information. The amendment includes detailed rules on the patient's right to inspect and/or copy his medical records. The health care facility is now required to provide copies of records within 30 days - an important rule that enhances the patient's rights.

- As part of the health sector reform, experts are now working on a separate act to cover all specific types of treatment, including sterilizations. This legislation – the Specific Medical Services Bill - is to be presented to the Government for approval in the nearest future. It contains detailed rules on sterilizations, differentiating between medical and non-medical reasons for sterilization. Minors and incapacitated people are given greater protection. The legislation requires that the criteria for assessing the medical need for sterilization, as well as the data to be given in applications for sterilization performed for non-medical reasons, should be defined in an implementing regulation.

- On 13 December 2007, the Government Council for Human Rights approved a proposal recommending the Government to acknowledge that some sterilizations had been carried out in violation of the law, to express its regret and pledge to take steps to prevent reoccurrence of such cases. The Council recommends the Government to establish an interministerial working commission to examine past sterilization practices starting from 1 July 1966 and to present the results to the Government before the end of July 2008. The Government is to consider the Council's proposal in the nearest future.

Committee against Torture

In May 2004, the Committee against Torture considered the Czech Republic's third periodic report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1998-2001. In May 2006, the Committee invited the Czech Republic to provide additional information on the implementation of certain recommendations; the document containing the required information was approved by the Government in March 2007. The Committee's main recommendations include the following:

- To establish an independent complaint system to undertake investigations into offences committed by Czech Republic Police personnel (see item 6 (b) of the Committee's Concluding Observations, 2004)

According to the Czech Republic Police Act, crimes committed by Czech Republic Police personnel fall within the competence of the Interior Minister's Inspection. The Interior Minister's Inspection is part of the Interior Ministry structure and its inspectors have police ranks. Its task is to detect crimes committed by policemen and to identify the offenders. Investigations of policemen's crimes are conducted by a prosecuting attorney who assumes the duties normally performed by the police.

New legislation on the Czech Republic Police is to be considered by the Government in the nearest future. It establishes the status, competences and authority of the Police Inspection as the principal body for external supervision over the police. The head of the Police Inspection will be appointed by the Government after the competent committee of the Chamber of Deputies of the Parliament has considered his nomination (while the head of the present Interior Minister's Inspection is simply appointed by the Interior Minister). His term of office will be limited. The Police Inspection will be monitored by a special supervisory body of the Chamber of Deputies of the Parliament.

The main reason choosing for this approach is that only a policeman can properly investigate crimes committed by policemen, with their detailed knowledge of police work. However, the investigating policeman should not be part of any police unit. The status of the Police Inspection as part of the Interior Ministry structure will be only formal and its purpose is to give the inspectors access to the Interior Ministry's logistics, information resources and equipment.

The inspectors will thus be in charge of the investigatory stage of criminal proceedings, normally conducted by prosecuting attorneys. The reason is that the system of prosecuting attorneys investigating policemen's crimes has proved inefficient. In addition to administrative tasks, the investigatory stage requires a lot of practical police work for which the prosecuting attorney has no training, no funds and no personnel. He has the investigatory powers, but no personnel to perform the investigation. He does not have access to police databases and is not part of any team with practical know-how. As a result, he has no choice but to obtain the necessary evidence through the Interior Minister's Inspection.

The draft legislation does not amend the provisions of the Code of Criminal Procedure that enable the prosecuting attorney to personally take charge of any criminal investigation. Prosecuting attorneys take this step if they believe that a case needs their closer personal supervision. Already now, the prosecuting attorney may decide that, in the interests of impartiality, the case should be taken away from the Interior Minister's Inspection and assigned to another police unit, other than the one to which the offending policemen belong.

To improve the internal control of the police, the draft legislation authorizes the inspectors to test the susceptibility of policemen and other police personnel to misconduct. The policeman will be confronted with unlawful conduct that he is obliged to oppose and stop, or with other situations that he should be able to deal with. Only police inspectors will be authorized to carry out these reliability tests. As a result of his conduct during the test, the tested policeman or other member of police personnel may face criminal charges, disciplinary action or even dismissal, subject to the conditions laid down in the Act concerning the Service of Security Corps Personnel.

- Reconsider the arrangements whereby prisoners are required to cover a portion of their prison expenses (see item 6 (i) of the Committee's Concluding Observations, 2004)

An amendment to the Prison Sentences Act which took effect on 1 July 2004 broadened the group of prisoners exempted from the duty to cover their expenses. The new additions are prisoners who do not work, through no fault of their own, unless they have other income or financial resources; prisoners aged under 18 years; prisoners participating in educational or therapeutic programmes taking up at least 21 hours per week; and prisoners appearing in court as witnesses or injured parties. Another change is that no interest will be charged on late payment of prison expenses.

According to the operative legislation, the head of a prison may, on request, exempt a released prisoner from the payment of prison expenses, in whole or in part, where justified by evidence of financial hardship. Prison expenses are always waived in cases where the prisoner dies leaving no estate from which the claim might be settled in probate proceedings; where the prisoner is extradited or transferred to serve his sentence abroad, or deported after serving his sentence, if there are compelling reasons to believe that it would be useless to press on with the claim.

This major amendment to the Prison Sentences Act has necessitated a change of the rules for fixing the amounts of prison expenses. An amendment to the relevant Justice Ministry regulation took effect on 1 April 2005. According to the previous rules, prison expenses were paid at a flat daily rate (CZK 45). Due to consistently high prisoner unemployment, the debts of released prisoners were disproportionately high and very hard to collect. As mentioned above, the amended Prison Sentences Act waived prison expenses in respect of prisoners who do not work, through no fault of their own, and have had no other income or financial resources during the calendar month in question. This exemption, combined with the old flat-rate system, discouraged other prisoners from accepting jobs in which they would earn only a little more, or even less, than their fixed monthly prison expenses. To prevent this, prison expenses are now paid at a percentage rate - 40% of the prisoner's net earnings or other income, but not more than CZK 1,500 per calendar month. Prisoners with low earnings are

charged low prison expenses (and vice versa). In most cases, the system practically rules out the possibility of prisoner leaving the prison while still heavily in debt.

The new regulation replacing the daily flat rate payments with payments fixed as a percentage of the prisoner's income is a positive change encouraging prisoners to accept low-wage jobs and facilitating their resocialization after release.

Committee on the Elimination of Discrimination against Women

In August 2006, the Committee considered the Czech Republic's third periodic report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women for 1 July 1999 - 31 December 2003. The Committee's main recommendations include the following:

- To ensure full implementation of legislation in the area of protection against domestic violence (see item 16 of the Committee's Concluding Observations, 2006)

According to new legislation, which took effect on 1 January 2007, a household member suspected of committing an attack on life, health, liberty or an especially serious violation of human dignity can be temporarily evicted from the shared home and ordered to stay away. The legislation broadens the power of the police to issue eviction/restraining orders on the spot, as a preventive response to dangerous conduct. The order is in force for ten days during which the victim, assisted by an intervention centre, should decide what to do. The police eviction/restraining order is issued in administrative proceedings. Another possibility open to victims is to bring civil action asking the court to grant an interim eviction/restraint order. The court order is in force for one month and may be repeatedly renewed for a maximum period of one year.

The new legislation requires the establishment of intervention centres providing services to victims. Currently there are 15 intervention centres in the Czech Republic, one in every region. In addition to its primary tasks, the intervention centre coordinates the work of all authorities involved in the case, including authorities responsible for social and legal protection of victims, municipal authorities, the Czech Republic Police and municipal police forces, NGOs and charities. In 2007, Czech intervention centres registered 862 eviction/restraining orders issued by the police. The ten-day police order is immediately enforceable, its validity period cannot be reduced and the policeman is not required to obtain the victim's consent. In 2007, there were 58 cases of households repeatedly getting eviction/restraining orders. In such cases the police may initiate criminal proceedings on the basis of its own findings, without the victim's consent. In 2007, the first year of application of the Domestic Violence Act, it was noted that the victims started filing actions in civil court to

obtain an interim court order even in cases where the violent household member had never been subject to the ten-day police eviction/restraining order.

In the 862 domestic violence cases where the police issued eviction/restraining orders, the adults directly exposed to violent conduct totalled 892, including 858 women and 54 men. In 2007, 854 men and 8 women were temporarily evicted from their homes in domestic violence cases. The police is required by law to report each eviction/restraining order to the regional intervention centre within 24 hours. In 2007 intervention centres made 3,942 registered contacts with the victims on the basis of police reports. Out of the total of 862 eviction/restraining orders issued by the police, in 337 cases the victims brought action in court to obtain an extension of the order. In 74% of these cases the extension was granted.

- To increase the efforts to prevent human trafficking (see item 18 of the Committee's Concluding Observations, 2006)

In January 2008 the Government approved the National Strategy of Fight against Human Trafficking for 2008-2011. The Strategy reviews the tasks set in the past two years and proposes new ones for the coming period.

The Strategy for 2003-2005 focused on prevention, on raising the awareness of potential victims, and on improving the situation of victims of trafficking in women. A model of care for victims was tested and gradually institutionalized in the "Programme of Support and Protection of Victims of Human Trafficking in the Czech Republic". The Strategy for 2005-2007 responded to the change of the Criminal Code definition of human trafficking and focused on actions that were not punishable until 2004, such as trafficking in human beings for the purpose of forced labour.

An amendment to the Aliens Residence Act which took effect in June 2006 improves the situation of victims of human trafficking. It introduces a special type of residence status called "long-term residence for the purpose of protection", granted to victims who cooperate with law enforcement authorities. The status is granted in administrative proceedings by the Interior Ministry Asylum and Migration Policy Department. Holders may receive a financial contribution not higher than the current subsistence level. For the purpose of employment, self-employment or study, they are treated as long-term residents for the duration of their special status. A question that arose in this context was how to ensure acceptable living standards for their families.

In April 2007, the Government approved a draft amendment to the Aliens Residence Act, which makes the "long-term residence status for the purpose of protection" available also to spouses, minor children or adult dependent children of victims of human trafficking who cooperate with law enforcement authorities. The bill is currently going through the Parliament.

The National Strategy for 2008 – 2011 builds on the previous two Strategies and identifies areas that will require special attention in the coming period (legislative changes, coordination of the fight against human trafficking, prostitution and establishment of a framework preventive policy concept). The tasks concern the police, courts, and cooperation with other government authorities and NGOs. An interministerial working group has been established for this purpose.

Committee on the Rights of the Child

In January 2003 the Committee on the Rights of the Child considered the Czech Republic's second periodic report on the implementation of the Convention on the Rights of the Child in 1995-1999. In May 2006 the Committee considered the Czech Republic's initial report concerning the Optional Protocol on the Involvement of Children in Armed Conflict. Following the consideration of the each report, the Committee made a number of recommendations, including mainly the following:

- To implement a comprehensive proactive strategy for the improvement of access to education, in cooperation with Roma NGO partners, and targeting the whole Roma child population (see item 68 (b) of the Committee's Concluding Observations, 2003)

Since the adoption of the new Education Act in 2004, progress has been made in the education of Roma children. The Ministry of Education, Youth and Sports takes full account of their needs and provides a wide range of support services to assist them in achieving standard education. The support services include head-start classes, assistant teachers for children from disadvantaged backgrounds, early care for children from disadvantaged backgrounds, and grant-making programmes.

In 2007, the number of subsidized assistant teaching posts rose by 50 (currently there are 380 subsidized assistant teaching posts). The total expenditure on this service is just under CZK 78 million (about EUR 2.6 million). The qualification requirements for assistant teachers are laid down in the 2004 Educational Workers Act. Detailed rules for the creation of assistant teaching posts are contained in the 2005 regulation concerning the education of children, pupils and students with special needs and of exceptionally gifted children, pupils and students. Assistant teachers help pupils to get used to school environment, assist teachers in their teaching work, in communicating with pupils and cooperating with parents and the community in which the pupils live.

In 2006, grant-making programmes supported 56 projects worth more than CZK 12.5 million (about EUR 420,000). In 2007, the call for projects under the Programme of Support for Roma Community Integration specified that the projects should concern the following areas:

pre-school preparation of Roma children; primary and secondary education of pupils from Roma communities – support for schools with a significant percentage of Roma pupils in all-day programmes; counselling and guidance for teachers; development of teaching materials and expert surveys on the need for educational programmes, methods and strategies; and out-of-school activities for Roma children reflecting their educational needs. Grants were awarded to 63 projects (the distributed funds totalled more than CZK 9.8 million, i.e. about EUR 327,000). Roma secondary school students continue to receive support; in 2007 it totalled more than CZK 11 million (EUR 367,000).

Full integration of Roma children in the field of education is also one of the objectives of the new Agency for Social Inclusion of Roma Communities. In the field of education of disadvantaged Roma pupils, the Agency will offer projects addressing:

- pre-school education of Roma children (integration in kindergartens or head-start classes for disadvantaged children),
- teacher-parent cooperation,
- improving the parents' ability to develop the potential of their children (using e.g. individual or group work, parents' clubs at community centres, etc.),
- cooperating with parents and children during preparation for school,
- individual tutoring and remedial classes in homes or community centres,
- treatment of learning defects,
- preparation of children for secondary school, etc.

In this area the Agency will cooperate with the "Minorities Integration Centre" project of the Educational and Psychological Counselling Institute. The project includes the mentoring of disadvantaged Roma children by university and secondary school students.

- To increase the protection of children against sexual exploitation (see item 62 of the Committee's Concluding Observations, 2003)

The primary policy document on the fight against commercial sexual exploitation of children is the three-year "National Plan of Fight against Commercial Sexual Exploitation of Children (hereinafter referred to as "the Plan"). It describes the current situation, reviews the tasks set in previous Plans and sets new ones for the next three years. The currently valid Plan for 2006-2008, the third in the series, was approved by the Government in August 2006. It aims mainly to improve the coordination and cooperation of government and local government authorities dealing with vulnerable children at central and local levels, to specify the tasks set in the past period, to improve their effects on the target groups, and to initiate new activities in the field of public awareness and prevention of commercial sexual exploitation of children.

The Plan emphasizes prevention and awareness. To support prevention, it requires regular increase of budget allocations to out of school activities of children from all backgrounds. Well-designed, varied and easily accessible out of school programmes efficiently assist in

preventing the socio-pathological phenomena that impede healthy development of children. Preference should be given to activities taking place on school grounds or in school buildings, if the school is located in an at-risk area; to long-term activities; to activities accessible free of charge or for a symbolic fee; and to activities targeting vulnerable children, children from socially excluded communities and street children. To raise public awareness, it is necessary to improve the human rights, healthy lifestyle, multicultural, media and sexual education courses that are part of framework education programmes for primary and secondary schools. Instruction on crimes committed against children and young people is included in several training courses for policemen, ranging from basic recruit courses to specialized courses for the criminal police. The programmes are regularly updated. Special attention is paid to child interrogation techniques.

The Plan proposes that even the simple possession of child pornography should be made a crime. This proposal is now reflected in the new draft Criminal Code, Section 158 ("Producing or otherwise handling child pornography") which is to be considered by the Government in the nearest future. Section 158 and other related provisions fully reflect the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the primary UN instrument in this field.

The Czech Republic signed the Optional Protocol in January 2005, has not yet ratified due to the absence of national legislation on criminal liability of legal entities. The Interior Ministry is working on a bill that will fill in the gap and bring domestic legislation into line with the Optional Protocol.

At present there are several policy concepts addressing the problems of children vulnerable to sexual exploitation, including the National Family Policy Concept and the Plan of Action for its implementation, The Policy Concept of care for vulnerable children and children not living with their families, and the Strategy for preventing socio-pathological phenomena in children and young people in areas falling within the Education Ministry's competence in 2005-2008. Since the fight against commercial sexual exploitation cannot be treated as separate from other related socio-pathological phenomena impeding healthy development of children (sexual abuse, maltreatment and neglect, domestic violence, etc.), a National Plan of Fight against Violence against Children, closely interlinked with the above policy concepts and perhaps replacing some of them, is to be introduced in 2008.